

Planning Commission Meeting Minutes
July 24, 2019

Planning Commission Members in Attendance: Angela Mackey, Kim Shay, Tate Locke, Steve Shea, Steve Schrock, Layne Brones, Lucinda Stanley, Tom Kay, Eli Wolcott

Absent Members: Jacob Gray, Dick Gilmore

Planning Staff in Attendance: Community & Economic Development Director, Elyse Casselberry; Current Planning Manager, Kelly Yeager; Administrative Assistant, Vivian Archuleta.

Chairman Mackey opened the meeting at 5:30 with introductions.

Item #1: Approve Previous Meeting Minutes for June 12, 2019 & June 26, 2019

Motion: Kim Shay moves to approve minutes as presented

Second: Tate Locke

Unanimous Ayes

Minutes Approved

Item #2 SUB19-019 Martin Brodel Residence Subdivision

Property Owner: Frank H. Brodel Revocable Trust

Applicant: Frankeita Davis, TR

Mr. Yeager read the proposal:

The purpose of the two (2) lot subdivision is to divide off a 1.05 acre lot for Martin Brodel's single family dwelling and known as Lot 2. Martin Brodel residence has all utilities installed and accesses directly onto Highway 133. The domestic water is supplied by a domestic tap from Farmer Frank's Spring #2. The Frank H. Brodel Revocable Trust will assign ½ share of Sheppard & Wilmot Ditch Co. irrigation water to Lot 2. Lot 1 is the remaining acreage of 23.070 acres containing 2 large buildings which were used by Farmer Frank's stores. Lot 1 has an existing single family dwelling with all utilities and access onto Highway 133. The two accesses for Lot 1 and the single access for Lot 2 from Highway 133 have been approved by CDOT. Dan Roussin, Permit Unit Manager, sent an email which is attached. The property has three access points on the highway. The State Highway Access Code only allows one access for this property. However, this isn't practical. We would support Lot 2 having its own access until Lot 2 can share the access with their neighbor. We would recommend the plat provide an easement to the neighbor for future sharing of the access. Lot 1 has two access points on the highway. With this subdivision, CDOT is ok with the two existing access points on SH133. If Lot 1 ever redevelops in accordance with the Code, or CDOT reconstructs the highway; then Lot 1 will need to close both access points and place a new access across from Delta County Road M 35 Road. The Applicants have complied by applying for access permits for both Lot 1 and Lot 2 to document this agreement and help future people understand the issues. The Density Standard for this subdivision is waived pursuant to Resolution 2019-R-11. Staff finds that the Sketch Plan for SUB 19-019 Martin's Residence Subdivision is feasible and recommends the concept of the feasibility of the application be approved by BoCC with the directions given for Final Plat or Preliminary Plat with the findings, conditions /issues as presented and those elements of the attached check list.

Conditions or Issues to be addressed:

- Fire Mitigation Fee is \$500/lot for a total of \$1,000.
- Comply with CDOT's requirements for acquiring the access permits for Lots 1 and 2 to document the access agreement.
- The domestic water supplied to Lots 1 and 2 from Farmer Frank Spring #2, which is a private water system. No information was submitted as to the quality or quantity of water supplied by this spring. Please submit data regarding the water quality to the Health Dept. for review. Samples must be obtained from the water system by a

water system consultant, or by a technician from the Health Dept. At this point we will require a "short" list of parameters for testing. We will review the sample results and compare them with the standards set in the Colorado Primary Drinking Water Regulations. We will also conduct a sanitary survey of the site to determine if further testing is required.

Questions to Planning Staff from Planning Commission Members:

Q: Do you have any idea what the plans are for the highway?

A: No

Q: So you are aware of the discussion with the Highway Department for acceleration/deceleration lanes?

A: Yes, Dan Rousin is the contact for CDOT & they can't afford to put in a new access. There was also the Martin situation & he lives there, so if the neighbor to the west decides to do a subdivision, they would have a shared access.

Q: Is there an irrigation Plan? & how will they be getting the water?

A: A Final Plat will require an irrigation plan.

Q: What about future ideas for the property?

A: They have it listed for sale & has turned down 3 offers.

Q: Is it reasonable to assume that Fire Mountain canal feeds their spring?

A: David Mitchell – I live nearby & know it's a good reliable spring

Q: These are domestic systems with more than one use being fed by springs?

A: David Mitchell - Yes

Q: Is it a company that they are on?

A: David Mitchell - No, it's the Brodel's springs & its supplying 4 houses on that property

Q: Does Lot 2 have it's own access?

A: No, CDOT wants to put an easement to the neighboring lot for a shared access

Q: There will be an easement on the Final Plat?

A: Yes

Q: Water clarification on Lot 2, there used to be 3 buildings, they tore one down, are they part of the spring or do they have separate taps?

A: There is a Personal Representative's Deed of Distribution. Farmer Frank's spring #2, decreed for .03 c.f.s. for domestic use in case 79CW225; Water Court Division Four. The Midway Spring Pipeline, decreed for .05 c.f.s. for Domestic use in Case 79CW20. Both springs are located in Section 16, Township 12 South, Range 92 West, 6th P.M.

Q: So they were used commercially, not as domestic?

A: Yes, but it doesn't really say that anywhere.

Back then maybe they didn't differentiate, but now we do.

It has been stated that they test the quality & quantity & dependability.

Q: How many of these structures have part of this spring? & are they part of a spring plan, domestic water use plan?

A: I'm not sure

Q: We need to clarify where the water goes

A: k, we'll do that.

Q: Was this going from a 99 year lease to ownership? That's the whole purpose behind this?

Q: Yes, the 1.5 acre lot is going to Martin. It's part of an Estate & they did it on a 99 year lease for access for CDOT, so they didn't have to create a new access. So because of the agreement with CDOT they are able to split the property & not make Martin close his access. So from Martin's point of view he's set.

Proponents: none

Opponents: none

Final Comments from the Applicant: none

Final Questions from the Planning Commission to the Applicant/Planning Staff: none

Deliberations of the Planning Commission:

Shall we make a condition of approval, to clarify the water distribution for each building – A domestic water plan for a disbarment & management of the domestic water for the future owner

Motion: Lucinda Stanley moves to recommend approval of SUB19-019 with the conditions of approval as outlined by County staff in the Staff Report dated July 17, 2019. The concept of the sketch plan appears feasible, & with the conditions of approval appears it can comply with the subdivision standards outlined in Article II, Section 2.7 of the subdivision regulations. In addition to the conditions of approval outlined in the Staff Report, the applicant shall provide a domestic water plan for disbursement & management on Lots 1 & 2.

Second: Steve Schrock seconds the motion

Tom Kay votes nay

Angela Mackey, Kim Shay, Tate Locke, Steve Shea, Steve Schrock, Layne Brones, Lucinda Stanley - 7 vote aye

Motion Carries

To BoCC: August 6, 2019 @ 10:00 a.m.

Item #3 **SUB19-022 Valley Homestead Subdivision**
Property Owner: **Kevin & Jackie Parks**
Representative: **Dave Mitchell**

Mr. Yeager read the proposal:

The Applicants are proposing a 2 lot subdivision to create a lot for their daughter to build a single family residence. The total acreage of the parcel is 15.59 acres. Lot 1 will be 12.1 acres with a 47' x 79' single family dwelling, all utilities and access from 3700 Road. Lot 1 is residential and agriculture with 2 animal shelters and an existing barn and equipment shed. Lot 2 will be 2.6 acres in size with a single family dwelling going to be constructed with all utilities installed. A 30 foot deeded access and utility easement will provide access to Lot 2. The Density Standard for this subdivision is waived pursuant to Resolution 2019-R-11. Domestic water – Lot 1 – Domestic Pipeline Company tap, Lot 2 shall obtain a water tap from an existing well, Permit #266478. Irrigation plan- -Owner has a total of 2.6 shares of Sheppart-Wilmot Ditch and will convey ½ share to Lot 2 and retain ownership of 2.0 shares – Irrigation Plan required for final plat. Septics – Lot 1 has existing on site waste water facility Permit # 158-96 and Lot 2 will apply for and receive a permit to construct an onsite waste water treatment system with construction of the single family dwelling. Staff finds that the Sketch Plan for SUB19-022 Valley Homestead Subdivision is feasible and recommends the concept of the feasibility of the application be approved by BoCC with the directions given for Final Plat with the findings, conditions /issues as presented and those elements of the attached check list.

Conditions or Issues to be addressed:

- Fire Mitigation Fee is \$500/lot for a total of \$1,000.
- The domestic water supplied to Lots 1 and 2 is from the Domestic Pipeline, which is a private water system and a private well. No information was submitted as to the quality or quantity of water supplied by these systems. Please submit data regarding the water quality from the well and the Domestic Pipeline so the Health Department

for review. Samples must be obtained from the water system by a water system consultant, or by a technician from the Health Department. The information submitted to this office must contain a copy of the State Well Permit and the State Well Drillers Report.

At this point we will require a "short list" of parameters for testing. We will review the sample results and compare them with the standards set in the Colorado Primary Drinking Water Regulations. We will also conduct a sanitary survey of the site to determine if further testing is required. The parameters tested must include those required by the Colorado Primary Drinking Water Regulations. We would discourage a shared well between lots as suggested in the application. If a shared well is provided, then a covenant or plat note designating responsibility for maintenance and repair of the water system is required.

Comments from the Representative: Dave Mitchell – Representative

The 2.6 acres is going to be enlarged in order to accommodate what Ralph suggested for deeding the driveway. So it's going to be 30 feet from 3700 Rd into the lot there, so it'll be a little larger than the 2.6. The well is producing 10 gallons per minute & is on a property that is currently owned by his (Parks) sisters. The water is split between the owner & his sisters & they will distribute between the 3 lots. There will be a divider box. They have created a LLC called PPR domestic water & has been in existence for about 5-6 years & is in good standing with the state of Colorado, having bylaws & water sharing agreement. The well is about 500 feet from this property, so there will be a water line that will be run from the well to the property that is shown on the plat map with an easement. It comes across an adjacent property owner has already given permission. There will be an irrigation sharing agreement. The owner's daughter will be living on the new lot & a divider box will be installed at a later date when his daughter no longer lives there. There is .6 acres that is irrigated there, the rest of the property is just sage but it could be irrigated because Shepard Wilmont is a really good ditch. That's enough water to irrigate with. I have 2 shares & I irrigate 20 acres with it & he's got 2.5 shares, giving the new lot .5 shares to irrigate lot 1.

Questions to Applicant/Representative/Staff:

Q: What is that? – points to adjacent neighbor

A: it's Phil's Auto Parts - we've put up a fence to not see all of that. He's a good neighbor

Q: I was wondering about the 10 gallons per minute?

A: That equals 400,000 gallons a month & it tested & will require a softener.

Q: Phil's auto, is that car sales?

A: Yes

Q: The section of road being deeded to Delta County is stated but the width of the section is unclear, is that being resolved?

A: We can only resolve half of it because the other half belongs to somebody else.

Q: Why is lot 2 shaped that way?

A: It's the old oxbow of the river.

Q: Do you graze lot 1?

A: Yes & Hay on both lots

Q: Do you have plans on separating Lot 1 from Lot 2?

A: Well that's what we are doing

Q: Are you going to fence it?

A: No, we use portable electric when they bring the cattle in.

Proponents: none

Opponents: none

Final Comments from the Representative:

Final Questions from the Planning Commission to the Applicant/Planning Staff:

Deliberations of the Planning Commission:

I'd like to see the well usage described for future owners.

The well would be transferred as a 1/3 interest with PPR Company & there are bylaws that are recorded with the state as well as the water sharing agreement

Motion: Tom Kay moves to recommend approval of SUB19-022 with the conditions of approval as outlined by County staff in the Staff Report. The concept of the sketch plan appears feasible, & with the conditions of approval appears it can comply with the subdivision standards outlined in Article II, Section 2.7 of the subdivision regulations. In addition to the conditions of approval outlined in the Staff Report, the applicant shall legally describe the well usage on the deed in order to demonstrate compliance with our Subdivision Standards in 2.7.

Second: Lucinda Stanley seconds the motion

Unanimous Ayes

Motion carries

To BoCC: August 6, 2019 @ 10:00 a.m.

Item #4	SUB19-005 Canyon Trail Sub, A ReSub of Lot 2 of River Length Subdivision SUB17-009Property
Owner:	SJS Property, LLC
Representative:	Seth Schwartz

Mr. Yeager read the proposal:

Canyon Trail Subdivision is the Re-Sub of Lot 2 River Length Subdivision SUB17-009. The intent of the subdivision is to further divided Lot 2 River Length, a 18.054 acre lot, into 2 lots. The use of the lots will remain the same, Agricultural and residential. Lot 1 will be 14.1 acres which includes irrigated agriculture/residential, commercial growing operation, shop, fruit cooler and possibly a small house in the future. Lot 2 will be 3.9 acres of residential and agriculture. A new bridge is going to be constructed to cross Stewart Mesa Ditch to provide access to Lot 2.

The newly created Lot 2 will have a share in the existing well (permit #302891). This permit currently allows for 3 single family dwellings. The Stewart Mesa Ditch runs parallel to the new & existing parcels. The existing lot owns 35.4 shares of the Stewart Mesa ditch company. The new 3.9 acre parcel will be deeded 4 of the 35.4 shares in the Stewart Mesa Ditch Company. A plan for irrigation will be submitted with the final plat. The Density Standard for this subdivision is waived pursuant to Resolution 2019-R-11. Staff finds that the Sketch Plan for SUB19-005 is feasible and recommends the concept of the feasibility of the application be approved by BoCC with the directions given for Final Plat with the findings, conditions /issues as presented and those elements of the attached check list.

Conditions or Issues to be addressed:

- Fire Mitigation Fee is \$500/lot for a total of \$1,000
- When the subdivision was reviewed by the Health Department staff was unable to locate permits for the existing onsite wastewater treatment systems located on this property. Onsite wastewater treatment system/s are required for the agricultural operations in the large shop. The port-a-potties may only be used for temporary field workers. There for, onsite waste water treatment system will be required for the large shop.
- Most of this development is not located in a floodplain as mapped on panel #0829C0314D of the National Floods Insurance Program, FEMA maps dated August

19, 2010. The developed area is in ZONE X. The location of the 100-year floodplain elevation (base flood elevation) shall be drawn on the final plat. Any construction development within the A2 Zone will require a Delta County floodplain Permit which must be obtained from the Delta county Health Dept.

- The domestic water supplied to these parcels is from a private well. No information was submitted as to the quality of water supplied by this well. Please submit data regarding the water quality to the Health Department for review. Samples must be obtained from the water system by a water system consultant, or by a technician from the Health Department. The information submitted to the Health Department must contain a copy of the State Well Permit and the State Well Drillers Report.
- A comment received from Luke Reschke, Lead North Fork Water Commissioner – District 40 is attached and states, “There is a problem with using a well that was originally permitted for use on a parcel over 35 acres, but is now proposed to be used on a parcel of less than 35 acres. It is the recommendation of the State Engineer that the county require that, as a condition of approving the land division, the existing well owner re-permit the well consistent with the current law as it applies to the newly created parcel on which the well is located.
- Long story short, the applicants are going to need a new well permit for the well, which will require an augmentation plan.
- The Applicants submitted a comment which is attached regarding Luke Reschke comment. Current and proposed use of existing well (permit 302891) Our property located at 16540 Grange Road currently has an existing well permitted for three (3) single family dwellings, the watering of poultry, domestic animals and livestock on a farm or ranch, and the irrigation of not more than one (1) acre of home gardens and lawns.
- We will complete a well augmentation plan to change the permit to allow for at least three (3) single family dwellings and at least one commercial growing operation. Each parcel of the new subdivision will receive the right, through a shared well agreement, to have at least one single family dwelling on that subdivided parcel. We have very good senior irrigation water rights, and we are working with an experienced water consultant for the augmentation process, so we are very confident that there will not be any problems with completing the augmentation process.
- The new bridge over the Stewart Ditch to access Lot 2 shall be constructed and approved by the District #3 Road and Bridge Foreman prior to final plat approval.
- The items stated in the Conditions or Issues to be addressed have to be completed prior to final plat approval.

Questions to applicant & Planning Staff:

Q: Can you just go back & apply for a septic tank anywhere?

A: No, it has to be engineered & it's for the shop.

Q: Will it be separate from the house?

A: It depends on how it's all laid out. There is currently no house on the property. If Ken requires a septic, we'll add one.

Q: How big is the building?

A: 4,000 square feet, but it's just an apple cooler, now storing hemp.

Q: Is the water table high there?

A: We had to put in a new septic & the perk test worked well with no issues only 50-100 feet away.

Q: Was the railroad mitigated ok?

A: Yes

Q: Is the Health Department requiring a septic for the shop?

A: He didn't say exactly, we're willing to put a septic if they say, but we will if we put up a house.

Q: Why does this look familiar?

A: It was approved to subdivided in 2017
Q: What about the building encroaching on the lot line?
A: It's a half built home clearly on the line. Nobody owns it. It's vacant.
Q: Who built the building?
A: Unsure, It's literally 50/50 on the line.
Q: Is it a home or a barn?
A: It's nothing, it's a half built structure that was never finished.
Q: Can you tear it down?
A: It can be torn down. I would have no problem legally tearing it down & deal with the ramifications, do I want to, no, not right now. But I don't think that we have a legal standing & vice versa because it is so clearly not either one of ours. The other owners do not live there, they don't live in Colorado. We'd be willing to state it in the deed that there is an encroachment.
Q: Does your sketch plan show the correct ownership?
A: It probably shows what's on the County website
Q: So can we put it on as a condition of approval?
A: I would strongly argue against it. We've tried for years to get ahold of the other property owners. We can state it on the deed in whatever language you all would like to see there.
Q: Do you have an agreement with Stewart Ditch to rebuild the bridge over it?
A: No, there is an existing bridge that we are improving
Q: Do you have an agreement with Stewart Ditch to rebuild it?
A: We'll get it figured out by Final Plat
Q: Is this split for residential use or commercial use?
A: Residential Ag
Q: If you're splitting some of the shares for Stewart ditch water, how are you delivering it?
A: We have 3 take outs of Stewart Ditch of that original 39 acres, so there are a lot of ways. There is a take out that borders both of these parcels.
Q: Do you have plans to subdivide this area into smaller lots?
A: No

Proponents: none

Opponents: none

Final Comments from the Applicant:

Final Questions from the Planning Commission to the Applicant/Planning Staff:

Deliberations of the Planning Commission:

Motion: Lucinda Stanley moves to recommend approval of SUB19-005 with the conditions of approval as outlined by County staff in the Staff Report dated July 17, 2019. The concept of the sketch plan appears feasible, & with the conditions of approval appears it can comply with the subdivision standards outlined in Article II, Section 2.7 of the subdivision regulations. In addition to the conditions of approval outlined in the Staff Report, the Staff shall, prior to County approval recommend consulting with the County Attorney regarding possibilities to resolve the encroachment issues.

Amendment to the motion: I move that the Planning Commission recommend approval of SUB19-005 with the conditions of approval as outlined by County staff in the Staff Report dated July 17, 2019. The concept of the sketch plan appears feasible, & with the conditions of approval appears it can comply with the subdivision standards outlined in Article II, Section 2.7 of the subdivision regulations. In addition to the conditions of approval outlined in the Staff Report, the Staff will consult with the County Attorney regarding the encroachment issues on the boundaries.

Second: Tate Locke seconds the motion

Mr. Schrock requested a roll vote:

Lucinda Stanley – Aye Layne Brones – Aye Steve Shea – Aye Kim Shay – Aye

Angela Mackey – Aye Tate Locke – Aye

Steve Schrock – Aye, but it's troublesome, I think we need to be sensitive with what we're trying to deal with here, how the approval of this can affect other subdivisions that come before us.

Tom Kay – Aye – I would like to see the encroachment & ownership of the other property resolved before Final Plat, if that is part of the conditions that staff is recommending then I'll vote for it.

Eli Wolcott – Aye - I think that intension of cleaning things up and avoiding issues like this is great. It looks like this application has met all of the requirements in the regulations.

Unanimous Ayes

Motion Carries

To BoCC: August 6, 2019 @ 10:00 a.m.

The Planning Commission had a discussion regarding potential amendments to the specific development regulations to remove oil and gas from specific development. The planning commission had differing opinions on this proposed amendment, but agreed that ensuring community input moving forward was important.

Meeting adjourned at: approximately 9:50 pm

Respectfully submitted by:

Vivian Archuleta