

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Tuesday, October 15, 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, JOAN LUCIA-TREESE, ALLAN CREELY, SARAH BRITAIN JACK, JANE DILLON

PRESENT AND NOT VOTING: NONE

ABSENT: TOM BAILEY, GRACE BLEA-NUNEZ, TIM TROWBRIDGE, AND BECKY FULLER

STAFF PRESENT: MARK GEBHART, NINA RUIZ, KARI PARSONS, LINDSAY DARDEN, JEFF RICE, ELIZABETH NIJKAMP, RYAN HOWSER, RAD RIDDICK, AND EL PASO COUNTY ATTORNEY LORI SEAGO

OTHERS SPEAKING AT THE HEARING: DARIN WEISS, DEBRA GREER, TONYA LAROCQUE, SHAWNA BOLLER, DOUG JOHNSON, AND FLOYD HOOGEBOOM

Report Items

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

- a) The next scheduled Planning Commission meeting is for **Tuesday, November 5, 2019.**
- b) **Mr. Gebhart** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting as well as a Planning and Community Development progress report of permits and projects in process.

- c) **Mr. Gebhart** – Mr. Rad Riddick and Mr. Ryan Howser are new planners with the department. Welcome Rad and Ryan.

B. Public Input on Items Not Listed on the Agenda -- NONE

2. Consent Items

- A. **Approval of the Minutes – September 17, 2019**
The minutes were approved as presented. (5-0)

- B. **SF-19-013** **PARSONS**
FINAL PLAT
CREEKSIDE AT LORSON RANCH FILING NO. 1

A request by Lorson, LLC Nominee, For Heidi, LLC, For Lorson Conversation Invest I LLLP, for approval of a final plat to create 235 single-family residential lots. The 83 acre property is zoned PUD (Planned Unit Development) and is located south of Lorson Boulevard, and east of Marksheffel Road. (Parcel Nos. 55000-00-406, 55000-00-422, and 55000-00-423) (Commissioner District No. 4)

PC ACTION: LUCIA-TREESE MOTIONED/CREELY SECONDED TO APPROVE CONSENT ITEM 2B, SF-19-013, FOR A FINAL PLAT FOR CREEKSIDE AT LORSON RANCH FILING NO. 1 UTILIZING RESOLUTION PAGE NO. 19, CITING 19-057, WITH SEVENTEEN (17) 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 FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

- C. **SF-19-008** **PARSONS**
FINAL PLAT
LORSON RANCH EAST FILING NO. 4

A request by Lorson, LLC Nominee, For Murray Fountain, LLC, Eagle Development Corporation for approval of a final plat to create 246 single-family residential lots. The 58.47 acre property is zoned PUD (Planned Unit Development) and is located south of Fontaine Boulevard, and east of Lamprey Drive. (Parcel Nos. 55000-00-425 and 55230-00-003) (Commissioner District No. 4)

PC ACTION: CREELY MOTIONED/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM 2C, SF-19-008, FOR A FINAL PLAT FOR LORSON RANCH EAST FILING NO. 4 UTILIZING RESOLUTION PAGE NO. 19, CITING 19-058, WITH TWELVE (12) 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 FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

D. ID-19-007

RUIZ

**SPECIAL DISTRICT SERVICE PLAN AMENDMENT
COLORADO CENTRE METROPOLITAN DISTRICT**

A request by the Colorado Centre Metropolitan District for approval of an amendment to the Colorado Revised Statutes Title 32 Special District service plan for the Colorado Centre Metropolitan District to add fire protection to the list of purposes of the District. The existing service area boundary is located generally north of Fontaine Boulevard, south of Drennan Road, and east of Powers Boulevard. Properties within the boundaries of the proposed District are included within the Highway 94 Comprehensive Plan (2003). (Commissioner District No.4)

PC ACTION: NO ACTION IS REQUIRED. THE ITEM IS CONTINUED TO NOVEMBER 5, 2019 DUE TO A LACK OF QUORUM FOR THIS ITEM SINCE JOAN LUCIA-TREESE HAS RECUSED HERSELF FROM THIS ITEM.

E. VR-17-017

RUIZ

**VACATION AND REPLAT
HADDEN HEIGHTS VACATION AND REPLAT**

A request by Jose and Mary Contreras for approval of a vacation and replat of Lot 18 Hadden Heights Subdivision to legalize the division of Lot 18 into two single-family residential lots. The 5.1 acre property is zoned RR-5 (Residential Rural) and is located north of Eggar Drive, approximately one-half mile (1/2) west from Meridian Road. (Parcel No. 53130-01-010) (Commissioner District No. 2)

PC ACTION: CREELY MOTIONED/DILLON SECONDED TO APPROVE CONSENT ITEM 2E, VR-17-017, FOR A VACATION AND REPLAT OF HADDEN HEIGHTS UTILIZING RESOLUTION PAGE NO. 19, CITING 19-060, WITH TEN (10) 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 FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

REGULAR ITEMS

3. CS-19-001

DARDEN

**MAP AMENDMENT (REZONE)
HCD REZONE TO CS (COMMERCIAL SERVICE)**

A request by HCD Properties, LLC, for approval of a map amendment (rezoning) of 7.13 acres from C-2 (Commercial) to CS (Commercial Service). The property is located on the south side of Platte Avenue approximately one-third (1/3) of a mile east of the Platte Avenue and South Powers Boulevard intersection. (Parcel No. 54180-00-069) (Commissioner District No. 4)

Ms. Darden asked **Ms. Seago** to go over the review criteria for a map amendment (rezone).

The applicants' representative, **Mr. Darin Weiss**, gave their presentation and answered questions from the Planning Commission.

Ms. Darden gave her full presentation to the Planning Commission.

Mr. Creely – Is there no way to place those C-2 obsolete zones into another zone? **Ms. Darden** – There is a county initiated rezoning process, but the applicant is choosing to do the rezone. **Mr. Gebhart** – When the BOCC declared these parcels obsolete, they asked the County to rezone them, and then work obligations got into the way of completing the task. The County has the authority to rezone but requires legal notice. The thought was those unique parcels would just go away with projects and applications to the County. A lot of the obsolete parcels have no need to be rezoned because of the use.

Ms. Brittain Jack – In regard to the zone violation, if this is approved, does that violation go away? **Ms. Darden** – Not entirely; they will have to subdivide and then do a site development plan. Those next processes will come before you or the Executive Director.

IN FAVOR: NONE

IN OPPOSITION: NONE

Mr. Weiss – The adjacent properties to the south is being developed as a commercial use, so it's not completely undeveloped.

DISCUSSION:

Mr. Creely – We are dealing with an illegal division of land and an obsolete zoning. I'm befuddled why we are here but I know this process has to be done.

Ms. Lucia-Treese – I agree, it just needs to be cleaned up. I'm in support.

PC ACTION: LUCIA-TREESE MOTIONED/DILLON SECONDED TO APPROVE REGULAR ITEM 3, CS-19-001, FOR A MAP AMENDMENT (REZONE) OF HCD REZONE UTILIZING RESOLUTION PAGE NO. 27, CITING 19-061, WITH SIX (6) CONDITIONS AND TWO (2) NOTATIONS THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

4. VA-19-004

DARDEN

**VARIANCE OF USE
BSK INVESTMENT CONTRACTOR'S EQUIPMENT YARD**

BSK Investments, LLC, is requesting re-approval of a previously approved variance of use (VA-08-010) to allow a contractor's equipment yard and accessory retail sales incidental to the principal use. The previously approved variance of use has expired and the applicant requests re-approval in accordance with the provisions of the El Paso County Land Development Code (2019) that allow for a variance of use to continue indefinitely without expiration. The 5.01-acre lot is zoned RR-5 (Residential Rural) and is located on the west side of Utah Land approximately 846 feet south of the intersection of Adventure Way and Utah Lane. (Parcel No. 53080-00-007) (Commissioner District No. 2)

Ms. Darden asked **Ms. Seago** to go over the review criteria for a variance of use.

The applicants' representative, **Ms. Debra Greer**, gave their presentation and answered questions from the Planning Commission.

Mr. Creely – One of the criteria to say no to this would cause undue hardship. What is the hardship? **Ms. Greer** – It's a million dollar building sitting there. This site is probably not going to ever be a good site for residential. The site is heavily compacted. It's more suitable with our use than a house would be.

Ms. Darden gave her full presentation to the Planning Commission.

Mr. Risley – My understanding isn't that the variance runs with the land, but with the use. **Ms. Darden** – That is correct. The new conditions address the expiration of the variance to be in conjunction with the use.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Creely – I've looked at this project and I like the idea that they can put the trees up. I've looked at the hardship, and it would be a hardship to move the business. It's harmonious to the area and it's a good idea. It does seem to me that RR-5 gets a lot of variances. Can there be additional uses placed in that zone to allow these types of businesses? **Mr. Gebhart** – If you make it an allowed use in the RR-5 you could expect a lot of these types of businesses. The variance of use process seems to work. There are probably a dozen other similar uses like this project in the area. With the Master Plan process, we plan to address some of these types of projects within certain areas. We will work with the City of Colorado Springs to get some more targeted goals that may address your concern.

PC ACTION: CREELY MOTIONED/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM 4, VA-19-004, FOR A VARIANCE OF USE FOR BSK INVESTMENT CONTRACTOR'S EQUIPMENT YARD UTILIZING RESOLUTION PAGE NO. 51, CITING 19-062, WITH FIVE (5) CONDITIONS AND THREE (3) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

5. VA-19-006

DARDEN

**VARIANCE OF USE
QUARTER CIRCLE/ THREE QUARTER CIRCLE LAZY J
SECOND DWELLING**

A request by the Quarter Circle Lazy J and the Three Quarter Circle Lazy J Trusts for approval of a variance of use for a second dwelling. The 10-acre property is zoned RR-5 (Residential Rural) and is located on the south side of Crosslen Lane, approximately one-quarter (1/4) of a mile east of the intersection of Howells Road and Crosslen Lane. (Parcel No. 62140-00-119) (Commissioner District No. 1)

Ms. Darden asked **Ms. Seago** to go over the review criteria for a variance of use.

The applicants' representatives, **Ms. Tonya Larocque and Ms. Shawna Boller**, gave their presentation and answered questions from the Planning Commission.

Ms. Darden gave her full presentation to the Planning Commission.

Mr. Creely – One of the complaints suggested that it would have been better to divide the land into two lots. Is that a more difficult process? **Ms. Darden** – There are two options for the applicants. They could have subdivided, but that is a more expensive path. The variance of use takes less time.

Mr. Risley – On the graphic there appears to be a rectangle to the left and south. What is that? **Ms. Darden** – Those are the septic fields.

Mr. Risley – If the use discontinues, then the variance should go away. **Ms. Darden** -- The hardship is a familial need. **Ms. Seago** – As presented today, the conditions do not tie the approval to the familial need. You could place a time limit on it and if the situation is the same then they'd need to come back and allow you to review and renew that hardship at that time. It could also be required at that time to be subdivided.

Mr. Risley – The site plan that was submitted in July only showed one home, not two. Could you explain why? **Ms. Larocque** – We purchased it with the intent to build two homes. Our builder didn't have the plans done for both homes, so we depicted what was ready to be built at that time.

Ms. Dillon – The way it is set up now is that the variance is on condition of occupancy and not on the familial need. Is that correct? **Ms. Seago** – The way that the approval is set is an approval of two houses on one piece of property not looking at the familial need. If the variance is abandoned then you can't restart it without coming for approval. If it's unoccupied for more than two years, they would need to reapply.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Floyd Hoogeboom – I live directly south of this property. I've been there for 40 years. They've removed 20-30 trees. I'll be looking at both homes from my house. I believe they are much closer together than they have depicted. I'd like to see the homes separated more so that the property could be subdivided in the future. All the trees that were cut down are just lying on the ground collecting beetles.

Mr. Doug Johnson – I live to the east of Floyd and to the south of this property. Prior to the sale of this property, I knew the former owner. I was able to use that property to graze my horses. When he decided to sell this property, I was interested, but I was not able to acquire it. It was sold to a builder. We have ground water in Timber Lake Estates. The pond that was on this property was manmade. On this piece of property, there is higher property that they could build on. The issue is that the subdivision is more expensive. I'm sympathetic to special needs children; however, my opinion is that they are too close and should have more separation between the two homes. I'm disappointed that they cut the trees.

Ms. Larocque had a chance for rebuttal. We placed the houses so that it could be subdivided in the future. It would meet setbacks if subdivided. We've had the soils tests completed and placed the house in the best location.

DISCUSSION:

Ms. Lucia-Treese – Normally on these variance of uses, I tend to be a little more hard-nosed because people come asking for forgiveness. It appears that the applicant did do their due diligence and bought this land in good faith with the intentions of building the two homes. The removal of the trees was maybe bad information, but it's not part of our approval criteria. The fact that there is one well that could benefit three homes. There are separate septic systems. I applaud the family for coming together to create an environment that is safe and wholesome for the children involved. I will be voting in favor of this application.

Mr. Creely – I agree. I had considered making another condition where there was a time limit, but I think in essence this is what the County wants to see happen. This is the best way to make a great situation better. I would recommend that you look into how this can be subdivided in the future.

Mr. Risley – I agree with my colleagues. It unites the family and takes care of the need. I do want to say however that you subdivide in the future. Variances are okay for now, but it doesn't account for any circumstances that may arise.

PC ACTION: LUCIA-TREESE MOTIONED/BRITTAIN JACK SECONDED TO APPROVE REGULAR ITEM 5, VA-19-006, FOR A VARIANCE OF USE FOR QUARTER CIRCLE/THREE QUARTER CIRCLE LAZY J SECOND DWELLING UTILIZING RESOLUTION PAGE NO. 51, CITING 19-063, WITH ONE (1) CONDITION AND THREE (3) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

6. LDC-19-002

MADDEN/RUIZ

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
ACCESSORY STRUCTURES AND USES**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1 and 5 of the El Paso County Land Development Code (2019) pertaining to shipping containers, temporary uses, accessory living quarters, agricultural stands, to remove errors and discrepancies, and to modify language to resolve recurring issues. The proposed amendments, in their entirety, are on file with the El Paso County Planning and Community Development Department.

Type of Hearing: Legislative

This item will be continued to November 5, 2019 Planning Commission hearing due to an inconsistency in backup material provided.

PC ACTION: CREELY MOTIONED/LUCIA-TREESE SECONDED TO CONTINUE REGULAR ITEM 6, ID-19-007, DATE CERTAIN TO THE NOVEMBER 5, 2019 HEARING. MOTION APPROVED UNANIMOUSLY (5-0)

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

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 November 5, 2019 hearing.