

Advisory Board on the Environment

Park County Planning Department

P.O. Box 1598
Fairplay, Colorado 80440

Phone: (719) 836-4254 • E-mail address: jdeagan@parkco.us

Referral Response

Comment Deadline Date: October 7th, 2019 Submitted Date: September 8th, 2019

Case #: 19ZON-11 Case Name: Levin Rezoning

Request: The applicant is requesting to rezone a 35 acre lot from the Mining zone district to the Residential Ranch zone district.

Location/Legal Description: Parts of Sections 03 and 04, T09 R78, addressed as 2611 County Road 8.

Date of Planning Commission Hearing: Tuesday, October 8th, 2019

Date of BOCC Hearing: To be determined

 We have reviewed this referral and find no conflicts with our interests.

 A formal recommendation is under consideration and will be submitted to you prior to _____.

 Please refer to the attached letter.

 X We offer the following comments regarding this referral:

1. Is this zoning change request for one residential property or for a subdivision?
2. There is a discrepancy between the application and the maps/geological report.
 - a. The application lists 45 acres, the geological report, pg. 15 lists 93 acres.
3. Will this be subdivided according to the maps on pg. 24? Or only one residence according to the building envelope on the map pg. 12 and site map on pg. 13?
4. If additional improvements are made to the property, erosion mitigation efforts to protect Buckskin Creek water quality must be required.
5. Proper septic system engineering (not shown on the map) for waste disposal due to geological conditions and watercourse proximity.

Signed: Amy Mitchell Title: ABE Secretary Date: 09-17-2019

From: [John Deagan](#)
To: "Amy Mitchell"; tyler.stoltzfus@state.co.us
Subject: RE: Levin Rezoning Referral (Case No. 19ZON-11)
Date: Tuesday, September 17, 2019 3:44:00 PM
Attachments: [Page from Alma Watershed Protection Ordinance.pdf](#)

1. The application is for the rezoning of one lot. The lot is zoned Mining but had a Conditional Use Permit issued for a residence in 2008. The residence has existed since 2011. Since the lot is burdened by a conservation easement that prohibits mining activity, the owner is applying to rezone the lot to a large lot residential zone district.
2. The conditional use permit application from 2008 involved two lots, hence the size discrepancy in the geologic report.
3. Only one residence and a guest house. As mentioned above, the geologic report referred to this lot and one other lot.
4. The lot already has the maximum amount of structures allowed in the Residential Estate zone district, but much construction was done without permits. Retroactive permitting will require the issuance of watershed protection district activity permits if the construction involved any activities mentioned in Sec. 13-4-50 (a) of Alma's town code (attached).
5. The septic system was permitted, installed, and approved in 2011 and 2012. This included the issuance of a watershed protection district activity permit by Alma.

From: Amy Mitchell [mailto:amy@glenellenranch.us]
Sent: Tuesday, September 17, 2019 3:11 PM
To: John Deagan
Subject: RE: Levin Rezoning Referral (Case No. 19ZON-11)

John,

We already had our meeting. Please reply and based on our discussions, I may be able to resubmit after receiving clarification. Will let you know once the information is received.

Amy Mitchell
ABE Secretary
P.O. Box 484
Lake George, CO 80827
719-321-8291
Amy@GlenEllenRanch.US

From: John Deagan <JDeagan@parkco.us>
Sent: Tuesday, September 17, 2019 2:58 PM
To: Amy Mitchell <amy@glenellenranch.us>
Subject: RE: Levin Rezoning Referral (Case No. 19ZON-11)

Hello Amy,

Would you like to resubmit after I answer the questions in your response?

---John

From: Amy Mitchell [<mailto:amy@glenellenranch.us>]
Sent: Tuesday, September 17, 2019 2:54 PM
To: John Deagan
Subject: RE: Levin Rezoning Referral (Case No. 19ZON-11)

John, please find attached the Referral Response for 19ZON-11

Amy Mitchell
ABE Secretary
P.O. Box 484
Lake George, CO 80827
719-321-8291
Amy@GlenEllenRanch.US

From: John Deagan <JDeagan@parkco.us>
Sent: Monday, September 9, 2019 8:40 AM
To: Teresa Carpenter <TCarpenter@parkco.us>; Sheila Cross <SCross@parkco.us>; Jon Grams <JGrams@parkco.us>; Nancy Comer <NCOMER@TOWNOFALMA.COM>; tyler.stoltzfus@state.co.us;
Amy Mitchell <amy@glenellenranch.us>
Subject: Levin Rezoning Referral (Case No. 19ZON-11)

Please write or call with any questions.

John Deagan, AICP
Park County Planner
719 836 4254

Park County Planning and Zoning
856 Castello Ave.
PO Box 1598
Fairplay, CO 80440

March 9, 2020

Re: Levin Property, Gold Star Patent Conservation Easement

Planning and Zoning,

This letter is in response to the proposed rezoning and land swap that is proposed on the Levin property in Park County. The property is encumbered with a conservation easement held by Colorado Open Lands, recorded 7/31/2006 at reception # 630140. On 9/1/2009 COL approved a division of the property into two separate parcels as is permitted by the conservation easement. This division was documented in an Agreement for Subdivision of Property at Reception # 664905.

We understand that the landowners have proposed to rezone the property to residential and would like to complete a land swap as depicted in the map provided with the application.

We have reviewed the conservation easement and have the following comments regarding this proposal:

Land Swap: The easement allows for two separate parcel groups on the property and as stated the current configuration was approved by COL in 2009. "Parcel" as defined by the conservation easement may include more than one legal parcel as is currently the case. The conservation easement requires that each of the two permitted Parcels be contiguous and no less than 40 acres. No other division of the property is permitted and at all times there may not be more than two legal owners of the property. Therefore, legal parcels 91911, 90486 and the northern portion of 91849 that will be swapped must forever remain in the same ownership. Likewise, legal parcels 91849, 90768 and the portion of 91911 to be swapped also must remain in one ownership.

In order for COL to approve the new parcel configuration we will need to verify that all the conditions for subdivision are met and the landowners will be required to record a new "Agreement for Subdivision of Property" at their expense which will include payment of COL's legal fees for drafting the agreement.

Zoning: The easement allows for one "single-family residential complex" per Parcel which must be within a five-acre Residential Building Envelope. We interpret this to mean that no more than one single-family can occupy the site.

In addition, it is our understanding that some of the structures have been constructed outside of the permitted Residential Building Envelope and on the adjacent Parcel. This is a violation of the conservation easement.

COL may consider modifying the location of the Building Envelope in order to encompass all the existing structures. However, in order to move a Building Envelope, COL will need to amend the conservation easement which requires a review and approval by COL's Board of Directors. Until the amendment is reviewed and approved by our Board, we cannot approve this request. The amendment would have to be completed at the expense of the landowner which includes at a minimum COL's legal costs for drafting the amendment and a \$1,000 review fee.

Please consider this information as you review this application.

Please reach out with any questions.

Sincerely,



Cheryl Cufre
Director of Land Stewardship
303-988-2373 x 219
ccufre@coloradoopenlands.org