

July 25, 2023

To: El Paso County Planning Department; Planning Commissioners; and Board of County Commissioners,

On Thursday, August 3, 2023, before the Planning Commissioners will be held a public hearing item 5 entitled Regular Items, specifically A. ID234 entitled SPECIAL DISTRICT SERVICE PLAN FLYING HORSE NORTH METROPOLITAN DISTRICT NOS. 1-5.

"This is a request from PRI #2 LLC, Jeffery Smith, and Flying Horse Country Club, LLC, for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Flying Horse North Metropolitan District Nos. 1-5. The 910-acre area included within the request is zoned Planned Unit Development (PUD) and Residential Rural (RR-5) and is located southwest of the intersection of Hodgen Road and Black Forest Road. The proposed service plan includes the following: a maximum debt authorization of \$450,000,000.00, a debt service mill levy of 50 mills for residential and commercial, and an operations and maintenance mill levy of 15 mills, for a total maximum combined mill levy of 65 mills."

My wife and I reside in Flying Horse North. We own a 3.74-acre parcel at the corner of Shortwall Drive and Longwall Drive, with our address as 15021 Longwall Drive. We reserved to obtain this acreage in November 2017 not knowing that the developer of Flying Horse North did not obtain final approval for the existing subdivision until a Preliminary Plan hearing was held before the Board of County Commissioners on September 4, 2018.

I am writing this letter report to each of you Planning Commissioners as well as County Commissioners as unfortunately I am unable to attend the hearing set for August 3, 2023. I want to set forth all the facts my research and investigation had revealed about this entire project for all your edifications in making decisions regarding the current modification of the existing subdivision being brought to you by Mr. Jeffrey Smith and his various companies.

Historically, Mr. Smith through one or more of his entities sought to create the existing subdivision of approximate 1400 acres to create no more than 283 large lot single family homes on parcels no smaller than 2.5 acres along with a new golf course. Unfortunately, Mr. Smith withheld from disclosing to both the Planning department and the BOCC his actual intent to only develop 81 single family properties as well as building the new 18-hole golf course instead of developing the remaining 910 acres with 202 additional single family large lot residential properties, he intended to have a large resort hotel complex built and substantially increase the residential density. Just two days after final approval occurred on September 4, 2018, a written disclosure and acknowledgement form dated September 6, 2018, was presented to at least one prospective purchaser of one of the first 80 parcels being sold. That disclosure informed the reader that the developer had been in discussion with officials within the City of Colorado

Springs regarding annexing the remaining undeveloped acreage to the city, the intent to build a hotel and to increase the residential density.

Beginning in late 2021 we were informed that there were going to be a series of public meetings at various locations regarding the developer's intention and filing of a sketch plan. I recall attending one such meeting in early 2022 and the developer started out with the concept of a luxury hotel resort along with 1200 residential units on the remaining approximate 900 acres, then it was 1571 residential units and finally by the summer of 2022 the proposal was and has remained as a 225 room luxury hotel resort, including a spa, pool, restaurant, bar, a pro shop, a 44,600 square foot fitness center, 50 residential units in close proximity to the hotel described as flats, which would include three story buildings with a flat on each level, casitas, and possible townhouses. In addition, another 846 single family residential properties would be built with clustered housing surrounded on the outsides with several 5 acre and 2.5-acre parcels. Additionally, there would be at approximately the intersection of Hodgen Road and Black Forest Road a commercial center, a possible fire station and service station.

When the Sketch plan was presented to the Board of County Commissioners on November 15, 2022, none of us who were concerned about this proposed modification to the existing and remaining 910 acres had any knowledge that three of the five Commissioners each individually received over 32% of their total campaign contributions from the developer of Flying Horse North and his affiliates. Commissioner Williams had recused herself from the hearing; however, Commissioners Geitner and Bremer failed to disclose their substantial campaign contributions received from this developer and his affiliates and went ahead participating in the hearing and voting to approve the Sketch Plan.

After the hearing in which the vote was 3 to 1 in favor of the Sketch Plan, a group of us in the community here in El Paso County learned of these percentages of campaign contributions Williams, Geitner and Bremer received from this developer and affiliates. I contacted the State of Colorado Independent Ethics Commission through the Executive Director and obtained information of the ethical and legal issue of an appearance of impropriety. Campaign contributions are legal; however, the question is whether to a reasonable person there is in fact an appearance of impropriety to allow a commissioner to vote on a matter being sought by a specific developer who has contributed to that commissioner campaign contributions exceeding 32% of the total contributions received by said commissioner.

I then sought to obtain the Board of County Commissioners to set for an agenda item for a public hearing the issue of an appearance of impropriety, to develop a rule such as for instance, anytime any commissioner receives 15% or more in campaign contributions from a developer seeking approval of a matter before the Commission, there would be an automatic recusal of that specific commissioner. I also suggested the Board create a process to handle the situation when three of the five commissioners should be recused; thus, no quorum, suggesting the County maintain a list of citizens willing to serve as temporary commissioners to allow for fairness to both the developer to have a matter decided as well as fairness to those in the community in opposition.

The Board refused to have this matter set for a public hearing. Local El Paso County rules provide it only takes two of the five commissioners to have a matter set as an agenda item. Only one of the five Commissioners was willing to have the matter placed on the agenda calendar for a public discussion. I advised the Commissioners several separate times they as well had the right to obtain from the State of Colorado Independent Ethics Commission an advisory opinion. To date they have failed to seek such an advisory opinion. I continue to ask why they are refusing to do so. I just today verified with the Executive Director of the Independent Ethics Commission no request has been made by the BOCC for such an advisory opinion. The El Paso Board of County Commissioners continue to ignore the obvious appearance of impropriety and do not want to have what they realize will in fact be an affirmative opinion confirming this appearance of impropriety. Given this refusal, I ask how any group of citizens in El Paso County can obtain a fair and impartial hearing before the existing BOCC.

I discovered that the Sketch Plan approved on November 15, 2022, consisting of several individual reports, was not even submitted by the owner of the 910 acres, nor the developer. It instead was submitted by Flying Horse Development Co. LLC. This LLC has nothing to do with Flying Horse North. It is just another entity of Jeffrey Smith's. I brought this to the attention of the El Paso County Planning Department to both the attention of the Executive Director Meggan Herington, as well as her assistant Justin Kilgore and was provided reference to a code section regarding the time within which to bring an objection. I replied, pointing out that such section only applied to the property owner and was inapplicable. Unfortunately, I received no further response from the Planning Department.

DISCUSSION OF THE DOCUMENTS FILED REGARDING THE FIVE METRO DISTRICTS:

Now to matters regarding the documents filed seeking approval of five metropolitan districts to cover costs of improvements necessary if the current proposal for modification of the remaining 910 acres is finally approved.

In the documents filed regarding the metro districts the fitness center approved within the sketch plan has gone from 44,600 square feet to now 50,000 square feet. Additionally, as part of the filed documents is a colored rendering of the entire proposed modified development and the location of this now 50,000 square foot fitness center is not around the Hotel resort complex but is shown to be located on Old Stagecoach Road very close to the intersection with Black Forest Road. No mention is made about the effect this will have on the already existing homes in that area part of filing no. 1. Nor is any indication of where patrons would park while using the fitness center.

Further for the first time there is now added a 30,000 square foot Convention Center. I must ask how a Convention Center and an increase in the square footage of the fitness center can happen without a new Sketch Plan application. So far no one has answered this question.

Given the appearance of impropriety regarding two commissioners voting for the sketch plan who should have recused themselves which would have resulted in no quorum, along with the sketch plan filed by an uninterested entity; and now modifications which appear to be significant, I submit, the actual developer should be required to begin the process over, preparing and filing an accurate letter of intent and Sketch Plan application.

I have reviewed carefully all the documents filed in connection with the letter of intent and application for creation of these five mill districts. I will point out several of my concerns. Of significance is the cost which will be passed on to the purchasers of homes within their property tax bills for twenty years and possibly thirty years. This application seeks to create a total of 65 mills on top of the existing property tax bills. It is represented that 800 of the properties will be valued at \$1,500,000 each; 50 properties valued at \$3,000,000 each and 50 properties valued at \$6,000,000 each. The report points out the current existing mill is 84.555 Mills and added with the additional 65 Mills being sought results in a total of 149.555 Mills. With the properties valued at \$1,500,000, the taxes for the first year will be \$16,039.77. Even if the mills do not equal the limit of 65; let's say average 50 mills, the resultant taxes will still exceed \$14,000 in the first tax year. I will leave up to you to see what the taxes will equal for the \$3,000,000 and \$6,000,000 properties.

One of the documents submitted is a financing plan from D.A. Davidson & Co dated July 17, 2023. It estimates the daily average rate of a hotel room will be \$500 per room. I continue to ask myself who would stay in this proposed hotel during winter months when the golf course is closed as it is six months of the year and willingly pay \$500 a night when not only would staying at the Broadmoor make more sense or the new 375 room hotel being built adjacent to the north entrance to the Air Force Academy.

At page 14 of the Service Plan dated July 11, 2023, it states that the golf club house is going to be 50,000 square feet, never mentioned in the wrongly approved Sketch Plan on November 15, 2022. Further the now added 30,000 square foot Convention Center is described as the "Community Convention Center". What does that mean? Is there a hidden plan to bring from outside all types of conventions and if so, how does this line up with the El Paso Master Plan?

The analysis also contemplates upon completion an additional 2,250 residents based upon 900 units with 2.5 persons per residential unit. Why have the proposed hotel residents and the employees required to operate all these facilities not been accounted for? Where is the plan to get everyone out if a major fire, including a forest and grass fire?

The document entitled "SERVICE PLAN FOR FLYING HORSE NORTH METROPOLITAN DISTRICT NOS. 1-5 at page 12 under Paragraph J.2. discusses additional inclusion areas and boundary adjustments. This provides the ability to add other properties to these districts referencing provisions of the Special District Act. I have not had the time nor opportunity to even find out what the Special District Act says and recommend that all you Commissioners ask for absolute specifics of what is being referenced before approving this provision. What is of concern to those of us who own properties in filing no. 1, and I suspect filing no. 2, which is a property

owned by Joe Loidolt a proposed initial director of these five metro districts, is to make certain that any approved plan specifically excludes all the existing 81 individual owned parcels within the approximate 500 acres already developed. The properties within the City of Colorado Springs and Town of Monument have been excluded; however, I am requesting that the already existing 81 parcels within filing no. 1 and no. 2 be specifically excluded forevermore.

I refer you to page 13 paragraph 5.g which states: "INCLUSION INTO ANY DISTRICT OF ANY PROPERTY OVER FIVE (5) MILES FROM THE COMBINED AREA OF THE INITIAL DISTRICT BOUNDARIES AND THE PROPERTY DESCRIBED IN EXHIBIT A.3 UNLESS EXPLICITLY CONTEMPLATED IN THIS SERVICE PLAN." Thus, I am asking that if this metro plan is adopted you require a modification to exclude all properties within the original Flying Horse North Subdivision being within filing no.1 and no.2. which are within five (5) miles of these proposed five metro districts.

At page 20 of the Service Plan is the Conclusion. Item B states: "THE EXISTING SERVICE IN THE AREA TO BE SERVED BY THE PROPOSED DISTRICTS IS INADEQUATE FOR PRESENT AND PROJECTED NEEDS." Subparagraph G states: "THE PROPOSAL IS IN SUBSTANTIAL COMPLIANCE WITH THE APPLICABLE ELEMENTS OF THE EL PASO COUNTY MASTER PLAN, INCLUDING BUT NOT LIMITED TO YOUR EL PASO MASTER PLAN (2021), THE EL PASO COUNTY WATER MASTER PLAN (2018), THE EL PASO COUNTY MAJOR TRANSPORTATION CORRIDORS PLAN, THE EL PASO COUNTY PARKS MASTER PLAN, AND WITH THE COUNTY'S SPECIAL DISTRICT POLICIES."

REALLY? Where does anything within these documents factually prove substantial compliance? The Master Plan itself calls this entire Area Large-Lot Residential Priority Development Areas at page 54. Just by saying the plan is in substantial compliance does not make it so. Even the water issue remains unresolved. Currently there is no wastewater treated and somehow pumped back into any of the Denver Basin four aquifers. The conclusions are self-serving.

I urge both the Planning Commissioners as well as the County Commissioners to reject this application for five metropolitan districts and given the plan which exceeds the wrongly decided Sketch Plan, request the developer be required to start over with a new Sketch Plan application setting forth his specific plans.

Sincerely, Philip H. Shecter