Chair Page called to order a scheduled hearing of the Mesa County Planning Commission at 5:59 PM. Chair Page led the Pledge of Allegiance. The hearing was held in the Public Hearing Room, Mesa County Administration Building at 544 Rood Avenue, Grand Junction, Colorado.

In attendance representing the Mesa County Planning Commission, were Chair Page, Dean Harris, Bill Somerville, Robert Erbisch, Bob Witham and Sean Norris.

In attendance, representing the Mesa County Planning Division, were Greg Moberg, Britt Dveris and Jeff Hofman. Todd Hollenbeck was present in the audience. Rose Tafoya was present to record the minutes.

There were seventeen (17) citizens present throughout the hearing.

**Approval of Minutes** – September 19, 2019
Motion: Commissioner Erbisch, I WOULD MOTION FOR APPROVAL.
Second: Commissioner Witham, SECOND
Motion Approved 4-0 Commissioner Somerville and Commissioner Erbisch were not present for the 09-19-19 hearing and refrained from voting.

**Amendment to Agenda** – Principal Planner, Mr. Moberg on behalf of the Staff respectfully requested to hear the Consent Items before the Continued (F) Item.
Motion: Commissioner Harris, SO MOVE
Second: Commissioner Witham, SECOND
Motion Approved 6-0

**Consent Items** – Three (3) items

1. **PROJECT 2019-0140 RZ BRUMBACK REZONE**
   Property Owner(s): Kent Brumback and Kathy Glover
   Representative(s): Kent Brumback
   Location: 3315 E ¾ Road, Clifton, CO 81520
   Parcel #: 2943-122-00-212 and 2943-122-00-210
   Zoning: RSF-R and AFT
   Planner: Jeff Hofman, 970.254.4152, jeff.hofman@mesacounty.us
   Request: To rezone two parcels consisting of approximately 7.13 acres and 2.3 acres from a combination of RSF-R and AFT zoning to RSF-2 zoning. The RSF-2 zone district allows a single-family residential density of no more than two units per acre and a 15,000 square foot minimum lot size.
   **Staff Recommendation: Approval**
   Board of County Commissioners Hearing Date: 11-19-19

2. **PROJECT 2019-0143 PUD 2nd AMENDMENT TO EXPERIUS COMMUNITY AT GATEWAY CANYONS PUD CONCEPT PLAN**
   Property Owner(s): Hendricks Real Estate Holdings, LLC
   Representative(s): John Williams, 970.241.2838
Location: 43026 Highway 141, Gateway, CO 81522 (Hwy 141 & 4.1 Road)
Parcel #: 3477-154-00-179, 3477-221-00-092, 3477-222-00-003, 3477-154-00-091
Zoning: PUD
Planner: Jeff Hofman, 970.254.4152, jeff.hofman@mesacounty.us
Request: The Experius Community at Gateway Canyons is a 416-acre Planned Unit Development (PUD) that allows a total of 340 residential units, cultural facilities, recreational uses, lodging and retail sales. The applicant is requesting to amend an existing condition attached to the 2012 PUD approval. The current PUD approval requires the applicant to submit a Final Plan application in seven years of the Concept Plan approval (by December 17, 2019). The applicant is requesting an amendment to the PUD approval to allow the Final Plans to be submitted by December 17, 2026.

Staff Recommendation: Approval
Board of County Commissioners Hearing Date: 11-19-19

3. PROJECT 2019-0135 PUD OTTER CREEK GRAVEL PIT EXPANSION
Property Owner(s): Oldcastle SW Group dba United Companies of Mesa County
Representative(s): River City Consultants 970.241.4722
Location: 3293 D ½ Road, Clifton, CO 81520 (D ½ & 33 Roads)
Parcel #: 2943-144-95-005
Zoning: AFT to PUD
Planner: Jeff Hofman, 970.254.4152, jeff.hofman@mesacounty.us.
Request: To rezone the property from AFT to PUD to expand the existing Otter Creek Gravel Pit to include a 5.8-acre property into the mining area. This property is located directly east of the existing mining area and west of the 33 Road Drain. No change to the hours of operations or access location to the existing facility is proposed.

Staff Recommendation: Approval with Conditions
Board of County Commissioners Hearing Date: 11-19-19

Each Project was offered for Public Comments and Commissioner Discussion; there were no comments made by public or Commissioner Discussions on the Consent Projects.
Chair Page entertained a motion for approval of the Consent Items.
Motion: Commissioner Norris, SO MOVED
Second: Commissioner Erbisch, SECOND
Motion Approved 6-0

Continued Items – One continued item from July 18, 2019.

1. 2019-0100 CUP POOL DOMESTIC PETS CONDITIONAL USE PERMIT
Property Owner: David Pool
Representative: David Pool
Location: 14390 BS Road, Glade Park, CO 81523, a 40-acre parcel located approximately one-quarter mile east of S. 14 Road
Parcel #: 2959-153-00-344
Zoning: Agricultural, Forestry, Transitional (AFT)
Planner: Britt Dveris, (970) 255-7191, britt.dveris@mesacounty.us
Request: To breed, raise, train, and keep competitive hunting dogs for personal use.

Staff Recommendation: Denial
Board of County Commissioners Hearing: October 29, 2019
**Staff Presentation**
Senior Planner Britt Dveris presented this project at the July 18, 2019 MCPC Hearing. Mr. Dveris entered into the record the following exhibits:
Exhibit A: Staff PowerPoint Presentation
Exhibit B: MCPC Hearing Binder
Exhibit C: Project File
Exhibit D: Mesa County Land Development Code
Exhibit E: Mesa County Master Plan
Exhibit F: Applicant’s Presentation
Exhibit G: Public Comments

Mr. Dveris provided a status update regarding the four (4) conditional items that were requested by the Planning Commission at the original hearing. The first condition was to provide letters of support from neighbors; the letters were received from the applicant July 19, 2019. The second condition was the adjudication of three (3) barking dog citations; the case against Mrs. Pool was tried August 27, 2019; the court could not find Mrs. Pool guilty due to an omission of a certified copy of the ordinance she was accused of violating. The other two (2) cases are pending with a court date scheduled for November 2019. The third condition was the submittal of a noise mitigation plan and the fourth condition was the provision of decibel readings at the property line; the readings and mitigation plan were received August 14, 2019. Mr. Dveris provided the Aerial Map for viewing for orientation of the property.

Mr. Dveris explained the basis of the staff recommendation of denial that includes: it being unclear how noise impacts from barking dogs would be sufficiently mitigated; the applicant increasing the number of dogs he keeps while an open code violation on the property has gone unresolved; the Planning Division continuing to receive noise complaints; Mrs. Pool’s court testimony that the dogs have awakened her and prevented her from sleeping at night; the proposed kernel would not benefit the larger community; and the Code Compliance Division and Animal Services not supporting this conditional use permit application. There were discussions in regards to the violations being resolved or unresolved between the Commissioners and Mr. Dveris. Mr. Dveris reiterated that the first violation court date was not continued. There were four (4) letters received in support of the project.

**Applicant/Representative Presentation**
Mrs. Pool referred to the support letters received from other neighbors. She discussed that the dogs bark at night to wake her up for a reason, like barking at wild animals. She offered if need be they can put up a fence in front of the barn to help block the barking. The dogs tend to bark at animals, people on the property, and at feeding time. Mrs. Pool discussed hearing dogs barking that are not hers along with the meaning of nuisance barking. Commissioner Erbisch inquired about what sound mitigation methods had been explored and implemented. Mrs. Pool detailed the different bark collars and which ones work best for each dog, along with them being used in the evening. Commissioner Norris asked if the dogs were housed inside or outside. Mrs. Pool responded that the kennels allow the choice for both. Commissioner Norris and Mrs. Pool discussed the meaning of nuisance barking. Commissioner Norris asked Mrs. Pool if she had been home mid-day yesterday as to which she responded that she was and had been working on the pens with the dogs outside. Commissioner Harris inquired whether the audio testing had been completed. Mrs. Pool confirmed that it had been done from one end of the property to the other with the dogs barking and the highest decibel was fifty-one (51) on her property line, on the corners of the property it was thirty-nine (39), with the lowest being twenty (20) something.
**Public Comments**
Mrs. Johnsen read a letter from Mr. Johnsen stating that the dogs nonstop baying was stressful and that he had never been on the Pools property. She described the sound of a hound dog according to the American Kennel Blue Club website and the scientific information found in the packet in regards to sound decimals along with research and welfare of the animals. Mrs. Johnsen started recording the dogs when it began interfering with her home recording business, as this has stopped her from working at home. She reminded the Commission of the seven other neighbors that complained about the noise at the previous hearing. Mrs. Johnsen expressed concern with the proposed waste disposal through composting and possible contamination of the well water. Mrs. Johnsen expressed Health and Welfare concerns of the dogs along with concern for the applicants’ daughter.

**Applicant/Representative Rebuttal**
Mrs. Pool discussed her daughter playing with the dogs and loving the dogs. They have farm animals, they clean up after them, and there are no problems with their waste disposal process. Commissioner Norris asked Mrs. Pool to point out her location on the Aerial Map; she did so on the screen for all to see.

**Planning Commission Discussion & Vote**
Commissioner Harris asked if there was more than one complainant in this case. Mr. Dveris confirmed there was only one. Commissioner Norris referred to his earlier questions of Mrs. Pool being home midday yesterday. He stated he had driven to the property during that period to observe the level of noise, parking at different locations near the property for about an hour. Commissioner Norris said he could hear the dogs bark for a minute or so at a time, they did not bark continuously. He heard other dogs bark as well. Commissioner Norris said he drove a bit farther and commented that it is a quiet valley. He expressed you could hear the dogs bark but, in his opinion, the wind carries the noise. Commissioner Harris discussed that the law presumes there will be five (5) dogs on the property, so it is incumbent on the Petitioner to meet the conditions for changes to have more. He did not find the sound mitigation compelling but agreed the dog waste could be composted. Commissioner Harris was disturbed by the fact that the number of dogs increased. Commissioner Witham spoke in regards to Animal Control doing their job issuing citations with the two (2) citations not adjudicated it is difficult for him to reach a conclusion. Chair Page and Commissioner Somerville agree with what Staff presented and they would side with Staff. Commissioner Erbisch discussed hound dogs being loud and that the applicant has taken some mediation steps, with the information presented at this time, he would recommend it.

**First Motion:** Commissioner Erbisch, I’LL MAKE A MOTION TO RECOMMEND APPROVAL OF PROJECT NO. 2019-0100, POOL DOMESTIC PETS CONDITIONAL USE PERMIT, ON THE BASIS THAT THE APPLICATION SATISFIES THE APPROVAL CRITERIA, SUBJECT TO THE FOLLOWING CONDITIONS: (For clarification, no other conditions were stated).

**Second:** Commissioner Norris, I’LL SECOND SO WE CAN GO ON WITH THE VOTE.

**Roll Call:** Commissioner Norris: NAY; Commissioner Witham: NAY; Commissioner Harris: NO; Commissioner Erbisch: YES; Commissioner Somerville: NO; Chair Page: NO

**Motion Failed:** 5-1 A brief discussion took place amongst the Commissioners.

**Second Motion:** Commissioner Somerville, I WOULD MOVE TO RECOMMEND DENIAL OF PROJECT NO. 2019-0100 POOL DOMESTIC PETS CONDITIONAL USE PERMIT, ON THE BASIS THAT I DO NOT BELIEVE THAT WE ARE IN A POSITION AT THIS POINT TO APPROVE IT UNTIL WE HAVE SEEN THE CONCLUSION OF WHAT THE COURT PROCEEDINGS ARE.
Point of Order: Commissioner Harris inquired if this was a motion with conditions or if it is a motion to table or deny.

Amendment to the Motion: Commissioner Sommerville, TO CONTINUE UNTIL WE FIGURE OUT WHAT IS GOING ON WITH THE COURT SYSTEM.

Second Motion: Commissioner Erbisch: I WOULD SECOND THAT

Further discussion took place amongst the Commissioners.

Roll Call: Commissioner Norris: NAY; Commissioner Witham: YES; Commissioner Harris: NO; Commissioner Erbisch: YES; Commissioner Sommerville: YES; Chair Page: YES

Motion Passes: 4-2

Considerable discussion took place amongst the Commissioners if additional court information would make an impact on this project or change the outcome.

Third Motion: Commissioner Harris, I MAKE A MOTION THAT THIS BE REOPENED FOR RECONSIDERATION.

Second Motion: Commissioner Norris, I'LL SECOND

Third Motion Restated: (per Commissioner Witham’s request) Commissioner Harris, I JUST MOVED THAT THE MATTER BE REOPENED FOR RECONSIDERATION AT THIS TIME.

Roll Call: Commissioner Norris: YES; Commissioner Witham: YES; Commissioner Harris: YES; Commissioner Erbisch: NO; Commissioner Sommerville: YES; Chair Page: YES

Motion Passes: 5-1

Fourth Motion: Commissioner Harris, I'LL MOVE TO RECOMMEND DENIAL OF PROJECT 2019-0100, POOL DOMESTIC PETS CONDITIONAL USE PERMIT, ON THE BASIS THAT THE APPLICATION DOES NOT SATISFY KEY APPROVAL CRITERIA, AT THIS TIME AS OUTLINED IN THE UPDATED PROJECT REPORT.

Second Motion: Commissioner Sommerville, SECOND

Roll Call: Commissioner Norris: YES; Commissioner Witham: YES; Commissioner Harris: YES; Commissioner Erbisch: NO; Commissioner Sommerville: YES; Chair Page: YES

Motion Passes: 5-1

This project will be heard by the Board of County Commissioners October 29, 2019 at 9:00 a.m.

Motion: Commissioner Norris, I MOVE TO ADJOURN

Second: Commissioner Harris, SECOND

Motion Approved: 6-0

Hearing adjourned at 7:06 p.m.

Respectfully Submitted,

[Signature]

Bill Sommerville, Secretary