

Planning & Zoning Commission Minutes
September 17, 2019

This is a regular meeting of the Park County Planning & Zoning Commission held at 6:00pm in the EOC Room of the County Courthouse at 1002 Sheridan Ave., Cody, WY.

Commission Members Present:

Marion Morrison, Chairman
Kimberly Brandon-Wintermote, Vice Chairman
Linda Putney
Duncan Bonine
Debora Smith

Staff Present:

Joy Hill, Planning Director
Kim Dillivan, Planner II
Patti Umphlett, Planner I
Mary McKinney, Weed and Pest

Chairman Morrison opened the meeting at 6:00pm.

APPROVAL OF MINUTES

Chairman Morrison asked the Board for comments or changes to the August 20, 2019 meeting minutes. A MOTION was made by Commissioner Brandon-Wintermote to approve the minutes as corrected; the motion was SECONDED by Commissioner Bonine. Motion was carried unanimously.

REGULAR AGENDA

PUBLIC HEARING CONTINUED – Gebben Major Subdivision Sketch Plan Review: Julia K. Gebben requests approval of the sketch plan for Gebben Major Subdivision. The proposed subdivision is comprised of one 5-acre lot and one 10-acre lot, each for residential use. This parcel is described as Lot 28 of the Buchanan Park Subdivision, Block 3, Park County, WY, with an address of 131 Road 3CXS, Cody, WY, located within a General Rural 5-acre (GR-5) zoning district.

Chairman Morrison opened the continued public hearing at 6:01pm, reviewed the rules of a public meeting and introduced the Board and Staff.

There being no comments from the Commission members, Chairman Morrison asked the Planning Director for comments. The Planning Director read a letter addressed to Mr. Thomas Keegan, the applicant's representative, from her, a copy of which is attached hereto and incorporated herein. The letter provided a recommendation for action to be taken by the Commission to include continuing the public hearing indefinitely pending the vacation of Lot 28 from the plat or approve an amended plat.

Chairman Morrison asked if the applicant's representative had any questions or comments.

- Mr. Keegan had nothing to add.

Chairman Morrison asked if there were comments from any members of the public.

- Mr. Joey Darrah said that a lot of landowners would agree to not amend the plat or a partial vacation. He mentioned Wyoming State Statute 34-12-106 would require all lot owners to

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54 be noticed (also mentioned case law). He said in terms of lot sizes, there are 13 lots that
55 could be split into 30 more lots. He urged that nothing happen and it does not go before
56 the commissioners.

57 • Mr. Thomas Keegan said he doesn't feel that vacation goes before the Planning and
58 Zoning Commission, it goes before the Board. Planning and Zoning does not have the
59 authority to go before the Board with a recommendation.

60 • Chairman Morrison asked staff if they should consider denial vs. continuing indefinitely.
61 The Planning Director indicated that the choice is the Commission's, but the regulations
62 allow for indefinite continuance.

63 • Joe Harper said he is confused, if vacation does occur, did the signatures of all landowners
64 have to be on the plat according to statute. Staff indicated that they are not aware of that
65 requirement, but the vacation process would need to occur per statute.

66 • John Gordnier said he feels there is a jurisdictional issue that has been overlooked. He
67 doesn't feel it should change the recommendation of staff, nor the position that has been
68 articulated by the Chair. The record should reflect that we reserve the jurisdictional
69 question before anything can go to the Board of County Commissioners.

70

71 There were no comments from those in attendance.

72

73 Commissioner Bonine made a MOTION to continue the hearing indefinitely at 6:15pm;
74 SECONDED by Commissioner Smith. The motion was carried unanimously.

75

76 Deanna's SS-257 Sketch Plan Review: Deanna Aiken requests Planning and Zoning
77 Commission approval of the sketch plan for the Deanna's Simple Subdivision (SS-257), which
78 proposes to create one 5-acre residential lot and one exempt remainder 72.42-acre parcel. The
79 intended use of the subdivision lot is for a single-family residence. The proposed subdivision is
80 located approximately 3 miles southwest of Cody city limits, south of County Road 6UU (Diamond
81 Basin Road), and east and north of County Road 6SR, as shown in Figure 1. Proposed Lot 1 has
82 a physical address of 382 Diamond Basin Road.

83

84 Chairman Morrison acknowledged that a public hearing was not required and directed Planning
85 and Zoning staff to commence with the staff report at 6:18pm.

86

87 There being no comments from Commission members, Kim Dillivan, Planner II, presented the
88 Staff Report.

89

90 Chairman Morrison asked if any Commission members had questions for Staff.

91 • Commissioner Bonine asked if we know the source of water for the stock pond. There was
92 an indication that there are no streams on the lot. Staff was not certain though thought it
93 was irrigation related.

94 • Chairman Morrison asked if there were any changes on the points of diversion for irrigation
95 or any point of use changes as a result of the subdivision. Staff was not certain.

96 • Chairman Morrison mentioned the plan provided to the State Engineer regarding the
97 distribution of water rights. Staff clarified that a plan can be sent to the state, but our
98 regulations also say if there is no change in use state review is not required.

99 • Chairman Morrison asked if all irrigation requirements have been met. Staff indicated that
100 the irrigation district appears to be satisfied.

101 • Chairman Morrison noticed that the stock pond is shown as 56 feet from the leach field.
102 Staff said the leach field must be 50 feet from a waterbody.

103

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104 Chairman Morrison asked if the applicant's representative had any questions or comments.

- 105 • Mr. Don Leischner, applicant's engineer, said he is happy to answer questions but has
106 nothing else constructive to add.

107
108 Chairman Morrison asked if any commission members had questions for the applicant.

- 109 • Commissioner Bonine asked about the source of the water for the pond. A ditch runs along
110 the north line and the water flows to the pond by overland flow.
- 111 • Chairman Morrison sought clarification about the permitting of the pond. Staff has
112 evidence of it being permitted by the State.
- 113 • Commissioner Brandon-Wintermote asked about requirement #2 and how the lots are
114 served by NRWD. Tabatha Hansen, applicant's engineering representative, said she will
115 have to check the records to be certain, but she knows there is a residence on the exempt
116 remainder parcel, and she believes it is served by NRWD, but she believes Mike Mackey
117 of NRWD would not have been commenting on the exempt lot since it is not part of the
118 subdivision plan. She can check.
- 119 • Chairman Morrison mentioned the need for a condition about an addendum for a long-
120 term noxious weed management plan. Mary McKinney with Park County Weed and Pest
121 said she is satisfied with the plan and she did have a conversation with the applicant.
122 There will be another resident assisting with carrying out the duties. The weed plan has
123 been approved and accepted and a signed copy is on record.
- 124 • Commissioner Putney asked staff if the depth to width ratio applies to this subdivision. It
125 does not b/c the lot is over 5 acres.
- 126 • Commissioner Brandon-Wintermote said she would like to see finding x changed to "the
127 district is not requiring any water rights distribution plan at this time." She also wondered
128 about the waiver from the Planning Director regarding the requirement for a depth to
129 groundwater cut. Commissioner Bonine asked about there being a stock pond fed by
130 surface water, if there were any concerns about depth to groundwater. Staff indicated that
131 presence of groundwater is certainly possible. There is no additional development
132 planned.
- 133 • Commissioner Putney asked if condition 5 be stricken.
- 134 • Chairman Morrison asked about a finding *nn* related to the waiver of groundwater
135 exploration. She would like it to state: The Planning Director has waived the applicant's
136 requirement for the applicant to provide proof of depth to groundwater due to existing
137 records on nearby properties.

138
139 Commissioner Brandon-Wintermote made a MOTION to approve Resolution 2019-26 with the
140 following conditions:

- 141 1. The applicant shall provide all easements as requested by applicable utilities and special
142 districts, irrigation districts or public agencies providing services. The width of any utility
143 easement shall be sufficient to allow adequate maintenance of the system, but in no case
144 shall such utility easement be less than 20 feet in width. Easements must be identified on
145 the final plat
- 146 2. Postal service and mail delivery points must be identified prior to final plat review;
- 147 3. School bus stop locations must be identified prior to final plat review;
- 148 4. A soils report must be received from the Cody Conservation District prior to final plat
149 review;

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150 5. The applicant shall otherwise comply with standards in the Park County Development
151 Regulations and the minimum subdivision requirements as set forth in Wyoming Statute
152 18-5-306.

153
154 The motion was SECONDED by Commissioner Bonine. The motion carried. See Resolution
155 2019-26 attached hereto and incorporated herein.

156
157 The Planning Director delivered a debrief of the short-term rental scoping meetings. Planning and
158 Zoning Commission members would like the Board of Commissioners to consider some of the
159 following initially:


- 160 - Consider registration/permitting (baseline accountability for public health and safety)
- 161 - Maximum occupancy/# of rooms
- 162 - Owner-occupied vs. Not owner-occupied
- 163 - Septic consideration – especially rv parked and used while house is rented
- 164 - Steering committee, mix of areas, for/against folks
- 165 - Grandfathering – they feel this should not be done
- 166 - Cap the # by area – long-term consideration
- 167 - For Land Use Plan – consider merging of some planning areas?

168
169 Chairman Morrison delivered the Chair's report.

170
171 The Planning Director delivered a report for the Planning and Zoning Department.

172
173 There being no other business, a MOTION was made by Commissioner Smith to adjourn the
174 meeting at 8:01pm. The motion was seconded by Commissioner Brandon-Wintermote. All in
175 favor.

176
177 Respectfully submitted,



Jolene Brakke, Secretary

Park County
Planning and Zoning Department

1002 Sheridan Avenue Ste 109
Cody, Wyoming 82414-3550
307-527-8540 or 307-754-8540



September 17, 2019

Grimes, Daphne B. Living Trust/Julia Gebben
c/o Attorney Thomas Keegan
1223 Bleistein Avenue
Cody, WY 82414

RE: Further Division of Lot 28, Buchanan Park Subdivision Block #3
(Proposed Gebben Major Subdivision)
Parcel Identification Number: 065320190928028
Zoning District: GR-5
Planning Area: Sage Creek
Physical Address: 131 Road 3CXS, Cody, WY

To Mr. Thomas Keegan on behalf of the Daphne B. Grimes Living Trust and Julia K. Gebben,

After conducting research and deliberating with the County Attorney, I have come to a decision regarding further subdivision of Lot 28 (~15 acres) of the Buchanan Park Subdivision Block #3, which you have proposed as part of the application for the Gebben Major Subdivision Sketch Plan.

As you are aware, the Planning and Zoning Commission held a public hearing on August 20, 2019 to consider the sketch plan of the Gebben Major Subdivision. During the hearing, numerous members of the public questioned the process chosen by Planning and Zoning Staff to execute the division of Lot 28, in particular due to note #10 on the plat (recorded in the Office of the County Clerk in Plat Cabinet J at Page 142, document #2008-7218) which states the following: "FUTURE SUBDIVISION: NO FURTHER SUBDIVISION OF THE SUBJECT LOTS, PARCELS, OR OTHER UNITS OF LAND WHICH WOULD INCREASE THE NUMBER OF LOTS, PARCELS, OR OTHER UNITS OF LAND WITHIN THIS SUBDIVISION WILL BE PERMITTED." Also, note #9 on the plat states the following: "VACATION. THIS SUBDIVISION MAY BE VACATED OR PARTIALLY VACATED PURSUANT TO APPLICABLE STATE LAW OR COUNTY RULES AND REGULATIONS."

Planning and Zoning Staff interpreted Section 15.b.(3) of Chapter III of the *Park County, Wyoming 2015 Development Standards and Regulations* ("regulations") regarding "Re-subdivision of Approved Plat" to mean that a person could subdivide existing lots within a platted subdivision by way of completing the entire major subdivision process. While staff has indicated that Lot 28 would need to be vacated as part of the re-subdivision process, members of the public felt that completing the partial vacation process according to Wyoming State Statute 34-12-108 and 34-

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12-106 would be more appropriate. Based upon the lack of clarity in the County regulations and the intensity of concern from other landowners in the subdivision, the Planning and Zoning Commission requested that I seek the opinion of the County Attorney regarding proper procedure for this matter.

In visiting with the County Attorney and carefully reviewing Section 15.b of Chapter III of the regulations, we feel that you cannot achieve "new subdivision" status in Section 15.b.(3) without first completing the partial vacation process according to Section 15.b.(2), which requires the Board of County Commissioners' approval. Further, based upon the language in W.S.S. 34-12-108 which states, "...providing such vacating does not abridge or destroy any of the rights and privileges of the other proprietors in said plat...", we feel that it would be good policy to notice all landowners of lots in the entire subdivision, as well as any additional landowners who may be outside of the subdivision within 660 feet, to allow them the opportunity to express their concerns, if they so choose.

Alternatively, the owner of Lot 28 could attempt the Amended Plat process, seeking approval to remove note #10 from the plat; however, this process would require the signatures of all owners of record of the lots involved (i.e., all landowners within all four phases of the Buchanan Park Subdivision)

As such, at this time, I suggest that the Planning and Zoning Commission continue the existing public hearing indefinitely, pending 1) approval by the Board of County Commissioners for the vacation of Lot 28 from the plat of Buchanan Park Subdivision Block #3 following completion of the partial vacation process or 2) approval by the Board of County Commissioners for an Amended Plat of Buchanan Park Subdivision allowing the removal of note #10 following completion of the amended plat process.

Should you have any questions, please do not hesitate to contact my office.

Sincerely,



Joy Hill, Director
Planning and Zoning Department

cc: Planning and Zoning Commission
County Attorney
file

RESOLUTION 2019- 26
PARK COUNTY PLANNING & ZONING COMMISSION

TITLE: RECOMMENDATION TO APPROVE THE SKETCH PLAN FOR
DEANNA'S SIMPLE SUBDIVISION – 257

WHEREAS, Deanna Aiken proposes to divide a 77.42-acre parcel into one 5.0-acre lot and a 72.42-acre remainder parcel. The intended use of the subdivision lot is for a single-family residence;

WHEREAS, the application and supporting documents are in substantial compliance with Park County Development Standards and Regulations pertaining to simple subdivision sketch plans;

WHEREAS, the Planning & Zoning Commission held a duly noticed meeting on September 17, 2019 to consider the sketch plan application and made findings as follows:

- a. Deanna J. Aiken, Trustee of the Aiken Family 1993 Trust dated November 8, 1993, is the owner of the property (Document #2010-5663);
- b. The lot as configured conforms to the GR-5 zoning district where it is located;
- c. The property is not within one mile of a municipality;
- d. All notice requirements have been met;
- e. All agency referral requirements have been met;
- f. No public comments have been received;
- g. Pre-application meeting requirements have been met;
- h. A Notice of Intent to Subdivide was published in the Cody Enterprise on July 2, 2019 and July 9, 2019;
- i. A sketch plan application, including payment, was received on July 8, 2019;
- j. A title report has been submitted;
- k. No new subdivision roads or open/public spaces are proposed;
- l. Garbage disposal service is available through local, private companies;
- m. Fire protection is available with Fire District No. 2;
- n. Postal service availability and mail delivery points have not been identified;
- o. School bus stops and pullout locations have not been identified;
- p. Rocky Mountain Power provides electricity to proposed Lot 1;
- q. The availability of natural gas service is unknown;
- r. Cable television service is not currently available;

- s. Cellular phone service is adequate in the area;
- t. There are no apparent or identified hazardous conditions on the lot;
- u. The Cody Conservation District received a request for a soils report on June 26, 2019;
- v. A soils report has not yet been received;
- w. The Lakeview Irrigation District was notified on June 26, 2019;
- x. The Lakeview Irrigation District does not require any further water rights distribution plans;
- y. An initial weed inspection found the presence of noxious weeds;
- z. An addendum to the existing long-term noxious weed control plan, through 2024, has been approved;
- aa. Legal access to the proposed lot is from County Road 6UU;
- bb. Easements are shown on the sketch plan;
- cc. A legal description is shown on the sketch plan;
- dd. Boundaries of the area to be subdivided are shown on the sketch plan;
- ee. Existing structures, wells and septic facilities are shown on the sketch plan;
- ff. Irrigation facilities are shown on the sketch plan;
- gg. Subsurface evaluation data (perc test) have been submitted;
- hh. Northwest Rural Water District provides domestic water to the proposed lot;
- ii. The lot size proposed conforms to the lot design and improvement standards;
- jj. The subdivision is not within the mapped floodplain;
- kk. No activities are expected to impact neighboring agricultural activities or related uses;
- ll. All existing irrigation water rights will be retained with no change in use;
- mm. No open spaces, natural areas, schools or parks are proposed;
- nn. Planning Director has waived requirement for evidence showing depth-to-ground water due to existing septic records on neighboring properties.

WHEREAS the Planning & Zoning Commission concludes the proposed subdivision is generally consistent with the goals and policies of the Park County Land Use Plan and is consistent with the standards and procedures of the 2015 Park County Development Standards and Regulations;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends approval of the sketch plan for the Deanna's Simple Subdivision - 257, subject to the following conditions:

1. The applicant shall provide all easements as requested by applicable utilities and special districts, irrigation districts or public agencies providing services. The width of any utility easement shall be sufficient to allow adequate maintenance of the system, but in no case shall such utility easement be less than 20 feet in width. Easements must be identified on the final plat;
2. Postal service and mail delivery points must be identified prior to final plat review;
3. School bus stop locations must be identified prior to final plat review;
4. A soils report must be received from the Cody Conservation District prior to final plat review;
5. The applicant shall otherwise comply with standards in the Park County Development Regulations and the minimum subdivision requirements as set forth in Wyoming Statute 18-5-306.

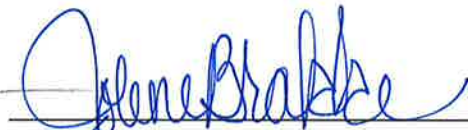
ADOPTED by the Park County Planning & Zoning Commission this 17th day of September, 2019.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**

ATTEST:



Marion Morrison, Chair



Jolene Brakke, Secretary



Park County Planning & Zoning Department

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

PARK COUNTY PLANNING & ZONING COMMISSION

Meeting **6:00 P.M.**, Tuesday, September 17, 2019 in the Alternate Emergency Operating Center (EOC Room), basement of the Courthouse Addition
1002 Sheridan Ave. Cody, WY.

This is a regular meeting of the Park County Planning & Zoning Commission open to the public. For more information please contact the Park County Planning & Zoning Department at 527-8540, 754-8540, or 1-800-786-2844.

APPROVAL OF MINUTES

Approve minutes from August 20, 2019 regular meeting.

REGULAR AGENDA

PUBLIC HEARING CONT. – Gebben Major Subdivision Sketch Plan Review

Deanna's SS-257 Sketch Plan Review

OTHER BUSINESS

1. Debrief regarding Short Term Rental Scoping Meetings
2. Chair's Report
3. Planning Director's Report

ADJOURN

PLEASE SIGN IN

PLANNING and ZONING COMMISSION REGULAR MEETING September 17, 2019

Gebben Major Sub. Sketch Plan

	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	Joey Parach	Buchanan Park Subdivision	yes
2	PAMELA HARRIS	Buchanan Park Subdivision	Yes
3	Joe Harper	" "	Yes
4	Gary Lewis	" "	Yes
5	JAY MOODY	" "	No
6	JOHN GORDON	" "	Yes
8	DON LEUSCHNER	Deanna's Simplex	No
9	RICH HARRIS	Buchanan Pk. Sub.	YES.
10	Shirley Stephens	"	No
11	Amy McKinney	any	if needed
12	Tabatha Hansen	Deanna	no
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