

EL PASO COUNTY PLANNING COMMISSION

September 1, 2009

MINUTES

PRESENT
DURING PART OR
ALL OF THE MEETING

Steve Sery
Ray Schanel
Verlin Dickman
Steve Immel
John Vohland
Eddie Bracken (*departed at 10:28 a.m.*)
David Powell
Robert Plyley
David Sered

COUNTY STAFF
PRESENT DURING
PART OR ALL OF
THE MEETING

Elaine Kleckner, Development Services
Kevin Diekelman, Development Services
Craig Dossey, Development Services
Tony Deconinck, Development Services
Kari Parsons, Development Services
Rich Harvey, Department of Transportation
Max Rothschild, Development Services
Raimere Fitzpatrick, Development Services
Gary Hamacher, Development Services
Drew Gorgey, County Attorney's Office

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 reviewed the building permit activity and executive summary stating that the summary data would not be available until October 6, 2009. Ms. Kleckner stated that submittals to Development Services are up this month, nearly twice the number as in July of 2009.
- B. The Procedures Manual: Ms. Kleckner stated that the County Attorney's Office has completed its review. The Development Services Division will make final revisions.
- D. The Land Development Code: Ms. Kleckner stated most of Version 2 revisions were approved on August 6, 2009; guest house, mother-in-law and home occupation provisions are postponed until September 10th. The sign revisions white paper has been completed. Staff noted that the Board of County Commissioners work session has yet to be re-scheduled.
- E. Ms. Kleckner stated that the Groundwater Contamination Study Committee appointments were made by the Board of County Commissioners at their meeting on August 27, 2009. The Fountain Creek District Watershed, Flood Control and Greenway District met on August 28, 2009. This District is the new land use authority within the 100-year floodplain corridor.

Mr. Bracken asked if the Fountain Creek District Watershed, Flood Control and Greenway District would prevail over the Planning Commission.

Ms. Kleckner stated that the Planning Commission will no longer have land use authority in the 100-year floodplain corridor, but may recommend and will still retain authority for total land use and zoning outside the corridor.

Mr. Powell asked how the Fountain Creek District Watershed, Flood Control and Greenway District was formed.

Ms. Kleckner stated that it was a multi-year process of visioning and goal setting for the watershed. El Paso County Commissioners did participate. An intergovernmental agreement was signed, which included Pueblo County, El Paso County, City of Colorado Springs and the City of Pueblo. Eventually other small communities joined that coalition. This district has been a long time coming, based on the shared desire and interest to appropriately plan for that river corridor. Legislation was approved to establish this watershed district. This district will eventually establish their own land use plans, but in the interim, Pueblo County and El Paso County attorneys have advised the district to use three key documents. (1) An Army Corps of Engineers study for what should happen to improve that particular section of the watershed; (2) the Strategic Plan for the watershed; and (3) the land use regulations of the applicable jurisdiction.

Mr. Bracken requested a map or scope of this new District area.

- F. Ms. Kleckner stated the next Planning Commission Meeting is scheduled for October 6th, 2009. Roberts Rules of Order training will follow the Regular Items at this meeting. The Planning Commission has elected to hold one meeting per month (first Tuesday) through the end of the year.
- G. Reported on Board of County Commissioners' action on items previously heard by the Planning Commission.

Mr. Vohland questioned why Consent Item 2B, Pioneer Landing at Lorson Ranch - Final Plat and Regular Item 3, Townhomes at Lorson Ranch - Final Plat were not both on the consent calendar.

Ms. Kleckner stated that it was because these were two discreet applications. One had issues that Development Services Division staff wanted to bring forward, and the other was non-controversial as a final plat. She noted that nineteen (19) adjacent property owners on the Pioneer Landing at Lorson Ranch (Consent Item 2B/SF-09-004) were notified. None of these 19 responded.

Mr. Sery explained the procedures for the hearing and asked if there was anyone who had any questions. There were none. Consent Item 2A, the Minutes of the Regular Meeting held on August 18, 2009 will be continued until the next Planning Commission Meeting, October 6, 2009.

2. Consent Items

A. Minutes of the Regular Meeting held August 18th, 2009 were pulled from consent calendar and will be continued.

B. SF-09-004

DOSSEY

PIONEER LANDING AT LORSON RANCH FINAL PLAT

Request by Lorson, LLC, and Bradley Marksheffel, LLC, for approval of a final plat for Pioneer Landing at Lorson Ranch. The proposed plat includes two parcels totaling 27.61 acres, which are currently zoned PUD (Planned Unit Development) District. The plan includes 118 single family residential lots, trails, and open space. The property is located north of Fontaine Boulevard and east of Marksheffel Road, on the north side of Old Glory Drive. (A Portion of Schedule No. 55143-00-002) (Commissioner District No. 2) (SF-09-004) (Craig Dossey)

Mr. Sery asked if there were any questions. There were none. Mr. Sery asked for a motion.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. Park and School fees in the amount of \$39,176 and \$24,426 respectively, shall be paid at the time of plat recordation.
2. 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 regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
3. A driveway access permit will be required from the El Paso County Development Services Department for any access to a county maintained roadway.
4. There shall be no direct lot access to Old Glory Drive or Little Dogie Drive from any lot within this subdivision.
5. The Subdivision Improvements Agreement, including the Estimate of Guaranteed Funds as approved by the El Paso County Development Services Department, shall be filed at the time of the recording of the Final Plat.
6. Collateral or letter of responsibility with supporting documentation from the district, sufficient to ensure that the public improvements as listed in the approved Estimate of Guaranteed Funds shall be provided when the final plat is recorded.
7. Drainage and bridge fees for this development are \$219,500.00 plus \$102,433.00 drainage surety fees and bridge fees \$9,278.00.
8. All remaining technical issues from the Development Services Department shall be resolved prior to being scheduled for a hearing before the Board of County Commissioners.

NOTATION

1. Final plats not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

Mr. Vohland made a motion to approve Consent items 2b, Mr. Immel seconded the motion. The vote was a unanimous vote (6-0) for approval, subject to the proposed conditions and notations, and that these items are forwarded to the Board of County Commissioners for consideration. The Resolution can be found on Page 09-051, Resolutions of the El Paso County Planning Commission.

Regular Item

3. SF-09-005

DOSSEY

**FINAL PLAT
TOWNHOMES AT LORSON RANCH**

Request by Lorson Ranch Development Corporation for approval of Final Plat for Tract 14 of the Ponderosa at Lorson Ranch Subdivision Filing 1. The 23.5-acre tract is located northeast of the Marksheffel Road and Fontaine Boulevard intersection and is included within the Highway 94 Comprehensive Planning Area. The proposal anticipates construction of 206 townhome units in the form of three, four, and five-plex units for an overall density of approximately 8.8 du/acre. (Schedule No. 55000-00-337) (SF-09-005)

Mr. Dossey presented the Townhomes at Lorson Ranch request for approval of Final Plat for Tract 14 of the Ponderosa at Lorson Ranch Subdivision Filing 1 before the Planning Commission and answered any and all questions.

Mr. Immel, in response to Mr. Dossey stating that applicant has five (5) years to record all five (5) of the phases in the townhome development (Resolution 09-234), asked what the process would be if only four (4) of the phases were to be recorded in five (5) years. Would they need to start the process all over?

Mr. Dossey stated that yes, the process, as it applies to the fifth phase, would start all over because they are platting the later phases as a tract. This Resolution, No. SF-09-005, was approved in April, 2009, and recorded on June 16, 2009. Subsequent Subdivision Improvement Agreements (SIA) will be required for each of the filings. Each subsequent Subdivision Improvement Agreement (SIA) will need to go before the Board of County Commissioners (BoCC) for approval.

Mr. Plyley asked about community areas in this development, i.e. a pool. Mr. Dossey stated that a community area (to include a pool) is not in the plan.

Mr. Bracken asked if the Planning Commission will be considering approval for the overall plan. Mr. Dossey stated that they would.

Mr. Bracken asked about the traffic analysis, and added that it seems to be “piece meal.”

Mr. Hamacher stated that each of the phases will be looked at separately. This phase, the Townhomes at Lorson Ranch – Final Plat, in itself doesn’t trigger a full traffic study. With Pioneer Landing at Lorson Ranch – Final Plat, immediately adjacent to the townhomes final plat, a traffic study may be triggered because of the additional lots.

Mr. Immel expressed concern about redundant construction and expense to the applicant, and asked why they are not looking at the entire project.

Mr. Hamacher stated that they must get to 280 lots, and then they will make the required improvements to Fontaine and Marksheffel. Traffic is looked at as a whole, with regard to the entire Lorson Ranch, development.

SPEAKING FOR: Dave Cocolin, Lorson Ranch, addressed the current market, and provided a brief history of the Lorson Ranch Development. He stated that he had followed the direction of the Board of County Commissioners, and built Fontaine and Old Glory Boulevard. The development agreement states that they will need 1135 lots before they are able to get a second access. Through a traffic study they will be able to put in 1135 homes. The intersection of Fontaine Boulevard and Marksheffel Road is not completed, and added that the intersection is safe until the 280 homes are completed. Mr. Cocolin added that the infrastructure is in until 1135 single family units are in. At that point, utilities will need to go in plus some minor improvements. The improvements, thus far made, will meet requirements for the 280 units. He stated that all roads have been built out to final configuration. An overall traffic study was done at sketch plan phase, and none were in opposition.

Mr. Vohland made a motion to approve Resolution No. SF-09-005 (utilizing the Standard Resolution on Page 19) regarding the Townhomes at Lorson Ranch Final Plat, more particularly describe on Page 09-052, Resolution, of the El Paso County Planning Commission, and that this matter would be forwarded to the Board of County Commissioners for their consideration. Mr. Schanel seconded the motion and upon voting it was approved by a unanimous vote of 7 to 0 subject to the following conditions and notation siting water sufficiency.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. Park and school fees shall be paid at the time of plat recordation for each final plat filing.
2. 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 regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

3. A driveway access permit will be required from the El Paso County Development Services Department for any access to a county maintained roadway.
4. There shall be no direct lot access to Old Glory Drive or Little Dogie Drive from any lot within this subdivision.
5. Applicable drainage and bridge fees shall be accounted for with each final plat.
6. The Subdivision Improvements Agreement, including the Estimate of Guaranteed Funds as approved by the El Paso County Development Services Department, shall be filed at the time of the recording of the Final Plat.
7. Collateral or letter of responsibility with supporting documentation from the district, sufficient to ensure that the public improvements as listed in the approved Estimate of Guaranteed Funds shall be provided when the Final Plat is recorded.
8. Remaining technical issues from the Development Services Department shall be resolved prior to being scheduled for a hearing before the Board of County Commissioners.

NOTATIONS

1. Final plats not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

4. P-09-002

DOSSEY

REZONING: A-35 TO RR-5 MOUNTAIN'S EDGE REZONE

A request to rezone 40 acres from the A-35 (Agricultural) zone district to the RR-5 (Residential Rural) zone district. The parcel is located on the east side of McClelland Road, approximately 1/3 of a mile north of Scott Road. The property is not included within a comprehensive planning area. (Schedule No. 32000-00-639) (P-09-002)

Mr. Dossey presented the Mountain's Edge request for approval of a rezoning from the A-35 (Agricultural) zone district to the RR-5 (Residential Rural) zone district before the Planning Commission and answered any and all questions.

Mr. Dickman questioned the zoning change from A-35 (Agricultural) to RR-5 (Residential Rural).

Ms. Parsons stated that the decision was made to change the zoning from A-35 to RR-5 based on the El Paso County Policy Plan. There is no small area plan. Ms. Parsons determined it was not a spot zoning, as two adjacent properties are also zoned RR-5 (Residential Rural). The letter of intent (LOI) showed consistency to and with the goals and policies in the El Paso County Policy Plan.

SPEAKING FOR: Jon Romero, TKP Properties, asked that Planning Commissioners refer to the letter of intent (LOI). He added that preliminary reports are available regarding water resources, water quality, and the geology and soils report. He feels that the RR-5 (Residential Rural) zoning will help further a trend in the area..

SPEAKING AGAINST: Susan Scott, adjacent neighbor across Scott Road to the west. Her concern is with drainage coming over, as well as concern regarding water quality and sufficiency.

Mr. Sery read the portion of the staff report regarding the drainage, adding that more water cannot be released than has been historically released. The septic system requirements will be addressed by the El Paso County (EPC) Health Department at the platting stage.

Mr. Powell, in looking at the topographic map, challenged Development Services Division Staff (DSD) to look closely at any future development.

Mr. Powell made a motion for approval of Resolution No. P-09-005 (utilizing the Standard Resolution on Page 27) regarding the Mountain's Edge Rezone – Rezoning from A-35 to RR-5, more particularly described on, Page 09-053, 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 four (4) to three (3) with Mr. Bracken, Mr. Dickman and Mr. Immel in opposition, subject to the following conditions and notations.

DEVELOPMENT SERVICES RECOMMENDATION: Approval, subject to:

CONDITIONS OF APPROVAL

1. Applicable school and park fees shall be paid with any final plats.
2. The 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.
3. The Developer will make appropriate road dedications at the time of subdivision.

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.

5. VA-09-002

DECONINCK

**VARIANCE OF USE
SNARE VARIANCE – BRADSHAW ROAD**

Request by James Snare for a variance of use to allow a second dwelling on a 4.75-acre parcel. The property, addressed as 12165 Bradshaw Road, is zoned RR-5 (Residential Rural) and is located approximately one-half mile south of the intersection of Highway 24 East and Bradshaw Road. Schedule No. (42130-02-001).

Mr. Deconinck presented the Snare Variance - Bradshaw Road request for a variance of use before the Planning Commission and answered any and all questions. Mr. Deconinck noted that the hardships in the original variance no longer exist and showed in his presentation the state of disrepair of the property.

Mr. Vohland asked if both of the units were on the property when the original variance of use was approved. Mr. Deconinck stated that no, they were not.

SPEAKING FOR: James Snare provided background on the medical condition of both his wife and son, and the reasoning for his request for the variance of use renewal. He is requesting two years, due to the current market, and the ability to sell the property at a price that is not under the amount that is

owed. He stated that if the variance of use is denied that he will not be moving any buildings from the site. He added that he had physically moved from the property in late 2001 or early 2003.

Mr. Sery stated that at this time, 10:28 a.m., Mr. Bracken has been excused from the Planning Commission Meeting; and that Mr. Plyley will be the voting member for the remainder of the meeting.

Mr. Vohland stated that if the request for approval of this variance of use is denied, he wants confirmation that the tenant will be asked to leave the property.

Mr. Immel asked if the mobile home was to be removed following the expiration of the variance? Mr. Deconinck stated that this was not an explicit condition of the original variance of use. This will be a condition of the Board of County Commissioners (BoCC).

SPEAKING FOR: Mr. Snare stated that he will clean up the property and vacate the mobile home, if necessary. When the market comes back, he will sell the property, and any profit will go to his grandsons. He added that he did not know what he will do if the approval for the variance of use is not approved. When asked if he knew the variance of use had expired, he responded, yes.

SPEAKING AGAINST: Debbie Hegg, representing three (3) adjacent property owners, provided a brief history of the site. She stated that neighbors had offered to assist the then ill son to maintain the property, but this was denied. The neighbors agreed on the original variance so that the son of James Snare, Shane Snare, could remain on the property in the second unit, however a renter later moved onto the site. Ms. Hegg stated that the adjacent property owners feel that they were deceived, and questioned the motive of James Snare. They want the property cleaned up and the mobile home removed. There is also concern about future subdivision and development.

SPEAKING FOR: Mr. Snare stated that he had talked with one of the adjacent property owners, Ron Schell, and that he was unable to reason with him. He wanted to reassure him that his plans were not to subdivide the property. He stated that he just wants to wait out the market, as the rental property gets \$900.00 per month. His mortgage is \$1,400.00 per month.

Mr. Plyley questioned why, since the hardship was back in the year 2001, why did he not sell the property sooner when the market was at its peak. He added that the original variance of use was needed at that time, but not now.

Mr. Vohland talked about variance of use in El Paso County. He stated that it should be used rarely, and only in extenuating circumstances. It takes from those who really need it.

Mr. Vohland made a motion to **deny** Resolution No. VA-09-002 (utilizing the Standard Resolution on Page 52) regarding the Snare Variance/Bradshaw Road – Variance of Use, more particularly described on Page 09-054, 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. Immel seconded the denial motion and upon voting it was approved by a unanimous vote of 7 to 0.

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:58 a.m.

Joyce Gottlieb, Recording Secretary

Adopted: