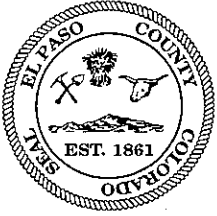


EL PASO COUNTY DEVELOPMENT SERVICES DEPARTMENT

File No: ID-05-007 Amended Service Plan for Santa Fe Springs Metropolitan Districts N0. 1-3
Applicant: Santa Fe Springs Metropolitan District
Owner: Santa Fe Springs LLC; SF Holdings LLC, Cheak S. Kwan
Date Submitted: October 13, 2005
Location: East of Curtis Road, generally between Judge Orr Road and Falcon Highway, in the Falcon/Peyton area

Commissioner District: 2

Staff report prepared for Planning Commission Public Hearing
Date Prepared: October 13, 2005
Project Manager: Not Applicable
Planner: Carl Schueler
Engineer: Gary Hamacher

PROJECT/ PROCESS DESCRIPTION**Amended Service Plan for the Santa Fe Springs Metropolitan Districts**

This is an amended consolidated Service Plan which is the document which must be approved by the County pursuant to C.R.S. Title 32. A recommendation is made by the Planning Commission with final action by the Board of County Commissioners. The original Service Plan for these Districts was approved by the Board of County Commissioners in September of 2004 in "skeletal" form with a number of limiting conditions.

The applicants are now seeking approval of a complete Service Plan to allow the Districts to fully function. The major functions of the Districts are proposed to include financing of major onsite and/or off-site public infrastructure to include roadways, entry features, community buildings, drainage facilities, water and wastewater facilities and parks, as well as ongoing operations and maintenance of some of these facilities.

The Service Plan should be evaluated with respect to the applicable standards and criteria contained in C.R.S. Title 32, the County's adopted Special District Policies most recently amended on September 8, 2005, and applicable policies from the El Paso County Policy Plan. A detailed analysis is provided as an enclosure.

Project Name: Santa Fe Springs Metropolitan Districts Nos. 1 – 3: Amended Service Plan
Project Number: ID-05-007
Project Manager: N/A (Carl Schueler, Planner)

I. SUMMARY OF STAFF REPORT COMMENTS

The Santa Fe Springs development is a large currently undeveloped property with Sketch Plan and Planned Unit Development approval for approximately 5,400 primarily urban density dwelling units and other related land uses on about 6,420 acres in north central El Paso County.

These interrelated metropolitan districts currently exist with "skeletal" approval subject to limiting conditions. The effect of approval of this complete consolidated Service Plan will be to release these limiting conditions and allow the Districts to fully function.

There have been no substantive agency comments as of the date of this staff report. The applicants' representative has revised or agreed to revise the document in a manner consistent with DSD staff comments.

Staff had questioned some of the assumptions and data in the 12/27/2004 Market Study provided by the applicant. The major concern of staff were statements to the effect that it was unknown whether Banning-Lewis Ranch will be engaged in the development market during the forecast period, and concern about the share of the Powers Corridor market that will go to the northeast area. David Bamberger and Associates has subsequently responded with a limited addendum.

A detailed analysis of all relevant State and County policies and standards is attached. The purpose of this proposed district is essentially to be a public financing mechanism for off-site and on-site improvements

With the exception of the requirement for a revised Market Study, the Amended Service Plan as proposed to be conditioned, meets the standards and polices and is recommended for approval with conditions and notations.

II. ACREAGE, PARCEL NUMBERS, PROPOSED USE

Acreage:	6,420 acres
Parcel Number(s):	32000-00-226,227;42000-00-196;43000-00-444,521,522,523,524.
Proposed Use:	Mix of primarily residential and commercial uses with parks and open space, as well as very low-density residential uses and possibly a regional park site in the eastern part of the project.

III. STAFF RECOMMENDATION

That the Planning Commission **approve** the proposed amended Service Plan with the following conditions and notations:

Project Name: Santa Fe Springs Metropolitan District – Amended Service Plan
Project Number: ID-05-007
Project Manager: N/A (Carl Schueler, Planner)

CONDITIONS

1. As stated in the Service Plan, the combined debt service and operational mill levy shall not exceed fifty (50.0) mills (Gallagher adjusted) for any property within these combined Districts until and unless the Board of County Commissioners subsequently determines to remove the mill levy cap in a manner consistent with State Statutes at a subsequent public hearing.
2. As stated in the Service Plan, the maximum combined authorized indebtedness for these Districts shall be \$102.5 Million (One hundred two million and five hundred thousand dollars) without express prior authorization of the Board of County Commissioners. Any increase in authorized debt beyond this amount shall constitute a material modification of the Service Plan. Each of the 3 (three) Districts has authority to issue debt up to the maximum allowable limit so long as the overall limit is not exceeded.
3. The period of maturity for all bonds shall be limited to no more than thirty (30) years without express prior approval of the Board of County Commissioners. Such approval, although required, is not considered to be a major modification which would trigger the need to revise the Service Plan.
4. Any future annexation of territory by this District, which encompasses any territory more than five (5) miles from any of the currently proposed District boundary lines, shall be considered a material modification of the Service Plans and shall require prior Board of County Commissioners' approval.
5. Prior to funding any Local Public Improvements, the District shall provide assurances that El Paso County and any other eligible taxing entity will be held harmless with respect to the potential loss of Sales Tax Revenue associated with the purchase of construction materials associated with these Local Public Improvements, had they been privately funded.
6. The Districts shall agree to formation of a Board of County Commissioners-approved Citizens' Advisory Council to be comprised of five (5) property owners within the service area of the Santa Fe Springs Metropolitan Districts. Two (2) or three (3) Council memberships shall be open to otherwise qualifying directors of two (2) or three (3) Districts. Bylaws of the Council will be approved by the Board of County Commissioners. Meetings will be held at times and locations convenient to the property owners and such meetings will be supported by the Districts. The elected Chair of the Council will be given one (1) of the five (5) seats on the Board of Directors of District 1 during their tenure as Chair.

Formation of the Council shall not occur until there are at least one hundred (100) dwelling units constructed within Santa Fe Springs. The District shall be responsible for supporting the function of the Council. Creation and continuance of the Council shall be at the sole discretion of the County Commissioners, and Council may be disbanded if there is insufficient interest on the part of area residents.

7. Prior to hearing this item by the Board of County Commissioners, the applicant shall:
 - A. Provide an updated version of the Service Plan to include all agreed upon revisions based on Development Services Department staff review comments and applicant response.
 - B. Provide a more detailed response to Development Services Department comments on the 12/27/04 Market Study.
 - C. Identify the proposed means of special notice to be provided to future property owners to advise them of the limited representative nature of these Districts, pursuant to Condition 7 of the original 2004 approval of this Service Plan.
 - D. Contact the Ellicott Metropolitan District and review approved plans for that District in conjunction with County staff to verify that there are no areas of confusion or overlap regarding recreational purposes or use of Conservation Trust Funds within the Ellicott School District.

NOTATIONS

1. In the event revenues or reserves are insufficient to meet scheduled bond payments, unpaid interest may be carried forward as a subsequent year obligation. This may have the effect of extending the schedule of required bond payments.

IV. NOTIFICATION

Notice to adjoining owners is not required for Special District applications.

V. PUBLIC HEARINGS and LEGAL NOTIFICATION

Planning Commission:

Request: Hearing Date(s) November 29, 2005

Waiver(s): None

Vote: N/A

Voting Rationale: N/A

Summary of Planning Commission Hearing:

N/A

Legal Notice: Legal advertisement is not required for the Planning Commission but will be required prior to the Board of County Commissioners . Prior to the BOCC hearing, the applicant has provided an affidavit verifying notice of this hearing to all taxing entities within three miles of the proposed District boundaries.

Board of County Commissioners:

Request: Scheduled Hearing Date January 12, 2006

Waiver(s): None

VI. CODE AND POLICY COMPLIANCE:

The project was reviewed against the El Paso County Special District Policies dated September 8, 2005, the El Paso County Master Plan and the El Paso County Special District Policies and Procedures. The Plan is in general compliance with applicable requirements for content and supporting documentation. An analysis of the policies is attached.

VII. IDENTIFICATION AND LOCATIONAL INFORMATION

Surrounding Land Use: North: -
see above information for general location
South: -

East: -

West: -

Zoning of Surrounding Property: Not Applicable for this type of application.

VIII. LAND USE ANALYSIS AND IMPLICATIONS

Refer also to the above summary of comments.

As noted above, these three (3) districts have been previously formed but, due to the "skeletal" nature of the plan as originally submitted, the following limiting conditions were placed on the approval:

1. Approval of this Initial Service Plan shall allow, among other things, organization and formation of these Districts, authorization of maximum bonded indebtedness and establishment of mill levy caps, all pursuant and subject to applicable provisions of C.R.S. Title 32. However, the District shall be precluded from any of the following activities until such time as a complete amended Service Plan may be approved by the County:

Project Name: Santa Fe Springs Metropolitan District – Amended Service Plan
Project Number: ID-05-007
Project Manager: N/A (Carl Schueler, Planner)

- Issuance of any bonds or other form of indebtedness
- Certification of any mill levy
- Construction of any facilities
- Condemnation or acquisition of any real property

2. If and when an amended Service Plan is submitted, it shall be processed in accordance with established County procedures and applicable State Statute. In addition to any required or desired changes to the body of the Service Plan document, the new application shall include a complete financial plan and detailed descriptions of proposed projects with cost estimates. A market study or request for waiver of such shall also be required. Such plans and studies shall be consistent with land use approvals in place at the time of the Service Plan Update. At the time of consideration of an amended Service Plan, the County shall have the authority to amend any of the original provisions of the Initial Service Plan.

7. In conjunction with submittal of a complete and amended Service Plan the applicants shall identify a means of providing notice to future property owners which clearly identifies the limits of representation inherent in this Master District approach.

Approval of this amendment will have the effect of eliminating the need for the limitations in Condition 1. The recent submittal meets all of the requirements of Condition 2, with the exception of identified revisions to the Market Study and the potential need for corresponding changes in the Financial Plan. To the knowledge of staff, Condition 7 has not been formally addressed. This is probably an oversight and is addressed by a recommended condition.

These Districts are structured to accommodate a Master District approach, where District No. 1 controls the key financing decisions throughout the active life of the development. Because future property owners will not have the traditional ability to run for membership or elect members of the Board of Directors of the controlling District, a condition is proposed to be carried forward from the 2004 approval, requiring formation of a Board of County Commissioners-appointed Citizens' Advisory Council. Specific notice to future owners is also being recommended as a condition.

Districts No. 2 and No. 3 are structured to allow differential mill levies and fees for the commercial versus residential areas of the development. The intention of the applicants is to maintain a lower mill levy in the commercial district, at least in part to compensate for the differential effect of the Gallagher Amendment which has the effect of levying a disproportionately high effective tax rate on non-residential properties

The Amended and complete Service Plan proposes a total of about \$74 Million in bonds to be issued in possibly 13 tranches between District No. 2 (the residential district) and District No. 3 (the commercial District. The total proposed authorized debt is up to \$102.5 million in Limited Tax Obligation Bonds. The period of maturity for all bonds is identified as 30 years. The proposed debt mill levy is 35.0 mills in the residential District No. 2 and 25.0 mills in the commercial District No. 3 with a mill levy cap of 50.0 mills regardless of the district.

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Project Number: ID-05-007
Project Manager: N/A (Carl Schueler, Planner)

Proposed district-funded improvements consist mainly of on and off-site major roadways, water and sewer infrastructure, drainage facilities and park and recreation. Most or all of the facilities will be dedicated to either the County or the Districts. The total value of identified improvements is approximately \$129 Million. Not all improvements would be District-financed.

The Board of County Commissioners has recently asked for an analysis of current overlapping debt in the area of proposed districts along with an indication of the effect of the proposed added mill levy and cap on overall future debt. Because of the combination of a commercial and residential metropolitan district and multiple school and fire districts, there are a large number of potential combinations of overall debt. However, the following examples using 2004 taxes are illustrative:

Parcel Number 43000-00-532 (Located in District 2- Commercial in Peyton School District)

EL PASO COUNTY	6.430	mills
EPC ROAD & BRIDGE (UNSHARED)	1.582	mills
PEYTON SCHOOL NO. 23	39.399	mills
PIKES PEAK LIBRARY	3.495	mills
FALCON FIRE DISTRICT	5.712	mills
UPPER BLK SQUIRREL CRK GRD WATER	0.755	mills
 Total Without SFS	 57.373	 mills
 With SFS 25.0 mill commercial levy	 82.373	 mills
 With maximum SFS District cap of 50.0	 107.373	 mills

Parcel Number 43000-00-533 (Located in District 3- Residential in Peyton School District)

EL PASO COUNTY	6.430	mills
EPC ROAD & BRIDGE (UNSHARED)	1.582	mills
PEYTON SCHOOL NO. 23	39.399	mills
PIKES PEAK LIBRARY	3.495	mills
FALCON FIRE DISTRICT	5.712	mills
UPPER BLK SQUIRREL CRK GRD WATER	0.755	mills
 Total Without SFS	 57.373	 mills
 With SFS 35.0 mill commercial levy	 92.373	 mills
 With maximum SFS District cap of 50.0	 107.373	 mills

Project Name: Santa Fe Springs Metropolitan District – Amended Service Plan
 Project Number: ID-05-007
 Project Manager: N/A (Carl Schueler, Planner)

Parcel Number 43000-00-541 (Located in District 2- Commercial in Falcon School District)

EL PASO COUNTY	6.430	mills
EPC ROAD & BRIDGE (UNSHARED)	1.582	mills
FALCON SCHOOL NO. 49	43.281	mills
PIKES PEAK LIBRARY	3.495	mills
FALCON FIRE DISTRICT	5.712	mills
UPPER BLK SQUIRREL CRK GRD WATER	0.755	mills
Total Without SFS	61.255	mills
With SFS 25.0 mill commercial levy	86.255	mills
With maximum SFS District cap of 50.0	111.255	mills

Parcel Number 43000-00-456 (Located in District 3- Residential in Falcon School District)

EL PASO COUNTY	6.430	mills
EPC ROAD & BRIDGE (UNSHARED)	1.582	mills
FALCON SCHOOL NO. 49	39.399	mills
PIKES PEAK LIBRARY	3.495	mills
FALCON FIRE DISTRICT	5.712	mills
UPPER BLK SQUIRREL CRK GRD WATER	0.755	mills
Total Without SFS	61.255	mills
With SFS 35.0 mill commercial levy	96.255	mills
With maximum SFS District cap of 50.0	111.255	mills

IX. COMPREHENSIVE PLAN ANALYSIS

Policy Plan Recommendation

See attached analysis. The Long Range Planning Division recommends a finding of consistency with the El Paso County Policy Plan (1998) can be made

Small Area Plan Recommendation

The applicable Small Area Plan is the Falcon/ Peyton Comprehensive Plan (1993). This plan recommended accommodation of the Santa Fe Springs development as essentially a "pre-existing condition" within an area generally designated for lower density uses at this time.

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Project Number: ID-05-007
Project Manager: N/A (Carl Schueler, Planner)

Other Master Plan Recommendations

The Major Transportation Corridors Plan depicts a number of arterial roadways within or adjacent to this project. These roadways have been accommodated in the land use applications approved to date. Financing for a number of these facilities is contemplated in the Service Plan.

Summary

As noted in the analysis which is provided under separate cover, staff recommends a finding of general conformity with the County Master Plan may be made, if the Service Plan is conditioned as recommended.

X. PUBLIC SERVICE AND SITE CONSIDERATIONS

Major Thoroughfare and Transportation

No major issues of concern; Comments from the Engineering Division may be provided at the hearing. The Engineering Division will be working with the applicants on the proposed on-site and offsite improvements roadways including but not necessarily limited to Curtis Road, Judge Orr Road, Falcon Highway and Peyton Highway.

Drainage

The District will be used to finance some required drainage facilities for the development. The project is included within multiple major drainage basins which are currently under study.

Utilities Services

Mountain View Electric Association does not object to the request, but comments that they have an ongoing requirement for a substation site and rights-of-way. The City of Colorado Springs provides gas service to the area. They provided technical comments regarding the obligation of the District to pay utility relocation costs. These comments should not effect the overall decisions regarding approval of this Service Plan. Other comments if any to be provided at the hearing.

Schools

District: This development is served primarily by the Falcon School District #49, along with Peyton District #23. Some of the property in the eastern low density areas is served by the Ellicott District. No school districts have responded to this application. However, in the recent past School District 49 has objected to the formation of new metropolitan districts on the basis that their higher mill levies may make it difficult to pass the school bond issues which will be required on an ongoing basis to keep up with growth in District 49.

The District objected to the original Service Plan on the basis of overlapping debt.

Public Safety (Fire Protection and Law Enforcement)

The development will primarily be served by the Falcon and Peyton Fire Departments, with some of the lower density eastern area served by the Ellicott Fire Protection District. None of these agencies have responded as of the date of this staff report.

Project Name: Santa Fe Springs Metropolitan District – Amended Service Plan
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Project Manager: N/A (Carl Schueler, Planner)

Recreation and Parks

District Number: N/A
Urban Parks Area:
Fees in Lieu of Land:

Regional Parks: The property may be under consideration for a potential regional park site. Trail facilities within the development may or may not be eligible for regional park credits. The County Parks Department has not formally commented on this request.

Urban Parks:
Neighborhood: Urban parks and recreation facilities are proposed to be provided and maintained by the districts

Community: Staff have just recently realized that there is an area of overlap between these districts and an entity known as the Ellicott Metropolitan District. The Ellicott district is coterminous with the boundaries of the Ellicott School District and exists for the sole purpose of obtaining and using a share of Conservation Trust Funds for recreational programs. Staff are recommending a condition whereby any areas of potential jurisdictional overlap be worked out and addressed prior to the Board of County Commissioners hearing.

Topography and Land Characteristics Adaptability

N/A

Water

Source The applicant proposes a central water system based on on-site deep wells, off site water supplies and re-use water.

Quantity Not Applicable
in conjunction with this request

Quality Not Applicable
in conjunction with this request

Dependability Not Applicable
in conjunction with this request

Comments

XI. OTHER AGENCIES/ OTHER CONCERNS

XII. APPLICABLE RESOLUTIONS

Approval: Page 43

Disapproval Page 44

Attachments:

Vicinity Map

Other:

Special District Policy analysis

-Complete copy of the October 13, 2005, Service Plan is provided under separate cover.

**Consolidated Service Plan
Santa Fe Springs Metropolitan Districts**

**Analysis With Respect to Statutory Standards, County Special District
Policies, and County Master Plan Policies**

Last updated 11/18/05

Staff note:

This analysis includes an evaluation of the proposed service plan with respect to all of the applicable statutory standards, polices contained within the EL PASO COUNTY SPECIAL DISTRICT POLICIES as approved 9/22/08, and relevant policies from the El Paso County Policy Plan (1999) . The standards or polices are included verbatim with staff analysis included parenthetically and in italics. County polices which are entirely non-applicable have been omitted.

Statutory Standards

- 1) Section 32-1-204(2), Colorado Revised Statutes, states in part, "...county planning commission or regional planning commission shall study the service plan and present its recommendations consistent with this part 2 to the board of county commissioners."
- 2) With reference to any service plan, the Board of County Commissioners has the following review authority under Section 32-1-203(1), Colorado Revised Statutes:
 - a. To approve without condition or modification the service plan submitted;
 - b. To disapprove the service plan submitted;
 - c. To conditionally approve the service plan subject to the submission of additional information relating to or the modification of the proposed service plan.
- 3) Pursuant to Section 32-1-23(2), Colorado Revised Statutes, the Board of County Commissioners shall disapprove the service plan unless evidence satisfactory to the Board of several other conditions is presented. You will note that in the following instances the Board does not have discretion to approve but must disapprove the service plan unless evidence satisfactory to the Board is presented. Those areas include:

Consistency with the standards is discussed in the Service Plan. (Planning Department staff comments are included as indented verbiage in parentheses.)

- a. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed special district.

(The underlying residential land uses have been approved at both the Sketch Plan and Planned Unit Development zoning stages. Staff believes this standard can be met on the basis of the need for operations and maintenance of central water, sewer and parks systems, as well as the regional importance of off-site road connections. The additional use of districts for provision of general infrastructure is more of policy matter for the Board)

- b. Existing service in the area to be served by the proposed special district is inadequate for present and projected needs.

(Central water and sewer as well as community parks are not available and is a necessary requirement for this approved development.)

- c. The proposed District is capable of providing economical and sufficient service to the Service Area.

(The applicants have provided a market study to support their financial plan. A "worst case" scenario is provided. The Market Study does point out that it is difficult to accurately project the residential share this project will capture especially in the early years. This is due to the relatively remote location of this development. Staff is also somewhat concerned about the admitted likely very low rates of initial commercial absorption. The fact that there will be a major developer advance of funding does mitigate these concerns somewhat. Due to the large front end costs of a stand-alone development with little or no existing access to urban services and facilities, there will likely be cash flow challenges in the early years of this project.)

- d. The area to be included in the proposed special district has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis.

(See above)

4) The Board has discretion, pursuant to Section 32-1-203(2.5), Colorado Revised Statutes, to disapprove a service plan if satisfactory evidence is not provided to show:

- a. Adequate service is not or will not be available to the area through the County, other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis.

(The County is not in a position to provide water or wastewater service, As noted by staff and the applicant, the other metropolitan districts in the area are not in a very practical position to provide service, and would be even less practical as public facility financing vehicles.)

- b. The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party.

(The applicants have dynamic but developed water and waste water plans. The Districts should be able to meet appropriate standards)

- c. The proposal is in substantial compliance with a master plan adopted pursuant to Section 30-28-106, Colorado Revised Statutes.

(See separate analysis. A finding of Master Plan consistency has been made for the overall land uses.)

- d. The proposal is in compliance with any duly adopted county regional or state long-range water quality management plan for the area.

(The proposed Santa Fe Springs Metropolitan District wastewater plan is consistent with the adopted 208 water quality plan)

- e. The creation of the proposed special district will be in the best interests of the area proposed to be served.

(Staff recommends that this standard could be met based on the analysis below subject to proposed conditions of approval)

EL PASO COUNTY SPECIAL DISTRICT POLICIES 9/22/05

PURPOSE, INTENT AND APPLICATION

- 1) The purpose of these policies is to provide a framework for the evaluation of applications for new, amended and updated special district service plans as authorized by CRS Title 32 and which are under the jurisdiction of the El Paso County Board of County Commissioners.
- 2) It is the intent that applications for new and revised service plans should be drafted to both address and be consistent with these policies. However, the applicant(s) for a proposed district or districts shall have the right to seek relief or modification from any of these stated policies, based on proper justification, to the extent allowable by law. The County, for its part, maintains its discretion to apply additional evaluation criteria, policies and limitations to the formation of new and revised districts, as the County may deem applicable.
- 3) These policies are intended to augment and clarify the previously approved El Paso County Special District Policies and Procedures adopted by the Board of County Commissioners on January 27, 1994 pursuant to Resolution No. 94-25.

A. Overall Policies

- 1) All proposed service plans shall be evaluated by both the applicant and County staff for conformity with the applicable standards contained in C.R.S. 32-1-203. Evaluation shall consist of more than a simple listing of the standards and/or statement that the service plan complies.

(This analysis is provided separately. The service plan attempts to address these statutory standards. . A case can be made for the need for these districts to assist in a combination of ongoing operations and maintenance of urban facilities and services, participation in regional roadway improvements and financing of initial public infrastructure)

- 2) All proposed service plans shall also be evaluated by the County for consistency with applicable elements of the El Paso County Master Plan, and with respect to these Special District Policies.

(The development plans intended to be served by these districts have been approved at the Planned Unit Development level with a finding of consistency with the Falcon/ Peyton Comprehensive Plan (1993). The analysis of this service plan with respect to Section 14.1 of the El Paso County Policy Plan (1999) is included separately.)

- 3) It shall be the responsibility of the applicant to assure that service plans are drafted to meet all of the minimum requirements contained in C.R.S. Title 32 as well as all other applicable State requirements.

(Staff believes the plan meets all of the minimum State requirements.)

- 4) Although the County will endeavor to be reasonably flexible in accommodating the scheduling needs of special district applicants, it is the ultimate responsibility of the applicants to allow sufficient time to meet the County's procedural guidelines and requirements for application processing.

(The applicants and their representatives have cooperated in meeting County scheduling and submittal requirements)

- 5) Notwithstanding the many factors which may create a justification to form one or more new and independent special district(s), it is the policy of the County to discourage the unnecessary proliferation of additional districts in the County.
 - a. All proposals for new districts shall clearly and comprehensively justify their need compared with alternatives including using existing districts or non-special district options.

(The applicants have made a case for what will amount to 3 more districts in an area of the County which already several metropolitan districts formed. Their basic argument is that the existing districts are not willing or able to provide the combination of service and public facility financing desired for by this developer. As a general rule, in situations where metropolitan districts are used to fund large amounts of unique and varying infrastructure in previously undeveloped areas, the circumstances within each development make it undesirable and sometimes impractical of include a new development in an existing districts)

- b. Plans for new districts shall be designed and implemented to allow reasonable options for extension and expansion; thereby reducing the necessity of creating additional districts in the future.

(As noted above, what is effectively occurring is a scenario where it will be difficult to significantly extend or expand these districts once formed)

- 6) Service plans shall be drafted and processed in a manner that allows for coordination and input of all effected elected officials and County departments and other external agencies, specifically including the Clerk and Recorder, the Assessor and the Treasurer.

(The process has been open to this coordination)

- 7) Service Plans should be written with contingences that contemplate eventual annexation of territory by a municipality, in cases where this is a significant possibility

(Annexation by Colorado Springs of a development of this density at this location is unlikely and not contemplated in their plans.)

- 8) Within the limits of State Statutes, it is the policy of the County to establish and charge fees commensurate with the actual cost of processing and review of new and amended service plans. Such fees would be established by separate Board resolution, and may be waived or reduced by the Board of County Commissioners either in advance of or in conjunction with the hearing on a given service plan. Justifications for fee waiver or reduction include, but are not limited to:
- ⇒ County-initiated or partnered Service plans
 - ⇒ Reduced fee based on limited noncontroversial modification to an existing Service Plan
 - ⇒ Processing of service plans for volunteer initiatives and/or for districts with limited proposed indebtedness and revenue generation

(A fee has been assessed and paid)

- 9) Although the County supports the reasonable and judicious annexation of additional territory by existing and proposed new districts, conditions should be placed on new and revised service plans to limit the potential for inclusion of remote properties unless these actions were anticipated in the original service plan.

(The scenario of remote annexation is unlikely in this case. However, a standard condition is proposed)

- 10) Districts which include water supply as one of their purposes shall be strongly encouraged to join the El Paso County Water Authority upon formation.

(These consolidated districts, if formed, would be good candidates for inclusion in the Water Authority. A notation is proposed)

B. Market Studies

- 1) Complete and responsive market studies shall be required prior to formation or full authorization of all proposed districts which rely significantly on future development to meet financial projections.

(A market study has been prepared by a firm with experience in this area.. Staff had several questions concerning the details of this study, some of which have been addressed)

- 2) Such market studies shall be prepared by accredited experts in the field of economic and market analysis and shall utilize commonly accepted, defensible and documented methodologies.

(The market study has been developed by a specialist in this field using a documented methodology)

- 3) Market studies shall include "most probable" and "worse case" market absorption assumptions at a minimum. The financial plan for the district(s) shall be evaluated against both the most probable and worse case assumptions.

(This market study uses a somewhat conservative approach to projected residential and especially commercial land use absorption, and there is a "worst case" scenario provided. The Master district approach allows phasing in of debt although there are major up front costs that can not be avoided.)

- 4) Market absorption assumptions shall be compared with the most recently adopted Pikes Peak Area Council of Governments Small Area population forecasts for the County. Any major discrepancies shall be addressed as part of the service plan submittal.

(Pikes Peak Area Council of Governments forecasts for this property project essentially no growth based on past trends. This project will have to generate its own inertia in order to meet development assumptions))

- 5) Market studies for newly developing areas shall specifically address the potential vulnerability of the development forecasts to short-term market downturns at the beginning of the forecast period.

(The financing plan for the first issuance includes developer advances along with interest only and capitalized interest for the first several years)

C. Mill Levy Caps

- 1) All proposed districts that rely significantly on future development to meet financing projections shall include mill levy caps as part of their service plans. To the extent permitted by law, such caps may be lifted once the district achieves the ratios of assessed valuation to debt and other requirements which would allow these caps to be removed. However, actual removal of a Board-imposed mill levy cap is subject to approval of the Board of County Commissioners at the time the cap is proposed to be removed. Subsequent removal of mill levy caps should be supported by justifications including, but not limited to enhancement of a district's ability to refinance debt at a more favorable rate.

(The Service Plan includes a provision for lifting the cap only with Board approval, if the statutory thresholds are met)

- 2) The maximum combined debt service cap for Full Service Districts shall normally be 50.0 mills, Gallagher adjusted to the extent permitted by law. Unless a special district has been "de-TABORED" with respect to its operational mill levy, the operational mill levy shall not be Gallagher adjusted. Caps for Limited Service Districts should be correspondingly lower based generally on the proportion of services and facilities the district will be providing compared with a full service district.

(In the opinion of staff, these proposed districts meet the definition of full service districts. This definition is as follows:

Full Service District- A Title 32 district which may be a metropolitan district and which provides a substantially full range of facilities and services to normally include central water and sewer, along with a combination of other purposes which may include road improvements, parks and recreation and drainage. A Full Service District may

contract or otherwise arrange with other entities to provide some of these facilities and services.

- 3) Limited additional operational mill levy caps of up to 10.0 mills shall be allowable if supported by the financial plan.

(The Service Plan does not propose a separate maximum operational cap at this maximum allowable level)

- 4) In cases where districts are subject to a mill levy cap and will be relying significantly on future development to meet financing projections, notice shall be provided in the service plan or its approval to the effect that bond repayment periods are subject to extension in the event revenues come in at a rate lower than anticipated.

(This notation will be recommended)

D. Master Districts

- 1) The preference of El Paso County is for the formation of conventional districts which accord full electoral representation to residents and property owners within the district(s) and/or service area(s).

(A master district approach is being used in this consolidated Service Plan)

- 2) Service plans which contemplate Master District concepts shall provide justification that the total number of proposed districts is the minimum necessary to effectively manage the infrastructure and operational needs of the service area.

(This justification has been provided. The total number of districts has been reasonably minimized)

- 3) Master District approvals shall be allowed subject to specific justification of the unique need for these limited representation arrangements.

(See above)

- 4) In cases where one or more Master Districts will provide services or facilities to a larger defined service area, the applicants for the district shall use reasonable means (including mailings and/or informational meeting) to inform existing property owners of the proposed district arrangement.

(A condition is proposed)

- 5) Provision for enhanced notification of future residents and/or property owners shall be addressed as part of the service plan for all Master District arrangements.

(A condition is proposed)

- 6) Board of County Commissioners appointed- Citizen Advisory Councils (CACs) should be actively considered as means to allow residents a more formal role in the affairs of the Controlling Board of Directors, including where appropriate, consideration of establishing the Chair of the CAC as either an *ex-officio* or a formal voting member of the Controlling Board of Directors.

(The requirement for a Citizens' Advisory Committee is proposed)

- 7) Other than responsibility for the appointment process, the Controlling Board shall have responsibility for support of CACs.

(The CAC condition is structured to accomplish this)

- 8) In the event of insufficient interest in CAC membership or for any other reason, the Board of County Commissioners, at its sole discretion, shall have the right to eliminate a prior requirement for a CAC.

(The CAC condition accommodates this scenario)

- 9) Service plans which contemplate Master District arrangements shall include provisions to accommodate a transition back to a conventional district once the area served by the district(s) is built out.

(This is addressed)

E. Multiple Districts

- 1) If justified in the Service plan(s) the Board may consider Multiple District concepts for the following purposes:
 - a. Accommodating the phasing of infrastructure financing for distinct major phases of a larger land development project.
 - b. Allowing for differential mill levies between non-residential and residential areas within a larger project for the purposes of addressing the impact of the Gallagher Amendment.

(This proposal is for multiple districts. The justification is to allow a mill levy differentiation between commercial and residential portions of the project.)

- 2) Service plans which contemplate Multiple District concepts shall provide justification that the total number of proposed districts is the minimum necessary to effectively manage the infrastructure and operational needs of the service area.

(Besides the Master district, only two (2) districts are being proposed. This number is very reasonable)

- 3) Service plans for Multiple Districts shall clearly and comprehensively address the relationships among separate districts, including proposed intergovernmental agreements and contingencies for potential dissolution or combination.

(The consolidated plan addresses these contingencies)

- 4) Service plans for Multiple Districts shall clearly address intent to fairly and equitably distribute costs and benefits among separate districts.

(Many costs will be separate between districts. However, there may be a concern with some shared facilities).

F. Skeletal or Shell Service Plans

(None of these policies are applicable, at this juncture, as a complete service plan has now been submitted. These policies have been omitted for the purposes of this analysis)

G. Eligible Improvements and Acquisitions

- 1) It is the policy of the County to encourage the use of financing districts for Regional Public Improvements which provide a benefit to a significant share of residents and businesses within a larger development and/ or to areas outside the development.

(Although District funding of local improvements is allowable, the Service Plan includes more infrastructure costs than can be financed by the Districts. The stated intent is to fund improvements of a more regional nature)

- 2) Special districts may be authorized to fund Local Public Improvements, where a need is demonstrated, and if a plan for this financing can be justified in the Service Plan.

(As noted above, funding of local public improvements is not actively contemplated in this plan)

- 3) Districts shall not be authorized to finance non-public improvements, nor shall district facilities be used for non-public purposes without proper remuneration to the district(s).

(There is no evidence in the plans of the intent to fund ineligible costs for facilities)

- 4) The policy of the County is to generally discourage the use of districts as a mechanism to reimburse developers for the cost of facilities or other costs already committed to a land development project unless such reimbursement was contemplated in previous County approvals.

(The majority revenues of the district appear to be earmarked for future facilities and resources. It does not appear that the developer will be using the district to compensate himself for previously acquired water rights)

5) In cases where districts are used to finance Local Public Improvements which are tied to the subdivision process, any Service plans and/or subdivision agreements shall be structured in order to prevent a loss of sales tax revenue from sales of construction materials which would otherwise accrue to the County or other local government taxing entities

(This should not be an issue; however, as standard notation will be recommended)

H. Authorization of Debt and Issuance of Bonds

1) Districts shall be encouraged to prudently phase this issuance of debt, especially in situations where future development will be substantially relied upon for financial projections.

(Although there will be considerable front end expenditures, the applicants propose a whole series of phase bond issuances which could be accelerate or deferred depending upon the pace of absorption)

2) The pre-authorization of debt shall be reasonably limited.

(Pre-authorization of debt is up to \$102.5 million for the 3 combined districts. This is substantial, but possibly reasonable given the large number of residential units proposed for the development)

- 3) In cases where significant debt is contemplated well into the future, consideration should be given to limitations which allow this debt to be authorized, but which require subsequent Board approval at or closer to the time of issuance.

(Staff is recommending a condition which would limited the debt issued by any combination of Districts 1-3 to the total allowed for any one individual District)

- 4) Districts shall evaluate the their proposed mill levy and debt in relationship to the current and potential future combined mill levies and debt which may be levied by all overlapping and eligible taxing entities for the effected area.

(This is evaluated in the staff report. The existing combined mill levy within the Districts is low to moderate. These Districts would add significantly to this debt.)

- 5) Where applicable and appropriate, districts are encouraged to rely on a combination of property taxes, fees and charges both to diversify their revenue sources and to reduce some of the repayment impact on future property owners, particularly in the case where the district(s) will be used to fund Local Public Improvements.

(The Service Plan does contemplate the use of limited tap fees as well as operational rates and charges. However, as was previously, the proposed commercial tap fees are very low. This is a deliberate strategy to address the disproportionate impact of the Gallagher Amendment)

- 6) Districts are encouraged to limit the term of bond issuances to the shortest time period that is reasonable and practical. The term of all bond issues should be limited to thirty (30) years or less unless specific justification for a longer duration is provided.

(This maximum 30-year period is stipulated to in the Service Plan)

- 7) Districts shall be allowed to prudently use developer advances and/or capitalized interest as a means of compensating for delays in receipt of property tax and other revenues in newly developing districts.

(Use of developer advances is proposed)

- 8) In cases where developers or other directly interested parties may be purchasing their own bonds, assurances shall be provided to ensure that interest rates for these bonds are competitive as compared with bonds sold on the open market.

(It is assumed these bonds will be underwritten and sold on a relatively open market)

Policies from El Paso County Policy Plan (1999)

Goal 14.1 Recognize and promote the essential role of special financing districts in the provision and maintenance of public facilities and services in unincorporated areas.

(This goal contemplates of full range of financing and operational functions for special districts)

Policy 14.1.1

Include input from existing special districts as an integral part of the development review process.

(Existing districts have been contacted with no comment provided. An exception is School District 49 which is not a special district per se. They have major concerns about overlapping debt.)

Policy 14.1.2

Encourage coordination among existing and potential future special districts, municipalities, utilities and other entities in order to provide needed facilities and services in the most cost-effective, equitable and environmentally sensitive way possible.

(There will presumably be some coordination in the area of wastewater since this district may not but will likely be the primary provider. There may also be some cooperation in road improvements. Other than this, the district will be largely independent of the other entities)

Policy 14.1.3

Discourage the use of special districts as a vehicle to fund substantial amounts of required infrastructure in predominantly undeveloped areas, and require the conservative phasing of infrastructure construction during the initial phases of development.

(These districts will be used to construct a large amount of infrastructure in a largely undeveloped area. However, a share of the local improvements will be provided by the developer. This area is not fully contiguous to developed areas, but is in the general vicinity of the high-growth Falcon area.)

Policy 14.1.4

Encourage special districts to comprehensively plan for the resources and facilities they will need to accommodate potential future growth.

(Planning appears to be comprehensive)

Policy 14.1.5

Encourage the careful preparation and review of special district service plans in order to ensure that development and financial assumptions are reasonable, all plausible alternatives have been considered, services and boundaries are well- defined, and contingencies have been anticipated.

(See other comments in this analysis)

Policy 14.1.6

Encourage the expansion of existing special districts to serve additional areas or provide additional functions as feasible.

(As noted above, this option has not been very practical for most recent metropolitan districts. The primary reason is because they are used largely as vehicles for public financing of development specific facilities)

Policy 14.1.7

Discourage the creation of new or expanded special districts which may have the effect of stimulating more growth or higher densities than those which are acceptable in adopted Small Area and other plans.

(As noted above, the land uses to be served by these districts have been approved as somewhat of a pre-existing condition in the Falcon/ Peyton Comprehensive Plan (1993))