

**MINUTES OF THE REGULAR MEETING OF THE
ARAPAHOE COUNTY PLANNING COMMISSION
TUESDAY, JANUARY 19, 2021**

ATTENDANCE	<p>A regular meeting of the Arapahoe County Planning Commission was called and held in accordance with the statutes of the State of Colorado and the Arapahoe County Land Development Code. The following Planning Commission members were in attendance:</p> <p>Jane Rieck, Chair; Richard Sall, Lynn Sauve, Kathryn Latsis, Chair Pro-Tem, Jamie Wollman, Rodney Brockelman, and Randall Miller.</p> <p>Also present were: Robert Hill, Senior Asst. County Attorney; Diane Kocis, Energy Specialist; Joseph Boateng, Engineer; Kathleen Hammer, Planner II; Jason Reynolds, Current Planning Program Manager; Larry Mugler, Planner/Project Specialist; Loretta Daniel, Long Range Planning Program Manager; Jan Yeckes, Planning Division Manager; and members of the public.</p>
CALL TO ORDER	<p>Chair Rieck called the meeting to order at 6:30 p.m. and noted a quorum of the Board was present.</p> <p>This meeting was held through the TEAMS platform and telephone call-in for public participation in public hearing items. Jason Reynolds, Current Planning Program Manager, explained the format of the meeting and how the public could provide public comment.</p>
DISCLOSURE MATTERS	<p>There were no Planning Commission member conflicts with the matters before them.</p>
APPROVAL OF THE MINUTES:	
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GENERAL BUSINESS ITEMS:	

ADOPTION OF THE PLANNING COMMISSION MEETING AGENDA POSTING LOCATIONS	<p>The motion was made by Ms. Sauve and duly seconded by Ms. Wollman to adopt the meeting agenda posting locations to include the Arapahoe County website and the entrance notice board at the Public Works and Development Department, 6924 S Lima St.</p> <p>The motion passed unanimously.</p>
APPROVAL OF THE ANNUAL MEETING CALENDAR FOR 2021	<p>The motion was made and duly seconded to approve the 2021 Planning Commission meeting calendar as presented.</p> <p>The motion passed unanimously.</p>
<p style="text-align: center;">REGULAR ITEMS:</p>	
ITEM 1	<p>CASE NO UASI20-001, HUNTER SOLAR / USE BY SPECIAL REVIEW WITH 1041 PERMIT (UASI) – Diane Kocis, Energy Specialist, Public Works and Development</p> <p>It was noted the Planning Commission (PC) had jurisdiction for the public hearing; the project met legal noticing requirements for the hearing. The staff report, exhibits, any comment letters, and presentation materials were part of the public record of the hearing.</p> <p>Ms. Kocis, presented a PowerPoint, a copy of which was included in the PC packets and on the website. She introduced the application and addressed key issues between the previously approved solar facility and the current proposed amendment.</p> <p>Michelle Zimmerman, project manager for the Hunter Solar project, presented a PowerPoint, an updated copy of which was provided for the record. She responded to a question about fencing in relation to wildlife corridors. She reported the project was fenced, and the wildlife corridors would remain open. Ms. Zimmerman explained that the project would continue to move forward under Hunter Solar, LLC; however, the company of ownership had changed. She addressed the changes in the request and a number of key issues, including wildlife accommodations, fencing, power production output, interconnection with Intermountain Rural Electric Association (IREA) substation, life cycle of the facility and lease agreements (approximately 40 years), the number of acres being removed for oil and gas facilities, access roads, improvement of viewsheds from nearby homes, and the number of acres being added to ensure the integrity of the power production capabilities of the project. She reviewed various exhibits and maps to highlight the</p>

	<p>previously approved configuration and the currently proposed configuration of the solar production site. Ms. Zimmerman reviewed some of the benefits of solar energy facilities to property owners, which included the taxes expected to be generated by this use, the ability to return the land to agricultural production after the solar use was concluded, the environmental benefit of this renewable energy source, job creation, and fulfillment of the State of Colorado Renewable Energy Standard. Ms. Zimmerman reviewed design considerations, including topography and land assessment, wildlife and wetlands, viewshed for nearby landowners/increased setbacks, noise and pollution, interconnection, and safety.</p> <p>There were discussions concerning construction timeframe and details, noxious weed management plan, decommissioning, permitting, reduction of roadway connections to Brickcenter only (eliminating previously proposed access from Quincy, and conversion of agricultural lands (approximately 675 acres total). It was noted some of the land was currently farmed, other areas were not currently farmed, and some of the properties had not been farmed in 10 to 20 years.</p> <p>Ms. Zimmerman showed an exhibit to explain the request for inter-parcel setback waivers. She explained setbacks would be met from external property lines. Further, she reported, internally, the property lines were within the overall lease boundary, so the applicant wanted to install the facility across these internal property lines as if they did not exist.</p> <p>Changes to property taxation was considered as were a history/current status of mineral interests affecting the properties. There were discussions concerning rates between Hunter Solar and IREA. It was noted costs and pricing changed over time. Discussions ensued regarding abandonment, panel installations, noxious weeds, drainageways and wildlife corridors, inactivity of service, fencing, buildout period, truck traffic, financing, and fire protection.</p> <p>Ms. Rieck opened the hearing for public comments.</p> <p>Brent Bikely (unsure of spelling), one of the landowners, commented that the presentation was well done.</p> <p>There were no further comments. The public hearing was closed.</p> <p>It was moved by Ms. Wollman and duly seconded by Ms. Latsis, in the case of UASI20-001, Hunter Solar Amendment No. 1 / Use</p>
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	<p>by Special Review with 1041 Permit requirements, that the Planning Commission reviewed the staff report, including all exhibits and attachments, have listened to the applicant's presentation and any public comment as presented at the hearing, and moved to recommend approval of the application, based on the findings in the staff report, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The applicant makes any modifications to plans, as requested by the Public Works and Development Department, prior to the signing of the Mylars and before any construction is started on this project. 2. The applicant shall address all Engineering Services Division comments, concerns, fees and bonds, including, but not limited to, GESC, ROW, and Street Cut permits, a gravel roadway agreement, or as identified in their reports, prior to the start of construction. 3. The applicant will need to restore County roads to their pre-construction state as a minimum. 4. The applicant shall provide for the removal of the Solar Power Facility, if and when the Solar Power Facility has been abandoned and is no longer functional or operational for a period of more than one year, through the use of a decommissioning bond, a performance security, letter of credit or other security approved by the Director of Public Works and Development to be provided by the applicant before the project becomes operational. 5. This USR approval for Case No. UASI20-001 does not run with the land. In the event that the Solar Power Facility is abandoned as provided above, the USR approval in this Case No. UASI20-001 shall terminate and the property will revert back to agricultural use. The applicant will provide a guarantee, through each individual landowner lease, that the equipment will be removed when the project is no longer operational and provide reclamation of the disturbed ground surface, including reseeding. 6. The applicant shall meet all of the requirements stipulated by IREA. 7. Prior to any activity, to include grading, proposed landscaping, erosion control or similar activities involving an Xcel Energy Right-of-Way, the applicant shall coordinate with Xcel Energy, which has indicated that it is the responsibility of the property owner/developer/contractor to have this project assigned
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	<p>to a Land Rights Agent for development plan review and execution of a License Agreement.</p> <ol style="list-style-type: none"> 8. Prior to any construction on the solar power facility, applicant will execute and record an easement on the Barenberg property in accordance with the easement option recorded at reception number E0118438. 9. The applicant shall meet all of the requirements stipulated by Bennett-Watkins Fire Rescue, including but not limited to providing a vegetation-free project perimeter. 10. Provided setbacks from external property lines are maintained around the outer perimeter of the property serving as a leasing site for the solar energy production facility, the solar panels and related equipment may be built up to and cross the eight internal parcel lines, for the period that the properties are in use as a solar energy production facility, as generally shown on the USR plan. 11. Zone district setbacks from the property line(s) of any of the eight individual parcels, identified in the above Condition # 10, shall be maintained until such time that the solar energy facility development proceeds onto the adjoining parcel within the USR boundary, at which time the solar panels and related equipment may cross the internal property line between the affected parcels as provided in said Condition # 10. 12. The applicant shall work with mineral rights owners to ensure that the minerals underlying the project are accessible. 13. The applicant shall construct a perimeter fence in compliance with Colorado Parks & Wildlife recommendations. Where the site is visible from the Kiowa Creek Sporting Club on the east side, the fence will be opaque to help minimize the aesthetic impact on that facility. 14. The applicant shall conduct surveys for burrowing owls and tree, shrub and ground nesting raptors and songbirds prior to construction. If nests are identified, a minimum of a 500-ft buffer will be maintained until the young are no longer dependent on the nest or Colorado Parks & Wildlife is in agreement that construction can proceed without buffers. 15. The applicant shall perform an initial bird population survey prior to initial construction to establish a baseline of the number of bird species and their numbers, and thereafter an annual bird mortality survey will be required for the first three (3) years following initial
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	<p>construction activities. Project maintenance crews will collect, identify, photograph and keep records of bird corpses. The data shall be provided to Colorado Parks & Wildlife with a copy to the Planning Division Director so that Colorado Parks & Wildlife and the Planning Division can evaluate the impact of the project on area bird populations.</p> <ol style="list-style-type: none"> 16. The applicant shall minimize the crossings of small drainages during construction, even if water is not present at the time of construction. If drainages need to be crossed, they shall be crossed perpendicular to the drainageway to minimize the increase in sediment load. 17. The applicant shall provide one or more wildlife corridors that will allow wildlife to migrate through the solar facility. The planned corridor or corridors will be submitted to the Colorado Parks & Wildlife for review. 18. The applicant shall notify adjacent property owners of construction schedules. 19. The applicant or subsequent owner must notify Arapahoe County Planning Division if the use is discontinued or if the owner/operator decides to not move forward with approved USR. <p>The vote was:</p> <p>Ms. Rieck, Yes; Ms. Sauve, Yes; Mr. Miller, Yes; Mr. Sall, Yes; Ms. Latsis; Yes; Ms. Wollman, Yes, Mr. Brockelman, Yes.</p>
<p>ITEM 2</p>	<p>CASE NO SD21-001, EAST VIRGINIA METROPOLITAN DISTRICT SERVICE PLANS / SPECIAL DISTRICT (SD) - Kathleen Hammer, Planner II, Public Works and Development</p> <p>It was noted the Planning Commission (PC) had jurisdiction for the public hearing; the project met legal noticing requirements for the hearing. The staff report, exhibits, any comment letters, and presentation materials were part of the public record of the hearing.</p> <p>Ms. Hammer, presented a PowerPoint, a copy of which was included with the PC Packets and on the County website. She introduced the project, pointing out the location on a map of the property. She explained the purpose of a metropolitan district. She offered the comparison that, where a city had a charter, a metro district had a service plan. Ms. Hammer reviewed the details of the debt service level and mill levies. She reported SEMSWA had some initial concerns, but an updated letter received today had been provided to the PC noting that SEMSWA had no concerns. Ms. Hammer stated</p>

	<p>staff had determined that the application met the requirement of the criteria for establishing a metro district and service plan, as outlined in the staff report to the PC. She stated the applicant was not proposing to provide a maximum mill levy; it would cover some of the responsibilities that were usually managed by an HOA. She said the applicant would further address this during their presentation. Ms. Hammer said staff supported a positive recommendation to the Board of County Commissioners (BOCC), with the two conditions included in the staff report.</p> <p>Elisabeth Cortese represented the application for the metropolitan district service plan and introduced team members who were available to answer questions.</p> <p>There were discussions regarding infrastructure needed for water and sanitation. It was noted 'will serve' letters were received from Denver Water and Cherry Creek Valley Water & Sanitation District. There were continued discussions concerning TABOR and the impact on the new special district. Funding was considered, as was the makeup of the initial Board of Directors for the district. The process of notifying property owners about the proposed service district's mill levies were explained, as were the estimated mill levy amount as a result of the district forming. Discussions ensued concerning the fees feeling a bit steep and the need to notify purchasers, so they were well informed at the time of contract. Covenant enforcement and design review were of concern. It was noted the Metro District would assume certain responsibilities that would normally be up to an HOA.</p> <p>The PC asked about rejecting or delaying the application until concerns could be addressed and/or resolved. Staff commented that this metro district was smaller than what the County typically saw; further, many metro districts would have both the mill and the HOA fee imposed on property owners. Staff noted this was the smallest overall debt obligation that they had seen.</p> <p>Mr. Hill, noted he had not seen a metro district application denied. He explained the Board must consider statutory criteria, as outlined in the Planning Commission staff report. The Board does not have authority to deny if the criteria were met.</p> <p>Ms. Wollman noted a time when metropolitan districts were failing. She asked what would happen if a metro district was unable to service the debt or in the case of bankruptcy of the district.</p>
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	<p>Ms. Cortese stated there was no default on the bond. She explained if there were fewer homeowners because the project did not sell well, it would not increase the financial responsibility for the smaller number of owners within the district. She stated the risk would lie with the holder of the debt.</p> <p>Ms. Latsis asked Mr. Reynolds about the cost of a unit becoming high with the use of metro districts in the county. She asked if this was expected to continue.</p> <p>Mr. Reynolds explained, where counties and municipalities were not including extension of infrastructure for new development in their capital improvement projects, the creation of metropolitan districts provided a way for financing the infrastructure needed for new development.</p> <p>Ms. Rieck opened the hearing for public comments. There were no public comments. The public hearing was closed.</p> <p>It was moved by Ms. Latsis and duly seconded by Mr. Brockelman, in the case of SD21-001, East Virginia Village Metropolitan District Service Plan / Special District, that the Planning Commission reviewed the staff report, including all exhibits and attachments, have listened to the applicant's presentation and any public comment as presented at the hearing, and hereby move to recommend approval of the application, based on the findings in the staff report.</p> <p>The vote was:</p> <p>Ms. Rieck, Yes; Ms. Sauve, Yes; Mr. Miller, Yes; Mr. Sall, Yes; Ms. Latsis, Yes; Ms. Wollman, Yes; Mr. Brockelman, Yes.</p>
STUDY SESSION ITEMS:	
ITEM 1	<p>WATKINS / BENNETT AREA VISION STUDY – Loretta Daniel, Long Range Planning Program Manager</p> <p>It was noted, while the study session was an informational item, staff would value feedback from the Planning Commission (PC) on the process, to date, for the vision study. The study was originally named the Tier 1 SubArea Plan; however, was renamed to provide a better understanding to citizens in the area rather than using the technical "Tier 1" language from the Comprehensive Plan.</p>

	<p>Ms. Daniel explained the goals for the study, the phasing of the project, current status of the meetings for Phase 1. She reported the first public open house was held December 9th and was primarily informational. She stated the second open house would include alternatives, and the third would provide an opportunity to review the proposed outcomes. Ms. Daniel said a technical committee (primarily staff) and an advisory committee (other stakeholders) were also part of the project process.</p> <p>Mr. Mugler showed an exhibit and explained the geographic extent of the study area. He explained the “urban reserve” designation within the Comprehensive Plan, the overall timeframe of the Comprehensive Plan, and that the purpose was to evaluate how, or whether, urban-level development should be accommodated within the corridor. Mr. Mugler also provided demographic information for the 42-square-mile study area. He said elements of the County’s Transportation Master Plan, affecting the study area, were reviewed. Mr. Mugler said water was another critical issue, and there were no public water suppliers outside the incorporated Town of Bennett. He said there are two groundwater management districts with jurisdiction within the study area. He explained that impacts to wells in the area are important to assess with the ability to accommodate new growth and the type of growth until alternate water supplies were available. Mr. Mugler shared concerns voiced by stakeholders included preservation of the rural feel of the area, protecting wildlife habitat and creek corridors, impacts of regional trails plans to private properties, protection of creek corridors, potential for agritourism, and challenges of meeting differing expectations of longer-term residents of the area and newer residents moving into the area.</p> <p>Ms. Daniel explained that a survey recently completed in conjunction with the first open house resulted in 77 responses. She reviewed questions and answers, as well as, common themes and some of the details from the existing conditions report. Ms. Daniel reported the next steps were part of Phase 2. She said those included continued analysis of input, meetings with large-property stakeholders, developing guiding principles, themes and alternatives, holding the second advisory committee meeting to review concepts developed, and reviewing information with the Planning Commission.</p> <p>There were discussions concerning the tier one and urban reserve designations in the Comp Plan and the input received from residents in the area with continued concerns over water availability. It was noted water plans for Prosper and Sky Ranch included water reuse and potential renewable water sources purchased elsewhere.</p>
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ANNOUNCEMENTS AND QUESTIONS	It was noted the next scheduled Planning Commission meeting was February 2, 2021.
ADJOURNMENT	There being no further business to come before the Planning Commission, the meeting was adjourned.