

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Tuesday, February 19, 2019
El Paso County Planning and Community Development Department
2880 International Circle, Hearing Room
Colorado Springs, Colorado 80910

PRESENT AND VOTING: JIM EGBERT, BRIAN RISLEY, KEVIN CURRY, GRACE BLEA-NUNEZ, SHARON FRIEDMAN, AND TOM BAILEY

PRESENT AND NOT VOTING: NONE

ABSENT: JANE DILLON, ALLAN CREELY, PETER AURICH, AND JOAN LUCIA-TREESE

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, LEN KENDALL, BECK GRIMM, MINDY MADDEN, AND EL PASO COUNTY ATTORNEY LORI SEAGO

OTHERS PRESENT WHO SPOKE AT HEARING: JUDY VON AHLEFELDT, RON WALDTHAUSEN, CHERI JACOBS, CHARLES ELLIOTT, MARTINA HAYHURST, AND SUSAN MUNDORFF

Ms. Judy Von Ahlefeldt spoke on the Wolf Ranch Master Plan. She shared her Prairie Necklace report as an alternate plan to be considered. Her report is on permanent file.

Report Items

Planning and Community Development Department – Mr. Gebhart

- A.** The next scheduled Planning Commission meeting is on Tuesday, **March 5, 2019**.
- B. Mr. Gebhart** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

1. Consent Items

A. Approval of the Minutes – February 5, 2019

The minutes were approved as presented. (6-0)

B. APPOINTMENT OF PLANNING COMMISSION MEMBER TO THE COUNTY MASTER PLAN STEERING COMMITTEE

The following Planning Commission members have expressed an interest in being on the Steering Committee: **Mr. Bailey, Mr. Curry, and Ms. Friedman.** A primary and alternate representative should be selected. All interested parties were given the opportunity to speak to the Planning Commission for their consideration.

PC ACTION: MS. FRIEDMAN MADE A MOTION/SECONDED BY MS. BLEA-NUNEZ TO NOMINATE MR. CURRY AS THE PRIMARY TO THE COUNTY MASTER PLAN. HOWEVER, MR. CURRY WOULD BE ON THREE (3) COMMITTEES FOR THE COUNTY. HE WITHDREW HIS NOMINATION. MS. BLEA-NUNEZ MADE A MOTION FOR MS. FRIEDMAN TO BE PRIMARY/SECONDED BY MR. RISLEY. MR. RISLEY MADE A MOTION FOR MR. BAILEY/SECONDED BY MS. BLEA-NUNEZ. VOTES FOR PRIMARY: RISLEY – BAILEY; CURRY – FRIEDMAN; FRIEDMAN – FRIEDMAN; BAILEY – FRIEDMAN; BLEA-NUNEZ – FRIEDMAN; EGBERT – FRIEDMAN. MOTION PASSED. (5-1) FOR MS. FRIEDMAN AS PRIMARY. MS. BLEA-NUNEZ MADE A MOTION FOR MR. BAILEY AS THE ALTERNATE/SECONDED BY MR. RISLEY. THE VOTE WAS UNANIMOUS FOR MR. BAILEY AS THE ALTERNATE. (6-0)

C. VR-18-013

KENDALL

VACATION AND REPLAT APPALOOSA VACATION AND REPLAT

A request by Platte Valley, LLC, for approval of a vacation and replat to create three (3) industrial lots. The 4.67 acre property is zoned I-2 (Limited Industrial) and is located on the east side of Amelia Street and in the southeast quadrant of the intersection of Terminal Avenue and Amelia Street. The parcel is not located within a small area master plan. (Parcel No. 54073-17-012)

Ms. Kendall requested that the item be continued date certain due to change in water sufficiency. The item will be on the agenda for the March 5, 2019 hearing.

Mr. Waldthausen – I concur with the postponement.

PC ACTION: MR. CURRY MADE A MOTION TO CONTINUE THE ITEM TO THE DATE CERTAIN MARCH 5, 2019 HEARING. MS. BLEA-NUNEZ SECONDED. MOTION PASSED UNANIMOUSLY. (6-0)

REGULAR ITEMS

3. AL-18-027

KENDALL

**SPECIAL USE
NEWCOMB EXTENDED FAMILY**

A request by Janice Newcomb for approval of a special use for a guest house with special provisions for extended family housing. The property is zoned RR-5 (Residential Rural) and is located on the northwest side of Preston Place, approximately 553 feet north of the intersection of Tracy Lane and Preston Place. The property is located within the Falcon/Peyton small area master plan. (Parcel No. 42130-01-016)

Mr. Kendall asked **Ms. Seago** to go over the review criteria for a special use. He then introduced the applicant **Ms. Janice Newcomb's representative Ms. Martina Hayhurst** for their presentation. **Mr. Kendall** then gave his presentation to the Planning Commission.

Mr. Egbert – Am I correct to understand the secondary residence will be larger than the existing structure? Which dwelling will the family member needing assistance be residing? **Mr. Kendall** – That's correct, the newly constructed home will be larger, approximately 1900 square feet. The family member in need will reside in the future guest house. That's what the special use is for today is to allow the full-time living in both dwellings.

Ms. Friedman – So the no kitchen rule is for general guest houses but not for special provisions for extended family, is that correct? **Mr. Kendall** – That is correct. A second kitchen would theoretically allow it to be rented out as an additional dwelling, which the affidavit says that they may not do.

Mr. Curry – What's before us is the special use. It's basically to have the extended family there to provide care. Are there any restrictions or limitations with a mobile home as a second dwelling? **Mr. Kendall** – A mobile home is an allowed use in the RR-5 zoning district.

Mr. Risley – The site plan that the applicant showed indicated that two mobile homes are on the property where the new building is going to be constructed. Are there two on the property still today? **Mr. Kendall** – That was a site plan from 1993 variance of use application. There are no longer two mobile structures in that area.

Mr. Risley – How many accessory structures are allowed in the RR-5? **Mr. Kendall** – There isn't an allowed number, but there is a maximum lot coverage of 25% of all building structures.

Mr. Curry – Because they can put the second building up by right on a 5-acre property, they can build a mobile home today with no approval required, correct? **Mr. Kendall** – Yes, with a building permit and signed affidavit that they won't lease or rent it.

Mr. Curry – The single thing we are looking at today is whether or not they can have the extended family dwelling special use, correct? **Mr. Kendall** – That is correct.

Ms. Friedman – We are supposed to check if it's in harmony with the character of the neighborhood. Other surrounding properties have just one house per property, so by definition to me it doesn't seem to be in harmony.

Mr. Egbert – My viewpoint on harmony is that the action we are deciding is equally available to all the surrounding properties under the same conditions.

Mr. Bailey – The current zoning of the area allows the use, the standard applies to zoning for RR-5 zoning the fact that nobody within a 20 mile radius has more than one house on it is irrelevant. The character of the neighborhood is more tied to that zoning type. **Mr. Kendall** – The finding of character is subjective.

Ms. Seago – You have discretion as to how you look at this. You can apply it at the micro level and say that no one has a second property. So, it's not in character with the neighborhood understanding they have the right to have a second house as a guest house on the property. You could take it up to the 1,000 foot level and say this is a residential area, and another residential home would fit and be in harmony with the rest of the neighborhood. It depends on how narrowly or how broadly you want to look at this. There is some discretion on how you interpret it.

IN FAVOR:

Ms. Susan Mundorff – Family needs to stick together. She's never left alone for more than a half an hour. It's important for them to be there for her. I live about 45 minutes away, so I can't be there.

IN OPPOSITION:

Ms. Cheri Jacobs – I asked Mr. Kendall to present the variance of 1993. The variance was approved with conditions. There were three major conditions according to VA-19-009. The state engineer's office wanted a written statement about the well is pumping at 10 gmp. Per State's standard, they are at capacity already. The average home in Falcon is about \$250,000 or more. In our area, we have upgraded as well. The original variance said that the drafted policy, page 56, paragraph 5, particularly to mobile homes, they should be discouraged. The CAC Committee at

that time, stated that there was 0 votes against this project in 1993. That is a false statement. Mr. Elliott wasn't even notified about it then, and I was against the project at that time. The character is it should be one home for 5 acres. This property was purchased by Ms. Newcomb in 7 days after the purchase applied for multifamily use. It was purchased with the intent to be multifamily. This is not a family that is burdened that has to have family get to her like from out of state. She has multiple people in close proximity. I had an issue with the doctor's letter that was presented. There was no way to validate that information with no phone number. On the special provisions, they will sign an affidavit that they cannot rent. How will the County monitor that? They will sign an affidavit that they won't have second kitchen. Who will monitor that? We wanted to see what is going on the property. I feel that the adjacent owners have a right to ask that. Ms. Jacobs showed a market analysis on the overhead projector. She showed a contrast of property values to the subject property. The letter of intent states that it was for two hookups. That is not true. The application wasn't complete. It took multiple revisions to get the site plan correct. It's not 5.1 acres due to a modification to Highway 24 expansion. This lot will be reduced to 4+ acres. We want to be sure that all permits be current. Regarding disclosures, I am united with most of the adjacent neighbors. We are here to say we are against this project. The history with this family has had harassment and threats. Families are afraid of retaliation and won't speak up. Ms. Jacobs showed threatening text message from Ms. Newcomb.

Ms. Seago – It would be my counsel that the neighbor be asked to move on to the relevant issues and not speak on harassment, disputes, or threats.

Ms. Jacobs – There have been many modifications to the application. I question the medical validity of Ms. Newcomb.

Mr. Egbert – Please keep your comments to the relevant issues.

Ms. Jacobs – The special needs are not legitimate. I am not in favor of this application.

Mr. Charles Elliott – I live adjacent to Ms. Newcomb. On Feb 2, 2019, Harley caused damage to my fence, there was a police report. His address is her address. Ms. Newcomb states she doesn't have enough people taking care of her on her property. They are already there. There is no need for an extended family dwelling.

Ms. Hayhurst had an opportunity for rebuttal. My cousin uses the address but does not live there. I understand that the assessor's site is used for taxes, not just for value. There are many mobile structures out there. My cousin, my husband, and myself are not causing undo wear and tear on the roads. I have 5 kids and they have activities that I take them to. So, it's normal wear and tear. The home market currently does not allow us to pay \$250,000 – \$300,000, so the manufactured home

is the ideal option for us. The house has been painted, the cars have been removed, and we've made improvements.

Ms. Friedman – It seems like if you are going to move a mobile home onto the property, did you consider moving her into the home and getting rid of the older mobile home? **Ms. Hayhurst** – My grandmother wants her own space. With all my kids, it doesn't offer my grandmother her own private space.

Mr. Kendall – The well issue does state one single family dwelling, they will have to go through the state to get that resolved. Mobile homes are an allowed use on the property. We do not have architectural standards; it would be up to the applicant to ensure they are built correctly. Regarding the affidavit, code enforcement will be the enforcing personnel for the special use. We cannot require medical statements regarding familial need. The setback is 25 feet and the site plan shows it within that requirement. Revisions were made to the application at the staff's request. That is part of the process. The Highway 24 expansion does not take away from the property; it will not count against the owner as far as legality.

DISCUSSION:

Mr. Risley – Could you clarify the approval criteria in that the special use would not overburden facilities. Is the well considered to be a public facility? **Ms. Seago** – No it is not a public facility. A central system would be considered a public facility.

Mr. Egbert – Are the traffic counts adequate for this property?

Mr. Grimm – Typically when we look at residential uses, the trip generation is about 10 trips per day. If counts exceed 100, we would require a traffic study.

Ms. Blea-Nunez – Once the second property is no longer needed, then they have three months to remove it? **Mr. Kendall** – Yes, they would have to remove it, convert it to a guest house with limited occupancy, apply for a variance for a second dwelling or subdivide.

Ms. Friedman – Is hardship involved as a review criteria? **Mr. Kendall** – (showed the review criteria for a special use) **Ms. Seago** – a guest house with intermittent use does not require a special use. An extended family housing requires the special use for familial need. There is a legitimate family hardship or need that justifies the request for the extended family housing. Once the family provides the need, we do not require further information. That is not for the County to determine.

Ms. Friedman – It seems like the grandma would prefer to not be in the same house and the neighbors would like to see only one home. How do we weigh that out? The hardship is related to not being on the same site. **Ms. Seago** – My recommendation is to look at it from a higher level. Look at the fact that a guest house with intermittent use is allowed. It is an acceptable compatible use. The only difference is that it is

more full time use. From a zoning perspective, you have to ask do they meet the review criteria?

Mr. Curry – This one is difficult but it boils down to look at whether there can be a special use. When I look at the criteria, I don't see anything that violates the use. I will be voting in favor based solely on the use.

Mr. Bailey – I appreciate staff going through this and particularly reinforcing for us the process involved in any kind of application that comes forward. The process is to ensure that the rights of owners are considered. We have to weigh that there is also a compliance process that will follow this special use. I think that seeing the application go through several revisions with staff and work them through the process is important. We don't own all the variables of the process. The well goes through the State. It has been a very informative process. I appreciate the public comments as well, both written and those who spoke today.

Mr. Egbert – We are not a final decision body. What we decide is a recommendation to the Board of County Commissioners.

PC ACTION: MR. CURRY MOVED/MR. RISLEY SECONDED TO APPROVE REGULAR ITEM NO. 3, AL-18-027 FOR A SPECIAL USE FOR NEWCOMB EXTENDED FAMILY UTILIZING RESOLUTION PAGE 39, MORE PARTICULARLY DESCRIBED ON PAGE 19-008 WITH FIVE (5) CONDITIONS AND THREE (3) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (6-0).

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.