

CHAFFEE COUNTY PLANNING COMMISSION
MEETING MINUTES
August 31, 2021
*****AMENDED*****

Due to the COVID-19 pandemic, members of the public participated by Zoom.

4:00 p.m. – Work Session

Site Visit – Shaw Ranch Major Subdivision
7380 County Road 221, Salida, CO

Planning Commissioners Present via Zoom: Bill Baker; JoAnne Allen; Marjo Curgus
Planning Commissioners Present in Person: Anderson Horne; Thomas Doumas and Paul Rauschke

Planning Commissioners Absent: Hank Held (Excused) and Devin Castendyk (Excused)

Staff Present via Zoom: Dan Swallow, Development Director; Jon Roorda, Planning Manager; Christie Barton, Planner; Greg Laudenslager, Principal Planner; Gary Greiner, County Engineer; Daniel Tom, Assistant County Attorney and Lynne Drogosz, Planning Secretary

6:04 p.m. – Regular Meeting, Call to Order

Consider minutes of the July 27, 2021 Regular Meeting.

Commissioner Allen made a motion to approve the minutes as written. Commissioner Rauschke seconded the motion. The motion carried 5-0. Commissioner Curgus abstained.

Consider minutes of the August 3, 2021 Regular Meeting. Commissioner Doumas made a motion to approve the minutes as written. Commissioner Allen seconded the motion. The motion carried 5-0 with Commissioner Curgus abstaining.

Name of Project: Ogden Major Subdivision Preliminary Plan-Final Plat

Applicants: Ralph & April Ogden

Location: 12806 County Road 190 E, Salida

Zone: Rural

Request: To subdivide Lot 2 of the Ogden Heritage Water Subdivision Exemption of 20.14 acres into five lots, all approximately 4.0 acres. Wells and on-site wastewater treatment systems will serve the property. Applicants are dedicating a 30' wide private right of way (half road right of way adjacent to an existing access easement on adjoining property) off County Road 190 E. Request to continue to September 7, 2021.

Commissioner Horne made a motion to continue this application to the date certain of September 7, 2021 at the request of the applicant. Commissioner Doumas seconded the motion. The motion carried 6-0.

Name of Project: Shaw Ranch Major Subdivision Preliminary Plan

Applicants: JTS Development, LLC

Location: 7380 County Road 221,

Salida **Zone:** Rural

Request: To subdivide approximately 74.3 acres into eight (8) lots ranging in size from 2.4 acres to 36.6 acres, in three phases. Wells and on-site wastewater treatment systems will serve the property. The property has the 100-year Floodplain associated with Green Creek along County Road 221, and the South Arkansas River along the northern boundary.

There were no conflicts of interest from the Planning Commission members and no members of the public had any issues with any Planning Commission members having a conflict of interest.

Principle Planner Laudenslager presented the July 26, 2021 staff report via Power Point. He pointed out several issues that the applicant's representative will address immediately following his presentation.

Commissioner Baker asked Mr. Laudenslager to identify where the northern boundary of Lot 7 was located to differentiate from Lot 1. Mr. Laudenslager pointed the Lot out on the staff report. Commissioner Curgus asked about Heavenly Way and whether it was a platted driveway. She asked if there was egress on the front side of the property. Mr. Laudenslager stated there was acceptable egress. Commissioner Curgus asked if there was a house on Lot 1. Mr. Laudenslager pointed the home out. Commissioner Curgus asked if there were relevant ditches and there are none per Town of Poncha Springs. Commissioner Allen asked how the commercial facility at the bottom of the hill would affect this application. It was determined that if this facility is used commercially it will need a major impact review. Commissioner Allen asked how that was determined. Mr. Laudenslager stated they could make commercial use a condition of approval.

Commissioner Curgus asked Mr. Laudenslager to identify where additional drainages are located. The applicant's representative, Aaron Cook, reviewed the drainages to Commissioner Curgus' satisfaction. Commissioner Curgus asked about the staff recommendations for limitations on Lots 6 and 7. Mr. Laudenslager stated that was County Engineer Gary Greiner's recommendation. Commissioner Curgus referred to the Geologic Society recommendations and stated that slope analysis will need to be provided.

Commissioner Curgus also asked about the phasing of the development. Mr. Laudenslager stated that the applicant's representative will speak to that.

Commissioner Horne opened public comment. Aaron Cooke of the Crabtree Group was sworn in as the applicant's representative. He shared his screen with the Commissioners. He discussed the 18" culvert and he reviewed the issues relating to Lot 8. Mr. Cooke stated that if the applicant builds on Lot 8 he will have to provide an engineering plan. The applicant has no plan to build on this Lot at this time. He further reviewed the slope analysis map. He will further refine this analysis if Mr. Shaw wishes to build on Lot 8. Commissioner Curgus strongly questioned his reference to making conditions for building permits.

Commissioner Rauschke asked about Lot 8 and Lot 1. A discussion about the value of the conservation easement ensued.

The Mr. Cooke questioned the shortened construction time requested by the CPW and stated that it would affect financing. He asked that they don't set a precedent with this type of requirement. Commissioner Allen asked him to explain this comment. He stated that when a construction loan is taken out from the bank it is higher risk for the bank. He stated that if you only have 5 months of construction it causes the cost of the loan to go up. Commissioner Allen thanked the applicant's representative.

Commissioner Doumas asked what the term "minimal construction" means in the Potential Conditions. Some discussion of what this would mean ensued. Commissioner Horne thought some clarification from the CPW would be appropriate. Mr. Laudenslager stated this isn't a requirement in the Land Use Code (LUC) but it was a recommendation from CPW.

The applicant's representative reviewed some of the finds and had the following comments:

He stated that there are contradictions for the slope in the building envelope. Additionally, he addressed the trails on the map especially the required buffers and also a conflicting ask by the County. He stated that the open space will be contained in the trails and the easement on CR 221.

He clarified that they did provide an additional traffic count during the height of July and this will be submitted to the County. There were fewer than 200 ADT on this road even after the increase in traffic from this subdivision.

Colorado Geologic Survey cited the most restrictive of codes for slopes.

Regarding the lack of proof of adequate water supply he stated he had letter of adequate water from Colorado Division of Water.

The bridge mentioned is off the property so the road maintenance will be done by Chaffee County. Commissioner Rauschke stated there was a cattle guard present and the applicant's representative didn't know who was responsible for the maintenance. The applicant's representative stated there were ditches on the property.

Commissioner Horne asked about phasing and the commercial property use. Mr. Cooke reviewed the Phasing and stated they started with 3 phases and discussed keeping Lot 1 and Lot 8 together. Commissioner Curgus asked for clarification of adjustments with flood plain studies; Lots 1 and 8 have floodplains on them. Mr. Cooke stated he accepts this and thought further adjustment could be made with greater study.

A discussion ensued regarding the use of the commercial "bar". The County has zoning and use regulation in place and Mr. Shaw hasn't applied for a commercial use permit at this time-he states this is for his personal use now.

Commissioner Curgus asked if the trails were quantified for the % needed for open space. Mr. Cooke stated he thought it was .86 acres. Commissioner Rauschke asked about the moratorium on trail construction.

Via Chat: Dan Swallow I'm aware of no subdivision in the county that limits construction to certain times of the year! Mr. Swallow was referring to the CPW recommendation to limit construction for the benefit of wildlife.

Mr. John Shaw of 7380 CR 221, Salida, CO was sworn in. He stated he lives here. He states that he hasn't done any development except to improve his property for living. The bar isn't commercial. As a mortgage professional he questioned the recommendation by

the CPW of no construction for 5 months.

Darlene Sustrich 7465 County Rd. 221, Salida, CO was sworn in. She wants to be sure the wildlife is considered. Lot 8 is particularly full of wildlife. She stated that there has already been a lot of construction on this property. The road that is the emergency road will be open to ATV's and she didn't think that could be considered open space. There is a ditch on the property that would need attention.

Donna Rhodes of 6095 CR110, Salida, CO was sworn in. She is on the Transportation Advisory Board (TAB) and knows the Chaffee Trails Plan. There may be an understanding about the trail on CR 221. It has been identified as a County connector to a Forest Service trailhead and to trails above. This could be used more in the future. Perhaps an easement from the Shaw's property could be placed on the west side that would be open space but a public trail. The County Trails Masterplan would support this.

Public comment was closed.

Commissioner Curgus referred to code provisions. The request the applicant made to waive future conditions for Lot 8 after final approval is suspect. The subdivision process creates a new lot. Commissioner Curgus cited LUC 7.3.2 A 1 and 2 "will create non-conforming lots and adequately sized area" no lots over 30 degree slopes. Commissioner Curgus stated that they will better map these areas in the future, but there is a burden on the developer to do this mapping now. Commissioner Curgus stated that they are dealing with 3 very different landscapes on this property. There is a need to ensure the development is safe now rather than push that down the road to another purchaser.

Further, Commissioner Curgus stated that regarding wildlife, the LUC does allow habitat planning in concert with the CPW. We might not have had these recommendations from CPW in the past, but they now have ramped up their review. Winter herds in this area come from 8 other regions. Elements of LUC 7.16 speak to working with this type of recommendation including compensation (LUC7.16C). This is consistent with recommendations that will be coming down in the future. Conversations with CPW regarding the limited construction time would be appropriate.

Commissioner Curgus discussed protection of riparian habitat especially for bank stabilization (and is used by 70% of Wildlife), wetland mitigation, fire mitigation and flooding. Commissioner Curgus does not think they should waive the slope requirements. Also, regarding Lot 8, the CO Geologic Study setback recommendations include language that is different than what the staff has stated in their report.

Commissioner Rauschke cited LUC 7.1.6B and thought the applicant could minimize impact to wildlife during the timeframe CPW mentioned. Commissioner Horne stated he has not seen a recommendation of this type from CPW before, but we ask for their opinion for a reason. We should seek clarification, but should not disregard this request because it isn't convenient. Commissioner Curgus stated mitigation measures increase as impacts increase. By reducing the site impact this mitigation will decrease.

Commissioner Baker agrees with all that was said and discussed the impact on wildlife. The public wants wildlife protected. We have asked CPW for comments and they have

been very specific here. The applicant should work with the CPW on this. The agency and applicant should work this out. The Colorado Geologic Study wants debris flow addressed. There will be fires in the future and therefore debris flows and vulnerable sites will need protection.

Commissioner Allen reviewed LUC 2.2.3 and the "intent of the rural zone". The continuance of the rural lifestyle is in question here. Commissioner Allen stated that the bar located on the property seems to be a commercial endeavor. She stated that there is no limit to private parties and no limit to the size of these parties. One neighbor reported this venue.

Commissioner Allen stated that Shaw River Ranch has a web page and she has reviewed the text. The website advertises the tavern on the Ranch. This doesn't sound like a private venue. She consulted with Assistant County Attorney Tom on this. Commissioner Horne stated private gatherings can occur. He asked Mr. Tom to weigh in. Mr. Tom stated he didn't know what this site was permitted for. He will look, but thinks it was permitted as an accessory unit. If it is a private endeavor then it would have unlimited use. Mr. Tom was on the site visit today and he stated that it certainly looks like it is designed for a lot of people (a lot of seating and parking). Table 2.2 would have to be reviewed. If it is an outdoor commercial venue it would require an impact review, otherwise a special event permit is required (only 3 events per year would be allowed).

Commissioner Curgus stated there is a larger vision than what is being presented in phase 1. That building is not in the confines of this application; however if this application comes back they can manage for cumulative vision. She would have liked to see the entire master plan as it would be easier to evaluate.

Commissioner Curgus asked Mr. Tom what LUC or policies account for cumulative master planned communities. Mr. Tom stated he doesn't have anything for a phased plan. Subdividing a subdivision has a requirement. Mr. Roorda stated that under the LUC if there is a violation on the property the subdivision can't be reviewed.

Commissioner Horne suggested the Facebook page advertising the commercial use may only be inflated and although this falls outside of the Planning Commissions purview it might get in the way of finishing this application tonight. Mr. Roorda agrees that would be a separate hearing. Mr. Tom stated that plat notes could state that the commercial venue could not be used. Commissioner Horne suggested it could go into the Conditions of Approval. Mr. Tom confirmed that it was to be an accessory unit and we don't know really what his future intent is. It cannot be used as a commercial venue. Mr. Roorda stated existing land use needs to be reviewed for consistency for possible commercial use. Mr. Tom stated that can go into zoning also: if it's a non-conforming use that would be covered by the building code.

His use of the bar is not at issue tonight stated Commissioner Horne but it is clear that it may have been used for something more than a private purpose. The Planning Commission is not going to take any further commentary on this tonight. Commissioner Rauschke invited the applicant to review 4.2.6 of the LUC.

Mr. Tom's requested an executive session. Commissioner Horne made a motion to

adjourn to executive session, Commissioner Baker seconded the motion. The motion carried 6-0.

Upon returning from the executive session Commission Horne asked Mr. Shaw to comment and reminded him he was under oath. Commissioner Horne asked Mr. Shaw if he was using any portion of his property for commercial use. Mr. Shaw admitted that he has a pending short term rental application in with the county, but it hasn't been approved.

Public comment was closed again.

The Commissioners, at length, reviewed and revised the Findings of Fact and Conditions of Approval.

Findings of Fact-

1. The application can meet the requirements of the Land Use Code for a Major Subdivision Preliminary Plan.
2. The property was under a US Army Corps of Engineers violation notice for work in the banks of the South Arkansas River and associated wetlands without a permit or engineering. A Settlement Agreement with the Army Corp of Engineers has been signed by the Applicant.
3. Portions of Lot 1 and Lot 8 are within Zone A of the South Arkansas River and Green Creek Floodplain, respectively.
4. Existing bridge across the South Arkansas has a weight limit of 23 tons.
5. Staff has re-named the application to Shaw Ranch Major Subdivision (apostrophes are difficult to use on recorded documents, and there is no 'Shaw's River').
6. No open space has been identified on this Preliminary Plan.
7. The Proposed Sketch shows one constructed road in and out with an emergency egress.
8. Off System Bridge Inspection Reports are conducted every two years and Chaffee County does not have one more current than 2020.
9. CPW has identified this area has significant and critical habitat.
10. The area contains significant riparian and wetland habitat on Green's Creek and the South Arkansas River.
11. The land use code requirement for legal building lots is a ¼ acre with slopes 30% and below and outside of hazard areas.
12. CGS has identified debris flow/hazard areas that may require addition analysis and mitigation.

Conditions of Approval-

1. Water augmentation certificates shall be purchased for the lots before the Phase 1 plat is recorded.
2. Final plat will include a clarification from the CDWR's comments of the water supply plan including the sub-surface water rights.
3. The developer shall notify contractors to observe the CDOT standard weight limits on the existing bridge across the South Arkansas River.
4. Any equipment contact with Waters of the US shall first obtain approval from the state and federal governments.

5. All permits must be submitted before construction and approval is required before construction. The Army Corps of Engineers policies will be followed. If the Army Corps of Engineers is unresponsive, and the applicant can appropriately document their communication with the ACOE, then the work must still be done in accordance with the rules and regulation of the Army Corps of Engineers.
6. Because this area has been identified by CGS as a debris flow/hazard area, a licensed engineer shall evaluate the adequacy of the 18" culverts to pass bulked debris and the need for oversized culvert(s) or elevated crossings that allow passage of bulked flow at drainage prior to approval of Final Plat.
7. Existing well locations with permit numbers shall be added to the plat.
8. Lots 6, 7 and 8 shall be shown on the Final Plat conforming to requirements for 7.3.2 A 1-2.
9. A 40' right of way will be dedicated for Heavenly View Parkway by the Final Plat.
10. The public right of way for CR 221 will be dedicated in Phase 1.
11. Open space dedication shall be included in the Final Plat.
12. No additional trails are permitted to be built within 50' of the South Arkansas River and Green's Creek in order to minimize disturbance.
13. There shall be minimal construction activities/disturbance from December 1 to April 30 per CPW comment. As a result of CPW comments advising minimal construction activities from December 1- April 30, applicant will seek clarification from CPW in cooperation with the Chaffee County Planning Department to determine what activities satisfy that recommendation. An appropriate wildlife mitigation plan may be developed as a result of the conversation between CPW, Chaffee County Planning Department and the applicant, if appropriate per LUC 7.1.6.
14. Subdivision Slope Analysis shall be updated to clearly distinguish between 10-20% and 20-30% slopes per CGS comment.
15. Structures and OWTS fields shall be sited in a manner that is adequately set back from the toe and crest of all slopes and drainages to reduce the risk of damage caused by erosion, scour, slope creep, and local slope failures. In the absence of a specific slope setback recommendation and justification by a qualified geotechnical consultant, building code-required slope setbacks should be adhered to per CGS comment.
16. Slopes steeper than 30% shall be identified and designated as non-buildable per LUC Section 4.3.2 G.
17. The building envelope for Lot 8 shall be setback in compliance with 2015 International Residential Code (IRC) R403.1.7 or a distance of 40 feet from the 100-year flood hazard limits for foundations, deck footings, and septic system components per CGS comment.
18. Easements meeting the requirements of LUC Article 7.3.5 shall be added to the Final Plat.
19. The following notes shall be added to the Final Plat:
 - a. Appropriate road maintenance responsibilities.
 - b. All On-Site Wastewater Treatment Systems (OWTS) shall be designed by a Colorado Licensed Professional Engineer.
 - c. Right to Ranch Policy.
 - d. CPW Notes.
 - e. Standard Chaffee County Plat Certificates and Notes, including but not limited to Restriction of Future Changes, and Fair Contributions to Schools.

20. The applicant shall be required to receive proper approval if the tavern/bar on property is used for any purpose beyond that which is already permitted. Note: Bar uses in Rural zone districts require a Major Impact Review per Table 2.2 in the Land Use Code.

Commissioner Horne made a motion to ~~recommend approval of~~ **approve** the Shaw Ranch Major Subdivision Preliminary Plan subject to the findings of fact and conditions of approval. Commissioner Dumas seconded the motion. The motion carried with 4 in favor one abstain (Allen) and one nay (Rauschke).

Name of Project: Martellaro-Veltri Minor Subdivision Final Plat

Applicants: Marc Martellaro & Justin

Veltri Location: 7476 County Road 145,

Salida Zone: Residential

Request: To subdivide approximately 16.9 acres into four (4) lots ranging in size from 3.6 to 5.5 acres. Wells and on-site wastewater treatment systems will serve the property. Proposed access will be from two points off County Road 145. A request for a waiver to Section 7.4.2 D1 to allow a second driveway to be constructed onto County Road 145 is included in the application.

There were no conflicts of interest from the Planning Commission members and no members of the public had any issues with any Planning Commission members having a conflict of interest.

Mr. Roorda provided the Power Point dated August 25 and listed as Exhibit A. Commissioner Curgus asked about the road requirements. Mr. Roorda stated there is no level of connectivity that can be achieved to the east. Staff is concerned with the emergency access to be provided to the north. The question is if there is a necessity for a cul de sac or is this emergency access adequate to provide emergency egress for the property to the north. Commissioner Curgus asked to think about 20 years from now and how the traffic would flow. A discussion ensued about this and the Salida Transportation Plan. The Planning Commission reviewed the map and the proposed future road proposed by the Salida Transportation Plan.

Commissioner Horne spoke to the late hour and a discussion about whether or not to continue the application ensued. Commissioner Horne consulted with Mr. Tom about going out of order to allow public comment. Mr. Tom stated he could do that. Commissioner Horne opened public comment.

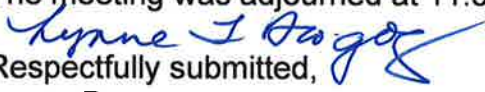
Michael Williams of 8104 CR 140, Salida, CO was sworn in. He discussed the fencing issue. He would like to see restrictions about fencing that when parcels are built upon then the fencing could be built. From Marjo Curgus via chat to Everyone: 11:21 PM. The fence condition can be tied to building permit. Mr. Tom described LUC 3.1.4 with respect to the right to ranch.

Justin Veltri, of 545 W. Rainbow Blvd, Salida, CO was sworn in. He reviewed the egress issue. He also mentioned the proposed trail on the west side of CR 145. He doesn't feel that is pertinent to this application as development would be on the opposite side of CR 145. Commissioner Curgus pointed out the recommendation from Mr. Roorda was about

incremental development. The road can be dedicated but not built. This Commission is trying to plan for the future.

Commissioner Horne asked if there was room on the September 7, 2021 agenda to continue this application due to the hour and Mr. Roorda stated there was room. Commissioner Horne made a motion to continue the balance of this hearing until a date certain of September 7, 2021. Commissioner Raushcke seconded the motion. The motion carried 6-0.

The meeting was adjourned at 11:32.


Respectfully submitted,
Lynne Drogosz

