

MEGGAN HERINGTON, AICP, EXECUTIVE DIRECTOR

PLANNING AND COMMUNITY DEVELOPMENT

EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting

Thursday, August 21, 2025, El Paso County Planning and Community Development Department
2880 International Circle, Colorado Springs, Colorado – Second Floor Hearing Room

REGULAR HEARING at 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: SARAH BRITTAIN JACK, BECKY FULLER, ERIC MORAES, BRYCE SCHUETTEL, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JIM BYERS AND JAY CARLSON.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, ERIKA KEECH, MIRANDA BENSON, KARI PARSONS, LISA ELGIN, KYLIE BAGLEY, DANIEL TORRES, GILBERT LAFORCE, ED SCHOENHEIT, CHARLENE DURHAM, BRET DILTS, JOSEPH SANDSTROM, AND JESSICA MERRIAM.

OTHERS PRESENT AND SPEAKING: JUSTIN JOHNSTON, LARRY BARRETT, GARY BRADLEY, VICTOR BRADFORD, CRAIG DOSSEY, KEN FINK, MARIA WEBBER, TIM LEROY, JAN WHITLOCK, JASON KNEUPPER, VERONICA WEBBER, JASON ARIAS, ALICIA CORLEY, MICHAEL LUND, INGRID RICHTER, GRANT LANGDON, JAMES TILTON, COLT HAUGEN, DEBRA FORTENBERRY, AND ARVINA DONAHUE.

1. REPORT ITEMS

Ms. Merriam advised the board that the next PC Hearing is Thursday, September 18th, 2025, at 9:00 A.M. and that the PC Hearing scheduled for Thursday, September 4th, 2025 has been cancelled due to a lack of items on the agenda.

2. PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA

NONE.

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held on August 7th, 2025.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED (6 - 0)

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettpelz, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

B. AL256

BENSON

SPECIAL USE

8655 WEST HIGHWAY 24 ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION

A request by Lamar Advertising for approval of a Special Use to allow for an Electronic Message Display (EMD) conversion of an existing billboard in a restricted corridor. Conversion of an existing static display billboard within any restricted corridor requires Board of County Commissioners approval. The property is zoned CC (Community Commercial) and is located along the Highway 24 corridor at 8655 West Highway 24. (Parcel No. 8315400037) (Commissioner District No. 3)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

C. AL252

BENSON

SPECIAL USE

3627 WEST COLORADO AVENUE ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION

A request by Lamar Advertising for approval of a Special Use to allow for an Electronic Message Display (EMD) conversion of an existing billboard in a restricted corridor. Conversion of an existing static display billboard within any restricted corridor requires Board of County Commissioners approval. The

property is zoned C-2 (Commercial) and is located along the Highway 24 corridor at 3627 West Colorado Avenue. (Parcel No. 7403324067) (Commissioner District No. 3)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

D. P254

ELGIN

MAP AMENDMENT (REZONING)

ANTLER RANGE REZONE

A request by Vertex Consulting Services for approval of a Map Amendment (Rezoning) of 244 acres from A-35 (Agricultural) to RR-2.5 (Residential Rural). The property is located on the Northeast corner of the intersection of Meridian Road and Ayer Road. (Parcel No. 4218000022) (Commissioner District No. 1)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

E. ID253

PARSONS

SPECIAL DISTRICT SERVICE PLAN

ANTLER CREEK METROPOLITAN DISTRICT

A request from Icenogle Seaver Pogue, P.C., for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Antler Creek Metropolitan District. The 244-acre area is also under consideration to be rezoned to RR-2.5. The subject property is located north of Auer Road, South of Latigo Boulevard, and east of Meridian Road. The service plan includes the following: a maximum debt authorization of \$10,000,000.00, a debt service mill levy of 50 mills for residential, operations and maintenance mill levy of 10 mills, and a special purpose mill levy of 5 mills for a total maximum combined mill levy of 65 mills.

The statutory purposes of the district include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;

- 4) mosquito control;
- 5) design, acquisition, construction, installation, and operation and maintenance of television relay and translation facilities;
- 6) design, construction, and maintenance of water including fire hydrants;
- 7) sanitation systems;
- 8) solid waste disposal;
- 9) security services; and
- 10) covenant enforcement.

(Parcel Nos. 4218000022) (Commissioner District No. 1)

NO PRESENTATIONS OR DISCUSSION

PC ACTION: FULLER MOVED / SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3E, FILE NUMBER ID253 FOR A SPECIAL DISTRICT SERVICE PLAN, ANTLER CREEK METROPOLITAN DISTRICT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6 - 0).

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettelz, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

F. ID254

PARSONS

SPECIAL DISTRICT SERVICE PLAN

TRIPLE H RANCH METROPOLITAN DISTRICT NOS. 1-3

A request from Monson, Cummins, Shohet & Farr, LLC, for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Triple H Ranch Metropolitan District Nos. 1-3. The 760-acre area included within the request is zoned A-35 (Agricultural), and is located north of Jones Road, south of Falcon Highway, west of Peyton Highway, and east of Murr Road. The service plan includes the following: a maximum debt authorization of \$37,000,000.00, a debt service mill levy of 50 mills for residential, and

a debt service mill levy of 50 mills for commercial, operations and maintenance mill levy of 10 mills, and a special purpose mill levy of 5 mills for a total maximum combined mill levy of 65 mills.

The statutory purposes of the district include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) design, construction, and maintenance of water including fire hydrants;
- 6) sanitation systems;
- 7) security services; and
- 8) covenant enforcement.

(Parcel Nos. 3300000388, and 3300000168) (Commissioner District No. 2)

NO PRESENTATIONS OR DISCUSSION

PC ACTION: MORAES MOVED / FULLER SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3F, FILE NUMBER ID254 FOR A SPECIAL DISTRICT SERVICE PLAN, TRIPLE H RANCH METROPOLITAN DISTRICT NOS. 1-3, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6 - 0).

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettpelz, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

SPECIAL DISTRICT SERVICE PLAN**WILSHIRE METROPOLITAN DISTRICT NOS. 1-2**

A request from Icenogle Seaver Pogue, P.C., for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Wilshire Metropolitan District Nos. 1-2. The 50.78-acre area included within the request is zoned PUD (Planned Unit Development) and is located immediately west of Marksheffel Road and south of Constitution Avenue. The service plan includes the following: a maximum debt authorization of \$20,000,000.00, a debt service mill levy of 50 mills for residential, and a debt service mill levy of 50 mills for commercial, operations and maintenance mill levy of 10 mills, and a special purpose mill levy of 5 mills for a total maximum combined mill levy of 65 mills.

The statutory purposes of the district include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) design, acquisition, construction, installation, and operation and maintenance of television relay and translation facilities;
- 6) design, construction, and maintenance of water including fire hydrants;
- 7) sanitation systems;
- 8) solid waste disposal;
- 9) security services; and
- 10) covenant enforcement.

(Parcel Nos. 5405000060, 5405410001, 5405000059, and 5405000045) (Commissioner District No. 2)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

4. CALLED-UP CONSENT ITEMS:

3B. AL256

BENSON

SPECIAL USE

8655 WEST HIGHWAY 24 ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION

A request by Lamar Advertising for approval of a Special Use to allow for an Electronic Message Display (EMD) conversion of an existing billboard in a restricted corridor. Conversion of an existing static display billboard within any restricted corridor requires Board of County Commissioners approval. The property is zoned CC (Community Commercial) and is located along the Highway 24 corridor at 8655 West Highway 24. (Parcel No. 8315400037) (Commissioner District No. 3)

STAFF & APPLICANT PRESENTATIONS

DISCUSSION: **Ms. Fuller** asked whether the County currently allows new billboards to be constructed. **Ms. Benson** responded that new billboards may be permitted if a billboard credit is used. She added that any new electronic or digital billboard proposal must go through the Board of County Commissioners for approval and noted that no recent applications have been received to her knowledge.

Mr. Whitney raised concerns about traffic safety related to digital billboards, particularly the potential for driver distraction. **Mr. Justin Johnston**, with Lamar Advertising, responded with data from multiple independent studies conducted by municipalities and federal agencies (including the Federal Highway Administration and the National Highway Traffic Safety Administration), all concluding there is no statistically significant increase in crashes near static or electronic billboards. He cited eye-tracking studies showing driver glances at electronic message displays are typically well under the two-second distraction threshold, with a maximum of 1.4 seconds. Johnston also emphasized compliance with county and CDOT regulations, including minimum display times and prohibitions on flashing, video, or animation. He stated that electronic billboards function like standard ones but with instant content changes, and that accident rates near such signs are comparable to areas without billboards.

PUBLIC COMMENTS: **Mr. Larry Barrett**, local resident, spoke in opposition to the proposed billboard, emphasizing the overall mission to preserve Colorado's visual environment. He cited the El Paso County Sign Code goals, including improving community aesthetics, reducing sign clutter, promoting traffic safety, and protecting scenic corridors such as Highway 24. Barrett argued that, while billboards are

recognized as a valid advertising medium, they also contribute to visual pollution, especially near scenic areas like Red Rock Canyon and the Pikes Peak corridor. He referenced studies suggesting a correlation between driver distraction and billboards, noting that while statistical relationships can be difficult to prove due to how crashes are recorded, the National Highway Traffic Safety Administration has linked 23% of accidents to distraction. He also cited polling data from multiple states, including Colorado, showing strong public opposition to billboards (up to 80%). Barrett raised concerns about negative impacts on property values, community character, and tourism, arguing that restricting billboards supports business and preserves the unique aesthetic of the region. He urged the board to consider long-term impacts and protect the scenic views and natural beauty that define El Paso County.

Mr. Gary Bradley, local resident, spoke in opposition to the proposed electronic billboard. Drawing on experience with the Colorado Mountain Reclamation Foundation, he emphasized the importance of protecting the visual integrity of the Front Range and scenic corridors like Highway 24, which serves as a major entry point for tourists from the west. Bradley highlighted that there are currently no electronic billboards along this corridor and approving one would set a precedent and potentially trigger a wave of similar requests. He urged the commission to be visionary and deny the proposal to preserve the character of Highway 24, warning against the corridor becoming visually cluttered and degraded, much like heavily billboarded stretches of highway in other states.

Mr. Victor Bradford, local resident, spoke in opposition to the proposed electronic billboard. He acknowledged Lamar's efforts in creating informative advertisements but expressed concern that even small visual distractions, such as billboards, can detract from visitors' appreciation of the area's natural beauty. He emphasized that preserving the scenic environment is essential to maintaining public enjoyment. Bradford also noted that while billboards may not directly cause accidents, they contribute to a growing number of driver distractions alongside issues like potholes and aggressive driving, which cumulatively increase driver stress and risk.

APPLICANT REBUTTAL: Mr. Johnston thanked the public for their input and emphasized that the cited 23% distracted driving figure includes all distractions, not billboards specifically. He clarified that Highway 24 is not a designated scenic byway, so digital conversions are allowed under current regulations. Johnston addressed concerns about setting a precedent, explaining that El Paso County's billboard credit system prevents billboard proliferation, new billboards require removal of existing

ones. He also highlighted the public safety value of digital billboards, especially for displaying Amber Alerts, citing successful child recoveries linked to such alerts. He urged consideration of the broader public benefit these signs can offer.

PLANNING COMMISSION DISCUSSION: Ms. Fuller and Mr. Schuettpelz expressed support for the billboard conversion, noting that it is not a new billboard but a replacement of an existing one. Ms. Fuller felt opposition was based more on not wanting any billboard rather than on a failure to meet criteria, and emphasized no evidence showed the review criteria weren't met. Mr. Schuettpelz agreed, stating the existing billboard already meets many requirements, and the only concern was lighting compliance. He added that the new electronic sign would likely look better and require less maintenance than the old one. Both commissioners indicated they would vote in favor.

PC ACTION: SCHUETTELPELZ MOVED / BRITTAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER AL256 FOR A SPECIAL USE, 8655 WEST HIGHWAY 24 ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6 - 0).

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettpelz, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

3C. AL252

BENSON

SPECIAL USE

3627 WEST COLORADO AVENUE ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION

A request by Lamar Advertising for approval of a Special Use to allow for an Electronic Message Display (EMD) conversion of an existing billboard in a restricted corridor. Conversion of an existing static display billboard within any restricted corridor requires Board of County Commissioners approval. The property is zoned C-2 (Commercial) and is located along the Highway 24 corridor at 3627 West Colorado Avenue. (Parcel No. 7403324067) (Commissioner District No. 3)

STAFF & APPLICANT PRESENTATIONS

PUBLIC COMMENTS: Mr. Larry Barrett, local resident, reiterated concerns similar to his previous testimony, emphasizing that this specific billboard location, directly across from Red Rock Canyon Open Space, is especially sensitive due to its environmental and recreational significance. He expressed strong opposition to the brightness of electronic billboards, citing it as a major distraction for nature-goers such as hikers and bikers. Barrett noted the city's past efforts to enhance the area by removing billboards and emphasized that introducing a new electronic billboard would reverse that progress. He also highlighted safety concerns at the Ridge Road intersection with Highway 24, which he described as poorly designed and accident-prone. Additionally, he warned of potential future costs to the county if road expansion projects later require billboard removal, referencing examples where buyouts were financially burdensome. Barrett urged consideration of stricter regulations on billboard brightness and suggested future policy discussions explore trade-offs, such as allowing electronic conversions only when multiple static signs are removed.

Mr. Gary Bradley, local resident, questioned the applicant's claim of meeting all requirements via billboard credits and raised concerns about how many more signs Lamar might convert along the Highway 24 corridor. He urged Lamar to commit to no further electronic conversions in this scenic area, emphasizing its importance due to heavy tourism, especially from Garden of the Gods, which sees 4.5 million visitors annually. Bradley warned that without such a commitment, additional conversions could follow, potentially degrading the corridor's visual integrity.

Mr. Victor Bradford, local resident, expressed concern about the broader potential for electronic advertising misuse, referencing a video of a truck with a digital ad screen. He urged that future planning should address the risks posed by emerging mobile digital advertising methods and the increasing prevalence of electronic displays.

APPLICANT REBUTTAL: Mr. Johnston clarified that the billboard lighting has been dimmed to the lowest possible nighttime setting (1%) due to the area's natural darkness. He emphasized safety and responsiveness, encouraging the public to report concerns directly to Lamar or code enforcement. In response to Mr. Trowbridge's question, he estimated that Lamar has about five to six billboard structures along the Highway 24 corridor starting at Ridge Road, with one other billboard owned by another company near the county line.

PLANNING COMMISSION DISCUSSION: Mr. Moraes informed citizens that El Paso County is currently undergoing an update to the Land Development Code, which includes regulations on billboards. He encouraged the public to participate by visiting the Planning and Community Development page on the County website, where they can find a dedicated section for the code update. As new modules are released, citizens will have the opportunity to submit comments, which will be reviewed by the committee overseeing the updates.

PC ACTION: FULLER MOVED / BRITTAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER AL252 FOR A SPECIAL USE, 3627 WEST COLORADO AVENUE ELECTRONIC MESSAGE DISPLAY BILLBOARD CONVERSION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6 - 0).

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettpelez, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

3D. P254

ELGIN

MAP AMENDMENT (REZONING)

ANTLER RANGE REZONE

A request by Vertex Consulting Services for approval of a Map Amendment (Rezoning) of 244 acres from A-35 (Agricultural) to RR-2.5 (Residential Rural). The property is located on the Northeast corner of the intersection of Meridian Road and Ayer Road. (Parcel No. 4218000022) (Commissioner District No. 1)

STAFF & APPLICANT PRESENTATIONS

PUBLIC COMMENTS: Mr. Ken Fink, a nearby homeowner, expressed concern about the proposed 2.5-acre zoning, stating it conflicts with the character of surrounding larger lots and the Black Forest Vision Statement. He emphasized the historical and cultural significance of the property, referencing potential artifacts from the Jimmy Camp Trail, and argued that the development does not align with the El Paso County Master Plan's goals of conservation and environmental stewardship. Fink believes a minimum of 5-acre parcels would better transition between adjacent land uses. He also questioned the validity

of the traffic study, citing daily congestion and safety issues near a nearby charter school with no bus service. Additionally, he raised concerns about the project's single emergency access point, fire safety, ongoing legal disputes regarding road access (Ayre Road), and a lack of cohesive planning. He recommended denying the request until road issues are resolved or an alternate entrance is proposed via Latigo Boulevard, which would cause less disruption.

Ms. Maria Webber, a nearby resident, stated she did not receive formal notice about the proposed project and only became aware when signage was posted. She echoed prior concerns about traffic on Ayre Road, particularly during school hours, describing it as heavy and problematic. Ms. Webber also inquired about the possibility of commercial uses within the development. **Ms. Fuller** clarified that RR-2.5 zoning does not permit uses like gas stations and encouraged Ms. Webber to speak with the project planner for further clarity, noting that there would be additional opportunities for public input during the future plan review phase.

Mr. Tim Leroy, a nearby resident, asked Staff to clarify what types of "commercial retail" and "commercial services" are permitted under RR-2.5 zoning, noting concern over potential commercial development. He requested examples and asked about the likelihood of such uses occurring on the property.

Ms. Jan Whitlock, a nearby resident, expressed concern about the impact of the proposed development on local wildlife, especially deer and antelope, which frequently inhabit the area known as Antler Range. She shared personal memories of finding antlers and artifacts with her children, emphasizing the area's natural and historical significance. Whitlock criticized the shift from rural to urban development, citing increased traffic and decreased quality of life, and urged the county to consider the environmental displacement of animals and the need to preserve the rural character of the community.

Mr. Jason Kneupper, a resident of Antler Ridge, acknowledged the inevitability of growth but argued that this rural area, several miles from Falcon, offers a unique, nature-focused lifestyle that is being lost to ongoing urban sprawl. He expressed concern over continued development of agricultural land and urged the county to consider alternative locations that preserve the rural character and the lifestyle current residents value.

Ms. Veronica Webber, a nearby resident, opposed the rezoning, citing concerns about its environmental impact. She highlighted the potential harm to the already damaged Black Forest area,

which is still recovering from the 2013 fire, and stressed that further tree removal would hinder forest restoration. She also expressed concerns about increased development threatening the Black Squirrel Creek area and emphasized the need to preserve remaining natural and historic landscapes before they are lost to ongoing expansion.

Mr. Joey Arias, a resident of Antler Ridge, expressed opposition to the proposed rezoning to RR-2.5. He noted that he did not receive the mailed notice and did not see posted signs, possibly due to storm damage and emphasized that the area falls within a rural zone near Squirrel Creek and voiced concerns about increased traffic and the overall negative impact the development would have on the community.

APPLICANT REBUTTAL: Mr. Craig Dossey, with Vertex Consulting, thanked public commenters and clarified several points. He stated that the property has no designated historical features and emphasized that RR-2.5 zoning is consistent with the area's large lot residential designation. He corrected a claim about 35-acre lots to the north, noting they are actually 5-acre parcels in Latigo Country Estates. He also confirmed there will be two access points to the development, not one, and that the traffic study was reviewed and approved by county engineering staff. Addressing concerns about commercial use, he explained that RR-2.5 zoning allows limited non-residential uses, but the preliminary plan shows only single-family homes. An environmental study has been completed to address wildlife and drainage areas. Mr. Dossey also highlighted that many opposing residents live on 2.5-acre lots themselves, which mirrors the proposed lot size. Finally, he addressed water concerns by noting that 140 acre-feet of Denver Aquifer water rights have been adjudicated, which is sufficient for the proposed development.

PC ACTION: MORAES MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER P254 FOR A MAP AMENDMENT (REZONING), ANTLER RANGE REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6 - 0).

IN FAVOR: (6) Brittain Jack, Fuller, Moraes, Schuettpelez, Trowbridge, and Whitney.

IN OPPOSITION: (0) None.

SPECIAL DISTRICT SERVICE PLAN**WILSHIRE METROPOLITAN DISTRICT NOS. 1-2**

A request from Icenogle Seaver Pogue, P.C., for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Wilshire Metropolitan District Nos. 1-2. The 50.78-acre area included within the request is zoned PUD (Planned Unit Development) and is located immediately west of Marksheffel Road and south of Constitution Avenue. The service plan includes the following: a maximum debt authorization of \$20,000,000.00, a debt service mill levy of 50 mills for residential, and a debt service mill levy of 50 mills for commercial, operations and maintenance mill levy of 10 mills, and a special purpose mill levy of 5 mills for a total maximum combined mill levy of 65 mills.

The statutory purposes of the district include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) design, acquisition, construction, installation, and operation and maintenance of television relay and translation facilities;
- 6) design, construction, and maintenance of water including fire hydrants;
- 7) sanitation systems;
- 8) solid waste disposal;
- 9) security services; and
- 10) covenant enforcement.

(Parcel Nos. 5405000060, 5405410001, 5405000059, and 5405000045) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

PUBLIC COMMENTS: Ms. Ingrid Richter, Managing Director of Olive Real Estate Group, spoke on behalf of the Rowley family, who own approximately 60 acres along the Marksheffel corridor. She clarified that they are not opposed to the formation of the proposed metro district but are requesting conditions of approval related to infrastructure planning and transparency. She expressed concern over the lack of notification and collaboration despite prior discussions with the applicant. The Rowley's were previously under the impression that drainage and road improvements, such as Colorado Tech Drive and an adjacent drainage corridor, would be handled by Constitution Heights Metro District. These improvements remain incomplete, and the current plan terminates drainage infrastructure at the edge of the Rowley property. Richter requested that the drainage alignment be extended through their property and that access off Colorado Tech Drive be confirmed, which is critical for their development planning. She also noted confusion around potential cost recovery obligations and asked that these be clarified in advance. Due to these unresolved issues, she requested the Rowley property be included in the metro district to ensure equitable participation and avoid disproportionate financial burdens. In closing, Richter emphasized the need for certainty, coordination, and transparency in planning so that both parties can move forward with development in a comprehensive and cooperative manner.

APPLICANT REBUTTAL: Mr. Craig Dossey responded to the opposition's representative, acknowledging several valid points but offering clarification and context. He stated that while the Rowley family has expressed concerns, the applicant, Mr. Langdon, has attempted multiple times over the past two years to collaborate on coordinated planning. These efforts included requests to jointly address drainage and access management challenges in the area. Mr. Dossey noted that planning has been difficult due to the Rowley property lacking necessary zoning and entitlements, which are essential to include it in the current metro district's financial plan. He explained that Wilshire, the applicant's project, has completed zoning (a Planned Development), allowing for a credible financial and infrastructure plan. In contrast, the Rowley property remains zoned I-2/I-3 and partially lies within an airport noise contour, which restricts future residential development. Addressing access concerns, Mr. Dossey pointed out that the Rowley property already has two points of access to the south, including one through Feathergrass and another existing right-in/right-out on Marksheffel. He also acknowledged future access through Venture Street and potential connections like Omaha Blvd. would be addressed at the subdivision level, not in the current service plan. He discussed the drainage corridor, explaining that existing erosion is the result of upstream development and natural sandy soil conditions. He clarified that each property is

responsible for channel improvements on its own land, and the Wilshire district is funding such improvements on its portion. Mr. Dossey also noted the Rowley's had filled part of the natural drainage channel without county-approved engineering plans, which may have contributed to their drainage problems. Finally, he refuted claims of non-cooperation, referencing a recorded meeting where the Rowley family acknowledged their resistance to early collaboration efforts. Mr. Dossey emphasized that Mr. Langdon moved forward with the district only after attempts to plan jointly were declined. He reiterated that without zoning or a development plan, the Rowley property cannot be added to the district or shown as a future inclusion area under county policy.

Mr. Whitney asked whether a coordinated, master-planned development approach with the Rowley property would benefit the applicant and their metro district. **Mr. Dossey** responded that while some cost-sharing opportunities could exist, infrastructure costs like roads and drainage are relatively fixed. He noted that inflation increases costs over time, implying that delay is not ideal. **Mr. Whitney** clarified that it seemed to be more of a timing issue, with the applicant ready to move forward and the Rowley's not yet prepared. **Mr. Dossey** agreed, noting that the applicant has completed zoning, engineering, and drainage design work, whereas the Rowley property lacks those entitlements. He emphasized that it would not make sense to delay the district formation due to the Rowley's lack of readiness, though future inclusion is possible. **Ms. Alicia Corley**, with Icenogle Seaver Pogue P.C., added that the service plan does allow for the future inclusion of adjacent properties, and if needed, amendments can be made to include new districts. She reiterated that concerns related to transportation or traffic are land use issues, not related to the metro district under review.

Mr. Grant Langdon, subject property owner, stated he has owned and developed the subject property for over 20 years and has consistently attempted to coordinate with neighboring landowners, including the Rowley's. He explained that historical ownership and development complications, particularly involving an adjacent parcel formerly owned by John Richardson, complicated collaborative planning efforts. Once Mr. Langdon acquired the Richardson parcel, he attempted multiple times between 2022 and 2024 to engage the Rowley's in joint planning regarding land use, road alignments, and channel design, but received limited or no responses. He noted that the drainage channel design through his property had previously received FEMA CLOMR approval and tentative county acceptance, and he had invited input from the Rowley's regarding alignment adjustments, but they never followed up with specific

feedback. Mr. Langdon emphasized that his current plan proceeds independently due to the Rowley's lack of engagement and conflicting land use intentions. He expressed concern about potential incompatibility between their existing industrial zoning and his proposed commercial development, particularly near Marksheffel Road. He reiterated that repeated efforts were made to collaborate on planning access, channel alignment, and land use compatibility but were not reciprocated. He confirmed that his development is consistent with a previously approved PUD and is moving forward accordingly.

PLANNING COMMISSION DISCUSSION: Mr. Moraes inquired about the opposition's suggested conditions of approval. Ms. Erika Keech, from the County Attorney's Office, clarified that legally, a special district cannot mandate the inclusion of adjacent property owners.

Ms. Fuller asked whether potential changes to the PUD, such as street layout or land use shifts, would return to the Planning Commission for review. Ms. Parsons explained that the majority of the Wilshire project area is conceptually zoned and would require future site-specific rezoning and preliminary plan approvals, which would return to the Planning Commission. However, a southern portion of the property already has an approved preliminary and final plan, and assuming it moves forward as approved, it would not return for further review.

PC ACTION: MORAES MOVED / SCHUETTPELZ SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3G, FILE NUMBER ID255 FOR A SPECIAL DISTRICT SERVICE PLAN, WILSHIRE METROPOLITAN DISTRICT NOS. 1-2, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (5 - 0).

IN FAVOR: (5) Brittain Jack, Fuller, Moraes, Schuettpelz, and Whitney.

IN OPPOSITION: (0) None.

5. REGULAR ITEMS

A. WV251

BAGLEY

WAIVER

MARIAH TRAIL WAIVER

A request by Wayne Anthony Custom Homes for approval of a Waiver of Section 8.5.1.C of the El Paso County Land Development Code. Section 8.5.1.C requires land being dedicated to the County to be free and clear of encumbrances. The property is located at 19205 Mariah Trail and is located 0.20 miles south of the intersection of Mariah Trail and Thunder Road West. (Parcel No. 5100000511) (Commissioner District No. 1)

STAFF & APPLICANT PRESENTATIONS

DISCUSSION: **Mr. Whitney** clarified that granting the waiver would not guarantee any change in access rights if a dispute arises, as the county would accept the right-of-way subject to existing easement rights. **Ms. Keech (County Attorney's Office)** confirmed that interpretation, noting the county cannot override pre-existing property interests. **Ms. Bagley** added that granting the waiver would not remove anyone's access; all easement holders would still be able to access their property.

Mr. Moraes asked whether shifting the road alignment 30 feet west was considered. **Ms. Bagley** stated that option was explored, but the adjacent northern property owner was unwilling to sell the necessary land.

Ms. Fuller inquired about the worst-case implications of leaving the easement in place. **Ms. Keech** explained that, if approved, the county would accept the road dedication with a minor encumbrance and the easement holder would retain their access rights over the 350-foot section in question.

Mr. Schuettepelz asked for clarification regarding the 350 ft² in question. **Mr. James Tilton**, with Monson, Cummins, Shohet, and Farr LLC., confirmed it is part of the applicant's property (Mr. Kirk's), not the neighbor's. The easement allows the neighboring property owner to access their land, and although the road will become public, the easement remains in place as access for that neighbor.

Mr. Whitney questioned why the county would accept dedication of encumbered property, given that LDC section 8.4.5.1.C requires dedications to be free of encumbrances. **Ms. Bagley** explained that the

dedication is necessary to maintain a continuous public road (Mariah Trail) as required by the Land Development Code. **Mr. Whitney** confirmed that without the waiver, the plat could not be recorded. **Ms. Bagley** agreed, unless an alternative road alignment were found.

Ms. Fuller asked whether county engineering considered the easement a significant issue. **Mr. Torres** (DPW) stated that while the LDC prefers unencumbered rights-of-way, the physical impact is minimal—only about 150 ft² of the easement overlaps with the proposed roadway. He confirmed there would still be sufficient width (26 feet) for vehicles. The easement holder would retain access, though they would need to prove unreasonable obstruction if disputes arise. **Ms. Keech** clarified the easement is for ingress/egress and would remain in effect. **Ms. Fuller** asked if the easement holder could block the road; **Mr. Torres** noted the easement language limits it to access only, not obstruction.

Mr. Moraes asked if the road could be private. **Mr. Torres** said no, due to the need for public road continuity and access for the neighboring, currently landlocked parcel per county code. The county identified this road connection as necessary for future development.

PUBLIC COMMENTS: **Mr. Colt Hagen**, nearby resident, stated he is a property owner and manager of multiple parcels adjacent to the project site, including involvement with DKSS and nearby trusts. He expressed support for the subdivision and the requested waiver, noting that he has agreed to vacate his easement and has had a cooperative relationship with the applicant, Wayne Anthony Custom Homes and Mr. Kirk. Mr. Hagan emphasized the development would be beneficial to surrounding property owners, including himself, and praised the professionalism of both the applicant and county staff throughout the process. He added that while not all stakeholders may get everything they want, the project overall is positive for the area.

Ms. Debra Fortenberry, legal representative for neighboring property owner Arvina Donahue, opposed the requested waiver. She argued that the waiver request is not consistent with the stated purpose in the Land Development Code, which is to allow flexibility in design standards, not to override dedication requirements tied to unencumbered land. She asserted that approving the plat with a private easement in place constitutes a taking of property rights without compensation. She noted that Ms. Donahue's easement has not been surveyed accurately on the plat and that its actual alignment differs from what has been presented. Concerns were raised about access being obstructed by timbers recently placed in the driveway, which restricted emergency and agricultural vehicle access, illustrating

a lack of good faith in negotiations. Ms. Fortenberry stated that while negotiations with the applicant are ongoing, no enforceable agreement has been reached, and approval of the waiver would undermine Ms. Donahue's legal rights. She urged denial of the waiver so the parties can reach a proper legal agreement without the county intervening in private property rights.

Ms. Arvina Donahue expressed her opposition to the waiver, stating that the area in question involves more than 350 square feet, it directly impacts the legal easement providing driveway access to her property. She emphasized that granting the waiver would infringe on her established property rights and could potentially violate Colorado law. She clarified that she has not walked away from negotiations. In fact, her attorney presented a new proposal just the day prior. Ms. Donahue recounted that after earlier negotiations stalled, the applicant placed posts blocking her driveway, forcing her to cut fencing and maneuver her truck through difficult angles for the past six weeks to access her property. She expressed concern about future access to her property if the waiver is approved, especially if disputes arise again. Ms. Donahue requested that the matter be resolved through proper legal channels, including deed changes and property rights transfers, rather than through a waiver that bypasses those protections.

APPLICANT REBUTTAL: Mr. Tilton reiterated that the proposed waiver does not eliminate Ms. Donahue's easement or property rights, the easement will remain in place. He clarified that the Mariah Trail extension is a required design element for the previously approved six-lot subdivision and that the waiver request was submitted based on legal guidance from county attorneys. Negotiations with the opposing party are ongoing, and there is a disagreement regarding the location and legal description of the easement, which references both an existing driveway and a recorded legal description from 2013. Mr. Tilton noted that a licensed surveyor staked the legally described easement, which curves north before Ms. Donahue's gate. He acknowledged the prior discussion regarding obstructions near her gate but stated that, to his knowledge, those obstructions were removed last week and have not been replaced. Regarding Tract B, which will be owned by the HOA, he confirmed plans are in place to ensure access remains unobstructed. He concluded by emphasizing the emotional nature of the conflict and reiterated the applicant's intent to continue negotiations in good faith.

PLANNING COMMISSION DISCUSSION: Mr. Schuettepelz expressed support for the waiver, emphasizing that the easement on Mr. Kirk's property would remain intact and that no property rights

were being taken. He acknowledged the complexity of the legal description but noted that easements typically include more specific language than just “driveway.”

Mr. Moraes raised concerns regarding the waiver criteria, particularly the requirement for a “non-economic hardship.” He stated that the hardship appeared to be entirely economic in nature, stemming from failed negotiations and acquisition attempts, which made it difficult for him to support the waiver.

Mr. Whitney echoed the views of both commission members, noting that although the situation appeared to be a personal dispute between neighbors, the commission had to render a decision. He ultimately stated he would vote to approve the waiver.

Ms. Fuller expressed sympathy for both parties and hoped they could find peace outside of the conflict, noting how emotionally consuming the situation had become.

PC ACTION: SCHUETTPELZ MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER WV251 FOR A WAIVER, MARIAH TRAIL WAIVER, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (4 - 1).

IN FAVOR: (4) Brittain Jack, Fuller, Schuettpelz, and Whitney.

IN OPPOSITION: (1) Moraes.

6. NON-ACTION ITEMS

NONE.

MEETING ADJOURNED at 2:37 P.M.

Minutes Prepared By: Jessica Merriam

