

Planning Commission Meeting Minutes
January 22, 2020

Planning Commission Members in Attendance: Kim Shay, Steve Shea, Steve Schrock, Layne Brones, Tom Kay, Dick Gilmore, Brett Hilling, Eli Wolcott

Absent Members: Tate Locke & Jacob Gray

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

Vice Chair Shay opened the meeting at 5:30 with introductions.

Item #1: Approve Previous Meeting Minutes for December 18, 2019

Motion: Layne Brones moves to approve minutes as presented

Second: Steve Shea

Minutes Approved

Item #2: Continuation from 12/18/19 SUB19-032 Hangs Subdivision

Land Owner: Donald J. Hangs Living Trust

Discussion/overview of Irrigation Agreement

Mr. Yeager read a brief overview of the agreement

Sheila Grettner read what was agreed upon with the neighbors

Open Public Comment:

Proponents: n/a

Opponents: n/a

Questions from Planning Commission Members:

Q: Has UVWUA accepted this agreement?

A: Yes

Q: The surveyor was asked to go over the easements for the irrigation water

A: The surveyor, Randy Wilmore explained the easements

Q: Will this be incorporated into the Final Plat?

A: Yes

Q: Is Mr. Gilmore on this agreement?

A: No, he doesn't share the water

Q: Everyone is in agreement?

A: We're very close to getting there. I can't speak for the neighbors, I haven't had the opportunity to visit with the neighbors. They are here this evening.

Q: Wasn't there drainage water that needed to be addressed?

A: Yes, they will be piping it.

Q: Kelly, will you have this all outlined before Final?

A: Yes

Q: Will the HOA be registered with the State?

A: No, It's not required. It will be recorded with the County for the Title work.

Public Comment:

Ron Shreeves – When Jose gets the water, he can turn it on & off. The subdivision will have their own agreement separate than me & Jose's agreement.

Ron Haining – My issue was the access to the head gate on my property. Kelly said he will be adding that it is foot traffic only.

Jose Salcedo – They (the county) is going to check the culvert to make sure what the size is. The culvert that goes under G Road.

Public Comment Closed

Deliberations of the Planning Commission:

Motion: Tom Kay moves to recommend approval of SUB19-032 Hangs Subdivision with staff recommendations & with the conditions that the irrigation agreement is signed prior to presenting it to the BoCC

**Second: Steve Schrock seconds
Unanimous Ayes**

To BoCC: February 5, 2020 @ 10:00 a.m.

**Item #3: SUB19-037 Bowman Subdivision A Re-Sub of Lot 2 of the Buttrum Minor Subdivision MS01-055
Property Owners: Jay Dee Trust- Janae Young Trustee
Representative: Kenny Schaaf – ITC Resources**

Mr. Yeager read the proposal:

Due to Mr. Bowman's declining health issues and has since past away, his family is currently doing his estate planning. There are two (2) existing single family dwellings on Lot 2 of the Re-Subdivision of Lots 1 and 2 Bertram Minor Subdivision. Both single family dwellings have their own utilities, Tri-County Water Taps, DMEA, onsite waste water treatment systems, and each single family dwelling has an access to 1900 Road.

The Re-Subdivision of Lot 1 and 2 Bertram Minor Subdivision MS98-032 and MS01-055 created in December 2001 had two lots. Lot 1 was 17.21 acres in size and Lot 2 was created which had 2.48 acres with 2 single family dwellings located on Lot #2. The Applicants vision is to subdivide Lot 2 into 2 new lots to settle the estate. The physical location of the two existing homes and out buildings would leave one of the new lots to be approximately 0.81 acres in size. The Density Standard was calculated at .18. Therefore Lot 1 would be 1.67 acres and Lot 2 would be .81 acres. A Variance Application was filed and reviewed and acted on by the Board of County Commissioners. Mr. Bowman purchased the 2.48 acre lot with 2 existing single family dwellings. Kenny Schaaf representing the Applicants explained the easements on the plat. He stated the features are not compatible with the regulations today. He stated they put the sketch plan together with the irrigation easements. He explained that some of the irrigation easements are not in use but it doesn't change the fact that they are of record and they cannot get rid of them. Kenny stated that the biggest issue is the septic by shrinking it down they can maintain 25 feet but on everything but where the shop is located. He said that through discussion and visiting the property it was determined that if they give them a 10' foot easement so they can service the shop which is the reason they need the variance on the setback for just the shop. Kenny stated that everything else they would be able to maintain. Kenny said this is the only way they can separate this for the estate is by coming up with the septic and the 10 foot easement/setback at the shop, everything else they can get 25 feet. Kenny said the encroachments are flowers beds are removable. Kenny state that if there is a failure it would have to go back with an engineered system which will work within the footprint. It was noted that on the aerial there is a setback and some distance if there is the need for a new leachfield. A Variance of the minimum lot size requirement of an onsite waste water treatment system, setbacks, easements and density of a

two lot subdivision with the density calculate at .18. Lot 1 would consist of 1.67 acres with an existing single family dwelling and Lot 2 would consist of .81 acres with an existing single family dwelling. Commissioner Lane made a motion that the Board grant the variance request for the Bowman Jay Dee Trust, Janae Young and Representative Kenny Schaaf due to unusual circumstance with the two homes existing to clean up the estate there is not an alternative. Vice-Chairman Roeber stepped down and seconded the motion. Vice Chairman Roeber noted that the second lot is close to one acre. Motion carried by a vote of 2 to 0. Commissioner Suppes was absent. There is UUVUA Irrigation Water delivered by UUVUA to the two lots,. UUVUA requires the proposed subdivision to remain in the Tuck HOA Irrigation Association that provides for the collection and payment of UUVUA assessments. UUVUA recommends the use of UUVUA water for all irrigation purposes. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-37 Bowman 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. Irrigation plan submitted with the final plat.

Presentation by the applicant/representative: n/a

Questions from Planning Commission Members:

Q: Would you explain the 10 foot easement for septic

A: Both of them have existing septic systems but the key was to try & come up with enough room so that in the future, if they ever need to replace their septic system, there is enough room for an engineered system. The 10 foot easement is because of where the shop is on Lot 1, we couldn't make 25 foot for the setback from the lot line. So we requested a variance for a 10 foot easement setback between the shop & the lot line.

Q: So now it's a shared easement?

A: Yes, instead of a 25 foot setback

Q: The applicant is subdividing to satisfy the estate?

A: Prior to Mr. Bowman's death had wanted to subdivide it because of the 2 houses & 4 siblings. It's very rare to be able to sell this sort of property. None of the siblings live here.

Q: Was it Mr. Bowman that built the 2 houses?

A: No, he bought it that way. According to the family, he had health issues

Q: Do the neighbors know that they need to move the gazebo?

A: Yes, it's a movable item.

Q: Whose is it?

A: The neighbor's

Q: Are there any shares of water being allocated?

A: Yes, but they are not using them

Q: Are you creating an agreement?

A: Yes

Q: I'd like to see a deed restriction about replacing the septic that it needs to be an engineered system

Open Public Comment:

Dave Gilliam – I live on the west side of 1900 & we moved here from Denver to get away from folks building a mother in law home in their backyards.

Public Comment Closed

Deliberations of the Planning Commission:

Deed restriction on engineered septic system

Dealing with irrigation water

Motion: Tom Kay moves to recommend approval of SUB19-037 Bowman Subdivision with the condition of a deed restriction notification to new owners about an engineered septic system, notification to the current neighbors that their structure is on the lot line & needs to be moved & irrigation water agreement.

Second: Dick Gilmore seconds

7 ayes

1 nay – Steve Schrock

To BoCC: February 5, 2020 @ 10:00 a.m.

**Item #4: SUB19-039 Ponderosa Subdivision
Property Owners: Wesley J. & Wendy K. Fisher**

Mr. Yeager read the proposal:

A Variance request as a result of the density determination of 1.41 lots to subdivide the 19.45 acre property into three (3) lots. Granted the Fisher's appreciate the ability to create 2 lots by the waiver but need an additional lot. Wendy lost her right eye to cancer and has seizures and cannot work anymore. The additional lot will help with medical expenses.

The Board of County Commissioners reviewed and acted on the Variance request on the 16th day of April, 2019. Commissioner Lane made a motion that the Board grant the Variance request from the density Variance request from Wesley J. and Wendy Fisher. Vice Chairman Roeber stepped down and seconded the motion. Motion carried by a vote of 2 to 0. Commissioner Suppes was absent. Three Lots are being proposed with approval of the Variance. Lot 1 will have 9.795 acres, with an existing single family dwelling, onsite waste water treatment system, an Upper Surface Creek Domestic Water Tap, and access from T-50 Road. Lot 2 will have 4.01 acres and Lot 3 will have 4.093 acres. Both lots will be served with an Upper Surface Creek Domestic Water Tap, DMEA, a shared "Hammer Head Turnaround serving both Lot 2 and 3 with access from 2375 Road. No division of irrigation water is planned. Lot 1 will retain 1/12 interest in Paradise Ditch, Priority H. 26. Lookout Pipeline labeled as the irrigation pipe easement appears to be correctly located on the sketch plan. The pipe was installed in 1977. So there isn't any marker tape to aid in exact location. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-039 Ponderosa 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: Lookout Pipeline – The owner of the Lookout Pipeline concern is where the common access crosses the pipe. The pipe had 30" of cover when installed, but a heavily loaded truck could collapse the pipe. The suggestion of the owner that wherever a drive crosses the pipe: the pipe shall be uncovered and for the width of the crossing, the pipe shall be replaced with new appropriate PVC pipe and encased with metal pipe. No structures shall be allowed on top of the pipeline. In the event of pipeline damage caused by the property owner, the landowner shall repair the pipe as quickly as possible and to the satisfaction of pipeline owners. A "Hammer Head T" maintenance agreement be established and recorded with the final plat on Lots 2 and 3. Fire Mitigation fee is \$500/lot for a total of \$1,500

Presentation by the applicant: n/a

Questions from Planning Commission Members:

Q: Is any of this ground irrigated?

A: We will continue to irrigate the 9.7 acres that we're keeping. There isn't enough water from the Paradise ditch to irrigate it all. We've tried for many years.

Q: You would keep all of the irrigation water?

A: Yes, Lot 2 is not receiving any shares. It will not be irrigated.
Q: So you have enough water to irrigate it now, but you'll keep it for your lot?
A: No, there isn't enough for the entire area. It's pretty much weeds & high desert.
Q: Can you tell me about the well?
A: It was drilled & established years ago & has been used for irrigation. It has a rain bird coming out of it & it helps with the fruit trees & we use it to help with the irrigation.
Q: So the well is not used for domestic?
A: No, mostly just the fruit trees. All of the domestic water is from Upper Surface Creek.
Q: Have you been in contact with the Upper Surface Creek Land
A: No
Q: The underground pipe feeds nothing?
A: No, it's the neighbor's pipeline
Q: On Lot 2, are there any structures?
A: There is a dilapidated structure but I've removed it since.
Q: Whose responsibility is it to replace the pipe if it's damaged?
A: Bob, it's his & he's got an easement to come & go to for irrigation issues.
Q: Are there any encroachments on the property line?
A: That's a fence & we're in agreement with Kevin that that is the lot line.
Q: Why don't you move the lot line?
A: We will have to do that before Final Plat.
Q: Was lot 2 or 3 ever irrigated?
A: The irrigation can run down there but it's very desert, it's very sparse.
Q: Who owns the irrigation line?
A: We do
Q: Are there any other users on the Paradise ditch?
A: There are 46 other users on the Paradise ditch & you have to be on the ditch to have the water right to it.
Q: But they don't charge you?
A: No, it's just your responsibility to take care of it from your head up to the next guy. It's a community kind of thing & it's worked so far.
Q: Is the water company for the Paradise ditch the Department of Water Resources?
A: No. Grand Mesa Bob Morris. We just call down there & the ditch rider goes down & opens up the gate.

Open Public Comment:

Proponents: n/a

Opponents: n/a

Public Comment Closed

Deliberations of the Planning Commission:

Should we require an agreement for the water

Require a Boundary Adjustment to line up with the fence

Motion: Steve Shea moves to recommend approval of SUB19-039 Ponderosa Subdivision with staff recommendations & a Boundary adjustment be done before Final Plat.

(Placed for clarification: Boundary Adjustment is for dealing with the location of the fence around the Kevin Bowen property located in the Northwest corner of the property.)

Second: Layne Brones

Unanimous Ayes

To BoCC: February 5, 2020 @ 10:00 a.m.

Item #5: New Business: Attendance per PC Bylaws

If a member will be absent, notification is to be sent to planning@deltacounty.com

It's important for 2 reasons,

Number 1: When time sheets are turned in it shows that the times are accurately matching with our records of attendance

Number 2: Requirements in the By-Laws stating that after 3 non-notification of attendance you can be removed.

Most importantly, we need to know if somebody will not be attending to be sure of a quorum.

Life happens, but noon on the day of the meeting is the cut off for notice

Meeting adjourned at: 7:37 pm

Respectfully submitted by:
Vivian Archuleta