

1 **Planning & Zoning Commission Minutes**

2 May 27, 2020

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4 This is a special meeting of the Park County Planning & Zoning Commission held at 1:00pm in  
5 the EOC Room of the County Courthouse at 1002 Sheridan Ave., Cody, WY.

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7 **Commission Members Present:**

8 Marion Morrison, Chairman (participating by phone)  
9 Kimberly Brandon-Wintermote, Vice Chairman  
10 Linda Putney  
11 Duncan Bonine  
12 Richard Jones  
13

14 **Staff Present:**

15 Joy Hill, Planning Director  
16 Kim Dillivan, Planner II  
17 Patti Umphlett, Planner I  
18 Brian Edwards, County Engineer/Public Works  
19

20 Acting Chairman Brandon-Wintermote opened the meeting at 1:00pm.  
21

22  
23 **SPECIAL AGENDA**

24  
25 **PUBLIC HEARING – Zuercher MS-37 Sketch Plan:** David and Rebecca Zuercher request  
26 approval of the Sketch Plan of Zuercher Minor Subdivision (MS-37) (Applicants: David and  
27 Rebecca Zuercher). The applicants request permission to create one 15.3-acre lot for residential  
28 use, leaving a 152.91-acre remainder parcel. The proposed subdivision is located in part of Lot  
29 55-V and part of Lot 55-W, Resurvey T54N, R100W, and part of Lot 95-2, Resurvey T55N, R100W  
30 of the 6th P.M., Park County, Wyoming, in a General Rural-Powell (GR-P) zoning district. The  
31 property is approximately four miles southwest of Ralston, with an address of 1870 Lane 12,  
32 Powell, WY.  
33

34 Acting Chairman Brandon-Wintermote opened the public hearing at 1:03pm, reviewed the rules  
35 of a public meeting and introduced the Board and Staff.  
36

37 There being no comments from Commission members, Kim Dillivan, Planner II, presented the  
38 Staff Report.  
39

40 Acting Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 41 • Commissioner Putney asked for clarification about the gas and fiber optics on the sketch  
42 plan. Kim indicated that they are on the legend, but not shown on the map. It is his  
43 understanding that there is natural gas on the property.
- 44 • Commissioner Putney also asked about the location of the well that was tested. Kim said  
45 he was not sure.
- 46 • Commissioner Morrison asked if they had been using the access previously and if so, why  
47 is it not grandfathered. Kim is unsure, but the County Engineer should be able to answer  
48 any questions on required access. Kim said he did use the driveway when he visited the  
49 property to take photos.  
50

51 Acting Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

- 52 • Mr. Dave Zuercher said he has been using the existing lane since 2004/2005. There is an  
53 easement. The well that was used for testing is on the property. Utilities come across one

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- 54 of the lots already. He said the natural gas comes across from the west near where the  
55 overhead power line is. He said he would run a new line if he sells the lot.
- 56 • Kim Banathy, Engineering Associates, said they are not showing the gas lines because  
57 they are having problems getting locates done. There is a gas line coming from the west  
58 towards southeast to the house. On the plat there will be a utility easement that follows  
59 kind of how the power line runs. There will be a utility and access easement across the  
60 remainder parcel to the new property to the south.
  - 61 • Kim Banathy said there is a small spec on the sketch plan where there is a well due west  
62 of the perc test location. It was missed on the legend.
  - 63 • Commissioner Putney asked why they are splitting with the shed on the other parcel. Mr.  
64 Zuercher said if he sells, he would want to keep the shop and he would build on that  
65 property.

66  
67 Acting Chairman Brandon-Wintermote asked if any commission members had questions for  
68 Public Works.

- 69 • Commissioner Morrison asked about the access to the house on Lot 1. She was confused  
70 about them possibly having to get a right-of-way permit for the existing access, or is it  
71 grandfathered.
- 72 • Brian Edwards, County Engineer, said he believes using the existing access would not  
73 require a new permit, but for any newly proposed access a permit would be required.

74  
75 Acting Chairman Brandon-Wintermote asked if there were comments from any members of the  
76 public. There were no comments from those in attendance.

77  
78 Commissioner Putney asked to keep the hearing open for the commission to review findings and  
79 conditions as presented in the staff report.

- 80 • Finding "a" should state GR-P;
- 81 • Finding "h" should show that all agency referral requirements have been met;
- 82 • New finding that legal notice requirements have been met including notice to property  
83 owners within 660 feet of property line of the proposed subdivision.
- 84 • Finding "k" at the end should state "however, it is recommended the landowner follow best  
85 management practices for controlling the spread of noxious weeds";
- 86 • Delete finding "z" because notice of intent to subdivide is the same as finding "f";
- 87 • Finding "ii" add "however, the southern portion of the property is within the mapped  
88 floodplain and has steep slopes";
- 89 • Delete finding "gg";
- 90 • New finding that the Small Wastewater Administrator was notified and noted that  
91 engineered septic systems may be required;
- 92 • Finding "j" remove the second and third sentences;
- 93 • Add new condition to reflect gas line easements and well shall be shown on the sketch  
94 plan prior to Board of County Commissioner review;

95  
96 Commissioner Putney asked about adding a note on the final plat about engineered systems  
97 being required.

- 98 • Kim Banathy mentioned that the 77mpi perc rate appears to be an outlier. She would like  
99 to revisit the perc test hole and possibly conduct a new perc test.
- 100 • Commissioner Putney asked for a new condition to require revised subsurface evaluation  
101 data be submitted to the Small Wastewater Administrator prior to sketch plan review with  
102 the Board of County Commissioners.

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- 103       • The applicant states there are two existing septic systems on the property and perc was  
104       done for both.

105  
106       Commissioner Morrison made a MOTION to close the hearing at 1:45pm; SECONDED by  
107       Commissioner Jones. The motion was carried unanimously.

108  
109       Acting Chairman Brandon-Wintermote asked commission members if they had any discussion.

110  
111       Commissioner Jones made a MOTION to recommend approval of the sketch plan by Resolution  
112       2020-10 with the following conditions:

- 113  
114       1.     The applicant shall provide all easements as requested by applicable utilities and  
115       special districts, irrigation districts or public agencies providing services. The width of  
116       any utility easement shall be sufficient to allow adequate maintenance of the system,  
117       but in no case shall such utility easement be less than 20 feet in width. Easements  
118       must be identified on the final plat;
- 119       2.     A response from Park County Fire District #1 must be received prior to sketch plan  
120       review by the Board of County Commissioners;
- 121       3.     An irrigation and water distribution plan must be presented to the Heart Mountain  
122       Irrigation District prior to sketch plan review by Board of County Commissioners;
- 123       4.     Comments from Heart Mountain Irrigation District regarding the water rights and  
124       water distribution plan must be received prior to final plat review by Board of County  
125       Commissioners;
- 126       5.     The applicant shall state on the final plat that “The seller does not warrant to a  
127       purchaser that there are any rights to the natural flow of any stream within or adjacent  
128       to the proposed subdivision” and “Wyoming law does not recognize any riparian  
129       rights to the continued natural flow of a stream or river for persons living on the banks  
130       of the stream or river”;
- 131       6.     The applicant shall submit revised subsurface evaluation data to the Small  
132       Wastewater Administrator prior to sketch plan review by the Board of County  
133       Commissioners;
- 134       7.     The applicant shall note the locations of gas lines and the existing well on the sketch  
135       plan prior to review by the Board of County Commissioners; and
- 136       8.     The applicant shall otherwise comply with standards in the Park County Development  
137       Regulations and the minimum subdivision requirements as set forth in Wyoming  
138       Statute 18-5-306.

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139 The motion was SECONDED by Commissioner Putney. The motion carried unanimously. See  
140 Resolution 2020-10 attached hereto and incorporated herein.

141  
142 **PUBLIC HEARING – One Rock MS-35 Sketch Plan:** Steve and Linda Sweet request approval  
143 to vacate Lot 1 of the Rodriguez Simple Subdivision (SS-186) and create four lots; one 10-acre  
144 lot, one 6.24-acre lot, one 4.39-acre lot and one 3.26-acre lot for residential/agricultural use. The  
145 parcel is located northeast of the intersection of Lane 8 and State Highway 294, Resurvey T55N,  
146 R100W, 6th P.M., Park County, Wyoming, in a General Rural-Powell (GR-P) zoning district.

147  
148 Acting Chairman Brandon-Wintermote opened the public hearing at 1:50pm.

149  
150 There being no comments from Commission members, Kim Dillivan, Planner II, presented the  
151 Staff Report.

152  
153 Acting Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 154 • Commissioner Morrison asked if the distance to the water well is known. Kim Dillivan said  
155 he does not know the location of the well.

156  
157 Acting Chairman Brandon-Wintermote asked if Public Works has any comments.

- 158 • Brian Edwards said he had provided a response. He is not sure if they have determined  
159 exactly how the driveways will be configured in terms of addressing requirements. If a 60-  
160 foot access easement could be agreed upon, maybe a road name could be agreed upon.  
161 It could be a short road with driveway offshoots in two directions.
- 162 • Commissioner Jones asked about the implications of having a named road. Brian said the  
163 county standard has been in place for a long time for the trigger to require a road to be  
164 named based upon the number of addresses along the access. It is an emergency  
165 services related requirement. Cost is a factor and his office would suggest planning for the  
166 future with the 60-foot easement from the highway, built to road standards.
- 167 • Commissioner Putney asked if the 60-foot easement was approved and a solution was  
168 presented, could it change prior to final plat. Until recorded, it's not in place. Harder to  
169 change once in place.
- 170 • The Planning Director recommended that the road plan be finalized prior to sketch plan  
171 review by the Board of County Commissioners.
- 172 • Commissioner Morrison said if they come off of there, Hwy 294 is a busy road. Her concern  
173 would be the ability of a school bus to get in and turn around.
- 174 • The proposed access off the highway is 24-feet wide (60-foot easement) with a  
175 turnaround; then they could choose two driveways, one south and one north, to driveway  
176 standards, 18-feet in width minimum.
- 177 • Commissioner Putney asked about the water analysis being done in 2018 and how it did  
178 not meet the safe drinking water requirements. What further is required? Kim said in similar  
179 situations people will get another water sample. In this case, however, nitrogen is high  
180 which is not unusual in the area. Staff will re-evaluate the water quality results prior to  
181 sketch plan review with the Board of Commissioners.
- 182 • Commissioner Morrison asked if it is a requirement for the domestic water test to come  
183 from within a ½ mile. If a well is available and an applicant can get a sample, it would have  
184 to be within a ½ mile.
- 185 • Commissioner Morrison asked if there should be a condition to ensure that there would  
186 need to be a note on the plat regarding water quality. The Planning Director indicated that  
187 staff should be offered the opportunity to re-evaluate the water quality results and then  
188 decide.

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- 189 • Commissioner Morrison wanted to know if normal home water filtering systems would take  
190 care of nitrates and nitrites. Staff is unsure.

191  
192 Acting Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

- 193 • Mr. Steve Sweet said the land is too small to be conducive to farming and the shape does  
194 not lend itself well to farming. His renter indicated that it would be most useful subdivided.  
195 As it is, it will not pay itself off with the existing rent. Financially, it was a better move for  
196 him to subdivide.
- 197 • Kim Banathy said there was a concern brought up about school bus access to the road.  
198 The letter from the school district mentions the bus stop would be on the Highway. She  
199 does not feel that consideration of a turnaround for school buses should be on the table.  
200 The Planning Director added that if the turnaround is adequate for emergency vehicles, it  
201 should be adequate for a school bus. Commissioner Jones agreed.

202  
203 Acting Chairman Brandon-Wintermote asked if any commission members had questions for the  
204 applicant.

- 205 • Acting Chairman Brandon-Wintermote asked if Black Hills Energy easement is shown.  
206 Kim Banathy said the easement will be parallel and adjacent to the highway.
- 207 • Acting Chairman Brandon-Wintermote said the irrigation district required sprinkle irrigation  
208 – will there be a pump. The applicant stated that there is a tremendous amount of head  
209 pressure on the existing line. If they just put a line in there, they should be able to run caps  
210 off of it no problem to water lawns. He will put a line in all the way across. Right now, water  
211 enters at the southeast corner of Lot 1 and he will run a buried line all the way along the  
212 easement.
- 213 • Commissioner Morrison asked the applicant if they have considered a different  
214 configuration of the lots, rectilinear, to ensure that all lots have frontage. The applicant  
215 mentioned that creek access would be favorable for landowners.
- 216 • Commissioner Putney asked about Alkali Creek running adjacent to the east boundary. Is  
217 it a big enough creek that riparian language should be added? She would like to see  
218 mention of the creek and a condition about riparian rights note on the plat.
- 219 • Commissioner Putney asked about an existing gas line. The applicant said there is a line  
220 running along the south side of Lot 1 to the home. Kim Banathy added they are having  
221 issues with line locates being done.
- 222 • Kim Dillivan read a statement on the water analysis from Energy Labs and it says the  
223 water does not meet safe water standards. The test was run at 789 Road 18, the  
224 applicant's home. The County Engineer added that high nitrates and nitrites can be bad  
225 for infants and elderly in particular.
- 226 • Commissioner Morrison said she is surprised the school district has children crossing the  
227 highway.

228  
229 Acting Chairman Brandon-Wintermote asked if there were comments from any members of the  
230 public. There were no comments from those in attendance.

231  
232 Commissioner Putney asked for discussion on the findings and conditions prior to closing the  
233 hearing.

- 234 • Finding "h" should be more specific that neighbor notices were mailed to all property  
235 owners within 660 feet;
- 236 • Finding "ff" should reflect that the North Alkali Creek is adjacent to the east side of the  
237 subdivision;

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- Add a finding that the Small Wastewater Administrator was notified and indicated that conventional wastewater systems should be adequate to serve the subdivision;
  - Add a finding that a road maintenance and snow removal plan has not been submitted;
  - Finding “gg” easements, with the exception of gas, are shown on the sketch plan;
  - Add “a condition shall be placed on the final plat addressing water quality evidenced by water sample collected on August 9, 2018, unless applicants submit new water quality sample results that indicate water is safe”;
  - Add a condition related to the North Alkali Creek, “The applicant shall state on the final plat that “The seller does not warrant to a purchaser that there are any rights to the natural flow of any stream within or adjacent to the proposed subdivision” and “Wyoming law does not recognize any riparian rights to the continued natural flow of a stream or river for persons living on the banks of the stream or river.”

250

251 Commissioner Putney made a MOTION to close the hearing at 2:56pm; SECONDED by

252 Commissioner Jones. The motion was carried unanimously.

253

254 Acting Chairman Brandon-Wintermote asked commission members if they had any discussion.

255

256 Commissioner Putney made a MOTION to recommend approval of One Rock MS-35 by

257 Resolution 2020-11 with the following conditions:

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1. The applicants 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. The proposed 40-foot access and utility easement shall be increased to a 60-foot wide access and utility easement prior to sketch plan review by the Board of County Commissioners;
  3. A response from Park County Fire District #1 shall be submitted to the Planning and Zoning Department prior to sketch plan review by the Board of County Commissioners;
  4. The applicants shall provide to the Planning and Zoning Department the name of entity responsible for road maintenance and snow removal for the proposed frontage road prior to sketch plan review by the Board of County Commissioners;
  5. The applicants shall provide evidence to the Planning and Zoning Department that natural gas is adjacent to all lots prior to final plat review by the County Commissioners;
  6. A Long-Term Noxious Weed Management Plan must be approved by Weed & Pest prior to final plat review by the Board of County Commissioners;
  7. A condition shall be placed on the final plat addressing water quality evidenced by the water sample collected on August 9, 2018, unless applicants submit new water quality sample results that indicate water is safe;
  8. The applicant shall state on the final plat that “The seller does not warrant to a purchaser that there are any rights to the natural flow of any stream within or adjacent to the proposed subdivision” and “Wyoming law does not recognize any riparian

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284 rights to the continued natural flow of a stream or river for persons living on the banks  
285 of the stream or river"; and

286 9. The applicants shall otherwise comply with standards in the Park County  
287 Development Regulations and the minimum subdivision requirements as set forth in  
288 Wyoming Statute 18-5-306.

289 The motion was SECONDED by Commissioner Bonine. The motion carried unanimously. See  
290 Resolution 2020-11 attached hereto and incorporated herein.

291

292 **PUBLIC HEARING – Tophoj MS-36 Sketch Plan:** Elton and Lauren Tophoj request to create  
293 three lots; one 3.47-acre lot, one 3.5-acre lot, and one 3.78-acre lot for residential use. The parcel  
294 is located in Lot 74-J, Lot 74 (NWSW, Original Section 32), T55N, R98W, 6th P.M., Park County,  
295 Wyoming, in a General Rural-Powell (GR-P) zoning district with an address of 1263 Road 6,  
296 Powell, WY.

297

298 Acting Chairman Brandon-Wintermote opened the public hearing at 3:00pm.

299

300 There being no comments from Commission members, Kim Dillivan, Planner II, presented the  
301 Staff Report. A response from the irrigation district was received on May 21, 2020.

302

303 Acting Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

304 • Commissioner Putney asked if confirmation was received from Willwood Light and Power.  
305 Staff has a billing statement for the property (Lot 1) and the applicant states service is  
306 available.

307 • Commissioner Putney asked if anything was received from MDU. MDU confirmed in an  
308 email that they can provide service to the subdivision.

309 • Commissioner Putney asked about the irrigation district response. They responded via  
310 email that they reviewed a rough draft.

311 • Commissioner Morrison asked about item J on page 7 in the staff report, it mentions  
312 impaired watershed conditions. Staff confirmed it came from the Conservation District  
313 response.

314 • Commissioner Morrison asked about the distance of the well where the water sample was  
315 taken. Staff indicated the test was taken on Lot 1 based upon what they know.

316 • Brian Edwards mentioned their letter dated May 15, 2020 where they indicated that a  
317 substantial increase in traffic could change road classification. As additional accesses are  
318 needed, ROW permits will be required and shared accesses will be encouraged. No  
319 requirements for runoff and erosion control.

320

321 Acting Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

322 • Scott Lewis, surveyor/engineer, said that MDU can provide service per an email which  
323 includes a map. He addressed the perc rate. His data showed a faster perc rate closer to  
324 16.5 and 14.1. The applicant has no intent to relinquish water rights. The well location is  
325 shown on the revised sketch plan and meets DEQ's requirements for separation from the  
326 septic system, all on Lot 1. There will be a note regarding distances on Lots 2 and 3 that  
327 they must comply.

328 • Mr. Elton Tophoj said he is willing to relinquish water rights for the acreages if the potential  
329 buyer wants them. Scott Lewis clarified that he wants to keep the water rights and the  
330 water rights stay with the property. But he does not want to remove water rights from the  
331 property. Elton said he does not want to relinquish water rights from the property.

332

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333 Acting Chairman Brandon-Wintermote asked if any commission members had questions for the  
334 applicant.

- 335 • Acting Chairman Brandon-Wintermote asked if direction of flow was south to north. The  
336 applicant confirmed.
- 337 • Acting Chairman Brandon-Wintermote asked about symbols on the sketch plan regarding  
338 some irrigation piping. Scott clarified.
- 339 • Commissioner Morrison complimented Mr. Lewis for providing a sketch plan that can be  
340 read.

341  
342 Acting Chairman Brandon-Wintermote asked if there were comments from any members of the  
343 public. There were no comments from those in attendance.

344  
345 Commissioner Putney asked for discussion about findings and conditions.

- 346 • Finding “n” should reflect that Willwood Light and Power currently serves Lot 1 and there  
347 is power adjacent to the subdivision lots;
- 348 • Finding “o” should reflect the MDU currently serves Lot 1 and has the capacity to serve  
349 the subdivision and remove the no response comment;
- 350 • Finding “bb” show that subsurface evaluation data has been submitted to the SWW admin  
351 and conventional septic will likely be sufficient;
- 352 • Add finding that notices were mailed to all landowners within 660 feet of the proposed  
353 subdivision on May 6, 2020;
- 354 • Add finding that Park County Fire District #1 was notified and will be able to provide fire  
355 protection;
- 356 • Add finding that legal access is from Park County Road 6;
- 357 • Add finding that WYDOT was notified and no response was received;
- 358 • Modify finding “u” to read, “An irrigation distribution plan has been submitted to Willwood  
359 Irrigation District and has been approved”;
- 360 • Modify finding “aa” to read, “Easements are shown on the revised sketch plan”;
- 361 • Modify finding “j” that legal access is from County Road 6 and any new approaches will  
362 require ROW permits;
- 363 • Add finding stating that domestic water will be provided by private on-site wells;
- 364 • Strike conditions #2 and #3;
- 365 • Add condition to add to note #3 on the final plat, that all new wells shall comply with the  
366 requirements of the Wyoming State Engineer’s Office.

367  
368 Commissioner Putney made a MOTION to close the hearing at 3:45pm; SECONDED by  
369 Commissioner Morrison. The motion was carried unanimously.

370  
371 Acting Chairman Brandon-Wintermote asked commission members if they had any discussion.  
372 There being none, Commissioner Bonine made a MOTION to approve Resolution 2020-12 with  
373 the following conditions:

- 374
- 375 1. The applicant shall provide all easements as requested by applicable utilities and  
376 special districts, irrigation districts or public agencies providing services. The width  
377 of any utility easement shall be sufficient to allow adequate maintenance of the  
378 system, but in no case shall such utility easement be less than 20 feet in width.  
379 Easements must be identified on the final plat;
  - 380 2. A Long-Term Noxious Weed Management Plan must be approved by Weed &



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- 381 Pest prior to final plat review by the Board of County Commissioners;
- 382 3. The applicant shall add to note #3 on the sketch plan and final plat stating that all  
383 new wells shall comply with the requirements of the Wyoming State Engineer's  
384 Office; and
- 385 4. The applicant shall otherwise comply with standards in the Park County  
386 Development Regulations and the minimum subdivision requirements as set forth  
387 in Wyoming Statute 18-5-306.

388 The motion was SECONDED by Commissioner Putney. The motion carried unanimously. See  
389 Resolution 2020-12 attached hereto and incorporated herein.

390

391 **PUBLIC HEARING – Sweet Land MS-38 Sketch Plan:** Tracy Sweet requests to create one 1.52-  
392 acre lot, two 1.50-acre lots for residential use and one 14.06-acre lot for agricultural/residential  
393 use. The parcel is located on Highway 295, approximately 1 mile south of Powell, WY in Lot 56-  
394 L, Resurvey T55N, R99W, 6th P.M., Park County, Wyoming, in a General Rural-Powell (GR-P)  
395 zoning district.

396

397 Acting Chairman Brandon-Wintermote opened the public hearing at 3:48pm.

398

399 There being no comments from Commission members, the Planning Director requested, on  
400 behalf of the applicant, continuance of the hearing to the next regular meeting at 6:00pm on June  
401 16, 2020.

402

403 Commissioner Putney made a MOTION to continue the hearing to June 16, 2020 at 6:00pm. The  
404 motion was SECONDED by Commissioner Jones. All in favor. The motion carried.

405

406 There being no other business, a MOTION was made by Commissioner Jones to adjourn the  
407 meeting at 3:51pm. The motion was seconded by Commissioner Putney. All in favor.

408

409 Respectfully submitted,

410

411

412

  
\_\_\_\_\_  
Jolene Brakke, Secretary

**RESOLUTION 2020 - 10  
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE ZUERCHER MS-37 SKETCH PLAN**

**WHEREAS** David and Rebecca Zuercher propose to create one 15.3-acre lot for residential use, leaving a 152.91-acre remainder parcel;

**WHEREAS** the proposed subdivision is classified as a minor subdivision which much comply with the Minor Subdivision Review Process;

**WHEREAS** the proposed subdivision is located in part of Lot 55-V and part of Lot 55-W, Resurvey T54N, R100W, and part of Lot 95-2, Resurvey T55N, R100W of the 6<sup>th</sup> P.M., Park County, Wyoming, in a General Rural-Powell (GR-P) zoning district approximately four miles southwest of Ralston at 1870 Lane 12, Powell, WY;

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

**WHEREAS** the Planning & Zoning Commission held a duly noticed public hearing on May 27, 2020 to consider the sketch plan application and made findings as follows:

- a. The lot as configured conforms to the GR-P zoning district where it is located;
- b. Warranty Deed (dated July 17, 2002) to David L. Zuercher and Rebecca T. Zuercher, husband and wife, from Ted J. Shuler and Maureen V. Shuler, husband and wife, as tenants by the entirety with right of survivorship, and not as tenants in common (Document #2002-5553);
- c. The subdivision is not within a mile of any municipality;
- d. A complete sketch plan application, including payment, was received on April 16, 2020;
- e. A Notice of Intent to Subdivide was published on April 7, 2020 and April 14, 2020;
- f. A Public Hearing notice was published in the *Powell Tribune* on May 5, 2020 and May 19, 2020;
- g. All agency referral requirements have been met;
- h. Notice of Public Hearing was sent to all neighbors within 660 feet on May 4, 2020;
- i. The Park County Treasurer's Office confirmed property taxes are paid on this property;
- j. Park County Public Works confirmed there is legal access via a private driveway

- within an established easement, from Lane 12 to proposed Lot 1;
- k. Park County Weed & Pest has conducted an initial weed inspection and a Long-Term Noxious Weed Management Plan is not required; however, Weed & Pest recommends the applicants follow Best Management Practices for the Control of Noxious Weeds;
  - l. Park County Fire District #1 was notified on March 31, 2020 but has not responded;
  - m. The U.S. Postal Service is able to provide mail delivery for this subdivision and mailbox placement will be determined when new residents are ready for delivery;
  - n. Park County School District #1 states school bus transportation is available and will have pick up and drop off points along Lane 12;
  - o. Garland Light & Power currently serves this area and will be able to provide service in the future;
  - p. Black Hills Energy currently provides service to proposed Lot 1 and has sufficient volume to serve any future demand;
  - q. TCT states that terrestrial wireless internet service is available in the area, and VOIP phone and internet service on wireless internet can be provided;
  - r. Wyoming Game & Fish Department was notified on May 1, 2020 but has not responded;
  - s. Northwest Rural Water District was notified on May 1, 2020 but has not responded;
  - t. Nick Hudson, State Fire Inspector, was notified May 1, 2020 but has not responded;
  - u. The Powell-Clarks Fork Conservation District was contacted and a soils report has been submitted. This Shoshone River watershed has been listed as impaired on the Wyoming DEQ 303(d) list as impaired for fecal coli form possibly from improper or inadequate septic systems;
  - v. Heart Mountain Irrigation District was notified of the subdivision on May 1, 2020 but has not submitted any comments or recommendations;
  - w. The applicant has not submitted an irrigation and water distribution plan to the irrigation district for review and recommendations;
  - x. No public comments have been received;
  - y. Pre-application meeting requirements have been met;
  - z. A title report has been submitted;
  - aa. No new subdivision roads or open/public spaces are proposed;
  - bb. Garbage disposal service is available through local, private companies;
  - cc. Cellular phone service is adequate in the area;

- dd. Legal access to the proposed lot is from Lane 12;
- ee. Percolation tests done on proposed Lot 1 reveal a range in perc rates between 5 mpi and 77 mpi;
- ff. Depth to groundwater is 10 feet;
- gg. The Small Wastewater Administrator was notified and noted that engineered septic systems may be required.
- hh. There are no apparent or identified hazardous conditions on the lot; however, the southern portion of Lot 1 is within the mapped floodplain and has steep slopes;
- ii. Easements are shown on the sketch plan;
- jj. A water analysis has been conducted on an existing water well on proposed Lot 1 and the sample is designated as "safe";
- kk. The applicant has not proposed any changes that would be expected to adversely impact agricultural activities;
- ll. The lot size proposed conforms to the County lot design and improvement standards; and
- mm. The subdivision is located in the mapped agricultural overlay district;

**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 Zuercher MS-37, 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. A response from Park County Fire District #1 must be received prior to sketch plan review by the Board of County Commissioners;
3. An irrigation and water distribution plan must be presented to the Heart Mountain Irrigation District prior to sketch plan review by the Board of County Commissioners;
4. Comments from the Heart Mountain Irrigation District must be received prior to final plat review by the Board of County Commissioners;

5. The applicant shall state on the final plat that “The seller does not warrant to a purchaser that there are any rights to the natural flow of any stream within or adjacent to the proposed subdivision” and “Wyoming law does not recognize any riparian rights to the continued natural flow of a stream or river for persons living on the banks of the stream or river”;
6. The applicant shall submit revised subsurface evaluation data to the Small Wastewater Administrator prior to sketch plan review by the Board of County Commissioners;
7. The applicant shall note the locations of gas lines and the existing well on the sketch plan prior to review by the Board of County Commissioners; and
8. 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.

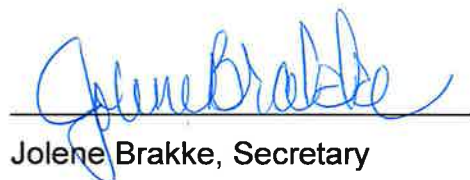
**ADOPTED** by the Park County Planning & Zoning Commission this 27<sup>th</sup> day of May, 2020.

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

**ATTEST:**



Kimberly Brandon-Wintermote, Vice Chairman



Jolene Brakke, Secretary

**RESOLUTION 2020 - 11**  
**PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE ONE ROCK MS - 35 SKETCH PLAN**

**WHEREAS** Steve J. and Linda S. Sweet propose to vacate and re-subdivide Lot 1 of the Rodriguez SS-196 (23.9 acres), according to the plat recorded in Book "K" of plats, Page 60, according to the records of the County Clerk and Recorder of Park County, State of Wyoming, to create a four-lot subdivision comprised of one 10.0-acre lot, one 6.24-acre lot, one 4.39-acre lot and one 3.26-acre lot for residential and agricultural use;

**WHEREAS** the proposed subdivision is classified as a minor subdivision which much comply with the Minor Subdivision Review Process;

**WHEREAS** the proposed subdivision is located approximately seven miles west of Powell, 0.7 miles north of the intersection of State Highway 294 and County Lane 9 in a General Rural Powell (GR-P) zoning district;

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

**WHEREAS** the Planning & Zoning Commission held a duly noticed public hearing on May 27, 2020 to consider the sketch plan application and made findings as follows:

- a. A Subdivision Application, including payment, was received from Steve and Linda Sweet on April 2, 2020;
- b. According to a Warranty Deed (Doc #2016-2297), Steve J. Sweet & Linda A. Sweet are the owners of the property to be divided which is described as Lot 1, Rodriguez SS-186;
- c. The applicants propose to vacate Rodriguez SS-186 and create a 4-lot minor subdivision;
- d. The lots as configured conform to the GR-P zoning district where they are located;
- e. The proposed subdivision is not within a mile of any municipality;
- f. A Notice of Intent to Subdivide was published in the *Powell Tribune* on March 3, 2020 and March 10, 2020;
- g. A Public Hearing notice was published in the *Powell Tribune* on May 5, 2020 and May 19, 2020;
- h. Neighbor notices were mailed on May 4, 2020 to all landowners within 660 feet of property;
- i. All agency referral requirements have been met;
- j. The Park County Treasurer's Office confirmed that property taxes are paid on this property;

- k. Park County Public Works recommends that the proposed 40-foot access and utility easement be increased to a 60-foot wide access and utility easement. The road needs to be constructed to a "local access" classification standard as defined within the *Park County Road and Bridge Standards*. Public Works does not require a drainage and erosion control plan at this time.
- l. Park County Fire District #1 was notified on March 16, 2020, though the district has not responded;
- m. Park County Weed and Pest stated that initial inspection of the property revealed that noxious weed species are present on the property and a Long-Term Noxious Weed Management Plan is required.
- n. The Wyoming Game & Fish Department was notified on April 2, 2020, though the department has not responded;
- o. Northwest Rural Water District was notified on April 2, 2020 and has not responded;
- p. Domestic water will be provided by private wells;
- q. The United States Postal Service was notified and responded that mail can be delivered to the subdivision once new addresses are assigned. Placement of mailboxes will be determined when new residents are ready for mail delivery;
- r. Garland Light & Power stated they currently serve the area and will be able to provide service to all four proposed lots;
- s. Black Hills Energy stated that they have sufficient volume to serve all four proposed lots and they will require an easement across the proposed lots to keep them out of the WYDOT right-of-way;
- t. Park County School District #1 indicates that school bus services is available along Highway 294;
- u. TCT is available to provide terrestrial wireless internet service and VOIP phone and internet service to this property;
- v. State Fire Inspector, Nick Hudson, was notified on April 2, 2020 and has not responded;
- w. Powell-Clark's Fork Conservation District provided a soils report for the property;
- x. Heart Mountain Irrigation District (HMID) stated that the subdivider has been to the HMID Commission meeting and presented a water rights and water distribution plan, and the plan was approved;
- y. HMID approved sprinkler-only irrigation;
- z. The Wyoming Department of Transportation responded via email dated April 3, 2020 stating the subdivision will be approved for one new access with an internal frontage road to serve the proposed 4 lots;
- aa. No public comments have been received;
- bb. Pre-application meeting requirements have been met;
- cc. A title report has been submitted;

- dd. A new frontage road is proposed;
- ee. Garbage disposal service is available through local, private companies;
- ff. There are no known hazardous conditions on the property; however, North Alkali Creek with relatively steep slopes, borders the property to the east;
- gg. Easements are shown on the sketch plan, with the exception of an easement for an existing natural gas line;
- hh. Subsurface evaluation data was collected on April 26, 2020 and revealed percolation rates of 27mpi and 20mpi at two locations within the subdivision, with groundwater found between 8.5 to 9 feet of depth;
- ii. A water analysis has been conducted on a water well in the vicinity;
- jj. Results from the domestic water analysis did not meet the Safe Drinking Water Act (SDWA) requirements for the elements tested;
- kk. The Small Wastewater Administrator was notified and indicated that conventional septic systems will likely be sufficient;
- ll. A road maintenance and snow removal agreement has not been submitted;
- mm. The lot sizes proposed conform to the lot design and improvement standards; and
- nn. The subdivision is located within an agricultural overlay district.

**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 One Rock MS-35, subject to the following conditions:

1. The applicants 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. The proposed 40-foot access and utility easement shall be increased to a 60-foot wide access and utility easement prior to sketch plan review by the Board of County Commissioners;
3. A response from Park County Fire District #1 shall be submitted to the Planning and Zoning Department prior to sketch plan review by the Board of County Commissioners;
4. The applicants shall provide to the Planning and Zoning Department the entity responsible for road maintenance and snow removal for the proposed



frontage road prior to sketch plan review by the Board of County Commissioners;

- 5. The applicants shall provide evidence to the Planning and Zoning Department that natural gas is adjacent to all lots prior to final plat review by the County Commissioners;
- 6. A Long-Term Noxious Weed Management Plan must be approved by Weed & Pest prior to final plat review by the Board of County Commissioners;
- 7. A condition shall be placed on the final plat addressing water quality evidenced by water sample collected on August 9, 2018, unless applicants submit new water quality sample results that indicate water is safe;
- 8. The applicant shall state on the final plat that "The seller does not warrant to a purchaser that there are any rights to the natural flow of any stream within or adjacent to the proposed subdivision" and "Wyoming law does not recognize any riparian rights to the continued natural flow of a stream or river for persons living on the banks of the stream or river"; and
- 9. The applicants 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 27<sup>th</sup> day of May, 2020.


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

**ATTEST:**




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Kimberly Brandon-Wintermote, Vice Chairman




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Jolene Brakke, Secretary

**RESOLUTION 2020 - 12  
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO APPROVE TOPHOJ MS - 36 SKETCH PLAN**

**WHEREAS** Elton & Lauren Tophoj propose to create a three-lot subdivision comprised of one 3.47-acre lot, one 3.5-acre lot, and one 3.78-acre lot for residential use;

**WHEREAS** the proposed subdivision is classified as a minor subdivision which much comply with the Minor Subdivision Review Process;

**WHEREAS** the proposed subdivision is located in Lot 74-J, Lot 74 (NWSW, Original Section 32), T55N, R98W, 6th P.M., Park County, Wyoming, in a General Rural-Powell (GR-P) zoning district with an address of 1263 Road 6, Powell, WY;

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

**WHEREAS** the Planning & Zoning Commission held a duly noticed public hearing on May 27, 2020 to consider the sketch plan application and made findings as follows:

- a. The lots as configured conform to the GR-P zoning district where they are located;
- b. Quitclaim Deed from Elton K. Tophoj and Lauren J. Tophoj, husband and wife, to Elton Tophoj and Lauren J. Tophoj, Trustees of the Elton Tophoj and Lauren J. Tophoj Living Trust dated July 8, 2018. (Doc. 2013-4961);
- c. The subdivision is not within a mile of any municipality;
- d. A complete sketch plan application, including payment, was received on April 14, 2020;
- e. A Notice of Intent to Subdivide was published on April 2, 2020 and April 9, 2020;
- f. A Public Hearing notice was published in the *Powell Tribune* on May 5, 2020 and May 19, 2020;
- g. A Notice of Public Hearing was sent to neighbors within 660 feet on May 6, 2020;
- h. The applicants intend to create a 3-lot minor subdivision;
- i. All agency referral requirements have been met;
- j. The Park County Treasurer's office confirmed the first half of the 2019 property taxes are paid on this property;
- k. The Park County Public Works was notified and responded on April 10, 2020 stating that legal access is from County Road 6 and at the time lots are sold, individual landowners will be required to obtain a right of way permit to construct individual access;
- l. The Park County Weed & Pest was notified and responded April 20, 2020 stating a Long-Term Noxious Weed Management Plan will be required;
- m. The Wyoming Game & Fish Department was notified on May 1, 2020. No response has been received;
- n. United States Postal Service was notified and responded April 2, 2020 stating mail can be delivered to the subdivision once new addresses are assigned. Placement of mailboxes will be determined when new residents are ready for mail delivery;
- o. Willwood Light & Power Co. currently serves Lot 1 and was notified on May 8, 2020. No response has been received; however, electricity is adjacent to each proposed lot;

- p. Montana Dakota Utilities currently serves proposed Lot 1 and was notified on May 8, 2020. Natural gas is adjacent to each lot and MDU has the capacity to serve each lot;
- q. Park County School District #1 was notified and responded that school bus service is available along County Road 6;
- r. Park County Fire District #1 was notified and will be able to provide fire protection;
- s. Legal access exists from County Road 6;
- t. Domestic water is to be provided by private, on-site wells;
- u. TCT West was notified May 1, 2020. No response has been received;
- v. Two Tough Guys Services, LLC currently provides solid waste removal service and can continue to do so;
- w. The State Fire Inspector was notified May 1, 2020. No response has been received;
- x. WYDOT was notified and no response was received;
- y. Powell-Clark's Fork Conservation District provided a soils report dated May 5, 2020, stating there are 7 major soil types identified on this parcel and indicate somewhat limited to very limited absorption levels for septic and dwellings;
- z. An irrigation distribution plan has been submitted to Willwood Irrigation District, and has been approved;
- aa. No public comments have been received;
- bb. Pre-application meeting requirements have been met;
- cc. A title report has been submitted;
- dd. No new subdivision roads or open/public spaces are proposed;
- ee. There are no apparent or identified hazardous conditions on the lots;
- ff. Easements are shown on the revised sketch plan;
- gg. Subsurface evaluation data has been submitted to the SWW Administrator and conventional septic systems will likely be sufficient;
- hh. A water analysis has been conducted on a water well in the vicinity;
- ii. Results from the domestic water analysis met the Safe Drinking Water Act (SDWA) requirements for the analytes tested;
- jj. The lot sizes proposed conform to the lot design and improvement standards;
- kk. The subdivision is not within the mapped floodplain; and
- ll. The subdivision is located in the mapped agricultural overlay district.

**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 Tophoj MS-36, 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. A note on the final plat must state that on-site private wells must be approved

and permitted by the Wyoming State Engineer's office;

3. A Long-Term Noxious Weed Management Plan must be approved by Weed & Pest prior to final plat review by the Board of County Commissioners; and
4. 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 27<sup>th</sup> day of May, 2020.

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

**ATTEST:**



Kimberly Brandon-Wintermote, Vice Chairman



Jolene Brakke, Secretary



**Park County Planning & Zoning Department**

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

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**PARK COUNTY PLANNING & ZONING COMMISSION**

Meeting 1:00 P.M., Wednesday, May 27, 2020 in the Alternate Emergency Operating Center (EOC Room), basement of the Courthouse Addition  
1002 Sheridan Ave. Cody, WY.

This is a special 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.

**AGENDA**

**[PUBLIC HEARING – Zuercher MS-37 Sketch Plan](#)**

**[PUBLIC HEARING – One Rock MS-35 Sketch Plan](#)**

**[PUBLIC HEARING – Tophoj MS-36 Sketch Plan](#)**

**[PUBLIC HEARING – Sweet Land MS-38 Sketch Plan](#)**

**ADJOURN**

# PLEASE SIGN IN

## PLANNING and ZONING COMMISSION SPECIAL MEETING May 27, 2020

		Zuercher MS-37 Sketch Plan	
		One Rock MS-35 Sketch Plan	
		Tophoj MS-36 Sketch Plan	
		Sweet Land MS-38 Sketch Plan	
	Please <b>PRINT</b> your name	Name of the <b>HEARING OF INTEREST</b>	DO YOU WISH TO SPEAK
1	Steve J Sweet		
2	David Zuercher		
3	Kim BANATHY	ONE ROCK / ZUERCHER	IF NEEDED
4	Lane Lirick	ONE ROCK / ZUERCHER	NO
5			
6			
8			
9			
10	Virtual Attendees		
11			
12	Scott Lewis	Tophoj MS-36	
13	Elton Tophoj	"	
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