

COMMUNITY & DEVELOPMENT SERVICES

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MEETING MINUTES
PLANNING COMMISSION

BOCC Public Hearing Room, 215 Comanche Street, Kiowa, CO 80117

DATE: April 15, 2025 TIME: 7:00 PM

1. **CALL TO ORDER:** 7:02 PM – Chair Kirkwood
2. **PRAYER:** 7:02 PM – Chair Kirkwood
3. **PLEDGE OF ALLEGIANCE:** 7:03 PM - Led by Chair Kirkwood
4. **ROLL CALL:** 7:03 PM – Wendy Doyle
Commissioners Present: Chair Kevin Kirkwood, Vice Chair Robert Poletiek, Van Sands, John Gresham, Dede Schott-Grace, Kyle DeNardo, Nicole Hunt, Diana Edstrom, and Dan McCallin.
Meeting Staff: Marc Dettenrieder, Director of Community and Economic Development; Jennifer Jones, Planning Manager; Kelsey Lanham, Land Use Planner; Wendy Doyle, PC Recording Secretary; and Carrie Seubert, Planning Technician.
5. **STAFF REPORT:** 7:04 PM – Marc Dettenrieder
Recent actions of the Board of County Commissioners reported and Planning Commission Work Session to be held on Tuesday, April 22, 2025, 6:00 PM, to discuss proposed land use updates.
6. **CITIZEN COMMENTS** Unrelated to public hearings: 7:06 PM
Opposition to Xcel Power Pathways. Elbert County Environmental Alliance(ECEA) board members Kerry Jibblits, 19656 Wedemeyer, Kiowa, CO 80117 and Don Gray, 16000 Hwy 86, Kiowa, CO 80117. 1041 concerns: Section J 16 – Financial burden to County residents (decreased property values, risk transmission lines may increase resident insurance rates, and impact resident businesses); Section J 23 – Balance between benefits and losses, (County will not receive generated electricity, decrease in property values affect property tax for local services)
CITIZEN COMMENTS CLOSED: 7:11 PM
7. **APPROVAL OF MEETING MINUTES:** 7:11 PM None - Chair Kirkwood
8. **PUBLIC HEARING PROCESS:** 7:11 PM – Chair Kirkwood
Appointed by the Board of County Commissioners (BOCC), the Planning Commission is a quasi-judicial volunteer board that essentially takes the application at hand, references the regulations and ordinances in place, and compares them with the application. Following the public hearing, the commission may vote one of three ways: 1. Vote to recommend approval; 2. Vote to recommend denial; 3. Recommend approval with conditions. The recommendation is forwarded to the BOCC holding the authority to approve the application. All testimony must be competent, on topic and not repetitious. The Chair's statement concluded with the order of business for public hearings.

PUBLIC HEARING #1: 7:12 PM

WF REAL ESTATE REZONE (RZ-2024-0023)

Planning Commission public hearing held on April 1, 2025, was continued to April 15, 2025.

Staff Presentation: Kelsey Lanham, Land Use Planner - presented the proposed application requesting approval to rezone 40.035 acres from Agriculture (A) to Residential Agriculture (RA) at Parcel No. 64251-00-023.

Based upon review of the approval criteria found in Elbert County Zoning Regulations Article III.C.4 and the findings in the Staff Report, staff recommends approval with conditions of the WF Real Estate Rezone.

Applicant Comment: John Wilson, Applicant/Controlling Member of WF Real Estate - extended appreciation for Commission's consideration.

Public Testimony: None – Chair Kirkwood

Applicant Rebuttal: None – Chair Kirkwood

Board Discussion: Chair Kirkwood

Brief discussions held between Planning Commissioners, Staff, and Applicant included appreciation to staff and applicant for information clarification and document inclusions in the agenda packet; Public Works inspection/approval of Winners Circle; property land; and planned units.

Call for Motion: Chair Kirkwood

Commissioner Sands moved the Planning Commission to make a *recommendation of approval* to the Board of County Commissioners for Case RZ-2024-0023, WF Real Estate Rezone, *subject to the following conditions*, as recommended in the Staff Report:

1. The applicant will be required to remove the Public Hearing sign(s) within fourteen (14) days of a decision by the Board of County Commissioners;
2. The rezone shall not become effective until all fees are paid, conditions of approval are met, and the Exhibit is recorded; and
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.

Commissioner Poletiek seconded the motion.

Motion Passed 9 – 0.

PUBLIC HEARING #1 WF REAL ESTATE REZONE (RZ-2024-0023) CLOSED: 7:26 PM

PUBLIC HEARING #2 AND #3: 7:26 PM

**PUBLIC HEARING #2 - SUNDANCE SOLAR MAJOR 1041 PERMIT (1041-2024-1310) AND
PUBLIC HEARING #3 – SUNDANCE SOLAR SPECIAL USE BY REVIEW (SUR-2024-0028)**

Public Hearing Format Change: Chair Kirkwood

Staff Presentation and Applicant Presentation will each combine the 1041 Permit and the Special Use by Review applications. Planning Commission will retain the right to ask questions on the separate issues and elements.

Staff Presentation: Jennifer Jones, Planning Manager – presented the proposed applications requesting approval of a Major 1041 and Special Use by Review (SUR) for a solar photovoltaic (PV) electric generating facility with up to 74.9 MW of solar energy and/or 50 MW of battery energy storage (BESS) including an onsite substation. Solar facility to be on approximately 1,100 acres in Elbert County; actual proposed footprint of the solar facility is about 600 acres; and located across three parcels South of County Road 154, East of Kiowa-Bennet Road. The applications are being processed concurrently. A Major 1041 and

SUR were approved in 2018, Resolution 18-9; however, approvals lapsed, requiring new applications. 1041 approval criteria and SUR approval criteria were presented and reviewed independently.

Based upon approval criteria (1041) in Elbert County Zoning Regulations Article XVII.M and XVII.M.2 III.C.4, staff recommends that the Planning Commission makes a recommendation of approval with conditions for the Sundance Solar Major 1041 Permit.

Based upon approval criteria (SUR) in Elbert County Zoning Regulations Article III.E.5, staff recommends that the Planning Commission makes a recommendation of approval with conditions for the Sundance Solar Special Use by Review (SUR).

Public Hearing Recess: 8:03 PM to 8:15 PM – Chair Kirkwood. Technical difficulties with applicant presentation.

Applicant Presentation: Zac Bartholomew on behalf of Sundance Solar LLC and Cypress Creek Renewables (CCR), in coordination with property owners David and Linda Ehmann, Ehmann L and LP – introduced project team (in attendance: Zac Bartholomew, Senior Project Developer; Annie Rasser, Senior Director, Engineering; Ryan Keeney, Senior Project Manager; Dylan Costelloe, Project Consultant II, Spirit Environmental; and Allison Fairchild, Hallman & Hart Legal Counsel); reviewed CCR's development experience; environmental mitigation; solar and storage growth; battery energy storage safety; community involvement; Sundance Project History: 2018 vs Now; CORE Electric Cooperative; and Elbert County's need for power. Points shared included December, 2024, CCR and CORE entered into a Power Purchase Agreement (PPA) for the Sundance Solar and Storage project; Sundance is not a part of the Colorado Power Pathway that XCEL is procuring; and Sundance serves the local community and provides benefits to CORE members. Sundance Solar, LLC and Sundance Storage II, LLC project characteristics, project site/description/location, property current use and proposed use, specifications, and project status were presented. Site map and coordination efforts with referral agencies, Colorado Parks & Wildlife, and CORE were reviewed. Construction will be performed by McCarthy - Engineering Procurement and Construction (EPC); information was shared pertaining to construction, operations, staffing, safety, decommissioning, and economic benefits.

Public Testimony Opened:

Testimony in opposition: Suni Mills-27310 Forest Ridge Drive, Kiowa, CO 80117; Raemarie Knowles-39244 Kiowa Bennett Rd., Kiowa, CO 80117; David Healy-2795 Gold Creek Dr., Elizabeth, CO 80107; Kerry Jibblits-19656 Wedemeyer Rd., Kiowa, CO 80117-Elbert County Environmental Alliance; Jane Penley-625 County Rd. 45, Kiowa, CO 80117; Don Gray-16000 Hwy 86, Kiowa, CO 80117; Debbie Ullom-11195 Copper Canyon Circle, Kiowa, CO 80117; Larry Williard-13250 County Rd. 154, Kiowa, CO 80117; Tad Knowles-39244 Kiowa Bennett Rd., Kiowa, CO 80117; Beverly Durant-40968 Kiowa Bennett Rd., Kiowa, CO 80117. Topics included solar panel number/height; property value decreases; noncompatible land use; taxes-Agricultural; fencing; battery storage; fire potential/management; water; severe weather; wildlife; developer fees; traffic; public services; project longevity; solar farm studies; environmental risks; and Elbert County 1041 Regulations.

Testimony in favor: Mark Jurgemeyer-5496 N. US Hwy 85, Sedalia, CO 80135 – Chief Operating Officer, CORE Electric Cooperative - entity that would be purchasing the produced energy; Annie Rasser-Oakland, CA/Littleton, CO - former Elbert, CO resident/current employee Cypress Creek Renewables; Craig Arcand-282 W. Fremont, Littleton, CO – McCarthy Company – Engineering Procurement and Contractor (EPC) for proposed project; Kevin Mauldin-38101 Kiowa Bennett Rd., Kiowa, CO 80117. Topics included economic benefits; company introductions; and project involvement.

Public Testimony Closed

Public Hearing Recess: 9:42 PM to 9:49 PM – Chair Kirkwood

Applicant Rebuttal: Mr. Bartholomew addressed concerns raised during public testimony including project's 170K solar panels; makeup of batteries in compliance with NFPA Code; comparison of battery types/manufacturers; Kiowa Fire Department funding; lighting restricted to substation and battery areas; local employment; private landowner right of land use; CORE's substation proximity; external, professional tax consultant; and project self-sufficient following construction period 12 – 15 months. Jim Barber-Bennett, CO, Superintendent, McCarthy Company, clarified water source for construction is an irrigation well just outside the town of Bennett. Craig Arcand, McCarthy Company, addressed lighting.

Board Discussion: Chair Kirkwood

Brief discussions held between Planning Commissioners, Staff, and Applicant Team included wind/solar renewables; active Colorado solar projects; utility scale comparison; substation and battery capacities and specifications; panel source and lifecycle; CORE Electric Cooperative's electricity input/sources; surveillance; local investment, employment, Supreme Court of

US decision-delineation of jurisdictional waters; drainage plan; land evaluation and property sales impacts; powering homes/calculations, cumulative tax revenue, impact fees; construction process; grading/tracking/reclamation; vegetation maintenance and management plan; and safety and emergency response.

Staff-Solar projects are only allowed in Agricultural or Agricultural-2 zoning in Elbert County; a Special Use by Review permit is required.

Commissioner Poletiek:

- Request for additional information pertaining to processes: bond, decommission, emergency response, and reporting;
- Request Treasurer's office have representation at future 1041 application public hearings;
- Request applicant consider compensation to neighboring property owners negatively impacted; and
- Request for Kiowa Fire Department to discuss emergency response with Planning Commission, CCR, and citizens pertaining to Hwy 154, a dead-end road, involved in the complexity of a 1041 application.

Commissioner Edstrom:

- Request to staff for a review of agenda packet timeline of receipt prior to scheduled public hearing;
- Review of agenda packet contents pertaining to property parcel number inconsistency, recordation of 8th Amendment; Memorandum of Lease; Quit Claim Deeds-ownerships. Applicant-responded most recently updated Amendment for the entire lease was provided. Staff-to review Nov. 2016 Quit Claim Deed ownership;
- Request for confirmation from the County's financial staff that the presented benefits from the project to Elbert County and its residents are true. Staff (Planning Manager)-Treasurer's office received the information, had opportunity to review, and did not return comments, concerns, or questions to her or to the applicant, that she is aware of;
- Request for a landscaping plan to include screening such as trees and other visual relief;
- Request that a realistic evacuation plan (in addition to Office of Emergency Management (OEM) plans) and confirmation fire departments have required staff and equipment. Applicant-Emergency Response Plan has a Battery specific response plan as well as a specific Cypress Creek response plan. Commissioner Kirkwood advised Kiowa Fire Department (not in attendance) is required in a discussion on the matter; and
- Request that information discussed be documented and included in the agenda packet before making a decision on how to move forward.

Call for Motion to Continue: 10:57 PM - Chair Kirkwood

Commissioner Kirkwood moved to continue Public Hearing #2 – Sundance Solar Major 1041 Permit (1041-2024-1310) and Public Hearing #3 – Sundance Solar Special Use by Review (SUR-2024-0028) to date and time certain Wednesday, April 16, 2025, 6:00 PM, at 215 Comanche St., Kiowa, CO 80117.

Commissioner DeNardo seconded the motion.

Motion Passed 9 – 0.

9. ADJOURNMENT: 10:59 PM

Order of business addressed, and no new business raised.

Meeting Minutes Approved by Planning Commission on May 6, 2025.