

Memorandum

DATE: SEPTEMBER 23, 2024

TO: DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS

THROUGH: DOUGLAS J. DEBORD, COUNTY MANAGER

FROM: TERENCE T. QUINN, AICP, DIRECTOR OF COMMUNITY DEVELOPMENT *Kal HQ*

CC: DJ BECKWITH, PRINCIPAL PLANNER
LAUREN PULVER, PLANNING SUPERVISOR
KATI CARTER, AICP, ASSISTANT DIRECTOR OF PLANNING RESOURCES

SUBJECT: ARROWHEAD COLORADO METROPOLITAN DISTRICT

PROJECT FILE: SV2024-002

APPLICANT:
CHRIS PUCHALLA
ARROWHEAD COLORADO PROPCO LLC
9820 100TH
GRANDE PRAIRIE, ALBERTA

REPRESENTATIVE:
MEGAN BECHER
MCGEADY BECHER, P.C.
450 17TH STREET, SUITE 400
DENVER, CO 80203

PLANNING COMMISSION MEETING:	AUGUST 19, 2024 @ 6:00 PM
BOARD OF COUNTY COMMISSIONERS MEETING:	SEPTEMBER 10, 2024 @ 1:30 PM
BOARD OF COUNTY COMMISSIONERS HEARING:	SEPTEMBER 24, 2024 @ 2:30 PM

Attached are additional comments from the Roxborough Park Foundation received after the September 12 staff report.

ATTACHMENTS	PAGE
Roxborough Park Foundation Letter regarding Roxborough Water and Sanitation District dated September 20, 2024.....	2
Roxborough Park Foundation Letter with attached comments dated September 20, 2024.....	3



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Web: www.RoxboroughParkCo.com

September 20, 2024

DJ Beckwith
Principal Planner
Douglas County Department of Community Development
Planning Resources
100 Third Street
Castle Rock, CO 80104

Dear DJ,

On August 16th, 2024, Michael Gerstner of TST Infrastructure, wrote to the County on behalf of Roxborough Water & Sanitation District, informing them that - following comments from their legal team – because Arrowhead is located within the Roxborough Water & Sanitation District – Arrowhead will require overlap consent approved by the RWSD Board pursuant to Section 32-1-107 Colorado Revised Statute.

The Douglas County Staff Report, under the Section “Planning Commission Hearing”, noted that the Planning Commission was given three conditions of approval prior to the project going before the Board. The third condition was that the applicant must request and receive consent to overlapping services from RWSD.

At a meeting of the RWSD Board of Directors, held in the Community Room at the West Metro Fire Station 15 at 6222 N. Roxborough Park Road on Wednesday September 18th, 2024, a Board Action Item was to “Consider approval of Overlap Consent Resolution for Arrowhead Colorado Metropolitan District”.

The Board, in consideration of this request, voted 3-to-2 to *deny* consent.

Because consent was not given – and consent was a condition of approval prior to the project going before the Board – will the Board still hear this Public Hearing Agenda Item on September 24th?

I look forward to your response.

Sincerely,

Brian Lence

Brian Lence, CMCA®, AMS®, PCAM®
General Manager
Roxborough Park Foundation
6237 Roxborough Drive
Roxborough, CO 80125
Phone 303-979-7860



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September 20, 2024

DJ Beckwith
Principal Planner
Douglas County Department of Community Development
Planning Resources
100 Third Street
Castle Rock, CO 80104

Dear DJ,

Re: SV2024-002: Arrowhead Colorado Metropolitan District New Service Plan

Board of County Commissioners hearing, September 24, 2024

With reference to the above-mentioned hearing, I would like this letter and accompanying documents to be included in the packet of information given to the Board of County Commissioners prior to commencement of the meeting.

As duly authorized, I will speak for the Roxborough Park Foundation HOA and then we will provide coordinated testimony in support of our strong recommendation to the Board of County Commissioners to deny the request for a service plan for the Arrowhead Colorado Metropolitan District.

If you have any questions in advance of the meeting, please do not hesitate to email or call.

Thank you and I look forward to seeing you on Tuesday.

Sincerely,

Brian Lence

Brian Lence, CMCA®, AMS®, PCAM®
General Manager
Roxborough Park Foundation
6237 Roxborough Drive
Roxborough, CO 80125
Phone 303-979-7860

September 20, 2024

To: Douglas County Commissioners

RE: PROPOSED ARROWHEAD COLORADO METROPOLITAN DISTRICT SERVICE PLAN (“Service Plan”), *PROJECT FILE: SV2024-002*

As you are aware, the proposed Arrowhead Colorado Metropolitan District Service Plan was presented to the Douglas County Planning Commission on August 19, 2024, and the Commission denied the Service Plan by a vote of 5-1.

We represent the Roxborough Park Foundation, and the Foundation strongly opposes the formation of the proposed metropolitan district for the Homestead Property, as described in the proposed Service Plan (the “Property”), based on its location within Roxborough Park and the proposed completion of surrounding development.

The Foundation requests the Board of County Commissioners deny approval of the proposed Service Plan for the reasons stated below:

1. Approval of the proposed Service Plan proposing an “either/or” development scenario is not in the County’s or the Roxborough Park community’s best interest and should be denied for no other reason than a premature submittal with incomplete information.
2. The proposed Service Plan for a proposed metropolitan district comprised of one commercial property should be denied.
 - a. Approval of the proposed Service Plan for a use that is not permitted under current zoning and without a demonstrated public need for a metropolitan must be denied.
 - i. The Property is not currently zoned for any commercial development.
 - ii. The proposed Service Plan would tacitly approve a change in the current zoning prior to a decision on the Applicant’s Major PD amendment application (currently on hold).
 - iii. The Applicant intends to use the proposed metropolitan district’s eminent domain power to override existing PD restrictions.
 - b. The proposed Service Plan encumbers only one property and one property owner.

• 303.985.8500 • 3900 E. Mexico Ave. Suite 300 Denver, CO 80210

- i. The Board of Directors of the proposed metropolitan district would be controlled indefinitely by the Applicant and have no members of the public involved.
 - ii. The proposed water, sewer and street improvements benefit a single property with a single owner and does not serve a public purpose.
 - iii. General obligation debt may not be issued for improvements servicing a privately owned facility on privately owned property.
 - iv. The Applicant has not demonstrated a need for metropolitan district services in the proposed Service Plan.
3. Consideration of a service plan for residential use should not be considered until the lawsuit brought by the Applicant against the Roxborough Park Foundation and the County decision on the PD amendment and all appeals are final.
 - a. The Applicant is proposing public infrastructure for private streets and easements that is not allowed by the PD under the guise of metropolitan district authority.
 - b. Public infrastructure extends to parcel boundary.
 - c. The insufficient debt capacity of the proposed metropolitan district calls into question the purpose of forming a district (*see*, Hilltop Securities report).
4. Authorization of eminent domain power must be expressly prohibited in any proposed Service Plan considered for this property.
 - a. See the proposed district boundary map attached to the proposed Service Plan.
 - b. Use of eminent domain power would allow the proposed metropolitan district/Applicant to do an end run around County zoning, land use restrictions, and years of the Roxborough Park Foundation's work to complete the PD vision.
5. There is no TABOR election urgency.
 - a. Applicant will control property ownership indefinitely.
 - b. Construction is months, if not years, away.
 - c. The Applicant's major PD amendment application is on hold, development plans have not been approved by the County.

September 20, 2024

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- d. The property is the subject of a lawsuit brought by the Applicant against the Roxborough Park Foundation, which will not be resolved for months.

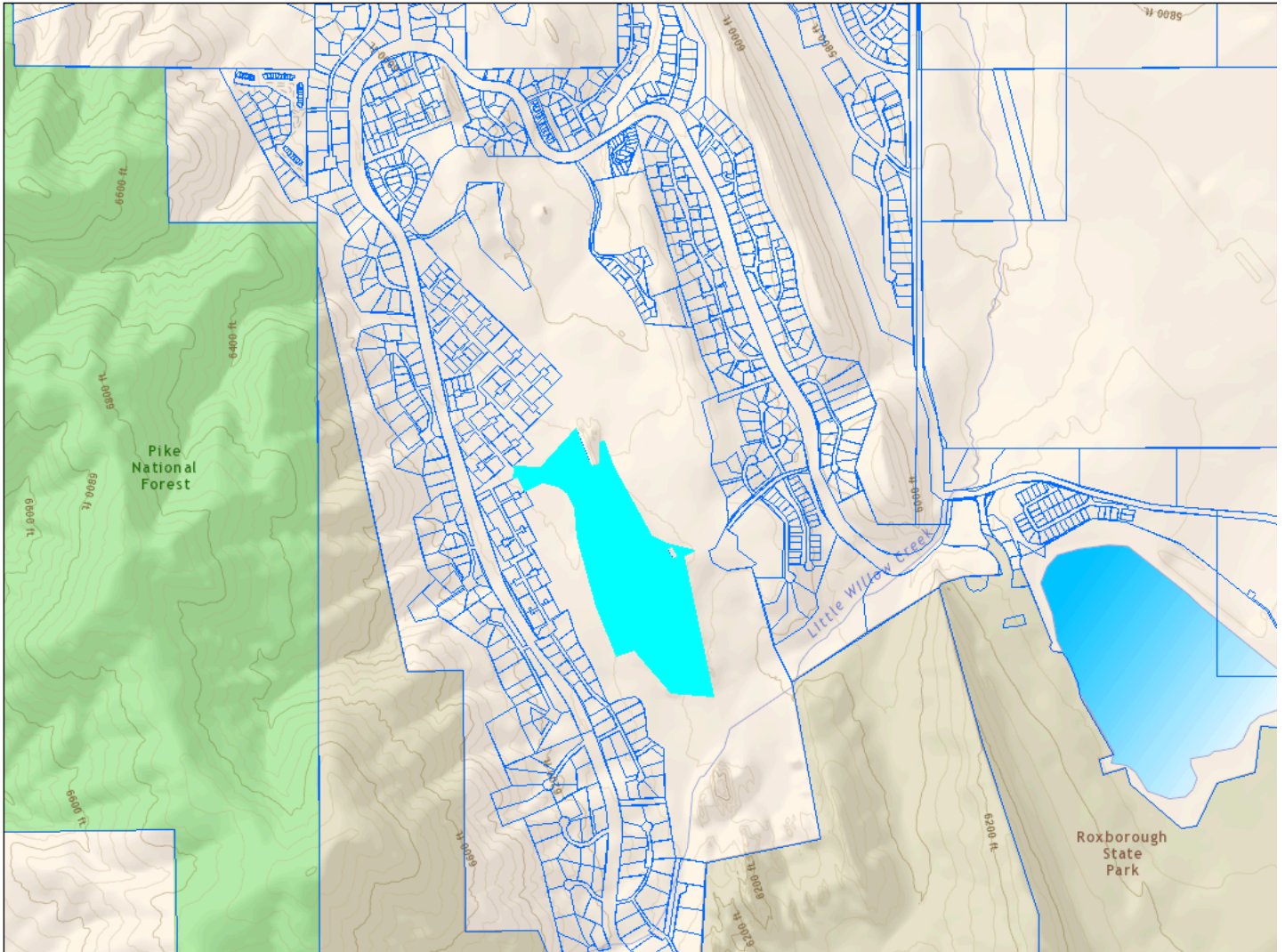
Similar to the vote by the Planning Commission, the Foundation requests that Board of County Commissioners deny approval of the proposed Service Plan of the reasons stated above.

Very truly yours,

Amy Brimah

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ArcGIS Web Map



9/20/2024, 10:57:35 AM

 Parcels



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September 20, 2024

Re: SV2024-002: Arrowhead Colorado Metropolitan District New Service Plan

Roxborough Park Foundation coordinated testimony - transcript.

1 - Brian Lence – Roxborough Park Foundation General Manager

The Applicant's Service Plan is deficient. A Metro District for a 35-acre parcel, in the middle of a golf course, deep in the heart of a private residential community, doesn't make sense. What is the public benefit? It is not clear what their development plan is. Either a commercial spa or a conflicting number of residential units. Whatever it is, they're saying "we must be a government".

Title 32-1-102 Legislative declaration declares that a special district (1) "*will serve a public use*", (2) is "*for the logical extension of special district services throughout the state*" and (3) will "*facilitate the elimination of overlapping services*". This proposal does *none* of that. There are no worthy public improvements. There are no public streets being built for the public. A water line just for one business? And the Board of Roxborough Water and Sanitation Service has not consented to overlapping service as required by Title 32. The use of the property defeats the purpose of having a Metro District. A single owner commercial spa where the metro district Board will always be members? Where is the public purpose?

The Planning Commission voted 5-1 to deny because approval criteria were not met. They concluded there is no need. Need can be defined as "*something that is essential or very important*". A metro district for this parcel is neither essential nor very important". Why does a commercial spa need to be a metro district? Where is the *evidence*, as required by Title 32. If you don't need to form a metro district, then don't.

There is no need for a metro district for residential either. Roxborough is a private residential community; development can occur without the need to form a government and there's infrastructure all around. The parcel south of Sundown Trail was built in cooperation with the Foundation, for 24 single-family homes and 5 custom home lots. The developer installed all infrastructure, absorbed the costs themselves and everything was sold at or above the asking price without any problem or need to create a metro district. The market determined the sales price.

There is no financial need. If you can't afford \$4M of infrastructure, then you can't afford to develop. The Applicant doesn't need to fund infrastructure the money. Pomeroy has completed over \$375M in new hotel development projects in the last 10 years and the CEO bragged to me personally on June 29th, 2022, that "*We have millions of dollars to invest*".

The Colorado Association of Homebuilders rationalizes the creation of a metro district as "*needing to meet the affordable housing challenge in new housing community developments in Colorado*". Six single-family homes of 5,000 to 10,000 square feet and townhomes kept for rentals do not meet the

need for affordable housing or attainability. And of course, a Nordic Spa is not a new housing community development. Neither scenario would “revitalize” the community.

This does not meet the needs of a growing community either. Roxborough is not growing. There are c. 25 remaining unbuilt lots in the community. Other than this parcel, this residential PD is 98% built out.

Staff said “there *may be*” a projected need for a spa. “May be” is defined as “*something that is uncertain*”. Staff are therefore uncertain if there is a projected need for the spa. If there is uncertainty, then the application must be denied.

You will hear separate testimony that the proposed Metro District is not in substantial compliance with the Douglas County Comprehensive Master Plan, in particular the objective of “*logical build out of separated urban areas*”. Logical is “*natural or sensible given the circumstances*”. A high intensity commercial spa, deep in the heart of our residential community is neither natural nor sensible and therefore *not* a logical build out of our separated urban area.

Finally, this is not in the best interests of the area to be serviced. Best interests are when “*the benefits outweigh the burdens*”. This is a residential community. To have a commercial development, attracting potentially 170,000 annual visitors, in the middle of a golf course, deep in the heart of our *private* residential community that’s been that way for 50 years is in nobody’s interests and was never the intention for this PD.

For residential owners, is it in their interests to be saddled with an average \$258K debt burden? And the metro district will not be part of the Roxborough Park Foundation community. As non-members, they would only be allowed to come and go, without benefitting from our community center, community events, recycle center, plowing, trail system and all the other services and amenities we provide. Peaceful coexistence is vital. Is it in the best interests of future owners to feel that they don’t belong?

The Commissioners will hear from the Foundation’s Board of Directors and residents by way of coordinated testimony that entirely corroborates the Planning Commission’s 5-1 recommendation to deny. And, having been in the community association management industry for over 30 years, it is my professional opinion that if approved, this is the would be the worst, most devastating outcome for any Homeowners Association I have ever been associated with.

I recommend deny. Thank you.

2 - Steve Combs – Board Vice President

It is important to understand the Foundation’s 53-year history to appreciate the strength of opposition from its members to this Metro District and why the Service Plan is wholly inappropriate for this area.

The Applicant has shown no interest in our history and is ignorant of how hard the community and its residents have fought to retain its private residential character and make our roads 100% private, especially through partnership and cooperation with the County and developers.

Roxborough had a Metro District before. In the 1970s, the Roxborough Metro District was formed because there was no infrastructure *anywhere*. It provided water, sewer, and fire protection. Everything else came from the developer. In 1999, fire protection services moved to West Metro and Roxborough

Park Metropolitan District became the Roxborough Water and Sanitation. The Metro District ceased to exist because all services were being provided to the area.

In consideration of current zoning and land use, this parcel was never intended for commercial use. Only two Commercial Areas were ever identified. It was logical that both Areas were positioned at the entrance to the PD, rather than in the heart of the community, so that commercial traffic would come and go with the least impact on the residential neighborhood.

Commercial Area 1 is owned by the Roxborough Park Foundation. Part of Commercial Area 2 is now occupied by West Metro Fire and Roxborough Water. The remaining acreage was re-zoned from commercial to residential.

The Foundation also fought off a developer's application for a hotel on land designated club/resort. Instead, there are now 29 single-family homes. Commercial zoning everywhere has been abandoned in favor of residential. Neither is the Foundation a vacation destination.

The Homestead is not a member and has never applied to join. The applicant and predecessors-in-title may have paid property taxes and water availability, but it has not contributed one cent towards our infrastructure, which they now want to use or just take. Foundation members have paid for all the infrastructure that exists today.

The Homestead was also a party to prior PD Amendments, including the 3rd Amendment of 9/26/89 which states "*all roads shall be private*". The Homestead signed and certified their "*complete approval*".

Developers are encouraged to fully realize the land use in their approved zoning plans and the vision that the County approved. A Metro District purely for The Homestead and a commercial spa was never a vision of the County.

The Foundation's own Vision Statement recognizes "A unique residential community". Our Mission Statement is to "Preserve and Protect this unique environment". That is why we are here today – to urge the Commissioners to deny this Service Plan.

3 - John Monahan – Board Secretary

At the Planning Commission meeting, some commissioners expressed their deep concern regarding the timing of this application. Rushing a district to meet the voting deadline is not a compelling reason to approve a district, particularly when the development plans for the property that could be encumbered by the special district are not clear and presented as an either/or scenario – both of which could be denied. It is solely the developer's issue and other than the time value of money for them, should not be a consideration for approval or denial of a Metro District.

In addition, the Applicant did not have the courtesy to inform the Foundation they were submitting a Service Plan to the County for approval. As the Foundation is not a referral agency, we were not aware of an ongoing application until informed by a third party. For all the applicant's proclamations that they want to work with the Foundation, this wrecks of an ambush.

The Foundation was also blindsided at the Planning Commission meeting with late submission of materials that we had not even seen, and documents produced the day of the meeting with no opportunity to review or prepare a response.

And the status of the Applicant's PD amendment? This has now been extended twice with no hearing in sight and there is a lawsuit pending against the Foundation. The PD Amendment doesn't mention the Metro District. Why? And yet the Service Plan and applicant testimony constantly mentions the PD Amendment.

Nobody knows whether either scenario will be approved. It makes no sense to approve something that might be denied – either through a PD Amendment or Site Improvement Plan process. Pushing through the Metro District is a ploy because elements of the PD amendment – such as access for non-approved land use - won't then be an issue for them. The Metro District would now have in its pocket the power of eminent domain and take property if it serves their purpose.

We contend that premature approval for the Service Plan might unfairly prejudice the outcome of the PD amendment application. A Service Plan should come after the PD amendment hearing.

This is not one proposal; it has not been well thought out and is not clearly defined. "No matter what we do, we need to be a government". The Service Plan is ill-conceived, hastily concocted, ignorant of actual needs and as my fellow neighbor will point out in a few minutes, financially flawed.

At the very least, the Metro District should be put on hold until after the PD Amendment and associated legal matters are resolved. I recommend deny – thank you.

4 - Dean Liming – Board Treasurer

The Service Plan has been rushed, is full of inconsistencies, and its feasibility and viability are in doubt. With this uncertainty, the Service Plan should be rejected and not predicated on the approval or denial of a PD amendment.

The Applicant has no experience developing or operating a "stand-alone" spa not affiliated with a resort or hotel. There is no independent market research to accompany spa revenue projections ramping up to \$20M/year. The serviceable available market is projected at 240,000 people annually, but basing this on population proximity, State Park attendances and Red Rocks concert goers is pure guesswork.

What if day visits are far less than projected? What if there's another Pandemic? Public Infrastructure Fees would dry up, bonds wouldn't get paid, and the County could declare the Metro District bankrupt.

There is contradiction in the Service Plan as to how many residences are being built. The Plan, map and Hilltop Securities memo refer to 31 units. However, Exhibit H-2 shows 37 residential units will be delivered - 31 townhomes, 6 single-family. This overstates assessed value, the district mill levy revenue, and therefore the revenue available for debt service, rendering the absorption schedule incorrect. The BBC Research & Consulting Memorandum based their findings on 37 units *and* a spa which also contradicts the Service Plan.

At the Planning Commission meeting, commissioner McKesson stated "*It's going to take \$16M to pay of \$8M worth of debt for a \$4M project. I'm challenged that it is needed.*" Across 31 homes, this is an average \$258K additional debt service burden and not in the best interests of the residents in that area.

Commissioner Browning stated "*The math doesn't play out very well there. How do you pay for \$4.1M of infrastructure with a 50 mill cap on 31 residences?*" The answer? "*You don't pay for all of it. The rest*

will need to come from other sources of funds, likely developer equity". Hilltop notes that the Service Plan does not specify if developer advances count against the debt limit or if they are subject to annual appropriation. The interest rate for these advances could get well above 8%. Neither does the Plan specify that interest should be simple, meaning interest is allowed to compound.

Finally, Hilltop notes that *"assumptions regarding the base year are not consistent with the corresponding requirements within the Service Plan,"* and that *"the District will not be able to levy the 50 mills as shown in the Financial Plan which would result in less revenues available for debt service."*

The Service Plan should be rejected.

5 - Barbara Buslawski – Board Member-At-Large

The Applicant's spokesperson made several comments at the Planning Commission meeting that I would like to address.

Comment: *"This has always been planned for development."*

For residential, yes, but never for commercial nor a Metro District. The PD's commercial areas were planned for outside the entrance to the community. The only club/resort parcel south of Sundown Trail was built out as residential.

Comment: *"The family has paid for those taps for 20 plus years.....so they paid for that"*.

They may have paid for the taps but they have never paid assessments and therefore costs for infrastructure as a Foundation member.

Comment: *"Five houses or the Nordic Spa will **trigger** the widening of the road. This is a Douglas County Standard: a private road would have to be widened because it goes over a thousand trips."*

There is no language regarding "triggering" road widening. The Foundation's Roadway Planning, Design and Construction Standards of March 1995, states: *"all roadways are to be privately owned and maintained, the design and construction standards of Douglas County are applicable to these roadways, except where specifically cited herein"*. The document states that deviations shall be subject to the approval of RPF **and** DC Engineering.

Our Standards state a maximum number of trips for each type of road and only if that maximum is exceeded can the Foundation and County grant a variance. We would not agree to the breach in the event of commercial construction, and we are not obligated to modify the road just because of a potential breach. The Homestead is a third party to the golf course's easement for access with the Foundation and therefore cannot overburden it or modify it.

Comment: *"We are going through perfection, trying to perfect our access to the site today."*

Meaning, the Applicant recognized it does not have access for a non-approved commercial land use, their PD Amendment might be denied, so their definition of *"perfecting"* access is by suing the Foundation.

Comment: *"Sundown is a private road that goes to the golf course, **which we have an easement across**.....so we would ultimately make a connection to Sundown."*

The easement states: “*The Access easement is being granted to Homestead based on the parties’ anticipation that the Homestead Property will be developed for **residential purposes**. If the Homestead property is fully developed and used primarily for purposes **other than residential purposes**, then the Homestead’s right to use the Access Easement **shall terminate and revert back to Price or its successors.**” So, we believe it is the Applicant’s intention to circumvent a legally binding agreement by exercising the power of eminent domain?*

I recommend deny, thank you.

6. Bob Steele – Roxborough Park Foundation Resident

At the Planning Commission meeting, regarding the power of eminent domain, the Applicant said that they were “*Asking for that basic authorization*” and if it were “*to ultimately be necessary as a power of the district, we are simply asking for that authority when and if it ever becomes necessary. It is certainly not the intent and other options would have to be exhausted to go that path. If that power were ever to be utilized in very limited fashion, it is for public infrastructure.*”

Commissioners: please ask the Applicant specifically where they think utilizing eminent domain will be necessary.

The Applicant has a problem with access for an unapproved land use. They have recognized the inherent weaknesses in their argument for a major PD Amendment and perhaps fear their lawsuit (meaning the “other options”) for access may also fail, so need a Metro District approval to circumvent these issues and just take property that doesn’t belong to them.

Multiple Service Plan maps indicate Sundown Trail and proposed infrastructure extends to the boundary of the Metro District. It does not. The Applicant would need to construct a road across the Golf Course to their property. Map Exhibit A correctly shows there is no connection. There’s a reason for that. It’s the Easement Agreement between AGC and The Homestead across the golf course which is restricted to *residential* use. A commercial spa would terminate the easement.

The Service Plan also calls for “Streetscaping” on Sundown Trail, including six residential security gates. Sundown Trail is a private road and may not be modified without the express consent of the Foundation. Exercising eminent domain, however, will get around that conundrum also.

Metro Districts “*possess powers and privileges of government entities that private developers and homeowners’ associations do not otherwise possess*” and should not be abused. Creating this Metro District is an end-run around community issues. The Applicant knows they have a problem with access and eminent domain is their way out – and in!

The Commissioners can withhold the power of eminent domain, like several jurisdictions within Colorado which have this terminology in their Service Plan templates. We think the Commissioners should go further and deny the Service Plan altogether. Taking something that doesn’t belong to you did not resonate well with Planning Commissioner Hahn. If you’re talking about preserving community harmony, avoiding animosity and hostility and being a good neighbor, imposing your will and exercising eminent domain is not the way to go about it and will not be in the best interests of the area or future inhabitants.

I recommend deny, thank you.

7. Ron Walker – Roxborough Park Foundation Resident and former Board Member

The proposed Metro District is not in substantial compliance with the Douglas County Comprehensive Master Plan and should therefore be denied.

The Comprehensive Master Plan's Vision Statement states that the Comprehensive Master Plan "*honors and protects its unique, diverse communities and resources*".

The Comprehensive Master Plan recognizes Roxborough as having "*one of the most stunning landscapes in the County*" with "*unique character*". As one of the most diverse communities in the County, Roxborough should be protected from the threat a commercial enterprise would bring to this distinct land planning area.

The Plan also states that future growth is shaped by community values such as, for example, "*access, the natural environment, property values, quiet, peacefulness and privacy, and the rural/unique area. These values guide land use decisions.*"

Roxborough possesses *all* of these values in abundance and are of immense importance to its residents. These values should guide this particular land use decision. The proposed Metro District for a commercial spa represents a very real threat to these values.

The Comprehensive Master Plan calls for a "Balanced Future" by stating that, "*The vision for the future has turned toward preserving the quality-of-life residents enjoy*".

This project is an encroachment on the quality of life our residents enjoy and will not preserve it.

The Plan also states that, "*The County plans for the future by focusing on growth-related topics, such as identifying and protecting important viewsheds and identifying areas for commercial activities.*"

In the County's Staff Comments to a prior pre-submittal for this site, PS2021-188, Planning pointed out "*the site contains significant rock formations that are important visual and cultural elements for the overall Roxborough community*". We contend that this area is entirely unsuitable for commercial activities.

Regarding "Implementation", the Comprehensive Master Plan states that, "*the public has a key role in the implementation of the CMP by providing feedback to Douglas County through the development review processes*".

We hope that the County Commissioners will take note of the overwhelming majority of residents in opposition to this amendment, corroborated by a Vote of the community held at a special meeting of the Members in which 96.8% of the Community were opposed to a commercial spa.

I recommend deny – thank you.

8. Scott Strader – Roxborough Park Foundation Resident and member of the Design Review Committee

The proposed Metro District is not in substantial compliance with the Douglas County Comprehensive Master Plan and should therefore be denied.

Section 2 of the Comprehensive Master Plan – General Urban Land Use - states: “*Urban development in Douglas County should consider environmental and visual resources that include wildlife, habitat, recreation and sense of place.*”

Roxborough residents truly have a sense of place in their community, citing these very environmental and visual resources as being most important to them and which would be irrevocably disturbed by this project.

Policy 2-1 C1 states: “*Achieve consistency among land use and development regulations.*”

This would be an inconsistent land use. Not one single amendment in the history of PD Amendments for Roxborough Park has changed land use from a residential use to a commercial use.

Policy 2-1 C2 states: “*Determine the actual density or intensity of development ... by considering the potential environmental and visual impacts ... and compatibility with existing, adjacent or planned uses*”.

The adjacent use is the Golf Course. A commercial spa in the middle of a golf course and accessed through a residential neighborhood increases density and intensity and is incompatible with adjacent uses.

Policy 2-5 A1 states: “*locate development away from environmentally and visually sensitive lands*”.

This development is right in the heart of environmentally and visually sensitive lands.

Policy 2-5 A2 states: “*Protect the integrity of urban areas by protecting views to and from significant natural features*”.

Views will not be protected. The number, size, height, design, and location of all buildings and facilities are unknown at this juncture, as well as the prospect of a fully lit, 265 space parking lot on the highest point within the golf course.

Policy 2-6 E1 states: “*...isolated development is inconsistent with this Plan*”.

The Spa is not being developed in conjunction with any other enterprise. It would therefore be an isolated development, so is inconsistent with this Plan.

Policy 2-6 E3 states: “*Locate and design intensive nonresidential land uses to minimize conflicts with residential developments, ... wildlife areas, and environmentally or visually sensitive areas*”.

There would be a direct conflict with existing residential development, both in terms of access, traffic, and threats to effective emergency evacuation. This is a wildlife area, as well as an environmentally and visually sensitive one.

Policy 2-9 A2 states: “Ensure that new development mitigates impacts to existing services and infrastructure”.

A commercial spa will have a profoundly negative impact on the Foundation’s Entry Station and the addition of over 80,000 vehicle trips a year along the northbound and southbound stretches of Roxborough Drive and Sundown Trail will take a massive toll on the infrastructure of our private roads.

I recommend deny – thank you.

9. Pete Dalla Betta – Roxborough Park Foundation Member

The proposed Metro District is not in substantial compliance with the Douglas County Comprehensive Master Plan and should therefore be denied.

The Comprehensive Master Plan focuses on Separated Urban Areas. Roxborough Park is a Separated Urban Area, defined as “*previously zoned, isolated, urban development - a distinct land planning area with unique character, location and varying levels of service*”.

As one of only three Separated Urban Areas in the entire County, Roxborough deserves the Commissioners’ special consideration and sensitivity to aggressive developer attempts to completely change the character of the area purely for financial gain.

Objective 2-15A states: “*Support the logical build-out of SUAs*”.

There is nothing logical about approving a commercial day spa inside a golf course, within a residential community that is 98% built-out with 1,030 single-family homes and *no* commercial enterprises. There are no remaining commercial parcels or land designated club/resort within the PD that can be developed.

Policy 2-15 C1 states: “*Develop in a manner that complements and enhances the existing developmental pattern of adjoining neighborhoods, including density, scale and landscaping*”.

The development pattern for the PD has been purely residential with a reduction in density from the original 2 units per acre (6400 homes on 3200 acres), to 1 unit per acre (1,054 homes on 1,043 acres). The amendment does not complement or enhance the existing developmental pattern of the adjoining neighborhood.

Policy 2-15 D2 states: “*Approve only low-intensity land uses such as open space, agriculture, recreation, and residential development in areas adjacent to Separated Urban Areas*”.

It stands to reason that if only low-intensity land uses (such as residential development) are to be approved in areas *adjacent* to SUA’s, then only low-intensity land uses should be approved *within* the SUA. It should be noted that “recreation” is defined in the Comprehensive Master Plan as either:

- *Recreation, Active: Leisure activities that are often formally structured, requiring equipment and designated sites or fields. Activities include field sports (soccer, baseball etc.), playground facilities, and skateboard parks.*

- *Recreation, Passive: Leisure activities that are not formally structured and that generally require minimal equipment and few improvements. Activities include walking, hiking, biking, horseback riding, picknicking, and nature study.*

By these definitions, a commercial spa is not a recreational land use. Hundreds of visitors every day within a 7-acre area of land constitutes high intensity land use and is entirely inappropriate for the Roxborough Separated Urban Area.

I recommend deny – thank you.

10. Dave Thomas – Roxborough Park Foundation Resident and former Board Member

The proposed Metro District is not in substantial compliance with the Douglas County Comprehensive Master Plan and should therefore be denied.

Section 8 of the Comprehensive Master Plan focuses on Environmental Quality. For “Environmental Constraints & Hazards” the Plan states: *“Peace and quiet are important factors in bringing residents to the County and are a natural resource highly valued by residents”.*

The number one biggest complaint that visitors have for the Applicant’s other commercial spas is noise, which would be significantly amplified by the acoustic qualities of the surrounding rocks.

The Plan also states: *“Low-impact, nonurban uses are encouraged in environmental hazard areas”.*

The Geologic Hazards Map of the Kessler Quadrangle 1978 Plate 5 designates this area as within an environmental hazard area. Commercial use, with over 450 vehicles trips generated and more than 350 guests daily, would be considered high impact.

The Plan also states: *“Low intensity recreational uses are compatible because of the lack of permanent structural improvements”.*

This is high intensity, commercial use & has permanent structural improvements.

The Plan goes on to say: *“Development should not take place until a detailed evaluation of adverse geologic conditions within the area has been made.”*

Due to its proposed location, it has long been our belief that, based on feedback over many years from multiple developers throughout the Park, entities involved in infrastructure repair and replacement, and their experiences of encounters with significant embedded rock formations, the Applicant should have undertaken a geo-technical analysis of sub-surface conditions to determine conditions which might hinder any development efforts long before reaching this point.

Policy 8-1 A2 states: *“Development within geologic hazard areas posing a threat of injury”* is inconsistent with this Plan.”

As an identified geologic hazard area and the potential for injury, development would be inconsistent with the CMP.

Objective 8-3A states: *“Discourage and avoid development in areas with a high potential for wildfire ... where significant constraints and hazards are present”.*

This area has a high potential for wildfire with adverse implications for effective emergency evacuation due to a projected 100% increase in vehicular traffic that this commercial use would generate.

I recommend deny – thank you.

11. Charles Packard – General Manager, Arrowhead Golf Course

Arrowhead Golf Course strongly objects to a metro district for a commercial spa in the middle of the Arrowhead Golf Course.

This was never the intent of the planned development and is purely for private gain. There is no public purpose, there is no current need, and it is not in the best interests of the area to be served.

167,000 members of the general public coming and going right through the entrance of our golf course, past the clubhouse and the major hub which acts as a starting and finishing point and major intersection of multiple holes will significantly and irreparably affect our ability to operate normally. It will have a profoundly negative effect on the experience of our golfers and will tarnish the reputation of an iconic Robert Trent Jones Junior course designed over 50 years ago.

Arrowhead golf course has 220 parking places. The commercial spa is projected to have 265 parking spaces, thus more than doubling the potential number of cars at the top of Sundown Trail, thus creating an evacuation nightmare in the event of a wildfire.

Arrowhead Golf Course has been a loyal taxpayer to the County since the course opened all those years ago. We have been a part of the PD and a Member of Roxborough Park Foundation for 53 years. The Applicant has never been a member and now want to insert themselves into the middle of our golf course.

The applicant does not have access to their property for commercial use. It states: “The Access Easement is being granted to Homestead based upon the parties’ anticipation that the Homestead property will be developed for residential purposes. If the Homestead Property is fully developed and used primarily for purposes *other than* residential purposes, then notwithstanding the perpetual nature of the Access Easement, Homestead’s right to use the Access Easement shall terminate.”

Unless language granting the power of eminent domain is eliminated from the Service Plan, the metro district will have the ability to condemn our property and the easement across it so that they can build a boulevard of whatever width they desire to access their property for a non-approved land use. Without the metro district, the applicant would be restricted to residential only, which they have admitted is not what they want. As such, we believe it is their intention to circumvent a legally binding agreement by way of this metro district creation. And where might it end? Digging up golf holes for other infrastructure installations?

Arrowhead Golf Course joins Roxborough Park Foundation in urging the Commissioners to deny this metro district application.

12. Kathleen Jackson – Board President

The Foundation contends that a metropolitan district is inappropriate and unlawful for a proposed single use commercial development consisting of only one property and one property owner. General obligation debt cannot be issued for improvements servicing a privately owned facility on privately owned property.

The Board of Directors would be controlled indefinitely by the Applicant with no members of the public involved. What is the public purpose of the proposed water, sewer and street improvements which benefit this single property and single owner? There is no need for district services. Approval of a service plan for a use that is not allowed under current zoning and without demonstrated public need sets a poor precedent for the County and tacitly approves the major PD amendment.

Consideration of a service plan for residential use should also not be considered, if at all, until the lawsuit brought by the Applicant against the Foundation and the County decision on the PD amendment is final. The Applicant is proposing uses and public infrastructure for private streets and easements not allowed by the PD.

The insufficient debt capacity of a district of this size based on low assessed valuation according to the Hilltop report, calls into question the purpose of forming a district - firstly, the use of private placement bonds issued to a developer and secondly, the use of eminent domain to override County regulations and the Foundation's zoning and land uses of the property surrounding this parcel.

Authorization to use eminent domain for any purpose should be expressly prohibited in any service plan proposed, now or in the future, for this property. Use of eminent domain power would allow the Applicant to do an end run around County zoning, land use restrictions, and years of the Foundation's work to complete the PD vision and keep our roads private.

There is no need to rush to an election when zoning and development plans have not been approved. The property is the subject of a lawsuit brought by the Applicant against the Foundation seeking to increase public access to the parcel for an unapproved land use. Construction is many months, if not years, away and the Applicant will control property ownership indefinitely. And approval of a service plan proposing an "either/or" development scenario and with eminent domain authorization is definitely not in the County's or Roxborough Park community's best interests.

The Foundation is looking to the Board of County Commissioners to protect its constituents in deference to the corporate profit motives of a Canadian hotel property developer. Your Planning Commission exposed the weaknesses and inconsistencies of this proposal, were unsatisfied with the applicant's answers to searching questions and were unconvinced it met all the approval criteria. A 5-1 motion to deny is a damning indictment of the merits of this proposal. We hope and trust that our Board of County Commissioners will concur and similarly deny.

I would like to thank the many residents of the Foundation who have shown up today in support of our opposition to this Metro District. Thank you for your consideration.