

El Paso Board of County Commissioners, May 9

## Hay Creek Valley subdivision approved despite opposition

By Helen Walklett

During May, the El Paso Board of County Commissioners (BOCC) approved two land use applications west of I-25. These were a final plat for the 20-lot Hay Creek Valley subdivision off Hay Creek Road despite neighbor concerns about wildfire risk and evacuation and a rezone to commercial for an Old Denver Road property.

### Hay Creek Valley subdivision approved

At its May 9 land use meeting, the BOCC approved a request by View Homes Inc. for approval of a final plat for the Hay Creek Valley subdivision to create 20 single-family residential lots. The site has one existing single-family residence which will remain in the western portion of the site. The 214.62-acre property is zoned RR-5 (rural residential) and located west of Interstate 25, directly north of the U.S. Air Force Academy (USAFA), south of the Forest Lakes subdivision, and southwest of Monument.

The BOCC's unanimous decision to approve went against the recommendation of the El Paso County Planning Commission. A vote to recommend approval at its April 18 meeting failed by 3-5 resulting in a recommendation of denial. Members of the public spoke in opposition at that meeting, raising concerns about additional lots in the area, inadequate access, a section of county's land development code which they believed was not satisfied, and traffic. The planning commissioners felt fire safety regarding ingress and egress was not met.

The subdivision's preliminary plan was approved in fall 2023. Neighbors raised concerns about the lack of notification, water, the impact on wildlife, traffic, and wildfire evacuation at the Sept. 21 Planning Commission meeting where the preliminary plan was considered. No one spoke against the preliminary plan application at the Oct. 12 BOCC land use meeting where it was approved.

Kylie Bagley, planner III, Planning and Community Development Department, reminded the commissioners that the preliminary plan was approved with two waivers. One waived the requirement for public roads to allow a private road to service the subdivision. The other removed the requirement for two access routes.

Ed Schoenheit, engineer I, County Engineering Division, said access to the subdivision will be via a recorded access easement agreement with an adjacent property owner. Within the subdivision, access to the lots will be via a 1-mile private paved road which will have a dead-end cul-de-sac meeting county's Engineering Criteria Manual and fire district design requirements with approved deviations. The private road will be gated and will join Hay Creek Road. The traffic study concluded that no improvements were required to Hay Creek Road itself.

Commissioner Stan VanderWerf said that, knowing there were several comments from residents about fire safety, was there a second way to get out on Hay Creek Road to the west? Schoenheit replied no and explained that Hay Creek terminates in the west farther down in the canyon area.

The property is on the northern boundary of the USAFA, an area where training operations take place. Bagley said that the USAFA had asked the developer

to include plat notes and covenants to provide full disclosure of this to future lot owners. The USAFA also requested an "avigation" easement (giving the right of overflights in the airspace above or in the vicinity of the property) be recorded with the final plat.

Jason Alwine, Matrix Design Group Inc. and representing the owner, said the Fire Department [Monument Fire District] had requested the installation of a water cistern with a minimum capacity of 33,000 gallons at the far end of the cul-de-sac. The one being installed will hold 35,000 gallons. He stated that a Wildfire Hazard and Mitigation Report had also been submitted as part of the process and that some fire mitigation work had already taken place. He explained that lots will range from 5.5 to 17 acres with the larger lots situated on the southern part of the property abutting the USAFA boundary where vegetation and a ridge will provide a natural buffer between the subdivision and the USAFA training grounds. Eleven of the lots will be larger than 10 acres and all will be on well and septic.

Seven neighbors spoke in opposition. No one spoke in favor. The opposition focused on fire safety and traffic with concerns being voiced about evacuation in case of wildfire given that Hay Creek Road has only one way in and out, terminating in a dead end. Neighbors felt the application contravened Dead End Standard 8.4.4 D in the county's land development code (LDC) which states "When more than 25 lots would front and take access to a dead-end road, a second means of access shall be provided."

Resident Lorna Bennett read a statement from a neighbor which stated, "If you vote to approve this application, know that you will be effectively waiving the LDC dead-end road mandate thereby nullifying the intent and purpose of the LDC and further jeopardizing the safety, welfare, and lives of the current occupants of this valley as well as the future occupants of the development."

Referring to the 25-home limit in the code's dead-end standard, resident Kelly Parr said, "I just don't understand how you can throw waivers at things that go against the law that defends people's safety." Another resident asked, "My question is how many casualties are you willing to accept? Five, 10? One is too many. Our safety is very much at risk here and I would like you to consider that."

In rebuttal, Alwine said that the applicant was complying with all Fire Department requirements. Regarding the code condition, he stated that it did not apply to the subdivision, which has 20 lots. He said they had conversations about waivers and deviations at the preliminary plan stage with staff, engineering, and the Fire Department and that the Fire Department had given a letter of support which was submitted with the proposal.

Owner Joe Stifter, View Homes Inc., said, "The section of code that's being referred to over and over and over, 8.4.4.D, it's very specific in that it says, "No more than 25 units shall front and take access to a dead-end road" and what's being continually referenced here is Hay Creek Road. We have 20 homes that front and take access from Snow Mountain Heights [the private road within the subdivision]. None of those front Hay Creek Road. So, speaking literally to

the code, we meet that code."

VanderWerf commented, "I do feel at this point I need the staff to provide a legal interpretation of this 8.4.4.D because we have different points of view with regard to this and I think it revolves around what space does the application of that land development code apply to? Does it apply to all of Hay Creek Road in its entirety or does it apply to each of the developments that feed into Hay Creek Road?" Bagley explained, "There is a parcel between the northern boundary of their subdivision and Hay Creek Road, therefore staff has determined that it does not front Hay Creek Road."

Meggan Herington, executive director, Planning and Community Development, said, "The beginning of Chapter 8 [of the Land Development Code] talks about the application of these subdivision design standards being specific to the subdivision itself, and so it's difficult for us to say we're going to apply this more globally outside of the subdivision review."

Commissioner Holly Williams commented, "It does seem to me that it meets the fire district requirements." Commissioner Carrie Geitner said, "I also appreciate our staff and believe they are the experts in interpreting our code, so I too take what Meggan [Herington] has said with great weight." Chair Cami Bremer said, "I absolutely believe that this meets the criteria." VanderWerf commented, "I would like to work with the staff to see if there's anyway to put a second ingress/egress in and out of that road [Hay Creek Road]."

The vote to approve was 4-0 with Commissioner Longinos Gonzalez Jr. absent.

### Old Denver Road rezone to commercial approved

Also at the May 9 BOCC land use meeting, the commissioners unanimously approved a request to rezone an 8.07-acre property at 16050 Old Denver Road from RR-5 (rural residential) to CS (commercial service). The 8.07-acre property is located half a mile north of the intersection of Baptist Road and Old Denver Road. The application was heard as a consent item, meaning there was no discussion.

The application came from the El Paso County Planning Commission meeting on April 18 with a unanimous recommendation for approval. It had been scheduled to be heard as a consent item at that meeting but was heard as a regular item at the request of Commissioner Christopher Whitney who had questions about the interplay of placetype (from the county's master plan) and zoning. See [https://www.ocn.me/v24n5.htm?zoom\\_highlight=%22old+denver+road%22](https://www.ocn.me/v24n5.htm?zoom_highlight=%22old+denver+road%22).

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The El Paso County Board of County Commissioners (BOCC) usually meets every Tuesday at 9 am at Centennial Hall, 200 S. Cascade Ave., Suite 150, Colo. Springs. Agendas and meetings can be viewed at [www.agendasuite.org/iip/el Paso](http://www.agendasuite.org/iip/el Paso). Information is available at 719-520-643. BOCC land use meetings are normally held the second and fourth Thursdays of the month (as needed) at 1 pm in Centennial Hall. [HelenWalklett@ocn.me](mailto:HelenWalklett@ocn.me)

Northern El Paso County Coalition of Community Associations (NEPCO), May 11

## New legislation reviewed

By Marlene Brown

The Northern El Paso County Coalition of Community Associations (NEPCO) held its regular bi-monthly meeting May 11 at the Woodmoor Community Center (The Barn) located at the Woodmoor Improvement Association (WIA), 1691 Woodmoor Dr.

The meeting was called to order at 10 a.m. by board President Mike Aspenson, who introduced the board. Vice President Bob Swedenburg reported that the NEPCO board has vacancies for treasurer, secretary, and land use/transportation chair. Swedenburg, who has been with NEPCO for over 20 years as a founding member of the board, reiterated the board would be available for training and guidance, helping new board members to feel comfortable and fit in with their position. For more information, email [vicepresident@nepco.org](mailto:vicepresident@nepco.org).

Aspenson gave the treasurer report and Larry Oliver, membership chair, reported that NEPCO represents over 50 member HOAs in northern El Paso County. Swedenburg gave the land use/transportation report. Some of the projects at the El Paso County Planning Commission that pertain to the northern Tri-Lakes area are:

- Monument Ridge East—361 residences
  - Neighborhood public meeting—June 4, 5:30-7:30 p.m., Woodmoor Community Center (The Barn)
  - Settlers Ranch Filing No. 3—24 lots
  - New Breed Ranch Filing No. 3—seven lots
- For information regarding these county projects and

others, go to [epcdevplanreview.com](http://epcdevplanreview.com). The Electronic Development Application Review Program (EDARP) is for unincorporated areas. You can submit, review, and search development applications online. The Monument Planning Commission currently has development projects that include infrastructure, residential, commercial, and parks.

The Wildfire Committee highlighted wildfire preparedness regarding mitigation and insurance guides published by the Colorado State Forest Service. Note that the term/program "Firewise" is evolving into a "Fire-Adapted" approach. HOAs are encouraged to reach out to Fire Adapted Colorado (FACO) for more guidance and research: [fireadaptedco.org](http://fireadaptedco.org).

Outreach Communications Chair Dave Betzler said the July 13 NEPCO meeting would feature executives from the Trails & Open Space Coalition, Monument Parks and Recreation, and El Paso County Community Services.

### Recent legislative impact on HOAs

Steven King, Monument mayor pro tem, said that in general, new legislation impacts local control and property rights, and in Monument, especially, since it is a home-rule community. King was joined by Bryce Meighan, Orton Cavanaugh Holmes & Hart LLC.

Signed legislation with yet-to-be determined impacts:

- HB 1007 occupancy limits
- HB 1152 ADU/accessory dwelling units
- HB 1304 Metro District Parking/ unknown status regarding ADA

- SB 005 Restricts installation of artificial turf
- HB 1091 Requires fire-hardened property/building materials
- HB 1098 Cause required eviction of residential tenants
- SB 021 Exempt small communities, such as HOAs, requirement cap annual assessments
- HB 1233 HOA delinquency enforcement
- SB 1267 Metro districts covenant enforcement
- HB 1313 Housing in transit corridors - affordable housing, applicable to home-rule towns
- SB21 1110 Incorporation of federal ADA requirements
- SB 058 Landowner Liability—requires posting of warning signs, limits landowner actions

Passed, not signed:

- HB 106 Construction defect procedures
- HB 1051 Towing carrier regulation
- HB 1108 Insurance commissioner mandated study of property and casualty insurance costs
- HB 1337 Real property owner unit association of attorney fees, assessments, collections, and enforcement fees.

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NEPCO meets every other month on the second Saturday. The next regular general membership meeting will be held July 13 from 10 a.m. to noon at The Barn. For more information, go to [nepco.org](http://nepco.org).

Marlene Brown can be reached at [marlenebrown@ocn.me](mailto:marlenebrown@ocn.me).

Woodmoor Improvement Association, May 22

## Board fills vacancy, explains approach to forestry

By Jackie Burhans

The Woodmoor Improvement Association (WIA) board met on May 22 to announce it had filled its vacancy, address a resident's concern about prairie dog infestation, and explain its approach to forestry and fire prevention.

### Board vacancy filled

Board President Brian Bush started the meeting by

announcing that the board had held a special meeting on May 15 to fill the vacancy left by Per Suhr, who recently passed away. The new board member, Susan Leggiero, will serve for the remainder of Suhr's term, which ends in February 2025.

### Prairie dog infestation

Resident Mary Ann Schroeder, who lives on Leggins Way near The Preserve common area in South Wood-

moor, expressed concern that prairie dogs are invading and destroying her property. She said the same thing is happening in open space. She recently moved into the area and spent over \$30,000 on landscaping. She asked the board to address the infestation and offered to be involved.

Bush said he had discussed this earlier with Common Areas Director Steve Cutler, and they have