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Board of County Commissioners
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PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, March 2nd, 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, JAY CARLSON, BECKY FULLER, ERIC MORAES, JOSHUA PATTERSON, BRYCE SCHUETTPELZ, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: TIM TROWBRIDGE, BRANDY MERRIAM, AND SARAH BRITTAIN JACK.

STAFF PRESENT: MEGGAN HERINGTON, KARI PARSONS, RYAN HOWSER, ASHLYN MATHY, ED SCHOENHEIT, JEFF RICE, CARLOS HERNANDEZ, CHARLENE DURHAM, SCOTT SHEVOCK, GAYLA BERRY, JUSTIN KILGORE, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: DOUGLAS HALVERSON, BRYAN BAGLEY, JENNIFER ZIEGLER, AND DAN MAS.

1. REPORT ITEMS

A. Planning Department

Ms. Herington updated the board with the status of filling the Planning Commission vacancy. PCD is still working with the Planning Commission's Commissioner Liaison, Commissioner VanderWerf, and a formal decision should be made soon. Six applications were received.

Mr. Kilgore advised the board that the next PC meeting will be held March 16, 2023, and the next BOCC Land-Use meeting will be held March 21, 2023.

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

2. CONSENT ITEMS

A. Adoption of Minutes of meeting held February 16, 2023.

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

B. MS2110

HOWSER

**MINOR SUBDIVISION
MA SUBDIVISION**

A request by Land Resource Associates for approval of a minor subdivision to create one (1) lot and two (2) tracts. The 62.60-acre property is zoned RR-5 (Residential Rural) and is located at the southeast corner of the intersection of Walker Road and State Highway 83. (Parcel Nos. 61000-00-535; 61000-00-536) (Commissioner District No. 1.

DISCUSSION

Mr. Risley stated that his architectural firm worked on the Monument Academy project, but his firm no longer has any financial connection to Monument Academy or the Monument Academy Foundation, which is the applicant for this project. His firm is not currently doing work for the applicant. He believes that he can participate fairly and without bias. He consulted with the County Attorney's Office, which agreed there is no conflict of interest.

Ms. Herington asked if Mr. Risley would like to address the Consent Agenda in its entirety. She asked if they would make one motion, or two separate motions.

Mr. Risley answered that he prefers to address each item individually in case one needs to be pulled to the Called-Up Agenda. The Planning Commission will make a motion on each item.

PC ACTION: CARLSON MOVED / MORAES SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, MS-21-010 FOR A MINOR SUBDIVISION, MA SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH NINE (9) CONDITIONS AND ONE (1) NOTATION, AND A RECOMMENDED FINDING OF WATER SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

IN FAVOR: RISLEY, BAILEY, CARLSON, FULLER, MORAES, PATTERSON, SCHUETTPELZ, WHITNEY.

IN OPPOSITION: NONE.

COMMENT: NONE.

C. P2224

MATHY

**MAP AMENDMENT (REZONE)
TR EL PASO LAND LLC REZONE**

A request by TR El Paso Land LLC for approval of a map amendment rezoning 275.89 acres from R-4 (Planned Development) to A-35 (Agricultural). The property is located near the northwest

corner of South Ellicott Highway and Drennan Road. (Parcel No.3500000245) (Commissioner District No. 4).

DISCUSSION

Ms. Fuller stated that she has never seen someone rezone to a less dense zoning district. She asked why it’s occurring in this circumstance?

Ms. Mathy replied that the property is currently zoned R-4 which is an obsolete zoning district. The applicant is requesting a rezone to Agricultural (A-35) to be a relevant zoning district. When a property is in an obsolete zoning district, PCD recommends it be rezoned to a current zoning district to be within today’s standards. While rezoning to A-35 is less dense, it matches the character of the surrounding area. She added that the applicant plans to develop the land in ways relevant to A-35.

PC ACTION: SCHUETTPELZ MOVED / MORAES SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2C, P-22-024 FOR A MAP AMENDMENT (REZONE), TR EL PASO LAND LLC 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 (8-0).

IN FAVOR: RISLEY, BAILEY, CARLSON, FULLER, MORAES, PATTERSON, SCHUETTPELZ, WHITNEY.

IN OPPOSITION: NONE.

COMMENT: NONE.

3. CALLED-UP CONSENT ITEMS. NONE.

4. REGULAR ITEMS

A. P2222

PARSONS

**MAP AMENDMENT (REZONE)
SCHMIDT MULTI-DWELLING REZONE**

A request by Turkey Canon Quarry Inc. for approval of a map amendment rezoning 33.44 acres from RR-5 (Residential Rural) to RM-30 (Residential, Multi-Dwelling). The property is located immediately adjacent and west of Vollmer Road and south of future Marksheffel Road. (Parcel No. 52000-00-562) (Commissioner District No. 2).

STAFF PRESENTATION

Mr. Moraes clarified that this request for a rezone does not include the triangular area of the parcel to the northeast, and only includes the area southwest of the future Marksheffel Road depicted on the presentation slide.

Mr. Parsons stated that is correct. The portion to the northeast is part of the same parcel but will likely be right-of-way at final plat. It is difficult to say exactly because there are currently no construction drawings. It is not anticipated that there will be any multi-family development building in that portion of the lot.

Mr. Moraes asked if this rezone includes that area?

Ms. Parsons presented the next slide in her presentation which showed the rezone would not extend north of the future Marksheffel Road. Presentation continued.

Mr. Whitney asked Ms. Durham to elaborate on the statement that the future Marksheffel Road extension would be built to the City of Colorado Springs' standards?

Ms. Durham explained that there is an agreement between the City and County that Marksheffel in the adjacent development, Sterling Ranch is city-owned and maintained.

Mr. Whitney asked if that was due to future annexation?

Ms. Durham answered the developer is electing not to annex the subject property.

Ms. Parsons added that City and County staff worked together during the approval of Sterling Ranch regarding the construction drawings of Marksheffel Road. The developer was required to deed that right-of-way over to the City within 30 days of the plat recording. The City technically owns Marksheffel Road although they have not accepted that improvement because the developer is still constructing. A similar agreement is anticipated with this development.

APPLICANT PRESENTATION

Ms. Fuller stated that concerning drainage, there's no other place for the detention pond.

Ms. Barlow agreed that it has to be located there.

Ms. Fuller asked if there was any idea of how many buildings would be built? She knows it's not part of review criteria, she's just curious.

Ms. Barlow answered the question after a brief recess. The concept drawings submitted by the future developer (which may be modified after looking at site constraints) propose a range from 22 to 24 buildings.

PUBLIC COMMENT

Mr. Douglas Halverson stated he also wrote letters to PCD. He is a realtor but is speaking as a neighbor. He doesn't think some aspects of this project fit with other multi-family projects in the area. Other apartment developments are completely closed off from the neighborhoods. Over by Prominent Pointe, everything feeds outside of the apartment complex and there are a lot of parking problems. Neighbors of this proposal fear parking will bleed into their neighborhood because there is no buffer to prevent that. He stated he does not have a problem with more residential building but would prefer single-family homes, not apartments. Higher density would be fine in Wolf Ranch and Briargate. He also has concerns that nothing was in the presentation addressing what will be east. He stated that once one apartment is developed, there will be

more. He was sitting by a realtor associate of his, who stated her clients would not want to live in a neighborhood connected to apartments.

Mr. Bryan Bagley (virtual) is a Silver Ponds resident. He stated he bought his home because he liked the rural look and feel, and he would prefer to maintain that look and feel. He stated this doesn't feel compatible when this is proposing the least dense zoning of RR-5 to the most dense at apartment complexes. Regarding the comments of the berm, he doesn't know who would complain south of the berm when no one lives south of it because it is a quarry. He believes that all Silver Ponds residents north of the berm would like it to stay as a buffer. He thinks the statement of Ms. Barlow's that this area was always planned to be something other than RR-5 was misleading. That was not disclosed to him when he purchased his property and he doesn't think that can be true when it is zoned RR-5. The existing quarry being redeveloped into residential was not disclosed. He would like a buffer between Silver Ponds and Marksheffel Road and would prefer that the berm stay. If the area is going to be developed, he would prefer the largest lot sizes possible to be consistent with the surrounding neighborhood. He stated that RR-5 to apartments does not feel compatible.

Ms. Jennifer Ziegler (virtual) is a Silver Ponds resident. She thinks this rezone is ugly, abrupt, and doesn't make sense. She stated that only a handful of her neighborhood's residents were notified of the meeting in December 2022 even though the Schmidt parcel is adjacent to the southern border of Silver Ponds. She does not believe apartments next to rural 2.5-acre lots meets the requirement of seamless zoning in the Master Plan. She walks this area. The wildlife will be affected. The Schmidt property is already being called "Phase 1" and "Phase 2". She hopes the letters of opposition have been read and show their anger and heartbreak. She does not want to be rezoned to apartments. She stated she likes the dark night skies, the quiet, and the views; She believes this will steal all of that. She asks that Ms. Parsons and Ms. Barlow go back to their client, Mr. Schmidt, and think of a more suitable use for this area. This proposal is a 16,000% increase in density. The roads cannot even handle the current building. She urged the residents of the County to take notice of their District 2 representative, Commissioner Carrie Geitner's, response.

Ms. Seago responded that the implication that Ms. Parsons works for Mr. Schmidt was inappropriate and untrue. Ms. Parsons is a County employee and her duty is to review applications, to assist applicants with coming into compliance with the Land Development Code, and to present the application to the Planning Commission (and BOCC) for review.

Mr. Dan Mas (virtual) lives in Black Forest. He stated that Land Development Code 5.3.5(D) lists the criteria of approval and states all criteria must be met for a map amendment. Regarding criteria number 3, page 3 of the applicant's letter of intent describes the area north as RS-6000, northeast as RR-2.5, south as a PUD with Colorado Springs for single-family residential 6 dwelling units per acre, and east as mixed-use medium and high-density residential for 5-8 dwelling units per acre. The most dense of the surrounding zones is RS-6000 which is for single-family residential. Between RS-6000 and RM-30 zoning, there is RS-5000 (single-family and 2-family residential) then RM-12 (12 dwelling units per acre to accommodate moderate-density single-family attached and low-density multi-dwelling). RM-30 is for 30 dwelling units per acre for moderate-density multi-dwelling development. He stated that zoning between RS-6000 to RM-

30 skips multiple graduations of zoning. For the adjacent and surrounding RR-5 and RR-2.5, it is an even more extreme jump in zoning. He referenced Ms. Seago's comments from February 16, that it is the burden of the applicant to establish the review criteria have been met. He stated that after his review of the zone-skipping needed to accommodate the applicant's request, he does not believe the criteria of approval number 3 has been satisfied. Criteria number 3 is independent from criteria number 1's requirement for conformance with the Master Plan. He referenced his past review of the PC's Quasi-Judicial procedure and stated that he noticed the application on February 16 was reviewed with more articulation. He stated that fair, logical, and un-biased decision making based on facts and evidence is appreciated.

Ms. Barlow stated the applicant is Turkey Canon Quarry. The property is called the "Schmidt Property". She pulled up a vicinity map of the area to address the comment made that the apartments would have direct access to the neighborhood to the south. The applicant is proposing to extend the existing road from the south. The apartments will access this collector road to Marksheffel Road, not directly into the neighborhood. The County has parking requirements that will be met by the applicant during the site development plan. There will be single-family development (mostly detached, but possibly some attached) in the western part of this parcel, but that application has not been submitted yet. She believes the two speakers from Silver Ponds may misunderstand this proposal. When the applicant mailed notices, they only included properties adjacent to the land that was being rezoned, not the entire parcel. When the County notifies of the hearing, they include the entire parcel which caused people in Silver Ponds to believe there was a proposal of apartments directly across from their neighborhood, which is not the case. The proposed multi-family zoning does not abut Silver Ponds and there will be a significant arterial roadway separating the two. She continued that there are two berms on this site. The berm which affects the RM-30 rezone is the south berm which extends across the southern length of the property. The northern side has a berm as well that will go away and become Marksheffel Road. Regarding zoning, she does not think it is the intent that zoning types be followed progressively. However, since there is also commercial zoning in the area, she thinks one could argue that multi-family residential is the next step from commercial. This provides a transition, compromise, and buffer amongst the variety of existing zoning types and future traffic along Marksheffel. She also doesn't think it's as simple to look at the existing zoning of RR-5 and state it's a 16,000% increase of density. She stated that this property has consistently been identified as an area of future growth and development not only in the Master Plan, but also the previous Falcon and Peyton Small Area Plan.

DISCUSSION

Mr. Carlson asked Ms. Seago about her input on a question he asked regarding public notice.

Ms. Seago replied and clarified that his question was about a point made in the letter of opposition from Mr. & Mrs. Bagley, paragraph 4, points A and B. Point A pertains to the letter of public notice mailed by County staff. The letter identified the name of the project and dates of the hearings correctly but had an incorrect link to an EDARP file. In her opinion, that does not create a legal concern in terms of notice. An interested party could still access the information by entering the name of the project on EDARP or even by calling the planner. Point B was addressed by Ms. Barlow. The vicinity map sent by the County used the entire parcel but the applicant is requesting to rezone only a portion of that, depicted on the applicant's map.

Mr. Bailey stated that this area is very complicated because of the transitions with everything going on. Ms. Barlow correctly pointed out that the major intersection has been anticipated here for a long time and will substantially change the nature of the area. To him, looking at compatibility from the undeveloped or less developed part towards this intersection goes the wrong way. It is known that there will be a very intense intersection that is going to mitigate many traffic problems the letters of opposition point out. He stated there cannot be roads without development around to support it. The Master Plan identifies this area as potential for growth. In his opinion, the key area of compatibility that must be looked at is the transportation corridor that Vollmer [and the Marksheffel expansion] is going to become. He stated that the plans he has seen adequately represent and consider the needs of the environment balancing with the higher priority, which is transportation corridors which support the entire County, not just a couple of isolated neighborhoods. He does see this as compatible with the Master Plan and compatible with surrounding zoning. He thinks the PC should recommend approval of this project and developments like this so that developers continue to build roads. Otherwise, there will be pockets of roads to nowhere and the County will never get the infrastructure that is needed. He will be in favor of this application.

Ms. Fuller stated that compatibility is always a main concern for her. When she looks at what is going to happen with Vollmer and Marksheffel, these roads create natural buffers between the property to the north. In general, there is a lot going on in this area. She was concerned about the single-family neighbors to the south, but she thinks the extra buffer of the detention pond mitigates those concerns. This is a logical place to have a more intense density of housing. She will be in favor of this application.

Mr. Whitney understands the frustration that members of the public expressed by Ms. Barlow's comment during her presentation that RR-5 was essentially a holding zone or a transition zone. He stated that to those who purchase and live on RR-5 lots, it is not a holding zone. He understands the frustration of those wondering after they buy in RR-5, can they not depend on it remaining RR-5? He understands Mr. Bailey's comments, but he also understands the frustration of those who thought they were buying into something they were not. He appreciates Ms. Barlow stating the intention is to build single-family units on the western portion of this property, but he doesn't think that will actually happen.

Mr. Schuettpelz commented that he thinks this rezone fits in this area with Marksheffel and Vollmer Roads, RR-5, RS-6000, and commercial. He thinks the multi-family fits in with the southern single-family neighborhood after consideration of the detention pond buffer. He will be in favor of this application.

Mr. Carlson stated that if he were to look at this map without knowing the future of the roads, he would have agreed with the opposing comments from neighbors. However, knowing the plans, he believes there will be adequate buffer. He also stated it was important to him that there is a detention pond buffer for those living to the south. He agreed that multi-family projects need to happen at intersections, so he thinks this will be a good place for it. He agreed that RR-5 should not be looked at as a holding device and stated that whatever is proposed on the western part of this lot will be looked at with its own criteria for density. He will be in favor of this application.

PC ACTION: FULLER MOVED / PATTERSON SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4A, P-22-022, FOR A MAP AMENDMENT (REZONE), SCHMIDT MULTI-DWELLING REZONE, 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 (8-0).

IN FAVOR: RISLEY, BAILEY, CARLSON, FULLER, MORAES, PATTERSON, SCHUETTPELZ, WHITNEY.

IN OPPOSITION: NONE.

COMMENT: NONE.

MEETING ADJOURNED at 10:51 A.M.

Minutes Prepared By: Miranda Benson