

COMMUNITY & DEVELOPMENT SERVICES

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AGENDA
PLANNING COMMISSION MEETING
BOCC Hearing Room
215 Comanche St. Kiowa
DATE: March 16, 2021 - - TIME: 7:00 PM

1. CALL TO ORDER

The meeting was called to order at 7:09 p.m.

2. PRAYER: Peter Hoogendyk**3. PLEDGE OF ALLEGIANCE:** All**4. ROLL CALL**

Planning Commissioners: Danny Willcox, Van Sands, Peter Hoogendyk, Daniel Michalak Jr, Jason Vermillion, and Roger Burton.

5. REMINDER TO TURN OFF CELL PHONES**6. STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S) PERTAINING TO MATTERS OF THIS BOARD**

- Items from the February 24, 2021, BOCC meeting:
A. *Ricci (RZ-20-0055)

Christina Stanton, Director of CDS, updated the Planning Commission that the Board of County Commissioners had approved the Ricci Rezone (RZ-20-0055) at their last meeting on February 24, 2021.

CONSENT AGENDA ITEMS ARE RESERVED FOR ITEMS that are deemed to be non-controversial. This allows the

- 7.** Planning Commission to spend more of its meeting time for issues in which there is a need for a more significant discussion. If anyone desires to address the Commissioners regarding an item from this day's consent agenda, please ask that the item be removed from the consent agenda for further discussion.

None.

8. CITIZEN COMMENTS

None.

9. APPROVAL OF MEETING MINUTES

A. February 16, 2021

Dan and Peter stated they had not seen the minutes. Roger stated he would have to abstain since he was not here for that meeting. Danny asked that these minutes be on the next meeting.

PUBLIC HEARING PROCESS Chairperson Statement: This matter requires this body to conduct a quasi-judicial hearing, which means the body must find facts and base its decision upon the application of the adopted regulation standards/criteria and the competent, substantial and material evidence received during this hearing.

All testimony must be competent, on topic and not repetitious.

Chairperson - The order of business for Public Hearings will be as follows:

1. Open Public Hearing
10. 2. Staff Presentation
3. Applicant Presentation (if any)
4. Public Testimony
5. Public Comment Closed
6. Applicant Rebuttal
7. Board Only Discussion
8. Board Motion and Roll Call Vote
9. Close Public Hearing

Note: Once the Public Hearing has been closed, no further testimony will be taken.

11. PUBLIC HEARINGS

B. **Miller Ranch Filing 2 (FP-20-0052)--A Final Plat of approximately 108.55 acres creating thirty-one (31) lots**

Peter motioned to amend the agenda to hear Miller Ranch Filings 2 (FP-20-0052) and 3 (FP-20-0053) first. The motion was seconded by Dan.

CJ Kirst stated they were not having a full hearing, were informed this morning that staff is still looking at the metro district service plan (which was originally approved back in 2007) and possibly an item related to the original zoning development guide agreement. Didn't realize prior to this morning that there were outstanding issues. Had discussions about continuing tonight's hearing until those things have been reviewed and resolved. Requested to continue to a date certain. Don't want to let too much time go by. Stated that Millers would be okay with a month and that he didn't think it would take long to update the service plan.

Danny asked whether they would be able to get everything together in that amount of time.

CJ stated that they knew they had some updating to do on the service plan but they don't expect that to take too long. Stated they would need to meet with staff and possibly the County Attorney to discuss the zoning situation. Stated that they think they can get it all resolved in the next thirty (30) days.

Greg recommended May 4th.

Motion: To continue Miller Ranch Filing 2 (FP-20-0052) until a date certain of May 4, 2021.

Peter made a motion to continue Miller Ranch Filing 2 (FP-20-0052) until a date certain of May 4, 2021. Dan seconded the motion.

Yes - All

No – None

Motion passed 6-0.

C. Miller Ranch Filing 3 (FP-20-0053)--A Final Plat of approximately 662.26 acres creating 129 lots

Motion: To continue Miller Ranch Filing 3 (FP-20-0053) until a date certain of May 4, 2021.

Peter made a motion to continue Miller Ranch Filing 3 (FP-20-0053) until a date certain of May 4, 2021. Dan seconded the motion.

Yes - All

No – None

Motion passed 6-0.

A. Shady Tree Service (SU-19-0130)--A Special Use by Review for a tree care business on approximately 9.091 acres located at 1249 County Road 166, Parker

Danny opened the public hearing for Shady Tree Service (SU-19-0130)--A Special Use by Review for a tree care business on approximately 9.091 acres located at 1249 County Road 166, Parker.

Greg Laudenslager, CDS Land Use Planner, reviewed the application.

Danny stated that Greg sent some additional information to the Planning Commission members after the packet had been completed. Greg stated that he did send the recorded covenants and asked if that was what he was referring to. Danny confirmed. Danny asked if there was something else as well. Greg stated he also sent public comment that had been received after the packet was completed.

Mr. Hildebrant, the applicant stated that what they are proposing is not much different than what they are doing now, but they would like to expand their business in that location.

Justin--Asked if Elizabeth Fire classified the pile.

Mr. Hildebrant--Stated that they did look at it. Mr. Hildebrant's son stated they were less than a quarter mile from the fire station.

Danny--Asked how much of an area, how big is the firewood area.

Mr. Hildebrant's son--Stated the area is about 1600 square feet at least, at most maybe 1800.

Danny--Asked if it was being kept near the front or the rear of the lot.

Mr. Hildebrant's son--Pointed to the location on the site plan being projected.

Danny--Asked Christina if she found where it was appropriate to waive the Community Meeting.

Danny opened public comment.

Ron Turner, 1105 County Road 166, Parker--Thanked the Planning Commissioners for the work that they do. Stated he hoped they had time to read the letters and emails and that the County should have at least five documents requesting that this application be rejected. Referenced Article 2, Section F.2. Stated that applicants are required to have a Community Meeting, but the CDS Director may waive the Community Meeting per Article 3, Section E.3. Stated that there was no community meeting and no reason was given to them. Stated that there is very little transparency in what has occurred here. Stated that this application began in 2019, but they didn't get any notification until March 1, 2021. Referenced the land use table in Article 5 and stated that it did not have this use listed. Stated that there was a Section that allowed the CDS director to add potential SURs. Stated that a determination shall be made in writing and shall be applicable to the specific use. Stated he has not seen the written determination, maybe it is in the packets. Stated that this determination would be difficult to write because it is not compatible with other uses in this zoning district. Stated that this use is not compatible with RA-1 zoning properties. Discussed the Comprehensive Plan. Stated that the narrative is light on details. Asked about the rent/lease space for some service companies. Asked the Planning Commission to recommend denial.

Chris Siebert, 1079 Singing Hills Road, Parker--Stated that they reside immediately adjacent to the proposed Shady Tree property. Stated he was opposed to this application. Stated it is incompatible with the surrounding area, and that it is part of the Meadow Lark subdivision which is a residential subdivision containing 10 acre lots zoned RA. Stated all surrounding properties contain single-family residences. Discussed the allowed uses in the RA District. Stated that the SUR as a commercial business does not fall within the purpose and intent of the RA District. Stated the use is a direct violation of covenants. Stated that the applicants do not reside on the property. Stated the use is inappropriate in a residential neighborhood. Stated that the 2011 PUD request for the same thing was denied--this is simply repackaged as an SUR and should be denied too. Stated Shady Tree purchased their property knowing that it was a residential property, not commercial. Encouraged the applicant to purchase property that is already zoned for commercial use. Stated that there isn't a homeowner living on-site. Not the same as a homeowner living on site and selling craft/hobby out of their garage, it is a commercial enterprise. Requested the Planning Commission deny the application.

Nancy Turner, 1105 County Road 166, Parker--Stated that this is Lot 4 of a platted RA/RA-1 residential subdivision with covenants. Stated that Meadow Lark subdivision is one of the oldest subdivisions on Singing Hills Road. Stated Mr. Hildebrant knew when he purchased this property that it and the

surrounding lots are zone RA/RA-1. Discussed wildlife in the area. Stated this is not a small business endeavor. Characterized as an industrial-style business on 9+ acres. Stated there will be industrial vehicles, machinery, and chemicals that are used in the tree service business. Stated that there will be truckloads of dead trees and debris dumped on the property to be processed and stored. Stated that 16 ponderosa pines will not mitigate the noise, or the visual impact of this industrial business. Stated that instead of frogs residents will hear wood chippers and other industrial machinery. Discuss concerns about the effect on property values. Stated that the EDZ specifically excludes platted subdivisions. Stated that the proposed SUR is not in line with a Residential Agriculture (RA) subdivision. Requested that the Planning Commission deny the application.

Joe Atwell, 1023 County Road 166, Parker--Stated he agreed with what the others have said. Stated he thought the tree cutting business was cool because people had the opportunity to live, and work and be free until he found out that the applicant doesn't live there. Discussed how his deck overlooks the property. Stated that what he has an issue with is the proposed lease/rent space. Stated that the application was very vague. Discussed plans to invest landscaping into his property and stated that this wasn't what he signed up for and wasn't what he expected in a Residential Agriculture neighborhood that he did sign up for. Stated he hoped they think about it and ask themselves whether this is something they would want going in their backyard. Stated that it is a residential subdivision. Stated he hoped they vote no and that this is clearly not in the spirit of how things are set up there.

Danny called for a Dalton Lockman, who had apparently signed up to speak on a different application and had left. Danny called for Alice Kellygan who had signed up to speak on a different application and had left. Michael Wagner, Dave Leegan, Brenda Flips. Danny determined that these folks that were not present had intended to speak on Miller Ranch Filing 2 & 3 before knowing that it was continued to a date certain of May 4th.

Allyssa Teske, (Zoom) 1047 Singing Hills Road, Parker--Stated she and her husband are very concerned with this application. Stated it was an attempt to bring this business into compliance with the County Zoning Regulations. Stated they live on Lot 2, which directly borders this property along the proposed lease area. Discussed the lack of communication from the applicant. Expressed concern over unknown of what will be in the lease area. Stated there is no plan. Asked, "Will there be large equipment? Will there be debris? How will they indicated if this debris is sprayed or will be coming into their property?"

Katie Myers, (Zoom) Brittanie Ridge--Stated she didn't come for this part of the meeting, but stayed for it. Stated she wanted to stand up for someone who does not live next to the property. Stated she could understand the concerns from a noise and business perspective. Objected to the application. Discussed how on a personal note she drives on 166 to go to work and go shopping and she would not want for there to be turns into that business without proper turn lanes.

Danny asked the applicant to talk to concerns about equipment, the extent of his business, how commercialized will this become. How much traffic will it create?

Mr. Hildebrant--Stated he didn't think it would create very much traffic. Discussed how Elbert County

has been cracking down on home based businesses. Stated that they utilize light equipment, will not be any big machines. Stated they would like to rent a little space out to help pay for things. Stated he thinks his business, Shady Tree, is good for the community. Stated they help take care of the forest here and beautify Elbert County. Stated that Elbert County has been good to them. Stated that they try to give back as much as they can to the community. Stated that they donate their time and energy into a community Christmas tree recycling program. Stated that they do generate some wood because they are a tree service business. Discussed their community wood bank, which is donated firewood. Stated they started this a year ago and have donated free firewood to dozens of homes in both Elbert and Douglas Counties. Stated that their son does live on the property, he is part owner but not legally. Stated they try to be good neighbors. Stated they would like to expand their business and that area "is pretty much a commercial corridor". Stated they planned to leave the back half of the property open for the wildlife.

Roger--asked the applicant to explain the "like contractors' storage area" label on the site plan.

Mr. Hildebrant--Discussed this area being rented out to like companies for storage. Stated they could fence it in if needed, or plant more trees. Expressed desire to be a good neighbor.

Roger--So, essentially that could be a rental or lease area?

Mr. Hildebrant--Yes that could be rent space to generate a little income. Hopefully they won't need to do that.

Roger--Asked what equipment is presently on the property.

Mr. Hildebrant--Chipper trucks, chippers, spray trucks.

Roger--How many?

Mr. Hildebrant--May 6 or 8 pieces of equipment on there. Went on to state that they did not get turned down previously. Stated that the permit expired.

Peter--Asked about the piles of chipped material and tree material. What are you going to do with that? Where is it going to end up?

Mr. Hildebrant--Stated that they don't really store wood chips or sell any trees. Stated they just service their clients' trees--commercial and residential. Stated they are kind of an agricultural business. Stated that the chips are dumped off-site, they don't store them on-site. Stated they try to get rid of the firewood as it goes. Discussed donated firewood program.

Peter--How much do you see that expanding over what is already there?

Mr. Hildebrant--Stated that he would see the firewood program expanding dramatically due to the

needs.

Jason--How much chipping or cutting do you do on-site?

Mr. Hildebrant--We really don't. Stated they cut the firewood. Most chipping done on-site is for the Christmas tree recycling program. Stated it doesn't require much, about a half days' worth of chipping.

Jason--Inquired about hours of operation. 8-5?

Mr. Hildebrant--Answered yes.

Danny--Asked the applicant how long he has been operating?

Mr. Hildebrant--Stated they had been operating for several years.

Danny--Asked if it was the same operation, they are just trying to make it legal?

Mr. Hildebrant--Answered yes. Stated he didn't see if growing by leaps and bounds anytime soon. Stated that it is kind of a commercial corridor. Discussed other business-like uses in the area. Stated that they had been there quite a while, not trying to run neighbors off or run down the neighborhood. Can plant trees.

Dan--If I understand your business, you run around and take care of trees--cut down trees and trim trees--for people all over the city and bring the wood back. Then, you give the wood away. Is that correct?

Mr. Hildebrant--Pretty much correct, we try not to bring it back if we don't have to. Stated a lot of people in Elbert County use firewood.

Dan--Asked if the wood that is brought back is treated.

Mr. Hildebrant--We do treat the wood, but we try not to bring any back that has been treated.

Dan--With chemicals? Stated he is concerned since the County is full of ponderosa pine. Stated the USDA has strict rules about transporting wood, covering it and spraying it. Killing the pine beetles. Possibility of bringing contamination to our trees. Asked the applicant to speak to those concerns and explain his process.

Mr. Hildebrant--Stated there are 17 different types of pine beetles in the State of Colorado. Stated his son could answer questions about the chemicals. Then, went on to say that the beetle typically lives directly under the bark.

Dan--Asked what chemicals are used.

Mr. Hildebrant's son--Around 1:03 into recording. He stated that the chemicals used are safe for livestock.

Dan--Reiterated that it is safe for livestock. Asked if he provides tree service all-over.

Mr. Hildebrant's son--Stated most Douglas and Elbert Counties.

Dan--Asked staff why this is an SUR instead of a rezone.

Danny--Stated because it isn't a defined use.

Dan--Stated that this is in a subdivision even if it a minor. It begs for a rezone, and also a traffic study and I don't understand why we don't have a traffic study.

Greg--Stated the applicant proposed a SUR as opposed to a commercial rezone as a SUR only allows the one particular use, whereas a commercial rezone opens it up to a number of different uses. Stated that the SUR is less intensive than a commercial rezone. Speculated that might have been done out of respect for his neighbors. Stated that this application dates back to 2019, when we did not require traffic letters and Public Works did not require a traffic study.

Dan--Asked about the EDZ. Stated that the EDZ excluded any residential subdivision. Again, stated that it is a subdivision even if it is a minor. Asked again, why not being reviewed as a rezone. Asked for more input from the community. Asked the Planning Commissioners to think about it.

Jan Hildebrant--Stated that the reason they didn't do a rezone is because it is not within the EDZ Overlay.

Several Planning Commissioners talked at once about why it wasn't in the EDZ Overlay.

Danny--Stated that the reason it doesn't fall in the EDZ is because it is part of a development. Further stated that the Planning Commission has approved businesses in SURs in developments all over.

Justin--Stated he wanted to address Danny's comment.

Danny--Stated again that they have approved businesses all over developments in SURs. Referenced a bee-business and other recent SUR applications for businesses.

Justin--I don't disagree. I think there is a big distinction between a commercial business in a Residential Agricultural zone area versus an agricultural small bee business. There's a significant difference between those two.

Danny--Stated that we didn't have Justin on the roster.

Justin--Stated that he wasn't able to get on until 7:30.

Danny--Stated that EDZ exclusions had to do with developments, subdivisions, PUDs. Stated this property is part of Meadow Lark, which is a subdivision and that is why it was excluded from the EDZ.

Justin--Apologized for tardiness. Asked for clarification why there was no community meeting required.

Danny--Let's ask staff why, because it is not required they can...Asked for staff to answer.

Christina--Stated that SURs do allow the CDS Director to waive the community meeting. Stated that those have been waived less than half the time, particularly for items that have been in existence for a number of years already. Stated that we look at how long it has been in existence and whether we have received any complaints.

Justin--Stated that F.2, page 48, does have a requirement for a community meeting. Stated he was confused on the ability to grant a waiver. Discusses requirement for written notice to waive under Article 3. Stated his second question had to do with the land use table. Stated there are no specific guidelines for a tree operation. Asked the Planning Commissioners whether an agricultural business is the same as a commercial tree business.

Van--Answered yes.

Justin--Stated in his personal opinion he doesn't think they are. Asked how this is an agricultural business with commercial business.

Van--Stated that in other counties they do consider it to be agricultural.

Mr. Hildebrant--Stated that they are licensed by the Colorado Department of Agriculture.

Justin--Asked again, how is this not a commercial business.

Mr. Hildebrant--Stated he didn't know what was being asked, they are running a business.

Danny--Stated they are running a business. They are trying to get a commercial well.

Dan and Danny discussed. Dan stated that they need a community meeting.

Danny--Stated the one thing he is trying to figure out is you've had this business operational for how long? They are just trying to make it legal now. How much is it going to grow?

Mr. Hildebrant--Answered with a question: "How much is Elbert County going to grow?" Stated that

that was their focus. Stated that the growth that is happening in the County is going to take years to develop and to have trees and so their growth is not going to happen right-away.

Danny--Stated that he has explained that they go out and pick up trees and bring them back, then asked where their revenue is coming from.

Dan--Stated trimming trees.

Mr. Hildebrant--Stated they do residential and commercial work, plant health care, trim trees, remove trees, we spray trees.

Danny--Stated that the majority of his business is done off-site.

Mr. Hildebrant--Confirmed.

Danny--So all you are using this property for is essentially storage?

Mr. Hildebrant--Yes and the wood bank, which has really been a benefit to a lot of residents.

Danny--Sounds like you treat the wood.

Mr. Hildebrant's son--Stated yes and he was the chemical expert.

Danny--Stated his understanding was that no one was living on-site, but he would be living there.

Mr. Hildebrant's son--Stated he does currently live there and has since 2015.

Danny--Stated, "so we do have a residential running a business...Just like we did with the RV Repair, just like we did with a lot of the other ones that we have." Stated that he understands where the neighbors are coming from, they don't want something to grow where it will overrun that piece of property with a bunch of crap. Asked the applicant to talk about the equipment that will be stored onsite.

Mr. Hildebrant--Stated that what equipment they do store will be light equipment. Stated they could put up fences, trees. Stated that some of the residences that are concerned can't even see the property. Stated that certain areas are surrounded by trees, but they can certainly add more trees. Stated it is no trouble, they know how to make them grow--that is what they do--they can put up a privacy fence.

Dan--Asked the applicant if he would be storing his own equipment, not bringing anyone else's in.

Mr. Hildebrant--We would like to be able to rent out some space to help pay. Light equipment.

Danny--Stated that it is appropriate to get the SUR for his existing Shady Tree business, but looking to

allow for the ability to sub-lease is problematic. Discussed the purpose of the SUR to bring the applicant into compliance. Stated that adding the ability to sub-lease puts them more into a commercial realm like a strip mall.

Mr. Hildebrant--Stated he hoped it would just be his business, but wanted to have the ability to sub-lease to help pay for the community services he is providing. Stated "whatever works for you guys".

Danny--Asked the other Planning Commissioners if they saw what he was saying.

General agreement. Peter--Stated that the SUR only allows for his business as it currently exists. Danny--Yes, that's what I'm getting at, that's what it is for.

Van--Stated he thinks that a condition should be added that if they bring anyone else in they have to get permission to do it.

Danny--Stated that was where he was trying to go because the applicant is trying to expand the SUR beyond its purpose.

Peter--Stated it has to be another SUR if they expand to another business.

Justin--Stated that in his mind this use is considered solid waste and/or trash recycling facility in some aspect of it. They are bring branches back, correct?

Danny and applicant both state no. Mr. Hildebrant--States that the firewood might fall under the category of renewable energy.

Danny--Addresses Justin and states he doesn't know how you would classify firewood. If they are bringing it back, and actually giving it away...

Mr. Hildebrant--States they are actually giving it away. We're not selling it.

Danny--Reiterates that they are not selling it they are giving it away.

Justin--Asks how long the firewood stays on the property. Three months? Two years? How long does the firewood stay on the property? Is it long-term or is it short-term? Is it 30 days? 60 days? One year? Two years? How long does it usually stay?

Mr. Hildebrant--States that what they do use comes and goes out as it is dried. States it depends on how long that takes.

Danny--Asks how much? How big of a pile?

Mr. Hildebrant--States it is never a huge pile. It comes in and goes out. If it comes to a point where we

have too much of it we will just have to find another avenue to get rid of it.

Justin--Asked whether Elizabeth Fire had classified the size of the pile.

Mr. Hildebrant--Stated that they did come out and take a look at it.

Justin--Expressed concerns over it being a fire hazard. What if it got struck by lightning?

Mr. Hildebrant's son--Stated that they are less than a quarter mile from the fire station.

Justin--Do they have enough trucks to get it under control?

Danny--How big, how much of an area you've consumed with firewood?

Mr. Hildebrant--There might be 10-15 quarts.

Mr. Hildebrant's son--Estimated area to be between 1500 square feet and 1800 square feet.

Danny--Asked whether it was being stored near the front or the rear of the lot.

Mr. Hildebrant's son--Show the location of the firewood pile on the projected site plan.

Danny--Asked Christina if she found where it was appropriate to waive the Community Meeting.

Ron Turner--Stated he could help on that particular issue. He stated Article 2, Section F.2 states that the applicants are required to have a Community Meeting. But Article 3, Section E.3 stated that the CDS Director can waive the Community Meeting.

Danny--States that CDS has the option to waive the Community Meeting.

Ron Turner--Stated they do, but there needs to be a definitive reason for the waiver of that meeting.

Danny--Discussed the ability of CDS to waive the required Community Meeting. Reiterated that Mr. Turner stated there needs to be a specific reason. Asked what was the reason for the waiver.

Christina--Stated that the business had been operating for a number of years and staff couldn't find any record of any complaints on file.

Danny--Asked whether there has been any complaints filed.

Ron Turner--Stated that most of them in that subdivision consider themselves good neighbors, and December of 2011 these folks started hauling in trees. They decided not to go through a PUD. Stated some trees are still left. Stated that them having their sign out there and being there is not that big of a

deal. Stated that when it starts becoming a commercial operation, then it becomes a big deal. Stated they didn't have any real complaints, traffic didn't seem to be that bad. Stated that they do make some noise. Stated that one of the neighbors shows horses and it affects her horses sometimes. Stated that they haven't complained as a good neighbor policy, but maybe we should have.

Chris Seibert--States that all of their properties sit up on a ridge and look down on their property. Expresses that it will be an extreme challenge for them to shield their property with trees and fencing. Discusses wood piles stored at the north end of the property. States that these piles have been there for many years and that they are from beetle kill and were not treated properly or covered. States he has lost 22 trees on his property as a result of beetles and it started the year after the applicant purchased the property. States this is not how good neighbors treat their neighbors.

Mr. Hildebrant's son--Shows Planning Commissioners pictures, from his phone, of the wood pile he discussed earlier and then another picture of the wood pile Chris was talking about. States it is about 50' from the property line. States it was placed there prior to him living there, estimates about 10 years ago.

Roger--Motions that the Planning Commission hearing be postponed until the applicant has a Community Meeting and then comes back.

Dan--Seconded

Danny--Reiterated the motion and second.

Roger--Stated he doesn't see this as being an inconvenience to the applicant since they are already there.

Van--States that it is late in the game to be doing this. Not their fault. CDS waived the meeting.

Danny--Stated he couldn't get a real strong reason not to. Granted it has been going on.

Jason--Stated he kind of agrees with Van, but he sees it both ways. States he is on the fence, he sees it both ways.

Danny--Stated that if there weren't so many people show up about this meeting, but feels that a Community Meeting will be beneficial.

Yes—5

No—2

Motion passed 5-2.

*****Recessed at 8:51 p.m. Resumed at 9:03 p.m.*****

D. Linden (RZ-20-0062)--A Rezone of approximately 35 acres from Agriculture (A) to Agriculture Residential (AR) on land located at 1735 County Road 194, Parker

Danny opened the public hearing for Linden (RZ-20-0062)--A Rezone of approximately 35 acres from Agriculture (A) to Agriculture Residential (AR) on land located at 1735 County Road 194, Parker

Greg Laudenslager, CDS Land Use Planner, reviewed the application.

Danny—Invited the applicant's representative, Tom Maroney, to add any additional information.

Tom Maroney—Confirmed that he sent the final, court approved water decree to Greg two weeks prior to the public hearing. Stated for the record that there was a community meeting held for this case. Stated that they had engineers produce both a traffic study and drainage study at the request of Arapahoe County Engineering. Stated that both the traffic study and drainage study concluded that there are no impacts associated. Stated that Arapahoe County received these studies two months prior and have yet to respond to requests for referral. Stated that in regards to the wetlands that they would not be able to get a building permit to build in the wetlands and reiterated Greg's statement that there is considerable amounts of building sites that will not disturb the wetlands onsite.

Danny—Asked if any participants on Zoom would like to offer public comment.

Karen Jones—Asked how many homes are being proposed as part of the subdivision associated with this rezone.

Tom Maroney—States that there is currently one single family home on the property now and indicated that the longtime owner, Mr. Linden Scott, has recently passed away and that his estate is working to subdivide the 35 acres to create two lots that are 17.5 acres each. Stated that there would be one new single family residence on the newly created lot.

Delos Searle, 1745 Michael Gates Drive, Parker – Asked Mr. Maroney what his role is.

Tom Maroney – Stated that his role is as the applicant's representative and that the owner's estate hired him to take this application through the required processes with the County.

Delos Searle, 1745 Michael Gates Drive, Parker – Asked when and how the community meeting was held. Asked how the community meeting was noticed to the public. Stated that he did not receive public notice of a community meeting.

Tom Maroney – Stated that a public notice sign was posted on property and mailed notices were mailed to property owners within 1,320' feet of the property using First-class mail. Asked Greg the date that the Community meeting was held.

Greg – Stated the community meeting was held September 21.

Tom Maroney – Repeated that the community meeting was held September 21st over Zoom. Stated that there were many community members on the Zoom call, many of which are residents of the Elkhorn Ranch Subdivision. Stated that the community meeting was held in accordance with the requirements.

Delos Searle, 1745 Michael Gates Drive, Parker – Asked the location of the new property line associated with the subdivision and how the newly created lot will be accessed.

Tom Maroney – Stated that there is the opportunity to access the property from either Michael Gates or County Road 194 depending on what the new owner decides. Stated that if it accessed off of CR 194 that the driveway will be on the east side of the property. Stated that the property line will be running through the middle of the property running east and west. Followed this up by clarifying that this creates a “north half” and a “south half.” Stated that this newly created “south half” is 17.5 acres.

Delos Searle, 1745 Michael Gates Drive, Parker – Asked for clarification in his assumption that the existing house would be on the “north half” and that the newly created lot and residence will be on the “south half.”

Tom – Indicated that Mr. Searle is correct that the existing house would be on the “north half” and that the newly created lot and residence will be on the “south half.”

Delos Searle, 1745 Michael Gates Drive, Parker – Stated his assumption that the new “south lot” could only be accessed off of Michael Gates Drive.

Tom – Clarified that the access to the “south lot” can be either from Michael Gates Drive or from County Road 194 depending on where the new owner chooses to site the driveway. Stated that the current owner has an easement to access Michael Gates Drive. Stated that the easement is located just past the mailboxes.

Dianna Edstrom, 26060 County Road 41, Elbert – Asked Greg what growth impact fees are for this application.

Greg – Stated that the standard residential growth impact fees are due at the time of building permit if/when the new owner builds a residence.

Dianna Edstrom, 26060 County Road 41, Elbert – Asked if the 10% cash-in-lieu of open space fees are applicable.

Greg – Stated that there will be a cash-in-lieu of open space fee that is 4% of the appraised value or sale value of the property. Stated that this public hearing (3/16) is for the Rezone and that the Minor Plat process is not applicable at this time.

Danny – Reiterated Greg’s statement that the cash-in-lieu of open space fees are not applicable to the Rezone application being heard.

Tom – Stated that he is fully aware of all the fees that are associated with the Minor Plat.

Danny – Asked if there are any other participants on Zoom that would like to give public comment and indicated that he does not see any. Asked the Planning Commissioners if they have any other questions for the applicant.

Peter – Asked if a water supply plan, existing well permit, and decree have been provided.

Tom – Gave background information that the referee for the water court signed off it and then there was a 21 day referral period to solicit any objections. Stated that after there were no objections the water court issued a decree for the adjudication and augmentation plan and has sent it to staff.

Greg – Asked Tom to provide a paper copy of the final degree.

Tom – Stated that he will provide a hard copy of the approved water decree to CDS the next day.

Danny – Asked if any other Planning Commissioners had any other questions. Indicated that there were no more questions and that he will entertain a motion.

Perter – Motioned to recommend approval of the Linden Rezone (RZ-20-0062) with the six conditions as presented. Seconded by Dan.

Tom – Stated that the applicant accepts all six conditions.

Danny – Stated that there has been a motion and a second and asked for a vote.

Yes—All

No—None

Motioned passed 7-0.

12. ANNOUNCEMENTS: None

13. ADJOURNMENT

Motion: To adjourn the meeting.

Dan made a motion to adjourn the meeting. Danny seconded the motion.

Yes—All

No—None

Motion passed 7-0.

The meeting was adjourned at 9:29 p.m.

Approved 4-6-2021