

COMMUNITY & DEVELOPMENT SERVICES

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MEETING MINUTES
PLANNING COMMISSION

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

DATE: April 16, 2025 TIME: 6:00 PM

(Planning Commission Meeting April 15, 2025, CONTINUED)

1. **CALL TO ORDER:** 6:05 PM – Chair Kirkwood
2. **PRAYER:** 6:05 PM – Chair Kirkwood
3. **PLEDGE OF ALLEGIANCE:** 6:07 PM - Led by Chair Kirkwood
4. **ROLL CALL:** 6:08 PM – Wendy Doyle
Commissioners Present: Chair Kevin Kirkwood, Vice Chair Robert Poletiek, Van Sands, John Gresham, Dede Schott-Grace, Kyle DeNardo, Nicole Hunt, and Dan McCallin.
Commissioner Absent: Diana Edstrom.
Meeting Staff: Marc Dettenrieder, Director of Community and Economic Development; Jennifer Jones, Planning Manager; Wendy Doyle, PC Recording Secretary; and Carrie Seubert, Planning Technician.
5. **PUBLIC HEARINGS (CONTINUED FROM APRIL 15, 2025, PLANNING COMMISSION MEETING):** 6:10 PM – Chair Kirkwood

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

(Note) April 15, 2025, 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.

Board Discussion: Chair Kirkwood

Brief discussions held between Planning Commissioners, Staff, and Applicant Team continued from April 15, 2025, meeting.

Topics included paleontological, historical, and archeological approval criteria; site selection; decommissioning bond; decommissioning plan (legally recorded against the land); land restoration; past/current land use; panel technology; fencing (lender requirement to protect panels/safety/animal passage); site plan; ownership turnaround timeline (CCR is owner/operator with long-term, project lifecycle goal); 1041 Regulations-default/abandonment/bankruptcy; water/wells; screening fence height 8' and panel max height 15'; screening/berm options; setbacks; community partnerships and benefits; CORE-no present plans to upgrade substation; traffic impact analysis assessment/hauling route plan/road use agreement; traffic analysis mitigation plan; impacts to neighbors; lithium iron phosphate batteries (not nickel manganese cobalt batteries used by Tesla); panel supplier; tariffs (financial impacts); Sundance Solar, CCR, and Ehmann L and LP relationships; and rooftop solar.

Commissioner DeNardo:

- Request for project funding information. *Applicant*-project not funded by subsidies or federal/energy grants;

- Inquiry on absence of Section 106 in Phase 1 (National Historical Preservation) required in approval criteria, cultural resources. *Applicant*-will provide the report for review only in adherence to disclosure legalities;
- Inquiry as to why Tribal or Bureau of Indian Affairs communications not provided; an area of interest in Phase 1, Environmental Site Assessment. *Applicant*-deemed unnecessary; revamping the permit process in 2023, former Environmental Manager reached out to a couple tribes with no response. Evidence of correspondence requested by Commissioner DeNardo; and
- Inquiry as to Colorado Parks and Wildlife (CPW) requirements vs. recommendations. I.e., game camera(s)/remote monitoring/trapped animal rescue plan. *Applicant*-still coordinating with CPW and will be put forward once construction is in place.

Commissioner Hunt:

- Inquiry for fire department response time in minutes. *Applicant*-has not asked; 30' fire break barrier perimeter per Kiowa Fire Department solar development checklist;
- Recommend on-site emergency response plan be developed for immediate implementation prior to fire department response;
- Recommend a binding permit condition stating on-site well water will not be used for constructions, operations, or maintenance of the project unless explicitly approved by the county first. *Applicant*-if condition of approval, more than willing to agree to that; and
- Recommend a Community Benefit Fund commitment for the 40-year lifetime of the proposed project as a condition of approval; investing in the community, kids, and rural character-agriculture.

Commissioner Schott-Grace:

- Inquiry on signature on last page of the Lease Agreement 8th Amendment not matching the printed name. *Applicant*-if a general partnership, signature is authorized; will look into the matter;
- Inquiry on enforcement of decisions - I.e., vegetation/screening. *Staff*-stated adherence is a compliance issue and presented options available under Special Use by Review, including condition of approval by the Commission; and
- Recommend a condition of approval stating game cameras must be monitored and remain in working order to ensure the safety of the community.

Commissioner Sands:

- Would like to see on-site, full-time staff remain on-site during the entire duration of fire danger alerts. *Applicant*-on-site operations and management staff will be local, and the property will be monitored by surveillance.

Commissioner McCallin:

- Would have liked visuals such as videos and small prototypes along with the slides presented by applicant given the technical level of discussion. *Applicant*-willing to provide visuals.

Commissioner Kirkwood:

- Clarified proposed project is a Special Use by Review, not property use by right;
- Inquiry on the absence of a financial plan, a condition of the Major 1041. Requested evidence of business stability. *Applicant*-due to confidentiality, cannot speak to financials;
- Inquiry on status of outstanding Road Use Agreement. *Applicant*-agreement approved in 2017-2018 is being updated. *Staff*-currently working with county legal on the Road Use Agreement; typically completed prior to Board of County Commissioners' public hearing;
- Topic of representatives from county departments (legal, treasury, finance, etc.) attending Planning Commission meetings to be a point of discussion at an upcoming work study session;
- Inquiry on Colorado Revised Statute relating to timeframe for Elbert County to make a decision on the proposed project. *Staff*-county 1041 legal counsel confirmed the timeframe for Elbert County to make a decision is 90 days from the date an application is deemed complete; if a decision is not made in that timeframe, the application is approved. The proposed project's 90 day timeframe ends on May 28, 2025, as it was deemed complete on February 27, 2025; and
- Inquiry on cybersecurity plan and request to receive substantiating documentation. *Applicant*-required to meet all North American Electric Reliability Corporation (NERC), North American Electric Reliability Corporation Critical Infrastructure Protection plan (NERC CIP) – set standards designed to protect the Bulk Electric System (BES) in North America from cyberattacks, and Federal Energy Regulatory Commission (FERC) requirements. *Applicant*-will provide proof of compliance with requirements applicable to the proposed project.

Public Hearing Recess: 7:26 PM to 7:38 PM – Chair Kirkwood

Commissioner Poletiek:

- Inquiry into recent acquisition of CCR and ownership. *Applicant*-executive decision making, all staff, and projects US based. Additional information can be obtained and provided.

Commissioner DeNardo:

Led discussion of applicant obtained report and site plan overlay in response to previous inquiry on absence of Section 106 in Phase 1 (National Historical Preservation) required in approval criteria, cultural resources – adhering to disclosure/confidential legalities. Site plan and cultural survey present degrading (by encroachment) of paleontological, historical, and archeological site – nonconformance with approval criteria. *Applicant legal counsel*-will look into spatial issue ahead of the Board of County Commissioners’ meeting; confident there is no overlay; and declined to admit comment into the record (pertaining to matter of encroachment on a historical area) as not the engineer. *Applicant*-limited comments, not being an environment or GIS person; respectfully disagrees, and believes site plan and overlay are both correct.

Chair Comment: acknowledged the appearance of an overlay which means the permit is not correct and needs to be validated and corrected; critical to show the overlay doesn’t encroach on the site plan; the application is not complete, and the clock will stop at this point to rectify the overlay problem – adhering to confidentiality. *Applicant*-more than willing to correct as deemed fit.

- Request to view GIS shapefile overlay. *Applicant legal counsel*-willing to accept a condition of approval that before obtaining a building permit would have to provide evidence that it doesn’t affect a historical site.

Public Hearing Recess: 7:56 PM to 8:05 PM – Chair Kirkwood

Commissioner DeNardo – continued:

Led discussion during which Applicant discretely disclosed information pertaining to the GIS shapefile overlay and the presentation site plan overlay. Commissioners and applicant reviewed and discussed confidential documentation amongst themselves; not shared publicly, in adherence to confidentiality.

- Site plan submitted to the county overlays a portion of one of the sites and stated, to be clear, the buffer zone is only a recommendation; however, county has a more stringent view on it, and it shall not degrade. *Applicant*-replied, “correct.”
- Stated he believes situation unchanged.

DISCUSSION OF ELEMENTS: PUBLIC HEARING #2 - SUNDANCE SOLAR MAJOR 1041 PERMIT (1041-2024-1310)

Planning Commissioners, Staff, and Applicant discussions during public hearings on April 15th and April 16th, 2025, resulted in requested additional materials/revisions/responses in order to address outstanding issues, concerns, and/or approval criteria. Planning Commission to provide PLANNING COMMISSION REQUESTS MEMORANDUM to Zac Bartholomew, Cypress Creek Renewables - outlining requests in writing.

Call for Motion to Continue: 8:34 PM – Chair Kirkwood

Commissioner Kirkwood moved to continue Public Hearing #2 – Sundance Solar Major 1041 Permit (1041-2024-1310) to date and time certain Tuesday, April 22, 2025, 6:00 PM, at 215 Comanche St., Kiowa, CO 80117.

Commissioner Poletiek seconded the motion.

Motion Passed 7 – 1. John Gresham voted NAY. No comment.

DISCUSSION OF ELEMENTS: PUBLIC HEARING #3 – SUNDANCE SOLAR SPECIAL USE BY REVIEW (SUR-2024-0028)

Planning Commissioners, Staff, and Applicant discussions during public hearings on April 15th and April 16th, 2025, resulted in requested additional materials/revisions/responses in order to address outstanding issues, concerns, and/or approval criteria. Planning Commission to provide PLANNING COMMISSION REQUESTS MEMORANDUM to Zac Bartholomew, Cypress Creek Renewables - outlining requests in writing.

Call for Motion to Continue: 8:38 PM – Chair Kirkwood

Commissioner Kirkwood moved to continue Public Hearing #3 – Sundance Solar Special Use by Review (SUR-2024-0028) to date and time certain Tuesday, April 22, 2025, 6:00 PM, at 215 Comanche St., Kiowa, CO 80117.

Commissioner DeNardo seconded the motion.

Motion Passed 8 – 0.

- 6. ADJOURNMENT:** 8:40 PM
Commissioner Sands moved to adjourn.
Commissioner Hunt seconded the motion.
Motion Passed 8 – 0.

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