

COMMUNITY & DEVELOPMENT SERVICES

P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3136 FAX: 303-621-3165
cds@elbertcounty-co.gov



AGENDA
PLANNING COMMISSION MEETING
BOCC Hearing Room
215 Comanche St. Kiowa
DATE: June 1, 2021 - - TIME: 7:00 PM

1. CALL TO ORDER

The meeting was called to order at 7:08 p.m.

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

Planning Commissioners: Danny Willcox, Roger Burton, Peter Hoogendyk, Daniel Michalak Jr, Van Sands, Duane Owens.

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

Christina Stanton, Director of CDS, announced that there were no updates from the BOCC to report but that Land Use Planners Greg Laudenslager and Jenn Klich would be leaving the County soon. Danny asked for best wishes to be conveyed. He hoped things went well and wanted both to know that they would be missed.

- 7. CONSENT AGENDA ITEMS ARE RESERVED FOR ITEMS** that are deemed to be non-controversial. This allows the 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. April 20, 2021 -- Roger stated he didn't remember everyone being on Zoom. Claimed the Planning Commission was at the Ag Building. Roger motioned to approve the minutes as written with the

correction that they weren't all on Zoom. Dan seconded the motion. All in favor. Motion passed 6-0.

- B. May 4, 2021 – Roger motioned to approve the minutes as written; Dan seconded the motion. All in favor. Motion passed 6-0.
- C. May 18, 2021 – Roger motioned to approve the minutes as written; Duane seconded the motion. All in favor. Motion passed 6-0.

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

- Spring Valley Ranch Filing No. 6 (FP-18-0075)--A Final Plat to subdivide 101.5-acres into 247 single-family residential lots, 11 tracts, and rights-of-way located in Section 33, Township 6 South, Range 64 West of the 6th P.M. in Elbert County
- A.

Christina Stanton, Director of CDS, presented staff's review of the application. Next, Jack Reutzel spoke about the delays in the process for this application. He stated that they had to wait for the District Court on roads, then they were waiting for Filing #5 and DGA Amendment #3 to be completed and recorded. Mr. Reutzel stated that he has read the staff report and concurs with the conditions of approval.

Jennifer (on Zoom)--Stated that she lives off of En Joie Place. She stated her biggest concern about putting 247 new houses over there is that Augusta has no sidewalks--you have to walk on the road when you walk on Augusta. She stated she was concerned that they are going to put in another 400 cars into her subdivision. She stated she realizes that there is an alternate route coming in through the other way, but you're talking probably 400 cars into Spring Valley and onto 17/21 road. Stated that County Road 17/21 also has very little shoulder, but Augusta is her main concern because there are no shoulders on Augusta. Stated that she walks her dogs on Augusta all the time and that people do not drive the posted 25 mph speed limit. Stated she is also concerned about the construction coming in through Augusta. Discussed heavy equipment on Augusta road and that Augusta is not that big of a road.

Danny--Restated Jennifer's concerns as being two items: 1) curb and gutter on Augusta which has no sidewalks and the amount of traffic, and 2) the construction traffic that will be going through that area. Danny asked if he was correct in restating her concerns.

Jennifer--stated that he was correct.

Danny--stated he has asked the applicant to address these concerns after we have heard all public testimony.

Tracy Strunk, 5775 Desert Inn Loop (on Zoom)--Stated his concern was regarding the right of access where north Augusta Loop connects to County Road 17/21. Asked if it had been settled where there will be two (2) points of entry from the Spring Valley Ranch area, besides just the construction points.

Danny--Asked Tracy to confirm that he is, essentially, concerned about the same things that Jennifer was--construction traffic and curb and gutter.

Tracy--Confirmed and said in addition, he was concerned about access through the golf course area. Asked if that road was going to continue to be blocked-off, or will it be made a paved road with this construction.

Danny--Asked if there were any more public comments. Hearing none he asked the applicant to address the concerns that were brought up.

Jack Reutzel--Stated he would do his best to address those concerns. The actually master developer of the project is Jim Marshall, and he is here tonight so he can talk a little bit about the history if we need to. Stated that there are no sidewalks on Augusta Loop by design. Stated it was designed to be semi-rural, that was the whole design intent. Stated that Augusta Loops, as it exists south of this area, doesn't have any sidewalks either. Stated it was the adopted standard for roads in this development. In addressing construction traffic concerns, he stated that he recalled when they first had their neighborhood meeting there was concern about construction traffic. Stated that once the connection to County Road 17/21, which will be done in the first phase, is completed they can make sure that the construction traffic is routed through the new road to the northern County Road 17/21 connection. This should alleviate any construction traffic going through that portion of the subdivision that is established. Stated he could add this as a note to the plat. He believes he made this promise to the homeowners years ago. Stated that the connection to County Road 17/21, the looped road, is now in possession of the Metro District and the Metro District has the funds to build that and it will be built prior to any homes being built in this Filing #6.

Danny--Reiterated that the road would be constructed prior to any significant build-out in this portion of the development.

Jack Reutzel--Stated it would be built in connection with the other infrastructure, but before any homes are built. Before any over-lot grading that road needs to be in place. The funds are there for it.

Danny--Asked about curb and gutter.

Jack Reutzal--No, I don't believe it will. It is the same design that has been approved and employed in the past here.

Danny--Asked if any of the Planning Commissioners had questions.

Roger--Stated that the packet stated that this is for 247 lots, but 246 had been approved. Further stated that he found something somewhere else that specifically stated that it is within the 15% modification that can be done and the final/total number in the development had to be a certain number. Stated he thinks he understands that but stated that one review comment stated specifically that it should not be approved at 247 because the preliminary only included 246. Reiterated that it is his understanding that he thinks they are okay to move forward with the 247 because it is within the 15% variation. Asked what happened to the one comment that said we should not approve it at 247.

Christina Stanton--Stated that it was a comment from a planner with Baseline, who originally reviewed that application, and that they later realized that there was a 15% wiggle-room that they could stay within so that comment was revised in the subsequent review and referral comments.

Roger--Asked, so we are okay going ahead with 247.

Christina Stanton--Confirmed.

Jack Reutzal--Stated that the Planning Commissioner was corrected in that the overall cap of the number of units is fixed, but within the development guide agreement for Spring Valley Ranch it allows some flexibility per planning areas.

Roger--Stated that the other question he has was regarding the two access points onto County Road 17/21. Stated one was the one being discussed earlier with Augusta Loop and the other one is already existing further south.

Jack Reutzal--Confirmed.

Peter--Asked about water rights. Stated that some documentation stated they had to buy additional water rights. Wanted to know how that was resolved.

Jack Reutzal--Stated he has the Metro District President here (Jim Marshall) that could shed some light on the situation. Stated his recollection was that the conservation practices that are being employed delays the need to buy any additional water and that the District has gone ahead and drilled additional wells for capacity.

Jim Marshall, P.O. Box 4701, Greenwood Village, CO--Stated that when they first started Spring Valley

Ranch the lots were large. Most lots in Filing #1 were 3/4 of an acre or larger. Stated that they allocated more water there since they were large lots. Stated that the communities that are going forward--like Filing #5, Filing #6, Filing #7 (which is in process right now), and even Filing #4--those are smaller lots. Stated that the individual who was reviewing their application at the time was assuming that everything was 3/4 acre lots and that they were irrigating a lot of blue grass turf (which they are not). Stated that they have restrictions on the vegetative irrigated turf on any lot to no more than 5,000 square feet. Stated that when the State re-reviewed everything, they found that they had more water than was needed. Stated that the State agreed with the assessment that they provided on their water usage.

Peter--Asked why the statement of taxes due in the packet was from 2018-19.

Jack Reutzel--Stated that those were the current taxes due when the application was formally submitted. Would be happy to provide a more current version. Neither the County nor he went back to update this item.

Duane--Inquired about the reference on page 10 of the staff report about the Douglas County School District.

Christina Stanton--Stated this was something that was accidentally left in the staff report from Filing #5.

Jack Reutzel--Stated that Spring Valley actually sits on three (3) different sections of land--Section 32, 33, and 30 to the north. Stated that Section 33 is in the Douglas County School District--Filing #5. Stated that Filing #6 is in the Elizabeth School District. Stated that this filing should have never been referred to the Douglas County School District, but for the record a 25-acre school site was dedicated to Douglas County Schools in Filing #5. Stated that this was a left-over comment.

Van--Stated that he had the same question.

Danny--Stated that the GIS Specialist requested certain naming sequences for the roads. Asked if this comment came from a street naming convention or policy.

Christina Stanton--Stated she would have to confirm with the GIS Analyst, but thinks that he does have some kind of policy that he follows. Stated that he works closely with Douglas County to make sure that there isn't any duplication or names that are too close to the same so that it is better for emergency services to find places. Stated that his comments were regarding connecting roads and making sure that it certain roads connected the name remained the same unless they are going completely different directions.

Jim Marshall--Stated that they have realized over the last few years that Douglas County has the final say on the road names. Stated he thinks it has a lot to do with emergency service. Stated it is really difficult to come up with acceptable names these days because all the names have been used, which is why you start to see streets with 2-3 names in them so you can actually get a street name that the fire department can identify and get to the first time. Stated it is an interesting situation where Douglas County has a fair

bit of say in what our road names are.

Danny--Stated that Douglas County does handle our emergency services. Stated he didn't have any other questions.

Jennifer--Stated she has another quick question.

Danny--Stated that public comment was closed but go ahead please.

Jennifer--Stated that her question wasn't really answered. Asked about the construction traffic going through Augusta, until they build the new outlet onto County Road 17/21. After that is built, are you blocking that entrance for the construction traffic at the end of Augusta?

Jack Reutzal--We can't block it because it is required to have two points of access. Stated that it can be signed such that the construction traffic would utilize the northern entrance.

Jennifer--Stated she was concerned about the safety on the road (Augusta Loop)--no sidewalks and no shoulder. Concerned about the safety of walking on the road.

Jack Reutzal--Stated that the roads and speed limits are designed for safety. Stated that, like any other road, they are as safe as the drivers on them. Stated that the speed limits are designed to protect the pedestrians as well as the travelers.

Jennifer--Asked whether that road was originally designed to include all this extra traffic.\

Jack Reutzal--Yes, absolutely. When the Preliminary Plat was approved by this County several years ago it was platted for 1700 units collectively. So, all the roads have been designed provide that type of capacity in their sub-areas. Stated it was a system of locals to collectors to arterials.

Jennifer--Asked whether the speed limit would stay at 35 on Augusta.

Jack Reutzal--I believe that is true. Yes.

Peter--Asked whether they have considered bicycle paths or anything like that.

Jack Reutzal--No. We are fitting this into an area that is already developed. Bicycle paths, or a segment here where there are no other bicycle paths further south, it is confusing to the public. So we haven't discussed that.

Van--Commented that the speed limit is 25 in his HOA. Stated they have the same situation--no sidewalks. They cut the speed limit down from 35 to 25, which makes it a lot safer. Just a consideration from him.

Jack Reutzell--I appreciate that. Thank you.

Jennifer--Ours is already at 25, but most people don't drive 25 on it.

Jack Reutzell--Stated she should call the Sheriff.

Motion: To recommend approval of Spring Valley Ranch Filing No. 6 to the Board of County Commissioners with the four conditions of approval as published.

Dan made a motion to recommend APPROVAL of Spring Valley Ranch Filing No. 6 (FP-18-0075) to the Board of County Commissioners with the four conditions of approval as published. Peter seconded the motion.

Yes - All

No - None

Motion passed 6-0.

B. Promised Land Rezone (RZ-21-0007) - A request for a rezone of 37.85 acres from (A) to (AR) on a property at 41527 County Road 17-21, Elizabeth

Christina Stanton, Director of CDS, presented staff's review of the application.

CJ Kirst, Tahoe Consulting, 5730 E. Otero Avenue, Centennial, CO 80112--Stated that this is a very basic rezone from Agriculture (A) to Agriculture Residential (AR). Stated it is for the purposes of subdividing the property into two (2) lots. Stated that the water decree was on April 27, 2021. Stated he was happy to provide this document if staff doesn't already have it. Stated that was the only loose end that had to be addressed, everything else was fairly straight-forward. Access is off of County Road 17/21. Stated the properties would utilize OWTS. Stated that the addition of one (1) lot isn't creating an impact to County Road 17/21. There are no drainage impacts here. Stated it fits into the surrounding area and uses very well.

Roger--Asked about IREA's comment that asked for an easement for the existing power line. Stated he didn't see the easement on the plat. Asked if it was still being required.

CJ Kirst--Showed where the easement was added.

Roger--Asked about the existing modular on Parcel A.

CJ Kirst--Confirmed where it would be moved to in order to be in compliance with the required setbacks.

Roger--Asked about the unpermitted shed and another unpermitted building on the site.

CJ Kirst--Stated they had been in contact with the Zoning Compliance Official regarding these issues.

Stated that the "shed" being referenced may be the trailer on wheels. Stated that there is electrical equipment in that structure, one of the family members runs an electrical contracting business and this structure is being used for storage and can be moved around. Stated they would continue to work with the County to make sure everything is compliant.

Roger--Stated there was an airstream-type trailer and next to that is something that looks like a home-made trailer that has wheels--that's the one that you're talking about.

CJ Kirst--Confirmed. That is the storage structure. Stated he didn't think there was anything that was not in compliance as it relates to the airstream RV.

Roger--Agreed and stated it is parked right next to the building that is kind of questionable. Asked about the shed located on the front of Parcel B, east of the existing house. Asked if that is a legal building. Stated that it wasn't commented on.

CJ Kirst--Stated that structure is the trailer that we're talking about.

Property Owner--Stated that Mike said as long as it is not inhabited and just for storage, he doesn't have a problem with it.

Danny--Stated that they are working with Mike and the County, and he has been out to the property, and he is aware of everything and has told them what needs to be done. Stated if there are concerns about the building that needs to be addressed between the inspector and the County. Stated that it appears it has already been inspected and is aware of them going through the rezone.

CJ Kirst--Stated that he (Mike Moore) has provided referral comments. Stated that these comments were addressed the same as they would for any other referral agency.

Danny--Reiterated that it (the outstanding violations) is already being handled by our inspector (Mike) and the County.

CJ Kirst--That's correct. There is an on-going line of communication.

Danny--Stated that there is a lot of interaction occurring between the County and the inspector and them on those buildings and what they need to do.

Van--Stated that there is a letter from Mike that basically states he is okay with everything as long as they address the violations. Stated that they are going to assume that you are going to do that.

Danny--Stated that they are going overboard looking at something if he (Mike) has already addressed it and he has put it in the application and he has done that as a referral. We are going into an area that is pretty much already taken care of.

Roger--Stated he wanted to make sure it was brought up.

Dan--Stated his questions were answered.

Peter--Inquired about a culvert that was referenced in the 2N Civil letter. Stated he couldn't see where it was at. Concern about water drainage overflowing.

CJ Kirst--Showed Peter where it was located on the Exhibit.

Peter--Stated that south of County Road 166 the Zoning Map showed two (2) properties that were zoned xx.

Danny--Stated that he believed that there were three (3) hearings that cleaned up most of the xx zonings. Stated we might want to check on this.

Christina Stanton--Stated that she thought the only one that might be left is south of Elbert, but we may have taken care of that one in the last round. Agreed to look into this.

Dan motioned to recommend APPROVAL of Promised Land Rezone (RZ-21-0007) subject to the three (3) conditions of approval in staff's letter. Peter seconded the motion.

Yes - All

No - None

Motion passed 6-0.

C. Swift Creek Rezone (RZ-21-0005) - A request for a rezone of 34 acres from (A) to (AR) on a property at 39750 Transition Terrace, Elizabeth

Christina Stanton, Director of CDS, presented staff's review of the application.

Tom Maroney (on Zoom)--Stated that he has nothing more to add. This is a pretty straight-forward application.

Dan--Asked about the water rights and whether or not they have been conveyed in order to make the water adequate for the other two lots.

Tom Maroney--Yes sir, they have.

Dan--Stated that back on March 26, 2021, a letter from the Division of Water Resources stated someone else owned the water rights. Then, stated that the second letter from the Division of Water Resources stated that any application must provide evidence that the applicants have acquired the water rights. Asked whether the water rights have been purchased or otherwise acquired.

Tom Maroney--Stated that the water rights were conveyed at closing, when the applicants or owners actually purchased the property. Stated that they had to supply evidence to the State that they actually were conveyed. Stated that their water attorney supplied that information to the State and the State said that it was adequate. Also stated that they have an augmentation plan that has been approved.

Dan--Asked staff why they would want to send it forward to the Board of County Commissioners without a stipulation talking about the water since they won't see the application again because the Minor Plat is approved administratively. Stated that it can't be a residential lot without water. Stated it wasn't addressed in the findings. Asked whether this application should be considered without that documentation.

Van--Stated that there is an approval of the water rights in the packet.

Dan--Stated that the water rights belong to someone else. Stated that there are two sets of names in the packet, and there is confusion, and the State caught it.

Danny--The State also provided their approval.

Dan--The State said, in their second letter, ... Stated that there are two questions: 1) He says they've purchased the water rights, but it wasn't in our packet, so I don't know that they have the water rights. That's item 1, now we have a verbal on it.

Danny--I imagine he had to provide it to the State.

Dan--So they have the rights. But we didn't know that until just now.

Danny--Asked Tom if he had to provide it to the State.

Tom Maroney--Yes, on the first referral back from the State they wanted clarification on the transfer of water rights from the purchase, which we provided to the State. The second referral came back, and they said that their water supply was adequate. Also stated that the State has approved the augmentation plan. It's already gone through Court, the augmentation plan is complete, we did not have to do an adjudication because the water was adjudicated probably 10-15 years ago. And, with the transfer of the property the water rights were also transferred, and the State made that determination when we replied to their referral request from the first referral. They have determined that the rights are there and that our augmentation plan is in place and approved by the Court.

Van--Asked about the letter that was written about the road. Was that cleared up?

Tom Maroney--Yes sir. Stated that at the beginning of the process the property owner to the southwest (who is not from around here), they thought that they owned the road. Unfortunately, we had to get council involved and let them know that this is a 60' easement for ingress and egress. Stated he sent Jenn an email from the neighbors, 2-3 weeks ago, that stated that they were mistaken and we're all

good. It was just something that we had to deal with.

Van--That answers my question.

Duane motioned to recommend APPROVAL of Swift Creek Rezone (RZ-21-0005) subject to the three (3) conditions of approval in staff's letter. Danny seconded the motion.

Yes - All

No - None

Motion passed 6-0.

12. ANNOUNCEMENTS: None

13. ADJOURNMENT (NO LATER THAN 11:00 PM PER RESOLUTION 00-01)

Motion: To Adjourn

Dan made a motion to Adjourn. Peter seconded the motion.

Yes - All

No - None

The meeting Adjourned at 8:23 p.m.