

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting  
Thursday, March 4, 2021  
El Paso County Planning and Community Development Department  
200 S. Cascade Ave – Centennial Hall Hearing Room  
Colorado Springs, Colorado

**REGULAR HEARING**  
**1:00 p.m.**

**PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, TIM TROWBRIDGE,  
BECKY FULLER, SARAH BRITTAIN JACK, AND JAY CARLSON**

**PRESENT VIA ELECTRONIC MEANS AND VOTING: THOMAS GREER, GRACE  
BLEA-NUNEZ, AND ERIC MORAES**

**PRESENT AND NOT VOTING: NONE**

**ABSENT: JOAN LUCIA-TREESE**

**STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, NINA RUIZ, KARI  
PARSONS, TRACEY GARCIA, ELENA KREBS, JEFF RICE (VIA REMOTE  
ACCESS), AND EL PASO COUNTY ATTORNEY LORI SEAGO**

**OTHERS SPEAKING AT THE HEARING: BILL GUMAN AND DAVE ELLIOTT**

**Report Items**

**1. A. Report Items -- Planning and Community Development Department –  
Mr. Dossey -- The following information was discussed:**

- a) The next scheduled Planning Commission meeting is for **Thursday, March 18, 2021 at 1:00 p.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.

- c) **Mr. Dossey** mentioned that a new fee schedule would be coming soon. The fees have not changed since 2010.
- d) **Mr. Dossey** gave an update on the Master Plan process and timeline. An EPC Community Engage video has been created and is available to the general public.

**B. Public Input on Items Not Listed on the Agenda – NONE**

**CONSENT ITEMS**

- 2. A. **Approval of the Minutes – February 18, 2021**  
The minutes were unanimously approved as presented. (9-0)

- B. **SP-19-003** **PARSONS**

**PRELIMINARY PLAN  
WINDERMERE**

A request by James Todd Stevens, Eagle Development Company, and Yes Antelope Ridge, LLC, for approval of a preliminary plan to create 203 single-family residential lots, public rights-of-way, and seven (7) tracts for open space, park, drainage, and utilities. The three parcels, totaling 55.58 acres, are zoned RS-5000 (Residential Suburban) and are located at the northwest corner of the Marksheffel Road and North Carefree Circle intersection and is within Section 29, Township 13 South, Range 65 West of the 6th P.M. (Parcel Nos. 53291-11-002, 53291-00-004, and 53294-00-016) (Commissioner District No. 2)

**Mr. Carlson** – On Condition D the sufficiency states a conditional sufficiency. Did we get that revised water statement? **Ms. Parsons** – We did receive a letter from the County Attorney’s Office and states that there is water sufficiency.

**Mr. Risley** – Should we remove that condition? **Ms. Seago** – I do not think that it needs to be removed, we can just have it on the record that the water letter has been received.

**PC ACTION: TROWBRIDGE MOVED/CARLSON SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, SP-19-003, FOR A PRELIMINARY PLAN UTILIZING RESOLUTION PAGE NO. 25, CITING, 21-011 WITH NINE (9) CONDITIONS AND FOUR (4) NOTATIONS, WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (9-0).**

**Regular Items**

**3. SP-19-006**

**RUIZ**

**PRELIMINARY PLAN  
SADDLEHORN**

A request by Gorilla Capitol, Co., for approval of a preliminary plan to create 218 single-family residential lots. The 816.475-acre property is zoned RR-2.5 (Residential Rural) and is located at the southeast corner of the Judge Orr Road and Curtis Road intersection and within Section 3, Township 13, and Range 64 West of the 6th P.M. (Parcel Nos. 43000-00-599, 43000-00-600, 43000-00-601, and 43000-00-602) (Commissioner District No. 2)

**Ms. Ruiz** gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for a preliminary plan. She then introduced the applicants' representative, **Mr. Bill Guman**, to give their presentation.

**Mr. Trowbridge** – Is your development company building here or planning on selling to other builders? **Mr. Guman** – There is one builder that they are speaking with. We are not looking to sell off individual lots to builders. There are 49 lots in the first filing, and we are hoping that the homes are built by one builder.

**Mr. Carlson** – How do you handle sewer? **Mr. Guman** – It's a septic system.

**Mr. Trowbridge** – The State Engineer's Office water letter mentioned the need of getting new well permits and abandoning existing permits. Could you update us on the water and is that why it is conditional? **Ms. Seago** – Regarding the comment made by the state engineer's office about cancelling existing well permits and submitting new applications, that is because the well permits that are currently in effect permit withdraw of 1600 acre feet per year from the Arapahoe aquifer and 800 acre feet per year from the Laramie fox hills aquifer. The state engineer notes earlier in it's letter reference a deed in the packet of information provided by the applicant that indicates the developer does not own sufficient water that would allow withdrawal in those amounts as what it is indicated on well permits. So that is the reason for the state engineers requiring that those permits be cancelled, and new ones issued because they don't own the water in sufficient quantities to meet those caps in the well permits.

That does not relate to the conditional finding of sufficiency with regard to the dependability in the County Attorney's Office letter. That conditional finding is based on the fact that we have a brand-new water system here. It will not be until that water system begins to serve actual hookups within the development that CDPHE will provide final approval of the water system, until then we are recommending a conditional finding of sufficiency.

**Mr. Trowbridge** – So they have new well permits that permit them to pump the water required? **Ms. Seago** – I don't believe that was part of our analysis because the water is being provided by the district, we would be looking at the amount of the water the district owns rather than the applicant. I presume Mr. Emmons would have found that the district owns sufficient water to supply the residences proposed in this preliminary plan and that would be unrelated to the well permits that have been issued to the developer.

**Ms. Ruiz** gave her full presentation to the Planning Commission. Her report is on permanent file.

**Mr. Risley** – Could you indicate where the development is in relation to the airport? **Ms. Ruiz** (shown on map)

**Mr. Jeff Rice** gave the engineering report/findings to the Planning Commission. His report is part of **Ms. Ruiz's** report and is on permanent file.

**Ms. Blea-Nunez** – The first condition that you discussed focusing around traffic. What does that mean financially for the County to add 218 houses with those cars coming into the city. How does their impact fee tie into it for the County to support that amount of traffic? **Ms. Ruiz** – They have to pay that road impact fee.

**Mr. Rice** determined in the review of the traffic study that there are additional improvements that need to be made off-site. They escrow money per filing, and, at some point that money gets used to make those improvements.

**Mr. Rice** – The TIS table lists the potential for off-site improvements. If it adds more traffic, then the developer would need to build them or provide more escrow for the County to take care of them with the money provided. It's a matter of timing whether this development triggers some of those potential improvements or if another development does.

**IN FAVOR: NONE**

**IN OPPOSITION:**

**Mr. Dave Elliott** – I'm not against the project but we do have a condition that is necessary for public safety. The traffic pattern of the planes covers much of the residential area. If the County permits a rezone to residential then at a minimum this overlay should be a part of the conditions. Every year we do surveys, and we have 464 planes utilize this airport. There could be 200-300 planes at one time over this area in a day. The Guidebook on Effective Land Use Compatibility Planning Strategies for General Aviation Airports is a document that the Planning department refuses to acknowledge. There are hazards that must be mitigated by the County. The Land Development Code specially talks about the need to mitigate noise, safety hazards, and address dedication of easements. I know of two emergency landings and one crash in this proposed development site. We are asking for airspace to be defined and kept clear. A disclosure to

homeowners should be included as to the hazards. Plat notes should state “All property in this subdivision is subject to an aviation easement as required.” An aviation easement must be required and recorded at the time of the plat. We have not been able to come up with a compatible land use plan with regard to development in the airport overlay for Meadow Lake Airport.

**Ms. Brittain Jack** – It seems to me that real estate documents must already have that information per state law. **Mr. Elliott** – I know that there has been some discussion that it’s not on a plat but on a deed. They need to be recorded so that homeowners know that they will be impacted by noise and safety hazards associated with the airport.

**Ms. Ruiz** –It’s true that the LDC does include language that you cannot have hazards, but we cannot consider this as a hazard if we haven’t reviewed reports to indicate it as a hazard, have not adopted any kind of noise overlay, or other hazard area. If we had adopted such overlays as we have with the Colorado Springs Airport, then, depending upon the specific hazard area, we would require a sound study or have required the applicant to include a notice and disclosure statement. We would not have required an aviation easement. We have no basis to require what is being requested by MLA.

**Mr. Risley** – With regard to that point, **Mr. Elliott** suggested that the County shall adhere to state guidelines. **Ms. Ruiz** – We believe the County is satisfying the stator requirement regarding compatible land uses. We have created a process to allow the airport to get to their end goal and will support them as appropriate. However, the airport needs to submit that application to get the overlay and land use restrictions in place. It’s not the County’s responsibility to seek those approvals on behalf of MLA.

**Mr. Moraes** – The CRS says that government entities shall adopt and enforce Part 77. It sounds like the government agency must do this and nothing prevents the government agency from seeking out consultation from entities that know the situation the best. It doesn’t sound like to me the Statute says the government agency will give or offer the opportunity to others to put a plan in place. To me, the way the Statute is written it seems the burden is on the government. **Ms. Ruiz** – The County has taken a different perspective. **Ms. Seago** – The County adopted as part of the 1041 regulation a section related to airports and their influence areas; we comply with the statute that requires zoning authorities to protect those areas. The 1041 requires those entities to submit applications for the County to review and take action on.

**Ms. Brittain Jack** – Do the 1041 rules supersede what **Mr. Elliott** presented?

**Mr. Dossey** – There is a conflict in state statute as to what the County has the authority over. If the COS airport expands, the County would have authority over those types of actions because of the 1041 being in place. The 1041 permit

gives the authority to the County; without it, we have no basis. In this case, Meadow Lake Airport is responsible to obtain those aviation easements. So we have contended that the onus is on Meadow Lake Airport. **Ms. Seago** – In section 1 of the CRS Title 43 Transportation regarding safe operation areas around airports, it refers to the 1041 permit.

**Mr. Moraes** – **Mr. Elliott** wants a disclosure that the homeowners know it's a noise and safety issue living in that area. What is the issue with including that in the paperwork that would filter to a homeowner? **Mr. Dossey** – We encourage the airport to put the 1041 in place that would allow the County to require that language to be put in place. **Mr. Moraes** – I'm a professional pilot and support of general aviation. I agree with **Mr. Elliott** that we need to think in three dimensions. We all need to understand that planes at Meadow Lake do not fly straight into the runway like most do at Colorado Springs. At Meadow Lake, most planes will fly parallel to the main runway like he depicted. There is a potential safety and noise issue. Additionally, I view Meadow Lake as a resource to the County and the area being a private use facility to the County as there are not other airports like it until you get into the Denver area. The public should know there are potential issues that they may see and hear what is flying near or over their homes. It seems unfair for a homeowner in the future to go after an airport about issues that were there prior to the homeowner moving in. **Mr. Dossey** – I agree that we need to protect airports from encroachment, but airports should also protect themselves from encroachment, and the 1041 aids in that process. You could ask if the applicant is willing to impose a condition of that content, but it's not something that the County requires.

**Mr. Carlson** – On the statute that you referred to, how do you interpret number two? **Ms. Seago** – By adopting the 1041, the County then has the authority.

**Mr. Trowbridge** – I'll align myself with **Mr. Moraes** and **Mr. Carlson**. We clearly have a noise and safety issue. I understand the perspective on the 1041 process, but how can we turn a blind eye to an issue that is there?

**Ms. Fuller** – The application that keeps getting kicked back is what specifically?

**Mr. Elliott** – When EPC finally adopted Chapter 7 in 2014, in 2015 we had a master plan done for the airport and I've been working with the County since then to get it adopted. They keep changing the goal posts. They don't want to do it. It was accepted twice by staff and then it comes back to us with more comments. We are a private airport, and they don't want to be seen benefiting us as a private airport.

**Ms. Fuller** – I'm not an expert. I'm feel very strongly about the noise and safety issue. I'd like to talk more on noise overlay.

**Ms. Brittain Jack** – I think there are things in place that property owners will have when they purchase a home.

**Mr. Bailey** – Generally, the zoning came to us before. We have discussed all these things before. I'm discouraged that two years have gone by and we haven't made any progress on this. Ultimately this is something we need to work through the process and simply showing up to oppose isn't quite enough on your part (**Mr. Elliott**) to stop a development project. It may come to a legal action that decides this. I'm not sure that there's anything new as far as opposition that gives us a means to say no to this application. **Mr. Elliott** – We are not opposing it; we want the avigation easement to be put in place. Colorado Springs does not negotiate for avigation easements. The City Council requires that they be put in place.

**Mr. Risley** – If the applicant were willing to put an avigation easement on this application, would that satisfy your opposition? **Mr. Elliott** – Yes.

**Mr. Dossey** – I've been involved in their 1041 application from the beginning. There are 23 submittal requirements. They have yet to satisfy those submittal requirements. The application cannot move forward until they meet the requirements. There is no discretion there.

**Mr. Carlson** – Regardless of whether they submit the 1041, is it safe to put houses where this development is requesting? I understand that the onus is on them to do it, but there is still an issue of these powered aircraft over this development. It's an issue that needs to be resolved. Can we ask for a avigation easement for this one development? **Mr. Dossey** – **Mr. Elliott** stated he thinks the development and layout is safe.

**Mr. Moraes** – So I understand, one of those 23 requirements is to get this 1041 application passed is to get avigation easements? **Mr. Dossey** – That is correct.

**Mr. Moraes** – And one of the requirements is to have the developer put an avigation easement in their paperwork is to have the 1041 passed by the BoCC?

**Mr. Dossey** – The avigation easement is at their will not a 1041 requirement. The applications are approved either by me or by the BoCC. **Mr. Moraes** – It seems to me that the LDC requires developers to put various easements on their documents, but are you saying that an avigation easement is not one of them?

**Mr. Dossey** -- You are considering a preliminary plan today. **Mr. Moraes** – I understand that we are discussing the plan today. However, this process of the 1041 passage and developer requirements seem very circular to me.

**After a power outage at the Centennial Hall building, lasting from 3:30 p.m. – 4:15 p.m., the meeting resumed. Notice was posted on facebook live and calls/emails made to PC members attending remotely as well as the PCD Admin office to handle any calls. No decisions were made during the**

**outage and a quorum is still in place. All members participating at this time that were in attendance at the beginning of the hearing.**

The applicant had an opportunity for rebuttal. **Mr. Guman** – We are as concerned about safety and disclosure to homeowners as you are. We have not actually refused to move forward with the notice of airport in vicinity language. The owner is agreeable to include this statement (refers to airport vicinity notice being exhibited on screen and shown below) either on the preliminary plan and/or final plat. Homeowners that are wanting to build in Saddlehorn are aware they are building next to an airport. **Mr. Elliott** made a comment about calls he's received, and we are just as concerned; and we are prepared and agreeable to put this disclaimer on our plans. As far as an avigation easement, we would defer to the lender and the buyer. We have no issue with this being part of the loan disclosure papers as well. In a good faith effort, I've been advised by our client that we agree to this.

**Mr. Carlson** – Thank you for your willingness to do this.

**Ms. Ruiz** – The applicant is proposing to add a condition of approval that an additional plat note be added to all subsequent final plats providing notification of the proximity of the of the property to the Meadow lake Airport as follows;

**NOTICE OF AIRPORT IN VICINITY**

**This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.**

**Mr. Risley** – For the record, there are 9 conditions now and 3 notations, instead of 8 conditions.

**Mr. Moraes** – I'd like to hear from **Mr. Elliott** in the near future to know what the status of his 1041 application is moving forward during public comments.

**Mr. Risley** – In other words an update that would not be on our standing agenda.

**PC ACTION: CARLSON MOVED/TROWBRIDGE SECONDED FOR APPROVAL REGULAR ITEM NUMBER 3, SP-19-006 FOR A PRELIMINARY PLAN FOR SADDLEHORN UTILIZING RESOLUTION PAGE NO. 25, CITING, 21-012 WITH NINE (9) CONDITIONS (New Condition as stated above) AND THREE (3) NOTATIONS, WITH A FINDING OF SUFFICIENCY FOR WATER**



**QUALITY, QUANTITY, AND CONDITIONAL FINDING FOR DEPENDABILITY, AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION PASSED (9-0).**

4. LDC-21-001

RUIZ

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT  
APPEAL OF ADMINISTRATIVE DECISIONS & DETERMINATIONS**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1, 2, 5, and 7 of the El Paso County Land Development Code (2021) to clarify the requirements and procedures for appeals of administrative decisions and determinations by the Planning and Community Development Director. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. **Type of Hearing - Legislative**

**Ms. Ruiz** gave her full presentation to the Planning Commission.

**Mr. Trowbridge** – 30 days seemed to be on the short side; I'd rather see a 30-60-day range and is it calendar or working days? **Ms. Ruiz** – It was sent out to 236 referral agencies as well as the HBA. The comment received by the HBA was they'd like to see only a 10-day time period. With a longer window, there is a much higher risk to the applicant that they are either missing out on the building season or that they have invested money into an item that is then appealed and they have to remove from the property. **Ms. Seago** – The basis is to make it consistent with the time frame that was already determined by the BoCC for appeals of administrative determinations. In addition, under the LDC code enforcement, violators only have 10 days to appeal a decision. Appeals to court are allowed 28 days. This is the basis for 30 days. We could add calendar days throughout so to not refer to business days. **Mr. Dossey** – The term of days is always calendar days in the LDC by definition.

**Mr. Moraes** – Regarding the HBA comment, the memo they sent said 30 days seemed excessive. The bullet above wants the time to start from the date of decision. The adjacent property owners get notice by regular mail so they would lose a few days in mailing. **Ms. Ruiz** – We don't provide neighbor notifications for all administrative actions. To put into very simplistic terms, if it is a use by right, there are no neighbor notifications. The decision can be viewed on EDARP as well. If you view the associated procedures, you will see that the time starts when the approval/disapproval letter has been uploaded into EDARP.

**Mr. Trowbridge** – After the merger, the frontage requirements, with regard to orphan lots, they all have to have access to roads. Is that correct? **Ms. Ruiz** –

The merger by contiguity is under the subdivision exemption section, which means they need not meet those subdivision requirements. You wouldn't be creating new lots; they were created prior to zoning being initiated. It's possible that you could have lots that don't have access onto a public frontage, and you are accessed through a private drive. Because it's a subdivision exemption, the County would have no basis to deny the merger by contiguity.

**Mr. Trowbridge** – The County can't deny a merger? **Ms. Ruiz** – If they meet the criteria, then we have no ability to deny it.

**Mr. Moraes** – I have a firm belief that govt should be easily understood by the average citizen. I read through the LDC and it is confusing. It should be written in plain language.

**Ms. Seago** – Mr. Moraes proposed revisions, and it's to your discretion as to what your motion includes. It can be the proposed by staff or it can incorporate **Mr. Moraes'** comments/revisions. **Mr. Risley** – From what I understand, **Ms. Ruiz** made some of those revisions based on comments from **Mr. Moraes** and others to the extent that it could be changed. **Ms. Ruiz** – The redlines are the staff version, but what I presented here today has some of his comments. Rewording under section A, he wanted to simplify 2.2.3.a., we don't have any issue with his revision. **Ms. Seago** – I do not have an issue with this revision.

**Ms. Ruiz** – Under authority 2.2.3.b, he proposed to revise structure of authority. **Ms. Seago** – If they accept his revision, then I have a revision to his revision. This code permits be struck and be replaced specifically identified in this Code. There are certain appeals that go to the BOA and BoCC. Variances would need to be pluralized. **Mr. Moraes** – I'm fine with **Ms. Seago's** comments.

**Ms. Ruiz** – Under Appeals, 5.3.8 If desired... must appeal within 30 days. **Ms. Seago** – I would recommend we stay with original language. Consensus that everyone was okay with original language.

**Ms. Seago** – Under 5.6.8, I prefer the original language. Consensus to agree.

**Ms. Seago** – Use the original wording but replace husband and wife with spouses.

**IN FAVOR: NONE**

**IN OPPOSITION: NONE**

**DISCUSSION: NONE**

**PC ACTION: BAILEY MOVED/BRITTAIN JACK SECONDED FOR APPROVAL REGULAR ITEM NUMBER 4, LDC-21-001 FOR AN AMENDMENT TO THE LAND DEVELOPMENT CODE UTILIZING RESOLUTION PAGE NO. 7 AS AMENDED IN THE HEARING AND CITING, 21-013 AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION PASSED (9-0).**

## **5. Procedures Review**

The PCD Director approved certain procedures relating to administrative actions and appeals of those actions on February 24, 2021. Pursuant to Section 2.1.2 of the El Paso County Land Development Code (2021) “the Procedures Manual and any amendments thereto shall become effective when approved by the PCD Director; however the Procedures Manual and any amendments thereto shall be submitted to the Planning Commission and BoCC for review and comment within 30 days of approval by the PCD Director. The Planning Commission and BoCC shall provide comments to the PCD Director within 30 days of receipt of the Procedures Manual or any amendment thereto. The PCD Director shall consider any comments provided by the Planning Commission and BoCC and may amend the Procedures Manual based on the comments received from the Planning Commission and BoCC. The Planning Commission and BoCC may, but are not required to, endorse the Procedures Manual and any amendments thereto.” The Planning and Community Development Department is requesting that any comments be provided to the PCD Director by March 24, 2021.

**PC ACTION: No PC Action Required**

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

The Master Plan is tentatively scheduled to come to the Planning Commission on May 5 and 26 for review and subsequent approval.

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](http://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.)

**The minutes were approved as presented at the March 18, 2021 hearing.**