

EL PASO COUNTY PLANNING COMMISSION

July 7, 2009

MINUTES

PRESENT Steve Hicks
DURING PART OR Steve Sery
ALL OF THE MEETING Ray Schanel
Ed Bracken
Verlin Dickman
Steve Immel
John Vohland
David Kunstle
Dave Powell
Jane Dillon
Robert Plyley

COUNTY STAFF Mike Hrebenar, Development Services
PRESENT DURING Elaine Kleckner, Development Services
PART OR ALL OF Drew Gorgey, County Attorney's Office
THE MEETING Tony Deconinck, Development Services
Kevin Diekelman, Development Services
Drew Gorgey, County Attorney's Office

Mr. Sery called the regular meeting of the Planning Commission to order in the Hearing Room at the Pikes Peak Regional Development Center at 9:00 A.M. and appointed the following voting members:

Mr. Immel	Mr. Bracken	Mr. Dickman
Mr. Schanel	Mr. Hicks	Mr. Powell
Mr. Kunstle Arrived @ 9:03	Mr. Sery	Mr. Vohland

Mr. Sery introduced the two new Planning Commission members Ms. Jane Dillon and Mr. Robert Plyley.

Mr. Sery stated per the bylaws the new associated member would need to attend three (3) planning commission meetings before they are eligible to vote but could ask a question or state a comment.

NOTE: The Comment Agenda is automatically incorporated as part of the record. The digital recording is the official record of the meeting.

1. Report Items –

- A. Ms. Elaine Kleckner stated that the building permit activity and executive summary of The Development Services Division project will be provided at the middle of the month scheduled July 21, 2009.
- B. The Procedures Manual. Ms. Kleckner stated adjustments are being made to reflect the recently authorized administrative authority. County Attorney review is nearing completion.
- D. The Land Development Code: Ms. Kleckner stated that Version 2 revision is in progress and the Board of County Commissioners hearing was continued until July 9, 2009. The sign revision white paper is completed; the Board of County Commissioners work session to be scheduled.

- E. Ms. Kleckner stated that the Groundwater Contamination Study Work Plan received positive response from the Board of County Commissioners on July 2, 2009. The next step will be for the Board to appoint the committee members.
- F. Ms. Kleckner stated the next Planning Commission Meeting is scheduled on July 21, 2009. Ms. Kleckner stated that the agenda appears to have only one (1) regular item and suggested the new Planning Commission members training session could be held after the regular agenda item.
- G. Reported on Board of County Commissioners' action on items previously heard by the Planning Commission.

Mr. Sery explained the procedures for the hearing.

2. Consent Items

A. Minutes of the Regular Meeting held June 2, 2009.

Mr. Bracken made a motion to approve Consent items 2a the minutes, Mr. Vohland seconded the motion. The vote was a unanimous vote (9-0).

REGULAR ITEMS:

3. VA-08-009

Deconinck

**VARIANCE OF USE
SUNVIEW TELECOMMUNICATIONS TOWER**

Request by AT&T Mobility (applicant) on behalf of Luella Holton (owner) to renew a previously approved variance of use (VA-02-020) for a 150-foot commercial mobile radio service (CMRS) telecommunications tower. The 20.27-acre parcel is split zoned A-5 (Agricultural) and MHP (mobile Home Park) and is located off Highway 115 approximately one mile northeast of its intersection with Calle de Puente. (Schedule No. 76024-00-004)

Mr. Tony Deconinck presented Sunview Telecommunications Tower CMRS Variance of Use before the Planning Commission and answered any and all questions. Mr. Deconinck stated that there were nine (9) adjoining property owners notified, as of June 23, 2009 there has been two (2) responses received in favor.

Mr. Steve Immel asked if there have been any proposed changes to the property or the ownership of the Tower.

Mr. Deconinck stated the applicant has no intention of proposing any changes.

Mr. Matt Butler with TAIC for AT & T Mobility stated that this tower has not changed ownership, the original variance was approved in 2003 and exceeded all requirements for a variance of use as set forth in El Paso County code at that time. Mr. Butler stated that the proposed height waiver is necessary to accommodate a grandfathered preexisting use on the property. Mr. Butler stated that due to the varied topography in the area, a 150' structure was necessary to overcome the surrounding topography and clutter and create a line of site network operations. Maintaining heights minimizes the need for additional structures and ensures adequate coverage. Mr. Butler stated that three carriers have utilized this structure as a critical component of their wireless coverage for the corridor. The Sunview site was designed with the county in an effort to minimize its visible impact. As such, the structure height is the lowest height possible to provide the necessary coverage in the area.

Mr. Bracken made a motion for approval of Resolution No. VA-08-009 Variance of Use CMRS Tower, more particularly described on Page 09-034, Resolutions of the El Paso County Planning Commission, and that this matter would be forwarded to the Board of County Commissioners for their consideration.

Mr. Vohland seconded the motion and upon voting it was approved by a vote of 7 to 2 subject to the following conditions and notation with Mr. Hick and Mr. Sery in opposition.

Mr. Dickman stated he had no objection to the motion but would be in favor of a ten (10) year renewal period rather than the five (5) because of the time frame and the workload placed on the applicant, staff and the Planning Commission.

Mr. Hicks stated he would like to see a ten (10) year renewal period rather than the five (5) year variance.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. Approval is limited to the renewal of the previously approved variance of use for a 150-foot telecommunications tower and appurtenant equipment as depicted in the applicant's letter of intent and site drawings.
2. The variance of use shall be granted for renewal period of five (5) years from the date of Board of County Commissioners' action.
3. This variance of use approval shall be deemed abandoned, and of no further force and effect, if the primary intended use and/or activity has not been substantially implemented upon the approved site within one (1) year of the Board of County Commissioners' variance of use approval, or if implemented, has been discontinued for a period of one (1) year. For the purpose of this condition, this variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.
4. The applicant shall provide financial surety sufficient to cover the cost of removal by the County in the event of abandonment.
5. No subsequent enlargement, expansion or modification of the use shall be allowed unless the proposal is re-evaluated and goes through the public hearing process in accordance with the requirements of the El Paso County Land Development Code.
6. Any changes in the owner of the tower shall be followed by notification to Development Services within 15 days of the change in ownership. Notification shall include the name and business address of the new owners with verification that the new owner has fully reviewed all applicable development permits, understands applicable conditions of approval, and shall ensure the transfer of all financial assurances.
7. Prior to scheduling for BoCC hearing, the applicant must demonstrate on the variance of use site plan and letter of intent that recommendations provided by the Colorado Department of Wildlife shall be adhered to in the operation and maintenance of the CMRS facility.
8. The applicant shall maintain vegetative screening of the CMRS equipment area as depicted on the site development plan currently under review (PPR-08-050)

NOTATIONS

1. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.
2. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.
3. Variance of use requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action shall be deemed withdrawn and shall have to resubmitted in their entirety.

**REZONING: F-5 TO RR-2.5
WHITE ACRES REZONE**

A request by NES, Inc. (applicant) on behalf of Proverbs 3:5, LLC (owner) for approval to rezone approximately 2.54 acres from the F-5 (Forestry and Recreation) zone district to the RR-2.5 (Residential Rural) zone district, to legalize this parcel when it is split from the remaining approximately 42 acres for the purpose of open space. A Subdivision Exemption application is running concurrently with this application (EX-09-001). The property is located at 1680 26th Street South, west of the intersection of 26th Street South and Lower Gold Camp Road. (Schedule No. 74153-00-043)

Mr. Tony Deconinck presented two requests for a zone change from F-5 to RR-2.5, and a subdivision exemption before the Planning Commission and answered any and all questions. Mr. Deconinck stated that there were fourteen (14) adjoining property owners notified, as of June 23, 2009 four (4) responses have been received in favor of the project and none in opposition.

Mr. Paul Howard with Proverbs 3:5 LLC stated that the site is a portion of a larger site consisting of approximately 45 acres, the majority of which is planned for purchase by the Colorado Springs Trails Open Space and Parks (TOPS) program for open space. Mr. Howard stated that White Acres was formerly owned by the White family who donated it to Bethany Baptist Church. The sale of the majority of the property to the TOPS program was recently negotiated by Proverbs 3:5 LLC, however, the open space purchase by TOPS does not include the existing residence on the very eastern portion of the property. Mr. Howard stated that the house on the 2.5 acres that will not be acquired by TOPS has been occupied by a youth pastor for over a dozen years and the pastor has desire to purchase the house.

Mr. Don Ellis adjoining property owner stated that he strongly urges the support of this open space project.

None in opposition

Mr. Bracken made a motion for approval of Resolution No. P-09-001 Rezone, more particularly described on Page 09-035, Resolutions of the El Paso County Planning Commission, and that this matter would be forwarded to the Board of County Commissioners for their consideration. Mr. Powell seconded the motion and upon voting it was approved by a unanimous vote of 9 to 0 subject to the following conditions and notation.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

**EXEMPTION
WHITE ACRES SUBDIVISION**

Request by NES, Inc. (applicant) on behalf of Proverbs 3:5, LLC (owner) for approval of a subdivision exemption to split this existing approximately 45 acre parcel into two parcels, one existing developed residential parcel of approximately 2.54 acres and the balance (approximately 42 acres) will be transferred for the purposes of open space. A rezone application is running concurrently with this application (P-09-001) to maintain zoning conformity for this parcel. The property is located at 1680 26th Street South, west of the intersection of 26th Street South and Lower Gold Camp Road. (Schedule No. 74153-00-043)

Please see above comments, both projects were presented together.

Mr. Bracken made a motion for approval of Resolution No. EX-09-001 Subdivision Exemption, more particularly described on Page 09-036, Resolutions of the El Paso County Planning Commission, and that this matter would be forwarded to the Board of County Commissioners for their consideration. Mr. Powell seconded the motion and upon voting it was approved by a unanimous vote of 9 to 0 subject to the following conditions and notation.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. The land survey plat as approved by the Board of County Commissioners shall be deposited in the El Paso County Clerk and Recorder’s Office.
2. An executed fire protection agreement shall be provided to Development Services prior to recording of the exemption plat.
3. Copies of all current fire protection agreements made with the City of Colorado Springs shall be kept on file with the El Paso County Development Services Division. Upon renewal or alteration of any service agreement, the property owner shall submit copies of the signed agreement for inclusion into the project file EX-09-001.

NOTATIONS

1. Subdivision exemption requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:03 a.m.

Terry Lowderman, Recording Secretary

Adopted: