

## Planning & Zoning Commission Minutes

February 17, 2021

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

### Commission Members Present:

Kimberly Brandon-Wintermote, Chairman  
Duncan Bonine, Vice Chairman  
Linda Putney  
Richard Jones  
Marion Morrison (participating virtually)

### Staff Present:

Joy Hill, Planning Director  
Kim Dillivan, Planner II  
Patti Umphlett, Planner I  
Jenny Cramer, Planning Technician  
Mary McKinney, Weed and Pest  
Brian Edwards, County Engineer (participating virtually)  
Ben McDonald, Public Works (participating virtually)

Chairman Brandon-Wintermote opened the meeting at 1:05pm.

### APPROVAL OF MINUTES

Chairman Brandon-Wintermote asked the Commission for comments or changes to the January 20, 2021 meeting minutes. A MOTION was made by Commissioner Jones to approve the minutes; the motion was SECONDED by Commissioner Bonine to approve the minutes as corrected. Motion was carried unanimously.

### REGULAR AGENDA

**PUBLIC HEARING –Buck Creek Estates Major Sketch Plan:** Buck Creek Development, LLC, and Steve & Tracy Bush request approval of the sketch plan for Buck Creek Estates Major Subdivision. The proposed subdivision is comprised of two parcels to be split into a total of 23 lots ranging in size from 4.36 to 8.14 acres, each designated for residential and possible agricultural use. The properties to be split are centrally located between Cody and Powell along the south side of US Highway 14A, at 1566 US Highway 14A, and are described as Lots 17 & 18 and a portion of Lot 43, Section 18, T54N, R100W of the 6th P.M., Park County, Wyoming, in a General Rural Powell (GR-P) zoning district.

Chairman Brandon-Wintermote introduced commission members and staff, reviewed the rules of a public meeting, and opened the public hearing at 1:07pm.

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

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

- Commissioner Morrison asked what are the implications of the lots being in the flood hazard area? Kim Dillivan said building in the flood plain would require a Floodplain Development Permit. Landowners can also seek a Letter of Map Amendment to have their property removed from the floodplain.

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- 54 • Chairman Brandon-Wintermote asked if there should be concern about placement of wells  
55 and septic systems in the floodplain.  
56 • Mary McKinney said she has some concerns with the property as lots are sold, sitting  
57 fallow. It's hard to get someone to come in and just farm certain portions. Once the land  
58 is no longer contiguous, she is concerned about what will happen to the property. She  
59 doesn't want to see existing weed species spread around and the spread can be  
60 overcome. Breaking it up into little pieces, however, could prove problematic in terms of  
61 weed and pest concerns.  
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63 Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

- 64 • Scott Lewis, applicant's representative and surveyor, indicated that he prepared the  
65 sketch plan. He mentioned a comment about no receipt of comments from Public Works.  
66 He said he recalls an email from Public Works deferring to WYDOT regarding access to  
67 the highway. He said that DEQ seemed to give him preliminary approval for sewer and  
68 water. No formal response has been received.  
69 • Scott said they conducted three well tests and got a negative test for coliform on the third  
70 test.  
71 • Scott said he has been working with the State Engineer's Office. Yesterday he basically  
72 got approval on the irrigation and water rights distribution plan but has to resubmit for  
73 another review. He has also worked with the irrigation district.  
74 • The Planning Director asked if Chapter 23 application had been sent to DEQ; Scott said  
75 no. The Planning Director then referred to his comment that he got a preliminary word of  
76 approval from DEQ without those materials. He said yes.  
77 • Chairman Morrison asked what portion of the land is in prime ag and which part is  
78 marginal. Scott said the majority of the land is prime ag, in his opinion.  
79 • Brian Edwards indicated that typically WYDOT requires perpendicular access from the  
80 highway. He wondered if WYDOT was okay with what is proposed. Scott said the intent  
81 is to come in perpendicular to the highway.  
82 • Brian Shumard, the applicant, said there was some concern about the floodplain. He said  
83 he does plan to restrict livestock to those lots that have irrigation.  
84 • Chairman Brandon-Wintermote asked about fire water. Kim indicated that Park County  
85 Fire District 2 offered the suggestion of water storage. Brian Shumard said he talked with  
86 someone about water storage in Liberty Subdivision and that individual said it was  
87 expensive and not necessary. Brian added that there is a creek and a canal nearby to  
88 provide water.  
89 • Commissioner Jones asked about the proposal of each lot having its own well and septic.  
90 Scott said there is no central water available. Scott said each lot would have its own well.  
91 Commissioner Jones said that the conservation district's report was not really favorable  
92 for septic systems. He added concerns about how the decrease in irrigation effects wells  
93 and with so many new septic systems near the river system. Scott said they had perc  
94 tested and identified well locations on all 23 lots. Commissioner Jones said that was  
95 impressive.  
96

97 Chairman Brandon-Wintermote asked if any Commission members had questions for the  
98 applicant.

- 99 • Commissioner Putney verified that the proposed road comes straight in and then around  
100 in a square and inquired if it was planned for the utilities to be along that road. Scott Lewis  
101 confirmed that is the plan.  
102 • Commissioner Putney asked about development phases and how they planned to do that.  
103 The applicant indicated they are no longer planning to do the development in phases.

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- 104 • Commissioner Putney asked about covenants. Brian Shumard said they will have  
105 covenants similar to those he's done on the South Fork. There will be different covenants  
106 for different lots.  
107 • Commissioner Putney asked if it will all just be sprinkler irrigated. Brian said yes, the  
108 irrigation district requires it.  
109 • Mary McKinney said she is curious about the plans for the area adjacent to the road to be  
110 reseeded. Brian said they will have a weed program for along the easement of the road.  
111 Mary said it can be addressed in the weed plan.  
112

113 Chairman Brandon-Wintermote asked if there were comments from any members of the public.

- 114 • Travis Jackson said that it was indicated that all the lots were perc tested. He saw only  
115 five lots perc tested in the whole area and none, he thinks, along the south lots.  
116 Commissioner Jones asked Scott Lewis for clarification as he'd stated earlier that all 23  
117 lots had been tested and well locations identified on each lot.  
118 • Scott Lewis said actually there were only 12 perc tests done; with 2-3 tests done on some  
119 lots and that he was only "required" to test 50% of the lots. Commissioner Jones indicated  
120 he knew the "requirement" but asked why Scott had previously said all 23 lots had been  
121 tested? Scott said regarding the test locations, they tried to keep them in areas that they  
122 anticipate will be construction areas – he doesn't anticipate construction in the floodplain  
123 so they didn't test there.  
124 • Spencer George lives not far from the area. With the well issue, his well does run dry every  
125 spring. He said it could be an issue for this subdivision. He has ag concerns. He mentioned  
126 that the Land Use Plan suggests preservation of ag lands in the County. He feels ag lands  
127 are in peril. He is aware of the many subdivision applications coming which concerns  
128 farmers in the area. He said they use center pivot often and breaking up the land means  
129 not enough room for pivots. He said he has a feed lot south of the property. They have a  
130 nutrient plan by NRCS that they have to spread the manure on the land. Many people  
131 moving into the area are not used to the odors. He is afraid complaints will lead to the  
132 suspension of his ag activities. He does not want to be told he cannot continue his ag  
133 practices, and apply manure as needed. He is concerned about the BLM access. It is not  
134 available at all times. Six months out of the year, people cannot access the river as stated.  
135 There is also not always water available for pumping from the canal (winter its dry). Wells  
136 will suffer without flood irrigation – his well fails even with flood irrigation. He is concerned  
137 that one day he will be limited with his growth and ability to continue ag activities. He wants  
138 to preserve the industry and promote it. Developing land such as this, land that is classified  
139 as "I and II" yield the best [for ag]. He bought half of this Frank farm and unfortunately  
140 could not buy this part. Other lands are class III and IV and yield only half.  
141 • Tyler Weckler is the manager for Heart Mountain Irrigation District. He said he has worked  
142 with Brian Shumard and Scott Lewis on distribution plans. He has submitted comment  
143 directly. They have been participating and he received the same letter from the State  
144 Engineer's Office. It is prime land, Class I and II. He said that taking water from the creek  
145 or canal has to be permitted as secondary supply which is not that easy and the state will  
146 have reservations about that. The District has been pretty engaged so it is not the best for  
147 the ag community. He is struggling with the Bureau of Reclamation (BOR) on row-cropped  
148 farming. They are bound by contract with BOR and funded and will someday have to  
149 address this.  
150 • Kim Dillivan said that to the east of the property is BOR and he is not aware of any access  
151 to this land. Also, he said that even if people complain about ag odors, the ag activity is  
152 protected. It is subject to the Wyoming Right to Farm and Ranch Act.

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- Kelly Spiering said in 1997 and 1998, he spent two years drafting the Land Use Plan. The number one thing was to protect ag land. In all the plan, it says over and over, put the subdivisions on marginal land. It says “should” and he understands the difference between should and shall. The argument was hugely to save ag land. This subdivision will eat up prime ag land. Even though there is a law to protect farming, there’s no guarantee. It is a big hassle when people complain about farming activities. People call the sheriff all the time about ag activities. In 1997 and 1998 we had no massive influx of subdivisions compared to what we have now. Now that people are fleeing to the country, if we want to protect ag in this county, you can prevent these subdivisions. Just because it is easier and cheaper to subdivide in the country, it is not responsible to do so. He would like the County to evaluate.
  - Peter Spiering said as far as taking the land out of ag, it is a very bad precedent to set. Once this is set into place, every other person with a farm that doesn’t want to pass it on will want to split. He has seen where splitting land into many parcels has resulted in nightmares related to water and septic. In the past he was aware of a situation where people were selling lots on a drain and people were building buildings over a drain. When that plugged up, it caused a great consternation. Someone trying to sell a piece of land will not always be up front about possible issues on the land. As far as wastewater goes, it is a huge problem to clean up. It is a nightmare as far as neighbors in conflict. It is hard for farmers to have neighbors on land with home ownership.
  - Brian Duyck said he is a farmer on Heart Mountain and is also on the Heart Mountain Irrigation District Board. He asked why not use land on the margin or near cities where they already have water and septic available? He said this is a BOR project, subsidized to feed the people of the United States. It is not set up for a horse and five acres. He said pumping out of the canal is slim to none because they would be pumping out of one irrigation district into a different district. The higher population of residences leads to a high number of complaints and a great potential for aggravation and even violence. He wants to save the farmland.

182 Commissioner Jones asked for discussion.

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- Commissioner Jones said we have had issues in the past with the use of ag land in the county. There has been longstanding intent to prioritize and preserve primarily good ag land. This has been the intent since clear back to the BOR funding project. Development is here and he does feel it is cheaper to develop in the county; it is more problematic for cities to annex and provide services – and very costly. He is not in favor of developing in the county just because it is cheaper. He wants to see conservation of ag land. He noted concerns from Game and Fish, HMID, local farmers, conservation district and he has concerns about taking prime ag land into residential.
  - Commissioner Putney said she agrees and it is our job to look to the future of the county and the future of ag. As far as canal water, the water is for use for ag production. We would be very short-sighted to allow subdivisions of prime ag land. There are a lot of other places that are marginal. She agrees that people have property rights. But there are people who have had their properties for generations and why should they be pushed out [by residential development]. She agrees with Commissioner Jones.
  - Commissioner Bonine said this subdivision shows the conflict between ag and personal property rights. He is an advocate of both. He is really struggling. Most of the comments that came today are from his neighbors. Even taking that into consideration he is struggling to tell a property owner who is working within the County regulation to comply that they can’t do with their property what they would like to. Historically, when these issues have come up, he has sided with property rights.

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- Chairman Brandon-Wintermote said she agrees with Commissioner Bonine. She has done a lot of research on the topic of preserving ag lands. Ag production zones are used in some places to preserve ag lands – we don't have that. We do have a Land Use Plan.
  - Commissioner Putney said this is in an ag overlay, which is agricultural zoning. With the influx of subdivisions, we have to use our Land Use Plan and the wants of people who put hours and hours of work into that and what the plan was created for. She thinks if we don't consider that and that the land is prime (Class I, II) high yielding land, we will lose control over what this County is to be. We are here to protect all of the citizens, not just this one or this one. We are trying to protect the future of our county. Yes, we do need to look at our Land Use Plan. But the current one is even about conservation of the land for ag. We have to take into consideration what we currently have on the books to protect what we want the county to be.
  - Commissioner Jones said he agrees a lot. He said Mr. Spiering was eloquent with his concerns. Development has been relatively light and now we have a huge influx. There's a lot of money to be made. He thinks the reason we have a board made up of a variety of citizens, there are subjective views that opinions of the public to be taken into consideration [in addition to the rules]. There is sentiment to preserve the look and feel of Park County, our irrigation systems have been geared towards it since 1910. We need to be very careful moving forward. At some point the County could set a precedent. He is strong on private property rights, but those also include the rights of neighbors.
  - Chairman Brandon-Wintermote asked the Planning Director if this issue had been discussed with the Board of County Commissioners. The Planning Director responded that she had brought it up to the Board of Commissioners over a year ago as it was becoming apparent that there was an increasing trend in development activity, and she reports to them regularly on the number of projects. They are very aware of the issue; however, it is a very difficult issue and there are no easy answers.
  - Kelly Spiering said he is a very strong advocate of private property rights. But when they did the plan years ago, they were concerned about negatively impacting neighbors. This negatively impacts neighbors. He said if we don't start saying no, we stand to lose our ag land. If we get someone who comes in with billions, they could run us all off the land. The County needs to step in and say they are not impacting the rights of the neighbors.
  - Scott Lewis said he understands the impacts to ag land. He said 26% of the land is in Class I. 6% is in class II. The rest (70%) is in Class III. He said he has tried to comply with the County's regulation. They plan to put a note on this that there will be ag smells, etc. They are trying to comply with that. He said if this land had been purchased for ag, it would still be used for ag. They bought it with the good intent and are trying to comply with the regulations. He grew up on a farm. He is just trying to support the client and comply with the regulations.
  - Brian Shumard said everyone says the ag is going away, he is a large acre farmer. There are a lot of people moving in, but not everyone can afford a large-acre farm. That is why they did these smaller lots. The wells in this area will be between 40-60 feet. There are springs coming into Buck Creek from this property. Everyone wants to say it is prime ag, but it sat on the market for 2 years before he bought it. If it is so prime, why didn't ag people buy it.
  - Commissioner Jones asked if anyone in the room sold anything off a small-acre farm.
  - Brian Shumard said USDA provides money for small-acre farms.
  - Spencer George said he has a few subdivisions nearby him and they sprinkle irrigate and they are weeds. It is a problem. He can point out where many people are not maintaining their properties. These are not ag producers. You are not a farmer if you aren't producing. He would have purchased this land if he could have. Once it becomes homes, it can never

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- 253 again become productive land. Soon we'll become one town merging into the next. He  
254 can't get the same cash flow to afford these lands.
- 255 • Mary McKinney commented that she has been doing these [weed] surveys and has been  
256 addressing noxious weeds since 2006. She has never been to a place that was historically  
257 in ag and, when moved to smaller lots, where they had sustainable ag production. Not  
258 one. A lot of times weeds are an issue, not just noxious weeds but nuisance species. They  
259 are a problem. By statute, she doesn't regulate them. Unless there are strict covenants  
260 being enforced, they are overgrazed as no one wants to buy hay. Horses can go a long  
261 time on poor feed before it shows. The potential to be in production is there, but typically  
262 they are only producing noxious weeds.
  - 263 • Travis Jackson said you go to 4-8 acre lots and weed and pest can't keep up with noxious  
264 weed control.

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266 Commissioner Putney made a MOTION to close the hearing at 2:23pm; SECONDED by  
267 Commissioner Jones.

- 268 • Commissioner Bonine said he is in favor of a continuation of the hearing due to  
269 Commissioner Morrison's inability to hear the discussion and the fact that this is not a  
270 small issue. He does not want any appearance that public input has been hindered. He  
271 thinks it would allow for more input. Commissioner Morrison said she would prefer to delay.

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273 Commissioner Jones withdrew his SECOND. Commissioner Putney AMENDED THE MOTION  
274 to continue the hearing until March 17, 2021. SECONDED by Commissioner Jones. The motion  
275 was carried unanimously.

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277 **PUBLIC HEARING –Southfork Mountain Retreat SUP-215:** Boomer Investment Properties,  
278 LLC requests approval of the application for a Special Use Permit with site plan review for  
279 Southfork Mountain Retreat SUP-215. The project proposes a Dude Ranch and Resort Use to  
280 operate a vacation retreat offering accommodations and event space along with painting classes  
281 and guided hikes. The proposed use will be located on a 4.73-acre parcel located approximately  
282 23 miles southwest of Cody in the Middle Southfork planning area, with an address of 32 Josie  
283 Lane. The parcel is described as part of Lot 37 in Tract 55, T50N, R104W of the 6th P.M., Park  
284 County, Wyoming in a General Rural 20-Acre (GR-20) zoning district.

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287 Chairman Brandon-Wintermote introduced commission members and staff, reviewed the rules  
288 of a public meeting, and opened the public hearing at 2:31pm.

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290 There being no comments from Commission members, Planning Director, Joy Hill, requested  
291 continuance of the hearing at the request of the County Attorney. A legal finding warrants further  
292 review by the County Attorney prior to reviewing this application.

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294 Commissioner Jones made a MOTION to continue the hearing to the March 17<sup>th</sup> regular meeting;  
295 SECONDED by Commissioner Bonine. The motion was carried unanimously.

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297 **PUBLIC HEARING –Spomer Gravel Pit SUP-216:** Carl Spomer requests approval of a Special  
298 Use Permit Application for the Spomer Gravel Pit SUP-216 with site plan review. This is a request  
299 to expand the existing large rock product mine use last approved by SUP-66. The proposed use  
300 will operate on a 120-acre lease within a 484-acre parcel owned by Lois A Hart located  
301 approximately 5.5 miles East of Powell. The portion is described as Lot 53-I, 53-J and 53-P,  
302 Section 15, T55N, R98W of the 6th P.M., Park County, Wyoming, in a General Rural-Powell (GR-  
303 P) zoning district.

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305 Chairman Brandon-Wintermote introduced commission members and staff, reviewed the rules  
306 of a public meeting, and opened the public hearing at 2:40pm.  
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308 There being no comments from Commission members, Kim Dillivan, Planner II, presented the  
309 Staff Report.  
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311 Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 312 • Chairman Brandon-Wintermote asked about a runoff and erosion control plan and asked  
313 if one was done on either of the previous SUP reviews? Staff was unsure. Whether a plan  
314 will be required will be determined by Public Works.
- 315 • Commissioner Putney asked if air quality and land quality permits have been received by  
316 staff. She said we are requiring air quality permits on certain things. She didn't remember  
317 seeing any. Patti Umphlett indicated that she recalled seeing permits in the packet  
318 provided by the applicant.
- 319 • Mary McKinney said this area is essentially undisturbed rangeland. She would like to see  
320 them not disturb 120 acres at once. It will be very difficult to re-establish vegetation. She  
321 has spoken with the applicant about revegetation. Permits do not require them to do it until  
322 they are completely out of the mine. She knows that, without revegetation, there will be  
323 growth of weeds. Along the drives and roads there are a lot of annual weed species. She  
324 just asks that they pay attention and reseed areas as they move to different areas.
- 325 • Commissioner Jones said it seems the reclamation should always be done and control  
326 soil erosion and wind erosion.  
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328 Chairman Brandon-Wintermote asked if the applicant had any questions or comments.

- 329 • Mr. Carl Spomer said as far as reclaiming, his intent is to reclaim as they move to new  
330 areas of activity. There is information in the packet about large yardage of soils to do so.  
331 When they first did this years ago, DEQ warned them that reclamation material was really  
332 thin. He intends to use more material. They have already reseeded/reclaimed 2 acres. It  
333 is definitely part of their program. Back in 2009, there were lots of comments about  
334 impacting land values. He included a chart in his packet about land values. He did not see  
335 anyone slipping in land value. He said they have been a good neighbor. There are 32  
336 letters in his packet regarding support of the use, in terms of addressing harmony and  
337 compatibility. They mine down and create a headwall on three sides. Then they strip and  
338 stockpile the material in a V-shaped windrow which gives them more elevation. They have  
339 quite a buffer to protect the visual impact on neighbors. They have stripped another 2  
340 acres and pushed all the topsoil off that can be salvaged and then windrow that so the  
341 wind won't erode. They did err on the 5-acre vs 120-acre notice to agencies, but he feels  
342 most were provided clear information. He said they have sold material to the county too.  
343 He spoke with Brian Edwards and Ben McDonald about the importance of having gravel  
344 on the east side of the county. Pits are hard to get. If you get one, you have really achieved  
345 something. He indicated that a commissioner discussed with him how gravel is important  
346 like tires, etc., and it brings tax money to the county.  
347

348 Chairman Brandon-Wintermote asked if any Commission members had questions for the  
349 applicant.

- 350 • Chairman Brandon-Wintermote mentioned the actual acreage to be used is 40 acres, but  
351 he is asking for 120 acres so he doesn't have to come back. Carl said when they first did  
352 this, they determined that this Hart property was one of the best pits with good material.



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- Chairman Brandon-Wintermote asked if he is mining all year-round. Carl said they will crush material this time of year and then likely be idle for a few months. They have equipment all over the state. It is hit and miss.
  - Commissioner Morrison asked for clarification on actual acreage proposed for this use and the applicant's map. Is it 10 acres at a time? Carl said there is a map on the 57 acres and what is mined. Carl said the "currently permitted mine area" was approved in their original SUP. He said he will probably mine up to 15 acres. They have to get bonds and they are expensive per acre to guarantee reclamation. Under the current LMO they can only do 15 acres at a time. It would require a new LMO, which he cannot apply for, which could potentially allow for mining more than 15 acres at a time. Carl said he and the Harts would not allow for another LMO at this time.
  - Chairman Brandon-Wintermote asked if Grizzly mining next door (Carl said Century out of Montana) is permitted. Carl said he isn't sure if they are active.
  - Brian Edwards said the runoff and erosion control plan falls under DEQ, so they don't require one out of Public Works.
  - Commissioner Morrison asked if the applicant would be open to a condition on actively mined area being limited to 15 acres at a time. Commissioner Putney added that there is a proposed condition on this matter.
  - Chairman Brandon-Wintermote asked about the days and hours of operation, comparing the last SUP to the current application and an increase in days/times. Carl Spomer said once you mobilize you want to take advantage of your equipment. You want to keep your expenses down and working a longer day helps with that. He said they have an excellent track record with harmony and compatibility. If they can work 7am to 7pm, they can get done faster and be there fewer days. They want to use equipment and manpower to the best advantage.

379 Chairman Brandon-Wintermote asked if there were comments from any members of the public.  
380 There were no comments from those in attendance.

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382 Commissioner Putney asked for discussion.

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- Carl pointed out a lateral on the northeast side, they are well above it with their activity. To the west, there is a lateral that they stay away from, as well. Because of the lay of the land, they are on top of the bluff at this point.
  - Chairman Brandon-Wintermote asked if DEQ would require a new SWPPP each time new land is disturbed. Carl said they are permitted; however, it is just a matter of letting DEQ know that they are moving to a new part of the land. DEQ can do unannounced inspections. Carl said they have an elevated berm at the mouth of the berm to retain surface water within the mine and DEQ water quality has approved that. Brian Edwards said the SWPPP usually has to be renewed every few years and any changes require it to be updated. Carl said they have to do it every two years. Carl said he has no problem going back to clarify with agencies on the full 120 acres. Public Works provided some further clarification on the subject.
  - Update condition #9 since Brian Edwards indicated a runoff and erosion control plan is not needed, but DEQ approval is required. Change to provide a copy of the DEQ SWPPP to Planning and Zoning.
  - Change finding #37 to show that a plan is not required by PW but a SWPPP is required by DEQ.
  - Delete condition #10 since a formal response was received and fix finding #36 accordingly.



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- 402 • Condition #8 to say, "The applicant shall provide updated responses from the irrigation  
403 district for updated review of the 120 acres proposed for the use."  
404 • Delete Condition #3.  
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406 Commissioner Bonine made a MOTION to close the hearing at 3:52pm; SECONDED by  
407 Commissioner Jones. The motion was carried unanimously.  
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409 Commissioner Putney recommended that a statement be added per a Public Works  
410 recommendation, relating to dust.  
411

412 Commissioner Putney made a MOTION to approve the Spomer Gravel Pit SUP-216 by  
413 Resolution 2021-03 based upon the findings presented and including the following conditions:  
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- 415 1. This Special Use Permit allows for a rock products mine, large, to operate within 120  
416 acres of Lots 53-I, 53-J, and 53-P of T55N, R98W, 6th P.M. (the premises);
- 417 2. Mining activities include extraction, crushing, screening, stockpiling, hot mix asphalt  
418 plant operations, concrete batch plant operations, hauling material, and land  
419 reclamation;
- 420 3. At no time shall active mining occur in an area of more than 15 acres, or an area  
421 dictated by another government entity, with the area being limited to the lesser of the  
422 two;
- 423 4. In any case, mining shall occur on the area offering the smallest impact (e.g., the  
424 lesser of the two);
- 425 5. Any future expansion of the use will require a presentation of the proposed changes  
426 to the Planning and Zoning Department for evaluation and determination of whether  
427 an amended SUP will be required;
- 428 6. This permit allows for the use of one chemical toilet on the premises and the applicant  
429 shall follow County and DEQ recommendations and requirements for the disposal of  
430 wastewater associated with its use;
- 431 7. The applicant shall provide an updated response from the irrigation district for review  
432 of the 120 acres proposed for the use;
- 433 8. The applicant shall submit evidence of a current and approved Storm Water Pollution  
434 Prevention Plan (SWPPP) to the Planning and Zoning Department prior to review with  
435 the Board of County Commissioners;
- 436 9. The days and hours of operation shall be limited to Monday through Friday, 7:00am to  
437 7:00pm, with non-operational maintenance Monday through Saturday, 7:00am to  
438 7:00pm. The product may be hauled Monday through Saturday, 7:00am to 7:00pm,
- 439 10. Any future exterior lighting, if any, shall comply with lighting standards in the Park  
440 County Wyoming 2015 Development Standards and Regulations, as amended;
- 441 11. Noise levels perceived off-site shall comply with the Noise Standards listed in  
442 Appendix 20, Park County Wyoming 2015 Development Standards and Regulations,  
443 as amended;

## Planning & Zoning Commission Minutes

February 17, 2021

- 444 12. The haul routes, work areas, and stockpiles associated with the quarry shall be treated  
445 with water and/or chemical dust suppressants on a schedule sufficient to control  
446 fugitive dust from vehicular traffic and wind erosion;
- 447 13. The crushing/screening equipment, asphalt plants, or concrete batch plants shall have  
448 separate, valid air quality permits prior to locating and operating on the property;
- 449 14. Any crushing/screening equipment operated at this site shall utilize water spray control  
450 measures at all belt transfer points, shaker screens, and discharge points of the  
451 primary and secondary crushers as necessary to limit visible emissions as set forth by  
452 the Wyoming Air Quality Standards and Regulations;
- 453 15. The only structures permitted on-site will be a trailer to store parts, tools, lubricants,  
454 and other related supplies;
- 455 16. The operator shall supply a water source for dust abatement, crushing and other  
456 activities;
- 457 17. The developer shall abide by an approved Park County Road Maintenance contract;  
458 and
- 459 18. The applicant shall otherwise comply with standards in the Park County Development  
460 Standards and Regulations.

461 The motion was SECONDED by Commissioner Bonine. The motion carried. See Resolution  
462 2021-03 attached hereto and incorporated herein.

463  
464 Chairman Brandon-Wintermote delivered the Chair's report.

- 465 • Chairman Brandon-Wintermote asked if the September meeting date could be moved due  
466 to conflicts of two commission members. To be changed from September 15<sup>th</sup> to be moved  
467 to September 22<sup>nd</sup>.

468  
469 The Planning Director delivered a report for the Planning and Zoning Department.

470  
471 There being no other business, a MOTION was made by Commissioner Putney to adjourn the  
472 meeting at 4:54pm. The motion was seconded by Commissioner Jones. All in favor.

473  
474 Respectfully submitted,

475  
476  
477

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



**Park County Planning & Zoning Department**

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

**PARK COUNTY PLANNING & ZONING COMMISSION**

Meeting 1:00 P.M., **Wednesday, February 17, 2021** 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 January 20, 2021 meeting.

**REGULAR AGENDA**

**[PUBLIC HEARING – Buck Creek Estates Major Sketch Plan](#)**

**[PUBLIC HEARING – Southfork Mountain Retreat SUP-215](#)**

**[PUBLIC HEARING – Spomer Gravel Pit SUP-216](#)**

**OTHER BUSINESS**

1. Regulation Amendment Update
2. Chair's Report
3. Planning Director's Report

**ADJOURN**

**RESOLUTION 2021 – 03  
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMEND APPROVAL OF  
SPOMER GRAVEL PIT SPECIAL USE PERMIT-216 (SUP-216)**

**WHEREAS**, Spomer Construction Co., Inc. proposes to expand the area of an existing 10-acre sand and gravel operation to allow for active mining of five (5) to ten (10) acres at a time, up to a total of 120 acres, while concurrently reclaiming inactive sites;

**WHEREAS**, the property is located along County Road 3, approximately five miles east of the City of Powell and 0.67 miles south of County Lane 9, in a General Rural Powell (GR-P) zoning district;

**WHEREAS**, the use is classified by Park County Standards and Regulations as an Industrial Use defined as a Rock Products Mine, Large: Removal of sand, gravel, rock, limestone, and topsoil for use or sale off site exceeding 2,000 cubic yards per year, including washing, screening, crushing, and other processing of material produced on-site; includes locations where material produced off-site is processed (washed, screened, crushed, processed and/or made into asphalt). Irrigation Districts and unorganized ditches are exempt for topsoil and sand removal for use or sale off site.

**WHEREAS**, Rock Products Mine, Large uses are allowed in the GR-P zoning district provided a Special Use Permit is approved;

**WHEREAS**, the application and supporting documents are in substantial compliance with Park County Development Standards and Regulations pertaining to Special Use Permits;

**WHEREAS**, the applicant submitted a statement on how compatibility can be achieved as required for an SUP, indicating that the proposed use will result in minimal noise and visual impacts, is consistent with surrounding uses in this area, and adequate services and infrastructure are available, or will be made available, to serve the use;

**WHEREAS**, the Planning & Zoning Commission held a duly noticed public hearing on February 17, 2021, to consider the SUP application and made findings as follows:

1. A Special Use Permit Application was received on January 7, 2021 including plan-view drawings showing use location, vicinity map, type of activity and impact on adjacent properties;
2. The applicant proposes to continue to operate a sand and gravel operation. Operations will be expanded, in small acre tracts, over a period of several years, on an approximately 484.5-acre parcel located several miles east of Powell in Park County;
3. The current 10-acre sand and gravel operation, is operated by Spomer

Construction Co., Inc.;

4. Should this SUP be approved, the applicant plans to expand the mining activity location over time, in increments of 5 to 15 acres, within a 120-acre site;
5. The use is classified as a Rock Products Mine, large, which is allowable in the GR-P zoning district provided a Special Use Permit is approved;
6. Mining activities include extraction, crushing, screening, stockpiling, hot mix asphalt plant operations, concrete batch plant operations, hauling material, and land reclamation;
7. The proposed use is located along County Road 3, approximately five miles east of the City of Powell and 0.67 miles south of County Lane 9, Park County, Wyoming;
8. Lois A. Hart is the sole and absolute owner of the property identified;
9. Should this SUP be approved, the mine expansion will occur on an area of land located within Lot 53-I, Lot 53-J & Lot 53-P, Section 15, T55N, R98W, 6<sup>th</sup> P.M., Park County, Wyoming;
10. The proposed use is not within one mile of a municipality.
11. Applicable regulations are Park County Wyoming 2015 Development Standards and Regulations adopted September 15, 2015;
12. Surrounding land uses near the proposed use are primarily agricultural and some residential;
13. All public notice requirements have been met;
14. All agency referral requirements have been met;
15. No public comments have been received;
16. The applicant states that negative impacts from this use to the neighborhood and area will be negligible;
17. Setback requirements are met;
18. No covenants exist or are proposed;
19. Outdoor lighting is not proposed for this use;
20. There are no known nonconformities on the property;
21. No nuisances have been reported at this location;
22. The applicant provided a soil report;
23. Legal access exists from County Road 3;
24. Domestic water will be provided to employees by the applicant;
25. A permitted water well exists on the property. The well water is not potable, and to be used only for dust abatement;
26. The property is located within the Shoshone Irrigation District. The District

- indicated they have no concerns with this use and although there are irrigation laterals and drains in the area, this use is not expected to impact those facilities;
27. Parking regulations do apply to this use and the proposed parking area appears to be sufficiently sized for necessary parking;
  28. The area size requires 50 parking spaces; however, the Board may allow a reduction in the number of parking spaces by up to 50%;
  29. Sewage and wastewater disposal will be accomplished by chemical toilets;
  30. No electricity, natural gas, or telecommunication facilities are required for this use;
  31. No signs are proposed for this use, other than signage required by state agencies;
  32. Solid waste will be disposed of according to County regulations;
  33. Site Plan Review is required for Rock Products Mine, large, and has been completed;
  34. This property is located in an agricultural overlay district;
  35. Park County Treasurer states property taxes have been paid;
  36. A response has been received from Park County Public Works;
  37. A runoff and erosion control plan is not required by Public Works; however, a Storm Water Pollution Prevention Plan (SWPPP) is required by DEQ;
  38. Fire protection is available by Park County Fire District #1; and
  39. A response has been received from Park County Weed and Pest and a Long-Term Noxious Weed Management Plan is required and has been approved;

**WHEREAS**, the Planning & Zoning Commission concludes the Special Use Permit Application is generally consistent with the goals and policies of the *Park County Land Use Plan*, and are consistent with the standards and procedures of the *Park County, Wyoming 2015 Development Standards and Regulations*;

**WHEREAS**, the Planning & Zoning Commission concludes the following:

1. The use is in harmony and compatible with surrounding land uses and with the neighborhood and will not create a substantial adverse impact on adjacent properties with conditions;
2. Adequate services and infrastructure are available to serve the use, or adequate services and infrastructure will be provided;
3. Specific criteria do not apply to the proposed use;
4. The use complies with additional requirements of special site plan standards, if applicable; and
5. The use complies with additional requirements of overlay districts, if applicable.

**NOW, THEREFORE, BE IT RESOLVED** having heard and weighed the evidence, the Planning & Zoning Commission hereby recommends approval of Spomer Gravel Pit (SUP-216), subject to the following conditions:

1. This Special Use Permit allows for a rock products mine, large, to operate within 120 acres of Lots 53-I, 53-J, and 53-P of T55N, R98W, 6<sup>th</sup> P.M. (the premises);
2. Mining activities include extraction, crushing, screening, stockpiling, hot mix asphalt plant operations, concrete batch plant operations, hauling material, and land reclamation;
3. At no time shall active mining occur in an area of more than 15 acres, or an area dictated by another government entity, with the area being limited to the lesser of the two;
4. In any case, mining shall occur on the area offering the smallest impact (e.g., the lesser of the two);
5. Any future expansion of the use will require a presentation of the proposed changes to the Planning and Zoning Department for evaluation and determination of whether an amended SUP will be required;
6. This permit allows for the use of one chemical toilet on the premises and the applicant shall follow County and DEQ recommendations and requirements for the disposal of wastewater associated with its use;
7. The applicant shall provide an updated response from the irrigation district for review of the 120 acres proposed for the use;
8. The applicant shall submit evidence of a current and approved Storm Water Pollution Prevention Plan (SWPPP) to the Planning and Zoning Department prior to review with the Board of County Commissioners;
9. The days and hours of operation shall be limited to Monday through Friday, 7:00 am to 7:00 pm, with non-operational maintenance Monday through Saturday, 7:00 am to 7:00 pm. The product may be hauled Monday through Saturday, 7:00 am to 7:00 pm,
10. Any future exterior lighting, if any, shall comply with lighting standards in the Park County Wyoming 2015 Development Standards and Regulations, as amended;
11. Noise levels perceived off-site shall comply with the Noise Standards listed in Appendix 20, Park County Wyoming 2015 Development Standards and Regulations, as amended;
12. The haul routes, work areas, and stockpiles associated with the quarry shall be treated with water and/or chemical dust suppressants on a schedule sufficient to control fugitive dust from vehicular traffic and wind erosion;



13. The crushing/screening equipment, asphalt plants, or concrete batch plants shall have separate, valid air quality permits prior to locating and operating on the property;
14. Any crushing/screening equipment operated at this site shall utilize water spray control measures at all belt transfer points, shaker screens, and discharge points of the primary and secondary crushers as necessary to limit visible emissions as set forth by the Wyoming Air Quality Standards and Regulations;
15. The only structures permitted on-site will be a trailer to store parts, tools, lubricants, and other related supplies;
16. The operator shall supply a water source for dust abatement, crushing and other activities;
17. The developer shall abide by an approved Park County Road Maintenance contract; and
18. The applicant shall otherwise comply with standards in the Park County Development Standards and Regulations.

**ADOPTED** by the Planning & Zoning Commission this 17<sup>th</sup> day of February, 2021.

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

**ATTEST:**

  
\_\_\_\_\_  
Kimberly Brandon-Wintermote, Chairman

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

# PLEASE SIGN IN

## PLANNING and ZONING COMMISSION REGULAR MEETING February 17, 2021

		Buck Creek Estates Major Sketch Plan	
		Southfork Mountain Retreat SUP-215	
		Spomer Gravel Pit SUP-216	
	Please <b>PRINT</b> your name	Name of the <b>HEARING OF INTEREST</b>	DO YOU WISH TO SPEAK
1	Charlie & Sarah Ziska	Buck Creek	N
2	Travis Jackson	Buck Creek	No
3	Spencer Granger	Buck Creek	Yes
4	Brian Shumard	Buck Creek	NO
5	London Shumard	Buck Creek	No
6	William Shumard	Buck Creek	No
8	Tyler Wecker	Tyler Wecker Buck Creek	No
9	Kathleen Gimmeson	Kathleen Gimmeson Buck Creek	NO
10	Kathleen Gimmeson Kathleen Gimmeson Spomer Gravel Mine	Spomer Gravel Mine	Yes
11	CARL E. SPOMER	SPOMER GRAVEL PIT	YES
12			
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# PLEASE SIGN IN

## PLANNING and ZONING COMMISSION REGULAR MEETING February 17, 2021

		Buck Creek Estates Major Sketch Plan	
		Southfork Mountain Retreat SUP-215	
		Spomer Gravel Pit SUP-216	
	<b>Please PRINT your name</b>	<b>Name of the HEARING OF INTEREST</b>	<b>DO YOU WISH TO SPEAK</b>
1	Scott Lewis	Buck Creek ms	X
2	Kelly Spiering	Buck Creek	yes
3	<del>Paul Spiering</del>	Buck Creek	yes
4	Brian Clarkson	Buck Creek	no
5	Brian Duyck	Buck Creek	yes
6	Mary McKinley	all Buck Creek	2
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Name  
Bill Kneer  
David Page  
Bob Curtis  
KENNY DANIELS  
Tim Vannoy-Brewer

Project  
So Fork Mt. Retreat SUP  
So Fork Retreat  
So. Fork Retreat  
SOUTH FORK RETREAT  
" " " "

Would you like to speak?  
yes  
~~no~~  
yes if needed  
yes  
if needed