


**EL PASO COUNTY**  
**COLORADO**

**COMMISSIONERS:**  
**STAN VANDERWERF (CHAIR)**  
**CAMI BREMER (VICE-CHAIR)**

**LONGINOS GONZALEZ, JR.**  
**HOLLY WILLIAMS**  
**CARRIE GEITNER**

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of County Commissioners**  
**Stan VanderWerf Chair**

**FROM: Nina Ruiz, Planning Manager**  
**Gilbert LaForce, PE Engineer III**  
**Craig Dossey, Executive Director**

**RE: Project File #: SP-18-007**  
**Project Name: Riverbend Residential**  
**Parcel Nos.: 65141-00-034 and 65141-00-033**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Avatar Riverbend, LP 6800 Jericho Trail #120 West Syosset, NY 11791	Catamount Engineering P.O. Box 221 Woodland Park, CO 80866

**Commissioner District: 4**

Planning Commission Hearing Date:	2/18/2021
Board of County Commissioners Hearing Date	3/9/2021

**EXECUTIVE SUMMARY**

A request by Avatar Riverbend, LP., for approval of a preliminary plan to create 203 single family residential lots, public rights-of-way, and tracts for open space, detention, and utilities. A concurrent application is under review for a map amendment (rezone) from the PUD (Planner Unit Development) to the RS-5000 (Residential Suburban) zoning district. The 51.99-acre development area is located at the southwest corner of



the Highway 85-87 and Southmoor Drive intersection and is within Section 14, Township 15 South, Range 66 West of the 6th P.M. The property is not within the boundaries of a small area plan. The applicant also request the Board of County Commissioners make a finding of water sufficiency in terms of quality, quantity and dependability. Approval by the Board of County Commissioners of the preliminary plan with a finding of sufficiency for water quality, quantity, and dependability authorizes the Planning and Community Development Department Director to administratively approve all subsequent final plat(s).

Immediately north of the development area is the Riverbend Commercial Development which is located entirely within the City of Fountain. This development is to be completed concurrently as one cohesive development, although they fall are under two different jurisdictions. The City of Fountain and El Paso County are both subject to MS4 Permit requirements. The County requires the developer to enter into a maintenance agreement with the County for such BMPs to ensure proper maintenance and to provide the County with an easement to allow the County to enter the property should proper construction or maintenance not be completed. The applicant proposes to construct a single water quality detention pond to serve both the commercial and residential developments.

The City of Fountain and El Paso County worked cooperatively to amend the standard El Paso County Detention Pond Maintenance and Easement Agreement to include provisions for the City of Fountain to be signatory as well as share the financial responsibility with El Paso County in the event that the proposed facility is not completed in a timely manner, is not properly maintained, or is defective and the collateral provided by the developer is insufficient to remedy the issue. The City of Fountain's proportionate share has been calculated at 36.4%, which is equivalent to the percentage of runoff entering the detention pond as a result of the development.

The Board of County Commissioners approved a request for approval and authorization to allow the Chair to sign a Detention Pond Maintenance Agreement and Easement between El Paso County, the City of Fountain, Avatar Fountain LP, Avatar Riverbend LP, and Riverbend Crossing Metropolitan District on August 11, 2020 (PCD File No. DA-20-002).

#### **A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION**

**Request:** A request by Avatar Riverbend, LP., for approval of a preliminary plan to create 203 single family residential lots and for a finding of sufficient water quality, quantity, and dependability, thereby authorizing administrative approval of subsequent final plats.

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

**Authorization to Sign:** There are no items requiring signature associated with this request.

## **B. PLANNING COMMISSION SUMMARY**

**Request Heard:** As a Consent item at the February 18, 2021 hearing.

**Recommendation:** Approval based on recommended conditions and notations.

**Waiver Recommendation:** N/A

**Vote:** 8 to 0

**Vote Rationale:** N/A

**Summary of Hearing:** The applicant was represented at the hearing.

**Legal Notice:** N/A

## **C. APPROVAL CRITERIA**

The BOCC shall determine that the following criteria for approval outlined in Section 7.2.1 of the El Paso County Land Development Code (2019), have been met to approve a Preliminary Plan:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;

- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

**A. LOCATION**

North:	City of Fountain	Commercial
South:	City of Fountain	Vacant
East:	MHP (Mobile Home Park)/C-2 (Commercial Obsolete)	Commercial/Residential
West:	A-5 (Agricultural)	Agricultural (Venetucci Farm)

**D. BACKGROUND**

The Board of County Commissioners approved the Riverbend Crossing PUD (PCD File No. PUD-05-017) and preliminary plan (PCD File No. SP-05-026) that authorized the creation of 205 single-family residential lots on July 13, 2006.

The Board of County Commissioners approved a request for approval of a Title 32 Special District Service Plan to create the Riverbend Crossing Metropolitan District on August 31, 2006 (PCD File No. ID-05-010). The service plan included the following: a maximum debt authorization of \$5 million, a debt service mill levy of 30 mills, and an operations and maintenance mill levy of 5 mills.

The Board approved amendments to the Riverbend Crossing PUD authorizing the inclusion of interim uses, specifically, off-site parking to provide overflow parking for the adjacent El Paso County Valley Senior Citizens Organization and agricultural projects and uses including, but not limited to, greenhouses in connection with ongoing programs associated with Venetucci Farm, on September 13, 2012 (PCD File No. PUD-12-5).

The Board of County Commissioners approved a request for a major PUD (Planned Unit Development) amendment to replace the Riverbend Crossing PUD with a PUD Zoning and Conceptual Plan (ZCP) on February 25, 2014. This approval also included authorization of senior housing as an allowed use as generally depicted on the plan, off-site parking for the adjacent senior community center, and interim agricultural uses within the ZCP district boundaries. The PUD ZCP also identified the intent of future single-family residential uses within the ZCP area.

The developer has now made a request for approval of a map amendment (rezone) of the 51.99-acre development area from the PUD (Planned Unit Development) zoning district to the RS-5000 (Residential Suburban) zoning district. Concurrent applications are under review for the Riverbend Preliminary Plan and two final plats. The Preliminary Plan depicts 203 single family detached residential lots, public rights-of-way, and tracts for open space, drainage, and utilities. The overall density of the preliminary plan area is 3.91 dwelling units per acre.

Immediately north of the development area is the Riverbend Commercial Development which is located entirely within the City of Fountain. The developer is developing the two sites concurrently as one cohesive development, although they are under two different jurisdictions. The City of Fountain and El Paso County are both subject to MS4 Permit requirements which require the jurisdictions to take measures to protect the quality of stormwater from sediment and other contaminants and requires the developer to provide adequate permanent stormwater quality Best Management Practices (BMP's) with new development or significant redevelopment. Additionally, the County requires the developer to enter into a maintenance agreement with the County for such BMPs to ensure proper maintenance and to

provide the County with an easement to allow the County to enter the property should proper construction or maintenance not be completed. The applicant proposes to construct a single water quality detention pond to serve both the commercial and residential developments. This facility would ultimately be owned and maintained by the Riverbend Crossing Metropolitan District.

The City of Fountain and El Paso County worked cooperatively to amend the standard El Paso County Detention Pond Maintenance and Easement Agreement to include provisions for the City of Fountain to be signatory as well as share the financial responsibility with El Paso County in the event that the proposed facility is not completed in a timely manner, is not properly maintained, or is defective and the collateral provided by the developer is insufficient to remedy the issue. The City of Fountain's proportionate share has been calculated at 36.4%, which is equivalent to the percentage of runoff entering the detention pond as a result of the development.

The Board of County Commissioners approved a request to authorize the Chair to sign a Detention Pond Maintenance Agreement and Easement between El Paso County, the City of Fountain, Avatar Fountain LP, Avatar Riverbend LP, and Riverbend Crossing Metropolitan District on August 11, 2020 (PCD File No. DA-20-002).

## **E. ANALYSIS**

### **1. Land Development Code Compliance**

This application meets the preliminary plan submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2019).

### **2. Zoning Compliance**

A concurrent request is under review for a map amendment (rezone) to the RS-5000 (Residential Suburban) zoning district. The RS-5000 (Residential Suburban) zoning district is intended to accommodate single-family and two-family residential development. The density and dimensional standards for the RS-5000 (Residential Suburban) zoning district are as follows:

- Minimum lot size – 5,000 square feet
- Minimum width at the front lot line - 50 feet
- Setbacks - 25 feet front and rear, 5 feet on the sides
- Maximum height - 30 feet

The preliminary plan demonstrates compliance with the lot size requirement of the RS-5000 zoning District. The applicant will be required to demonstrate

compliance with the RS-5000 (Residential Suburban) zoning district dimensional standards in association with each residential site plan request.

### 3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

**Policy 6.1.4** – Encourage the logical timing and phasing of development to allow for the efficient and economical provision of facilities and services.

**Policy 6.1.11** - Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.

**Policy 10.2.2-** Carefully consider the availability of water and wastewater services prior to approving new development.

**Policy 11.3.2-** When possible, safely design and incorporate drainage facilities as an aesthetic element with developments.

**Goal 13.1-** Encourage an adequate supply of housing types to meet the needs of County residents

According to the water and wastewater resources reports submitted in support of the preliminary plan, Security Water and Sanitation District has available water supply and wastewater treatment capacity to provide adequate service to the development.

The applicant has submitted a concurrent request to rezone 51.99 acres from PUD (Planned Unit Development) to the RS-5000 (Residential Suburban) zoning district. The subject parcels are located on the fringe of existing urban level development. Adjacent to the east is the Norad View Mobile Home Park, which is zoned MHP (Mobile Home Park). As discussed in the background section above, the land located immediately north is Riverbend Commercial Development which is being concurrently redeveloped by the same applicant group as the Riverbend Residential development.

To the east, across Highway 85-87, lies the urban core of the unincorporated Security area, which includes a community commercial center as well as urban residential development zoned RS-6000 (Residential Suburban). To the south, between Highway 85-87 and Interstate 25, is the jurisdictional boundaries of the City of Fountain. Several urban developments have been approved within the City of Fountain in this area, including a significant amount of urban residential development. It is anticipated that urban level development within Fountain will continue to progress north to the jurisdictional boundaries of El Paso County. The concurrently reviewed map amendment to the RS-5000 zoning district and the proposed preliminary plan are logical extensions of the existing development within the unincorporated area of Security and within the City of Fountain.

The preliminary plan area is adjacent to an area zoned A-5 (Agricultural) to the west. Urban density development is not customarily considered compatible with agricultural development and, if approved, typically requires provision of adequate buffers and transition areas. The adjacent A-5 zoned parcel is Venetucci Farms and is not residential in nature but is instead a well-known gathering place within El Paso County for seasonal festivities, such as fall festivals. Urban development can be found to be compatible with community centers in the area provided the urban development does not detract from the agricultural nature of Venetucci Farms. The preliminary plan depicts a 30-foot open space tract adjacent to Venetucci Farms in an effort to buffer the dense residential development from the existing agricultural use.

Staff recommends that the preliminary plan is consistent with the policies discussed above specifically pertaining to the concept of integrating new compatible land uses in terms of density and the policies promoting conservation of open space.

#### **4. Small Area Plan Analysis**

The property is not included within a small area plan.

#### **5. 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. The preliminary plan was submitted for review prior to the adoption of the Water Master Plan, therefore, this is not an applicable review criteria component of the master plan used for review of the application.

## **6. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a high wildlife impact potential. The US Army Corps of Engineers, Colorado State Forest Service, Colorado Parks and Wildlife, the Environmental Division of the El Paso County Community Services Department, were each sent a referral and have no outstanding comments.

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

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

Please see the Transportation Section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridor Plan Update (MTCP).

## **F. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

Please see the floodplain section below for information regarding the floodplain hazard located on the subject parcels.

### **2. Wildlife**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a high wildlife impact potential.

### **3. Floodplain**

As indicated by FEMA Flood Insurance Rate Map Numbers 08041C0763G and 08041C0951G, which has an effective date of December 7, 2018, most of the development is outside the FEMA designated 100-year floodplain (Shaded Zone X). The southern portion of the site within the 100-year floodplain (Zone AE) are in tracts and will not be utilized for residential development.

### **4. Drainage and Erosion**

The development is in the West Little Johnson Drainage Basin (FOFO2700) which is included in the El Paso County Drainage Basin Fee program. The drainage fee shall be paid at the time of plat recordation.

The development generally drains to the south. Stormwater runoff is conveyed by curb and gutter, and stormdrain system into an extended detention basin (EDB) for water quality and flood control storage. The EDB is designed to also provide water quality and flood control storage for Riverbend Commercial northeast of this development. The EDB will be privately owned and maintained by Riverbend Crossing Metropolitan District.

Pre-development grading is requested with the preliminary plan request. The applicant will be required to secure approvals of an Erosion and Stormwater Quality Control Permit (ESQCP), a grading and erosion control plan, and a financial assurance estimate. The applicant is also required to provide Pre-Development Site Grading Acknowledgement and Right of Access Forms, a Stormwater Management Plan, and financial assurance to secure performance for the grading and erosion control in accordance with the requirements of the El Paso County Engineering Criteria Manual (2019).

## **5. Transportation**

The El Paso County Major Transportation Corridors Plan Update (2016) does not depict roadway improvement projects in the immediate vicinity of the development.

The development is located southwest of Highway 85 and Southmoor Drive. Access to the development is from Southmoor Drive and the extension of Main Street within the Riverbend Commercial development. All internal streets are planned to be public roads and will be dedicated to the County. This subdivision will result in the dedication of approximately 1.32 miles of developer constructed urban local roadways. The applicant is dedicating 10' of additional ROW along Southmoor Drive. Offsite improvement consists of sidewalk and widening of Southmoor Drive.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471). Per the traffic impact study, the development is intending to be included in the 10-mill public improvement district (PID #2).

## **G. SERVICES**

### **1. Water**

The Security Water District provides water service and has committed to serve the property.

Sufficiency: Sufficiency

Quality: Sufficiency

Quantity: Sufficiency

Dependability: Sufficiency

Attorney's summary: The State Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office has made a recommendation for a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health has made a favorable recommendation regarding water quality sufficiency.

## **2. Sanitation**

Wastewater service is provided by Security Sanitation. The District has provided a wastewater commitment letter demonstrating the District as adequate capacity to serve the development.

## **3. Emergency Services**

The property is within the Security Fire Protection District. A referral was sent to the District, but no response was received; however, the District did provide a commitment letter to serve the proposed commercial development.

## **4. Utilities**

The City of Fountain will provide electrical service and the Colorado Springs Utilities will provide natural gas service to the development area.

## **5. Metropolitan Districts**

The parcels are located within the Riverbend Metropolitan District. The service plan allows the following: a maximum debt authorization of \$5 million, a debt service mill levy of 30 mills, and an operations and maintenance mill levy of 5 mills. The statutory purposes of the Districts include: 1) street improvements and safety protection; 2) design, construction, and maintenance of drainage facilities; 3) design, land acquisition, construction, and maintenance of recreation facilities; 4) mosquito control; 5) covenant enforcement, and 6) design, construction, and maintenance of public water and sanitation systems.

## **6. Parks/Trails**

Fees in lieu of park land dedication will be due at the time of recording the final plat(s). The El Paso County Parks Master Plan (2013) does not show any parks or trails within the proposed development area. The Fountain Creek Primary Regional Trail is located to the west across Fountain Creek. The applicant will be required to pay park fees in lieu of park land dedication at the time of final plat recordation.

## **7. Schools**

The site is within the boundaries of the Widefield School District No. 3. Fees in lieu of school land dedication shall be paid to El Paso County for the benefit of Widefield School District No. 3 at time of recording the final plat(s).

## **H. APPLICABLE RESOLUTIONS**

See attached resolution.

## **I. STATUS OF MAJOR ISSUES**

There are no major outstanding issues.

## **J. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

### **CONDITIONS**

1. Applicable traffic, drainage and bridge fees shall be paid with each final plat.
2. Applicable school and park fees shall be paid with each final plat.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of 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 species.
4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 18-471), as amended, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

5. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

### **NOTATIONS**

1. This Preliminary Plan approval does not authorize future final plat filings to be approved administratively.
2. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.
3. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

### **K. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified seven (7) adjoining property owners on January 28, 2012, for the Board of County Commissioners meeting. Responses may be provided at the hearing.

### **L. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Plat Drawing  
State Engineer's Letter  
County Attorney's Letter  
El Paso County Public Health Recommendation Letter  
Planning Commission Resolution  
Board of County Commissioners' Resolution