

Planning Commission Meeting Minutes
May 22, 2019

Planning Commission Members in Attendance: Angela Mackey, Kim Shay, Tate Locke, Steve Shea, Steve Schrock, Layne Brones, Lucinda Stanley, Tom Kay, Jacob Gray, Dick Gilmore

Absent Members: Eli Wolcott

Planning Staff in Attendance: 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 April 24, 2019

Amendments to 4-24-19 minutes:

- Misspelled name from Shea to Shay on page 1
- Typo: The word chuck to chunk on page 4
- The mention that Jared Graff offered to provide fencing to the adjacent property owners on Graff Rd.
- For clarification, the City of Delta acted as though the gravel pit application had just been dropped in their lap, & it is not true according to the application

Motion: Kim Shay moves to approve minutes with the changes mentioned

Second: Lucinda Stanley

Motion carries - Minutes Approved

Item #2: SUB19-011 Shooting Star Subdivision

Owners: Jeremiah & Elyse Casselberry

Representative: Randy Wilmore

Mr. Randy Wilmore read the proposal:

The Applicants would like to subdivide their 40 acre parcel into two (2) lots. Lot 1 will be 5 acres and Lot 2 will be 34.5 acres. Both lots have existing single family dwellings with all utilities (Tri-County Domestic Water Taps, DMEA electrical, two existing on site waste water treatment systems with access onto 2175 Road.

Since there are two existing single family dwelling currently located on the 40 acre parcel nothing is going to change from what already exists. 2175 is a non-county road. The Applicants are agreeable in creating a 2175 Road maintenance agreement to maintain the road. An example of a road maintenance agreement is attached. The acreage has 19 shares of Uncompahgre Valley Water Users Association irrigation water. The Applicants would like to have Lot 1 receive 1 share of UVWUA irrigation water and Lot 2 receive 18 shares. UVWUA determines the amount of irrigation water for each lot based on the acreage of irrigable land shown on the final plat. The Applicant's addresses one neighbor's comments concerning the proposed subdivision are attached. Compliance with the Density Standard – The maximum number of lots within the subdivision is 2. The Density Standard is waived pursuant to Resolution 2018-R-012. Impacts on adjacent property owners are none. Staff findings are attached the staff report. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-011 Shooting Star 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. Delta County Planning Checklist is attached. Irrigation Plan is attached.

Neighbor's comments/concerns & responses read:

This area should be preserved as Agricultural & not a new residential development.

- There are 2 existing residential units. We are not creating a new residential development, just separating the 2 that already exist. The 2 homes have been there since 1998.

Livestock & dogs are an ongoing problem as are complaints from the people who do not understand a rural or agricultural life style.

- We have not personally had any complaints about our livestock or dogs. Occasionally we see a stray dog, pigs or cows. We have perimeter fencing in place on 3 of our property boundaries & a very deep drainage on the other to contain our animals. We do plan on installing fences to separate Lot 1 & Lot 2 because we have livestock & dogs to contain.

The area of E Rd is one of the nicest & last remaining relatively undivided areas in Peach Valley.

- We agree. While this subdivision will create new lots, it does not actually change anything as there have been 2 dwellings on the property since 1998.

2175 Rd needs to be brought up to spec for any more traffic and is unacceptable in its current condition as a county road.

- First, 2175 is not a county road & nothing about this subdivision will change the amount of traffic on 2175 Rd. given the fact that there are no new developments on either lot.

The road is privately maintained & expensive to keep up with.

- Agreed, please see comment below.

With the 2175 Rd. designation & sign, the public thinks it has right of way to access the irrigation systems maintained by UWVUA

- 2175 Rd. is a primary access to the main head gates for the pipelines that provide water to numerous users along E Rd. While not a public road, access to maintain irrigation infrastructure is essential. Nothing about the proposed subdivision will change the existence of the 2 homes that have already been accessing 2175 Rd. for the last 20 years.

The road is a single lane & is not sufficient for additional traffic on this road with a subdivision. We feel it is only the start of additional development & no mention of additional maintenance or a new maintenance plan of any kind has been brought to our attention. If the county road sign is to be left on the road and the area is to be subdivided, the road needs to be brought up to code & maintained by the county. Or at the very least, a better maintenance plan needs to be encumbered by all of its users.

- There are approximately 5-6 homes served by 2175 Rd. This will not change. No new traffic will be generated by the subdivision. There are already 2 homes located on the property proposed to be split. We agree that the road has several issues including the need for better maintenance & we are happy to reach out to all property owners to utilize 2175 Rd. & see if there is a willingness to develop a formal road improvements maintenance agreement.

The current irrigation delivery system that provides UWVUA water to multiple residents along 2175 Rd. & E Rd is in a miserable state of disrepair. The system is not able to withstand yet another person complaining about their shares.

- Actually, Uncompaghe received Federal funding & piped all of the irrigation pipe that serves the agriculture & residential properties along 2175 Rd. & E Rd. in the winter of 2018. New taps & meters were installed. In 2018 there was a steep learning curve for everyone to figure out the new system. Uncompaghe made additional improvements to the head gate to address debris issues that was created for many of the challenges created in 2018 & so far, that seems to be making a big improvement.

Much of the irrigation water seeps into the ground through open ditch or leaking pipes.

- Seeping issues seem to be drastically improved with installation of the new pipe. The only seepage issues known at this time are caused by overwatering & fills uphill from other users.

This system, much like 2175 Rd, is out dated & yet another land owner will only cause more problems to those currently trying to farm & make a living. The system needs to be upgraded & metered before additional users are added to it.

- The system has been upgraded & a meter has been installed at the shared tap. See the irrigation plan. Uncompaghre opens this meter to accommodate the total shares of all of the users. There were issues in 2018 when the tap would get clogged with debris but Uncompaghre has installed upgrades to keep debris out of the system. As long as Uncompaghre delivers the allotted shares, there should be no issues with the system. It is sufficient to deliver water to all users. Prior to 2018, the ditch was more open & each user had greater control over how much water entered their property at the point of diversion. This has changed & is requiring everyone to adjust to manage their water more efficiently. Additionally, prior to 2018, several of the properties located downstream from the shared tap were fallow. Most of the users on the shared pipe have returned their fills to production.

We trust that the Shooting Star Subdivision is subject to all rules & regulations governing any subdivision request regardless of the land owner's job position and or standing with Delta County.

- The property is subject to all of the same rules & regulations & will be treated just like any & all applications by the County. The property owners have engaged a third party representative to present this application at the public meetings.

Presentation by the applicant: n/a

Open Public Comment:

Proponents: none

Opponents: none

Questions from Planning Commission Members:

Q: The road maintenance agreement, did they shop around to the neighbors?

A: It is their intent to speak with all of the neighbors by Final Plat is done & hopefully will resolve any issues.

Q: With the information provided, there is no way to show who owns what property. Where are Ken & Mary Leib are located?

A: They are to the south

Q: How many properties are served by that road?

A: 6-7

Q: All of the property owners using that road will be included for a maintenance agreement?

A: Yes, but it is optional

Q: So the County has no role going forward in the road?

A: No, the only time the County gets involved in a road issue is when they are required to build a road to each lot & it would require a road maintenance agreement where everyone shares equally taking care of the subdivision road.

Q: What is the '60 ROW dedication to the county?

A: That is an old copy, it's been revised. It's just an easement

Q: I spoke with UVWUA & the number of shares represented here is not accurate according to them, they are saying it is 2.4 for Lot #1 & 18.6 for lot #2. I just wanted to make sure it's accurate.

A: That is confirmed at Final Plat

Q: How will Lot #1 get their share of water?

A: That is part of the irrigation plan

Q: How will the new lot get their water?

A: It's under pressure, it's a pressurized pipeline

Q: Is it irrigated?

A: I do know that they are intending to continue to irrigate

Q: Has Lot 1 been receiving irrigation all of these years?

A: Yes

Public Comment Closed

Deliberations of the Planning Commission:

Recommendations:

- Make clear plan on distribution of water shares on Final Plat
- Clear up discrepancy on water shares
- Suggestion of a Road Maintenance Agreement - Applicant continue to pursue their draft of road main encouraged

Motion: Lucinda Stanley motions to recommend approval with recommendations

Second: Tate Locke

Amendment: Number of water shares as well as the plan to divide the water & road maintenance agreement is encouraged

Second: Tate Locke

Unanimous Ayes – Motion carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Item #3: SUB19-009 P C Subdivision

Owner: Patricia Cooper executor of the estate of Hattie Smith, Jamie Cooper, and Clinton Botts

Representative: Ken Schaaf – ITC Resources

Mr. Yeager read the proposal:

The applicant proposes to subdivide of the 13.4 acres into three lots. Lot 1 will be 10.86 acres, Lot 2 will be 1.12 acres, and Lot 3 will be 1.5 acres. Lot 1 has an existing house, and will include existing irrigated agriculture. Lot 2 has an existing house and will be residential. Lot 3 has an existing house and will also be residential. This subdivision addresses ownership issues and clears up ownership to settle the estate of Hattie Smith allowing the three existing single family dwellings to be placed on separate deeds. Access to Lot 1 and 2 will be from existing access points on G Road. Access to Lot 3 will be from an existing access on Lot 3. Water is provided by Tri County by tap #6656 for Lot 1, #958 for Lot 2, and #5628 for Lot 3. Onsite waste water treatment systems (OWTS) are already in place for all three residences. Compliance with Density Standard: The Density Standard for this subdivision is 1.28. The maximum number of lots within this subdivision is 1. Based on the density standard, the subject property would not be able to be subdivided as only one lot would be allowed. On April 2, 2019 the property owner was granted a variance by the Board of County Commissioners to allow for subdivision of three lots. Impacts on adjacent property, service providers, and County Roads: No additional studies are required for this project. Comments have been received from neighbors opposing the subdivision because of concerns about the density being more than infrastructure can handle, and expressing concerns about water pressure within the Tri-County water line that currently provides service to all three homes and neighbors. Engineering provided comments requiring 50' of road right-of-way along G Rd and a 10' utility easement. Engineering also will require 30' of road right-of-way and a 10' utility easement along Deer Run Road. Uncompahgre Valley Water Users will require a 70' (35'feet from center) operation and maintenance easement for the "FL" Lateral Canal located on

the eastern boundary of the property. Delta County Fire requests the \$500 per lot be put in for fire mitigation. Uncompahgre Valley Water Conservancy District requests to be contacted prior to any new construction being started. Final Plat checklist is attached & an irrigation plan for all lots. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-009 PC 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.

Presentation by the applicant/representative: We are resolving an Estate. There are 3 owners that own each house under 1 deed. The irrigation water is agreed upon. There is no irrigation on Lots 2 & 3. It all stays with Lot 1.

Open Public Comment:

Proponents: none

Opponents: none

Questions from Planning Commission Members:

Q: Is the access addressed for Lot# 1?

A: There is an existing access. Lot #1 is accessed from G Rd. There is a field access.

Q: So it needs to be upgraded?

A: Yes

Q: No irrigated water to the other lots? The irrigated acres extend to Lot# 2? Off of G RD? They aren't going to irrigate?

A: No

Q: Is the perimeter fenced?

A: Yes, all sides & double fenced along the ditch

Q: \$500 mitigation fee per lot?

A: Yes, I will correct it now

Q: Is there a need for internal fences

A: Lot #3 is fenced in. Lot #1 & #2 there is an existing fence

Q: Will there be any grazing?

A: I don't think so, I am unsure.

Q: What is the comment opposing?

A: It's the Tri-County water line's existing pressure is weak but there are not any new residences proposed. Nothing will change.

Public Comment Closed

Deliberations of the Planning Commission:

Recommendations:

- Applicant needs to be approved through R&B for an access for Lot #1
- \$500 fire mitigation fee fixed to: \$500 per Lot
- Fencing/separating each lot's Agriculture & residential areas

Motion: Jacob Grey motions to recommend approval with recommendations

Second: Tom Kay

Unanimous Ayes – Motion carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Item #4: SUB19-012 Geyer Subdivision
Owner: Betty Geyer

Mr. Yeager read the proposal:

The Applicant needs to sell a parcel to pay off the bank mortgage. Her husband has passed away and she is running the ranch. The only portion of the 162 acre ranch that is not in a conservation easement is the 24.09 acres of irrigated grass being subdivided from the 162 acre ranch known as Lot 1. Lot 1 adjoins North Road on the north boundary and is bordered by Forked Tongue Creek on the west and Happy Hollow Creek on the east side. Lot 1 is not located in a conservation easement. The Baker Ditch #2 carries, 75 cfs from Happy Hollow Creek to irrigate Lot 1. Lot 1 has enough irrigation water to grow any crop including hemp. A well is proposed to supply domestic water for Lot 1. The Applicant has an approved well permit issued by the Colorado Division of Water Resources. The use of the ground water from the well is limited to fire protection, ordinary household purpose inside not more than 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. The subdivision will be contingent on the outcome of drilling and testing the well water. The Health Department will require the following: Please submit data regarding the water quality to this office for review. Samples must be obtained from the water system by a water system consultant, or by a technician from this office. 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 parameter 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. Compliance with Density Standard: The Density Standard for this subdivision is 18.61. The maximum number of lots within this subdivision is 18. Impacts on adjacent property, service providers, and County Roads are none. Staff Findings: Utilities issues - Domestic water – Drilling a well for domestic water. Irrigation plan – Irrigation plan .75 cfs from Baker Ditch #2 from Happy Hollow Creek. Septic – on site waste water treatment system at time of construction of single family dwelling. They will need to get an access permit through Road & Bridge. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-012 Geyer Subdivision 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: 1. Fire Mitigation Fee is \$500/Lot. 2. Well has to be drilled and the source of water shall meet quality, quantity and dependability. The water shall be tested and if needed a treatment system installed in the single family dwelling. Please contact Ken in Health Department. 3. Apply for an access Permit for the proposed subdivision approved by District 2 Road and Bridge Foreman. A quit claim deed to Delta County for 50' of right of way for North Rd, with a 10' Utility easement on the outside of the road right of way. A copy of the well permit is attached.

Presentation by the applicant/representative: It's good irrigated farm land, I'd like to see it stay that way. I do need to sell it.

Open Public Comment:

Proponents: none

Opponents: none

Questions from Planning Commission Members:

Q: Was there a building envelope?

A: It's a nice 24 acre parcel

Q: Is the well going to be drilled on Lot 1?

A: Yes

Q: Would you be amenable to a potential agreement if they were to further subdivide since this is for a 3 household well to craft an agreement to each land owner if any further homes were added?

A: Yes, I would agree to that.

Q: It's a single lot to irrigate & grow on?

A: No, I would just like to sell it for agricultural purposes

Q: Change the proposal to .75 instead of a comma

A: Will do

Q: Town of Orchard City notified?

A: Yes & I talked to them, their water pipeline runs down the north side of North Road not on my property.

Q: The property has a conservation easement on it?

A: Yes, Black Canyon. They gave us a price on the property if it could be subdivided & then we received tax credits to buy the subdivision rights so we can sell 40 acres in that with one residence per 40 acres but we can't subdivide it any smaller. This 24 acres was withheld from the conservation easement.

Q: Has Black Canyon been informed?

A: They do not have anything to do with this 24 acres

Q: They are a neighbor & should be notified

A: I can notify them.

Q: How is irrigation water being split?

A: This is decreed water to the property & it's done through an allocation from the creek. We have priority rights coming through a head gate & go through a measuring meter & they get .75 CFS – ($\frac{3}{4}$ of a foot) delivered in a ditch directly to that piece of property. There is a Baker 1 & Baker 2. We are keeping the Baker 1 on our ranch. They are allocated Baker 2 in their own private ditch

Q: This will be shown on their irrigation plan?

A: Yes

Q: The new head gate is there?

A: Yes

Q: You are already diverting water?

A: Yes.

Q: Will there be an easement for the Baker 2?

A: No, it's already there

Q: Is it fenced?

A: It's fenced

Q: Why mention hemp?

A: It's an up & coming crop

Public Comment Closed

Deliberations of the Planning Commission:

- Limiting the well to 1 one single family dwelling. Sharing a well can be an issue

**Motion: Lucinda motions to recommend approval based on staff conditions & recommending a domestic water agreement to be included for any future development
Amendment: Restricting Lot# 1's use to 1 single family dwelling**

Motion: Jacob Gray motions to recommend approval with staff findings including:

- Lot 1 be limited to one single-family dwelling
- In case of further subdivision, a water company be created to protect the well water and its users
- Notification and response from Black Canyon Land Trust
- An irrigation plan indicating Baker 2 ditch is allocated .75cfs on the deed

Second: Tate Locke

Unanimous Ayes – Motion Carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Item #5: SUB19-013 Foster Subdivision
Owner: Gerald & Sherryl Foster

Mr. Yeager read the proposal:

Due to medical reasons and downsizing, the Applicants are subdividing their 40 acre parcel into two (2) lots. Lot 1 will be 26.29 acres and Lot 2 will be 12.43 acres. Both lots have existing single family dwellings with all utilities (Tri-County Domestic Water Tap, DMEA electrical, two existing on site waste water treatment systems, each lot has approved – existing accesses onto F Road). Each lot will have Uncompahgre Valley Water Users Association (UVWUA) irrigation water. Uvwua determine the amount for each lot as follows: Lot 1 Foster Subdivision: 16.6 shares and Lot 2 Foster Subdivision : 8.4 shares. (letter attached). All Uvwua irrigation water is in pipelines set up to irrigate the lots as per the attached Bureau of Reclamation letter recorded at reception #706232 in Delta County on the GH 4.34 Lateral. A pipeline is placed on the west and east side of the 40 acre parcel with a head gate to administer the irrigation water coming out of the underground pipeline for Lots 1 and 2. Compliance with Density Standard: The Density Standard for this subdivision is in compliance. The maximum number of lots within this subdivision is 5.26. Staff Findings: 2 Tri County Domestic Water Taps 1741 & 5503, 2 on site waste water treatment systems - #184-00 & #195-2. & an Irrigation plan is attached. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-013 Foster 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.

Presentation by the applicant/representative: none

Open Public Comment:

Proponents: none

Opponents: none

Questions from Planning Commission Members:

Q: How are you splitting the water up?

A: The water goes with the land

Q: How will they get their water?

A: There is a head gate on each lot

Q: Do you have any agricultural use now?

A: Yes

Q: They are both irrigated with grazing animals?

A: Yes, but no grazing animals, just dogs

Q: The plan is to continue to irrigate?

A: Yes

Q: Selling the property to current renters?

A: No, we haven't listed it yet. The renters just moved out a week ago.

Q: Is there a fence?

A: Partly

Public Comment Closed

Deliberations of the Planning Commission:

Motion: Tate Locke motions to recommend approval with Planning Staff recommendations

Second: Kim Shay

Unanimous Ayes – Motion Carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Item #6: SUB19-015 Hannings Subdivision Resub of Lot 6 of Riverbend Subdivision
Owner: Christopher & Anael (Rebecca) Hanning

Mr. Yeager read the proposal:

The applicant proposes to re-subdivide Lot 6 of the Riverbend Subdivision into three lots. The original lot is 10.48 acres. Lot 1 will be 2.38 acres, Lot 2 will be 2.25 acres, and Lot 3 will be 5.85 acres. The owners intend to transfer ownership of two of the lots to their children. Lot 6 of Riverbend is a reclaimed gravel pit. The Division of Reclamation, Mining, and Safety (DRMS) released the permit on the gravel pit and the subject parcel is no longer under the authority of DRMS. The post mining land use approved by DRMS was general agriculture. DRMS has no authority over the future use of the parcel as land use is under the jurisdiction of the County to permit a subdivision and the construction of single family dwellings. Access to the property will be from Townsend Road with a private drive serving all three properties. An existing water tap from Tri-County Water has been purchased for Lot 1, Tap # 7625. Two additional water taps will need to be purchased from Tri-County Water. Onsite waste water treatment systems (OWTS) will be utilized. Compliance with Density Standard: The Density Standard for this subdivision is .56. The maximum number of lots within this subdivision is 1. Based on the density standard, the subject property would not be able to be subdivided as only one lot would be allowed. On March 19, 2019 the property owner was granted a variance by the Board of County Commissioners to allow for subdivision of three lots. Impacts on adjacent property, service providers, and County Roads: No additional studies are required for this project. Comments have been received from an adjacent neighbor posing several questions. Those questions are answered throughout this staff report. Engineering provided comments requesting a turnaround at the terminus of Townsend Road, and that setbacks be labeled on the final plat. Public Health identified no obvious problems for the installation of new OWTS. When repairs to the existing OWTS are necessary or new systems are installed; soil testing and permits will be required. Public Health also noted that the property is not located in a floodplain. Electricity is not currently available to the property. An easement from Angela Fedler would be needed to get power to the property. Utility easements would be required on the final plat. Uncompahgre Valley Water Users Association will require the proposed subdivision remain in the Riverbend Subdivision H.O.A. that provides for the collection and payment of Uncompahgre Valley Water Users assessments. Delta County Fire requests the \$500 per lot be put in for fire mitigation. Staff Findings: Utilities issues, domestic water: One existing Tri-County water tap. Two additional taps will need to be purchased prior to final plat. Irrigation plan: Needs to be provided prior to final plat Septics: installed when a single family dwelling is constructed. Planning Staff Recommendation: Staff finds that the Sketch Plan for SUB19-015 Hannings 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: \$500 fire mitigation fee, Construction of a turnaround at the end of Townsend Road & Extension of power to the property line and appropriate easements. Change of land use, Riverbend Subdivision Lot #6, Owners: Greg & Judith Fedler. Judith was in the last meeting to discuss land's change of use with the board. The Fedlers developed Riverbend Subdivision with conditions stated in the Plat notes #6 on the Plat recorded under Reception# 513029 – There is no water tap requirement for Lot #6. Lot #6 will remain as a gravel pit & no other change of use or further development will be permitted unless approved by the BoCC. The gravel pit is now completed. The Fedlers asked to have the change in land use & Commissioner Suppes made a motion that the board change the use of the land for Lot #6 of the Riverbend Subdivision to residential use & that there be a notation that the purchaser of this property acknowledge that currently, an operational gravel pit lies to the south. Chairman Roeber seconded the motion & the motion carried.

Presentation by the applicant/representative: The lot was offered on the open market & we purchased it in the condition that the condition of no water tap & gravel pit use be removed & they did that prior closing. So now it has a water tap & it does have electrical service from across Townsend Rd. That was one of the problems with Darlene at DMEA who said that there was no electrical service to the property but the easements for the other lots go right through our lot. She

emailed me this map & had said that the closest electrical service was to the west of the property because she thought that this looked closer but there is a ravine there that would make it more difficult. So coming from across Townsend Rd will work best. We just hope to divide the property for my husband & myself & one for each of our 2 sons. There is a 60' utility easement recorded & access. I spoke with Larry Record & we have no problem with the cul-de-sac at the end of Townsend Rd. for the mail man & the guy that grates the road. We are hoping to have as residential Ag. It's not fully irrigated but there is enough water for some pasture & some horses. There is a recorded road maintenance of \$200/year & divided on a prorated on who drives the furthest. Repairs & maintenance would remain.

Mr. Yeager read Sandra Russell's comment & addresses her concerns –

Open Public Comment:

Lucas G Fedler 6497 Townsend Rd. Lot #1 & #5

I'm not for or against the subdivision. We don't feel like we have enough domestic water from Tri-County. We've been told, by employees there, that the line is too small & that's why the water pressure is so low & we have serious concerns about that. The tap purchased isn't even being used. There are 12 residences plus an active pit there. The county maintains the road as if it's got only 3 residences on it. The wash boards are terrible. It's a muddy mess of a road. The county did put some lime dust on it but when the road is dry it's just a film that gets all over the cars. Shouldn't we have been informed that the change of use was occurring? Does this remove them from the Riverbend Subdivision? This will handle 3 septic systems, but the water table is right below the ground. UVWUA letter does not have a year on it so I don't know when they wrote it – water will be run off ditch, there is no head gate.

Preston Simmons – 6491 Townsend Rd. Lot #2

We also own 50 acres downstream. In addition to that, the field wasn't farmed last year. It's not a gravel pit anymore because it's down to the shale. The main water line is a 2 inch line & I don't know what size it is further up – Tri-County water. The septic system being so close to the ground & the water pressure.

Questions from Planning Commission Members:

Q: Have you checked into the water table?

A: The Health Department inspected it & said they were ok with it & I would follow specs on what the engineer says it needs.

Q: Would it be a problem for a basement under the house?

A: I don't know. I would follow Delta County Specs for a OSWS & see what they say. Parts of the property are really low & some aren't. Each lot has different slopes & topography.

Q: (For Lucas Fedler) Is that an HOA maintained road?

A: It's a convoluted mess & I have never seen a maintenance agreement.

Q: Who told you that you could get a head gate? If you have 4.2 acres you don't qualify for a head gate.

A: We have 10.48 acres with 4.2 shares

Q: You have to have at least 35-40 acres to have a head gate installed.

A: It's not on Uncompaghre Ditch. It's on the secondary feeder ditch.

Q: Why weren't the APO's notified when the designation was changed?

A: They weren't notified because it was just a change of use for taxing purposes & it needed to be done before closing & once it was released, they were able to purchase it.

Q: Why was the Riverbend Subdivision information was not part of the package?

A: When they created the Riverbend Subdivision Lot 6 was a gravel pit. We can provide it.

Q: When did you purchase the property?

A: In December of last year

Q: You & your husband bought it before the variance?

A: With the condition that it would be changed.

Q: Who did you buy it from?

A: The Fedlers – Luke’s dad. Reynold’s still leases the rest of the pit. But he wanted to sell his portion of the pit. The lot was originally a residential lot & he was just leasing the mineral rights for gravel.

Q: So there was a contingency somewhere?

A: Yes, on the original plat for Riverbend Subdivision it had a plat note that said lot 6 will not require a water tap under the condition that it remains a gravel pit & no residential houses will be allowed. When I got the preliminary title work & saw that & contacted Planning & said that would be a problem to build a home there.

Q: & who took you through that process?

A: Aaron Clay’s office

Q: Have you purchased a tap?

A: Yes, it has 1 tap, we’d have to purchase the other 2 once they lots are created.

Q: Did this go to the City of Delta for review?

A: Yes & they had no comment

Q: So lot 6 was subdivided previous to this?

A: No, it’s only one 10 acre lot

Q: Preston, do you pay \$200/year?

A: No I don’t. Greg Fedler is my step dad & we took care of the road until the gravel pit started using it. We quit maintaining it until about 4 years ago, when we were all related. When the gravel pit started using it, they had to refurbish the highway & then they were going to put it on the road but they’d have to tear it up to get it done.

Q: Can you show me where the County Rd. ends?

A: It goes all of the way to the property.

Q: Did you do any of the reclamation on the gravel pit?

A: No, that was the previous owners

Public Comment Closed

Deliberations of the Planning Commission:

Continue the application for 2 weeks to clear up a few questions:

- With the conditions of the Riverbend Subdivision taken into account
- Water needs to be clarified from UVWUA
- Assurance of 3 taps available
- HOA Clarity
- Division of water
- Growth management Agreement with the City
- Road maintenance discussed with neighbors
- Adequate water pressure?

Motion: Jacob Grey motions to continue the application for 1 month to gather info on:

- **Fire mitigation of \$1500**
- **Taps available confirmed**
- **Legitimate road maintenance agreement confirmed**
- **Confirmation UVWUA about head gate issue**
- **3 separate road fees, if they are in the HOA**
- **City conversation on Growth management area**

Second: Steve Schrock

Amended motion made by Tate Locke: Continue application to the next meeting in 3 weeks, June 12th

Seconded: Jacob Grey

Unanimous Ayes – Motion carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Item #7: SD19-004 Best Rock, Sand & Gravel Pit 1 (BRS&G)
Owner: Jared Graff Enterprises, LLC
Representative: Ben Langenfeld, P.E. – Greg Lewicki & Associates, PLLC

Mr. Yeager read the proposal:

I have attached copies of the letter Elyse sent to all adjoining property owners, a list of all neighbors within 1,000 feet that were notified of the meeting of the Planning Commission on May 22nd, a picture of the sign posted, and a copy of the May 8th notice of Review of a Specific Development Application placed in the DCI. I have included a copy of the draft Planning Commission minutes for your meeting on April 24th. I have included a copy of all comments received to date. My plan is to review all the comments received and give a short overview of the Staff Report. As I did at the original meeting, I am not planning on reading the Staff Findings and Conditions of Approval. I think the key to moving the discussion along is to give Ben Langenfeld, Jared's engineer, and Jared an opportunity to speak and answer questions concerning the proposed development. They have met with the City of Delta and neighbors. We need to make sure all the neighbors who did not receive the original notification have their questions and concerns answered. I have included the letter that Elyse wrote to the adjacent property owners & a list of those who it was sent to. A copy of the DCI add is included as well as a draft of the Planning Commission meeting minutes.

On May 14, 2019 the City of Delta: The City of Delta is appreciative of the County referring the subject land use application to the City for comments. The City submitted comments to Delta County for the April 24 Planning Commission meeting and appeared before the Planning Commission to represent those comments on that date. City staff has since been in contact with the applicant to discuss the issues raised. Each concern is listed below along with the proposed approach to resolve each.

1. The City is concerned about the proposed mineral extraction negatively impacting the existing City sewer line. The City is requesting the applicant submit a Colorado Registered Engineer evaluation and recommendations regarding maintaining the structural integrity of the existing sewer main through the north end of the property parallel to the river. Mr. Graff's development team has produced an armoring/protective design for the sewer main, and will be forwarding that work product to the City today. City staff will work with Mr. Graff to assure the proposed design is acceptable.
2. The City is concerned that the proposed activity will impact Confluence Lake and the most popular park in the area in several ways.
 - a. The City requests the applicant submit Colorado Registered Engineer evaluation and recommendations regarding maintaining the integrity of Confluence Lake and existing water surface elevation. Mr. Graff will be proposing that the requested evaluation and related analysis be conducted once the mining activity is within 2000 feet of Confluence Lake. His team will be submitting a written proposal to the City with recommendations to that effect. City staff will work with the Graff team to understand the technical reasoning behind the proposal and reach an agreement regarding timing of the evaluation.
 - b. The City expresses concern regarding the noise, light and dust impacts on Confluence Park. The County Community Development staff proposed Conditions of Approval adequately address these concerns. Mitigation measures for noise such as not to exceed levels of 55 decibels measured

at the property line, generators in insulated housing and required functional industrial mufflers on equipment are acceptable. Light is addressed with the condition of all outside lighting required to be hooded. Dust suppression requirements are extensive, including limiting the volume of material moved, misters on crushers, and no crushing on windy days. City staff supports both local and State level enforcement of the requirements.

c. The City of Delta expresses concern regarding the hours of operation projected at nearly 16 hours per day at peak season (July.) City staff remains concerned about the proposed operating hours during the peak summer season. Staff will continue to discuss alternative operating hours with the applicant, but also recognizes the economics of the proposed hours.

3. The City requests that we be included on the distribution list of reports regarding the application from MSHA, USACE, CoDWR and CDPHE regarding water augmentation plan, water quality, discharge permitting, and the need for an environmental assessment and any other agency review pertaining to the application. Others issues may arise as reports become available. The City has already received a notice from MSHA, and anticipates the other agencies notifications in the coming months. City staff will monitor the outcomes of such reviews and keep open communication with both the County and the applicant should additional concerns arise.

4. The City is concerned about the impacts to City infrastructure from the proposed truck trips.

The City requests the applicant submit Colorado Registered Engineer evaluation and recommendations regarding maintaining the structural integrity of the City streets and bridge, including a full scale traffic study (showing peak hour and peak season trips) with examination of turning radii at Graff Road and 5th Street, and mitigating infrastructure improvements such as a traffic signal at Gunnison River Drive and 5th Street (G Road). Increasing the number of northbound turning movements from 5th Street onto Gunnison River Drive is a major safety concern for the City. City staff has discussed these general concerns regarding transportation infrastructure with the applicant. Mr. Graff's team is producing a traffic study and assures staff that recommended improvements will be constructed / implemented. City staff will continue to work with Mr. Graff to assure impacts to City transportation infrastructure are properly mitigated and the safety of the traveling public is maintained.

5. The City is concerned that the proposed activity will result in additional traffic issues needing additional law enforcement response. The City Police Chief has expressed concern that additional traffic incidents (crashes) will result from truck turning movements at the 5th and Confluence Drive intersection. The proposed traffic study should reveal any additional risks, and staff will work with the applicant to determine any needed improvements.

City staff believes the applicant has been cooperative, and is confident that the gravel pit development team will provide the necessary documentation, protections, and

improvements to adequately address all City of Delta concerns. The City requests that the Planning Commission retain the approval condition that all issues raised by the City be addressed to the City's satisfaction. The City recognizes that many of the issues and concerns of the community will be addressed through the conditions of approval and requirements of the County, as well as the ongoing monitoring and enforcement by other permitting agencies.

May 6th letter to Mr. Yeager from Ben Landenfeld:

Mr. Yeager

Following discussions with the neighbors who live along G Road, the City of Delta, and further feedback from Delta County officials, J Graff Enterprises will add the following commitments to the Best Rock Sand and Gravel Pit 1 Specific Development Application.

1. Prior to mining below the water table within 1000' of Confluence Lake, the operator will provide the City of Delta with a hydrological analysis of the area groundwater regime with respect to potential impacts due to dewatering with the pit. This analysis will be conducted by a third-party engineer.
2. No mining will occur within 100 feet of the City of Delta Sewer line. Furthermore, mining along the sewer line path will be to a slope of 4H: 1V or shallower. Upon completion of mining this slope, riprap armoring will be installed as shown on Map C-4 Slope Armoring.
3. Prior to any excavation within 500 feet of the City of Delta Sewer line, said sewer line and associated setback will be marked in the field.
4. J Graff Enterprises will institute a three-strike system for all haul trucks leaving the site. Any first complaint of excessive speed or dangerous driving will be recorded by the operator and the driver given a warning. A second infraction will lead the driver being suspended from driving onto the site for two-years. A third infraction will lead to a lifetime ban for the driver. The operator will provide a report of complaints received

Jacks compost business has been in the valley for 30 years. Along with the San Luis Valley he has a couple different locations around Delta County. The compost will be moved to one of his other sites when gravel operation starts.

Hello Delta County Planning,

Colorado Geological Survey's review of the BRS&G Pit 1 referral is attached. No concerns noted. Please call or email if you have questions or need further review.

Dear Delta County Planning:

Colorado Geological Survey has reviewed the BRS&G Pit 1 Specific Development referral. I understand the applicant proposes a sand and gravel extraction operation on approximately 200 acres located at 6450 Graff Road, Delta. With this referral, we received a Notice of Review of a Specific Development Application (undated), Exhibit B, location maps (Greg Lewicki and Associates, January 2019), and NRCS soil survey information.

The site is not exposed to any geologic hazards that would preclude the proposed sand and gravel mining operation. Provided the applicant's mining and

reclamation plans are approved by the Colorado Division of Reclamation, Mining, and Safety (DRMS), CGS has no objection to approval. Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at (303) 384-2643, or e-mail carlson@mines.edu.

Thanks,
Jill Carlson

Engineering geologist
Land Use Review Program
[Colorado Geological Survey](#)
1801 Moly Road
Golden, CO 80401
Carlson@mines.edu
303-384-2643

Mr. Yeager

Thank you for providing our office with a copy of the comments from the Delta County Road and Bridge Department and the City of Delta. As you know, Jared Graff, you, and I spoke with the City of Delta on November 1, 2018, prior to the submittal of the Specific Development Application. We all worked together to identify the City's primary concerns about the proposed sand and gravel operation. Measures to address these concerns were directly incorporated into the Specific Development application. IT appears that the City of Delta wishes to reiterate their concerns from that meeting, as well as raise new ones with the letter dated April 17, 2019. I will attempt to address each comment directly. The City of Delta Community Development Director, Mr. Glen Black, provided our office with the route of the City sewer line through the properties. A 50-foot setback was built into the mining plan to prevent any excavation from risking the sewer line in that area.

I do have copies of the original application, Staff findings & Conditions of Approval have been added to your packets.

Open Public Comment:

Andy Crawford -

My family moved adjacent to this property in 1972. Things in the neighborhood, the road is really bad & somebody will get killed if the road is not accommodated for the heavy traffic. It's dangerous. It looks like there may not be a lot of impact standing here today but we may be disappointed down the road.

Martha Mieara - 68080 Graff Rd

I am not against the gravel pit but I am against the traffic it will create. & He said he is willing to get something done to the road to mitigate the dust. Entry into Graff Rd is terrible. Graff Rd is too narrow for this type of traffic. The RR owns the land to the west & the north. The City or the State needs to address the bypass going in & off of the bypass. They can mine the property & they have the right to take care of it.

Virgy Ramos -

Jared spoke with my husband. My concern is the road. My house is close to the road & the entry way to the road is horrible, you can't see west to get out of there. I had my husband go & chop a

tree down in order to see better, you couldn't see west down the road. The weeds have gone crazy & are growing out of control.

Louie Ramos -

Traffic is the issue. Dust & mud makes it a big mess. But I'm all for what he wants to do over there.

Luke Fedler – 6497 Townsend Rd.

I'm the Chief of Police for the City of Delta. I'm here to represent the city, the Public Works Director couldn't make it & the City Manager couldn't make it. These concerns on traffic are valid, we recently did a study at Confluence Dr. & 5th St. & it is our most dangerous intersection as far as accidents.

Mr. Yeager read the Delta County Engineering Department comment:

Upon review of Specific Development Best Rock Sand & Gravel Pit 1, I have the following concerns and recommendations:

- 1: Existing County Road is adjoined by 10 residences in approximately mile. The road is gravel and extremely dusty-especially during harvest time with the farm trucks hauling! Gravel trucks would definitely worsen this issue!
- 2: Access point at G Rd is real difficult to approach at a right angle with trucks. Access point is located as far as feasible away from RRX for safety and visual of approaching trains from the west.

Recommendations:

I recommend developer to build Graff Rd from Pit entrance to G Rd to County specifications and pave. Paving could be delayed for 1 year after production/hauling starts by applying MG/CL to road in the interim.

I also recommend an engineer's study of the point of intersection with G Rd to get design recommendations for intersection improvements. Developer would then be required to build the intersection to a design approved by the County.

Presentation by the applicant/representative:

Principle changes made:

- 100 foot setback buffer from the sewer line & manholes & a 4/1 – 4 horizontal feet for every 1 foot
- Speed Limit of 10 MPH on Graff Rd.
- Jared has made an effort to get in touch with all of the neighbors & talked to them about fencing & screening & has created a road improvement design showing how big the will be & what type of pavement
- We've also added to the application for your review if you'd' like to see at any point the Driver Discipline
- Certification from the Rail Road has been done
- Questions about limiting trucks – 20 truck limit can be met & if it changes he'd come back for approval
- Total life of the mine – the agricultural farm area will slowly morph into lakes
- The hours – typically in high country Colorado business hours are Monday - Saturday 7am – 7pm with no operations on Sundays
We would be happy to compromise & set hours to Mon - Fri 7am – 7pm & Sat 8am – 5pm with no operations on Sundays

Questions from Planning Commission Members:

Q: Who made these demands or requests on the print out addressed to Elyse & Kelly?

A: Tom Kay

Q: 10 mph on Graff Rd or just onsite?

A: Onsite & we would advise our drivers to stay under a specific speed

Q: Is 2000 feet request from the City?

A: We sent them 1000 feet & then their letter came back saying 2000, I'm unsure if it's a typo. We can do 2000 feet but it really doesn't make a difference.

Q: The traffic study that they referred to will occur when?

A: In that first year. We get a year from start to study & build improvements

Q: The reconfiguration to Graff Rd & G50 is an immediate project?

A: Yes & paving within a year

Q: Why couldn't paving happen sooner?

A: Funding & further permits needed

Q: & would you use your own product?

A: Yes

Q: The interim is mag chloride?

A: Yes

Q: Would it be reasonable to respond to the APOs as to what they would like to have as a screen?

A: I'd like them all to agree on something to look nice

Q: How much gravel in terms of yards would come out in 50 years?

A: 10 million yards are in the pit

Q: What is the value?

A: It depends on if you make it into concrete or rock

Q: Pick a value

A: There is no way to say

I think it's irrelevant

Q: What kind of bonds do you currently have?

A: Not yet. Once the state permit is approved, they'll approve the application & then issue a permit once the bond has been placed.

Q: Bonds for reclamation?

A: Bond is calculated based on the plan

Q: Financial cost to the county?

A: We'll do a road study but I don't know what the cost will be

Q: Would you be willing to chip in on the County's costs?

A: There are a lot of different users that are all essentially supposed to be pitching in through taxes. We would object to shouldering the majority of the cost.

Q: In the reclamation plan it will be 2 lakes?

A: Yes

Q: Will there be any subdividing?

A: Never

Public Comment Closed

Deliberations of the Planning Commission:

Good job working with the neighbors

I'm comfortable with the hours of operation

I don't think a truck limit is applicable

I've lived next door to farmers that farm all night long

Working in construction, you are on your scraper at 6 am

Confluence Drive is not their responsibility

Seems like the County should get a financial study for costs of services

A study needs to be done on road impacts fees

Screening – Landscape plan between pit & park
Namesake of Delta County – Confluence of the Uncompahgre River
Recommend a Bond
Clarification of 1000 2000 foot setback

Motion: Lucinda Stanley moves to recommend approval with conditions done by Planning Staff & recommendations as follows:

- **Plan to work with neighbors for screening**
- **Hours of operation being 7am – 7pm Monday – Friday & 8-5 Saturday**
- **Limit of 20 trucks per day average**
- **Including a landscaping buffer pit to park**
- **Clarification of 2000 foot setback from City of Delta**
- **Master Plan consistency Section 2.4 Economic Development, Section 2.5 Land Use & Development & Section 2.6 Public Infrastructure, Services & Assets**
- **Adhering to the traffic study as required by the County/City for improvements**

Second: Steve Shea
Unanimous Ayes – Motion Carries

To BoCC: June 11, 2019 @ 10:00 a.m.

Meeting adjourned at: 10:30pm

Respectfully submitted by:
Vivian Archuleta