

Conifer Commons Community Meeting
May 26, 2020

Questions from the *Conifer & South Evergreen Community Committee*

Introduction — As an integral part of Jefferson County rezoning application process for [20-108679CMT Conifer Commons](#), the Community Meeting "...is intended to be a forum for an information exchange between an applicant and community members." *Jefferson County Planning & Zoning Rezoning Process* brochure (12/29/14). The applicant is in effect seeking a social/community license leading to "buy-in" for a major development designed to be a central focus in their community. The questions below have been assembled by the *Conifer & South Evergreen Community Committee* (a not-for profit group of citizen volunteers) in order to help the Conifer/US-285 Corridor communities identify critical issues. The Jefferson County Planning & Zoning Case Manager has agreed to forward this document to the applicant in advance of the Community Meeting for a response at the meeting.

Background of the Proposed Development — Referencing the proposed [Official Development Plan](#) (ODP) dated January 27, 2020, called "Conifer Commons", the applicant proposes to rezone the 47.1 acre site from the current A-2 zoning to a Planned Development in order to build a combination of multi-family and/or single-family dwelling units (DUs) totaling 188 DUs while including some unspecified amount of commercial space.

Question #1: Request Posting of the Conifer Commons Community Meeting Recording — The committee expects that, at this meeting, the applicant will be responsive to all questions from the community: Therefore, will the applicant submit an audio/video recording of this meeting and place in the Jefferson County public record after the meeting and during the first referral?

Question #2: Sustainable Water Supply Not Identified — The most recent Colorado Statewide Water Supply Initiative¹ reveals that, within our Jefferson County mountain communities, the average per-person water demand is 188 gallons per day; additionally, the ODP does not identify a source of drinking water that meets federal and state standards for health and safety:

- a) What sources of raw water (not treated to drinking water standards) does the applicant propose as a legal, sufficient, and sustainable — over a period of 100 years — drinking water supply for this planned development and through which specific State of Colorado legal processes have these raw water sources been adjudicated?
- b) What specific facilities and processes does the applicant plan to utilize to treat its source of raw water in order to meet the finished

¹ See Figure 6.3.1-1 of the [Statewide Water Supply Initiative 2010](#) comprehensive water demand study conducted by the [Colorado Water Conservation Board](#).

drinking water quality levels set out in Colorado Regulation No. 11 for community water systems including tests for lead, copper, chloride, nitrates, contaminants of emerging concern, and radionuclides (testing for radionuclides is not performed for the Safeway and King Soopers shopping center water supplies since they are "transient" community water systems)?

c) How does the applicant propose to support the robust, long-term monitoring network necessary to ensure sustained groundwater quantity as well as quality within our local fractured bedrock aquifer system?

d) What specific measures does the applicant plan to take in order to ensure non-injury of the water rights of others due to depletion of groundwater supply contained in our local fractured bedrock aquifer system?

e) Will the applicant indemnify all prospective buyers/owners of any of the proposed development properties against injury due to an inadequate, intermittent, or unaffordable drinking water supply over a 50-year, or longer, time horizon?

f) What legal recourse will the prospective buyer/owner have if, through periods of moderate or severe drought over a 50-year, or longer, time horizon, the drinking water supply fails or cannot meet health and safety standard requirements?

Question #3: Means of Wastewater Treatment Not Identified — The proposed Conifer Commons development will produce many 100s-of-thousands of gallons of wastewater weekly; additionally, the ODP does not identify a facility capable of properly treating the weekly influent generated by the proposed development. Therefore, which facility will the applicant utilize to treat the wastewater generated by the proposed development to wastewater discharge maximum contaminant levels (MCLs) set out in Colorado Regulation No. 22 for wastewater treatment systems including tests for coliform, other bacteria and viruses, total dissolved solids, disinfection products, nitrates, and contaminants of emerging concern as well EPA guidelines for potable water reuse systems:

a) If Conifer Metropolitan District (CMD) (which treats wastewater for both the Safeway and Staples shopping centers) — How will the applicant overcome the following: i) CMD is currently under a cease-and-desist order imposed by the CDPHE for early, continuous, and persistent health and safety violations; ii) CMD is more than \$30 million in debt to its bondholders and is currently operating at a substantial loss; iii) CMD is neither designed nor is it permitted to operate as a non-transient community water system; iv) the design of CMD drinking water treatment, wastewater treatment, and aquifer recharge cycle processes are flawed to the extent that compliance with federal and state regulations may be impracticable; v) CMD is

currently operating under a business model that is untenable; and vi) CMD utilizes an operational model that is untenable?

b) If Aspen Park Metropolitan District (APMD) (which treats wastewater for the King Soopers shopping center)— How will the applicant overcome the following: i) APMD is neither designed nor is it permitted to operate as a non-transient community water system; and ii) will the applicant attempt to return wastewater treated at APMD for recharge of the local aquifer (the recharge galleries at APMD partially refuse attempts to recharge the local aquifer thus requiring the District to discharge most of its treated wastewater into South Turkey Creek)?

c) If the applicant plans to construct a new wastewater treatment facility, when will the applicant share a proposed utility plan with the community?

Question #4: Means of Aquifer Recharge Not Identified — What specific facilities and processes does the applicant plan to utilize to recharge the local aquifer using the treated wastewater generated by the proposed development and/or augmentation plan water and where will it be located?

Question #5: Fire Mitigation and Suppression Infrastructure Not Identified — The proposed Conifer Commons development site resides within a wildland fire zone rated at the highest level of severity by the Colorado State Forest Service. However, the ODP proposed by the applicant would allow building heights of 35 ft, building setbacks of as little as 15 ft, and build-to-building separations of as little as 30 ft that promote densities which are not only incompatible with effective fire protection but that instead promote ember-borne cascading fire danger. Additionally, the ODP submitted by the applicant does not provide for indoor fire suppression sprinkler systems, fire alarms, and building water storage tanks; fire hydrants; or fire protection cisterns distributed on-site. Therefore, how does the applicant plan to address the following (see the "Will Serve" letter from Elk Creek Fire Protection District (ECFPD) Fire Chief Ware, attached):

a) How will the applicant overcome the fact that ECFPD Fire Chief Ware, in his "Conifer Commons Rezoning Will Serve Letter" dated April 7, 2020 to Jefferson County Planning & Zoning, states, "**The fire district would be "UNABLE TO PROTECT" the proposed development because the fire district lacks the funding mechanism, infrastructure, staffing, operational resources and specialized firefighting apparatus to service the proposed higher density rezoning use.**"

b) How the applicant will overcome the fact that, in the same letter, ECFPD Fire Chief Ware states, "**The fire district would recommend that the rezoning be denied at this time to allow further study of all the impacts of the proposed rezoning.**"

c) How the applicant will overcome the fact that, in the same letter, ECFPD Fire Chief Ware states, "**The fire district would recommend that Jefferson County review data from the recent catastrophic wildland fires in California to determine if current zoning and use standards for proposed new development in wildfire hazard areas need to be revised to prevent catastrophic wildland fires in Jefferson County. Data we've reviewed shows that current California standards (which are similar to current County**

standards) allowed entire communities to be destroyed, even though they were protected by large municipal fire departments."

d) How will the applicant overcome the fact that, in the same letter, ECFPD Fire Chief Ware states, "The fire district would recommend that Jefferson County review their practice of deleting section R313 from the *International Residential Code*, which requires automatic fire sprinkler systems in new single-family residential occupancies. Jefferson County has deleted requirement from every code adoption since 2009. The fire district believes that residential fire sprinklers are life-saving systems that help protect our citizens and firefighters, especially in rural areas that lack fire hydrants and have longer response times."

Question #6: Sufficient Site Ingress/Egress Not Identified — The proposed Conifer Commons ODP does not provide site ingress/egress to the west — toward Conifer Town Center — or to the south — toward Pleasant Park Road — and only limited site access to the north which will limit safe evacuation by residents to either to the north, via US-285, or to the south, via Pleasant Park Road, in the case of a fast-moving, wind-driven wildfire.

Importantly, catastrophic wildland fires, for example, the Hayman fire are set up by very dry conditions with strong unidirectional Chinook winds predominantly from the north, or northwest, or west, or southwest, or the south. Under these conditions, a small fire becomes a big fire very quickly and the only prudent response is to get out of the way. For this project there is no escape to the east. Having an all-weather escape road to the south toward Pleasant Park Road is, in our opinion, a make or break decision for approval/denial of this project.

Moreover, the applicant has made no provision for safe, effective traffic circulation either on-site or to/from the local community.

How will the applicant correct the above described ingress/egress, wildfire escape route, and general traffic circulation deficiencies not addressed in the proposed ODP?

Question #7: Complete Traffic Study Not Performed — The analysis presented in *Traffic Impact Report, Conifer Commons Development, Jefferson County, Colorado* dated January 27, 2020, is based upon 188 multi-family DUs. However, the ODP submitted by the applicant, also dated January 12, 2020, also shows the possible construction an unspecified number single-family homes as well as a variety of commercial buildings of up to 20,000 square-feet and community center spaces. How will the applicant address the following:

- a) Will the applicant perform a complete, traffic study integrating traffic flows from north, west, and south ingress/egress points?
- b) If the traffic study in a) will be performed, at approximately what date?
- c) If the traffic study in a) will be performed, at approximately what date will the applicant release it to the community?

Question #8: Complete Wildlife Habitat Study Not Performed — Jefferson County *Land Development Regulations* (LDR) specifically state: **Section 9 - Rural Cluster: A. Intent and Purpose 2. The objectives of the Rural Cluster Process are as follows: c. To protect flora and fauna by preserving and conserving wildlife habitats and environmentally sensitive areas.** More importantly, in accordance with common-sense building regulations demanded by the citizens of Conifer and South Evergreen, we consider our mountain community to be of very high value with significant wildlife habitat requiring preservation. Therefore, we have the following questions with respect to the preservation of local wildlife and its habitat:

- a) Will the US Army Corp of Engineers require the issuance of a Clean Water Act Section 404 permit to the applicant?
- b) Has the applicant conducted a wildlife survey? If not, when will a wildlife survey be performed?
- c) Has the applicant conducted a wetland survey? If not, when will a wetland survey be performed?
- d) Has the applicant conducted a stream and spring survey? If not, when will a stream and spring survey be performed?
- e) How does the applicant plan to fulfill Jefferson County LDR requirements "To protect flora and fauna by preserving and conserving wildlife habitats and environmentally sensitive areas...", while, at the same time, the proposed ODP removes critical meadowland upon which local wildlife rely?
- f) How does the applicant plan to replace the wildlife habitat the proposed development will remove?
- g) How much of the proposed development will the applicant set aside undisturbed meadowland, canopy forest, wetland, spring areas and streams without fences, roads, other infrastructure and buildings?
- h) How does the applicant intend to control traffic to avoid harm to wildlife?
- i) How does the applicant intend to sustain aquifer water levels upon which streams, springs and wetlands rely?
- j) How will the applicant ensure that the quantity of high-quality surface water up-gradient of Conifer Town Center will be maintained for wildlife?
- k) How has the applicant determined that planned groundwater pumping will not adversely affect vegetation upon which wildlife rely?
- l) How will the applicant's proposed development affect migration paths and calving areas?
- m) How will the applicant's proposed development affect migratory birds?

Comment Directed to Jefferson County Planning & Zoning — There is a critical need for a detailed, large-format (36"-wide) study map of the southern half of the Aspen Park/Conifer Activity Center. This map would place all the proposed and in progress developments on a single sheet. To include the Conifer Commons, Conifer Corners, The Centre at Conifer Junction and Conifer Heights proposals. Additionally, with proposed/planned roads: Main Street north extension from Light Lane to the vicinity of JJ Madwell's, Main Street south extension from Aspen Perk Cafe to Pleasant Park Road. Also, to include the proposed junction of US-285 and County Highway 73 at Barkley Road along the north boundary of the currently approved Conifer Heights project.

The public needed this map tonight. If this project advances, the Jefferson County Planning Commission and the County Commissioners will need this map to place the project in relationship to the other projects. For example, each of these projects tell the community, "...our project does not require a major traffic study due to its small impact..." but collectively all of the projects, if built, will have a large impact thus requiring a major traffic study that can encompass all currently envisioned development. The Jefferson County Planning & Zoning Division can create this map using their in-house GIS capability — we respectfully ask that they do so starting right away.

Conclusion — The committee would like to thank the applicant, Foothills Housing, LLC, as well as Jefferson County Planning & Zoning for their time and attention to these important matters.

Respectfully submitted,

Conifer & South Evergreen Community Committee

Contact Us: cosecc.co@gmail.com

Attached:

Elk Creek Fire Protection District,

RE: 18-122978PA - Conifer Commons Rezoning Will Serve Letter



ELK CREEK FIRE PROTECTION DISTRICT

11993 Blackfoot Road P.O. Box 607 Conifer, CO 80433

April 7, 2020

Jefferson County Planning and Zoning
100 Jefferson County Parkway
Suite 3550
Golden, Colorado 80419-3550

RE: 18-122978PA - CONIFER COMMONS REZONING WILL SERVE LETTER (61-144-00-039)

To Whom It May Concern,

The Elk Creek Fire Protection District has reviewed the application and submittal for rezoning and has the following comments:

1. This property is located within the Elk Creek Fire Protection District.
2. The fire district is a 72 year-old rural, mostly volunteer fire district, that strives to provide services in accordance with national standards for rural volunteer fire departments.
3. The fire district currently services this property in accordance with the current zoning use, which is agricultural, one dwelling unit per 10 acres.
4. The proposed rezoning would change the use to a higher density use.
5. The fire district would be "UNABLE TO PROTECT" the proposed development because the fire district lacks the funding mechanism, infrastructure, staffing, operational resources and specialized firefighting apparatus to service the proposed higher density rezoning use.
6. The fire district would recommend that the rezoning be denied at this time to allow further study of all the impacts of the proposed rezoning.
7. The fire district would recommend that Jefferson County work with fire district's in the County to start the process to authorize fire districts to impose an impact fee on new development in accordance Colorado House Bill 16-1088, passed in 2016.
8. The fire district would recommend that Jefferson County review data from the recent catastrophic wildland fires in California to determine if current zoning and use standards for proposed new development in wildfire hazard areas need to be revised to prevent catastrophic wildland fires in Jefferson County. Data we've reviewed shows that current California standards (which are similar to current County standards) allowed entire communities to be destroyed, even though they were protected by large municipal fire departments.
9. The fire district would recommend that Jefferson County review their practice of deleting section R313 from the *International Residential Code*, which requires automatic fire sprinkler systems in new single-family residential occupancies. Jefferson County has deleted requirement from every code adoption since 2009. The fire district believes that residential fire sprinklers are life-saving systems that help protect our citizens and firefighters, especially in rural areas that lack fire hydrants and have longer response times.

We look forward to working with you to address these issues in the future.

Sincerely,

Jacob N. Ware

Jacob N. Ware
Fire Chief
Elk Creek Fire Protection District

Phone: 303-816-9385

Fax: 303-816-9376

www.elkcreekfire.org

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