

**RECORD OF PROCEEDINGS  
PUEBLO COUNTY PLANNING COMMISSION  
WEDNESDAY, SEPTEMBER 19, 2018  
COMMISSIONERS' CHAMBERS AT PUEBLO COUNTY COURTHOUSE  
215 WEST 10<sup>TH</sup> STREET, PUEBLO, COLORADO**

**ROLL CALL AND DECLARATION OF QUORUM**

Commissioners Present: Betty Alt, Donald Bruestle, Epimenio Griego, Kiera Hatton, Judy Leonard, Roger Lowe, Philip Mancha, John Musso, and Zachary Swearingen.

Commissioners Absent: None.

Staff Present: Joan Armstrong, Director; Sandra Smith; and Gail Wallingford-Ingo.

Others Present: Marci Day, Assistant County Attorney; and Dominga Jimenez-Garcia, General Services Engineer, Pueblo County Department of Engineering and Public Works.

Chair Hatton called the Pueblo County Planning Commission meeting to order at 5:30 p.m.

**APPROVAL OF AUGUST 15, 2018 MINUTES**

Mr. Lowe motioned to approve the minutes of the August 15, 2018 meeting as mailed. Ms. Alt seconded the motion. Motion carried unanimously.

**APPROVAL OF SEPTEMBER 19, 2018 AGENDA**

Ms. Leonard motioned to approve the agenda of the September 19, 2018 meeting as mailed. Mr. Swearingen seconded the motion. Motion carried unanimously.

**CHAIRPERSON'S REPORT**

Chair Hatton gave a summary of the September 13, 2018 Special Planning Commission meeting for the PuebloPlex Redevelopment for those that were unable to attend. She stated Comprehensive Plan Amendment No. 2018-001 was adopted by the Commission. Map Amendment No. 2018-003 and Text Amendment No. 2018-007 will be heard at the next Planning Commission meeting scheduled for October 17, 2018.

**DIRECTOR'S REPORT**

The Director's Report was presented by Joan Armstrong. She requested the staff reports be made a part of the record of proceedings.

(a) Acceptance of Map Amendments and Planned Unit Developments:

- [Summer Wind Farms Planned Unit Development No. 2018-001](#), Summer Wind Farms, LLC (Owner/Applicant), c/o Rocky DeVency (Managing Member), Mangini & Associates, Inc., (Representative), 1339 Lane 40. Applicant requests approval to rezone a 33.32± acre parcel from an A-1, Agricultural (minimum 35 acre) Zone District to Summer Wind Farms Planned Unit Development to accommodate Agricultural, Farming/Ranching, and Residential Uses.

The property is located at the northwest corner of the intersection of Lane 40 and Jersey Road in the Vineland area. The PUD is being heard in conjunction with Summer Wind Farms Preliminary Plan No. 2018-002, which proposes the creation of two (2) parcels of land.

(b) Correspondence--None.

(c) Continuances--None.

(d) Withdrawals--None.

(e) Board of County Commissioners' Action--Summary of actions taken on September 18, 2018, was distributed at the Commissioners' meeting.

(f) Administrative Reviews--None.

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Ms. Armstrong requested the Commission take action to accept the planned unit development for processing and the Board of County Commissioners' action as presented.

Ms. Alt moved to accept the planned unit development for processing and the Board of County Commissioners' action as read into the record and make the Commission's comments a part of the record of the proceedings. Mr. Griego seconded the motion. The motion carried unanimously.

**STATEMENT OF HEARING PROCEDURES BY CHAIRPERSON**

Chair Hatton reported that the applicant and/or representative are called upon to speak, followed by any opposition, with the applicant having the final say.

**PUBLIC HEARING**

Ms. Armstrong explained there were three items on the Consent Agenda and no items on the Regular Agenda for this evening's meeting.

**CONSENT ITEMS:**

The Consent Agenda contains items for which staff is recommending approval and as of the publication of the agenda, there was no known opposition and the applicants are in agreement with staff's recommended conditions of approval. If any member of the Commission or a member of the audience wants to remove an item from the Consent Agenda, the item to be removed will be placed at the end of the Regular Agenda for a full public hearing. The Commission will then take action regarding the remaining items on the Consent Agenda in the form of a single vote.

A member of the audience requested [Special Use Permit No. 2018-009](#) be removed from the Consent Agenda and be placed on the Regular Agenda for a full hearing.

Mr. Bruestle moved to forward a recommendation of approval to the Board of County Commissions for the remaining two Consent Items listed below with comments and conditions. Ms. Alt seconded the motion. The motion carried unanimously.

- [Summer Wind Farms Planned Unit Development No. 2018-001](#), Summer Wind Farms, LLC, c/o Rocky DeVcenty, Managing Member requests approval to rezone a 33.32± acre parcel from an A-1, Agricultural Zone District to Summer Wind Farms Planned Unit Development to accommodate Agricultural, Farming/Ranching, and Residential Uses.

The property is located at the northwest corner of the intersection of Lane 40 and Jersey Road in the Vineland area. The PUD is being heard in conjunction with Summer Wind Farms Preliminary Plan No. 2018-002, which proposes the creation of two (2) parcels of land.

The Commission recommended approval to the Board of County Commissioners with three comments and three conditions per Staff Review dated September 12, 2018.

- [Summer Wind Farms Preliminary Plan No. 2018-002](#), Summer Wind Farms, LLC, c/o Rocky DeVcenty, Managing Member is requesting preliminary plan approval to subdivide 33.32± acres into two (2) lots being 1.0± acre and 32.32± acre in size.

The property is currently within an A-1, Agricultural Zone District and is located at the northwest corner of the intersection of Lane 40 and Jersey Road in the Vineland area. The Preliminary Plan is being heard in conjunction with Summer Wind Farms Planned Unit Development No. 2018-001, which proposes to rezone the 33.32± acres to a PUD which would allow for Agricultural, Farming/Ranching, and Residential Uses.

The Commission recommended approval to the Board of County Commissioners with three comments and two conditions per Staff Review dated September 12, 2018.

**REGULAR ITEMS:**

**Statement of Conduct and Demeanor**

Chair Hatton stated in order for the business of the Commission to be conducted in the most effective and expeditious manner, it is necessary that all persons maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of a person's right to remain in attendance and may result in them being asked to

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leave the meeting by the chairperson or, upon their refusal, being escorted out of the meeting by the proper authority.

- **Special Use Permit No. 2018-009**, Edgar Lozano Cano is requesting a special use permit for “*Farming or Ranching*”, specifically the keeping of two (2) horses and fifteen (15) fowl (chickens/roosters) in an R-2, Single-Family Residential Zone District. The original request (filed in July 2018) was for the keeping of four (4) horses and ten (10) fowl. The 12,000 square foot (0.275± acre) property is located adjacent to the City of Pueblo Corporate Limit Line on the north side of East Beech Street, approximately 175 feet west of its intersection with South Queens Avenue and carries the physical address of 1715 East Beech Street.

Ms. Armstrong provided a case summary. Comments from the Pueblo County Cooperative Extension Office indicated there was not a significant impact on the area so long as animal waste is removed and handled so not to become offensive to the neighbors. She stated staff did not notice any excessive noise or odor coming from the property due to the keeping of the animals during its two (2) on-site inspections. The owner/applicant has submitted the special use permit request to remedy a Notice of Zoning Violation No. 2017-020 as received on April 17, 2018. The violation included the keeping of agricultural animals, junk, and trash. The owner/applicant has made progress in remedying the violations as outlined in the initial April 2018 Notice of Zoning Violation; however, staff did discover some additional items that will need to be addressed in order for the property to be in compliance. The existing security type fencing surrounding the property was erected in excess of the allowable height and located within the required front and rear setbacks and the existing accessory structures (chicken coop/horse stables) did not meet the minimum setback standards.

Should the Planning Commission choose to approve the special use permit, staff has suggested a condition of approval be imposed requiring the submission of a complete zoning variance application to address the setback issues associated with the existing accessory structures and type and height of the existing security type fencing within thirty (30) days.

Staff recommends the Pueblo County Planning Commission approve Special Use Permit No. 2018-009 with four conditions: 1) requiring the submission of a zoning variance application and the removal of the remaining junked vehicle, 2) limiting the number of animals to two horses and fifteen fowl (chickens/roosters), 3) the weekly cleaning and proper disposal of animal waste, and 4) any future development comply with the R-2 Zone District development standards.

**IN FAVOR**

**Mr. Anthony Garcia**, 1716 ½ East 13<sup>th</sup> Street, Pueblo, represented the special use permit. He stated the opponent mentioned there were problems throughout the whole block, noting they could only address their personal property. Once they became aware that they had to meet certain zoning standards, they filed all the necessary applications and have been working with staff to bring the property into compliance. He mentioned that he received 16 signatures that were in support of the proposed special use permit, which was included in staff's report.

**IN OPPOSITION**

**Ms. Ramona Hall**, 1738 East Ash Street, Pueblo, spoke in opposition to the special use permit. She complained about the number of flies and the smell, noting that she cannot have a barbecue in her own backyard. At one point in time, she thought there was a goat and maybe even a donkey. The property was fenced all around so you cannot tell what is really going on. She stated that the area is split with half in the City limits and the other half in the County. She lives on the City limit side. Flies are constantly around the property, which eventually get into her house and in her food.

Mr. Musso questioned how many horses they were wanting on the property. Ms. Armstrong replied two. Mr. Musso stated that within the El Camino development, the City allows two horses on one acre. He questioned the property area of 10,000 square feet as being sufficient to maintain manure removal. Mr. Garcia replied that there is a dump truck on the property that removes the manure on a weekly basis. Once they were aware of the zoning issues, they made every effort to comply, noting according to staff's report and visit to the property, there was no smell coming from the property. They have been actively removing junk and trash from the property. Mr. Musso questioned if they lived on the premises. Mr. Garcia replied no, they have the necessary building permits to remodel the existing

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residence. He stated he lives two blocks away and Mr. Cano, the property owner, lives on East 3<sup>rd</sup> Street. The property owner/applicant is on the property taking care of the animals on a daily basis. Mr. Bruestle questioned if it was the applicant's intent on living in the home once it's been remodeled. Mr. Garcia replied yes, that it was his personal property. He noted that they have passed the electrical inspection and are now working on the mechanical and structural phases. Mr. Swearingen questioned if there were other livestock animals within area. Mr. Garcia stated that he submitted documents on a special use permit in the area, which was on one of the maps in staff's report. Ms. Wallingford-Ingo stated that it was on Exhibit No. 4. Mr. Musso questioned if horses were already on the property. Mr. Garcia replied, yes. When Mr. Cano purchased the property, he was under the assumption that it was in the County, therefore allowing for agricultural uses. Mr. Musso questioned how long the horses had been on the property. Mr. Garcia replied three to four years. The owner was not aware that a special use permit was required to keep his animals. Once they were made aware of the situation, all the necessary applications were filed with County.

Chair Hatton stated she was very familiar with the area and has always been surprised on how much livestock was in the area. Because of this, she felt uncomfortable not allowing one specific person not to have the same types of animals when other special use permits for the same type of behavior in the area have been approved. Mr. Garcia stated there were several special use permits in the area for the same use. This is where they were ignorant in the land use requirements, noting that seeing the animals in the area, they assumed that it was an allowable use. He stated the applicant has complied with the requirements from Pueblo County Planning and Development. They have obtained the necessary building permits for the residential remodel, noting that it will have a new roof, new windows, and new electrical. The applicant is paying for everything to make the area livable and acceptable by Pueblo County's standards. Mr. Griego said that he drives by the area a lot and has noticed the improvement on the property.

Mr. Mancha questioned the petition for approval that was submitted, noting there seems to be widespread neighborhood support. He wanted to understand why there was so much support. Ms. Hall replied that when she asked the neighbors about the notice of the special use permit hearing they told her they had not received a notice and did not know what she was talking about. She stated that people in that area do not care about the condition of their properties. She has been working hard to maintain the aesthetics of her property since the passing of her husband 20 years ago, noting she has lived in her home since 1955. She does not remember when her property was annexed into the City. She did not know why people want to move in so close to the City boundary line with livestock. She thought there would be some setback requirements. She does not appreciate the smells and the flies around her property. She stated she did not object to horses as long as they were further away. The wind blows the smells and trash in her direction.

Mr. Swearingen stated if the applicant had been approved a special use permit and was not complying to the conditions of approval, there are measures that could be taken to have the permit revoked. He stated the applicant was doing what was necessary to establish his special use permit. Ms. Hall agreed the applicant was currently complying with what was necessary, noting that she did not know when the applicant moved in and took over the property. She stated that people have come and gone from the neighborhood and the area continues to deteriorate. She also has problems with people illegally dumping in the area. She seems to be the only one that cares because she is always calling in about those problems. Mr. Swearingen stated that he appreciated her care for her property and the neighborhood as a whole; however, a neighborhood clean-up would need to be addressed separately.

Mr. Garcia stated that when he went to surrounding property owners to ask for signatures for the special use permit, he noticed several properties that had junk vehicles and piles of yard waste. He stated he did not want to start any problems with the neighbors. He was concerned with complying with the zoning regulations and doing what was necessary to get the special use permit for the applicant. Mr. Swearingen questioned whether he also cared about the neighborhood. Mr. Garcia replied yes, knowing that they are raising their families in the area. They are concerned with people who are driving too fast as well as with the aesthetics of other properties. Mr. Swearingen made a suggestion that the applicant and Ms. Hall could work together to increase the care of the neighborhood and encourage more people to clean up their properties.

Mr. Musso questioned if they were in business training race horses, noting the equipment on the property. Mr. Garcia report the applicant was a roofer, noting most of the trash was roofing material, which was cleaned up. The animals are the applicant's pets. He will

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exercise them walking up and down the block or on the exercise wheel. The applicant doesn't ride them, the children do. He stated the applicant also has some chickens. Mr. Musso asked if the young gentleman was the trainer for the horses (referring to the applicant). Mr. Garcia replied he did not own any horses. Mr. Musso asked the applicant if he was the trainer or caretaker. Mr. Cano replied that he took care of his horses. He apologized for not speaking good English. He stated he was at the property every day caring for the animals and, at times, his whole family is there, noting he has four children who love to come and ride the horse and donkey. Mr. Garcia stated that there are still some other issues that need to be corrected on the property with regards to building setbacks and fencing, noting he was currently working with staff to comply.

Ms. Day reminded the Commission members that they can ask the applicant questions anytime; however, Ms. Hall has been standing at the podium for some time. She would prefer that the opposition testimony be completed and then the applicant and/or the representative can present their rebuttal.

Ms. Hall stated that most of the property owners are roofers and often block the roadway with their trucks. She goes for walks three times a week and her son has asked them several times to move their vehicles because it is supposed to be a public road. She stated the area on Beech Street looks more like a dump, noting it was the same situation on Ash Street where she lives. She stated the neighborhood was good until the owners started passing away and properties were being sold by the children. Now the properties are owned by people who do not care. In the past, there was not an issue with livestock just illegal dumping, throwing trash, and empty beer bottles everywhere. She stated she is not trying to chase people away, noting she has been there too long and she's too old to tell people what to do. Everybody has their own lives and what they want to accomplish. She doesn't care if the applicant has horses, she just does not want the smell and the flies. She stated she did not know where her position stood in the matter. She does not want people to have to move; however, she also doesn't want to live with the smell and excess flies.

Chair Hatton thanked Ms. Hall for being an advocate and caring about the neighborhood and appreciated her efforts. She thanked her for attending the meeting.

Mr. Bruestle questioned the blocking of the roadways. Ms. Hall replied yes, on Beech Street, noting the applicant was not the only one. The people that live behind her are also roofers and they have a lot of vehicles. She was not sure where the other people come from. There is a gentleman trying to sell his home across the street from where she lives and there are always several parked cars on the property. She does not know what they do for a living or what happens on the property. Ms. Armstrong stated she appreciated the question and the answer; however, what was before the Commission was a special use permit for farming and ranching, noting that the roads did not have any bearing on the application. Mr. Bruestle stated he was trying to determine who was causing the roadway obstruction and Ms. Hall indicated that it was not the applicant.

Ms. Day stated that she did not know how the Commission was going to vote on the special use permit, which will allow keeping of 15 chickens and 2 horses on the property. She stated if it is not approved, the applicant would have a zoning violation, which will have to go through the Planning Department for processing. If the special use permit is approved, County staff is recommending as a condition of approval that all areas utilized for the keeping of the permitted agricultural animals shall be cleaned weekly and maintained to prevent large accumulations of manure and to control odors, dust and vectors (i.e., insects, vermin, bacteria). Animal waste shall be placed in sealed containers and removed from the property weekly and in such a manner consistent with Federal, State, and County regulations and guidelines (as applicable). She stated if the Commission decides to approve the application and make this a condition of the application, and if the applicant does not comply with that condition, the applicant will be brought before the Commission again and the special use permit can be revoked. If the application is approved, a complaint could be filed with the Department of Planning and Development, which will be handled as a zoning violation. Ms. Hall replied she was aware of that.

**Ms. Christine Arellano**, 1116 Santa Fe Avenue, Pueblo, spoke in opposition to the special use permit. Her mother is Ms. Hall, noting her mother doesn't have anything against anyone and is 95 years old. She is fairly healthy, and she wants to make sure she stays that way. Recently her mother has had a lot of mice at her home, which she never had before. If you have lived near horses, you know that you are not able to open your doors or windows without the smell and flies coming in. She stated she spoke with the gentleman awhile back who told her that the horses were not his. He also told her that they had chickens. She

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doesn't feel that her mother's property should be devalued because of this proposed use. Her mother has worked hard to get everything straightened out on her property. She did not like the idea that people could come from anywhere and do whatever they wanted without caring how other people in the area felt. Her father died almost 20 years ago, and her mother has been living alone ever since. She still works on keeping her property in good condition. She is the neighbor anyone would want. She stated the gentleman doesn't even live there. They may be working on cleaning up the property but are not doing nearly enough. She did not feel that people who have lived in the area their entire life should be disrespected by others. Nobody wants to live with rats near their house or eat with flies. There are people throwing trash in the alleys inviting disease. Her mother does not need it, nor does she deserve it. She questioned who owned the property. There was another gentleman speaking for him instead of speaking to the person who is supposed to have these animals. Mr. Garcia stated Ms. Arellano was being racist. Ms. Arellano replied she was not. Chair Hatton stated she did not like the direction the testimony was going, noting the comment "people from here". She asked Ms. Arellano to stay on track with regards to the specific uses of the property or she would have to end testimony and be asked to leave. She would not entertain any negative comments to the applicant because they were uncalled for and unwelcome. Properties surrounding the proposed property may be causing some additional problems, but they cannot be addressed this evening. There will not be any personal attacks during testimony. Ms. Arellano replied fine and sat down.

**REBUTTAL**

Mr. Garcia stated the applicant is doing what has been asked of him. He requested the Commission approve the special use permit and thanked them for their time.

Chair Hatton closed the hearing and entered staff's comments into the record.

**MOTION**

Mr. Griego moved to approve Special Use Permit No. 2018-009 with four conditions of approval and a Directive to Staff per Staff Review dated September 10, 2018. Ms. Alt seconded the motion. Motion was approved by a 7 to 2 vote with Messrs. Bruestle and Musso voting against the motion. PCPC Resolution No. 18-019, dated September 19, 2018, was also approved.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

None.

**REPORTS OF COMMITTEES**

None.

**ADJOURNMENT**

There being no further business, Chair Hatton adjourned the meeting at 6:35 p.m.

Respectfully submitted,



Joan Armstrong, Director  
Department of Planning and Development

SMS