

Planning Commission Meeting Minutes
September 25, 2019

Planning Commission Members in Attendance: Angela Mackey, Kim Shay, Tate Locke, Steve Schrock, Tom Kay, Jacob Gray, Dick Gilmore
Absent Members: Steve Shea, Layne Brones, Eli Wolcott
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 September 11, 2019

Changed the vote on the Motion from 6-2 to 5-2 – Eli Wolcott chose to abstain from voting
Will add names next to the roll call votes

Motion: Tom Kay moves to approve minutes as presented
Second: Kim Shay seconds
Minutes Approved

Item #2: Subdivision Name: SUB19-027 ReSub Lot 1 of Brewer MS03-040
Land Owner: Robert & LeeAnn Brewer & Christopher & Linda Fischer
Representative: Austin Keiser

Ms. Casselberry read the proposal:

Linda Rea and Christopher Chance Fischer are the current owners of the 28.01 acre parcel known as Lot 1 Brewer Minor Subdivision. Their plan is to create a 1.86 acre Lot in the south east corner of Lot 1 shown as Lot 4 on the sketch plan for the prior owners. Lot 4 will have a single family dwelling and shop constructed. Lot 4 will have an Orchard City Domestic Water Tap and all utilities installed. Lot 4 will not have any irrigation water. Lot 4 will use the 30' wide access and utility easement for access. Lot 1 has 26.15 acres with the existing single family dwelling, shop, sheds, and all utilities (DMEA, Orchard City Domestic Water Tap, Onsite Waste Water Treatment System, Access to T Road on a 30' wide road and utility easement through Lot 4. Lot 1 has approximately 20 acres of hayfield and there will be no change in use. Lot 1 will retain all irrigation which includes (1) 1 share of Childs Ditch and two (2) shares of Surface Creek Ditch & Reservoir and two wells. Well Permit # 246953 was issued a permit to drill in 2003 and expired in 2005. The use of the well was limited to monitoring water levels and/or water quality sampling. The well was never drilled. The new owners of Lot 1 submitted an application with the Division of Water Resources to acquire the well and their request was denied. Well Permit #246592 was drilled and permitted in 2003 and the use of ground water from this well is limited to fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than one (1) acre of home garden and lawns, and the watering of domestic animals.

Questions from the Planning Commission:

Q: I don't remember seeing a house here

A: They built it because they needed a place to live.

Q: So since the survey, they put a house on it?

A: That is correct.

Q: With a sewer?

A: A septic has been put in & they are currently residing in the house.

Q: So this is part asking for forgiveness?

A: If that's the way you want to say it.

Q: And the septic system has been approved?
A: Yes it has
Q: What we have is a sketch plan that is not accurate, is that correct?
A: There is nothing in our regulations that prevents someone from building a second home on their property & if the Health Department approved their septic system then it's fine. The sketch plan is about creating 2 lots. It's not about the use of those lots.
Q: But when a sketch plan comes in without an improvement that's now there, isn't that a problem?
A: No. I don't think that is a problem with our Subdivision Regulations at all. They do not address that, only to maybe prohibit any further development. I would suggest a condition of approval to have it updated before the BoCC meeting.
Q: Are you the surveyor?
A: No, I'm the Real Estate Broker
Q: Would you explain the Gunnison Energy Easement?
A: It's far from the division of property line. The Child's ditch went through there. Many years ago they put a shallow well in. In 2002 the well went dry & in 2018 the well went dry. Then Gunnison Energy came & drilled a well out there. The well is not attached to any domestic use they irrigate about 2 acres with it with a drip system.
Q: They own the water rights?
A: They've been sold to the Fischers
Q: Gunnison Energy has use of that water under a private treaty?
A: They were testing it for gas. I don't know how deep the well is. They periodically go in to do testing. But they keep it as an irrigation well.
Q: Domestic water is through water taps?
A: Orchard City water
Q: Since Gunnison Energy is testing the well, can we exempt that well from household use for the subdivision?
A: I'd have to talk to the Fischers
Q: We don't like shared wells & I would like to include that it not be available for household use.
A: I can't imagine it would be they have an Orchard city water tap.
Q: Is the septic system shared?
A: No, they just installed a brand new one for the second home.
Q: What about the letter from Ken Nordstrom saying there was one?
A: They had one out there that was not permitted, it's an old handmade tank, which has since been removed, but then there is another one for the original house that may have been shared with the migrant housing, which is no longer there.
Q: When was this originally subdivided?
A: 2003
Q: The new lot has a tap from Orchard City?
A: Correct
Q: And somebody has built a house there, is that what you're saying?
A: Yes
Q: Are there no easements for that water line?
A: They don't need an easement, it come right off the main line.
Q: So I think there should be an access easement that I think Planning should ask for, is that right?
A: It is in the conditions of approval
Q: Are you asking for an easement or an agreement?
A: An easement
Q: Is there an easement through the property?
A: No, it doesn't need one.
Q: Can you give an easement that is not on your property?
A: No
Q: Is there junk that has been moved?
A: The owner used to be in the construction business. He had a large amount of construction equipment & agriculture equipment. Underneath the main house, there was a huge cooler, the

size of the house & that's where they kept the fruit. It was full of tools & he emptied it out to let the new owners put their stuff there in the meantime. It might look a little unsightly.

Q: Don't we have a junk ordinance?

A: Not for subdividing. The junk ordinance is stand-alone & managed by the County Attorney's office through a complaint. It clearly exempts agricultural equipment from the definition of junk. For vehicles, it states that if the vehicle can be operable within 90 days it is not junk.

Q: Don't we have the ability under this ordinance to take a look at things?

A: There are no junk requirements in the Subdivision Code. If the neighbor wants to file a complaint they can do so through our office & it goes straight to the Attorney's office. Nothing in our Subdivision regulations do not address slightly-ness or junk or any other Land Use. Those are zoning items.

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: Kim Shay moves to recommend approval of SUB19-027 ReSub of Lot 1 of the Brewers MS03-040 with the conditions of approval as outlined by County Staff Report dated September 18, 2019. The concept of the sketch plan appears feasible with the conditions of approval to comply with 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 update sketch plan with an ILC, all known easements be shown on the plat, as well as proposed easements & the well will be exempt from household use.

Second: Tom Kay Seconds the motion

Unanimous Ayes – Motion Carries

To BoCC: October 15, 2019 @ 11:00 a.m.

Item #2 Planning Commission By-Laws & Decorum

Elyse handed out a copy of the current By-Laws recognizing a red line to reflect the changes that they've made. She also handed out a copy of the Douglas County By-Laws & brought attention to where they articulate a step by step for each step of the meeting process. She hopes this will help with the motion making process.

I feel like the public should have a chance to have their say & feel like they were heard & listened to.

3 minute limit of public comment explained

We need to be more respectful to our community

I would just like to be heard if I were waiting in the crowd

It needs to be balanced & consistent

We need to manage it, not avoid, criticize it & it creates a better atmosphere. Sometimes you would like to hear them sooner. We don't want to sidetrack our work sessions. We can add bylaws to how we are going to handle the meeting. We can clarify who is managing the conversation.

We can talk about maybe hearing the public first to provide the community to engage with us.

Groups can have their time seceded to the speaker of the group.

Set up boundaries for Work Sessions

In these meetings we learn more about the applications in front of us – from the applicant & from the public – that we didn't know before the meeting, that's why have this process.

If any concerns are raised on an application – Be ready to point at the Subdivision OR Specific Development Standards & show where it says it needs to be addressed & make a condition of approval. Sometimes Subdivision & Specific Development standards get mixed up/ confused with one another.

Commissioner Meeting Oct 2 @ 1:00 1st preliminary Draft for the zoning component -
Concept plan – to actual document
Community Meetings 30-60% - Draft for the public October 15 & Monday 21st TBD
Joint Work Session – Focusing on Sub Division issues – Fire impact Fees, Irrigation Easements,
Road Impact Fees – Oct 7th 5-6:30 – TBD

Meeting adjourned at: 7:40 pm

Respectfully submitted by:
Vivian Archuleta