

COMMUNITY & DEVELOPMENT SERVICES

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MEETING MINUTES
PLANNING COMMISSION

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

DATE: April 22, 2025 TIME: 6:00 PM

(Planning Commission Meeting April 16, 2025, CONTINUED)

1. **CALL TO ORDER:** 6:03 PM – Chair Kirkwood
2. **PRAYER:** 6:03 PM – Chair Kirkwood
3. **PLEDGE OF ALLEGIANCE:** 6:05 PM - Led by Chair Kirkwood
4. **ROLL CALL:** 6:06 PM – Wendy Doyle
Commissioners Present: Chair Kevin Kirkwood, Vice Chair Robert Poletiek, Van Sands, John Gresham, Dede Schott-Grace, Kyle DeNardo, Nicole Hunt, Dan McCallin, and Diana Edstrom.
Meeting Staff: Marc Dettenrieder, Director of Community and Economic Development; Jennifer Jones, Planning Manager; Bart Greer, Legal Counsel; and Wendy Doyle, PC Recording Secretary.
5. **STAFF REPORT:** 6:07 PM None - Marc Dettenrieder
6. **PUBLIC HEARINGS (Continued on April 15th to April 16th) CONTINUED FROM APRIL 16th to APRIL 22ND, PLANNING COMMISSION MEETING:** 6:07 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)**

(Note) April 15, 2025, Public Hearing Format Change for Public Hearings #2 and #3: Chair Kirkwood
Staff Presentation and Applicant Presentation will each combine the Major 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 Comments: Jennifer Jones, Planning Manager - 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. Ms. Jones displayed and reviewed a PLANNING COMMISSION REQUESTS MEMORANDUM sent to Zac Bartholomew, Cypress Creek Renewables, dated April 17, 2025, Re: Major 1041 and SUR Application for Sundance Solar - outlining requests in writing.

Board Discussion – Planning Commissioners, Staff (including Legal Counsel), and Applicant Team
Applicant responses to the requests outlined in the April 17, 2025, memorandum discussed; Peter Moritzburke (Vice President of Development for the Western Region of Cypress Creek Renewables) addressed high level inquiries remotely. Captain Chris Gay (Kiowa Fire) stated staff response time from staffed station to proposed project is seven and one-half (7 ½) minutes and a second station, currently unstaffed, located north near the Sundance facility has other resources available –

response time estimated between twelve (12) and fourteen (14) minutes depending on location of volunteer staff at the time of call. Additional discussions ensued, adhering to confidentiality as warranted.

PUBLIC HEARING #2 - SUNDANCE SOLAR MAJOR 1041 PERMIT (1041-2024-1310)

Board Discussion – Planning Commissioners and Staff

Discussions resulted in four (4) conditions of approval in addition to five (5) staff recommended conditions of approval as presented in the staff report and staff presentation.

Call for Motion: Chair Kirkwood 7:33 PM

Commissioner Sands moved the Planning Commission to make a *recommendation of approval with conditions* to the Board of County Commissioners for Sundance Solar Major 1041 Permit, case number 1041-2024-1310, for a solar facility with up to 74.9 megawatts of solar energy and/or 50 megawatts of battery storage including a substation, located southeast of the intersection of Kiowa-Bennett Road and County Road 154. *Conditions of approval:*

Conditions of Approval recommended by staff in the staff report and staff presentation:

1. The applicant will be required to remove the Public Hearing sign within 14-days of a decision by the Board of County Commissioners.
2. The Major 1041 Permit shall not become effective until all fees are paid, and the resolution is recorded.
3. The Special Use by Review (SUR) application must be approved by the Board of County Commissioners and recorded.
4. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.
5. Applicant shall file with the County a financial security, such as a bond or irrevocable letter of credit deemed adequate, for the entire duration of the lifespan of the facility (per ECZR Article XVII.N).

Additional Conditions of Approval, per the Planning Commission, on this date:

6. All leases necessary for the applicants' proposed operation are properly executed.
7. The applicant shall consider improved landscaping and screening, including berms, and provide a plan to the Board of County Commissioners.
8. No on-site well drilling without express approval of the County.
9. The applicant shall maintain a 50-ft buffer of all five (5) recommended avoidance areas identified in the cultural survey.

Commissioner Poletiek seconded the motion.

Call for Roll Call Vote: Chair Kirkwood

Commissioner Edstrom: NAY. The Elbert County Zoning Regulations that relate to the 1041 Article 17 talks about the specific purpose and intent of areas and activities of state interest; they list eleven (11) I will not bore everyone by reading them, but it talks about ensuring that growth and development in Elbert County is safe, efficient, planned and coordinated manner; it's to promote the health, safety, and general welfare of the people and environment of Elbert County; it protects the beauty of the landscape and natural scenic characteristics; it also serves to protect and enhance wildlife habitat; and it goes on from there. I believe there are 21 different criteria that are to be considered in the approval process and Bart, maybe you can help me with this; but, in the zoning regulations 17L1F2 it states that if the Planning Commission determines that the proposed project complies with all of the applicable provisions which are the criteria that it can be approved and if I understand what that's saying, if it's saying all, which seems to be pretty specific to me, if there's one criteria in there that you don't agree with (pause for interactions with Chair Kirkwood); I'm voting no, thank you.

Commissioner McCallin: NAY. I commend all of the work that's been put into this proposal; you're a legitimate concern and my biggest concern is the compatibility of this versus the surrounding neighbors. I put myself in the position of many of the people in this room and in good conscience, I have to represent them as if I were one of them sitting in here facing the same concerns, and honestly, I'm a new commissioner but one of the biggest concerns that I have and one of the reasons that I am a commissioner is because of the number of high density development projects that have been approved in recent years that I don't believe are compatible with their surroundings and I use this as another example of that. Thank you.

Commissioner DeNardo: NAY. My vote is "no" based on the current submittal; applicant has not shown how the project will not degrade paleo, historical, or archeological sites; with the current submittal, applicant has not shown a reasonable effort to provide landscaping and screening besides what CPW (Colorado Parks and Wildlife) has recommended.

Commissioner Gresham: AYE. No comments.

Commissioner Hunt: NAY. I believe the applicant has not met at least three (3) of the criteria for a 1041, that's M1J, M2F, and M4A.

Commissioner Schott-Grace: NAY. I'm sorry, but I'm with Nicole and Diana. I really believe that if this was going up next to my house, I would be having kittens, so I'm sorry, "no."

Commissioner Sands: AYE. This is something that this County needs; it's out in a place that is fairly rural; these people have gone out of their way to make sure that it fits within the area; and they have done a lot of consideration for the County. Again, this is something that is (explicit reference) a lot better than a power plant that burns coal which is what it's replacing.

Commissioner Poletiek: NAY. I believe that even though they have checked all the boxes associated with compatibility to the current standards, there is an interpretation when it comes to the landscaping and the protection of the surrounding area and the surrounding landowners that has not been duly looked at by them, and so I believe that even with the stipulation, there is not a hard requirement for them to do it, and so I just think that if they do this and the next time around that they would take that into consideration.

Commissioner Kirkwood: NAY. I wish this was a better prepared solution and in a better location; it is something that the County does need; but, it does not need to fit inside of an eleven hundred (1,100) acre plot that is on a highly traveled road in an area that is not adequately screened, and you will look at pretty much a mile long of nothing but solar panels even though they're a thousand (1,000) feet away, you will see them from the road. I think that's one piece of the puzzle, the other piece of the puzzle is this is an industrial type of application, it is commercial in nature, and it is not going to be something that fits into an agricultural zoning and should not be considered as part of an agricultural zoning area.

Motion Failed: NAY 7 – AYE 2.

PUBLIC HEARING #2 - SUNDANCE SOLAR MAJOR 1041 PERMIT (1041-2024-1310) CLOSED: 7:43 PM

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

Call for Motion: Chair Kirkwood 7:44 PM

Commissioner Edstrom moved the Planning Commission to make a *recommendation of denial* to the Board of County Commissioners for Sundance Solar Special Use by Review, case number SUR-2024-0028, for a solar facility with up to 74.9 megawatts of solar energy and/or 50 megawatts of battery storage including a substation, located southeast of the intersection of Kiowa-Bennett Road and County Road 154.

Commissioner Hunt seconded the motion.

Call for Roll Call Vote: Chair Kirkwood

Commissioner Edstrom: AYE. Voting to deny.

Commissioner McCallin: AYE.

Commissioner DeNardo: AYE.

Commissioner Hunt: AYE. I believe the applicant has failed to meet the criteria, specifically III.E5 A, F, and G. Thank you.

Commissioner Gresham: NAY.

Commissioner Schott-Grace: AYE. For the same reasons that Nicole and Diana specified.

Commissioner Sands: NAY.

Commissioner Poletiek: AYE.

Commissioner Kirkwood: AYE. This is a situation where this is not compatible with the surrounding community and the processes relating to that community are sadly missing.

Motion Passed: AYE 7 – NAY 2

PUBLIC HEARING #3 – SUNDANCE SOLAR SPECIAL USE BY REVIEW (SUR-2024-0028) CLOSED: 7:48 PM

Meeting Recess: 7:48 PM – 8:01 PM

7. WORK STUDY SESSION: 8:01 PM

The Planning Commission met with staff regarding Land Use Regulations Updates. Per policy, no decisions were made, and no public comment was heard.

8. ADJOURNMENT: 9:36 PM

Commissioner Poletiek moved to adjourn.

Commissioner Edstrom seconded the motion.

Motion Passed 9 - 0.

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

