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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Tuesday, March 5, 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, JANE DILLON, GRACE BLEA-NUNEZ, JOAN LUCIA-TREESE, SHARON FRIEDMAN, AND TOM BAILEY

PRESENT AND NOT VOTING: NONE

ABSENT: ALLAN CREELY AND PETER AURICH

STAFF PRESENT: CRAIG DOSSEY, KARI PARSONS, LEN KENDALL, BECK GRIMM, JEFF RICE, AND EL PASO COUNTY ATTORNEY COLE EMMONS

OTHERS PRESENT WHO SPOKE AT HEARING: JUDY VON AHLEFELDT, ALSEY DAVIDSON, JENNIFER KRAUS, TINA BRAZIL, DAVID GIL

Ms. Judy Von Ahlefeldt spoke on County and City planning efforts. It is \$28 for a copy of the City of Colorado Springs Plan.

Report Items

Planning and Community Development Department – Mr. Dossey

- A.** The next scheduled Planning Commission meeting is on Tuesday, **March 19, 2019**. The County Master Plan work session will begin at 8:00 a.m. and the regular hearing will begin at 9:00 a.m.
- B. Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

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C. Mr. Dossey asked permission to present his 2018 Summary of Activity report for the Planning and Community Development Department at the end of the hearing today.

Ms. Friedman – How in my role as Planning Commission liaison will I be able to get information to the other Planning Commission members throughout the Master Plan process? **Mr. Dossey** – There can be discussions; this is not a quasi-judicial action that affects individual property owners. This is legislative. I would think that it would be a good idea to have a place on the agenda for you or **Mr. Bailey** to give an update at each of the Planning Commission hearings in the future and be able to get feedback. You will be meeting approximately once a month with the Steering Committee, so we can just have that a part of each agenda; and if you have an update great and if not at least it's part of the agenda.

Mr. Curry – It is important that the consultant, staff, Steering Committee, and the general public understand that by State law and BoCC approved ByLaws, Master Planning is a Planning Commission responsibility, not a BoCC responsibility.

For the record, **C.R.S 30-28-106 (1)** says, *"It is the duty of a county planning commission to make and adopt a master plan."* The BoCC approved PC Bylaws further define that duty. **ARTICLE I** states *"The El Paso County Planning Commission...is advisory to the Board of County Commissioners on land use requests with the exception of County Master Plan issues..., which decisions of the Commission are final."* And **ARTICLE III** cites the state law in saying that PC Duties include, *"Make and adopt a Master Plan in part or in its entirety."*

I found it inappropriate at our last meeting to be told we would not be afforded access to the list of names of people working on *our* Master Plan. And I have not been comfortable with having its sub-element plans presented to us as a fait-accomplis for minor editing as happened with the MTCP, Parks, and Water Master Plans. I do not want to see us surprised again by substantive recommendations such as density waivers and possible revisions to the 300 year rule when it is too late to debate and shape those as may be appropriate.

With this Master Plan update, it is important that this Commission be involved up front and throughout the process, and the Commission's inputs on the substance and the overall direction of the plan need to be taken as guidance, not suggestions.

1. Consent Items

A. Approval of the Minutes – February 19, 2019
The minutes were approved as presented. (8-0)

B. VR-18-013

VACATION AND REPLAT

KENDALL

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)

Mr. Curry – Is there a minimum lot size for the I-2 zone district? **Mr. Kendall** – Minimal lot size in the I-2 is one acre, which is why we had to update the water statement.

PC ACTION: MR. CURRY MADE A MOTION/SECONDED BY MS. LUCIA-TREESE TO APPROVE ITEM #2B FOR VR-18-013 FOR A VACATON AND REPLAT OF UTILIZING RESOLUTION PAGE 49, MORE PARTICULARY DESCRIBED ON PAGE 19-008 WITH TEN (10) CONDITIONS AND ONE (1) NOTATIONS, WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DETERMINATION AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

REGULAR ITEMS

3. WSEO-18-002

PARSONS

GRAZING YAK SOLAR ENERGY PROJECT WIND AND/OR SOLAR ENERGY GENERATION PLAN OVERLAY DISTRICT REZONE

A request by Grazing Yak Solar, LLC, and NextEra Energy Resources, LLC, for approval of an overlay rezoning for the Grazing Yak Solar Energy Project pursuant to Section 4.3.5, Wind and/or Solar Energy Generation Plan Overlay District (WSE-O), of the El Paso County Land Development Code. The approximately 272-acre overlay rezoning area is within the A-35-(WSE-O) (Agricultural and Wind and/or Solar Energy Generation Plan Overlay District) zoning district and is generally located north of Judge Orr Road, south of Funk Road, and is bisected by McQueen Road. The applicant is proposing to overlay rezone the area to allow for an approximately 35 MW solar energy generation facility. The WSE-O rezoning includes an array site, associated equipment, electrical collection devices, two (2) lay down areas, a minor upgrade to an existing substation, and an underground electrical transmission line corridor. (Parcel Nos. 12000-00-040, 12000-00-056, 12000-00-276, 12000-00-339, 12000-00-388, and 12000-00-387)

Ms. Parsons asked **Mr. Emmons** to go over the review criteria for a wind and/or solar energy generation plan. She then introduced the applicants' representative, **Ms. Aley Davidson**, for their presentation.

Mr. Bailey – Would you explain the noise you anticipate during construction? **Ms. Davidson** – The noise study found that during construction the threshold may be exceeded at the property line, not necessarily at the home, but at the property line. Most property owners have already signed a waiver that they are ok with the temporary noise levels during the day only.

Ms. Friedman – The fence around there, antelope tend to migrate through that area, have you talked to the DOW regarding the fence height. **Ms. Davidson** – We have a clearance letter from DOW and went with their guidelines for the fence height.

Mr. Egbert – Will you return the roads back to normal? **Ms. Davidson** – That is a condition of approval. We will work with the County. **Mr. Dossey** – They provide a video of the conditions of the road and haul routes before construction and determine the condition as it is in the County's care. If there is a need to provide maintenance, then the County will make those requirements known to the applicants. At the end of the project, they provide another video of the condition after construction. Generally, the roads are in much better shape after construction. **Mr. Emmons** – My recollection is that it is a condition of the 1041 permit to bring the roads back into good condition. **Mr. Dossey** – It is also tied to the site development plan, so it will be addressed in both the 1041 and the site development applications. If the WSEO is approved, then I would be inclined to approve the 1041 administratively.

Mr. Risley – Could you speak to the waiver requested regarding the decommissioning? **Ms. Kraus** – The decommissioning waiver has to do with timing, so the plan will be established for decommission but near the end not at the beginning of the project since this is a 25 year plan.

Mr. Curry – I have a little concern with the decommissioning waiver, but my question is this. What is the County's protection should NextEra go out of business? **Ms. Davidson** – It is unlikely that it will go out of business. The value of the improvements will be well worth salvaging. We would not just walk away from the improvements. Those could go as high as \$40 million. If you feel strongly about it, we could definitely reconsider a decommissioning plan.

Mr. David Gil – In events should something happen, CSU would be able to step in and own and operate the project. In regard to not putting together a decommissioning plan today, we aren't sure what we will do in 20-25 years, so ideally we'd like to operate in this area for 50 or 75 years. We are looking at longer term than we have even started with today.

Mr. Curry – You ask in your letter of intent that you be granted access rights and not easements. What is the rationale for that? **Ms. Kraus** – The detention pond will be behind the security fence, so we are requesting that access not be limited to the drainage pond for safety.

Ms. Tina Brazil – The access provides access during emergency only. They would work with NextEra’s remote team to be able to get into the site during emergencies. **Ms. Parsons** – It’s not really a waiver. We have a standard maintenance agreement. However, the modified agreement allows 24 hour access easement so that emergency crews can gain access.

Ms. Dillon – I particularly like that this power is going to CSU. With regard to the decommissioning, can’t you just have a statement to say “if and when” the need arises, a plan will be put in place? **Ms. Parsons** – Condition 11 and 12 require the applicants to provide a decommissioning plan at a later date.

Ms. Friedman – If it keeps happening that they need a waiver from this standard agreement, then why is this a rule in the first place. **Ms. Parsons** – This may not be standard procedure if it were a wind project versus a solar project like we are hearing today. **Mr. Dossey** – I think we need to modify the code. For the County to manage collateral for 25 or even 50 years, would not make sense for something that could be much longer.

Mr. Egbert – When we have a facility such as wind and/or solar where the operation may not be economically viable without federal subsidies, we need to make sure that the County will not have to pay for decommissioning if a future administration cancels these subsidies.

Mr. Emmons – With the wind power facilities, we had issues as to regard to noise. What noise can be expected with the solar array operations? **Ms. Davidson** – The inverters emit some noise equated to the noise of an air conditioning unit at about 5-7 feet away. The site plan indicates the inverters are in the center of the site, so there will not be any noise at the property line.

Ms. Parsons then gave her presentation to the Planning Commission and answered questions.

Ms. Friedman – If some technology erupts and there’s no value to the panels, what is the worst case scenario? **Ms. Parsons** – We will receive collateral prior to construction after the site development plan for grading and erosion control, so we do receive some just not the collateral associated with decommissioning.

Mr. Dossey – The County would go out and clean it up as a rubbish scenario. The successors would have to pay the County back for that abatement or a lien would be placed on the property.

Mr. Jeff Rice gave his engineer report and findings. His report is part of the permanent file.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Curry – I have absolutely no issues with wind and solar overlay. I do have an issue with Condition 12 and the decommissioning. I think we need to balance protections and I would be happy to vote for this project provided Condition 12 is removed or revised. If that specific waiver stays in, I will be voting against it. **Mr. Egbert** – I feel comfortable knowing they are solar panels and not wind panels. The County has experience dealing with abatement and if the County staff is comfortable with that then I'm happy.

Ms. Lucia- Treese – I concur with your statements. It makes sense that a plan is but in place further down the road. I think we are getting overly concerned with an issue that may never be an issue. The County has the wherewithal to correct this situation. I will be voting in favor of this application.

Mr. Risley – Initially, I felt the same as Mr. Curry; but I now understand that they own the property and they are the ones responsible and will be held accountable. My concern regarding the decommissioning is not a concern any longer. I will be voting in favor of this application.

Mr. Curry – I had not fully appreciated the relevance of the ownership of the property. My concerns about decommissioning are now satisfied.

PC ACTION: MS. LUCIA-TREESE MOVED/MS. BLEA-NUNEZ SECONDED TO APPROVE REGULAR ITEM NO. 3, WSEO-18-002 FOR A WIND AND/OR SOLAR ARRAY PROJECT FOR GRAZING YAK FOR NEWCOMB EXTENDED FAMILY UTILIZING RESOLUTION PAGE 27, MORE PARTICULARLY DESCRIBED ON PAGE 19-010 WITH FOURTEEN (14) CONDITIONS TWO (2) NOTATIONS, AND TWO (2) WAIVERS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

Mr. Dossey gave his 2018 Annual Report of Activity for the Planning and Community Development Department. A copy was given to each of the Planning Commission members.

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 March 19, 2019 hearing.