

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

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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

SUMMARY MEMORANDUM

TO: El Paso County Board of Commissioners
FROM: Planning & Community Development
DATE: 4/18/2023
RE: P-23-001, 1825 Summit Dr. Rezoning

Project Description

A request by Steven and Jennifer Liebowitz for approval of a map amendment, rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The applicant intends to subdivide the existing parcel into two approximately 2.5-acre lots to allow for the construction of a new single-family residence in addition to the current residence located at 1825 Summit Drive. The property is located at the northwest corner of the intersection at Old North Gate Road and Silverton Road. (Parcel No. 62040-01-018) (Commission District No. 1)

Notation

Please see the attached PC Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

Planning Commission Recommendation and Vote

Carlson moved/ Fuller seconded for disapproval for the 1825 Summit Dr. Rezoning, utilizing the resolution attached to the staff report, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **Approved (7-2)**. The item was heard as a regular agenda item.

Discussion

Ms. Fuller sees the request as spot-zoning. She does not think this rezone compatible with the area around it. Mr. Carlson agreed with Ms. Fuller's comments. Mr. Carlson believes the RR-5 zoning type is under attack in the County. Ms. Merriam Thinks RR-5 and RR-2.5 each have a different look and feel. Mr. Trowbridge agreed to the previous comments and did not see this as a compatible rezone. Mr. Bailey stated that each application is judged against the merits of the established criteria. He believes private property right is important, so he is struggling with this decision. Ms. Fuller agreed that anyone who owns property has the right to ask if they can change the zoning, but it is within the Planning Commissions' ability to say no. Mr. Whitney would not be in favor of this application. He agrees that the 5-Acre zoning type is under attack. Mr. Moraes does not think this application is compatible with the surrounding area.

Attachments

1. Draft PC Minutes.
2. Signed PC Resolution.
3. PC Staff Report.
4. Draft BOCC Resolution.

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PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, March 16th, 2023
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: BRIAN RISLEY, TOM BAILEY, SARAH BRITTAIN JACK, JAY CARLSON, BECKY FULLER, ERIC MORAES, BRYCE SCHUETTPELZ, AND BRANDY MERRIAM.

PC MEMBERS VIRTUAL AND VOTING: TIM TROWBRIDGE.

PC MEMBERS PRESENT AND NOT VOTING: CHRISTOPHER WHITNEY.

PC MEMBERS ABSENT: JOSHUA PATTERSON.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, CARLOS HERNANDEZ MARTINEZ, LEKISHIA BELLAMY, CHRISTIAN HAAS, RYAN HOWSER, MIRANDA BENSON, GAYLA BERRY, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: SARAH OSTREM, NANCY SPAULDING, GREG WOLFF, KEN SIGENTHALLER, GERALD MCLAUGHLIN, JOE SQUATRITO, MATTHEW RUBASITCH, HANTS WHITE, MARTHA WOOD, STEVEN BOSCO, JACK HOLST, TED BRUNING, WILLIAM DAVIS, AND JULIE HAVERLUK.

1. REPORT ITEMS

A. Planning Department. Next PC Hearing is Thursday, April 6, 2023, at 9:00 A.M.

Ms. Herington updated the board on posting and mailed notification internal procedure changes. She advised that there will be multiple Land Development Code amendments presented at the next hearing as non-action items.

Mr. Risley asked if staff intends to hear public input at both meetings?

Ms. Herington answered that she only expects public comment when voting is expected. The non-action items would be like a report item. This will be PCD staff's opportunity to gather thoughts and feedback.

Mr. Whitney stated he really appreciates the simplified notice language.

Mr. Risley thanked Ms. Herington for her enthusiastic review of processes and adjusting procedures when she finds room for improvement. He stated it was an excellent example of her leadership.

Mr. Kilgore advised the board that Mr. Trowbridge has joined the hearing online.

Mr. Risley established that Mr. Trowbridge will be a voting member and Mr. Whitney will observe the hearing but not vote.

Mr. Kilgore requested that agenda item 2C, P-23-001, to be heard as a regular item due to the significant public input received. He also advised the board that there is an added recommended condition for item 2D, VA-23-001.

Mr. Risley stated that when they get to that item on the agenda, he will ask if the item needs to be pulled and heard as a regular item or if Ms. Seago can just update the board on that added condition.

B. Call for public comment for items not on hearing agenda. NONE.

2. CONSENT ITEMS

A. Adoption of Minutes of meeting held March 2, 2022.

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

B. P2210

HOWSER

MAP AMENDMENT (REZONE) ROMENS REZONE

A request by Romens Living Trust for approval of a map amendment rezoning 36.5 acres from A-35 (Agricultural) to RR-5 (Residential Rural) to accommodate the future creation of seven (7) single-family residential lots. The property is located between the intersections of Hopper Road, Bradshaw Road, and Cleese Court. (Parcel No. 41000-00-075) (Commissioner District No. 2).

PC ACTION: FULLER MOVED / SCHUETTELZ SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, P-22-010 FOR A MAP AMENDMENT (REZONE), ROMENS REZONE, 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 WAS APPROVED (9-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, FULLER, MERRIAM, MORAES, SCHUETTELZ, TROWBRIDGE, AND RISLEY.

IN OPPOSITION: NONE.

COMMENT: NONE.

C. P231

BELLAMY

**MAP AMENDMENT (REZONE)
1825 SUMMIT DR**

A request by Steven and Jennifer Liebowitz for approval of a map amendment rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural) to accommodate the future creation of two (2) single-family residential lots. The property is located at the northwest corner of the intersection of Old North Gate Road and Silverton Road. (Parcel No. 62040-01-018) (Commission District No. 1).

PC ACTION: THIS ITEM WAS PULLED TO THE CALLED-UP CONSENT CALENDAR.

D. VA231

HAAS

**VARIANCE OF USE
FORD DRIVE ADDITIONAL DWELLING UNIT**

A request by Vertex Consulting Services for approval of a variance of use to convert an existing accessory living quarters into a second dwelling in the RR-2.5 (Residential Rural) district. The 2.89-acre property is located at the southwest corner of the intersection of Ford Drive and Milam Road. (Parcel No. 6214000026) (Commissioner District No. 1).

DISCUSSION

Ms. Fuller asked why this request wasn't presented by the applicant last fall [when going through the Accessory Living Quarters (ALQ) process]?

Mr. Carlson asked if PCD staff had requested to pull item 2D?

Mr. Risley explained that PCD staff advised of an added condition but did not recommend the item be pulled.

Mr. Whitney added that he also has a question for PCD staff.

Mr. Haas deferred to the applicant's representative for explanation behind not requesting the Additional Dwelling Unit (ADU) when they went through the ALQ process. He asked for Mr. Whitney's question so he could address that before bringing up the representative.

Mr. Whitney stated the staff report clearly stated there is a difference between an ALQ and an ADU. He noticed some of the comments were concerns that there will be creation of an entirely different environment. ALQ allows for parttime use of an additional building for a limited time, and ADU creates a building that is leasable or sellable and creates greater density. He stated ALQ is not such a big deal, but ADU is a change to the character.

Mr. Haas stated that the difference between ALQ and ADU is among the most frequently asked questions. An ADU suggests that the unit will be occupied permanently, be rentable, and increase density. An ADU could have a more intense use of water or other utilities and has the potential of separate utilities and address. Within ALQ, there is distinction between attached or detached. If the ALQ were to be detached, like it is with this application, and the applicant wants family to live there permanently, they would need to go through the Special Use application process. An ADU is only an allowed use by right in the A-35 zoning district. Anyone in any other zoning district that would like a detached rental unit on their property would need to go through this Variance of Use process.

Mr. Whitney supposed that the only other option would be to rezone for multi-family residences. While one wouldn't want to rezone to multi-family in an area like this, this request is still changing the character of the area.

Mr. Haas stated that in his research of the Master Plan, it is suggested that those who implemented the Master Plan were open to allowing ADU's as permanently occupied and rentable units in more zoning districts.

Mr. Carlson clarified that Mr. Whitney's initial comment indicated an ADU can be sold separately from the primary residence, but that is not allowed through this change of use.

Mr. Haas stated that is correct.

Mr. Whitney understood and was grateful for the clarification. He stated approval of this application would still increase density.

Mr. Kilgore added that PCD staff is currently researching ADU's and ALQ's partially because of information coming from the State level, and partially due to discussion with other neighboring communities. Both are becoming more popular. Concerns include additional resources being used and additional traffic being generated. PCD is in the process of conducting significant research on the topic.

Mr. Risley commented that perhaps there will be an upcoming LCD amendment.

Ms. Nina Ruiz, the applicant's representative with Vertex Consulting, answered the question regarding why the ADU variance was not requested at the time the ALQ affidavit was completed. She stated the applicant was not aware requesting a variance was an option. The initial primary residence on the property was not large enough for their growing family so they began the construction process on the second dwelling. They were only aware they could utilize the smaller dwelling for guest purposes.

Ms. Fuller stated the situation feels sneaky. It appears like the applicant requested a less intense use to get approved and now that it is approved, less than 6 months later, they are requesting a more intense use.

Ms. Ruiz stated she is sure that was not the applicant's intent to be sneaky. It is her understanding that when the applicant went to PCD, no one explained to them that a variance was an option. It's possible that PCD staff didn't realize the applicant would be interested in pursuing a variance request.

Ms. Fuller asked if Ms. Ruiz assisted the applicant with the ALQ process?

Ms. Ruiz stated she did not assist the applicant through that process. If she had, she would have advised the applicant of the variance option.

Ms. Seago explained the added condition's requirement that the applicant pay the El Paso County Road Impact Fee with the PCD Department no later than 10 days after BOCC approval. The reason this condition is attached to the variance request is that the structure is already built. Normally, this fee would be assessed at building permit.

Mr. Risley asked if the applicant had any comments or concerns regarding the added condition?

Ms. Ruiz stated there was no issue.

Ms. Fuller asked if there were any oppositions from neighbors for this request?

Mr. Haas answered that there were two letters of opposition received from neighbors and one from a Black Forest land-use committee.

PC ACTION: MERRIAM MOVED / BAILEY SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2D, VA-23-001 FOR A VARIANCE OF USE, FORD DRIVE ADDITIONAL DWELLING UNIT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH THREE (3) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-1).

IN FAVOR: BAILEY, BRITTAIN JACK, CARLSON, MERRIAM, MORAES, RISLEY, SCHUETTPELZ, AND TROWBRIDGE.

IN OPPOSITION: FULLER.

COMMENT: MS. FULLER hopes the BOCC looks closer at this request and she regrets not pulling it to be heard as a regular item.

3. CALLED-UP CONSENT ITEMS

2C. P231

BELLAMY

**MAP AMENDMENT (REZONE)
1825 SUMMIT DR**

A request by Steven and Jennifer Liebowitz for approval of a map amendment rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural) to accommodate the future creation of two (2) single-family residential lots. The property is located at the northwest corner of the intersection of Old North Gate Road and Silverton Road. (Parcel No. 62040-01-018) (Commission District No. 1).

STAFF PRESENTATION

Mr. Carlson asked El Paso County Department of Public Works' review engineer, Carlos Hernandez Martinez, if it was required that the property access onto Summit Dr.?

Mr. Hernandez Martinez answered that the preference is to have this property access onto Summit Drive.

Ms. Merriam asked if an additional driveway will be required since there are already three existing driveways accessing Summit Dr. How many more driveways are going to be allowed, especially when the density is increasing?

Ms. Bellamy stated that would be part of the future process.

Mr. Hernandez Martinez answered that would be part of the platting process and an additional driveway would be allowed. The property owners could later request a secondary driveway access permit, which has its own set of requirements.

Mr. Risley asked how many driveway access permits currently exist on this property?

Mr. Hernandez Martinez answered that there are no current driveway permits.

Mr. Risley clarified that for the existing 5-acre lot, there are no driveway permits?

Mr. Hernandez Martinez stated that is correct.

Mr. Whitney asked Ms. Bellamy for more information regarding an existing lot to the east of this property that is zoned RR-2.5. Is that property also surrounded by 5-acre lots?

Ms. Bellamy answered that she found 1 parcel across Roller Coaster Road that is zoned RR-2.5.

Mr. Whitney thanked Ms. Bellamy for the information, stating the original report of this request described the property as surrounded by RR-5. He agrees that information is relevant.

Mr. Bailey clarified that there may be a reasonable explanation as to why there are no current driveway access permits onto Summit Road. He is sure there could be several other driveways in the area that were built before the existing driveway access fees were charged.

Ms. Bellamy agreed and confirmed.

APPLICANT PRESENTATION

Mr. David Gorman, the applicant's representative with Monument Valley Engineering, presented the first page of the Overlook Estates covenants (EXHIBIT A) following his full presentation. He explained that the covenants this parcel adheres to would allow for replat if rezoning is approved through the County. He stated this allowance is not the case everywhere; Sun Hills subdivision has covenants that would prohibit replating of lots.

PUBLIC COMMENT

Ms. Sarah Ostrem (online) is opposed to this application. She doesn't understand why rezoning would be allowed. She thinks that if the owner wanted to live on 2.5 acres, they should have bought a property zoned RR-2.5. She likens this request to driving down the road and telling an officer they should be allowed to drive 100 mph while everyone else must drive 55 mph.

Ms. Nancy Spaulding (online) is opposed to this application. She disagrees that higher housing capacity is needed in this area. She thinks that notion is “a city thing” coming from the density provided in Flying Horse. She likes being in her little pocket of land and would like it to stay that way. Even though traffic is only estimated to increase 10 additional trips per day, that is not considering the Discovery Canyon Campus south of this area. She says that while there may be growth around their neighborhood, they do not want to increase the growth within where they live.

Mr. Greg Wolff is in support of this application. He has lived in the area over 30 years and has seen a lot of growth. He is a Realtor. Overlook Estates is a perfect transition point when considering the outskirts of Colorado Springs. When Mark Gebhart was employed with the County, he said that one house on 5 acres was a waste of space. When looking at Discovery Canyon, he thinks it makes sense to transition to RR-2.5. He thinks home values will only go up. He thinks a 2.5-acre lot in Overlook Estates could be sold for \$400,000-\$425,000. The value of Sun Hills is the 5-acre lots in a covenant-controlled area. One of the letters of opposition stated that one main street on the south side of the neighborhood is higher. He stated he drove out there with an altimeter and determined that there is a 160' difference between the valley and the ridge. The values will go up. Small acreage towards the front would be a good transition.

Mr. Sigenthaler is opposed to this application. He believes that even if there has been change in the area, not all the change may have been good. He does not support breaking 5-acre lots into smaller parcels for financial gain. He doesn't know how enough wells will be allowed to support increasing density. He doesn't think this will be a one-time thing.

Mr. McLaughlin is opposed to this application. He discussed the criteria of approval versus the applicant's letter of intent (LOI). If subdivision of these 5-acre lots is allowed, that will result in significant change restricted in LDC 5.3.5(B). If the number of lots is doubled, the overall character will not be maintained as stated in the Master Plan Land-Use goal LU3. The LOI quotes a goal to meet transition requirements, but there does not need to be further transition than what's already there. He stated the LOI mentions a transportation corridor, the water plan, and expected growth. He thinks this zone change will set a precedent. It was mentioned in the presentation that there were multiple letters of support, but (in EDARP) there are currently 55 letters in opposition and 1 letter of support.

Mr. Squatrito is opposed to this application. Approval would set a precedent and adversely affect all properties currently zoned RR-5. The applicant's LOI makes broad assertions that they meet criteria, but he argues against that. He stated this rezone would result in a significant change to the density of the area. This would result in a negative impact and a material change of the surrounding character. There is no need to rezone for the general health, welfare, or safety of the community. If approved, the PC and BOCC should anticipate many follow-up rezoning actions which will have an overall negative impact. Properties in this area are on well and septic. If rezoning of the area is allowed, that potentially doubles the number of wells. That would put pressure on the Dawson Aquifer and put existing wells at risk. There will be increased traffic and population density affecting the character and infrastructure of this area.

Mr. Rubasitch is opposed to this application. He presented an updated Water & Wells Committee report (EXHIBIT B). He believes the new Master Plan encroaches upon rural environments with its removal of the Black Forest Preservation Plan (BFPP). The BFPP's intent

since the 1970's was to ensure the aquifers would maintain existing wells on 5-acre properties while sustaining the surrounding environment and wildlife. He stated that he has asked the BOCC when the BFPP was removed from the Master Plan, who voted in favor of its removal, and why it was removed, but never received an answer. He asked if the change was done legally? He stated that 3 of the 5 Commissioners, Geitner, Bremer, and Williams, receive over 30% of their campaign contributions from the same developers that wanted the BFPP removed. He asked if that was a conflict of interest? He asked if the Commissioners should recuse themselves when voting on applications by those developers? He stated 90% of applications are approved and that current residents are not being heard when they express concerns about congestion, crime, or water. Comm'r Williams recused herself from the Flying Horse North Sketch Plan. He hopes that it is taken into consideration that he does not feel represented yet a small group of developers is. He quoted the bylaws of the BOCC regarding conflicts of interest.

Ms. Seago clarified that the BFPP and all small area plans of El Paso County were repealed and replaced by Your El Paso County Master Plan. The BOCC is not the body who approves the Master Plan, the PC is. The BOCC does not vote on the Master Plan.

Mr. Rubasitch attempted to continue speaking about the depth of wells but was asked to cease by Mr. Risley due to exceeding allotted time and his comments not addressing the criteria of approval for this application.

Mr. White is opposed to this application. He noted that there are currently 55 letters of opposition and only 1 to support. Practical precedent in the area is that if someone wants to build a second dwelling, it is only used parttime by immediate family (ALQ). There are 0 examples of a person rezoning in this area and for this reason. He knows of at least 5 people that went through the process for an ALQ. He quoted a legal proceeding, Holly Development v. Board of County Commissions (1959), that "*Amendment to zoning ordinance should be made with caution and only when changing conditions clearly require amendment.*" Also, "*When a general zoning ordinance is passed, those who buy property in zoned districts have the right to rely upon the rule of law that the classification made in the ordinance will not be changed unless the change will be required for the public good.*" He pointed out that Mr. Wolff, in favor of this application, was denied rezoning of his parcel twice in the past. There is no evidence with this request varies from Mr. Wolff's denied requests other than the physical location. Any perceived issue regarding transition would have been evaluated and dealt with during the City's Flying Horse planning process that already took place and is irrelevant to the established neighborhoods today. The existing community is in place; no transition is required now. He quoted a Guidance Manual by Donald Elliot that used King's Mill Homeowners Assoc. v. City of Westminster (1976) as a citation, that "*Spot zoning is prohibited in Colorado on the theory that a local government cannot act merely to benefit a single landowner, but must act to benefit the general public.*"

Ms. Wood is opposed to this application. She stated she does not oppose changes that benefit the community, but this change will only benefit one individual. Flying Horse and the City's density has moved north. Existing residents of this community do not want to transition to smaller lots. She stated they successfully opposed a path from Flying Horse to Fox Run Park because they do not want people cutting through their neighborhood. The proposed rezone only benefits one person and will open the opportunity to more density.

Mr. Bosco is opposed to this application. He thinks approval will set a precedent.

Mr. Holst is opposed to this application. He stated that Mr. Wolff attempted a zoning change in 2014, was heard before the PC, and was denied twice. If those two requests in the same area were denied, why should this one be approved? He thinks this will be spot zoning. He also agrees with the concerns raised regarding water.

Mr. Bruning is opposed to this application. He stated that the criteria of approval and/or other individuals speaking have mentioned a change in the neighborhood, but this contiguous neighborhood of RR-5 properties has not changed since 1955. There may be change across the street or change in the entire city/county, but this neighborhood has not changed. Old North Gate Rd is the transition zone. The one example mentioned of an RR-2.5-acre lot 8-10 lots away is an anomaly that no one remembers how it happened. He does not agree with the claim of compatibility between RR-5 and RR-2.5.

Mr. Davis is opposed to this application. He lives immediately adjacent to the subject property. He is not opposed to the thought of the Liebowitz's subdividing *their* property, but he cannot imagine the entire neighborhood being subdivided as a transition zone. He is very concerned about the water sufficiency in the area. He recently had to replace his well so that it is drilled deeper but even that supply is iffy.

Ms. Haverluk is opposed to this application. She doesn't want a precedent set. She is also concerned about the additional well and septic. One property doing it is one thing, but once anyone in this neighborhood can do it, the water table will be affected. She also mentioned the increase in transportation if the entire neighborhood subdivided.

Mr. Gorman, the applicant's representative, responded to comments regarding water. He stated the LDC allows for the use of wells on 2.5-acre lots. The owners have already gone to the water court. He stated that the previous attempts to rezone in the area were done under a previous Master Plan. This request is being done under guidance of a revised Master Plan. He pointed out that while there are smaller lots south, within the City, there are also 1-acre lots to the west in the County. He thinks this corridor is appropriate for smaller lots.

Ms. Liebowitz, the applicant, stated that in her review of the opposition, the main concerns were water, traffic, and precedence. Recently, an Overlook Estates property owner completed a variance of use project to construct a second home on their property which borders Sun Hills. That second dwelling is currently occupied by a family member but is a totally second residence. She stated that property owner submitted a letter of opposition to this project stating they would be tempted to rezone as well and sell that second home separately. She states that the precedence of two homes on one lot has already been made. While a second dwelling on a single lot is an option they could already pursue, she is looking to increase her property value by rezoning.

Mr. Liebowitz, the applicant, listed the main concerns of traffic, water, wells, land value, precedence, and quality of life. He stated that most of those concerns are from residents of Sun Hills subdivision, which they are not a part of. Overlook Estates is comprised of themselves and 13 neighbors, and is situated between Flying Horse (in the City) to the south and Sun Hills to the north. Overlook Estates has different covenants than Sun Hills which allows subdivision of lots. Regarding traffic concerns, he stated most Overlook Estates residents access directly onto

Old North Gate Rd. Some residents access Summit Drive to Silverton, but most traffic on Silverton comes from residents of Sun Hills. EPC Public Works is already looking into the traffic on Silverton. Part of their preparation for this process was obtaining a second well decree for a potential second residence. A Judge issued that decree. Sun Hills is already bordered by higher density lots. RR-5 and RR-2.5 have the same intent of low density, single-family, rural residential. As applicants, they believe they have followed guidelines and regulations, and have gone above and beyond by ensuring they do not adversely affect water supply or quality of life.

Ms. Seago added that covenants are private property restrictions and are not enforced by or binding upon the County. Overlook Estates' covenants allowing subdivision is not relevant to the County's discussion either for or against. Water is reviewed at final plat if rezoning is approved. Any decree is reviewed at that time to determine adequate legal water supply.

DISCUSSION

Ms. Fuller thanked those members of the public whose comments were relevant to the approval criteria. She encourages anyone who wished to speak when this goes to BOCC focus on review criteria. She sees this request as spot-zoning. She thinks the request has the potential of causing a domino effect in the area and could result in significant change to the neighborhood. While it is true that a variance for a second dwelling could be obtained on the property, that is different from splitting this lot into two. She stated fewer people are able to afford constructing a second residence as opposed to zoning and subdividing to sell. She does not think this area has experienced any change. This property is in the middle of the neighborhood. She does not think this rezone is compatible to the area around it.

Mr. Carlson agreed with Ms. Fuller's comments and addressed the comment that this is a transition area. He disagrees. He thinks transition areas are needed when large tracts of land are being developed up against areas like this. He does not agree with the idea of going into an existing neighborhood to create a transition area where none existed before. He believes the RR-5 zoning type is under attack in the County. He thinks this neighborhood should be preserved.

Ms. Merriam stated that the people she knows that live on 5 acres have horses, which was not discussed. She thinks RR-5 and RR-2.5 each have a different look and feel to them.

Mr. Trowbridge agreed the previous comments. He does not see this as a compatible rezone.

Mr. Bailey stated each application is judged against the merits of established criteria. Latitude is limited. He believes private property rights are important, so he is struggling with this decision. This process is quasi-judicial, not democratic. He added that when trying to persuade someone that your position is correct, the method matters. Accusing the decision makers of being corrupt or less intelligent than you is not an effective method. The role of the Planning Commission is to consider the specific criteria of approval. The Planning Commission is a board of citizen volunteers. The elected officials are different. Accusatory speech at the BOCC hearing might cause them to discount your argument. Your opinion of corruption is not relevant to this application's criteria of approval. Also, depth and number of wells will be relevant at a later stage of the process.

Ms. Fuller agreed that Mr. Bailey often votes in favor of private property rights. She agrees that anyone who owns property has the right to ask if they can change the zoning, but it is within the Planning Commission's ability to say no.

Mr. Whitney would not be in favor of this application. He agrees with the comments made by the other PC members. He agrees that the 5-acre zoning type is under attack. People who live on 5 acres do so because they want to live on and around 5-acre lots.

Mr. Moraes addressed a question made by one member of the public, asking what is the point of zoning laws. He stated that any landowner has the right to ask for a rezoning. During the process with PCD staff, rezone requests like industrial in the middle of suburban are likely going to receive advisal that they are not likely going to be approved. However, the property owner has the right to ask. At some point, this was all one piece of land that has been subdivided. The land most people are living on now was something else before. He reiterated the approval criteria at the rezoning stage. Surrounding neighbors are the boots on the ground, so he appreciates neighbors attending these public hearings. He reiterated that the PC approved the Master Plan and part of that resolution to adopt stated the small area plans were rescinded. Many of their goals may be incorporated into the new Master Plan. He does not think this application is compatible with the surrounding area.

PC ACTION: CARLSON MOVED / FULLER SECONDED FOR DISAPPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-23-001, FOR A MAP AMENDMENT (REZONE), 1825 SUMMIT DRIVE, CITING THAT THE APPLICATION DOES NOT MEET THE REQUIREMENT OF COMPATIBILITY TO EXISTING USES AND ZONING IN ALL DIRECTIONS, AND THAT THIS ITEM BE FORWARDED AS A RECOMMENDATION OF DISAPPROVAL TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (7-2).

IN FAVOR: BAILEY, CARLSON, FULLER, MERIAM, MORAES, RISLEY, AND TROWBRIDGE.

IN OPPOSITION: BRITTAIN JACK AND SCHUETTPELZ.

COMMENT: MS. BRITTAIN JACK mentioned private property rights being a large part of her vote against the motion. It is not illegal to make money. It is not illegal to be a developer. She stated the County needs to grow and needs affordable and attainable housing. MR. SCHUETTPELZ also mentioned private property rights. He also believes RR-2.5 is compatible with RR-5 because they are in the same Large Lot Residential Placetype of the Master Plan.

4. REGULAR ITEMS. NONE.

MEETING ADJOURNED at 11:23 A.M.

Minutes Prepared By: Miranda Benson

Exhibit A

160058

BOOK 1814 PAGE 530

JUL 12 1960

DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS

WHEREAS The undersigned, OVERLOOK ESTATES, INC. is the owner of the following-described property, to-wit:

Overlook Estates according to plat thereof in Plat Book B-2 at Page 73 of the El Paso County, Colorado public records, and

WHEREAS it is the desire of the undersigned to establish restrictions and protective covenants applicable to and for the benefit of all of the above-described real property:

NOW, THEREFORE, THESE PROTECTIVE COVENANTS AND RESTRICTIONS:

For and in consideration of the premises and in further consideration of the declarations herein set forth and in further consideration of the future purchases and transfers of real estate lying within the above-described tracts, it is hereby declared that all of the above-described real property is and shall be used, held, transferred and conveyed subject to the following restrictions and protective covenants, to-wit:

PART A.

A-1. LAND USE, BUILDING TYPE AND OCCUPANCY. The land contained herein shall be used for residential purposes. No building shall be erected, altered, placed or permitted to remain, except detached, single-family dwellings not to exceed 35 feet or two stories in height. Private garages, private stables and guest houses may be permitted in accordance with restrictions hereinafter set forth, except that one tract may be used as a site for a community club for the use and benefit of all of the tracts in said subdivision, subject to approval of the Architectural Control Committee.

* A-2. SUBDIVISION. Five acres shall be the minimum sized building site, provided, however, that in the event all or a portion of the subdivision should be rezoned by the appropriate zoning authority so as to allow smaller building sites, then such zoning shall control as to any portion so rezoned, provided further that in no event shall any building site be less than one acre in size. *

Exhibit B

Significant Facts About the Denver Basin and Individual Wells

Compiled by the Black Forest Water & Wells Committee

February 2023

Water is a very precious and limited resource in Colorado

Black Forest gets an average of 18 inches of precipitation per year – 88 inches of snow

Colorado Springs gets 15 inches of precipitation – 35 inches of snow

The Denver Basin is a giant bowl stretching from Greeley in the north to Colorado Springs in the south

The basin extends from the front range out to Limon

The basin is actually four bowls inside each other representing four separate aquifers

The aquifers are the Dawson (top,) Denver, Arapahoe and Laramie-Fox Hills (bottom.)

Garden of the Gods and Red Rock Open Space are edges of the bowls sticking up out of the ground

State water officials believe the four aquifers are sealed from each other

Tests in one area from an Arapahoe well affected the adjacent Denver and Dawson aquifer

No one knows for sure how much the aquifers are sealed from each other

Drilling logs do not show a clear, impermeable boundary between aquifers

If these bowls are being recharged at all, it is a slow process over generations of time

Only a little over half of the Denver Basin water can be economically removed

Through continuous, long-term use, a well becomes less and less efficient

After several years, it is not economical to pump because of decreasing output

A local well-driller with 30 years of experience said the geology of the Denver Basin is not unified or homogeneous

Basin has multiple interlocking and overlapping layers of sand, gravel, sandstone and claystone

Wells 1/4 mile apart can produce widely varying amounts of water

Wells only 200 feet apart can have widely different static levels

Having a water allocation or water right is no guarantee of actual amount of water

“Paper water does not equate to wet water”

Water use in the Denver Basin is 62% agriculture, 20% municipal and 12% domestic (private wells)

For residential households in the Black Forest, the State of Colorado considers water use as follows

An acre foot of water is 326,500 gallons which is 1 acre (about a football field) 1 foot deep in water

The average household uses 0.35 acre-feet of water per year. This is 313 gallons per day.

90% of the water used in a household is returned into the ground via the septic system

Just 10% is actually consumed or evaporated into the air

15% of the water used for watering gardens and lawns is returned into the ground

85% of irrigation water is evaporated into the air and not soaked into the ground

100% of the water used for animal watering is consumed and none is returned into the ground

Colorado Springs gets water from the Arkansas River and from snow runoff on the Western Slope

Water piped from the Western Slope through Twin Lakes near Buena Vista and into Arkansas River

A secondary pipeline comes over the front range just south of the Air Force Academy

Southern Delivery System (SDS) is a 24-inch waterline from Pueblo Reservoir to Colorado Springs

At present, Colorado Springs Utilities has water rights and supplies above the current demand

CSU also has extensive Denver Basin water rights

CSU policy is not to use Denver Basin aquifer water except in an emergency

Annexed developments surrender their water rights to CSU except for golf courses and ponds

Flying Horse and Flying Horse North water their golf courses with aquifer water

Wolf Ranch created Wolf Lake (6 acres) with aquifer water

So far, Colorado Springs Utilities has not provided water to anyone outside the city limits

The city is considering providing water to entities outside the city limits

Providing water this way would be a revenue boost to Colorado Springs Utilities

Colorado Springs uses 40 million gallons per day in the winter and 100 million gpd in the summer

Thousands of homeowners rely on Denver Basin water for their homes

The Denver Basin has well over 100,000 wells, but the exact number difficult to find

El Paso County alone has over 22,000 private wells

Highlands Ranch in Denver (100,000 residents) uses Denver Basin water for 10% of its needs

70% of water used in the South Denver metro area is groundwater

Castle Rock, Parker and other municipalities use Denver Basin water

Water levels in the Denver basin are declining in several areas

Around the city of Castle Rock some wells have been declining up to 30 feet/year

The Denver basin is thinner in the Castle Rock area

The Castle Rock area has a huge number of Denver basin wells

Fortunately, according to a local well driller, Black Forest wells have been holding quite steady for many years

The Dawson aquifer is much thicker in the Black Forest than further north

The State of Colorado Division of Water Resources allocates how much water anyone can pump

The state has models that tell the thickness of the aquifer at any given location

The decree takes the thickness of the aquifer (feet) times the acreage = acre-feet

This is called the saturated thickness

The state considers 0.2 or 1/5 of each cubic foot to be water

Acre-feet X 0.2 = acre-feet of water available

Water allowed per year is available water divided by 100 for 100-year duration of aquifer

Figure is again divided by 3 for 300-year rule

About 40% of the water is not economically able to be extracted because the pumping rate

declines with pumping and makes it too expensive and unproductive to keep pumping

Amount of water allocated for pumping is based on 1985 geological model

The amount assumes pumping the aquifers dry in 100 years

The 100-year rule was initiated in 1973

We are 46 years, almost halfway, into the 100 years toward "dry" wells in many parts of the state

El Paso County initiated a 300-year rule in 1986 to extend available water for private wells in the county

El Paso County permits only 1/3 of the state allocation per year

Theoretically the 300-year rule should provide water for two more centuries

The 300-year rule was challenged in the Colorado Supreme Court but was upheld for El Paso County

In spite of the 300-year rule, all of the northern El Paso County water providers need more water

Water providers were told they had enough water for their developments

Continuous pumping is resulting in diminishing returns from well production

Woodmoor Water says well that formerly pumped 100 gpm only pumps 40 gpm now

Monument, Palmer Lake, Woodmoor, Tri-View, Meridian Ranch, Paint Brush Hills and Falcon need more water

Several of these water providers have purchased additional water rights on ranches south of Colorado Springs and near Leadville

Access to that water not available at this time

Without renewable water rrbn development south of Black Forest will potentially use huge amounts of Denver Basin water

Sterling Ranch, The Retreat at TimberRidge and The Ranch will total 7400 homes

The entire Black Forest has 6600 homes with private wells by comparison

These developments are currently planning to use Denver Basin water from the Black Forest

Insufficient groundwater exists under these developments to serve all the homes

Water rights on Sundance Ranch, Flying Horse North, High Forest Ranch, Bar-X Ranch and McCune Ranch purchased to provide more water

A potential annexation plan may mean some of these developments will use city water

Unintended consequence of annexation may be developments with small urban lots

Development requirements in Colorado Springs city limits have been more stringent than for rural developments, resulting in higher building costs.

Developers have leapfrogged over Banning-Lewis Ranch into the county because of stringent city requirements

Resulting developments often use Denver Basin water instead of renewable city water

New cooperative agreement will require city standards for county urban developments

Cherokee Metropolitan District has obtained significant water rights in the Black Forest

Sundance Ranch, Flying Horse North, Shiloh Ranch and County Line Road water rights were purchased

State granted permission to pump 1246 acre-feet of Dawson water per year from 23 well sites

Cherokee has permission to pump a total of 3708 acre-feet of water per year from all 4 aquifers

Compared to rural, residential development, this is 10 times as much water use as for 5-acre lots

All the well sites are on the property boundaries so half of the water pumped belongs to neighbors

The water is being piped to supply 18,000 customers in southeast Colorado Springs

Cherokee Metro has committed 2025 af/yr of water to Sterling Ranch

This is 1.8 million gallons of water per day.

Cherokee Metro District wells already drilled are not producing significant water

Only 4 wells have been drilled to date

One Denver well drilled to 1970 feet (12-inch bore) and produced only 50 gpm

One Arapahoe well drilled to 2520 feet (12-inch bore) and produced 450 gpm

One Dawson well drilled to 1044 feet (12-inch bore) and produced 68 gpm

A second Dawson well drilled to 1030 feet (12-inch bore) and produced 65 gpm

The two Dawson wells do not even have a pump installed and are not producing

These wells cost around \$750,000 to drill

Three of these four wells are producing very poorly

These wells suggest that commercial extraction may not be productive or economical

Transmissivity or flow of water back and forth underground may not be very rapid

Clay and sandstone don't allow water to flow laterally very easily

Water seems to be located in "pockets" within clay and sandstone layers

"Pockets" of water sufficient for private wells but not for commercial extraction

Water seems to not flow back into large wells fast enough to produce profitable results

This is an excellent example of "paper water may not equal real water."

Loop proposal suggested in late 2021 to pipe SDS water north through Cherokee Metro pipeline

Cherokee Metro pipeline currently carries water from Sundance Ranch to SE Colorado Springs

Cherokee Metro would get SDS water in exchange for CSU using Cherokee pipeline

Cherokee wishes to be absorbed into CSU but high debt is stumbling block

Pipeline would be extended from Sundance Ranch to Monument and Palmer Lake

Branches could bring water to Falcon, Meridian Ranch and Paint Brush Hills

Pipeline would also provide water for Sterling Ranch, TimberRidge and the Ranch

Renewable water would be provided to northern water providers to save Denver Basin water

Wastewater would be piped south to connect to CSU wastewater system along I-25

Estimated cost around \$134 million

Falcon Area Water Authority (FAWA) is planning a huge water project in Black Forest

Project will pipe water from 27 sites to Falcon and Sterling Ranch area

Water coming from High Forest Ranch (7), Bar-X Ranch (16) and Winsome (4) sites

Water rights granted for 1270 acre-feet/year to be pumped

FAWA officials say more water rights are for sale in the Black Forest

Remains to be seen if "paper water equals wet water"

Future Potential Uses of Denver Basin Water

A developer has obtained rights to 39,000 acre-feet of water per year from Greenland Ranch

Greenland Ranch is a conservation easement between Monument and Castle Rock

Greenland Ranch has thousands of acres of native grassland

Conservation easement will not be developed but will remain as open space

Front Range Water Company (Sun Resources) is proposing a 24-inch pipeline to Denver

Placed in perspective, this is 35 million gallons of water per day they are allotted.
This water would be pumped to an eastern Denver suburb
Adjudicating a well means legally obtaining the water rights under your property.

Adjudicating has little value unless a high water user is near your property
If the high water user affects your well, you may sue for damages
Without water rights, private wells are considered exempt wells with no rights
Adjudicating will cost \$500-1000 in attorney fees and will take up to 6 months

**Common Sense Principles That SHOULD Logically
Govern Water Use in the Denver Basin**

The Dawson aquifer should only be used for private wells

**All wells, including commercial wells, should be sited well away
from property boundaries**

**All urban density developments should be required to use
renewable water only**

Paper water does not equal real water

Matthew R

MAP AMENDMENT (REZONE) (RECOMMEND DENIAL)

MR. CARLSON moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-23-001
1825 SUMMIT DRIVE REZONE

WHEREAS, Steven and Jennifer Liebowitz did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on March 16, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission;
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission;
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. The proposed map amendment (rezoning) is in general conformance with the El Paso County Master Plan including applicable Small Area Plans but there has not been a substantial change in the character of the neighborhood since the land was last zoned.

5. The proposed land use or zone district is not compatible with existing and permitted land uses and zone districts in all directions.
6. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district;
7. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
8. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is not in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the petition of Steven and Jennifer Liebowitz for an amendment to the El Paso County Zoning Map to rezone the following described property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district be denied by the Board of County Commissioners.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the Board of County Commissioners for its consideration.

MS. FULLER seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Brian Risley	<input checked="" type="radio"/> aye / no / abstain / absent
Thomas Bailey	<input checked="" type="radio"/> aye / no / abstain / absent
Tim Trowbridge	<input checked="" type="radio"/> aye / no / abstain / absent
Becky Fuller	<input checked="" type="radio"/> aye / no / abstain / absent
Sarah Brittain Jack	aye / <input checked="" type="radio"/> no / abstain / absent
Jay Carlson	<input checked="" type="radio"/> aye / no / abstain / absent
Eric Moraes	<input checked="" type="radio"/> aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / <input checked="" type="radio"/> absent
Bryce Schuettpelz	aye / <input checked="" type="radio"/> no / abstain / absent
Christopher Whitney	aye / no / <input checked="" type="radio"/> abstain / absent
Brandy Merriam	<input checked="" type="radio"/> aye / no / abstain / absent

The Resolution was adopted by a vote of **7** to **2** by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 16th day of March 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: *Brian Risley*
Brian Risley, Chair

EXHIBIT A

LOT 14, OVERLOOK ESTATES AS RECORDED UNDER RECEPTION NUMBER 159801 OF THE RECORDS OF EL PASO COUNTY, COLORADO.

COMMISSIONERS:
CAMI BREMER (CHAIR)
CARRIE GEITNER (VICE-CHAIR)

COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Lekishia Bellamy, Planner I
Carlos Hernandez, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File #: P-23-001
Project Name: 1825 Summit Drive
Parcel No.: 62040-01-018

OWNER:	REPRESENTATIVE:
Steven and Jennifer Liebowitz 1825 Summit Drive Colorado Springs, CO, 80921	M.V.E., Inc. 1903 Lelaray St., Suite 200 Colorado Springs, CO 80909

Commissioner District: 1

Planning Commission Hearing Date:	3/16/2023
Board of County Commissioners Hearing Date:	4/18/2023

EXECUTIVE SUMMARY

A request by Steven J. Liebowitz and Jennifer F. Liebowitz for approval to rezone Lot 14 of Overlook Estates from RR-5 (Rural Residential) to RR-2.5 (Rural Residential). The rezone would allow the owners to apply for a minor plat to subdivide the existing 5.23± acre lot into two 2.5-acre lots to accommodate the construction of a single-family residence on the newly created lot in addition to the existing residence located at 1825 Summit Drive.



A. WAIVERS/DEVIATIONS/ AUTHORIZATION

Waiver(s)/Deviation(s): There are no waivers/deviations associated with this application.

Authorization to Sign: There are no documents associated with this application that require signing.

B. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

C. LOCATION

North:	RR-5 (Residential Rural)	Single-family detached residential
South:	RR-5 (Residential Rural)	Single-family detached residential
East:	RR-5 (Residential Rural)	Single-family detached residential
West:	RR-5 (Residential Rural)	Single-family detached residential

D. BACKGROUND

The property was initially zoned RR-5 on January 4, 1955 (BoCC Resolution No. 94669). 1825 Summit drive is located in an area that primarily consists of properties 4.45 acres or more; however, .17 miles southwest is The Flying Horse Ranch development, which consists of lots less than an acre, and is in the City of Colorado Springs. The property is located within the Large-Lot Residential place type. If the rezoning application is



approved, the applicant must submit a final plat application before the conveyance of any parcel of land within the subject area.

E. ANALYSIS

1. Land Development Code Analysis

The applicant is requesting approval of a map amendment (rezoning) of 5.23-acre zoned RR-5 (Residential Rural) to RR-2.5 (Residential Rural). Section 3.2.2 of the Code states the following as the intent of the RR-2.5 zoning district:

“The RR-2.5 zoning district is a 2.5-acre district intended to accommodate low-density, rural, single-family residential development.”

The applicant intends to apply for a minor plat request to subdivide the existing 5.23-acre lot into two 2.5-acre lots to construct a new single-family residence in addition to the current residence at 1825 Summit Drive.

2. Zoning Compliance

The subject parcel is proposed to be rezoned to the RR-2.5 (Residential Rural) zoning district. The RR-2.5 zoning district is intended to accommodate low-density, rural, single-family residential development. The density and dimensional standards for the RR-2.5 (Residential Rural) zoning district are as follows:

Minimum lot size: 2.5

Minimum width at front setback line: 200 ft

Minimum setback requirement: front: 25 feet, side: 15 feet, Rear: 25 feet *

Maximum lot coverage: none

Maximum height: 30 feet

*Agricultural stands shall be setback a minimum of 35 feet from all property lines.

In order to initiate any uses on the property, the applicant will need to obtain site development plan approval for residential structures. The subdivision and site development plan will be reviewed to ensure that all proposed structures will comply with the zoning district dimensional standards as well as the General Development Standards of the Code and Engineering Criteria Manual requirements.



F. MASTER PLAN ANALYSIS

1. Your El Paso Master Plan

a. **Placetype:** Large-Lot Residential

Placetype Character:

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between Rural and Suburban Residential areas. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more and are generally large and dispersed throughout the area to preserve a rural aesthetic.

Large-Lot Residential placetypes generally support accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas.

Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and wastewater utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.



Recommended Land Uses:

Primary:

- Single-family Detached Residential (typically 2.5 – acres lots or larger)

Supporting:

- Parks/Open Space
- Commercial Retail (Limited)
- Commercial Service (Limited)
- Agriculture



Figure G.1: Placetype Map

Analysis:

The Large-Lot Residential Placetype supports the rural character of the County while providing unique and desirable neighborhoods. Relevant goals and objectives are as follows:

Objective LU3-1 – Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.

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OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

***Objective HC2-6** – Continue to carefully analyze each development proposal for their location, compatibility with the natural environment, and cohesion with the existing character.*

2. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

***Policy 4.1.3** –Support enhanced monitoring of sources of surface and tributary groundwater in the County.*

***Policy 6.2.1.2** – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible*

Findings of sufficiency with respect to water quality, quantity, and dependability are not required with map amendment (rezone) approvals but will need to be made with subsequent final plat approvals for development within map amendment area.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. Colorado Parks and Wildlife and the El Paso County Community Services Department, Environmental Services Division were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies floodplain deposits in the subject parcels. The applicant prepared a mineral rights certification indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified during the review of the map amendment.



2. Floodplain

Per FEMA Flood Insurance Rate Map panel number 08041CO764G, the proposed rezone portion of the subject property is not located within a regulatory floodplain.

3. Drainage and Erosion

This rezone application did not require a Drainage Report and Grading and Erosion Control Plan. These documents are typically not required or reviewed at this stage. The parcel anticipates subdividing into two 2.5-acre lots. At the time of subdivision, a drainage report will be required per county criteria to provide additional analysis of the drainage impacts.

The parcel is in the Monument Branch drainage basin. This is a studied basin with associated development fees. The parcel will be assessed drainage basin fees at the time of the final plat corresponding with Appendix L from the El Paso County Engineering Criteria Manual (ECM) and approved resolutions.

4. Transportation

Summit Drive and Silverton Road border the parcel; both are county-maintained local roadways. The surface conditions for Summit Drive and Silverton Road are gravel and pavement accordingly. Access to the parcel is currently obtained through an existing driveway from Summit Drive. The El Paso County Engineering Criteria Manual allows driveway access to parcels from local roadways.

The rezoning of the parcel from RR-5 to RR-2.5 will generate an increase of 10 average daily trips or a total of 19 average daily trips for both lots. The increase in traffic is minimal and does not meet county criteria for the submission of a traffic impact study.

Roadway improvements are not required with this rezone application nor anticipated with the future subdivision. The total number lots obtaining access to Summit Drive is 4, and 5 with the future subdivision. The total average daily traffic expected is 50 daily trips for lots accessing Summit Drive, which is below the 200 daily trip threshold to require paving of Summit Drive.

The future parcel will be required to obtain a driveway access permit for future driveways. The Road Impact Fee as approved by Resolution 19-471 will be assessed



at the last land-use approval or when the applicant applies for a building permit whichever is last.

H. SERVICES

1. Water

A finding of water sufficiency is not required with a map amendment (rezone) request. A finding of water sufficiency for water quantity, quality, and dependability is required with any subsequent final plat(s) application.

2. Sanitation

Property has an onsite wastewater treatment system.

3. Emergency Services

The property is within the Donald Wescott Fire Department District. The District was sent a referral and has no outstanding comments.

4. Utilities

This area is within Mountain View Electric Association, Inc. certificated area. The Association currently serves this parcel according to the Line Extension Policy. Black Hills Energy will provide Natural Gas Distribution service.

5. Metropolitan Districts

The property is not located within a metropolitan district service area.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication is not required for a map amendment (rezoning) application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

I. APPLICABLE RESOLUTIONS

See attached resolution.



J. STATUS OF MAJOR ISSUES

There are no major issues with this map amendment request.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022), staff recommends the following conditions and notations.

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.



L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified twenty (20) adjoining property owners on February 24, 2023, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map

Letter of Intent

Rezone Map

Opposition Letters

Draft Planning Commission Resolution

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COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

WWW.ELPASOCO.COM

El Paso County Parcel Information

File Name:

Date:

PARCEL

NAME

ADDRESS



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(719) 520-6600



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January 6, 2023

PCD File No.:

LETTER OF INTENT

**1825 SUMMIT DRIVE
(Lot 14, Overlook Estates)
REZONE**

Owners:

Steven J. Liebowitz, Jennifer F. Liebowitz
1825 Summit Dr.
Colorado Springs, CO 80921
(719) 339-0415
jennyliebowitz@msn.com, stevenliebowitz@msn.com

Consultant:

M.V.E., Inc.
1903 Lelaray St., Suite 200
Colorado Springs, CO 80909
(719) 635-5736
David Gorman
daveg@mvecivil.com

Site Location, Size, and Zoning:

Lot 14, Overlook Estates as recorded under Reception No. 159801 in the records of El Paso County is the site of the proposed Rezone application. Said Lot 14 is located in the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 4 and the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 5, Township 12 South, Range 66 west of the 6th principal meridian in El Paso County, Colorado. The site is 5.23 \pm acres in area and has El Paso County Tax Schedule No. 62040-01-018 and address of 1825 Summit Drive, Colorado Springs, Colorado 80921. The site is situated at the southwest corner of Silverton Road and Summit Drive, approximately 500 feet north of Old North Gate Road and west of Roller Coaster Road. The site contains an existing single family residence, barn, private driveway, well and onsite wastewater treatment system, all located in the northeastern portion of the property. This parcel is currently zoned RR-5 (Rural Residential-5 acres) with no applicable overlay zones.

Request and Justification:

The request is for approval of the rezone of Lot 14, Overlook Estates from RR-5 to RR-2.5 (Rural Residential-2.5 acres). The rezone would allow the owners to apply for a Minor Plat request in the future to subdivide the existing 5.23 \pm acre lot into two 2.5 acre lots and allow the construction of a new single family residence on the property in addition to the existing residence located at 1825 Summit Drive.

Engineers • Surveyors
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736
Fax 719-635-5450 • e-mail mve@mvecivil.com

This property is able to meet all the dimensional requirements for the proposed RR-2.5 zone with respect to the existing residence as well as a potential new residence on the site including minimum lot size, minimum width at setback of 200 feet, and building setback requirements. The setbacks for the RR-2.5 zone for the front, side, & rear are 25 feet, 15 feet, and 25 feet respectively. With 2.5 acres per lot, there is adequate space within the property to locate a new residence, access drive, well and septic facilities and optional accessory structures while observing all required setbacks. The existing 30' wide road easement located along the west boundary of Lot 14 shall remain in accordance with the original Overlook Estates subdivision plat.

Zone Changes are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. This application is presented with intent to demonstrate the proposed rezone request meets the submittal and approval criteria for Map Amendments (rezoning) found in the **El Paso County Land Development Code (2021) Sections 5.3.5(B)** as discussed below.

1. *The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned.* This application was examined in light of the current El Paso County Master Plan. **“Your El Paso Master Plan” (2021)** is a comprehensive document communicating a vision for many factors that influence the quality of El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County. This masterplan also replaces all Small Area Plans previously in effect in the county.

The site is not located in the Forested Area or any of the other designated Key Areas of the county according the master plan's Key Areas map. However, the site is located just north of the the City of Colorado Springs boundary line at Old North Gate Road. The area south of Old North Gate Road contains an existing Academy School District 20 campus and residential development that is zoned PUD (city) containing one-third to one-half acre lots within 600 feet of the subject property.

The site is located in an area of Minimal Change: Developed as shown on the Areas of Change map in the master plan. The request for rezone to RR-2.5 does not represent a significant change is use or density for the area. RR-2.5 is still both rural residential and large-lot rural residential in nature.

The site is designated Large-Lot Residential Placetype. The Primary Land Use of this place-type is Single Family Detached housing. Agriculture, Commercial Retail, Commercial Service and Parks and Open Space are Supporting Land Uses. The site location, existing infrastructure, along with the characteristics of existing surrounding development make the single-family residential use the only suitable use. Large-Lot Residential is defined by the master plan to be lots 2.5 acres or larger. Although the site is adjacent to 5 acre lots, the location is suitable for rezone and subdivision into 2.5 acre lots, maintaining the rural residential character of the area while creating a transition from the more dense development to south and expanse of 5 acre lots to the north. Goal LU3: *“Encourage a range of development types to support a variety of land uses”* includes the specific strategy: *“The Minimal Change: Developed areas are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character should be maintained.”*. Rezoning and subdividing this RR-5 lot into two RR-2.5 lots maintains the character of the Rural Residential zoning and Large Lot placetype. The proposed rezone and future replat would meet El

Paso County Master Plan's goal to “Align with Placetypes” which encourages “appropriate densities and transitions between different placetypes”. This site is located adjacent to the incorporated areas, potential annexation place-types, and large lot residential. The rezone and subdivision would be beneficial to meet the transition goal between the large lot residential and the higher density incorporated place-types. The rezone is appropriate given the amenable terrain and location on both existing and potential future improvements on the site. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed zone change will not create the need for additional roadways or public facilities. The owner has adjudicated the water rights for the new lot and can demonstrate adequate water resources in accordance with the El Paso Land Development Code. Goal HC1: “*Promote development of a mix of housing types in identified areas.*” includes the specific strategy: “*Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.*” The proposed rezone will provide needed additional housing capacity and opportunity in the area with no need to extend infrastructure or services while maintaining the rural residential character of the area.

- The proposed zone change is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. The site is located on a rural residential local roadway with all necessary right-of-way dedications already made..
 - The proposed zone change is in compliance with the **Parks Master Plan**, which does not call for trails or parks in the site. Any required Park Fees will be paid at the time of future replating. The proposed zone change is also in compliance with the Master Plan for Mineral Extraction. There are no severed mineral right owners.
 - The proposed zone change is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court has already decreed certain water rights and approved a plan for augmentation as necessary to allow drilling of a new well on the property which will provide an adequate water supply. The appropriate Water Resources Report and supporting documentation will be presented at the time of any future replating request. Some of the policies of the Water Master Plan that are supported by the proposed development are: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both the existing residence and the new single-family residences on the proposed lots will utilize onsite wastewater treatment systems which will provide “Return Flows” to the environment as a condition of the groundwater findings and order and the well permit.
2. *The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116.* The rezone is sought in compliance with Colorado Revised Statutes and the provisions of the El Paso County Land Development Code. The authority to determine the results of the rezone request ultimately rests with the Board of County Commissioners.

3. *The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions.* The proposed zone change from RR-5 to RR-2.5 will allow the replatting of the existing lot into two lots and the construction of one more one single-family residence on the 5.23± acre site. The area of the proposed lot is large enough to be considered Rural Residential in nature. Such 2.5 acres lots are an appropriate transition between the higher density city development on the south and the existing 5 acre rural residential lots on the north.
4. *The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.* This tract meets the dimensional requirements of the RR-2.5 zone which includes: the minimum lot size of 108,900 sf (2.5 acres), a minimum width of 200 feet at setback line, and minimum setbacks of 25 ft, 25 ft, 15ft for front, rear, side, respectively. The proposed future residence will comply with all setbacks and the 30 ft maximum building height.

Total Number Of Residential Units And Densities:

The gross area of Lot 14 is 5.23 +/- acres and the site is to contain one existing and one proposed single-family residential units. Therefore, the gross density of the site is 0.38 units per acre.

Existing and Proposed Facilities:

The existing lot has existing on-site improvements which include a single-family residence, detached garage, well & septic, and fencing for livestock. This lot is already served with electric and gas utilities on-site and Service Commitment Letters from Black Hills Corporation for natural gas and Mountain View Electric have been received for service for the proposed lot.

Community Outreach:

Letters to adjacent neighbors were sent out as part of the El Paso County development review requirements. Many of the neighbors were also personally contacted by the applicants. There are no mineral rights owners impacted by the proposal.

Traffic Impact and Traffic Impact Fees:

Access to the existing residence will remain on Summit Drive. Access for a new residence could be constructed from either Summit Drive or Silverton Road, depending on the final lot layout and orientation of the the new residence. Driveway Permits will be obtained for the existing and proposed driveways as required. There are no topographical or alignment challenges limiting safety of the existing or proposed driveway access to the proposed lots.

The one new single family rural residential lot, together with the existing residence will access the existing public roadways with two private driveways as described above. The development is expected to generate a total of 19 trips per day (Average weekday trips ends) and 2 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a full Transportation Impact Study (TIS) is not

required for the project. Summit Drive, an existing gravel cul-de-sac road, currently serves 4 residences. Adding one more brings the total lots served to 5. The resulting Average Weekday Trip Ends for the Summit Drive is 47 with 5 trips in the peak hour. This amount is less than the 200 trips per day requiring the paving of a road. Therefore paving of Summit Drive will not be required. El Paso County also limits the number of residences on a cul-de-sac road to 25. The rezone will not cause the number of lots to exceed the limit. New development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners will elect to not be included in a Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

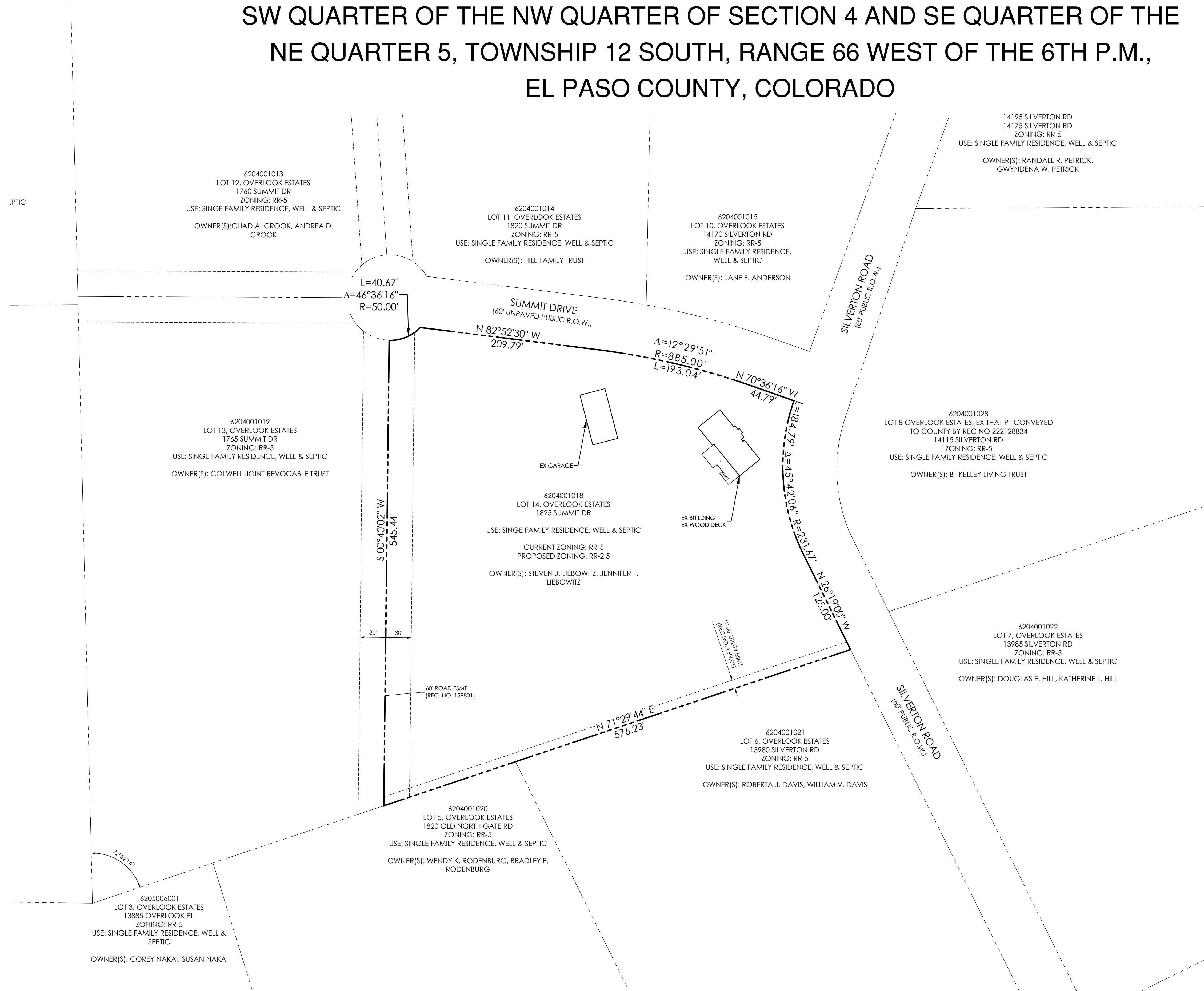
Based on the current conditions of the adjacent roadways and the low traffic volumes to be generated by the site, no new improvements to Summit Drive, Silverton Road or nearby area roadways are required to serve this development. All rights-of-way for the existing roadways have been previously dedicated from the subject property with the previous plat. No new rights-of-way are required to be dedicated with the approval of the rezone or future minor plat.

Z:\61191\Documents\Letter of Intent\61191-LetterOfIntent-Rezone.odt

1825 SUMMIT DR- ZONING EXHIBIT

FOR LOT 14, OVERLOOK ESTATES

SW QUARTER OF THE NW QUARTER OF SECTION 4 AND SE QUARTER OF THE NE QUARTER 5, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO



SITE DATA

OWNERS

STEVEN J. LIEBOWITZ
JENNIFER F. LIEBOWITZ
1825 SUMMIT DR.
COLORADO SPRINGS, CO 80921

CONSULTANT

M.V.E., INC.
DAVID GORMAN, P.E.
1903 LELARAY STREET
COLORADO SPRINGS CO 80909
Ph (719) 635-5736
Fax (719) 635-5450
DAVEG@MVECIVIL.COM

TAX SCHEDULE NO.

62040-01-018

CURRENT ADDRESS

1825 SUMMIT DR

LAND USE

CURRENT & PROPOSED:
SINGLE FAMILY RESIDENTIAL,
WELL & SEPTIC

ACREAGE

5.23 ± ACRES

ZONING

CURRENT ZONING: RR-5

PROPOSED ZONING: RR-2.5

RR-5 DIMENSIONAL STDS.

RR-5 SETBACKS (CURRENT)

FRONT - 25' SETBACK
SIDE - 25' SETBACK
REAR - 25' SETBACK

MAX LOT COVERAGE

25%

MAX BUILDING HEIGHT

30'

RR-2.5 DIMENSIONAL STDS.

RR-2.5 SETBACKS (PROPOSED)

FRONT - 25' SETBACK
SIDE - 15' SETBACK
REAR - 25' SETBACK

MAX BUILDING HEIGHT

30'

MAX LOT COVERAGE

NONE

LEGAL DESCRIPTION

LOT 14 OVERLOOK ESTATES, EL PASO COUNTY, COLORADO AS RECORDED UNDER RECEPTION NO. 159801 IN THE RECORDS OF EL PASO COUNTY, COLORADO.

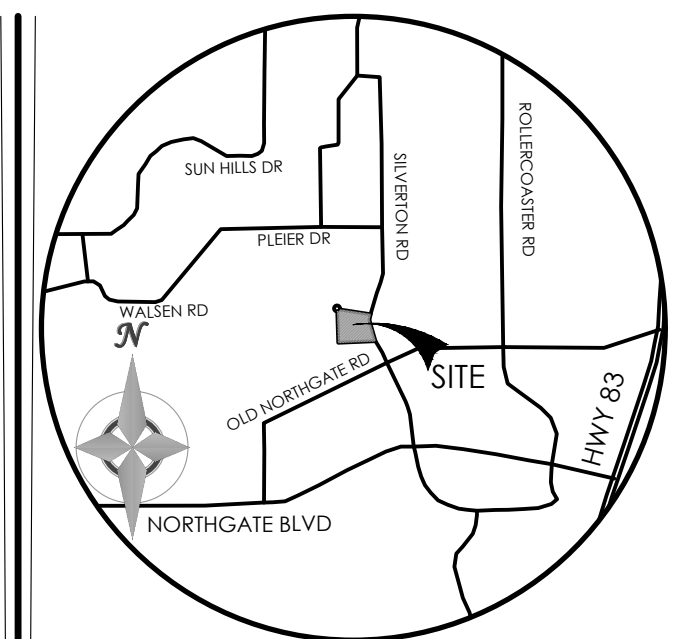
FLOODPLAIN STATEMENT

THIS PROPERTY IS LOCATED WITHIN FEMA DESIGNATED ZONE "X" (AREA OF MINIMAL FLOOD HAZARD) AS INDICATED ON THE FLOOD INSURANCE RATE MAP (FIRM) FOR EL PASO COUNTY, COLORADO AND INCORPORATED AREAS - MAP NUMBER 08041C0295G, EFFECTIVE DECEMBER 7, 2018.

MINERAL RIGHTS OWNERS

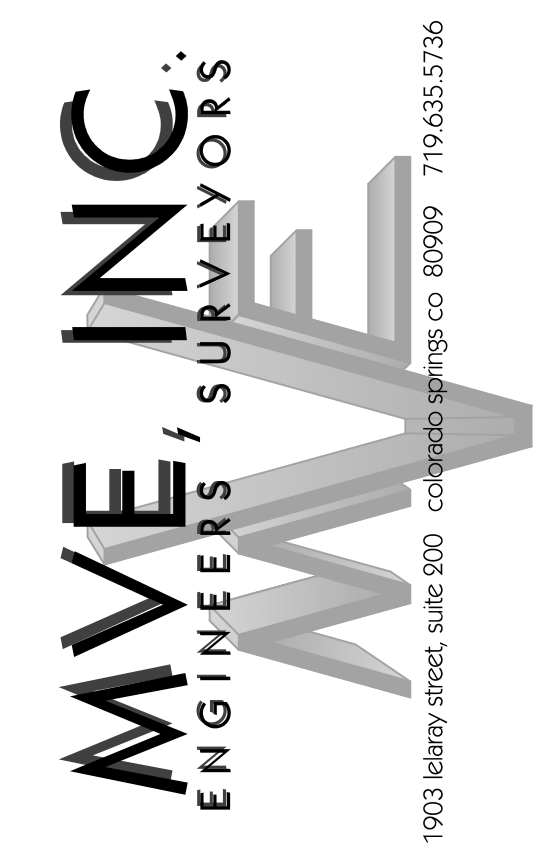
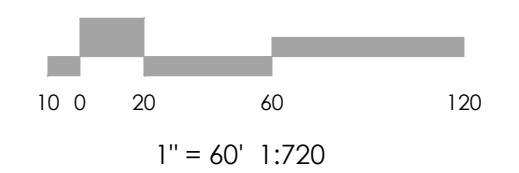
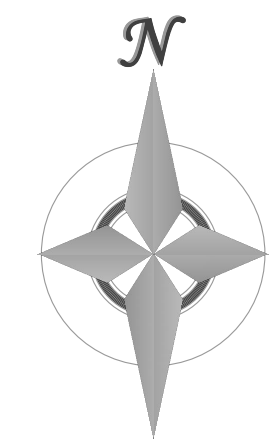
NO MINERAL RIGHTS OWNERS IDENTIFIED

ZONING DIMENSIONAL STANDARDS			
SETBACKS	RR-5 (CURRENT)		RR-2.5 (PROPOSED)
	FRONT	25 FT	25 FT
REAR	25 FT	25 FT	25 FT
SIDE	25 FT	15 FT	15 FT
MAX BUILDING HEIGHT	30 FT	30 FT	30 FT
MAX LOT COVERAGE	25 %	NONE	NONE



VICINITY MAP
NOT TO SCALE

BENCHMARK



REVISIONS

DESIGNED BY _____
DRAWN BY _____
CHECKED BY _____
AS-BUILTS BY _____
CHECKED BY _____

1825 SUMMIT DR.
REZONE / MINOR PLAT

ZONING MAP

MVE PROJECT 61174
MVE DRAWING REZONE

MARCH 7, 2023
SHEET 1 OF 1

Lekishia Bellamy

From: Mary Bruning <mfbruning@msn.com>
Sent: Monday, March 06, 2023 7:34 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2; Holly Williams
Subject: Opposition to 1825 Summit Drive Rezone; File Number P231

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March 6, 2023

RE: File number P231
Project Name: 1825 Summit Drive – Rezone
Description: Rezone RR-5 to RR-2.5

To: Justin Kilgore, Kari Parsons, Ryan Howser, Kylie Bagley, Ashlyn Mathy, Christian Haas, Cristel Madden, Holly Williams CC: Lekishia Bellamy, project manager

The petition filed by Steven and Jennifer Liebowitz to rezone their 5.23 acre property located at 1825 Summit Drive to RR2.5 is not without precedent. In 2013, our neighborhood opposed a similar effort to rezone a property at the corner of Roller Coaster and Old Northgate Road from RR-5 to RR2.5. On September 13, 2013 that application was heard by the Planning Commission and rejected by a vote of 7-2. It was heard on September 24, 2013 by the Board of County Commissioners and rejected unanimously 5-0.

Sixteen months later, the property owner tried again and presented essentially the same petition to the Planning Commission. This time, it was defeated 8-1 and the property owner did not take his efforts further.

Nothing has changed that should make the Planning Commission consider a different outcome on the request currently before you. Surrounding neighbors continue to have strong opposition to rezoning. If approved, a dangerous precedent is set. More property owners will potentially be incited to try to divide their parcels into the smallest possible lots for maximum monetary benefit. How will the Planning Commission and the Board of County Commissioners defend future denials to rezone if this one is approved?

I live on a five-acre lot within walking distance of 1825 Summit Drive. I have lived here for almost thirty years. I do not want to see my neighborhood become a mish-mash patchwork of homes on subdivided lots. Please do not approve this rezoning request. Preserve the resources, the character, and the quality of life that our RR-5 zoning continues to provide and that the residents who purchased homes in this area have a right to see maintained.

Primary Concerns:

- Preserving the character of the neighborhood
- Protecting the interests and rights of residents who purchased five-acre lots expecting the area to remain RR-5
- Preserving the integrity of our wells and water

Sincerely,

Mary Fox Bruning

Lekishia Bellamy

From: Michael Bullock <michael@neotreks.com>
Sent: Wednesday, March 01, 2023 2:23 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2
Subject: Zoning Change Request - 1825 Summit Drive. Public Hearing 3/16/23

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Dear Planning Committee Members:

We have been advised of a rezone request by Steven and Jennifer Liebowitz for 1825 Summit Drive, Colorado Springs, CO 80921. The request is scheduled for the Planning Commission Hearing on Thursday March 16th, 2023. This is a request to subdivide the existing 5.23 acres into two approximately 2.5 acres lots to allow for the construction of a new single-family residence. The Board of County Commissioners hearing on this matter is scheduled for Tuesday April 18th, 2023.

As residents in this area, Catherine and I are very opposed to this request. This area consists of lots of at least 5 acres, which is what makes it unique and a special place to live. Permitting a subdivision into 2.5 acre lots would set an unwanted precedent. This would open the door for investors and developers to buy up other homes in our community, with the sole purpose of subdividing for their financial gain without the consideration of the impact to other residents.

Owners of property in this area knew all along that these lots were developed with a lot size of at least 5 acres, making it unique. If they wish to build homes on 2.5 acre lots, there are plenty of other options in the County. They should not seek to change existing zoning that has been in place for many years.

As El Paso County residents of this area of town, specifically the Sun Hills subdivision, we urge you to deny this rezoning request.

Best regards,

Michael & Catherine Bullock
14965 Raton Rd, Colorado Springs, CO 80921
(719) 332-1161

Lekishia Bellamy

From: The Denistons <denistons@gmail.com>
Sent: Thursday, March 02, 2023 8:52 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2
Subject: Zoning Change Request - P231 - 1825 Summit Drive - Planning Commission Public Hearing 3/16/23

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Re:

File Number P231
Project Name 1825 Summit Dr - Rezone
Description Rezone - RR-5 to RR-2.5
Parcels 6204001018
Applicant Steven and Jennifer Liebowitz
EA Number EA22112
Project Manager Lekishia Bellamy

Dear Planning Commission Members:

We live 2,300 ft from this proposed rezone from RR-5 to RR-2.5. There are at least 200 RR-5 lots within four miles of the subject property.

We purchased an RR-5 lot here and built our house here long before the current Northgate, Flying Horse Ranch, and other high density housing developments occurred. In spite of the nearby development pressure, our neighborhood has retained its rural, horse-oriented character over time.

We oppose this rezoning action because we believe that it would set a precedent that would result in damage and harm to the surrounding community of RR-5 lots.

Were this rezoning action to be approved, there would be nothing to stop developers, builders, and investors from buying up the surrounding properties with the sole objective of subdividing the lots for their financial gain, adversely impacting existing residents. This cascading effect would sweep through this large lot enclave overnight and destroy the character of the neighborhood.

For this reason, please reject the "transition" RR-2.5 zoning request.

Thank you for considering our views in your deliberations. Please contact us if you have any questions.

Sincerely,

Patricia and Dale Deniston
1345 Walsen Road

Colorado Springs, CO 80921
denistons@gmail.com

Lekishia Bellamy

From: Travis Hamann <travis.hamann@yahoo.com>
Sent: Tuesday, March 07, 2023 9:37 AM
To: Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2; Holly Williams; Justin Kilgore
Subject: Opposition to Rezone of 1825 Summit Drive P-231

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Hello County Planning Members,

I strongly oppose the rezoning of the property located at 1825 Summit Drive. This would set a dangerous precedent allowing adjacent properties to do the same. I have had to drill a new well on my property due to the decreasing water levels in the aquifer, additional dwellings would increase the consumption on the aquifer. There simply isn't enough water for a more dense zoning. Greed is the driver in these type of sub division and it does not align with the master plan for this area. Allowing flying horse to be annexed into Colorado Springs was the first step and drilling deeper wells for the golf course was a detriment to the existing water supply. The voters who moved to this area did so for the additional space, voting for this zoning change would result in us voting you out in the next election.

Regards,
Travis

Travis Hamann
2520 Old North Gate Rd
Colorado Springs, CO 80921

Lekishia Bellamy

From: Kari Parsons
Sent: Friday, March 03, 2023 8:20 AM
To: Lekishia Bellamy
Subject: Re: Submit Drive rezoning request

Kari Parsons
Senior Planner
Planning & Community Development
2880 International Circle
Colorado Springs, CO. 80910
719.520.6306 719.373.8562
<https://planningdevelopment.elpasoco.com/>

To review all El Paso County projects in EDARP go to: <https://epcdevplanreview.com/>

To review the El Paso County Land Development Code (2021) go to: https://library.municode.com/co/el_paso_county/codes/land_development_code

PERSONAL WORK SCHEDULE

Monday - Thursday, 7:00 am to 5:30 pm

DEPARTMENT HOURS

Monday - Friday, 7:30 am to 4:30 pm

From: Richard Harrington <rahpost@gmail.com>
Sent: Thursday, March 2, 2023 9:22:37 PM
To: Kari Parsons <kariparsons@elpasoco.com>
Subject: Submit Drive rezoning request

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I am a member of the immediate neighborhood, and am opposed to the rezoning request submitted for 1825 Summit Drive requesting a zoning change from 5.23 acres into two 2.5 acre lots in order to build an additional free standing residence on this lot.

This would set a precedent allowing for the bifurcation of any and all lots in the area, destroying the covenant of the neighborhood.

The low density housing is the defining characteristic of this area. There are already plenty of medium to high density areas in the immediate vicinity, either built or approved to be built.

Please allow this area to retain it's defining characteristics. There is no need for this change.

Regards,

Richard Harrington

Brief Counter Points to [MVE's Letter of Intent Dated January 6, 2023](#)
On Behalf of Sun Hills Homeowners Association

Information from **El Paso Land Development Code (2021) section 5.3.5 (B), El Paso Master Plan** and [MVE's Letter of Intent](#)

- [MVE's Letter of Intent Item # 1. "The request for rezone to RR-2.5 does not represent a significant change in use or density for the area."](#)
 - The requested change DOES REPRESENT A SIGNIFICANT CHANGE. It potentially DOUBLES the number of residential units in the area.

- **Per El Paso County's Master Plan Goal LU3 "...Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character should be maintained."**
 - The requested change WOULD dramatically increase (double) the intensity and degrade the overall character of the area.

- [MVE's Letter of Intent Item # 1. "The rezone and subdivision would be beneficial to meet the transition goal between the large lot residential and the higher density incorporated place-types."](#)
 - There is no incremental benefit to be gained, and no need to double the number of houses in the area. The existing 5-acre lot requirements already provide for an adequate transition zone.

- [Comments from MVE's Letter of Intent regarding 2040 Major Transportation Corridors Plan, El Paso County Water Master Plan, Traffic Impact and Traffic Impact Fees:](#)
 - If rezoning is allowed to occur, the precedent set could allow for upwards of over 200+ more rezoning requests which would dramatically impact major transportation corridors, water well issues and associated waste water (septic system) issues resulting in a detrimental impact to the Dawson aquifer.

Other Rezoning Criteria Considered

- **"If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;"**
 - There has been no material change in the character of the area. In fact, we desire that there are NO material changes in character made.
- **"When there was an error or oversight in the original zoning of the property;"**
 - There have been no errors or oversights in the original zoning.
- **"The zone change is necessary for the general health, safety, or welfare of the community".**
 - There is no change necessary for the health safety or welfare of the community.

Lekishia Bellamy

From: Gerald McLaughlin <jfactor1560@gmail.com>
Sent: Wednesday, March 01, 2023 1:06 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2
Cc: Gerald McLaughlin; JappR; David Todd; Nancy Spalding
Subject: Zoning Change Request - 1825 Summit Drive. Public Hearing 3/16/23

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Dear Planning Committee Members:

Please see below letter that has just been sent to Ms. Williams regarding the upcoming public hearing on behalf of Sun Hills HOA. Sun Hills HOA (roughly 150 households) is located directly north of the affected property (1825 Summit Drive).

As we discussed in the letter below, we are very much against this zoning change.

If you would like to gain more insight as to our position please contact me directly.

Many thanks for your attention to this critical matter, and I look forward to discussing the matter with you.

Gerald (Jerry) McLaughlin
Sun Hills HOA President
14840 Raton Rd
Colo Spgs, CO 80921
(719) 722-0212

Ms. Holly Williams
County Commissioner, District 1
2880 International Circle, Suite 110
Colorado Springs, CO 80910

March 1, 2023

RE: Map Amendment (Rezone) 1825 Summit Drive

Dear Commissioner Williams:

We have been advised of a rezone request by Steven and Jennifer Liebowitz for 1825 Summit Drive, Colorado Springs, CO 80921, (please see enclosed). The request is scheduled for the Planning Commission Hearing on

Thursday March 16th, 2023. This is a request to subdivide the existing 5.23 acres into two approximately 2.5 acres lots to allow for the construction of a new single-family residence. The Board of County Commissioners hearing on this matter is scheduled for Tuesday April 18th, 2023.

Members of the Sun Hills HOA (150+ households) are very opposed to this request and believe that approving this request will establish a very dangerous lot subdividing precedent resulting in damage and harm to our neighborhood.

As you are aware, this area of town is predominantly made up of at least five acre lots providing the residents with a unique country like environment while being located close to all the comforts and conveniences of living in the city. Allowing the subdivision of this 5.23-acre parcel will allow for further growth, congestion, potential damage to the value of our homes and potential damage to our well water supply.

Residents in this part of town have established our homes and families in this area because it provides us with a country like environment and allows us to enjoy the many benefits from this environment.

As a resident of this area of town, specifically the Sun Hills subdivision, I urge you to deny this rezoning request.

With deepest respect,

Gerald (Jerry) McLaughlin
President, Sun Hills HOA
14840 Raton Rd, Colorado Springs, CO 80921
(719) 722-0212

Lekishia Bellamy

From: Chris Odell <chris.l.odell@gmail.com>
Sent: Monday, March 06, 2023 9:28 AM
To: hollyforcolorado@gmail.com; Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2; Holly Williams
Cc: Odell, Molly
Subject: Request that you reject rezoning request for 1825 Summit Dr

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Dear Commissioner and Planning Commission Staff,

We request that the application to rezone Lot 14 of Overlook Estates (also referred to as 1825 Summit Drive) from RR-5 to RR-2.5 be summarily dismissed. Consideration for the harmful precedent this would set for our RR-5 zoned neighborhood should far outweigh the self interest of one property owner.

Respectfully,

Chris and Molly Odell
1985 Craig Dr, Colorado Springs, CO 80921

Lekishia Bellamy

From: RAY O MARA <raymund650@aol.com>
Sent: Monday, March 06, 2023 4:26 PM
To: Lekishia Bellamy
Subject: Zoning variance request

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Ms Bellamy,

We oppose the rezoning request submitted by owners of 1825 Summit Drive requesting a zoning change from 5.23 acres into two 2.5 acre lots in order to build an additional free standing residence on this lot. My wife and I purchased our 5 acre lot on Raton 23 years ago specifically to live in a low density area. I spent 31 years in the USAF where I was required to live in crowded neighborhoods for my full career and we moved to Colorado Springs to enjoy an uncrowded neighborhood with a good Colorado view.

If the owners of 1825 Summit Drive wish to live on 2.5 acres there are plenty of those neighborhoods in the Colorado Springs area to move to. I don't wish them to set a precedent which will likely spread to neighboring communities.

Sincerely yours,
Ray and Carole O'Mara

Lekishia Bellamy

From: Ross Schumer <ross.schumer@yahoo.com>
Sent: Monday, March 06, 2023 3:23 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2
Cc: Gerald McLaughlin
Subject: 1825 Summit Drive

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I am a resident of the Sun Hills neighborhood and am writing to provide my opinion on the rezoning request to subdivide the lot at 1825 Summit Drive. I have significant concerns about the precedent this would set in the area. Lots with acreage are a dying breed in the Colorado Springs area. My wife and I have been looking to move into this area since we first moved to Colorado Springs in 2009. Something finally became available 3 years ago and we jumped on it. After 12+ moves during our military careers, we could finally settle down and live in our "forever home." We could have selected other neighborhoods (i.e. - Flying Horse) with more amenities but waited on our dream lot/home.

You can't build land and once it is subdivided and built upon, you can't get it back. With all of the recent development in the area, there are very few opportunities to purchase a house/land with acreage unless you want to move far east. We should protect these homesites like any other nonrenewable natural resource or organism facing extinction because once they are gone, they are gone. There are many other issues you will hear about: water, traffic, etc., but those are mere inconveniences compared to the loss of land. You could argue that one home site is not going to make a big difference. However, you would be failing to see the big picture. The precedent this would set could create a chain of events we cannot predict. Who knows what other homeowners would be looking to turn a quick profit? There are several homes in the area with elderly residents. You could only imagine their heirs inheriting a home with 5+ acres where you have no desire to live. Any savvy person would look into the possibility of selling off the home and the land and almost doubling their profit. I strongly urge you to consider the will of the people in this situation where I am sure the bulk of the input you have received is against this land division.

Respectfully,

Ross Schumer
14750 Raton Rd.

Lekishia Bellamy

From: Justin Kilgore
Sent: Monday, March 06, 2023 2:13 PM
To: Lekishia Bellamy
Subject: FW: Map Amendment (Rezone) 1825 Summit Drive

FYI. Please add this as well.

JK

From: Nancy Spalding <nancy.spalding18@gmail.com>
Sent: Monday, March 6, 2023 11:32 AM
To: Justin Kilgore <JustinKilgore@elpasoco.com>; Kari Parsons <kariparsons@elpasoco.com>; Ryan Howser <RyanHowser@elpasoco.com>; Kylie Bagley <KylieBagley@elpasoco.com>; Ashlyn Mathy <AshlynMathy2@elpasoco.com>; Christian Haas <ChristianHaas@elpasoco.com>; Cristel Madden2 <CristelMadden2@elpasoco.com>; Holly Williams <HollyWilliams@elpasoco.com>; Stan VanderWerf <StanVanderWerf@elpasoco.com>; Carrie Geitner <CarrieGeitner@elpasoco.com>; Cami Bremer <CamiBremer@elpasoco.com>; Longinos Gonzalez, Jr <LonginosGonzalezJr@elpasoco.com>
Subject: Map Amendment (Rezone) 1825 Summit Drive

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Dear El Paso County Commissioners and Planning Commission Staff:

We have been advised of a rezone request by Steven and Jennifer Liebowitz for 1825 Summit Drive, Colorado Springs, CO 80921. The request is scheduled for the Planning Commission Hearing next week. This is a request to subdivide the existing 5.23 acres into two approximately 2.5 acres lots to allow for the construction of a new single-family residence. The Board of County Commissioners hearing on this matter is scheduled for Tuesday April 18th, 2023.

Members of the Sun Hills HOA are adamantly **opposed** to this request and believe that approving this request will establish a very dangerous "lot subdividing precedent" resulting in damage and harm to our neighborhood.

The Sun Hills development is made up of at least five acre lots. Allowing the subdivision of this 5.23-acre parcel will result in further congestion, water issues (lots have their own well and septic), and damage to the value of our homes. Our traffic has increased due to a shortcut through Sun Hills to Discovery Canyon Campus and the Flying Horse area. While we are happy to have a school close by, our quiet little neighborhood resembles a speedway during morning and afternoon school dropoffs/pickups. Those of us who walk or bike the neighborhood have to be exceedingly aware of parents and students racing through Sun Hills (via Sun Hills Drive to Granby to Pleier to Silverton) to get to school ontime. This used to be a rural area, and the growth in the past 10 years has been explosive. ***It doesn't have to include changes to Sun Hills.***

Residents in this part of town have established our homes and families in this area because it provides us with a country like environment and allows us to enjoy the peace and quiet of land and horse ownership.

I urge you to **deny** this rezoning request. The environmental impacts (particularly water issues and increased traffic) are already taxing the neighborhood.

Respectfully,

Nancy J. Spalding

Treasurer, Sun Hills HOA (and 30+ year resident of Sun Hills)

1685 Pleier Drive, Colorado Springs, CO 80921

(719) 661-5152

Lekishia Bellamy

From: Joe Squatrito <SquatritoJ@msn.com>
Sent: Monday, March 06, 2023 11:23 AM
To: Holly Williams; Lekishia Bellamy
Cc: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Cristel Madden2; Jerry McLaughlin; Robin Squatrito
Subject: File Number P231 - Rezone Request for 1825 Summit Drive
Attachments: 2023 Mar_Rezoning Opposition Letter.pdf

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Ms. Holly Williams
March 6, 2023
Commissioner, District 1
2880 International Circle
Suite 110 Colorado Springs, CO 80910

RE: File Number P231 - Rezone Request for 1825 Summit Drive

Dear Commissioner Williams:

We are writing to strongly urge you to deny the request to rezone the rural property located at 1825 Summit Drive (Lot 14, Overlook Estates) from the existing RR-5 to RR-2.5 Zone.

The petition request for this rezone listed as File Number P231 is scheduled for the Planning Commission Hearing on Thursday, March 16th, 2023 and for the Board of County Commissioners hearing on Tuesday, April 18th, 2023.

This rezone request, if approved, establishes a very bad precedent with adverse impact to hundreds of property owners in this RR-5 zoned area within El Paso County.

Principal concerns include:

- Adverse impact on property values.
- Adverse impact on the Dawson Aquifer, placing existing water wells at risk due to increased number of new wells.
- Reduced quality of life from undesired increased population density in a RR-5 zoned county area.
- Unwanted increased traffic conditions on rural county roads.

The rezoning request should be denied by the El Paso County Board of County Commissioners.

Thank you for your leadership and attention to this important matter,

Regards,

Joe & Robin Squatrito
14895 Raton Rd, Colorado Springs, CO 80921

cc:
Lekishia Bellamy, EPC Project Manager

EPC Planning Commission Staff

Atch: pdf copy of Opposition Letter

Lekishia Bellamy

From: Justin Kilgore
Sent: Monday, March 06, 2023 2:05 PM
To: Lekishia Bellamy
Subject: FW: Feedback on Rezoning request
Attachments: Public Notice.pdf

FYI. Please add to the file.

JK

From: Mike Steppenbacker <MSteppenbacker@ent.com>
Sent: Monday, March 6, 2023 9:55 AM
To: Justin Kilgore <JustinKilgore@elpasoco.com>; Kari Parsons <kariparsons@elpasoco.com>; Ryan Howser <RyanHowser@elpasoco.com>; hwilliams@elpasoco.com; Meggan <Herington@elpasoco.com>
Subject: Feedback on Rezoning request

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To whom it may concern:

It has come to my attention that there is a rezoning request (please see attached Public Notice) submitted by owners of 1825 Summit Drive requesting a zoning change from 5.23 acres into two 2.5 acre lots in order to build an additional free standing residence on this lot. This request (although not part of the exact subdivision I am in, but on the edge of it), if approved, has the potential of creating a precedent allowing for more rezoning and further splitting of lots. I feel that a rezoning and the subsequent dividing of lots, or near, our neighborhood will lead to more crowding, more congestion, potential water well issues, potential decrease in property values and impinge on the overall quality of life in our area. I strongly urge you, as a resident of the Sun Hills subdivision, to not allow this rezoning of this lot.

Thank you for your consideration,

Mike Steppenbacker
14490 Sun Hills Drive
Colorado Springs, CO 80921
719-494-6887

#

Toman

Scott & Mary

14825 Raton Rd
Colorado Springs, CO 80921
(719) 331-2271
smtoman@yahoo.com

Dear Ms. Williams & Ms. Bellamy,

In response to the notice to rezone the parcel adjacent to Sun Hills Estates, please record our objection. Rezoning and the subsequent dividing of lots in this area has the high potential to lead to water issues, decrease in property values, and greatly reduces the quality of life we value. Please note the serious water issues this area would undergo, as we are not on city water, nor have the necessary infrastructure to be on city water. In addition, our neighborhood school, Discovery Canyon Campus, would also be impacted if rezoning were to occur over and over.

Sincerely,
Scott and Mary Toman

Re: Rezone of 1825 Summit Drive,
Colorado Springs, CO 80921

Lekishia Bellamy

From: Justin Kilgore
Sent: Thursday, March 02, 2023 10:50 AM
To: Lekishia Bellamy
Subject: FW: subdivision of 5 acre lot, opposition

Please add this to the EDARP file and network drive file.

JK

From: John Turner <john@turnercoloradohomes.com>
Sent: Thursday, March 2, 2023 10:37 AM
To: Justin Kilgore <JustinKilgore@elpasoco.com>
Subject: subdivision of 5 acre lot, opposition

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Dear Mr. Kilgore,

My name is John Turner and I live on a 5 acre lot in the subdivision immediately north of the property located at 1825 Summit Drive. The owner of the property at 1825 Summit Drive is trying to split the 5 acre lot he bought into two lots by appealing for a zoning change. I strongly urge you to deny this effort. I have lived here since 1987 and have been active in the Sun Hills community. I have watched various owners try to divide their lots at the expense of their neighbors. To date, we have managed to stop them. ...I am also the owner of Turner Associates real estate. A firm in business since 2001. I am intimately aware of what the subdivision of even one 5 acre lot in the Northgate/Gleneagle region could do. It would virtually instantly bring on challenges all over this very unique and highly sought after area.. It would also dramatically, as in overnight, drop the value of those of us who are sitting on the 5 acre lots we paid for assuming our zoning rights would be protected. We recently handled the sale of two 5 acre lots in this area. They both sold for approximately \$650,000. If you approve this re-zoning effort ALL the 5 acre property in this area will have to re-evaluate their properties value because any wise potential buyer would have to assume that the people surrounding the lot they are interested in could be re-zoned to 2.5 acres. In my professional opinion to approve this re-zone to 2.5 acres would immediately devalue all the 5 acre lots within a minimum of one mile by approximately 25%. Those two lots I sold would then be valued at \$475,000 instead of the \$650,000 I sold them for.

The neighbors up here bought their land/homes expecting to have their covenants and those of the surrounding properties protected by their HOA, the covenants and the El Paso County Planning Commission. Please deny the owners the right to infringe on the financial well being of their neighbors. Please pass this email along to everyone on your Planning staff as well as anyone else who may have input or an opinion on this effort.

Thank You, John Turner, owner Turner Associates real estate and 35 year resident of Sun Hills. 719.200.6926

Lekishia Bellamy

From: Hants White <hantswhite@eeiconsulting.com>
Sent: Saturday, March 04, 2023 3:06 PM
To: Justin Kilgore; Kari Parsons; Ryan Howser; Kylie Bagley; Ashlyn Mathy; Christian Haas; Lekishia Bellamy; Cristel Madden2; Holly Williams
Cc: Caroline White
Subject: Rezoning request for 1825 Summit Drive

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To whom it may concern:

I recently learned of a rezoning request for 1825 Summit Drive.

My wife and I STRONGLY object to this request, and desire that it be firmly denied. Here are some of the considerations:

1. The area is fully developed already.
2. We do NOT want a precedent for subdividing lots – we do NOT want more density in our area.
3. Water rights are a challenge already.
4. It is against covenants of EVERY neighborhood/association in the area (Overlook is where this property is located, also Sun Hills and Pleasant View).

Building a 2nd home on the property is perfectly fine – there are provisions at the County/Zoning level for this, as well as at the neighborhood/association level. The process is relatively straightforward and well-traveled by other property owners in the area.

The rezoning request should be denied, and the owners encouraged to follow the established pattern for building a 2nd home on their property.

Thank you for your attention to this matter.

Regards,
Hants & Caroline White

Lekishia Bellamy

From: julie haverluk <julie.haverluk@gmail.com>
Sent: Tuesday, March 07, 2023 12:39 PM
To: Justin Kilgore; Holly Williams; Cristel Madden2; Christian Haas; Lekishia Bellamy; Ashlyn Mathy; Kylie Bagley; Kari Parsons; Ryan Howser
Subject: Opposition to 1825 Summit Drive rezoning P-231

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Dear Members of the El Paso Board of County Commissioners,

I would like to add my opposition to the request to rezone property at 1825 Summit Drive. The owners of this property were aware of the 5 acre zoning when they purchased the property and it is not fair to neighbors when owners attempt to change the zoning of their properties for personal gain. Allowing a variance for this property opens the door for anyone in the area to do the same, though everyone originally moved here to be in a rural area. Most people in the area are on private wells which have had to be drilled deeper and deeper as the water levels drop due to depletion of the aquifer reserves, as well as changing regulations. We are also on septic systems which can contaminate the water table from which we draw.

I know from attendance at previous Planning Commission and County Commissioner meetings, that some of you prioritize individual rights over honoring responsibility to community quality of life protection. The latter is what zoning laws and even homeowner associations try to safeguard. I hope that you will vote to retain the zoning laws in this area as they are when faced by united opposition to rezoning from individuals who also have rights as neighbors of this property.

Sincerely,
Julie Haverluk

March 8, 2023

El Paso County Planners and Commissioners
Project File: P231
Rezone 1825 Summit Drive

Is it the plan and the intent of El Paso County to eventually rezone Overlook Estates, Sun Hills, and properties west to Glen Eagle/Northgate Blvd and east to Hwy 83 from RR5 to RR2.5? If this is true, the residents of the community should be informed of this intent so that appropriate decisions can be made.

Consider the site map and the following facts:



Rezone Lot 14 Overlook Estates

- This property (Lot 14) lies in the approximate center of Overlook Estates, surrounded by 8 other adjacent properties of Overlook Estates (Lots 5-8 and 10-13)
- The notification for rezone was sent to 20 surrounding properties all of which are 5 acres more or less
- There are even more 5 acre parcels beyond this periphery extending west to Northgate Blvd and east to Hwy 83
- Spot rezoning as the result of approval of this request begins the non-homogeneity of the neighborhood, a patchwork, permanently changing it
- Coverage area for RR5 is limited to 25% of lot size, while there is no restriction in the El Paso County Land Code for RR2.5 opening the possibility for a completely covered 5 acres (2x2.5) in the future that could include 2 primary residences, 2 guest houses, as well as arbitrary outbuildings
- Approval of the rezone sets a precedent for all property owners in the community the right to rezone their property. This leads to increased population density, increased demands on the aquifer, increasing traffic and an eventual requirement for street and road modifications that may require eminent domain proceedings by the county. Evolving spot rezoning establishes an inconsistent mixture of neighborhood character that is permanently changed.

- There are ample documentable cases where El Paso County routinely makes exceptions to its own rules as prescribed in the El Paso County Land Code and Master Plan

This rezone approval opens the door for builders and developers to acquire properties, rezone them for new development and profit at the expense of long term residents, resulting in construction for the remainder of our lives, completely disrupting quality of life and permanently changing the character of the community. This assertion together with the above facts, implies this initial spot rezoning is inconsistent with and contrary to the newly adopted El Paso County Master Plan, which provides for the protection of the character of established, built out neighborhoods.

Why would anyone risk the expense of an engineering representative, a water lawyer, and other fees as well as endure the process of the water court if assurances had not already been made that the request would be approved? The early assistance documents from July of last year seem to indicate the answer to this question. I suspect the decision for the rezone request has already been made and that the process of notifications, opportunity for comments, and subsequent hearings is simply a charade and a deception by the county in order to fulfill a meaningless rule or ordinance that is required by law.

This apparently for profit endeavor benefits one and takes from many.

I oppose this proposal for a spot rezone.

Ben Kelley
14115 Silverton Rd
Overlook Estates
719.339.7961

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-23-001
1825 SUMMIT DRIVE REZONE

WHEREAS, Steven and Jennifer Liebowitz did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on March 16, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;

5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;
6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a map amendment, the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of 1825 SUMMIT DRIVE for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not

limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

- 2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

- 1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
- 2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

_____ seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: circle one

Brian Risley	aye / no / abstain / absent
Thomas Bailey	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent
Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent

Bryce Schuettpelz	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent

The Resolution was adopted by a vote of ___to___ by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 16th day of March 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
_____, Chair

DATED: March 16, 2023

EXHIBIT A

A PARCEL OF LAND, BEING A PORTION OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 32, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M. BEING MONUMENTED BY A 3-1/4" ALUMINUM CAP STAMPED "LS 10376" AT THE EAST END AND 3-1/4" ALUMINUM CAP STAMPED "LS 4842" AT THE WEST END, SAID LINE BEING ASSUMED TO BEAR S89°14'13"W.

BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 32;

THENCE ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32, S89°14'45"W A DISTANCE OF 203.15 FEET;

THENCE DEPARTING SAID SOUTH LINE THE FOLLOWING SEVEN (7) COURSES:

1. N00°45'04"W A DISTANCE OF 61.34 FEET, TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 830.00 FEET, A CENTRAL ANGLE OF 28°50'34" AND AN ARC LENGTH OF 417.82 FEET, TO A POINT OF TANGENT;
3. N28°05'30"E A DISTANCE OF 210.86 FEET, TO A POINT OF CURVE;
4. ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 545.00 FEET, A CENTRAL ANGLE OF 28°46'54" AND AN ARC LENGTH OF 273.77 FEET, TO A POINT OF TANGENT;
5. N00°41'24"W A DISTANCE OF 305.54 FEET;
6. N89°18'36"E A DISTANCE OF 393.21 FEET, TO A POINT OF CURVE;
7. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1253.50 FEET, A CENTRAL ANGLE OF 39°16'05" AND AN ARC LENGTH OF 859.09 FEET, TO A POINT OF NON-TANGENT ON THE WESTERLY RIGHT-OF-WAY LINE OF TAHITI DRIVE AS PLATTED IN HOLIDAY HILLS NO. 1 RECORDED IN BOOK E-2 AT PAGE 12 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER;

THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE, S00°09'11"E A DISTANCE OF 302.60 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF VOLLMER ROAD;

THENCE ON SAID NORTHERLY RIGHT-OF-WAY LINE, S34°04'17"W A DISTANCE OF 764.06 FEET, TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 32;

THENCE ON SAID SOUTH LINE, S89°14'13"W A DISTANCE OF 816.32 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,369,628 SQUARE FEET OR 31.4423 ACRES.

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONE)
1825 SUMMIT DR REZONE (P-22-022)

WHEREAS, Steven & Jennifer Liebowitz did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 16, 2023, upon which date the Planning Commission did by formal resolution recommend denial of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on April 18, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That the proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues

were submitted and reviewed, and that all interested persons were heard at those hearings.

4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.
7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Steven & Jennifer Liebowitz to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

Resolution No. 23-
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AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 18th day of April 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LOT 14, OVERLOOK ESTATES AS RECORDED UNDER RECEPTION NUMBER 159801 OF THE RECORDS
OF EL PASO COUNTY, COLORADO

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONE)
1825 SUMMIT DR REZONE (P-22-022)

WHEREAS, A request by Steven and Jennifer Liebowitz for approval of a map amendment, rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The applicant intends to subdivide the existing parcel into two approximately 2.5-acre lots to allow for the construction of a new single-family residence on the property in addition to the existing residence located at 1825 Summit Drive. The property is located at the northwest corner of the intersection at Old North Gate Road and Silverton Road. Application had opposition at Planning Commission and was denied 7-2. Denial based on perceived incompatibility with surrounding properties. (Parcel No. 62040-01-018) (Commission District No. 1)

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 16, 2023, upon which date the Planning Commission did by formal resolution recommend denial of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on April 18, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That the proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.

3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted and reviewed, and that all interested persons were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.
7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Steven & Jennifer Liebowitz to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

Resolution No. 23-
Page 4

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 18th day of April 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LOT 14, OVERLOOK ESTATES AS RECORDED UNDER RECEPTION NUMBER 159801 OF THE RECORDS
OF EL PASO COUNTY, COLORADO