



ZENDEJAS LAW
WHEN RESULTS MATTER

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January 6, 2025

Town of Palmer Lake Board of Trustees,
Mr. Scotty P. Krob, Palmer Lake Town Attorney, c/o
Dawn Collins, Town Manager via email @ Dawn@Palmer-Lake.org

Dear Ms Collins,

By way of introduction, I represent approximately two dozen interested parties and neighbors who have been watching the approval process for the Lakeview Heights Re-Subdivision ("LH"). We have been able to look at several documents for the Application and all three submittals of for the Lake View Heights subdivision application, through all three submittals for units 2, 3, & 4, as well as the memo submitted by the Applicant, Sepp & Affiliates, with the original application date of July 2024. We have also been able to look at miscellaneous correspondence, including a memo from Mr. John Vincent, Fire Chief, as well as Mr. Charles Fuller of December 5, 2024, an outside attorney who represents a previous owner of property lots 2 and 4, and applicant Mr. Kippan Murray and his family. After much discussion with my clients, it is clear that the Application in its state should be denied outright, or at least the decision should be postponed until time is taken to address the numerous issues. The current status of the Application and subsequent submittals establishes that there are still countless loose ends, questions and unresolved issues, and most troubling, decisions not based upon qualified third-party professionals to approve the Application, even with the additional submittals which could reasonably be relied upon either by Planning or even by the Board of Trustees.

On behalf of my clients, I present such issues and request that answers be given or explanations as to why the current Applicant is getting disparate treatment, to its benefit, than other prior applicants, as well as what this effect will have to bind the hands of future Planning or Trustee discretion or power to decline or otherwise put restrictions on applicants from here on out.

The issues presented are not intended to be exhaustive; rather, they are meant to be an initial list of items discovered in the short term that my clients and I have been able to review the process and actual written documentation. This is not due to a lack of effort, but the planning file and materials submitted to the trustees are void of documentation to support a vote in favor of the project. One example is your own fire chief's statement that the Applicant meets the standards of an exception, to his "understanding," without any reference to any professional third-party report or even a person with whom a conversation could be held to verify whether this statement is true, what the basis for the purported statement was, what was considered, was anything put in writing, was the purported statement made in reliance of any study or investigation? Answers to these questions, and those set out below, need to be answered. The topics include 1) Emergency Fire Access and density; 2) The Adequacy of Water for Palmer Lake, now and in the future; 3) Ambiguity and Omissions in the Application and submittals and Shifting of Financial Responsibility for the Project for Whatever Reason; 4) The ability to manage and control density.



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- **Emergency Fire Access**

The issues surrounding emergency fire access are barely addressed, let alone discussed adequately, when the magnitude of the subdivision is considered: the Applicant is looking to add nearly 100 lots with a single point of access, never addressing what this would look like in an emergency or emergency evacuation. Mr. Fuller's letter more fully discusses the problems of the November 15, 2024 Planning and Staff "report." Will the Trustees protect their residents and their very Town by making such a requirement? Colorado Senate Bill 23-166 imposes specific requirements under the International Wildland-Urban Interface Code 2021 (IWUIC). Is Palmer Lake compliant with these requirements?

Has Planning been diligent in this review? During the November 20, 2024, Planning Commission Meeting, Applicant Sepp was required to answer more than 16 questions and prove that a 2nd fire access/egress road (over the RR tracks) was IMPOSSIBLE. A review of the written materials available and/or submitted demonstrates that the Applicant has failed to follow through in providing any documentation that the 2nd road is impossible. During the November 20, 2024, Palmer Lake Planning Commission Meeting, Applicant Sepp was required to provide answers to 16 questions plus provide proof that a 2nd fire access/egress road (over the RR tracks) was IMPOSSIBLE. We need to see if he has provided the documentation to show that a 2nd road is impossible. If it is not impossible, then Exemption 3 is N/A, and IFC 2021 stipulates that two roads are required if there is a mix of sprinkled and non-sprinkled homes on the existing route, which is our case.

- **Adequacy of Water for Palmer Lake Today and Tomorrow**

There remain unanswered questions as to the adequacy of water resources for the Town's future development. The Applicant's hired company, GMS Inc., concluded that the number of taps to be purchased exceeds the number of lots in the redevelopment. This statement is likened to a homeowner with limited water pressure replacing his smaller garden hose with a fire hose, thinking that because the hose opening is more significant, the water and water pressure will also increase accordingly. Though the town staff went along with this opinion based solely on a head count of spigots available being more significant than those for sale, there lacks a scintilla of third-party testing, other than the October 2024 Applicant's expert that it paid for stating that the amount of water would be sufficient for this development and future developments. No independent study or report has been offered on this critical issue. Will the Trustees protect their residents and their very Town by making such a requirement?

Before leaving this topic, the above question should be answered in the context in which it is asked. Palmer Lake Ordinance 2018-16 prohibited expansion of water infrastructure through June 2023. Ordinance 14-2023 prohibits the sale of taps or water services beyond the capacity of the Town's water system. There are questions about future residential and commercial development. El Paso has seen drought years, and the County projects growth in the County, not just Colorado Springs, with over 220k residents by 2040. None of this is



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discussed or accounted for in the study. Will the Trustees protect its residents and their very Town by making such a requirement?

- **Ambiguity and Omissions in the Application and Submittals and Shifting of Financial Responsibility for the Project for Whatever Reason**

There are several items that someone who was not a party to the discussions would not be able to identify: who was responsible, what the scope is, what would happen if the responsible party failed to perform the task, and a deadline to complete the task. A review of documents sent back and forth between Applicant demonstrates ambiguity and incompleteness of several items addressed above in this paragraph. What happens if the Applicant cannot complete the project, refuses to complete it, abandons it, or experiences an unforeseen event causing it to change its mind after starting it? What mechanism is in place to ensure that there is a bond or other financial instrument to protect Palmer Lake and its citizens? Will the Trustees defend its residents and their very Town by making such a requirement?

A more minor issue and question involves the roads. "Improvement" of these is a requirement of the master plan, but how far must they be improved, paved operational, and meet today's standards? Where is this in writing and a condition of approval? Are there any submitted or even drafted engineering plans detailing this? There is a suggestion that improvement includes an area required for fire safety. Where is this item addressed? Will the Trustees protect its residents and their very Town by making such a requirement?

Finally, concerning the Application and the submittals, this Board or Trustees need not rush the process. The Application was filed in July 2024 with obvious shortcomings. Not knowing whether it was an attempt to skate the process or was just sloppy, the Applicant is now at submittal number 3. There has been no rush on its side to get the items requested submitted. Likewise, the Board of Trustees should take its time and make sure to properly review outstanding issues, make sure that requirements have been met, and make sure that there is as little ambiguity in any document submitted or approved; in other words, take its time to protect its residents.

As the attorney for the Town of Palmer Lake, I trust you will forward these questions and concerns, or even just the letter that already has most of them identified, to the Town's Board of Trustees. I write this letter against a backdrop familiar to the two of us of the duties owed by the Board of Trustees to the residents, including those found in C.R.S § 24-18-103. Caselaw further helps define the responsibilities. There is no deadline to make sure that the process is completed correctly.

We appreciate everyone's time and attention to the issues raised in this letter.

Respectfully,


M James Zendejas