

MINUTES

SNYDERVILLE BASIN PLANNING COMMISSION

REGULAR MEETING

TUESDAY, JUNE 14, 2016

Sheldon Richins Building (Library)
1885 West Ute Boulevard,
Park City, UT

COMMISSIONERS PRESENT:

Bea Peck, *Chair*
Julia Collins
Mike Franklin

Canice Harte
Chuck Klingenstein
Greg Lawson

Regrets: Colin DeFord

STAFF PRESENT:

Peter Barnes– *Planning and Zoning Administrator*
Amir Caus–*County Planner*
Patrick Putt– *Community Development Director*

Jami Brackin– *Deputy County Attorney*
Kathy Lewis– *Secretary*

The regular meeting of the Snyderville Basin Planning Commission was called to order at 6:00 PM.

REGULAR ITEMS

1. General Public Input Items

The general public input session was opened. There were no comments made and the public input session was closed.

2. *****The applicant has requested this item be continued to work on outstanding items. It will be moved to July 12, 2016*****

Public Hearing and possible action regarding a Low Impact Permit for accessory building over 2,000 square feet; 1123 Beehive Street- Parcel SI-D0244, Amir Caus, County Planner

Chair Peck said the applicant requested this item to be continued. She stated she will open the Public Hearing but, as the Commission has not received a packet of

information on this item, public comment will not be accepted at this meeting. She recommended this item be moved to a date certain. The public hearing was opened.

Chair Peck said this will be noticed on the Summit County web page.

Commissioner Klingenstein made a motion to continue this item to July 12, 2016.

The motion was seconded by Commissioner Lawson. All voted in approval.

- **MOTION CARRIED (6-0)**

Public Hearing and possible action regarding a Conditional Use Permit for a 15,925 square foot (approx.) water tank and a 3,000 square-foot pump station; 7867 Silver Gate Drive; Parcel SS-29-B-X – Amir Caus, County Planner

Planner Amir Caus said the proposed water tank and pump station are located on the same property as the Silver Creek Water Reclamation Facility. There is a 1.3 acre easement that was granted to Mountain Regional Water. Mountain Regional is proposing a 15,925 square-foot water tank with the capacity of two million gallons. Associated with the tank is a 3,000 square foot pump station. The purpose is to fill the future needs for the Snyderville Basin.

Planner Caus said as part of the analysis, Staff looked at setbacks being met and the visual impacts. The structure will be reinforced concrete. Most of the tank is being buried with the exception of the top two feet, which will be left above ground for future solar capacity. Summit County is working on a grant to put solar on top of the structure. This location is adjacent to, but not in, the Silver Creek Overlay zone.

Staff has found that Section 10-3-5 of the Code is being met; therefore, Staff is recommending approval. Slides were shown of the grading of the site. The plan for the pump house was displayed. A slide showed the types of materials that are being proposed. Dark colors will be used.

Planner Caus said this will be located several hundred feet from the proximity to the Silver Creek Village Center. It is located in a dip over the hill making the site less visible. He noted that Comments have been received from a few of the Commissioners concerning noise, but because of the enclosure of the pump station, no noise is expected. No public comments have been received.

Commissioner Klingenstein referred to exhibit B-4. He asked if that is showing that a retaining wall will be built. Will that be addressed in the landscaping plan? Planner Caus responded that is correct. The majority of this area will be hidden by the pump station.

Chair Peck opened the public hearing. There were no comments made and the public hearing was closed.

COMMISSION DISCUSSION

Commissioner Lawson expressed his surprise that the tank is square. He is curious as to why this shape was chosen instead of the more typical round tank. Civil Engineer Scott Morrison of Mountain Regional answered there are a couple of reasons. One is that the rectangular tank was a better fit for the site. He added that there are benefits to rectangular tanks, including maintenance and water quality. The tank can be divided into two cells each consisting of one million gallons.

Commissioner Lawson asked why they chose to leave the top two feet exposed. Doug Evans, also of Mountain Regional, said the primary purpose is to be able to install a solar array on the tank. If the entire tank is not covered, the top has to be above the ground to avoid the accumulation of storm water.

Commissioner Lawson asked who owns the property. He was told it is owned by the Snyderville Basin Water Reclamation District. **Commissioner Lawson** asked what type of metal the roof will be made of. Mr. Morrison said it will be core-ten material.

Commissioner Lawson asked what will be the color of the rock used for the retaining wall. Mr. Morrison said they haven't gotten to that detail yet, but it will be a color that blends in.

Commissioner Lawson asked what type of fencing will be used. Where will the fencing take place? Planner Caus said there is an existing chain-link fence that surrounds the water facility. This project will be located within that fence.

Commissioner Lawson asked where the name "Bison Bluff" came from. Mr. Evans said it was taken from the name of the development located by the project.

A motion was made by Commissioner Harte, which was seconded by Commissioner Klingenstein, to approve the conditional use permit according to the following:

FINDINGS OF FACT:

- 1. The proposed 15,925 square foot (approx.) water tank and a 3,000 square foot pump station will be located at 7867 Silver Gate Drive, Summit County, UT, in the Rural Residential (RR) zone.***

- 2. *The proposed water tank and pump station are considered to be "Utility Facilities, Major" under the Snyderville Basin Development Code.***
- 3. *"Utility Facilities, Major" are reviewed under a Conditional Use Permit within the Rural Residential (RR) zone.***
- 4. *The proposed use is compatible with the existing neighborhood character.***
- 5. *The findings analyses in the Staff Report are incorporated herein.***

CONCLUSIONS OF LAW:

- 1. *The proposed projects, as conditioned, meets the requisite standards set forth in the Snyderville Basin Development code, Section 10-3-5: Conditional Use Permit.***

CONDITIONS OF APPROVAL:

- 1. *No outdoor storage is permitted.***
 - 2. *The location and height shall be as per Exhibit B drawings as found in the Staff Report.***
 - 3. *No modification to the approved Conditional Use Permit is permitted without the prior approval of the Summit County Development Department.***
 - 4. *All disturbed area shall be revegetated with a native, drought-tolerant seed mix.***
 - 5. *A bond shall be in place to insure site restoration/revegetation of the disturbed areas.***
 - 6. *All necessary permits must be obtained and fees be paid prior to the commencement of any construction activity, including but not limited to the Summit County Engineering and the Summit County Building Departments.***
 - 7. *All other service provider requirements shall be met.***
- MOTION CARRIED (6-0)**

4. Public hearing regarding a Conditional Use Permit for multiple accessory buildings over 2,000 square feet; 857 Westwood Road; SL-B-117 – Sean Lewis, County Planner

Chair Peck said Community Development Director Patrick Putt will fill in for Planner Sean Lewis.

Director Putt said they will hold a public hearing for a conditional use permit (CUP) for the Dell Silver Creek Accessory buildings. The applicants are Gregory and Kelly Dell. The property is located at 857 Westwood Road. No action is requested. Tonight, they would like to take public input on the project. This will give the neighborhood the opportunity to provide comment on potential concerns that may be associated with the project. This will allow the Commission to make sure they have full compliance with the Code and if necessary, to design in any mitigation needed. It is anticipated there will be minor adjustments to the plan found in the packet.

The proposal involves constructing two new accessory buildings on the property. In the Rural Residential (RR) zone, any accessory buildings in excess of 10,000 square feet trigger the Conditional Use process. Specifically, they are looking at a riding arena of ~18,500 square feet and a basketball gym (including a lounge, office, and fitness space) of ~6,400 square feet.

Director Putt said a question was raised about other accessory buildings in the Silver Creek area. How many are there? What are the sizes? To answer these questions, Planner Lewis did some research. He found there are three formal riding arenas in the Silver Creek neighborhood. These are approximately 14,000, 15,000, and 17,000 square-feet in size. There are over 130 other agricultural accessory structures. They range in a broad spectrum of size.

A site plan demonstrating the full project was shown. There is an existing home that was recently remodeled. There is an existing barn on the property. The proposed riding arena and gymnasium structure were pointed out.

Director Putt reviewed the floor plan and elevations of the basketball gym and the riding arena. In the packet, Staff has provided an overview of the project and its compliance with Chapter 4. Before the public input is opened, he would like to give the architect, Ivan Broman, the opportunity to provide additional background.

Mr. Broman said he also lives in the Silver Creek neighborhood. He said the owner is a part-time resident. This is a rental property when the owner is not in town. The ridgeline of the arena has been lowered down from the 32-foot maximum height to 19 feet. They have created a 15' offset between the barn and the arena.

Mr. Broman said they have been working on having a pleasing mix of colors. It won't be a monotonous metal building. A description of the materials and their colors will be described at the next meeting. A strategic cut-and-fill will allow the structures to be less visible. This will push the building down about four feet on one end.

Mr. Broman displayed a picture taken from the main room of the neighboring house, which is under construction. This will be the house most affected if the conditional use is granted. This picture shows there may be some loss of visibility of the foreground view, but not the view of the mountains. They have tried to design this building to make it interesting.

COMMISSION DISCUSSION

Commissioner Lawson asked where the horse waste will be stockpiled. Mr. Broman answered that it is the owner's intent to have it stockpiled, then put in a dumpster, and then taken away. **Commissioner Lawson** said it would be important for the neighbors

to know where it will be stockpiled before it is put in the dumpster. It would be a high priority that it is properly managed so it won't be a nuisance with odor or flies.

Mr. Broman answered that the current manure pile is visible in the pictures. The idea is to have it located on the north side of the barn. There is 32 feet between their arena and the neighbor's arena. This seems like a logical location.

Chair Peck requested more details about this being a rental property when the applicant is not in town. Mr. Broman said the Dells have three young boys that are in school. They spend most of the year at their primary residency in Florida. When they are not here, the property is rented. The property owner, Gregory Dell, said he owns other properties in town. He also owns a home in Promontory. The home in Silver Creek is currently being rented. In the future, they intend to spend more time here.

Mr. Dell said that horses are new to him. He doesn't like to see or smell horse manure. He will make sure that it is taken away from the property. Currently, they have someone full time who takes care of the horses and the property. The caretaker lives on the property.

The public hearing was opened.

Kathleen Light said her home is located near this property. She also owns a vacant lot on Westwood Road. She owns horses. She listed her concerns.

1. It is her understanding the property in this area can have a house and one other structure such as a barn or a large garage. This property already has a house and a barn. She believes the rest of the property was intended to be open space. This is a wildlife corridor.

Ms. Light said the other arenas in the area were done through the "back door" of the Code allowing agricultural buildings. The owners of the other arenas acquired the

minimum number of cattle to qualify as agriculture. They were able to circumvent the open space requirements in a way that she feels was deceptive.

2. Ms. Light added there is no precedent for the gymnasium structure. This will eat up more of the open space on something that has nothing to do with the character of the neighborhood. Granting this building would establish a precedence to build large structures for any purpose.
3. Ms. Light said these kinds of large buildings have a way of morphing into something that is commercial. This could be an opportunity for someone with a commercial interest to get something for a lesser cost. She doesn't like the idea that their neighborhood can have businesses which bring in additional noises and traffic.

Ms. Light said they have owned property in Silver Creek for 16 years. She doesn't want to see the character of the neighborhood change.

Dale Nelson said she is currently building a home in this area. This will impact her property. She asked for the aerial photo to be shown. She pointed out the location of her property and its proximity to the applicant's structure.

Ms. Nelson said when she looked into building in this neighborhood she looked into the zoning. The Rural Residential zone has one density unit per 20 acres. The neighborhood description was to maintain low density use. The proposed additional 25,000 square feet of buildings, in addition to the existing home and barn, is not consistent with low density. This barn is twice the size of the barn next door.

Ms. Nelson said she is concerned that structures of this size will become a business. That is not what this neighborhood is all about. There is visual impact to the neighborhood with the size of the structure. This is much larger than the other structures in the current area. There is impact to the view corridor, traffic, noise,

night lighting, and maintaining a second home facility free of debris and waste. If the homeowner isn't on site, they can't enforce what is happening. The neighborhood expects the County to enforce the rules and regulations of the zone, but they haven't in the past. She would like to know what the County is going to do to enforce the many Code violations that exist in the area.

Many people move here because of the views and open space. It may be time to put into place some rules and regulations about the views and the number of buildings allowed.

There already is a barn and an existing house. If a conditional use is going to be allowed, it may be a better idea to move the riding arena to the west side of the property next to the existing barn. It would be less impact to everybody.

John Tinklepaugh lives on the road above Westwood Drive. He also had a number of concerns. He said Planner Sean Lewis voiced concerns on the radio about this becoming commercial property. Driving by the property today, someone may already question if it is commercial. There are two trailers parked outside the existing accessory building. He reminded the Commission there should only be one residence and one accessory building.

Mr. Tinklepaugh said there are actually less than 25% of the residences that have equestrian facilities. It has been said there are 500 horses in Silver Creek. The only way it could be near this number is because of horse boarding operations.

Mr. Tinklepaugh said if someone is building a riding arena with eight stalls, that person is anticipating an additional eight horses than what is already in the barn. The property has one acre foot of water, which is enough water for a family of four, four horses, a dog, and a cat.

In the past, a riding arena has gone forth to give riding lessons with employees. There is already an employee living on the property and there is a rental unit. That makes two residences on the property when there is supposed to only be one.

The County has not done a good job in enforcing the conditions of a CUP. To allow this to take place will only cause additional problems. The Code does not allow businesses to take place in this area. The County has employees that are supposed to be enforcing this, but this has not been happening.

The gym will become another business. Someone who is building a basketball gym on their property will have friends, teams, and players coming in. The arena above this piece of property already has an ice rink. Skating lessons are taking place in the winter along with horse boarding. Mr. Tinklepaugh asked this not be allowed.

Joy Bateman said the skate rink is next to her home. There are a lot of people going in and out of this property that don't live there. Now there is the potential for another gigantic barn with the potential of becoming commercial. They are gun shy to have this happening again. They don't feel they have had any County backing.

The current pile of manure has an effect on the year-round residences that walk the trails. The neighboring property with the ice rink and the boarded horses draws greatly on the water. This amount of horses will also have an impact to the draw on the water in addition. She believed she saw three trailers at the property.

Ms. Bateman asked if the rental is nightly or long term. Nightly rentals are a concern. She has another concern about the diminishing amount of open space. The County needs to enforce the rules. There are too many businesses going on that are not appropriate for the area.

Wes Harris has lived in the Silver Creek area for 23 years. He lives just north of this area. They look down on the big barn that is already there. This is basically a ranchette-type area. The people can have about ten acres, a home, an outbuilding, a couple of horses, and some pastureland. That is how it was designed and the type of community they thought they were moving into. The Code at the time they moved in designated this was the type of community it would be.

Mr. Harris said the average home is about 4,000 square feet. He said he has a 1,600 square-foot barn that is 40' x 40'. It gives him plenty of room. The homeowner wants to add 25,000 square feet to the two large buildings that are already there. This would result in about four to five times as much density.

The other riding arenas have set a bad precedence. Now there would be two huge structures together. It has been said this is for private use, but it has been pointed out that the homeowner spends most of his year in Florida. This is a rental property. When this is rented to someone, their purposes may be entirely different.

The plan is to build an additional eight stable barn. Taking into account both buildings, they may have as many as 16 horses. One individual doesn't own that many horses. Horses take too much time and are too much work.

A basketball court doesn't fit the rural area. Basketball is played in the winter. If they come in the summer, why would they want a basketball court? Horses require a lot of water. People coming to the gym and showering use a lot of water. These are not normal residential uses.

Mr. Harris said the renter is not at this meeting. He questioned what this person's agenda may be. Is he a horse trainer? He doesn't think this proposal fits the character of the community in any way.

Scott Petler lives across the street from the property in question. His main comment is about the zoning. He is concerned about the precedent which is established when the County allows this many buildings on the property. If they allow these four large buildings on this property, what becomes the limit?

Mr. Petler said he has eight acres; does that mean he can put eight riding arenas on his property? They need to figure out what they are going to do to limit the amount and the size of buildings. As more buildings are added, they lose open space and it changes the character from agricultural to commercial.

Michael Montgomery is on the Silver Creek Board of Trustees, but he is speaking mainly as a resident. The Board is doing all they can to mitigate the growth around their community. To the south is Silver Creek Village, slated for 1,100 homes. East Creek Ranch is a new development that will change the scope of the zoning and the architectural design.

Mr. Montgomery said the Board frequently discusses the three legged stool of trails, water, and safety. The Board does not understand how this project transformed from a building permit to a CUP process. This makes everyone nervous about the potential of commercial use. Even if the applicant has the intent to keep this for family and friends, what assurance is there that this won't morph into a commercial use if the property is sold? What stipulations can be put in place if it is approved, that it won't morph into a commercial enterprise? This location is in the middle of Silver Creek where there are a lot of wells.

Mr. Montgomery outlined some of the changes that have occurred in the area. At one time they couldn't have abutting fences. This enabled people and horses to go from one end of the development to another. Many people are trying hard to maintain the rural character.

LuAnn Lukenbach drives pass this road every day. She has lived in Silver Creek about 9½ years. She said the architect noted the lower view of the neighbors will be blocked, but they will still have a view of the mountains. One of the most beautiful views from her house is to watch the elk and moose walk by. She believes the lower view is important as well.

Ms. Lukenbach is very concerned about the precedence. There have been other things that were approved that looked like a good fit, such as the horse hospital. It seemed to be a great idea in an area with so many horses, but it was unable to succeed. Now they have an empty building that is zoned commercial that could turn into a variety of things.

The County has an enforcement problem in Silver Creek. There is not enough enforcement to take care of things when issues are brought up. The enforcement officer told her that he only addresses things when people complain. Part of the solution to this problem is that when planning occurs they should not let things start out in a way that breaking the Code is likely. This doesn't put the burden on the neighbors to have to call repeatedly.

Silver Creek has some serious water concerns. It doesn't seem like a good idea to have something take up more water than is typical for a residence. She is concerned about this being a rental. If this is a place they plan on visiting and living, then this would be a short-term rental. That is problematic. When the property is sold, what will the new owners want to do?

Her main concern is there are too many buildings for the size of lot. It will impact the neighbors. Even two horses produce a lot of manure. It is disconcerting to see that pile of manure in the pictures. Why is that pile allowed? She has a lot of concerns and she hopes the Commission will not let this continue.

Rick Angell lives west of the proposed CUP. He would like to add some additional points to what has been said. There have been concerns expressed about water quality and about the manure. He thinks the manure needs to be managed from a water quality standpoint.

In 2009, Summit County Service Area #3 adopted a drinking source water protection ordinance. This ordinance identifies anything that houses an animal for 45 days or more as an animal feeding unit. Ten animal units constitute a potential source of ground water containment. One horse equals two of those units. Essentially, this ordinance limits a property to five horses. They are looking at a proposed increase of eight stalls. Additionally, there is a five-horse maximum within 100 feet of a well head.

Mr. Angell said there has been a lot of concern that this will become a commercial property. It could be called a private event center. The County and Silver Creek are at a cross roads. Item 8 on page 4 mentions the property is in compliance with the commercial standards of no more than 3½ stalls allowed for 1,000 feet of commercial space. This seems to be at odds with a property that is being identified as private use.

The rural residential zone does not anticipate or permit large gathering facilities of this scale. Mr. Angell referred to the covered parking adjacent to the proposed basketball arena. If drawn to scale, the covered parking would be 2,500 square feet. This would supply approximately 14 to 15 stalls of covered parking. This is not consistent with a rural residential use.

Counting the seats in the bar, it seats about 20. This is something that will draw a lot of additional traffic and noise for the neighborhood. These things are outside of the rural residential requirements and are not appropriate for a CUP.

Mr. Angell said he has lived in the Silver Creek area for almost five years. It still has a touch of the “wild west” mentality. Sometimes people take this too far, which creates zoning enforcement issues. A list of questionable commercial operations was given. The community doesn’t need another scenario that invites further neighbor concerns.

The County has to decide if they will allow Silver Creek to slide down a fairly destructive path. The Commission needs to allow developments that will help Silver Creek maintain its rural residential designation.

David Christensen lives two lots east of this site. He objects to any kind of permit to build these structures. It clearly does not fit. It is not reasonable to add more buildings to that site. He has lived there for 30 years. It is not fair to the new or the established neighbors.

Mr. Christensen said there aren’t enough children in Silver Creek to play basketball with. He asked what the ulterior motive is to put a basketball court there. The stench that comes off Tally-ho is horrible. To even get close to having something like this built again would be ludicrous.

John Hansen lives adjacent to the property. When things change, people complain. He has been attending these meetings for years. There are a lot of large buildings and barns surrounding the property. The person who is building next to this property will be affected the most. It would lessen the effect if the arena were moved to the west. He asked how the Commission can say no when there are already a lot of large structures in Silver Creek.

Mr. Hansen added he has five horses and an acre foot of water. He doesn’t come close to using that much water. They are allowed 20,000 gallons of water monthly with Service Area #3. There is a golf course that uses a million gallons of water nightly. Because of this, he hates to hear complaints about water.

He is tired of having the elk and deer tear up his yard. They leave droppings everywhere. To him, the concern is the person in the back of the room that is building a house and having a large arena in front of him. If the arena was shifted to the side, it would be better.

Chris Nelson said he is the person who is building the new house. He appreciates the honest comments made by Mr. Broman. He appreciates his honor and integrity. He agrees with the comments that have been made in opposition. It is obvious the citizens of Silver Creek have concern about the impact and magnitude of the buildings. Simply put, Silver Creek is a low impact, low density area.

The proposed arena is twice the size of the other big arena. The question before the Planning Commission is what the greater good for the Silver Creek area. Is it the bigger barns, or the character of the community?

Mr. Nelson said he has owned the property for 19 years. He broke ground on it seven months ago. When they chose the location of the house on the property, they looked at the development that had already taken place. They thought they were safe to put the house where they did. They were stunned to hear that the low impact permit had turned into a conditional use permit. This CUP is unprecedented on several levels.

Mr. Nelson said they can't move the home, so they are counting on the County to enforce Section 10-4-1 of the Code. This section deals with the County protecting the citizen's welfare. It controls the location, type, density, and intensity of Silver Creek. Intensity deals with size and numbers.

Mr. Nelson said that all CUPs need to be mitigated. It is not reasonable for one party to get everything and the other party receives nothing. The County has the authority to dictate the type, size, and location of these structures. The applicant has the right

to have a barn on his property, but he already has one. Where does the growth stop? He encouraged the Commission to stop creating new precedence.

Pete Olson has a lot just west of the applicant. He plans on building a home for his family in the near future. His greatest concern is the size and magnitude this will have on the neighbors; the increased traffic, noise, and odor. The precedence is also a concern. Will everyone have the mega-barn on their property?

He is also concerned about the water. Perhaps a study should take place about how much water a horse drinks every day. This proposal is out of character for the community.

The public hearing was closed. **Chair Peck** asked Director Putt to address the summary list of questions she kept during the public hearing.

Question: *Why the CUP process?*

Director Putt said the CUP process is triggered anytime there is an accessory building over 10,000 square feet. An accessory structure between 2,000 and 10,000 square feet is processed under a low impact permit (LIP). As he is filling in for Planner Lewis, he is uncertain of the background of the property, but the smaller of the two buildings fit within the LIP size. Perhaps that is why it started that way.

Question: *Please address enforcement and the prohibition of commercial properties within this area.*

Director Putt said the County allows home-based business occupations, which are commercial activities. These are permitted throughout the County provided they meet the associated standards and obtain a business license. There are a number of these businesses out there.

Director Putt added that recently, a group met to go over the Code Enforcement rules. They were forwarded to the Code Enforcement Officer. Because there is only one officer for the entire County, it is true that enforcement operates under a complaint-received basis. Director Putt said he will be meeting with the Enforcement Officer and with District III next week.

Question: *Is there a limit to the number of accessory buildings? Is there a limit to the size of the accessory buildings?*

Director Putt said there is not a limit to the number of accessory buildings in the RR zone. He is unaware if the neighborhood CC&Rs have any type of restrictions. The County does not enforce CC&Rs. The size of the buildings will determine if a low impact permit or a conditional use permit is required. There is no maximum limitation.

Question: *Please address the water use.*

Mr. Broman said there is a limit of one-acre foot of water. The amount of water used is monitored. He believes this property will use far less than one-acre foot of water.

Question: *How many horses will be on the property?*

Mr. Broman said the existing barn will be converted to a garage and storage area. There will be no horses housed there upon completion of the arena. A face-lift of the barn is planned.

Mr. Broman emphasized there is no limit on the number of accessory buildings. The larger building will contain both a barn and a riding arena. That is the reason for the size of the building. Mr. Dell said the arena is below regulation size for the type of use they desire. The horses are for recreation. They are not show horses.

Question: *Please explain the covered parking.*

Mr. Broman said the covered parking is 40'x40'. It is designed to hide the RV and horse trailer that is there now. These are 25' long. There will only be two vehicles in the covered parking. The unit might be enclosed on the north side to screen the neighbor's view. Mr. Dell said there are two horse trailers. One has living quarters; the other is strictly for moving the horses.

Mr. Broman added the sports building is for private use only. It is sized below a junior high sized court. It is simply for his boys to play and have fun.

Question: *Please comment on the County's responsibility towards the character of the neighborhood.*

Director Putt said the character is defined through this process.

Question: *Please explain the rental plans. Will the rental be for long or short term?*

Mr. Dell said it is long-term. The present tenant is a family.

This concluded **Chair Peck's** list of questions. **Commissioner Harte** asked Director Putt about the open space rules for the area. Director Putt said there is no specific platted open space for a single family development lot. There are only setbacks on the front, side, and rear. There is no additional open space requirement in the subdivision.

Commissioner Lawson said he is intrigued by what the CC&Rs say about allowing only one structure and one accessory building. Is that an accurate description? Director Putt said he would be happy to look into that, but the County doesn't enforce CC&Rs.

Commissioner Lawson said he would like to know if the CC&Rs only allow two structures to be built. He thinks they should be honoring the expectation people had when they purchased their lots.

Director Putt said he respectfully differs on that opinion. CC&Rs are private contracts. Even though they are aware of them, they cannot step in. A discussion on CC&Rs and

the County's involvement took place. Attorney Brackin said the CC&Rs can be enforced either by the HOA, or individual homeowners. An Ombudsman has opined that they cannot enforce CC&Rs in the Silver Creek area. A member of the audience called out that they don't have a Homeowner's Association, but a service district.

Commissioner Franklin informed the public that if the CUP is granted, it runs with the land in perpetuity. A condition can be added that there will be no commercial activities. This would apply even if it is sold. **Chair Peck** said they can make that condition, but staying on top of it is a whole different story.

Commissioner Collins asked for clarification of how many horses are on the property. Will all of the stalls be filled? Mr. Dell said currently there are seven horses on the property. He wants to have a place where the horses can live and work out during the winter. He didn't want to underestimate the number of stalls needed. **Commissioner Collins** asked if he is amenable to capping the number of horses on the property. Mr. Dell said he is not. **Chair Peck** said the Commission doesn't have the ability to do that.

Commissioner Collins asked if he is open to mitigating the flies and the smells associated with having horses. Mr. Dell said not only is he 100% in favor of that, he would love to be involved with a committee to enforce that throughout the neighborhood. If the wind is blowing, he doesn't want to smell horse manure in his house. The pile that is there will be gone by next week. From that point, it will be regularly taken care of.

Commissioner Collins asked Mr. Dell to describe the bar that is there. Mr. Dell responded there wouldn't be 25 seats. It is a place to relax while the kids are playing basketball.

Commissioner Collins asked if he intends on using this building while the home is being rented out. Mr. Dell said once the building is completed, he isn't certain if he will still rent the home.

Commissioner Collins asked Director Putt to comment on the limitations on water connected with Special Service Area #3. Director Putt said that prior to the issuance of a building permit, it will be verified that there is water to supply the property. He can have that clarified when they come back next time. **Commissioner Collins** requested information on septic be included when they meet next.

Commissioner Klingenstein thanked the neighbors that came to the meeting. They have been able to flesh out a lot of information that was not readily available. He said most of his knowledge about horses comes from his sister who runs a commercial operation in Maine. He used her operation as a baseline to understand what Mr. Dell is trying to accomplish.

Commissioner Klingenstein said the Commission is very concerned about CUPs, especially in this area. As a member of the public said, this area has the "wild west" mentality. Everyone seems to want to have big lots and a lot of freedom. They don't want to have regulation; however, at this meeting he heard people say they need more regulation and more enforcement. That is what comes with urbanization. He believes the entire Snyderville Basin is at a crossroads.

Commissioner Klingenstein said they have a CUP in front of them. There are a lot of questions that need to be more fully addressed by Staff. He listed several questions that they don't have clear answers to. He is not clear on water quality and well head protection and other issues. One acre foot is a lot of water; but are they watering pastures and/or lawns? He understands there will be a plan to get rid of the manure, but this needs to be laid out.

Commissioner Klingenstein said they need to let the County Council know they are in an area that needs more enforcement; that they need another officer. Let the people who control the purse strings know that it is time to step it up.

Commissioner Klingenstein said they need clear information so there will be better conditions of approval. He referred to Standard 5. He believes they are starting to have a better grasp of the neighborhood character, scale, and intensity. He thinks these issues need to be fleshed out more. **Chair Peck** asked how that would be done.

Commissioner Klingenstein said he is asking Mr. Dell to try to become more compatible with the neighborhood. He said Silver Creek was developed in 1964. It was simply subdivided without a lot of rules. It is the wild west.

Commissioner Harte said the Commission will need to have clarification of what the intention of the area was and where it is going? How the character of the area is defined might give a different outcome. What is the measurement tool?

Chair Peck responded that people seem to be concerned with the size of the building. Is "square-feet" the measurement tool they will use? Or is it the character and the look of the building? Is it the layout of the property? She thinks it is unfair to ask the applicant to define the character.

Commissioner Klingenstein responded he believes the code of the west was to work with and respect your neighbors. He is asking that neighborhood to come together and define what the character is. He is also asking Staff and Mr. Dell to contemplate what this means.

Commissioner Lawson said the point he was trying to make at the beginning of this discussion refers to standard 5. Is the use compatible with the existing neighborhood? The Commission has been talking about how they can quantify that. CC&Rs are one

thing to look at, but not to enforce. He is not talking about enforcement, but perhaps the CC&Rs could be a useful measuring tool.

Commissioner Harte asked Attorney Brackin if some of the things they have been discussing would open themselves up to litigation. Attorney Brackin said State law says they cannot impose conditions on an applicant that are not adopted in the County ordinances. If this happens, they are going outside of Utah State law. She added that a Conditional Use is an allowed use with conditions imposed to mitigate the negative impacts. If the applicant meets the criteria of the Code, the Commission is obligated to approve the application.

The Staff Report is to help analyze the application and to guide the Commission in coming up with appropriate conditions of approval. If they believe the impacts cannot be mitigated they need to have findings of fact in the record to support that. Attorney Brackin gave the example of horse manure. If the Commission believes this would be a negative impact, they can require the applicant to have a horse manure removal plan. If the impact is traffic, then traffic studies can be required.

Mr. Broman said they have complied with every item that Staff has asked of them. Mr. Dell has a property right. He has the right to build an indoor arena and a barn. It is hard to hear people say this doesn't fit the character of the neighborhood. It does fit, because there is one right next to them.

Chair Peck said this is about perspective and it is subjective. What the applicant now has to do is to come back with additional information. He needs to show plans, colors, and other pertinent items. **Commissioner Klingenstein's** point of good neighbors goes both ways. They look forward to them returning with a full packet.

Director Putt explained to the audience that no decision is being made this evening. When this item returns to the Commission, it will be re-advertised. The public will

receive a postcard and it will be in the newspaper, radio, and on the website. The next time they come back, the intent will be to make a decision.

5. Public hearing and possible action regarding a Conditional Use Permit to upgrade the existing Rocky Mountain Power transmission line that runs from the Croydon substation to the Silver Creek substation, crossing unincorporated portions of Summit County near Quinn's Junction; Rocky Mountain Power, applicant – *Sean Lewis County Planner*

Planning and Zoning Administrator Barnes said he is filling in for Sean Lewis. Chad Ambrose is representing Rocky Mountain Power. Before the Commission is a conditional use application (CUP). A public hearing is required. The CUP is necessary because they are building a utility line higher than 45 feet.

The application is to complete the very end of a County-wide upgrade. The line has gone from Evanston, Wyoming through Coalville to the Quinn's Junction substation. A portion of the line extends six poles into the Snyderville Basin.

The upgrade is an increase in voltage, resulting in the need for taller poles. On the average, the poles are 20 feet taller than the existing poles. They are up to 120 feet high. They vary in height depending on the terrain.

Rocky Mountain Power owns the land that is under the poles. They own an easement where the power line crosses over the rail trail. A correction was noted in the report. It states the poles will be replaced as close to the current location as possible. There are no additional poles proposed. These are not true statements. The new poles will be placed parallel to the existing poles. Also, there will be additional poles placed. There will be six new poles in the Snyderville Basin.

Chair Peck noted that the Staff Report listed eight poles. Mr. Ambrose confirmed there will be six, not eight, new poles. Administrator Barnes explained the confusion is

because there will be two poles just inside the border of the Eastern Summit County Zoning District.

Administrator Barnes said another complication is that this is located in the Silver Creek overlay zone. There are some environment issues. Rocky Mountain Power has received approval of the project from the Environmental Protection Agency and Utah Department of Environment Quality.

Staff is recommending approval subject to the public hearing and their review of the materials. The Findings of Fact, Conclusions of Law, and Conditions of Approval have been included in the Staff Report. Finding of Fact #2 mentions the pole to pole replacement. That statement should be stricken.

Chair Peck asked if this is a premature action. If the disputed area is not resolved, is there a possibility that Rocky Mountain Power may need to move the poles to another location? If they have to move the transmission line, will that affect the location of these poles? Mr. Ambrose said these poles will not be affected. Attorney Brackin said it will line up no matter how the disputed area is resolved. Mr. Ambrose said this section will not be impacted by the outcome of the disputed area.

The time was turned over to Mr. Ambrose for a presentation. Mr. Ambrose said that attending with him is Ben Clegg, the project manager. Mr. Ambrose said this project has been in the works for several years, dating back to 2008.

A slide presentation showed a map with the transmission line going from Evanston, Wyoming to the Silver Creek substation at Quinn's Junction. The project crosses several counties. The reason for this line is to provide reliability to Summit and Wasatch Counties and to provide the additional capacity that is needed due to growth.

Mr. Ambrose pointed out a new substation built in Croyden. From Evanston to Coalville they have upgraded the existing transmission line from 46 kV to 138 kV. In this area, the replacement has been pole for pole. The area from Coalville to Brown's Canyon is being appealed to the County Council. They have four property owners that have not signed easement agreements.

Mr. Ambrose said from Brown's Canyon Road on, the rest of the line has been approved by the Eastern Summit County Planning Commission. There is a small sliver that is in Wasatch County, which has been approved.

Mr. Ambrose said they are present to talk about a small portion consisting of six poles in the Snyderville Basin Zoning District. A slide was shown that demonstrated the growing needs of power in Summit County:

2009	179,000 megawatts of power was needed
2014-15	210,000 megawatts of power was needed

For this project, open houses were held in 2008 and 2009. He referred to the electrical outage in Park City on Valentine's Day night. There were 8,000 customers without power on one of the busiest times of the year.

Mr. Ambrose explained there are different sections of line. If one of those sections is lost, that section is out of power until it is restored; however, the rest of the County stays energized. To reduce the risk of that happening they need to have a transmission loop. This project provides the transmission loop. If a section goes down, power is still received.

A map was used to show where the poles will be added. The poles will range from 75 feet and 120 feet. Five of the poles will be made of wood. One pole will be a steel structure. Mr. Ambrose said Rocky Mountain Power is the majority property holder where the line is going. It is following a corridor that has been there since 1916.

Mr. Ambrose said approval has been given by the EPA and the division of environmental quality on how they will handle the soils. The use conforms to all provisions of the Snyderville Development Plan. The use is not detrimental to public health, safety, and welfare. In fact, the upgraded transmission line is critical to the safety and well being of the community. It is appropriately located and is compatible with the existing neighborhood character.

Mr. Ambrose read a letter from Doug Evans addressed to Community Development Director Patrick Putt. Mr. Evans is the director of Mountain Regional Water. The letter was dated September 15, 2015. Among other things, it stated that Mountain Regional Water is dependent on this upgrade. They are one of the biggest power users in the County. The health, safety, and economy depend on the completion of this project.

Mr. Ambrose next read a letter from the Park City Mountain Resort. It was written by Bill Rock who is the senior vice-president. The focus of the letter was that Park City Mountain Resort is pleased to offer its support of the transmission line upgrade project. Mr. Ambrose said there are other letters. There is a lot of support from major employers in this area. He said he is happy to answer any questions they may have.

Commissioner Klingenstein asked why they are paralleling the existing poles instead of replacing them. Mr. Ambrose answered that coming out of the substation there are two double circuit transmission poles. This means there are two sets of poles with two circuits on each side. The first transmission line going out goes to the Park City substation. The next one goes to the Jordanelle Substation. That double circuit is feeding two different substations. The next double circuit has one side going to Kamas and the other goes to Coalville.

Mr. Ambrose said the new project is a single circuit all the way to the bottom of Brown's Canyon Road. At that point, they will pick up the existing Oakley line. This will be the 138 kV upgraded transmission line. It will be a double circuit through Promontory.

Commissioner Klingenstein summarized saying that the 138 kV line is coming into the substation, but they have to maintain the other lines. Mr. Ambrose said that is correct.

Commissioner Collins asked if residential structures will be allowed or permitted near the substation. Mr. Ambrose said he believes the zone is for industrial and commercial. It is a power corridor.

The public hearing was opened. No comments were received and the public hearing was closed.

Commissioner Franklin made the motion to approve Phase 3 of the proposed transmission line based on the Findings of Facts, Conclusions of Law, and Conditions of Approval as found below and in the Staff Report, with the exception of Finding of Fact #2. The following sentence will be stricken: "The upgrade would be a pole-for-pole replacement of the existing kV transmission line." Commissioner Klingenstein seconded the motion.

Findings of Fact:

- 1. Rocky Mountain Power has an existing 46 kV power line that runs from Coalville to Silver Creek Junction, portions of which have been in the same location since 1916.***
- 2. Rocky Mountain Power applied for a Conditional Use Permit to upgrade the existing 46kV transmission line to a 138 kV transmission line.***
- 3. Rocky Mountain Power is the property owner for this portion of the established corridor.***
- 4. The proposed upgrade shall include installation/replacement of approximately 8 poles in the Snyderville Basin Planning District.***
- 5. The proposed poles will either be wood poles or "core-10" steel poles.***
- 6. Existing poles range in height from 60' to 100' tall.***

- 7. Upgraded poles will range in height from 70' to 120' tall.**
- 8. Poles are designed to comply with all standards required by: Federal Energy Regulatory Commission (FERC), North American Reliability Council (NERC), Western Electricity Coordinating Council (WECC), as well as provisions of the National Electrical Safety Code (NESC).**
- 9. The transmission line corridor crosses the Hillside Stewardship and Served Commercial zoning districts.**
- 10. "Utility facilities, aboveground (greater than 45 feet in height)" is listed as a Conditional Use in the Hillside Stewardship zoning district and as a Low Impact Permit in the Service Commercial zoning district.**

Conclusions of Law:

- 1. The use of this corridor as a power transmission line is appropriate as Rocky Mountain Power owns the established power line corridor.**
- 2. The proposed transmission line is in compliance with the standards as found in Chapter 4 of the Snyderville Basin Development Code.**
- 3. The increased power capacity and improved power reliability resulting from the upgrades will benefit all residents of Summit County.**
- 4. The Phase 3 alignment is relatively isolated in relation to existing homes.**

Conditions of Approval:

- 1. Approval is only for Phase 3 on the proposed upgrades. Phase 3 includes the portion of the line located in the Snyderville Basin Planning District Boundary near Quinn's Junction.**
- 2. Rocky Mountain Power shall comply with all FAA requirements to ensure the safety of aircraft in proximity of the line.**
- 3. Rocky Mountain Power will follow established state and county guidelines for working within water source protection areas.**

4. *Any damage to water sources or the protection zones attributed to the construction, operation, maintenance, and decommission of the transmission line will be remediated at Rocky Mountain Power's expense.*
5. *Rocky Mountain Power will maintain appropriate signs on the poles that warn of dangers.*

- **MOTION CARRIED (6-0)**

Chair Peck verified the steel pole will be core-ten.

6. **Approval of Minutes**

March 8, 2016:

Commissioner Klingenstein made a motion, which was seconded by Commissioner Franklin, to approve the minutes as written. All voted in favor.

- **MOTION CARRIED (6 - 0)**

March 22, 2016:

Commissioner Klingenstein made a motion, which was seconded by Commissioner Collins, to approve the minutes as corrected. All voted in favor.

- **MOTION CARRIED (6 - 0)**

DRC UPDATES

Chair Peck said she attended an open house in connection with the preserve at New Park.

There were some negative comments expressed by the HOA that seemed to be inappropriate for the setting.

COMMISSION COMMENTS

Commissioner Harte said he appreciated the retreat.

DIRECTOR ITEMS

Director Putt said the next meeting will be June 28th. This meeting will have a plat amendment application and a transportation update.

Director Putt added that Staff recently completed a couple of key draft Development Code chapters. One is a master plan process. The other is two proposed zoning districts. These are the Neighborhood Mixed Use zones I and II. He would like to have a subcommittee meeting review this before it is brought to the Commission.

Chair Peck asked about public hearings. Does the Commission need to allow everyone who wishes to speak to do so, even though they repeat the same things? Director Putt said he perceived this a little differently. He heard one person say “ditto” to some of the comments and then threw some of his own thoughts. Sometimes people need the opportunity to vent their feelings. He listens to see if there are concerns that have not been addressed. Is there a consistent pattern?

Director Putt said there was a common theme about enforcement. He reacted because he didn't want to have the Dells sidetracked into the neighborhood's frustration about if there is adequate Code enforcement taking place.

Commissioner Harte said he thinks it is important to give people the ability to speak about their neighborhood. He appreciated that **Chair Peck** took charge at the end with the list of questions. He thinks it is important to allow the public to be heard and have their moment. He added it is helpful to explain to the public when an issue is not in the Commission's purview. **Chair Peck** said she doesn't want an applicant feeling like they are being attacked.

Commissioner Collins said she thought the comments were thoughtful. She didn't feel there was too much repetitiveness. There seems to be a lot of misconceptions of what is and isn't

allowed in Silver Creek. **Commissioner Klingenstein** said for the most part, the people behaved themselves.

The differing responsibilities of the County and the service providers were discussed. Attorney Brackin said once the County gets approval from a service provider, the requirements have been satisfied. In this case, it is up to Service Area 3 to indicate that the application is in a well protection zone.

ADJOURN

At 10:00 p.m. Commissioner DeFord made the motion which was seconded by Commissioner Klingenstein to adjourn. All voted in favor.

- **MOTION CARRIED**



Approval Signature