

DISTRICT COURT, DOUGLAS COUNTY, COLORADO 4000 Justice Way, Suite 2009 Castle Rock, CO 80109	DATE FILED: September 27, 2022 1:31 PM FILING ID: 4E2DE5796A869 CASE NUMBER: 2022CV30649
<p>Plaintiff(s): JAMES SANDERSON; THERESA SANDERSON; JENNIFER WAGESTER; TOM JOHANNNS; CONNIE JOHANNNS; DOUGLAS G WILSON JR; and CATHERINE WILSON, all Colorado residents,</p> <p>v.</p> <p>Defendant(s): THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, COLORADO, a political subdivision of the State of Colorado; PAMELA SOLLY, and LOUIE MILLER, Colorado residents.</p> <hr/> <p>Attorneys for Defendants The Board of County Commissioners of Douglas County (including all of the individual Commissioners in their official capacity): Christopher K. Pratt, #42673 Kelly Dunnaway, #31896 Office of the Douglas County Attorney 100 Third Street Castle Rock, CO 80104 Phone: 303-660-7414 E-mail: kdunnawa@douglas.co.us; cpratt@douglas.co.us</p>	<hr/> <p>Case Number:</p> <p>2022CV030649</p> <p>Div.: 5</p>
<p style="text-align: center;">ANSWER</p>	

Defendant, the Board of County Commissioners of the County of Douglas (the “County,”) by and through its attorneys, the Douglas County Attorney’s Office, hereby answers and responds to Plaintiffs’ Complaint as follows:

PARTIES, JURISDICTION, AND VENUE

1. With respect to paragraphs 1, 2, 3, 4, 5, 6, and 7 the County lacks sufficient knowledge to admit or deny whether those named are individuals residing in Douglas County, CO, and therefore denies those allegations.

2. The County admits to the allegations paragraph 8.

3. With respect to paragraphs 9 and 10 the County lacks sufficient knowledge to admit or deny whether the individuals named reside in Douglas County, CO or own the property described, and therefore denies those allegations.

4. The County admits to paragraph 11 to the extent that if the Applicants do own the Property they would be indispensable parties to this action regarding the uses allowed on their property and denies any allegations inconsistent therewith.¹

5. With respect to paragraphs 12 and 13 of the Complaint, the County admits that the constitutional reference, statutes, and court rule cited speak for themselves and denies any allegations inconsistent therewith.

6. The County admits to the allegations in paragraph 14.

GENERAL ALLEGATIONS

7. With respect to paragraphs 15 and 16 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

8. The County admits to the allegations in paragraph 17.

9. With respect to paragraph 18 of the Complaint, the County admits it received an application for a Use by Special Review (“USR”) for an Event Center on a parcel of less than 80 acres zoned Agricultural One, and denies any allegations inconsistent therewith.²

10. With respect to paragraphs 19, 20, and 21 of the Complaint, the County states that the details of the application can be found in that document and denies any allegations inconsistent or extrapolating beyond what is contained therein.

11. The County admits to the allegations in paragraphs 22 and 23 with the exception that the correct title is Planning “Commission” not “and Zoning Board”.

12. With respect to paragraph 24 of the Complaint, the County states that the details of the hearing testimony can be found in the transcript thereof and denies any allegations inconsistent or extrapolating beyond what is contained therein.

13. The County admits to the allegations in paragraphs 25 and 26.

¹ Capitalized terms will have the same meaning as the Complaint unless otherwise specified herein.

² The terms “USR”, “Event Center” and the zone district of “Agricultural One” (“A1”) are all defined in the Douglas County Zoning Resolution sections 21, 36 and 3 respectively and can be found publicly at: <https://www.douglas.co.us/planning/development-review-regulations/zoning/development-zoning-compliance/>

14. With respect to paragraph 27 of the Complaint, the County states that the details of the hearing testimony can be found in the transcript thereof and denies any allegations inconsistent or extrapolating beyond what is contained therein.

15. With respect to the allegations contained in paragraph 28 of the Complaint, the County admits that it received a document opposed to the Application with multiple signatures but lacks sufficient knowledge to admit or deny the rest of the allegations and therefore denies them.

16. The County admits to the allegations in paragraphs 29 and 30.

17. With respect to the allegations contained in paragraph 31, the County admits that the Zoning Resolution cited speaks for itself and denies any allegations inconsistent therewith.

18. The County denies the allegations in paragraphs 32 and 33.

19. With respect to the allegations contained in paragraph 34 of the Complaint, the County admits that an Event Center is only permitted as a primary use on parcels zoned A1 that are 80 acres or more, otherwise states that the resolution speaks for itself, and denies all allegations inconsistent therewith.

20. The County admits to the allegations in paragraph 35.

21. With respect to paragraphs 36 and 37 of the Complaint, the County admits that the Zoning Resolution cited speaks for itself and denies any allegations inconsistent therewith.

22. The County denies the allegations in paragraph 38 and 39.

23. The County admits to the allegations in paragraph 40.

24. The County denies the allegations in paragraphs 41, 42 and 43.

25. With respect to the allegations contained in paragraphs 44 and 45 of the Complaint, the County admits that the Board has such discretion and the burden to prove the necessary conditions was on the Applicant, otherwise states that the resolution speaks for itself, and denies all allegations inconsistent therewith.

26. The County denies the allegations in paragraphs 46 and 47.

27. With respect to paragraph 48 of the Complaint, the County admits that the Zoning Resolution cited speaks for itself and denies any allegations inconsistent therewith.

28. The County denies the allegations in paragraph 49.

29. With respect to paragraphs 50, 51, 52, 53, 54, and 55 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

30. With respect to paragraph 56 of the Complaint, the County admits that the Zoning Resolution cited speaks for itself and denies any allegations inconsistent therewith.

31. The County admits to the allegations in paragraphs 57 and 58.

32. The County denies the allegations in paragraphs 59, 60, and 61.

33. The County admits to the allegations in paragraph 62.

34. With respect to paragraphs 63, and 64 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

35. The County admits to the allegations in paragraph 65.

36. With respect to paragraphs 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, and 79 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

37. The County admits to the allegations in paragraph 80.

38. With respect to paragraph 81 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

39. The County denies the allegations in paragraph 82.

40. With respect to paragraphs 83 and 84 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

41. The County denies the allegations in paragraphs 85 and 86.

42. The County admits to the allegations in paragraphs 87 and 88 that plans only properly function when followed and denies any allegations inconsistent therewith.

43. With respect to paragraphs 89, 90, 91, 92, 93, and 94 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

44. The County denies the allegations in paragraph 95.

45. With respect to paragraph 96 of the Complaint, the County admits that the Douglas County 2040 Comprehensive Master Plan ("DCCMP") cited speaks for itself and denies any allegations inconsistent therewith.

46. The County denies the allegations in paragraphs 97, 98, 99, and 100.

47. With respect to paragraph 101 of the Complaint, the County admits that the DCCMP cited speaks for itself and denies any allegations inconsistent therewith.

48. The County denies the allegations in paragraph 102.
49. With respect to paragraph 103 of the Complaint, the County admits that the DCCMP cited speaks for itself and denies any allegations inconsistent therewith.
50. The County denies the allegations in paragraphs 104 and 105.
51. The County admits to the allegations in paragraph 106.
52. With respect to paragraph 107 of the Complaint, the County admits that the DCCMP cited speaks for itself and denies any allegations inconsistent therewith.
53. With respect to paragraphs 108, 109, and 110 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.
54. The County denies the allegations in paragraphs 111 and 112.
55. With respect to paragraphs 113, 114, 115, 116, 117, 118, and 119 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.
56. The County denies the allegations in paragraphs 120, 121 and 122 .
58. The County denies the allegations in paragraph 123.
59. With respect to paragraphs 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, and 141, the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.
60. The County denies the allegations in paragraphs 142 and 143.
61. With respect to paragraphs 144, 145, 146, 147, 148, 149, 150 and 151 the County lacks sufficient knowledge to admit or deny and therefore denies those allegations.

FIRST CLAIM FOR RELIEF

62. The County incorporates all of their responses to the previous allegations with paragraph 152.
63. The County admits to the allegations in paragraph 153.
64. The County denies the allegations in paragraphs 154, 155, and 156.
65. The County denies any allegations not specifically admitted herein, and further deny that Plaintiff is entitled to any relief whatsoever.

AFFIRMATIVE DEFENSES

1. Plaintiffs' claims are barred to the extent they attempt to raise issues outside of the record of the quasi-judicial hearings they are challenging herein pursuant to C.R.C.P. 106(a)(4)(I).
2. Plaintiffs' Complaint fails to state a claim upon which relief can be granted and should be dismissed pursuant to C.R.C.P. 12(b)(5).
3. Plaintiffs' claims, if any, may be barred or reduced by the doctrine of laches.
4. Plaintiffs' claims may be barred in part by the Rule of Necessity
5. The County reserves the right to add additional affirmative defenses upon further investigation.

REQUEST FOR RELIEF

WHEREFORE, having fully answered Plaintiffs' Complaint, the County requests that the Court grant relief as follows:

- a. Dismissing Plaintiffs' Complaint against the County for lack of subject matter jurisdiction;
- b. Entering judgment in favor of the County and against Plaintiffs for costs and attorney's fees; and
- c. Such other and further relief as the Court deems just and proper.

Dated this 27th day of September, 2022.

OFFICE OF THE COUNTY ATTORNEY
DOUGLAS COUNTY, COLORADO

By: /s/ Christopher K. Pratt
CHRISTOPHER K. PRATT, #42673
SR. ASST. COUNTY ATTORNEY

*Attorneys for Defendants The Board of County
Commissioner of Douglas County, including all of the
individual Commissioners in their official capacity*

Address of Defendant:
100 Third Street
Castle Rock, Co 80104

Pursuant to C.R.C.P. 121, § 1-26(7), a duly signed original is on file in the Office of the County Attorney, Douglas County, Colorado

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2022, a true and correct copy of the foregoing **ANSWER** was electronically filed with the Court and served on all parties of record via the ICCES- E-Filing System.

/s/ Patrick D. Fiedler

Pursuant to C.R.C.P. 121, § 1-26(7), a duly signed original is on file in the Office of the County Attorney, Douglas County, Colorado