

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Tuesday, July 2, 2019
El Paso County Planning and Community Development Department
2880 International Circle, Hearing Room
Colorado Springs, Colorado 80910

REGULAR HEARING

9:00 a.m.

PRESENT AND VOTING: BRIAN RISLEY, KEVIN CURRY, JOAN LUCIA TREESE, ALLAN CREELY, GRACE BLEA-NUNEZ, AND TIM TROWBRIDGE

PRESENT AND NOT VOTING: BECKY FULLER

ABSENT: TOM BAILEY, JANE DILLON, PETER AURICH, AND SARAH BRITTAIN JACK

STAFF PRESENT: MARK GEBHART, NINA RUIZ, GABE SEVIGNY, ELIZABETH NIJKAMP, BECK GRIMM, GILBERT LAFORCE, AND EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS SPEAKING AT THE HEARING: JUDY VON AHELFELDT, DAVE JONES, PJ ANDERSON, JOE DESJARDIN, BRAD SIMONS, BROOKE HUTCHINS, JENNIFER IVEY, JERRY BIGGS, ALLISON FOGG, AND PETER SUSEMIHL

Report Items

1. Report Items -- Planning and Community Development Department – Mr. Gebhart

A. The next scheduled Planning Commission meeting is for **Tuesday, July 16, 2019**. There are three (3) on the agenda for that hearing.

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 as well as a Planning and Community Development progress report of permits and projects in process.

C. Mr. Gebhart mentioned that with Ms. Friedman’s resignation from the Planning Commission and the Master Plan Advisory Committee, it has opened up a vacancy. If there is a Planning Commission member that is interested that is not serving on more than one other board or commission for the County, please let **Mrs. Garcia** know.

D. The County Water Master Plan is available online or in hard copy if you are interested in obtaining a copy.

E. Public Input on Items Not Listed on the Agenda

a. Judy Von Ahelfeldt gave some general comments about metropolitan districts and the oversight process to obtain those special districts in the County. She read a citation from the County Policy Plan, Issue 14.2 Effectively Used Special Districts states “Special Districts are a proven mechanism for providing needed facilities and services to unincorporated areas. They provide a potential for local government control and representation and the flexibility to respond to the unique needs of different sub-areas of the County.” She shared data of current County mil levies and an article named *As metro districts continue to grow in popularity across Front Range, homeowners question oversight*. Her materials are on permanent record.

2. Consent Items

A. Approval of the Minutes – June 18, 2019

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

REGULAR ITEMS

3. P-18-001

SEVIGNY

**MAP AMENDMENT (REZONE)
ROLLIN RIDGE ESTATES RESIDENTIAL**

A request by TC&C, LLC, for approval of a map amendment (rezoning) of 48.84 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at the southwest corner of the Highway 83 and Hodgen Road intersection. The subject property is located within the boundary of the Tri-Lakes Comprehensive Plan (2000). (Parcel Nos. 61270-00-064 and 61270-00-065) (Commissioner District No. 1)

Mr. Gabe Sevigny requested permission to do a combination presentation for all three (3) Rollin Ridge Estate projects. The Chair gave that permission with a request to make individual motions for each project.

Mr. Sevigny asked **Mr. Emmons** to go over the review criteria for a map amendment (rezone) and a preliminary plan.

Mr. Curry – They talk about wanting a bakery or some other similar business, and it appears that the EPC Health Department would not allow that. What is necessary to know what is acceptable? **Mr. Sevigny** – They responded only to the potential of a gas station and not specifically to a bakery or restaurant use.

Mr. Trowbridge – What is the structure of these three (3) projects. A PUD is supposed to be for a mixed use, is it not? **Mr. Sevigny** – It allows the developer to lower lot size requirements, not just for mixed use.

Mr. Trowbridge – I would have expected a PUD to include the open space, residential and commercial uses. **Mr. Sevigny** -- A PUDSP (PUD with preliminary plan) would be something that you might be used to seeing that would include all those components. This is broken up to include deviations, rights of way, residential lots, and open space. It is specific to lot sizes.

Mr. Curry – We have three (3) actions. One is the map amendment (rezone) for the residential; one for the commercial which is a PUD; and a preliminary plan that covers it all. The PUD rezoning does not have mixed use and only commercial. **Mr. Sevigny** – That is correct.

Mr. Dave Jones, representative for the applicant, gave his presentation to the Planning Commission.

Ms. Blea-Nunez – Are the trees in Lots 5, 6, and 7? And will they be removed for development? **Mr. Jones** – They are lots 6, 7, and 8 and no the trees will not be removed.

Mr. Risley – With the no build easements that are planned, can septic systems be built in that area? **Mr. Jones** – Underground construction as far as utilities are allowed in the no build areas.

Mr. Curry – Could you talk more about the modification and justification relative to wastewater as opposed to providing alternatives? **Mr. Jones** – The code allows for on-site wastewater system. The health department doesn't have a code that says 2.5 acre minimums. They have setbacks and size formulations. It doesn't state it is for residential, so for the commercial lots that are planned, they are smaller than the 2.5 acre. Our PUD shows three lots but the preliminary

plan shows a large tract so that we can find specific users and will be designed accordingly. The PUD shows what we can build not what we have to build. The site development plan will give more specifics as we move forward, but it gives the County the required assurances at this stage.

Ms. Blea-Nunez – Could you discuss traffic impact? **Mr. Jones** – The commercial complicates and especially at the corner of two arterials makes it even more difficult. We have done the necessary traffic studies. We had to develop a plan of lane geography that got that traffic through safely. The deviations were requested because we had to come up with a non-conventional way to address the traffic. Traffic is always a number one concern of neighbors. All the traffic goes out to primary arterial roads and not impacting interior roads.

Ms. Blea-Nunez – Could you discuss the wildlife corridor and impact? **Mr. Jones** – The National Resource report shows the same wildlife in the area that are in other areas. We are protecting forested areas and drainage areas. 2.5 acre sites are easier to deal with than .5 acre lots. We don't allow perimeter or lot fencing. The impacts are much less.

Mr. Trowbridge – Could you discuss the drainage and how some of those lots will be impacted? **Mr. Jones** -- Our primary drainage comes through another subdivision and we use the natural swales and utilize the flows. We are not using culverts. Tract A continues through and under Hodgen Road.

Mr. Trowbridge – At this point we have to find a sufficiency at the preliminary plan stage. Do we need to put conditions on at this point or will we have a chance to address this later? **Mr. Emmons** – The finding of sufficiency is at the preliminary plan that you are reviewing today. It puts the public on notice that the estimates should be sufficient to meet the County's 300-year rule but it does not guarantee that the aquifer has the amount required. The estimates outcome states that there were not findings of injury and the County Attorney's office concurred.

Mr. Risley – Could you talk about any mitigation between the commercial and internal residential areas such as visual impacts? **Mr. Jones** – Our developer is also involved in the home building. We look at who is building on that lot and is that home sensitive to the fact that it is adjacent to commercial. There are landscape buffers that we use and the grading plan will give slope above the commercial development in order to preserve those views.

Mr. Sevigny gave his full presentation to the Planning Commission.

Mr. Beck Grimm gave his engineering findings/report to the Planning Commission.

Ms. Blea-Nunez – Your report referenced auto and bike access. Are there any specific plans for that? **Mr. Sevigny** – Those details will come with the site development plan.

IN FAVOR:

Ms. Von Ahelfeldt – Just for background information....Cherry Creek Crossing was involved in a several year law suit. I don't know if NEPCO sent a letter or not, and they don't attend hearings. I look at the big picture. I thought Mr. Jones' perception of high, medium, and low densities are off. The basic concept was to keep it more rural. I think in terms of consistency, the density needs to be defined more clearly. I thought there was a regional trail that ran from Fox Run to Homestead and I don't see that here. Overall, I think it's a good plan.

IN OPPOSITION: NONE

Mr. Jones – The trail that Ms. Von Ahelfeldt spoke of does exist and we've made those connections.

Mr. PJ Anderson – Specifically, I represented Cherry Creek Crossing and it was extremely controversial. The issue was 2.5 vs. 5 acre lots. County Commissioners voted for 2.5 acre lots. Visually there isn't a lot of difference. Subsequently, the Tri-Lakes Plan was adopted. The densities are not defined, that is correct. The discussion did occur as to PUD vs. straight zoning. PUD provided a little more flexibility. The County spent \$30 million building Hodgen Road. It's currently 3-5 miles to the closest commercial. This intersection makes a lot of sense to have the commercial uses.

DISCUSSION:

Ms. Blea-Nunez – I have a concern that we are approving lower lots sizes. We are putting people on notice to that affect.

Ms. Lucia-Treese – I understand the concern, however as we have said in this body many times, your property rights are your own lots and not those next to you. I understand they have expectations of seeing 5 acre lots but that is not binding and property owners can rezone.

Mr. Creely – I look at this from the County Master Plan and Small Area Plan and Policy Plan, and to me it looks to be on compliance. We consistently do rezoning, so why did we zone it a certain way in the beginning. I think that Mr. Jones made sense with this property. There is good transitioning and I think it meets all the requirements.

Mr. Curry – I couldn't agree more. I'm always leary of rezoning. I had some concerns about transitions and the commercial. However, Mr. Jones' presentation made that perfectly clear. I will be voting in favor.

Mr. Trowbridge – Mr. Jones did a great presentation. I appreciate that they worked with the adjacent property owners. I do have some reservation. I think the rezoning matches the characteristics of what is there now. I am concerned about the density of the commercial. I am generally in support of these.

Mr. Creely – I had concerns too about the commercial, but those concerns will be addressed at the site development plan stage.

Mr. Risley – This was done in a very sensitive way. I feel that the transitioning was done well and I share support.

PC ACTION: CREELY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM #3 FOR P-18-001 FOR A MAP AMENDMENT (REZONE) OF ROLLIN RIDGE ESTATES RESIDENTIAL UTILIZING RESOLUTION PAGE 27, MORE PARTICULARLY DESCRIBED ON PAGE 19-041 WITH TWO (2) CONDITIONS, AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (6-0)

4. PUD-18-003

SEVIGNY

**MAP AMENDMENT (REZONE)
ROLLIN RIDGE ESTATES COMMERCIAL PUD**

A request by TC&C, LLC, for approval of a map amendment (rezoning) of 8.17 acres from RR-5 (Residential Rural) to PUD (Planned Unit Development). The property is located at the southwest corner of the Hodgen Road and Highway 83 intersection. The subject property is located within the boundary of the Tri-Lakes Comprehensive Plan (2000). (Parcel Nos. 61270-00-064 and 61270-00-065) (Commissioner District No. 1)

PC ACTION: CREELY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM #4 FOR PUD-18-003 FOR A MAP AMENDMENT (REZONE) OF ROLLIN RIDGE ESTATES COMMERCIAL PUD UTILIZING RESOLUTION PAGE 29, MORE PARTICULARLY DESCRIBED ON PAGE 19-042 WITH FIVE (5) CONDITIONS, TWO (2) NOTATIONS, AND ONE (1) MODIFICATION, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (6-0)

**PRELIMINARY PLAN
ROLLIN RIDGE ESTATES PRELIMINARY PLAN**

A request by TC&C, LLC, for approval of a preliminary plan to create sixteen (16) single-family residential lots, one (1) tract for drainage detention, one (1) tract for future development, and right-of-way. The fifty-seven (57) acre property is zoned RR-5 (Residential Rural) and is located at the southwest corner of the Hodgen Road and Highway 83 intersection. (Parcel Nos. 61270-00-064 and 61270-00-065) (Commissioner District No. 1)

PC ACTION: LUCIA-TREESE MADE A MOTION/CREELY SECONDED TO APPROVE REGULAR ITEM #5 FOR SP-18-001 FOR A PRELIMINARY PLAN OF ROLLIN RIDGE ESTATES UTILIZING RESOLUTION PAGE 25, MORE PARTICULARLY DESCRIBED ON PAGE 19-043 WITH FIVE (5) CONDITIONS, AND TWO (2) NOTATIONS WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (6-0)

Ms. Ruiz gave an overview of Metro Districts in general that will cover all four (4) projects. Specific details will be presented for each project.

Mr. Trowbridge – Who enforces compliance with their plans? **Mr. Emmons** – The State oversees and enforces those special districts.

Ms. Lucia-Treese – Ours is a citizen board of 5 members that are elected. We are regulated by Title 32 of the State of Colorado.

Ms. Fuller – Is there any recourse for non-compliance? **Ms. Lucia-Treese** – If someone has an issue or concern, they can bring it up at election. We also have monthly Board meetings for citizens to bring up issues. We stress with realtors that they advise their potential home buyers that they are dealing with a metro district. They then receive the bylaws, rate structures, etc. from the metro district. We have elected to not have an HOA.

Ms. Blea-Nunez – Are there required elections yearly? **Ms. Lucia-Treese** – There are some elections yearly; some districts choose to de-Tabor and we are one of them. We have three people elected next year and then two the next year.

Ms. Ruiz asked **Mr. Emmons** to go over the mandatory and discretionary disapproval criteria for Special Districts.

Mr. Emmons -- You can approve without conditions, disapprove, or approve with conditions. I request that the record reflect that you understand that this overview, the comments, and review criteria are incorporated by reference for each of the four projects.

Mr. Curry – I am specifically looking at the Special District Policies and one of the things in the BoCC Resolution is non-proliferation of additional districts. If you have a special district certain very specific language shall be included. For example, all new districts shall clearly and comprehensively define their needs, including non-district options and why that won't work. In the development analysis and financial plan, that it shall also specifically address contingencies in the event development is delayed or that the absorption rate is lower. For newly developed areas, you shall address the vulnerability of short market downturns during the forecast period. With regard to when master districts, having multiple districts and covenants, are proposed they shall be specifically and comprehensively justified. Multiple district plans shall include a justification that the total number of districts proposed is the minimum necessary and it talks about district financing debts and the terms shall be bound to 30 years, unless specific justification is given. I'd like the specific page number of those justifications for the special districts that are requesting multiple districts.

What are the options if we disapprove relative to our criteria?

Mr. Emmons – I always counsel you to listen to the evidence presented. The applicants will need to know how to address the concerns you have. The Planning Commission will need to decide if they have met the statutory requirements as well as the policies that provide the framework. There is a difficulty in applying regulatory weight to those "shalls" in the language. As with all your decisions, you have options on how you decide. If you feel that the applicants have not adequately addressed the issues, you have the ability to move for a continuance. You have to state specifically why you are continuing and what they are to address. You have the option to deny if you feel the Land Development Code criteria are not met. You have the ability to approve with conditions. Per the statute [CRS 32-1-203], the Board has the ability to approve even if the criteria are not met.

6. ID-19-002

RUIZ

**SPECIAL DISTRICT SERVICE PLAN
MAYBERRY, COLORADO SPRINGS
METROPOLITAN DISTRICTS NOS. 1 & 2**

A request by Colorado Springs Mayberry, LLC, for approval of an amended and restated Colorado Revised Statutes Title 32 Special District service plan for the Mayberry, Colorado Springs Metropolitan Districts No. 1 as well as approval of a proposed Colorado Revised Statutes Title 32 Special District service plan for the

Mayberry, Colorado Springs Metropolitan District No. 2. The district service area boundary is located immediately south of Highway 94 and approximately 1.24 feet west of North Ellicott Highway and is within Sections 14 and 15, Township 14 South, Range 63 West of the 6th P.M. The purposes of the Districts include the provision of the following services to property within the service area boundaries: 1) design, construction, financing, maintenance, and ownership of water and wastewater lines; 2) street improvements and safety protection; 3) design, construction, financing, and maintenance of drainage facilities; 4) design, acquisition, construction, and maintenance of recreation facilities; 5) mosquito control; 6) covenant enforcement, and 7) television relay and translation. The multiple district service plan proposes the following: a maximum debt authorization of \$178,420,000, a proposed debt service mill levy of 50 mills for District No. 1 and 25 mills for District No. 2 with a maximum of 65 mills for District No. 1 and 40 mills for District No. 2, and an operations and maintenance mill levy of 10 mills. The proposed District is within the Ellicott Valley Comprehensive Plan (1989). (Parcel Nos. 34000-00-362, 34000-00-356, 34000-00-349, 34000-00-350, 34000-00-259, 34000-00-260, 34000-00-357, 34000-00-358, 34000-00-353, 34000-00-354) (Commissioner District No. 4)

Ms. Jennifer Tanaka, applicants' representative, gave her presentation to the Planning Commission.

Mr. Randy Goodson, property owner, gave an overview of the property and the goals for the property.

Ms. Allison Fogg gave the overview of the service plan for Mayberry.

Mr. Curry – On government enforcement, the levy is proposed for the commercial aspects. Is there government enforcement in the commercial areas?

Ms. Tanaka – They take care of common elements. For example, shared areas throughout the commercial development.

Mr. Curry – The County policy strongly encourages districts to join EPC Water authority. Why are you not joining? **Mr. Brad Simons** – it was decided to not join the authority but we are willing to consider if that is a condition. It was decided because of location and water availability. **Mr. Emmons** – The County does not have the authority to require someone to join the water authority.

Mr. Curry – Where is the explanation in the service plan as to why the EUC is not a viable reason? **Ms. Tanaka** – There are not reasons explained in the service plan as to why we chose not to join the EUC. However, a Company or LLC does not have all of the authorities and powers of a District. A district is in a better position to serve as a water and wastewater provider long-term.

Mr. Curry – Where is the discussion of the specific contingencies and if there is short downturn? **Ms. Brooke Hutchins** – Before we get to issue debt, we are limited to issuing to only knowledgeable well known developers. There are provisions that protect the investor as well as the home owners. On page 3 (page 71 and 72 of the staff report), there is an example of the funding of capitalized interest and surplus funds. These funds would help maintain the District in the event of a downturn. If the debt has not been paid at the end of the term, the bond holder would pay the difference- it would not be the developer or homeowner responsibility.

Ms. Ruiz gave her presentation to the Planning Commission.

Mr. Trowbridge – For the Gillespie add-on, by approving this and they go through with the annexation, it automatically approves that debt? Is that correct? Ms. Ruiz – yes, that’s correct.

Mr. Curry – I want to commend staff on putting the staff report together. Conditions are laid out very well.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Curry – I was satisfied with the answers I got. I will strongly encourage the applicant to have the language added regarding the EUC prior to the BoCC hearing. I will not request that it be a condition, however.

PC ACTION: LUCIA-TREESE MADE A MOTION/TROWBRIDGE SECONDED TO APPROVE REGULAR ITEM #6 FOR ID-19-002 FOR A SERVICE PLAN FOR MAYBERRY, COLORADO SPRINGS METRO DISTRICTS 1 AND 2 UTILIZING RESOLUTION PAGE 37, MORE PARTICULARLY DESCRIBED ON PAGE 19-044 WITH TEN (10) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-0)

7. ID-19-003

RUIZ

**SPECIAL DISTRICT SERVICE PLAN
WINSOME METROPOLITAN DISTRICTS NOS. 1, 2, 3, AND 4**

A request by ProTerra Properties, LLC, for approval of a Colorado Revised Statutes Title 32 Special District service plan for the Winsome Metropolitan

Districts Nos. 1, 2, 3, and 4. The proposed Districts are located at the northwest corner of the intersection of Meridian Road and Hodgen Road and within Sections 24 and 24, Township 11 South, Range 65 West of the 6th P.M. and Section 19, Township 11 South, Range 64 West of the 6th P.M. The applicant is proposing the following: a maximum debt authorization of \$20 million, a debt mill levy of 55.277 mills with a maximum of 70.277 mills and an operations and maintenance mill levy of 10 mills. The statutory purposes of the proposed Districts include: 1) street improvements and safety protection; 2) design, construction, financing, and maintenance of drainage facilities; 3) design, acquisition, construction, and maintenance of recreation facilities; 4) mosquito control; and 5) covenant enforcement. Properties within the boundaries of the proposed Districts are included within the Black Forest Preservation Plan (1987). (Parcel No. 51000-00-493)

Ms. Jennifer Ivey and Mr. Joe DesJardin, applicant's representatives, gave their presentation to the Planning Commission.

Mr. Creely – Could you explain some of the Gallagher information? **Mr. DesJardin** – The revised ratio went to 7.2 from 7.6. The Gallagher allows mill levies to increase to achieve what might have been previously established.

Ms. Blea-Nunez – How many homes are proposed? **Mr. DesJardin** – 143

Mr. Curry – My first question relates to the Gallagher. Your application asked for the adjustment to be retroactive. The preliminary plan was approved a few weeks ago. Nothing has changes from the time your plan was approved and yet you're asking for a retroactive amount through Gallagher. Is that something we need to look at or is it just a normal practice? **Mr. DesJardin** – Oddly enough, the residential ratio has changed. Our justification is that we want to be on par with other districts around us. We have a lot of expensive improvements to consider. **Mr. Emmons** – My understanding is the Gallagher issue is something we need to discuss. You are correct in asking why they want this retroactive. **Ms. Ruiz** – Each jurisdiction handles Gallagher differently. Our definition includes the following language "as of January 1 of the year in which the applicable District's organization election is held." For this year they would not have the benefit of the Gallagher adjustment the way they would have if the district were formed in 2018."

Ms. Fuller – Can you explain why there are four districts and not just one? **Mr. DesJardin** – We will have a phased development. We have separate districts to represent each area of development. There are two residential and a commercial and an organizational district.

Ms. Fuller – What is the value that you are expecting? **Mr. DesJardin** – 2.5 acre is \$733,000 and on 5 acre \$936,000.

Ms. Blea-Nunez – What is the buffer you speak of? **Ms. Brook Hutchins** – The buffer allows for funding surplus and a capitalized interest area. They can use this buffer to fund the District during a downturn.

Mr. Trowbridge – In terms of the retroactivity, did I understand you to say that you should get it because it evens the playing field? So, should development that happened five years ago or three years ago be changed or should you be included in the next change? **Ms. Ivey** – The Gallagher only allows the levy to change if the assessment rate changes. Until recently, it hasn't changed since 2004. It's really only when the commercial and residential ratios are off balance and need to be adjusted.

Mr. Trowbridge – For the things that are included in the district, aren't those normally in the purview of an HOA. **Ms. Ivey** – Here we won't have an HOA, so there wouldn't be that oversight.

Mr. Curry – This service plan says the district is authorized to provide water and then it says later water is to be financed and then later on it states the district shall not construct any water service. **Mr. DesJardin** – Each of the 143 sites will have well and septic, but they will have meters so that we can collect water usage data. We are not installing water services.

Mr. Curry – The plan only talks about Service District No. 1 and it doesn't explain why you need four districts. Where in the service plan do you describe what the four different districts will be responsible for? **Ms. Ivey** – Pages 7 and 8 discuss the multiple districts. Page 11 talks about the analysis alternatives as to what the districts are responsible for. They commensurate with the development stages.

Mr. Trowbridge – I'm still hung up on the Gallagher adjustment. If we were to change the first condition, what would the impact be? **Ms. Hutchins** – It would not cause the project to be unviable, but it would result in 10% less capacity.

Ms. Ivey – In the Special District Policies it allows the mills to be increased with special justification. The special justification section states certain matters shall be specifically and comprehensively justified based on the unique needs and circumstances associated with the particular Service Plan application. No. 3 states specific authorization of special purpose mill levy caps which have the effect of increasing the Maximum Combined Mill Levy Cap above 60 mills as set forth in Section III.F.5 and 6. **Mr. Jerry Biggs** – The Gallagher Adjustment is really just an inflation adjustment and it allows a new metro district to be able to

compete with the metro districts already in place. It allows us to increase our bond capacity.

Ms. Fuller – At what point do those already established districts recap on that adjustment? **Mr. Biggs** – They are allowed to increase their mill levy cap to 55.27 with the adjustment.

Ms. Ruiz gave her presentation to the Planning Commission.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Curry – I'm generally okay with the plan, but I am uncomfortable with the retroactive request. If that stays in, I will be forced to vote against it. Had this preliminary plan been approved say two years ago, I might be a lot more comfortable.

Mr. Trowbridge – On the one hand, it's putting your thumb on the scale of the market, and on the other side the other developers could use the argument that their rates are lower. I would ask the County to make the cap always be subject to Gallagher so that it is there all the time and not subject to our discretion. I'm not necessarily in favor of putting the higher cap on it. I am leaning towards voting against it.

Mr. Risley – Do we have the ability to recommend the adjustment to the cap?
Mr. Emmons – you have the ability to request changes.

Mr. Creely – Markets have changed. I think it should change with an automatic adjustment. They should have today's environment and not something that was imposed in 2004. I will be voting in favor.

Ms. Blea-Nunez – I agree. I think that they should be able to operate in today's conditions. I'm comfortable with it as is.

Mr. Risley – I think I understand the argument that other communities have the automatic adjustment, but we are in El Paso County. I think the market will drive the conditions. In my mind, we have a couple of choices. We could change the condition of the cap or take it as presented.

Ms. Fuller – I would think the BoCC should take on the cap issue as a matter of policy and provide direction as to if they think the adjustment should apply in all instances, or only after the 1 year timeframe.

PC ACTION: BLEA-NUNEZ MADE A MOTION/CREELY SECONDED TO APPROVE REGULAR ITEM #7 FOR ID-19-003 FOR A SERVICE PLAN FOR WINSOME METRO DISTRICTS 1-4 UTILIZING RESOLUTION PAGE 37, MORE PARTICULARLY DESCRIBED ON PAGE 19-045 WITH EIGHT (8) CONDITIONS, AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS.

CURRY MADE A MOTION/SECONDED BY TROWBRIDGE TO AMEND CONDITION NO. 1 TO CHANGE TO SET THE MAXIMUM MILL TO 65 AND DEBT MILL TO 50 SUBJECT TO GALLAGHER. THE MOTION PASSED (5-1). MS. BLEA-NUNEZ WAS THE NAY VOTE.

THE MOTION WAS APPROVED AS AMENDED. (6-0)

8. ID-19-004

RUIZ

**SPECIAL DISTRICT SERVICE PLAN
SADDLEHORN METROPOLITAN DISTRICTS NOS. 1, 2, AND 3**

A request by ROI Property Group, LLC. for approval of a Colorado Revised Statutes Title 32 Special District service plan for the Saddlehorn Metropolitan Districts Nos. 1, 2, and 3. The proposed Districts are located at the southeast corner of the Judge Orr Road and Curtis Road intersection and within Sections 3, 10, Township 13 South, Range 64 West of the 6th P.M. The applicant is proposing the following: a maximum debt authorization of \$45 million, a debt mill levy of 50 mills with a maximum of 65 mills and an operations and maintenance mill levy of 10 mills. The statutory purposes of the proposed Districts include: 1) street improvements and safety protection; 2) design, construction, financing, and maintenance of drainage facilities; 3) design, acquisition, construction, and maintenance of recreation facilities; 4) mosquito control; and 5) covenant enforcement, and 6) design, construction, financing, and maintenance of public water and sanitation systems. Properties within the boundaries of the proposed Districts are included within the Falcon/Peyton Small Area Master Plan (2006). (Parcel Nos. 43000-00-561, 43000-00-562, 43000-00-554, 43000-00-556, 43000-00-555, 43000-00-557, 43000-00-543, 43000-00-541) (Commissioner District No. 2)

Ms. Allison Fogg, applicant's representative, gave her presentation to the Planning Commission.

Mr. Curry – The service plan and letter of intent are based on the 55.277 mill levy cap. Does this impact the financial viability? **Ms. Hutchins** – It should be

figured at the 50 mill levy cap. There is enough surplus to handle the 10% difference.

Ms. Ruiz gave her presentation to the Planning Commission.

Mr. Curry – The developer reserves the right to provide a certain service, so if they don't provide that service, does the mill levy go down? **Mr. Emmons** – The cap doesn't change. They have to figure out if they can do all they want within the cap. If they decide to develop a wastewater system and can't do it, then they can come in and ask for a modification.

Ms. Blea-Nunez – We are seeing a lot of project growth out east. My concern is that they might not sell as many. What happens if they can't service? **Ms. Ruiz** – The applicant will address that in their rebuttal.

IN FAVOR: NONE

IN OPPOSITION: NONE

Ms. Hutchins – The downside if things are to progress more slowly is that that the cap is for 40 years, so unpaid debt after 40 years is the responsibility of the bond company. If the bond holder declared bankruptcy, then the homeowners are protected and the bonds would typically be refinanced.

DISCUSSION:

Mr. Creely – I get the feeling that this is going to be the way of life. Every major development will become a special district issue/project. The bond holders hold all the risk. We should find as good of a way as possible to get through applications like this.

Mr. Curry – I agree with my colleague.

Mr. Trowbridge – I think metro districts help with development. It does decrease the amount of the lot/home prices, but the bond holder takes on the risk. The benefit to the homeowner is that they get to pay that at a much slower rate than if they paid for it at closing. It does keep housing a little more affordable.

PC ACTION: LUCIA-TREESE MADE A MOTION/BLEA-NUNEZ SECONDED TO APPROVE REGULAR ITEM #8 FOR ID-19-004 FOR A SERVICE PLAN FOR SADDLEHORN RANCH METRO DISTRICTS NOS. 1-3 UTILIZING RESOLUTION PAGE 37, MORE PARTICULARLY DESCRIBED ON PAGE 19-046 WITH NINE (9) CONDITIONS, AND TWO (2) NOTATIONS AND THAT

THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (6-0)

9. ID-19-001

RUIZ

**SPECIAL DISTRICT SERVICE PLAN
GARDENS AT NORTH CAREFREE METROPOLITAN DISTRICT**

A request by Mule Deer Investments, LLC, for approval of a Colorado Revised Statutes Title 32 Special District service plan for the Gardens at North Carefree Metropolitan District. The proposed 11.56 acre district service area is located at the southeast corner of the intersection of North Carefree Circle and Akers Drive and is within Section 29, Township 13 South, Range 65 West of the 6th P.M. The purposes of the district include the provision of the following services to property within the proposed service area boundaries: 1) design, construction, financing, maintenance, and ownership of water and wastewater lines; 2) street improvements and safety protection; 3) design, construction, financing, and maintenance of drainage facilities; 4) design, acquisition, construction, and maintenance of recreation facilities; 5) mosquito control; and 6) covenant enforcement. The single district service plan proposes the following: a maximum debt authorization of \$5 million, a contractual mill levy of 30 mills with a maximum of 40 mills, and an operations and maintenance mill levy of 10 mills. The proposed District is not included within the boundaries of a small area master plan. (Parcel Nos. 53294-00-012, 53294-11-002) (Commissioner District No. 2)

Mr. Peter Susemihl, the applicant's representative, gave his presentation to the Planning Commission.

Ms. Blea-Nunez – What will the homes be valued at? **Mr. Susemihl** -- \$325,000.

Mr. Curry – Looking at this plan specifically, I'm a little concerned about some of the terms being boiler plate. Where there is a deficiency, it would seem that a local improvement district might be better. **Mr. Susemihl** – A local improvement district can't maintain drainage structures, and it's set up as a one-time financing mechanism. The properties owned by the district become tax exempt.

Mr. Curry – We are to look at the alternatives closely and Policy 14.1 states that clearly.

Mr. Curry – I have some concerns about the mandatory ability to discharge the debt. When I look at the market value and the homes at buildout and the mill levy applied, the payback of capital costs is approximately 40 years but there is a 20-year limit on paying of Developer Funding Agreements. The mill levy is not

sufficient to pay that debt. Can you explain how the financial plan will be financially available to pay it off in 20 years. **Mr. Susemihl** – I can't argue with your numbers. You are going to have a scenario that you haven't figured. The home prices will increase over time so the funds also increase. If it is insufficient, the developer absorbs it. The developer could also convert it to a bond in the future.

Mr. Curry – I don't think we can approve it until it meets the requirements. **Mr. Susemihl** – The developer is willing to contribute proceeds from the development. **Mr. Emmons** – Adding the modification as a condition is no different than making a stipulation as you do in court. You have the ability to make conditional approvals even if the criteria are not exactly met. In this case it would be that you approve on the condition that the applicant will amend the service plan to be included in the service plan that goes to the Board of County Commissioners. Under the statute 32.12.203 says the BoCC can approve conditionally a service plan upon satisfactory evidence that it does not comply. Your motion could include a condition that the plan be amended to include language that Mr. Susemihl has stipulated.

Mr. Risley – Could you explain the intertwining between Cherokee Metro District with regard to utilities? **Mr. Susemihl** -- It's basically Cherokee operating as an out of district provider to supply water and wastewater. Our district is to install, but they will be maintained by Cherokee.

Mr. Trowbridge – Why can't Cherokee put it in? **Mr. Susemihl** – It's typical that the developer pays for the infrastructure.

Ms. Ruiz gave her presentation to the Planning Commission.

Mr. Trowbridge – Are there any size restrictions? This seems like a small district. **Ms. Ruiz** – There are no size limitations in the Land Development Code or Policies. **Mr. Emmons** – I'm not aware of any size limitations statutorily.

Mr. Trowbridge – On the levy itself, 30 for debt service and 10 for operations, but if they are turning over operations to Cherokee, does that cover them during construction? **Ms. Ruiz** – There are areas that would need continued maintenance, such as the detention areas. The operations would cover the ongoing maintenance.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Curry – I will propose the added condition.

Ms. Lucia-Treese – What’s in it for the home owner to have a metro district? I am in a district. I have water, wastewater, parks, and fire. There is definite and real benefit to metro district home owners. Knowing this when we bought our house gave us that assurance in taking care of all the legal things necessary.

Mr. Curry – Our job is to balance the interests of the homeowner, the developers, and the County.

Mr. Curry – Add Condition – Approval is conditioned upon modifications being made to the financial plan to demonstrate financial ability to discharge obligations, as stipulated by the applicant’s representative during the Planning Commission hearing testimony.

PC ACTION: CURRY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM #9 FOR ID-19-001 FOR A SERVICE PLAN FOR GARDENS AT NORTH CAREFREE UTILIZING RESOLUTION PAGE 37, MORE PARTICULARLY DESCRIBED ON PAGE 19-047 WITH TEN (10) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (6-0)

10. El Paso County Master Plan – Informational Update – No Action Needed

Information regarding the survey and/or community meetings can be located at <https://el Paso-hlplanning.hub.arcgis.com/>

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.

The minutes were approved as presented at the July 16, 2019 hearing.