



Park County Development Services Department

P.O. Box 1598 • Fairplay, CO 80440 • Phone: 719-836-4159

DIRECTOR'S ADMINISTRATIVE REVIEW MEMORANDUM

DATE: January 26, 2026
TO: Case File A25-0118; Planning Staff
RE: Official Administrative Opinion – Shirley Rezone Application
APPLICANT: Mr. Adam Shirley – ASKAG LLC

To All Interested Parties,

This memorandum serves as my independent administrative review of Land Use Case# A25-0118. As Director, my review is conducted separately from staff analysis and should not be construed as a contradictory determination, should one exist. This document is provided for informational purposes to establish a clear administrative record regarding the merits and deficiencies of the application as currently filed.

Application Discrepancies and Technical Observations

Upon an in-depth review of the file, I have found discrepancies and though I have identified a few, it may not be all. The ones identified are based on the requirements needed for proper processing. Since the application was received, staff have engaged in numerous conversations with the applicant regarding incompleteness. Specifically, an email dated December 23, 2025, provided a detailed list of deficiencies. This was followed by an email on the same day sharing an Incomplete Planning Case Affidavit, which is the standard instrument used when an applicant elects to proceed with an application deemed incomplete by the Department. My review of the records indicates that this affidavit has not yet been signed or returned. It is also recognized that most of these original deficiencies have been cured, but not all.

It must be emphasized that the burden of proof rests entirely with the applicant. To maintain impartiality and ensure a fair process for all, staff serve strictly as a guide; the applicant is responsible for providing all necessary information independently, without relying on specific instructions or detailed direction from the Department.

Documentary Contradictions and Record Integrity

Regarding the technical artifacts provided, specifically the vicinity map (page one) and page two, there are visible redaction markings under the notes and elements called out for a Planned Unit Development (PUD). Furthermore, the title at the top of these documents refers to a previous application for a PUD.

I want to clarify that our current Land Use Code is somewhat vague regarding requirements for professional drawings, and we recognize that not all applicants have equal access to professional resources. However, while a professional stamp may not be a strict requirement, the accuracy of the labeling is a matter of record integrity. My determination on this element hinges on the fact that the documents are titled for a PUD while the current request is for a Rezone. Under the "reasonable person" doctrine, this contradiction is confusing and potentially misleading as a matter of permanent record. These are avoidable errors that, if left uncorrected, create a defective record for a Land Use Case.

Insufficiency of the Development Plan

Additionally, the required development plan remains substantively lacking. In an email dated December 30, 2025, the applicant forwarded the previously discussed redacted map with a description stating: *"The Proposed development plan any and all things agriculture."* This description does not reasonably state a

development plan. "Any and all things agriculture" is not specific enough to allow for a meaningful impact analysis or a defensible board decision.

Compliance and Regulatory Context

Finally, I must address the context of the ongoing litigation and code violations associated with this parcel. I have previously testified under oath regarding my observations of a transfer station being operated on-site. It is acknowledged that the applicant has paid his debt to society following a contempt finding and subsequent sentence; however, the legal fact remains that as a result of that injunction, the parcel was reverted to residential zoning and the status of ongoing operations is unknown.

Significant, uncured code violations remain on this parcel despite formal notice and acknowledgement by the applicant. While our rezone requirements do not have specific standards for approval to this fact under the requirements of a rezone land use case, we do have it for a subdivision. According to Article VI, 6-1304 point F. The boundary line adjustment does not, in the opinion of the Planning Director or Designee, evade or work to circumvent the purpose of the subdivision regulations.

Under the reasonable person doctrine, land use cases should not be used to circumvent or "cure" active violations by simply seeking a new zone determination. Curing current violations is a separate, mandatory obligation that should not be overlooked by finding a strategy within our current rezone requirements.

Proposed Conditions of Approval

Should this application move forward to a hearing, I am proposing the following conditions of approval to mitigate impact and ensure public safety:

1. **Equipment Inventory:** Provide full details on the intended Ag use of all equipment/storage containers currently on the parcel that was previously utilized for transfer station operations.
2. **Structure Remediation:** Deconstruct the temporary building previously used for trash transfer, currently under Code violation.
3. **Environmental Oversight (Wetlands):** Any development occurring near the wetlands on the lower meadow near Wisp Creek must be specifically notified to and approved by the County, even for agricultural use.
4. **Mitigation of Hazards:** Removal of all slash piles previously observed and documented on the parcel.
5. **Environmental Testing:** A thorough review from the Colorado Department of Public Health and Environment (CDPHE) is required. This shall include environmental testing of surface water in creeks/streams, testing of surface and subsurface soil near all previous transfer station activity, and water well testing for residents below the site and those affected by the accidental septage spill in the Will-O-Wisp neighborhood.
6. **Right of Inspection:** Allow for inspection by County officials at any time to verify ongoing compliance, provided a courtesy call is made. The owner may exercise the choice to be present or absent during these visits.

Conclusion The analysis provided in this Memorandum is based solely upon the current documents and materials I have been provided to date. This Memorandum is issued in direct response to my administrative responsibility to provide a Director's completeness determination for certain Land Use Case applications. It is intended to ensure that the administrative record is robust and that all parties are fully informed of the current standing of the application relating to the County Land Use Code.

Respectfully,



Brandon Heacock
Director of Development Services.