



STATE OF COLORADO}

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COUNTY OF ELBERT }

At a regular meeting of the Board of County Commissioners for Elbert County, State of Colorado, held at the Courthouse in Kiowa on Wednesday, the 11<sup>th</sup> day of February, 2009, A.D., there were present:

Hope Goetz  
Del Schwab  
Geri Scheidt

Commissioner Chairman  
Commissioner Vice Chairman  
Deputy, Clerk to the Board

When the following proceedings, among others, were had and done, to wit:

**APPROVE**  
**RESOLUTION NO. 09-13**

**PD 08-0033 BANDERA EAST PLANNED UNIT DEVELOPMENT** – A REQUEST TO REZONE TO PLANNED UNIT DEVELOPMENT (PUD) TO ALLOW 214 DWELLING UNITS ON 235.31 ACRES, LOCATED IN A PORTION OF SECTION 15, PART OF THE WEST ½ OF SECTION 14, THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 14, TOWNSHIP 7 SOUTH, RANGE 65 WEST, OF THE 6TH PRINCIPAL MERIDIAN, IN ELBERT COUNTY.

**PP 08-0035 BANDERA EAST PRELIMINARY PLAT** – A REQUEST TO SUBDIVIDE 235.31 ACRES TO CREATE 214 RESIDENTIAL LOTS, LOCATED IN A PORTION OF SECTION 15, PART OF THE WEST ½ OF SECTION 14, THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 14, TOWNSHIP 7 SOUTH, RANGE 65 WEST, OF THE 6TH PRINCIPAL MERIDIAN, IN ELBERT COUNTY.

**1041 10-08-0037 BANDERA EAST 1041 PERMIT** – A REQUEST TO OBTAIN A 1041 PERMIT AS A NEW COMMUNITY

**WHEREAS**, the applicant, **TIMBER RIDGE, LLC**, has submitted an application requesting approval to rezone approximately 235.31 acres to Residential Planned Unit Development for the purpose of creating a maximum of 214 residential units for Bandera East within a base density area of 1 unit / 3.01 acres and

**WHEREAS**, the project is located in a portion of Sections 14 and 15, Township 7 South, Range 65 west, in Elbert County, and

**WHEREAS**, the existing zoning designation is Agriculture and



**WHEREAS**, the proposed zoning is Residential Planned Unit Development, and

**WHEREAS**, the project is located in the Rural Residential-High Density Land Use Area as identified in the Master Plan. The development density for this Land Use Area is one unit per 3.00 acres to one unit per 10.00 acres. This proposal is for parcels beginning with a base density within that density range; and

**WHEREAS**, the minimum lot size will be as small as 7,000 square feet, after density bonuses are applied, and

**WHEREAS**, Community & Development Services has made the following Findings related to this application:

The applicant has submitted the required documentation detailed in Part I, Section 6, B, 2, b, "Rezoning Procedures and Requirements, and Part II, Section 16, C, "Requirements for PUD Rezoning", and

The applicant has submitted the required documentation to comply with the following Sections of the Subdivision Regulations; Sections II, IV, V, VIII, XV, and XVII, and

The submitted documentation has satisfied and shows compliance with the specified requirement contained in Chapter 4, Article 4-307 of the 1041 Regulations:

**WHEREAS**, on December 11, 2008 and January 8, 2009, the Planning Commission held public hearings on this application. At the hearing, there were presentations by Staff and the applicant, and comment from the public. The associated staff report dated February 11, 2009 contains comments of the Planning Commission.

Community & Development Services Office's recommendation was "Approval with Conditions".

The Planning Commission voted 5-0 to "Approve with Conditions", **PD 08-0033 BANDERA EAST PLANNED UNIT DEVELOPMENT, PP 08-0035 BANDERA EAST PRELIMINARY PLAT, and BANDERA EAST 1041 PERMIT 10-08-0037** and is forwarding a similar recommendation, to the Board of County Commissioners.

**WHEREAS**, the Board of County Commissioners, having found that this hearing was properly noticed, and having reviewed the recommendations of the Community & Development Services, the Planning Commission, the documentation of the

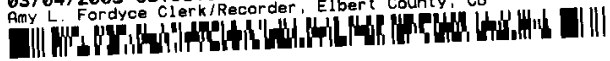


applicant, and having heard public comment, and being fully advised in the premise.

BE IT THEREFORE RESOLVED, the Board of County Commissioners do hereby approve **PD 08-0033 BANDERA EAST PLANNED UNIT DEVELOPMENT, PP 08-0035 BANDERA EAST PRELIMINARY PLAT, and BANDERA EAST 1041 PERMIT 10-08-0037**, "Conditions of Approval" to include:

**PD 08-0033 Bandera East Planned Unit Development Rezoning:**

- 1.) The submitted "Bandera East Rezone Plan Exhibit" and the "Planned Unit Development Standards" will be modified as per the red-marked print dated December 6, 2008.
- 2.) While the Bandera East Planned Unit Development allows for a maximum of 214 lots, only 210 dwelling units will be issued building permits, after final platting for either Bandera East or Bandera West, until off-site improvements are made, or a pro-rata share of improvements is contributed for improvements to the intersection of Hilltop Road and Flintwood Road. The number of building permits beyond the 210<sup>th</sup> building permit will be issued based upon when off-site improvements are made, or a pro-rata share of the off-site improvements is contributed by the applicant. Timing of off-site improvements relative to the number of building permits issued shall be clearly defined in the Subdivision Improvement Agreement.
- 3.) The applicant shall coordinate with the Elizabeth Fire Protection District and comply with all necessary conditions including Resolution 99-35 as related to fire protection. A letter confirming agreement will be submitted to the Community & Development Services Office prior to recording of any documentation.
- 4.) The current site layout shows residential clusters abutting the property boundaries on the north, west, and east. To avoid potential conflicts between agricultural uses and the smaller lots (1/2 acre), the buffer area along these property boundaries should be increased. This will require shifting some of the perimeter lots toward the interior to create additional buffer area, eliminating the perimeter lots, or re-locating them elsewhere on the property. Serenity Point is a proposed development adjacent to and immediately north of Bandera. The lot configuration being proposed along Bandera's north boundary may be appropriate, provided the open space and road connections are coordinated between the two proposed developments.
- 5.) The name of the Planned Unit Development rezoning is to be reviewed for any duplication of names by the County Mapper, prior to recordation.



- 6.) The rezoning will not become effective until all conditions of approval are met, all fees paid, and documents recorded.
- 7.) The applicant will record the Planned Unit Development Rezoning Exhibit (Development Guidelines), Weed Management Plan, and associated documents within ninety (90) days of approval by the Board of County Commissioners.
- 8.) The applicant will be required to remove the public notice sign within seven (7) days of approval by the Board of County Commissioners. A letter to that effect will be placed in the Community & Development Services Office file, prior to recordation of the Planned Unit Development Rezoning Exhibit.
- 9.) Adopt the Findings enumerated herein.

**PP 08-0035 Bandera East Preliminary Plat**

- 1.) A letter confirming that the design, water supply, and fire flow requirements are sufficient to meet all Fire District standards and requirements, will be submitted to the Community & Development Services Office prior to Final Plat recordation.
- 2.) While the Bandera East Planned Unit Development allows for a maximum of 214 lots, only 210 dwelling units will be issued building permits after final platting for either Bandera East or Bandera West, until off-site improvements are made, or a pro-rata share of improvements is contributed by the applicant for improvements to the intersection of Hilltop Road and Flintwood Road. The number of building permits beyond the 210<sup>th</sup> building permit will be issued based upon when off-site improvements are made, or a pro-rata share of the off-site improvements is contributed by the applicant. Timing of off-site improvements relative to the number of building permits issued shall be clearly defined in the Subdivision Improvement Agreement.
- 3.) A Subdivision Improvement Agreement will be prepared that addresses all public improvements and other development-related improvements as part of the Final Plat process.
- 4.) The "Ecological Resources Survey" shall be amended as part of the Final Plat submittal items to provide additional information to determine whether or not the site is critical habitat, calving area, or critical winter range for the pronghorn antelope. A determination as to whether or not the property has a burrowing owl population shall also be included in the Ecological Resources Survey.



- 5.) As part of the Final Plat submittal items, a determination shall be made by the Division of Water Resources which indicates that the Running Rivers Water & Sanitation District has sufficient water, based upon Elbert County's 300-year supply, to service Bandera East and Bandera West. The determination by the Division of Water Resources shall also include a statement rendering their opinion as to whether or not there is a potential for causing material injury to any decreed water rights.
- 6.) Prior to the release of any building permits, the Colorado Department of Health, the County Engineer, and the County Environmental Health Department must review and approve the central water and sanitary sewer systems design.
- 7.) The applicant will coordinate with Qwest regarding phone service and necessary easements to set equipment. The final plat exhibit will indicate easement locations together with a letter to the Community & Development Services Office from Qwest confirming satisfactory access to all lots prior to recordation of the final plat.
- 8.) The applicant shall satisfactorily demonstrate compliance with the requirements of HB 08-1141, which requires among other items, that the water supply report is to be prepared by a registered professional engineer or water supply expert, acceptable to and approved by the County Engineer. This information shall be required as part of the Final Plat application submittal items.
- 9.) The applicant will coordinate with Public Service Company of Colorado regarding gas service and necessary easements to set equipment. The final plat exhibit will indicate easement locations together with a letter to the Community & Development Services Office from Public Service Company of Colorado confirming satisfactory access to all lots prior to recordation of the final plat.
- 10.) The "soft trail" pedestrian circulation system, built pursuant to Elbert County Construction and Specification Standards, shall connect the various open space parcels and parks within the development and shall provide connectivity throughout the subdivision. A meandering trail shall be provided along collector streets. A schematic of this pedestrian circulation system shall be included as a submittal items for the Final Plat application. Specific trail construction costs estimates shall be included in the Subdivision Improvements Agreement.



11. The applicant will provide utility easements to accommodate the installation of front-lot design for electric facilities in this project; a ten foot (10') easement on all front lots will be required. Further, a five foot (5') utility easement is required on one side lot line of each lot and will coordinate with the Intermountain Rural Electric Association to have service lines from the drop pole, installed underground.
- 12.) Should there be a need to conduct over-lot grading, the applicant will coordinate with the Kiowa Conservation District and obtain a grading and erosion control permit from the County.
- 13.) The applicant will mitigate impacts to County roads by payment of TAZ fees of \$2,521 per dwelling unit at the time of Final Plat recordation. All internal roads will be constructed and paved to County standards. The applicant will coordinate an agreement with the Road & Bridge Department and the County Engineer regarding improvements to County Road 158 and County Road 5 and to County Road 158 and Road "A" (the second entrance to the development off County Road 158); said agreement shall be specified in detail in the Subdivision Improvements Agreement.
- 14.) Any right-of-way required for widening of County Road 158 shall be dedicated to the County at the time of Final Plat.
- 15.) The applicant shall pay to Elbert County, growth related impact fees of \$2,453 per single-family unit and \$1,999 per multi-family unit at each final plat filing, based upon the number of units in the filing.
- 16.) The County will withhold building permits until the proposed roads are constructed to County standards and approved. A letter of confirmation will be provided to the Community & Development Services Office from the Elbert County Road and Bridge Department.
- 17.) The County will withhold building permits until the water supply and fire protection systems are in place and have been inspected and approved. A letter of confirmation will be provided to the Community & Development Services Office from the Elizabeth Fire Protection District.
- 18.) The applicant and the Elizabeth Fire Protection District have agreed to a fee being paid to the District in lieu of two lots being deeded to the District. The Elizabeth Fire Protection District and the applicant will agree on an acceptable fee to be paid to the District, in lieu of lots being dedicated. Prior to recordation of the Final Plat, the District shall provide the Community & Development Services Office with a letter indicating that an acceptable fee has been collected by the District.



- 19.) The applicant shall dedicate a school site of approximately 14.5 acres to the Elizabeth School District No. C1 prior to recordation of the Final Plat of the first filing.
- 20.) The applicant shall continue to work with Elbert County and Douglas County for an acceptable solution to the off-site intersections improvements, a portion of which are generated by this development.
- 21.) Lot lines will be shown on the Final Plat document.
- 22.) Additional detail to the geotechnical studies shall be provided at the time of Final Plat to satisfy the concerns mentioned in the referral letter from Colorado Geologic Survey.
- 23.) The applicant shall construct Delbert Road from County Road 158 to Singing Hills Road, according to Elbert County Construction Standards and Specifications Manual, prior to release of the 370th residential building permit.
- 24.) The Final Plat must be applied for within one (1) year of approval of the Preliminary Plat by the Board of County Commissioners.
- 25.) Should the Elbert County Sheriff's Office determine that there is a need for a sheriff's substation within the Bandera development, at any time during the phasing of the various filings, to adequately address law enforcement concerns, the applicant will coordinate with the Sheriff's office regarding deeding a parcel to Elbert County, not to exceed two (2) acres in size, for the substation."
- 26.) The community center, as presented at the Planning Commission public hearings and as referenced in the application submittal items, shall be constructed and a certificate of occupancy issued by the Elbert County Building Department, prior to the release of the 361st building permit.
- 27.) Adopt the Finding enumerated herein.

**1041 Permit No. 10-08-0037 (1041 Permit Bandera East)**

The health and safety of the citizens of Elbert County are addressed via letters to the Community & Development Services Office confirming satisfactory completion of:

Prior to any building permits being approved:



- a.) Central water system adequate to serve Bandera East and Bandera West shall be approved by the Elbert County Building Department and the State Health Department.
- b.) Central sanitary sewerage system approval by the Elbert County Building Department, Elbert County Environmental Health Department and the County Engineers.
- c.) Roads approved by Elbert County Road & Bridge Department and the County Engineer.
- d.) The water supply and fire protection systems are in place and have been inspected and approved by the Elizabeth Fire Protection District.

Prior to Recordation of the Final Plat:

- a.) It is understood the applicant will provide equity funds for the infrastructure. Running Rivers Water & Sanitation District will own and manage the water and sanitary sewer system. The adjudicated water necessary to meet all the obligations of the District shall be transferred to the District prior to recording of the Final Plat of the first filing.
- b.) Elbert County and the applicant will sign and have recorded a Subdivision Improvement Agreement and the County will issue a 1041 Permit after the recordation of the Final Plat and prior to initiation of any construction.
- c.) The applicant and the Elizabeth School District #C-1 will comply with Resolution 99-14 prior to the recordation of each final plat filing. A letter from the district indicating compliance will be provided to Community & Development Services Office prior to recordation of the Final Plat.

Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote:

*Hope Goetz* Aye  
**HOPE GOETZ, CHAIRMAN**

*Del Schwab* Aye  
**DEL SCHWAB, VICE CHAIRMAN**





**ATTEST: AMY FORDYCE  
COUNTY CLERK**

**BY:** *Heidi Scheidt*  
**Deputy, Clerk to the Board**

