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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

WORK SESSION

8:00 a.m. – Houseal-Lavigne representatives held a work session for the County Master Plan, including proposed time line, committee representation, and upcoming events. Mr. Devon Lavigne, Mr. Sean Tapia, and Ms. Carly Peters were the Houseal-Lavigne representatives who spoke at today's hearing.

PRESENT: JIM EGBERT, BRIAN RISLEY, JANE DILLON, KEVIN CURRY, JOAN LUCIA TREESE, SHARON FRIEDMAN, AND TOM BAILEY

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, KARI PARSONS, NINA RUIZ, LEN KENDALL, GABE SEVIGNY, ELIZABETH NIJKAMP, GILBERT LAFORCE, BECK GRIMM, AND EL PASO COUNTY SENIOR ASSISTANT COUNTY ATTORNEY LORI SEAGO

REGULAR HEARING

9:00 a.m.

PRESENT AND VOTING: JIM EGBERT, BRIAN RISLEY, JANE DILLON, KEVIN CURRY, JOAN LUCIA TREESE, SHARON FRIEDMAN, AND TOM BAILEY

PRESENT AND NOT VOTING: NONE

ABSENT: ALLAN CREELY, PETER AURICH, AND GRACE BLEA-NUNEZ

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, KARI PARSONS, NINA RUIZ, LEN KENDALL, GABE SEVIGNY, ELIZABETH NIJKAMP, GILBERT LAFORCE, BECK GRIMM, AND EL PASO COUNTY SENIOR ASSISTANT COUNTY ATTORNEY COLE EMMONS

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OTHERS PRESENT WHO SPOKE AT HEARING: DAVID MIJARES, JORDAN SAVAGE, TAMMY DAVIS, DAVE ELLIOTT, JERRY HANNIGAN, FRANK MCGEE, ZACHARY HUMBLE, ANDY HOUGH, DAVID CONDIT, JAKE MATTER, RAY GEIRHART, PATTY WOODARD, SHELIA MIKITA TART, EARNEST MIKITA, BILL GUMAN, BART JONES

Report Items

Planning and Community Development Department – Mr. Gebhart

- A.** The next scheduled Planning Commission meeting is on Tuesday, **April 2, 2019.**
- B. Mr. Gebhart** gave an overview of the County Master Plan Advisory Committee, liaison members, and other stakeholder groups that will be a part of the 2-3 year process.
- C. 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 – March 5, 2019**
The minutes were approved as presented. (7-0)

ALL CONSENT ITEMS WERE REQUESTED TO BE MOVED TO REGULAR SESSION DUE TO QUESTIONS/CONCERNS.

B. SP-18-003

RUIZ

PRELIMINARY PLAN HIGH PLAINS

A request by Savage Development, Inc., for approval of a preliminary plan to create seven (7) single-family residential lots. The 39.4 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Hodgen Road and approximately one-half (1/2) mile west of Black Forest Road. (Parcel No. 51190-01-009)

Ms. Ruiz requested permission to give a dual presentation for both High Plains projects (Preliminary Plan and Final Plat). That request was granted.

Ms. Friedman – I have a concern that there is a lot that has direct access to Hodgen Road. Could you give me more information?

Mr. David Mijares, Catamount Engineering, gave his presentation to the Planning Commission.

Mr. Gilbert LaForce – Due to the floodplain there is a 20 foot drop in elevation which causes a hardship with developing across the floodplain. The applicant wishes to leave the floodplain in its natural state and to not develop that area, even with a driveway. The deviation request was approved by the County Engineer to gain access off Hodgen. Prior to approving the deviation there was a sight distance review done and a condition is provided that sufficient turn-around internal to the lot must be achieved in order to ensure there is no issue with stacking onto Hodgen.

Ms. Friedman – I agree with the point of view that we don't need any other traffic coming onto Hodgen when it's supposed to be a minor arterial road with higher speeds. It's already too dangerous.

Mr. Emmons – The Planning Commission has to weigh the evidence in front of them. This is not a legal question. This is a weighing of evidence presented with regards to traffic components as it pertains to access. The County Engineer has approved the deviation. You have to weigh all that and decide if you agree or not.

Mr. LaForce – Sight distance factors in the speed of road and determines distances based on that data.

Mr. Curry – Relative to deviations, isn't there also spacing requirements from lot to lot? **Mr. LaForce** – Our criteria is more about intersection spacing, not necessarily from each lot. The next closest access is approximately 1,000 feet.

IN FAVOR:

Mr. Jordan Savage, President of Savage Development – Lot 4 has issues, but we did everything we could to utilize the land in the most effective manner and take into consideration the safety of others. That 20 foot drop requires the deviation, but there is adequate site distance. We will ensure that it has a paved driveway and not gravel or dirt.

IN OPPOSITION: NONE

PC ACTION: BAILEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2B FOR SP-18-003 FOR A

PRELIMINARY PLAN FOR HIGH PLAINS UTILIZING RESOLUTION PAGE 25, MORE PARTICULARLY DESCRIBED ON PAGE 19-011 WITH FIVE (5) CONDITIONS AND TWO (2) NOTATIONS WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MS. FRIEDMAN WAS THE NAY VOTE.

C. SF-18-024

RUIZ

**FINAL PLAT
HIGH PLAINS**

A request by Savage Development, Inc., for approval of a final plat to create seven (7) single-family residential lots. The 39.4 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Hodgen Road, approximately one-half (1/2) mile west of Black Forest Road. (Parcel No. 51190-01-009)

PC ACTION: LUCIA-TREESE MADE A MOTION/BAILEY SECONDED TO APPROVE CONSENT ITEM #2C FOR SF-18-024 FOR A FINAL PLAT FOR HIGH PLAINS UTILIZING RESOLUTION PAGE 19, MORE PARTICULARLY DESCRIBED ON PAGE 19-012, WITH ELEVEN (11) CONDITIONS AND ONE (1) NOTATION WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MS. FRIEDMAN WAS THE NAY VOTE.

The High Plains items were heard as one presentation.

D. P-17-015

RUIZ

**MAP AMENDMENT (REZONE)
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a map amendment (rezoning) of 40.67 acres from A-35 (Agricultural) to RR-5 (Residential Rural). The property is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

Ms. Ruiz requested permission to present the map amendment (rezone) and the preliminary plan items together. **Mr. Emmons** went over the review criteria.

Mr. Mijares, on behalf of the applicants, gave his presentation to the Planning Commission.

Mr. Curry – It wasn't in our staff report for this item, but in the next project (824 acres) the Meadow Lake Airport has comments. Does that impact this project? **Ms. Ruiz** – It only applies to the next project. We sent a referral to Meadow Lake Airport for this project but did not receive a response back.

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

Mr. Curry – Where does the lot at the top get its access? **Mr. LaForce** – There is no direct access to Stapleton. It will be on the right of way being dedicated.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Tammy Davis – We own property adjacent to the development. We understand that this corner is new and everyone wants a part of it, we just want a slowdown of development. The 5-acre lots in the area were developed decades ago. We would suggest and urge that this project not be approved. Judge Orr is two lanes, it is highly used for Schriever. I do not see where they will be able to put in turn lanes. We would like to see it become two 20-acre lots. We'd like to see infrastructure improvements before more development happens.

Mr. Dave Elliott, Meadow Lake Airport, gave a report in opposition of several projects in the area, of which this one was not included. This report is on permanent file. We never received a request to comment on this project. In summary, there will be noise, vibrations, etc. from the airport traffic. 5 acre residential lots are compatible with other residential lots in the area. Owners need to know there will be noise, vibrations, and overflights.

Mr. Egbert – In the 824 acre project, the statement goes to all homeowners advising them of traffic, etc. Is there a letter that went out to residents for this project? **Ms. Mijares** – Currently we were not requested to add a aviation statement, but we have no objection to adding that language to the preliminary plan and final plat. **Ms. Ruiz** – There is no requirement for the 824 acre project to add an aviation easement. Staff is not recommending a condition of approval for this project either requiring them to add such an easement. It would be inappropriate for the County to require this when there are no criteria/rules in place to require such an easement in this portion of the County. If the applicant is agreeable they

may choose to add a plat note but I will not recommend it as a condition of approval.

PC ACTION: RISLEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2D FOR P-17-015 FOR A MAP AMENDMENT (REZONE) FOR JUDGE ORR RANCHETTES UTILIZING RESOLUTION PAGE 27, MORE PARTICULARLY DESCRIBED ON PAGE 19-013, WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (7-0)

E. SP-17-011

RUIZ

**PRELIMINARY PLAN
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a preliminary plan to create seven (7) single-family residential lots. The 40.67 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

Mr. Risley – The impact on Judge Orr is for two residential lots, so I don't see that as a huge impact on traffic. This area is designated for much more dense development than what is proposed.

Ms. Friedman – Part of the problem is that our plan is so old and that will be fixed with a Master Plan, but by breaking lots into 5 acres now, it sets it up to subdivide further.

Mr. Curry – I'm going to vote against this project because of deferring the water finding. With the Water Master Plan we are tasked with reviewing and determining that finding at the preliminary plan stage.

Mr. Emmons – Nevertheless, the Land Development Code does provide that the Planning Commission may approve the preliminary plan without a finding of water sufficiency but not at the final plat.

Mr. Risley – Does this application fall into a gray area as far as when it was submitted and when the Water Master Plan goes into effect? **Mr. Emmons** – They likely are trying to work through the state permitting and that takes time. **Mr. Gebhart** – The Water Master Plan has not yet been certified by the Planning Commission. That is being finalized now and will come to the Planning Commission very soon. If the basis for your action is thinking towards that plan, it's a little premature. The application was

submitted prior to that plan going into effect; so yes we are in that gray area.

Mr. Emmons (In response to Mr. Curry)– I think given your concerns with regard to the water supply, it is probably a better vote to make that decision based on the subdivision criteria rather than the statement you made relying on the Water Master Plan and the timing of the certification.

PC ACTION: BAILEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2E FOR SP-17-011 FOR A PRELIMINARY PLAN FOR JUDGE ORR RANCHETTES UTILIZING RESOLUTION PAGE 25, MORE PARTICULARLY DESCRIBED ON PAGE 19-014, WITH SIX (6) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MR. CURRY WAS THE NAY VOTE.

The Judge Orr Ranchettes items were heard together. Please see discussion included above that apply to item below.

F. SF-17-021

RUIZ

**FINAL PLAT
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a final plat to create seven (7) single-family residential lots. The 40.67 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

PC ACTION: NO PC ACTION REQUIRED. THE ITEM HAS BEEN WITHDRAWN.

G. SF-18-041

PARSONS

**FINAL PLAT
SETTLER'S VIEW**

A request by Gary and Brenda Brinkman for approval of a final plat to create 14 single-family residential lots. The 40.61 acre property is zoned RR-2.5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden development, and west of Stepler Road. (Parcel No. 61000-00-463)

Ms. Parsons introduced the applicants' representative **Mr. Jerry Hannigan** to give his presentation.

Mr. Hannigan – I have a question regarding the calculation used on Condition # 11. Instead of the dollar amount, put TBD and strike “corresponding to.” **Ms. Parsons** – Staff does need a dollar amount because the BoCC Resolution is the record and our authorization to collect that dollar amount. The traffic report states it would generate the 6.7 percent x \$188.30 per linear foot of rural road upgrade.

Mr. Bailey – The point at which fair share is calculated, rather sooner than later – is that the question? **Mr. Hannigan** – I just want to know what is accurate.

Ms. Nijkamp – I would need something in his traffic study to show a different number. I am confident in the data that we have provided.

Mr. LaForce – The 4% is a future growth worth. The smaller is based on anticipated growth variable. If we use the 4% then we would have to inflate the \$188 to a much higher rate.

Mr. Emmons – You have two options. You could vote for continuance to a date certain. That forces the applicant to come to an agreement on the numbers. Or you vote on the condition in front of you and if the applicant has strong feelings about that, then they can work with staff to come up with a different number for the Board of County Commissioners’ hearing. It would be better if the applicant can come to an agreement on the number before it goes to Board of County Commissioners.

Mr. Hannigan – Indicated he did not want a continuance.

IN FAVOR: NONE

IN OPPOSITION: NONE

Mr. Curry – I appreciate the staff’s explanation of the calculations. I’ll be voting in favor.

PC ACTION: LUCIA-TREESE MADE A MOTION/RISLEY SECONDED TO APPROVE CONSENT ITEM #2G FOR SF-18-041 FOR A FINAL PLAT FOR SETTLER’S VIEW UTILIZING RESOLUTION PAGE 19, MORE PARTICULARLY DESCRIBED ON PAGE 19-016, WITH ELEVEN (11) CONDITIONS AND ONE (1) 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. (7-0)

Ms. Friedman left the hearing at 11:00 a.m. A quorum is still in place.

REGULAR ITEMS

3. U-19-001

SEVIGNY

**APPROVAL OF LOCATION
COLORADO PARKS AND WILDLIFE RAMAH SHOOTING RANGE**

A request by Colorado Parks and Wildlife for approval of location to allow for an outdoor shooting range. The property is zoned A-35 (Agricultural) and is located approximately .5 miles north of the Highway 24 and North Yoder Road intersection. (Parcel Nos. 11000-00-032, 11000-00-020, 11000-00-023, 11000-00-033, 11000-00-071, and 11000-00-081)

Mr. Sevigny asked **Mr. Emmons** to go over the review criteria for an approval of location. He then introduced the applicant **Mr. Frank McGee, Colorado Parks and Wildlife**, for their presentation.

Mr. Egbert – How long does it take people to come out and use a facility like this once it's been established? **Mr. McGee** – Not long actually. If we provide it, they will come use it. This is one step in a much larger process. This will be the first free public range within a 2 hour drive.

Mr. Zachary Humbles, Civil Engineer, Colorado Parks and Wildlife, gave his presentation on the operation and development concept for the range, including how the design is intended to prevent negligent shots from leaving the range.

Mr. Andy Hugh (Southern Shooting Partnership) and **Mr. David Condit** (U.S. Forest Service) gave a report on the growing local demand for shooting sports. They also spoke on the collaboration needed with all the entities involved.

Mr. Sevigny gave his presentation to the Planning Commission.

Mr. Risley – From the subject property to Highway 24, would access be gained by property completely owned by the state? **Mr. Sevigny** -- The access is through the State of Colorado and also across one parcel owned by the Soil and Conservation office. They would need an easement or lease agreement at the site development plan stage.

Ms. Dillon – We have a letter from the Double E Conservation District that they have not granted access. **Mr. Sevigny** – They are considered an outside agency, but we have not received anything through EDARP. The applicant has noted that there is a lease in place. We will ensure that there is legal access at the site development phase of the project.

Mr. Emmons – Because the access has become a question, you (the Planning Commission) may want to address that with the applicant now.

Mr. Jake Matter, Colorado Attorney General's Office – I agree with the staff's assessment. It is an issue we are aware of as far as Double E Conservation District disagreeing with our application. We have a copy of the 1962 lease. The property has quite a history. Under our lease, the state has the right to erect such improvements as are consistent with recreational hunting and fishing facilities. Our view is that we have an existing right to traverse the property and Antelope Road is a public road. CPW has significant rights to this parcel. We ask that you abstain from ruling on the lease, which is a civil matter. The issue today is if it is an appropriate location.

IN FAVOR:

Mr. Ray Geirhart, El Paso County Sheriff's Office – The Sheriff's Office is not opposed to a shooting range; however, we have not had any contact with CPW regarding safety concerns. We would like to see their plan regarding public safety calls that will come in. Unfortunately, accidents will occur. Our biggest concern is will they provide law enforcement protections or will they rely on the County's assistance? While we do support the creation of safe shooting places, we would like to see some communication to determine how this will be resolved when 911 calls come in.

IN OPPOSITION:

Mr. George Foschia, Double E Conservation District– The Double E Conservation District is the responsible party for 14 flood control dams. They were constructed in the early '60s. Many towns are protected by the dams that we maintain. It was intended to have a recreation area. With the drought we've experienced, Big Sandy does not flow like it did in the past. The lease agreement in 1962 was made in perpetuity. The amount that was paid was \$5800 by the State of Colorado. It is for the specific purpose only for game management for restoration of game or fishing. This could be grounds for termination of the lease and legal action. This is a violation of that clause. Noise pollution is also going to be an issue. Trash removal, late night parties, emergency response, liability, livestock being affected, etc. are all concerns that I have. The immediately adjacent neighbors are against this range.

Ms. Patty Woodard – We are adjacent to this property. We have been there for over 30 years. We have access to our property through the State Wildlife area. We have been able to see how the public utilizes that property both positively and negatively. I also did some research on unsupervised, unattended shooting ranges. I have major concerns on that research. Fires, trash, partying, dumping of furniture are all issues that we will see if this project is approved.

Ms. Shelia Miketa Tart – I am an adjacent property owner as is my mother. I agree with **Ms. Woodard** and **Mr. Foschia**. They did a good job outlining the issues. My concern is that we have livestock very close to the project site. We also ride horses on the adjoining properties. There are always going to be irresponsible and neglectful gun users. I don't want my livestock or my family impacted.

Mr. Marty Miketa – I own the property to the north. I run cattle east and north of this range property. I am concerned about the lack of supervision. Our property values will decrease. No one will want to live beside a gun range. The liability of who will be responsible for an injured or killed cow has not been determined. There are grazing antelope and deer that will also be affected. A fence that was installed two years ago was done badly and I had a calf get stuck in that fence. To the north by about 7 or 8 miles there is a shooting range out in the middle of nowhere. So there is another place to go. I hope that you'll deny this request.

Mr. McGee had a chance for rebuttal. Our intention is to have CPW staff on site daily. There are no ranges on Forest land; there are dispersed ranges. We are trying to provide for a safe place. We've tried to design this with berms and baffles to ensure safety. There is a broad coalition of partners that support this effort. We have rules on the properties, and yes there is trash where there is no management. We want to have management in place.

Mr. Curry – Can you talk to your experience of unsupervised ranges elsewhere? **Mr. McGee** – The closest facility we manage is by Salida. We have a number of other ranges. We don't have the issues of trash on managed sites. If something is dumped, we remove it.

Mr. Curry -- Could you speak to fire mitigation? **Mr. Humbles** -- Fire mitigation is an on-going issue. We plan on fire breaks and the vegetation that is out there is low and will burn out.

Mr. Curry – Sheriff's department had some concerns on response times. Part of our review criteria is around safety concerns. **Mr. McGee** – We've been talking with the Sheriff's Office since July. We don't have an expectation that the Sheriff's Office will manage this property. We have CPW officers that will patrol, but we can't guarantee that the Sheriff's Office won't get calls. We will continue to work with them.

Mr. Curry – Is there any chance of changing the operating hours? **Mr. McGee** – We do have some flexibility to adopt different regulations for different properties if needed.

Ms. Dillon – One of the speakers had mentioned that other ranges had been approved and were shut down. **Mr. McGee** – They were dispersed ranges that were not approved or designed or engineered ranges and there were conflicts. This is part of the broader effort to look at areas to have developed ranges.

Ms. Dillon – Is this area fenced in? **Mr. McGee** – Yes, and we are working with Double E Conservation District to get additional fencing and offer some grazing.

Mr. Egbert – We have a difficult decision to make. On one hand, we have property owners that are fearful of something new and what could happen; and on the other hand, we have a County where people are going to target shoot and it would be nice to have a facility to offer that service. **Mr. McGee** – Recreational shooting happens on public lands, and as our community grows, there will be even more shooting. We organized this group to try to find solutions to recreational shooting in unapproved areas. There are private ranges and gun clubs, but we are trying to fill a gap that has not been addressed.

Ms. Friedman – I was peripherally involved in this issue a few years ago. I thank you for the efforts to deal with a very big issue.

DISCUSSION:

Mr. Risley – There's no discussion if this is a necessary facility. Our job is to determine if this is the appropriate place. We've heard testimony about wildlife, and there is moderate wildlife potential.

When I think about growth in the County, I wonder what this looks like in 40 or 50 years and would this be an appropriate place. This would be a special use if it were a private land owner. My challenge is if we deny this then it will go to the state and the state will approve it any way. I think it's a lot more complicated than we are acknowledging.

Mr. Curry – I could not agree with my colleague more. I was initially concerned about the irresponsible shooter. I have hesitancy about the lack of personnel on site. I don't like the hours. Public safety is one of our review criteria. I too am struggling with this. This is very complicated.

Ms. Lucia-Treese – While the Sheriff's Office did have concerns, they were not opposed to it. I believe that the State has gone above and beyond in their design of the facility. I think they do have safety in mind with their design. Shooting ranges are emotional issues. We have to look at our criteria and we tell other home owners that they don't have a right to a view. Your land is your right, not what someone else is doing. The state has offered a viable plan and there is no cure for irresponsible people. We just have to have whatever safeguards we can to mitigate the problems.

Mr. Bailey – I would like to echo my colleague's comments. This has everything to do with perspective. I understand your view to say it's too close, but for me the location that they want to put it is out there and seems perfect since I live just outside of Colorado Springs. The forward looking development is what we need to remember. We need places like this. The fact that it is an unsupervised range does not mean it's unmanaged. There's a lot of unmanaged shooting going on in the

state, but this would be controlled to a certain extent. I made the motion and I will be voting in favor of this project.

Ms. Dillon – When you live in an area that is primarily agricultural, I think that landowners have the right to live that way. This is sitting where everything is agricultural. It bothers me.

Mr. Egbert – I am convinced that it will be a very safe range. It will be environmentally safer than people’s back yards. We do have people that are very experienced and willing to help those who are less experienced practice responsible gun safety. This will be an area that will be heavily used and they care about weapons and will use it wisely.

PC ACTION: BAILEYMOVED/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM NO. 3, U-19-001 FOR AN APPROVAL OF LOCATION FOR COLORADO PARKS AND WILDLIFE FOR THE RAMAH SHOOTING RANGE UTILIZING RESOLUTION PAGE 9, MORE PARTICULARLY DESCRIBED ON PAGE 19-017 WITH TWO (2) CONDITIONS AND ONE (1) NOTATION. THE MOTION WAS APPROVED (4-2). MR. RISLEY AND MS. DILLON VOTED NAY.

Ms. Friedman left the meeting during the hearing on this item and did not vote; however, a quorum was maintained. Mr. Curry left the meeting at 2:00 p.m. after this item, and Ms. Friedman returned. A quorum is still in place.

4. P-18-008

RUIZ

**MAP AMENDMENT (REZONE)
824 ACRES CURTIS ROAD**

A request by ROI Property Group, LLC, for approval of a map amendment (rezoning) of 824 acres from A-35 (Agricultural) to RR-2.5 (Residential Rural). The property is located at the southeast corner of the Judge Orr Road and Curtis Road intersection. (Parcel Nos. 43000-00-541, 43000-00-542, 43000-00-543, 43000-00-554, 43000-00-561, 43000-00-562, 43000-00-556, 43000-00-555, 43000-00-557)

Ms. Ruiz asked **Mr. Emmons** to go over the review criteria for a map amendment (rezone). Ms. Ruiz briefly covered the “Status of Major Issues” having to do with Meadow Lake Airport and the FAA concerns but explained that it would be covered in greater detail during the staff presentation. She then introduced the applicant’s representative, **Mr. Bill Guman**, for their presentation.

Mr. Egbert – You mentioned in your letter of intent that you planned on affordable housing. Is that still the plan? **Mr. Guman** – We used the word attainable housing, not affordable. It would be a misnomer to say it’s a community of affordable housing. We are looking for alternatives to the \$500-600,000 houses that are typically built on this size property. It does not mean doublewides or modular homes. Our price target

is in the \$300-350,000 range which is more affordable than \$500,000. We are paying respect to the rural lifestyle and surrounding neighborhoods.

Ms. Friedman – How many lots are actually going to be platted? **Mr. Guman** – I don't have an exact number, but it's currently working out to be 200-225 lots.

Ms. Ruiz gave her full presentation to the Planning Commission. Her PowerPoint is incorporated herein by this reference. Below is a summary of the content of the presentation:

- The request is for a rezone from the A-35 zoning district to the RR-2.5 zoning district. The RR-2.5 zoning district density and dimensional standards are:
 - Minimum lot size 2.5 acres
 - Minimum lot width at from lot line 200 feet
 - Setbacks 25 feet on the front and rear, 15 on the sides
 - Maximum height 30 feet
- The zoning in the vicinity
 - The property is surrounded by A-35 to the north, south, and east but that the property and those parcels surrounding were previously a part of Santa Fe Springs PUD, which allowed for high density residential, commercial, an industrial uses.
 - To the west, the parcels are zoned PUD and RR-5.
 - Those parcels which are part of Meadow Lake Airport (directly to the west) are also within the GA-O, which allows 1 dwelling unit per 2.5 acres.
 - Within 1 mile of the subject parcel, there are 3 different subdivisions with RR-2.5 zoning.
 - Across highway 24, which is approximately 1 mile away, is dense suburban development.
- The subject parcel was rezoned from the Santa Fe Springs PUD to A-35 12/12/17
- The surrounding existing development consist of:
 - Vacant agricultural land to the north, south, and east
 - Rural residential development consisting of both 5 and 2.5 acre parcels
 - An RV Park on Judge Orr Road
 - Meadow Lake Airport. Meadow Lake Airport is a unique private airport that allows for airport runways, hangers, and commercial uses, as well as single-family residences to co-exist within the same subdivision. The Federal Aviation Administration advises that Meadow Lake Airport Authority is a general aviation, public use, airport. Meadow Lake Airport Filing No. 14, for example, includes platted taxiways on the residential lots and allows for hangers as well as commercial uses on the same parcel. Across Highway 24 is dense suburban development
- The El Paso County Policy Plan (1998) provides the following relevant policies:

- **Policy 6.1.3-** *Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.*
- **Policy 6.1.11-** *Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*
- The development of these parcels as RR-2.5 (Rural Residential) is a logical extension and density transition from the existing development in this area and is compatible in terms of uses and densities.
- The property is located within the Falcon/Peyton Small Area Master Plan (2008)
 - The Plan recommends urban density residential development with lot sizes being less than 2.5 acres in size when central services can be provided. Should the rezoning application be approved, the applicant is proposing to establish a Title 32 special district to provide central water service to the proposed development. The Plan recognizes the existence and importance of Meadow Lake Airport from a land use perspective, but does not further limit development near the airport and, furthermore, recognizes that the Part 77 surfaces and any noise overlay district for Meadow Lake Airport have not been adopted by the Board of County Commissioners.
- Staff Covered the Status of Major Issues having to do with Meadow Lake Airport and the FAA objecting to the request.
 - The Board of County Commissioners has not adopted the Part 77 surface overlay for Meadow Lake Airport. As such, staff recommends that the County cannot impose conditions of approval restricting the applicant's right to develop the land based upon such Part 77 surfaces.
 - Any request from Meadow Lake Airport of the County to adopt the Part 77 surfaces and impose land use restrictions would require the airport to submit an application for a 1041 permit as well as applications for an amendment to the Land Development Code to create a new overlay zoning district and for a map amendment (rezoning) to apply the new overlay zoning district.
 - Meadow Lake Airport was sent a letter dated October 3, 2018, which outlined these requirements and the position of the Planning and Community Development Department regarding the status of the Part 77 surfaces in substantial detail (see attached). Meadow Lake Airport has not submitted a complete application to date to initiate the required processes.
- Staff notified 32 adjacent property owners and received 2 letters in favor and 1 in opposition.

Mr. Egbert – Is the applicant proposing to let the potential home owners know about the noise and airport overlay? **Ms. Ruiz** – I'll leave that to the applicant to answer during their rebuttal. Because there are no regulations or criteria in place to require it, the County will not make this a recommended condition of approval. If the applicant is agreeable, it would be my recommendation that there is no additional condition added. If the Planning Commission feels strongly that it should be included it could be included as a notation that the applicant is proposing to do so, but not as a condition.

Ms. Friedman – It if was intended to be more urbanized, then 2.5 acre lots had water, sewer, and roads. What were the other public road services discussed in the plan? What is the road layout? **Ms. Ruiz** – The Falcon/Peyton Plan does discuss other services. They were proposing dense development with Santa Fe Springs so that could have included public transportation. They are proposing RR-2.5, and because we are just at the zoning stage and have not received an application for the preliminary plan or final plat. We don't have the number of lots or densities, or road configuration. I would recommend against focusing on the proposed subdivision, or putting conditions limiting the future subdivision because we are only at the zoning stage.

Ms. Nijkamp gave her engineering report/findings. There is a floodplain on the area being rezoned. The floodplain will need to be shown as no build areas with the preliminary plan and final plat(s). The applicant submitted a traffic study with the rezone. The traffic study outlined the need for improvements. With the preliminary plan and final plat the applicant will need to submit documentation for those necessary improvements. They will be required to pay the Road Impact Fee with any future final plat filings.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Dave Elliott – I've been on the Board of Directors of Meadow Lake Airport for over 20 years and this is the first time the County has reached out to the FAA. So, I applaud **Ms. Ruiz**. There are seven developments being proposed around the airport. Meadow Lake Airport is a reliever airport. That entitled the airport to federal grants to maintain and oversee the Airport. We could lose our funding if we are not in compliance with the FAA. We also have to be aware of compatible land use and development. We believe any rezoning or development will put lives at risk for both aircraft people and residents. The FAA has no jurisdiction over land use.

Ms. Friedman – Is the problem that the feds in combination with the state haven't decided what land use looks like or is it that our code doesn't match? **Mr. Elliott** – They don't publish land standards. They say certain activities are not compatible. The state said that the local governments shall have zoning requirements around airports.

Mr. Risley – It appears that there have been some requirements put forth by the state that the County hasn't adopted yet and that there has been development around the Airport. Could you tell me why you think the County hasn't prohibited that development? **Mr. Elliott** – There's a lot of confusion on the Code requirements. We have an existing zoning overlay but it doesn't take into consideration the surrounding property.

Mr. Risley -- How has rezoning and development occurred around the airport?

Mr. Dossey – There is nothing in place at the County level that would prohibit a rezone of the property.

Ms. Ruiz – Regarding whether the County is slow to adopt the regulations. We don't believe that is the case. We have put the 1041 regulations in place that allow for the airports to be established, expand, and create overlay zones to limit uses and development. We feel we are in compliance with the federal regulations. We would not knowingly be contrary to Statute, as we are a statutory County. Meadow Lake is a private airport. This is a unique circumstance from other Airports in Colorado, which are operated by a municipality or local jurisdiction. In all other instances in Colorado the same process, or a very similar process, that we are requiring is followed, except it is the local jurisdiction making the application and not a private entity because it is their airport.

Ms. Lucia-Treese – Because there are no prohibitions by the County, therefore the request of this rezone can come forward and nothing prohibits it.

Mr. Dossey – In the letter we provided to Meadow Lake we outline the Part 77 regulations and the Code, one of the sections 15.7.202 of the 1041 regs “. . . provide evidence that sufficient property rights or restrictions exist, or alternatively, that adequate measures have been or will be taken and property rights have been or will be acquired to demonstrate that the airport site or expansion, and uses and activities associated with or generated by it, can be legally operated as proposed.” The applicant must acquire those property interests as part of the 1041 application. **Mr. Elliott** – There is no federal regulation to that regard. The County regulation is contrary to federal regulations.

Mr. Bart Jones – Colorado Pilots Association President – We have a developer that wants a zoning change. There's been discussion about applications and 1041s. For years there has been and will continue to be discussion over this subdivision. There are aircraft failures. Right now it's open space. If this project is approved, something will happen.

Mr. Guman had an opportunity for rebuttal. We acknowledge our intention is to develop. We are aware that we are adjacent to an airport and we want to offer that we include a disclosure agreement to home owners that they understand they will experience noise and/or vibration effects from the airport traffic. We will work with the

Airport on suitable language. The subdivision plans will not interfere with the Part 77 surfaces.

Mr. Risley – Was this an issue when you went through the entitlement process before for the development of Santa Fe Springs? **Mr. Guman** – We knew what the level of concern was, but it was not a condition of approval at that time. If there was language regarding a requirement to notify the neighbors that they would be impacted by noise, then we would have been building 1200 homes based on that prior approval.

Ms. Friedman – Could you explain why you didn't consider 5 acre lots? **Mr. Guman** – We are dealing with a floodplain that limits the buildable area. The floodplain area will be included as a no-build area and not part of the lot area. This is a development and there are economics point to this as well. Our initial application was for 5 acre zoning and we couldn't make it work. We feel like giving up 135 acres of open space and drainage, that we've brought other amenities- like equestrian trails. We are forming a metro district in order to provide central water service. I think the 2.5 acre zoning is wholly compatible. It is contiguous to the Meadow Lake property that has 2.5 acre lots as well.

DISCUSSION:

Mr. Risley – Given the approval criteria I think that it is completely allowed and substantiated or supported by the master plan; however I don't think this is the last time we will hear about airport issues. I hope we can find a way to get on the same page with regulations and that County Staff will work with Meadow Lake Airport.

Ms. Lucia-Treese – I concur with my colleague. We have to go by what we have before us. In my opinion, the applicant has satisfied all the requirements of a rezone. I am in support of this application.

PC ACTION: LUCIA-TREESE MOVED/RISLEY SECONDED TO APPROVE REGULAR ITEM NO. 4, P-18-008 FOR A MAP AMENDMENT (REZONE) OF 824 ACRES CURTIS ROAD UTILIZING RESOLUTION PAGE 27, MORE PARTICULARY DESCRIBED ON PAGE 19-018 WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

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.

The minutes were approved as presented at the April 2, 2019 hearing.