ELBERT COUNTY
Meeting Minutes
PLANNING COMMISSION HEARING
BOCC HEARING ROOM
215 COMANCHE ST
KIOWA 80117
JULY 24, 2018

Note: These meeting minutes are only a summary of the meeting. Duplication of the audio recording is available, for a fee, by contacting Community & Development Services.

The Planning Commission Meeting was called to order at 7:00 pm by Bob Lewis.

PRAYER: Led by Kipp Parker

PLEDGE OF ALLEGIANCE: Led by Jim Keen

ROLL CALL

Commission members present: Peter Hoogendyk, Dan Michalak, Bob Lewis, Linda Krauser, Jim Keen, Kipp Parker, Bob Meyer

Staff present: Sam Albrecht, County Manager; Christina Stanton, CDS Director; Tracey Aaron, CDS Administration; Vince Hooper (Baseline); Vince Harris (Baseline)

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)

A. No items

Bob Lewis requests update on meeting minutes:
- Tracey Aaron responds: Progress is being made and will have some ready for next meeting and sees no issue in the future
- Sam Albrecht responds: 2017 minutes will be put up on the website within 2 days and he has a few drafts waiting for his approval
Sam Albrecht introduces Christina Stanton as the new CDS Director. She has been with CDS for 2 weeks.

Christina Stanton informs all that she is happy to help and is available if anyone has questions or needs anything.

CITIZEN COMMENTS ON GENERAL ITEMS:
Tom Silchia: Will the questions from the previous meeting be in the minutes and will they be answered?

Bob Lewis: Explains the minutes may not have the questions answered specifically; however, there are recordings available if you would like to submit a request.

Dan Michalak: Responds to Tom Silchia wanting questions answered. Dan brings up a question noted from previous meeting which Tom asked and explained his question regarding notification was answered many times within the meeting itself.

Bob Lewis suggests that if a question needs to be answered further or more specific, it is best to email Christina, Tracey, and/or the planner.

Tom Silchia felt the notification list was incomplete and inaccurate.

END GENERAL COMMENTS

CONSENT CALENDAR

A. No items

APPROVAL OF MEETING MINUTES:

A. None

VINCE HOOPER (BASELINE) – PRESENTATION OF STAFF REPORT:

Overview of ECONOMIC DEVELOPMENT ZONE (EDZ) Application RZ-18-0028:

- An amendment to the Elbert County zoning map
- Designated properties for the Economic Development Zone Overlay
- Implementation of a resolution passed by BOCC after recommendation from PC; Resolution 18-15
- Steps taken to get to this point:
  1. Create the text to zoning code and going through a public meeting process
  2. Referrals to municipalities, agencies, and departments within Elbert County and outside
  3. Notified public via newspapers as required
4. Designating individual properties with a map amendment

- Intent of the EDZ is to match the goals and policies of the Comprehensive Plan Update
  1. Promote economic activity and mixed uses along selected Elbert County corridors
  2. The EDZ is linked to Elbert County’s higher traffic corridors as defined by the Elbert County Transportation Master Plan of 2008
  3. The high traffic corridors formed the foundation for the EDZ:
     ▪ Properties located within 1,320 feet of the centerline of the identified EDZ corridors are generally included within the EDZ Overlay District
     ▪ EDZ is applied to property on both sides of the roads forming a 2,640-foot-wide corridor

- EDZ Corridors are generally intended to be located within 1,320 feet of the centerline of identified roads, have street frontage onto the subject roads and have legal access to:
  1. Elbert County Road 1 (Delbert Road) from County Road 194 south to State Highway 86.
  2. Elbert County Road 166 (Singing Hills Road) between the Douglas/Elbert County Line and Elbert County Road 29.
  3. Elbert County Road 158 (Hilltop Road) between the Douglas/Elbert County Line and Elbert County Road 13.
  4. Elbert County Road 13 from the municipal boundary of the Town of Elizabeth to Elbert County Road 166.
  5. Colorado State Highway 86 from the Douglas/Elbert County Line to Comanche Creek Road, except within the municipal boundaries of the Town of Elizabeth and the Town of Kiowa.
  6. Elbert County Road 194 from the Douglas County/Elbert Line to Kiowa-Bennett Road.
  7. All of US Highway 24 within Elbert County, except within the municipal boundary of the Town of Simla.
  8. Kiowa-Bennett Road from the municipal boundary of the Town of Kiowa north to the Arapahoe/Elbert County line.
  9. Interstate 70 within two miles of the Town of Limon. Lands located between Agate and north to the Arapahoe/Elbert County Line including Old US Highway 40 to be recognized as a frontage road.

- Properties excluded:
  1. Platted residential subdivisions.
  2. Existing residential Planned Unit Development (PUD).
  3. Lands that lie inside the municipal boundaries of the towns of Kiowa, Elizabeth, and Simla.

VINCE HOOPER DISPLAYED LOCATION MAPS OF EDZ DURING PRESENTATION

- It was the approval of Resolution 18-15 which established the text, definition, and criteria for properties which could be included in the EDZ
EDZ Overlay District lays on top of underlying zoning, which stays in place. Both zoning districts are available to property owner.

EDZ defines Uses by Right and Uses Permitted by Special Review

Site Plan Authorization requirement—Administrative Review process, not a public hearing process

Referrals: Sent out all required referrals and received responses from two agencies:

1. Elizabeth Fire Protection District: Commented that all new commercial and residential structures that utilize the EDZ Zoning will be subject to fire department requirements and fees.

2. Town of Elizabeth: Provided separate comments from Grace Erickson, Community Development Director; Mike Pesicka, Safebuilt Studio; and Mike DeVol, Public Works Director. To summarize their comments: the Town of Elizabeth is opposed to the implementation of the map amendment for the EDZ Overlay District.

Explains the role of the Planning Commission tonight:

1. ECZR Part 1, Section 2: Planning Commission, the Planning Commission has the power to:
   C. Generally, the Planning Commission shall have the following power and duties, except as otherwise provided by law:
   2. To review and make recommendation to the BOCC on the following:
      b. amendments to the Elbert County Zoning Regulations.
      c. rezoning of land. (Res. 15-12)

2. Part 1, Section 6. C. of the ECZR, as amended by Resolution 2018-15 (effective as of March 28, 2018) Section 6 C.1.f. states:
   Planning Commission Public Hearing – The Planning Commission shall review the request, staff report, other evidence and public testimony. The Planning Commission shall recommend approval, conditional approval or denial of the rezoning to the Board of County Commissioners. The Planning Commission may continue a request for a period of time not to exceed two (2) months from the completion of the presentation by the applicant at a public hearing.

STAFF FINDINGS AND RECOMMENDATIONS:

o Complies with the Master Plan goals and policies.

o An evaluation of compatibility with surrounding land uses for each property within the EDZ will be conducted at the time of Site Development Plan application, or if applicable, in the review of a Use by Special Review.

o Impact on public services will be evaluated at the time of Site Development Plan application, or if applicable, in the review of a Use by Special Review.
The EDZ is founded on utilization of the high traffic corridors identified in the West Elbert County Transportation Master Plan of 2008. These high traffic corridors provide the greatest capacity for increased traffic in the future.

- Part of the intent of the EDZ is to promote economic activity and expansion of goods and services to Elbert County residents. This will directly enhance the health, safety and welfare of the residents.
- Community and Development Services staff recommends that the Planning Commission recommend that the Board of County Commissioners approve the proposed EDZ amendment to the Official Zoning Map of Elbert County.

PRESENTATION CONCLUDED

2 MINUTE BREAK

BEGIN PUBLIC COMMENT – PERSONS WHO SPOKE:
Grace Erickson (CDS Director of Elizabeth), Christine Ware (Pres. of Elizabeth Main Street Board), Nora Nikkel, Tom Silchia, Josiah Matthews, Candace Head-Dylla, Steve Dylla, Lark Fogel, Michelle Cole, Scott Marks, Bob Ware

GENERAL CONCERNS:

Public support:
- Supports property rights and sensible development
- Promotes economic activity
- Move in the right direction
- Harmony with Master Plan
- Embrace innovation, technology, and development and change that benefits us
- Competition benefits the citizens and county – it’s healthy
- Supports the overlay but also sympathizes for Elizabeth; give them the 3 Mile Plan
- Good idea for future planning

Public concerns (opposition):
- Per Grace Erickson: approximately 28,370 acres will be affected by the EDZ which is 36 times the existing size of Elizabeth
  1. States, according to Staff Report, an evaluation of compatibility of zoning has not yet taken place nor has the impact on the environment
  2. The EDZ can negatively impact the water
  3. Concerns with environmental, physical, and traffic impacts
  4. Concerned about the consequences of such wide scale zoning
  5. EDZ will impact their town of Elizabeth
Main Street Board opposes extended EDZ into the Town of Elizabeth, 3 mile planning area
1. Concerns over growth impact may have on municipality
2. Concerned the EDZ will throw the strategic planning the town has developed “out the window”
3. Encourages PC to read Chapter 5 of Town of Elizabeth’s Master Plan and the State of Colorado Department of Local Affair’s description of the 3 Mile Plan
4. Businesses in town already produce a significant amount of revenue for the county
5. Keep businesses within the town infrastructure where services already exist, which develops revenue for the town and county
6. Worries the businesses outside of town will not be of quality
7. Will negatively impact the town
8. Recommends the county focus on Hwy 24

- Doesn’t feel the plan is compatible with environment and impacts
- Opens the county up for anything that brings in money
- Not enough time for public comment
- Wants to live in the country, doesn’t want this to turn into another Parker or Castle Rock
- People who want convenience can live in the city
- Delbert Rd. has many blind spots. If you put businesses on Delbert Rd. it’s a safety issue. Increase congestion and fatalities
- Bob Ware: Provided additional information about 3 Mile Plan, letter from people of Elizabeth, and additional information. “Helter Skelter” development. Need to think about the types of businesses to develop in the county
- Tom Silchia had three questions:
  1. See a list of 3 exclusions; where would those exclusions be?
  2. What is up for approval tonight?
  3. What is the definition of “adverse traffic and congestion”

PUBLIC COMMENT CLOSED

STAFF QUESTIONS AND RESPONSES:

Vince Harris:
- The county made it real clear to the Town of Elizabeth that they are very much in support of their annexation, 3 Mile Plan, and their growth area
- We currently have 2 annexation referrals from the Town of Elizabeth; approximately 120 acres in total
- The “cross hatch” area in green on map: to the west of Elizabeth, would be included in EDZ but the properties would not become effective for one year. This gives the town the opportunity to work with the land owners regarding annexation
- Elbert County has responded in an appropriate way to work through opportunities for the Town of Elizabeth
Sam Albrecht:
- There is an IGA (Intergovernmental Agreement) with Town of Elizabeth regarding how we do land use within the 3 mile zone. Same agreement we have with Town of Kiowa and Simla. Neither have opposed this to the level of extent the Town of Elizabeth has.
- The IGA gives each town 60 days to annex the property which touches the town limits; works this way with or without the EDZ.
- The Town of Elizabeth did not feel 60 days was enough to decide whether they wanted to annex any property; Elbert County agreed to give them more time (90, 120 days, whatever requested) to decide if they wanted to annex property within the 3 mile zone. That wasn’t satisfactory to the Town of Elizabeth.
- At the last meeting with the Town of Elizabeth, they stated they wanted a 1 mile solution from Highway 86 to the county line; the county has done that.
- EDZ is in alignment with the previous Comprehensive Plan and the current Master Plan which the county has just approved.

Vince Harris: Answers question about “exclusions”. They are: any platted residential subdivisions, any existing PUD’s, and lands that lie inside the municipal boundaries of the towns of Kiowa, Elizabeth, and Simla. The map may need to be updated for a couple of questionable properties; very few changes.

Bob Meyers: Asked if properties can be annexed by any of the towns without the owner’s consent?

Vince Harris: Probably not. The only time a town (according to Colorado State Statutes) may annex land without owner’s consent is if there is a petition and there are enough signatures to get on a ballot for a vote. Majority rules. Another way to annex land is if the town annexed land which completely encircles the property for at least three years and can’t have a break in Right of Way. Has to be private property all the way around.

Peter Hoogendyk asks about the Resolution 2018-15 in relation to what is being voted on tonight.

Bob Lewis explains that the EDZ has been approved but the voting tonight is about the map. It has not been approved yet.

Kipp Parker: Asks for clarification regarding how the underlying zoning can be kept.

Vince Hooper: Explains there are Uses by Right and Uses by Special Review. The EDZ expands both. Example: If someone has an Ag underlying zoning now, then sells and the new owner wants a “use” under the EDZ, the new owner can submit a site plan to the Planning Department for an administrative approval as a Use by Right.

Kipp Parker: Asks if there would be any reason that could be denied.
Vince Hooper: When the Planning Department is reviewing the site plan, there may be specific areas of concerns, which would then be in need of additional requirements and/or improvements prior to approval.

Kipp Parker explains the process and procedures it has taken to get thus far with the EDZ. Beginning from the first public meeting in December to present.

Jim Keen: Will people in the EDZ be notified and will there be a time frame for the people to have to make a decision?

Vince Harris: Currently the zoning codes are being updated for the county. These zoning codes will address the new site planning process. The existing codes do not require notification for Site Plans. States they are open to any thoughts and recommendations for types of notifications for the new codes.

Dan Michalak: If someone is in the 3 mile zone and has to wait a year for the Town of Elizabeth to make their decision, when does that one year begin; from the time the overlay map is approved or from the time the property owner approaches the Town of Elizabeth requesting to do something with his property?

Vince Harris: Staff recommends the EDZ Zoning Map Amendment of the “hatch area” become effective one year after the resolution date of approval for the rest of the EDZ area.

Dan Michalak discusses the property rights of the owner as to whether the owner wants to be in the Town of Elizabeth or Elbert County. The Town of Elizabeth legally controls one square mile and the zoning. Outside of that, it is the county and what we decide. There is a choice of property rights. Dan questions Staff about Delbert Road and traffic studies.

Vince Harris: Traffic studies are required and will need to meet Elbert County standards.

Linda Krausert speaks of the workshops and all the residents who attended. Elbert County is going to grow, this EDZ is a win/win for everyone.

Bob Lewis asks about taxation. He confirms with Vince Harris that the taxes will not change on the property until the “use” changes on the property.

Vince Harris explains that the Assessor taxes based only on the current use of the property.

Bob Lewis asks Vince Harris about people still being held to the same standards should they pursue a new “use” on their property once the EDZ is implemented.

Vince Harris: Correct. When the property owner goes through the Site Plan process, all issues will be evaluated, (safety, traffic, water, sewer, health, fire district, school district, etc.) and all standards need to be met whether by State, County, or Federal; same process. All referrals will still be sent out and the process will be identical as now.
Bob Lewis asks how a neighbor would find out about a change.

Vince Harris explains it’s the same as what was just discussed regarding the Site Plan process. Currently there is nothing required for notification in a Site Plan application.

Dan Michalak asks if someone goes through the EDZ for this type of business and then sells, and the new owner wants to establish a new kind of business, does the new owner have to go through the process again?

Vince Harris: In the Site Plan process, if there is a change of “use” in other words a change of impact to that property or adjacent property, they would have to go through a Site Plan Amendment.

Bob Lewis explains what the process is here. Reading from code: “The Planning Commission shall review the request, staff report, other evidence and public testimony. The Planning Commission shall recommend approval, conditional approval or denial of the rezoning to the Board of County Commissioners. The Planning Commission may continue a request for a period of time not to exceed two (2) months from the completion of the presentation by the applicant at a public hearing.” As well as reviewing the packets in advance, driving by site of question, and preparing questions for the hearing. Public testimony is important as well as the Staff Report and staff comments.

END OF STAFF RESPONSE

PLANNING COMMISSION DISCUSSION & QUESTIONS:

Linda Krausert: Main concern is the priority of the roads inside the EDZ.

Dan Michalak: Discusses property rights. There is a process people have to go through. Traffic is important as well as its safety. He is all for the overlay zone and feels we need to give people a choice.

Jim Keen: EDZ is one of the most significant things to happen in our county in a long, long time. Elbert County has been imbalanced between the tax-base and commercial and this is going to make it a lot better and easier to bring business in.

Bob Meyer: Assumes the EDZ roads will eventually be improved at the expense of the developing land owners.

Vince Harris: The developer usually pays their rational share on the impacts of the infrastructure. This is why traffic studies are provided and evaluated.

Dan Michalak: Believes we have worked hard to accommodate the Town of Elizabeth and is satisfied with the results.
Peter Hoogendyk: Speaks of the Town of Elizabeth. There is a lot of room in there for reviews and the county and city to get together to discuss issues and find resolutions. Regarding the road situation, he recalls two large developments who never paid for paving the roads. He is all for the overlay and willing to accept it as is.

Kipp Parker: EDZ is critical and positive to move forward. We are all “kinfolk” and we need to move forward.

Bob Lewis: Spoke of the surveys given for the Comprehensive Plan and what was on top of the surveys was “people wanting more access to goods and services”. This includes jobs and more economic activity.

END PC QUESTIONS AND QUESTIONS

*Dan Michalak makes a motion to accept the EDZ Overlay District as amended (presented tonight). Second by Bob Meyer.*

ROLL CALL VOTE:

*ALL IN FAVOR. Motion carries 7 - 0*

PC discusses including a recommendation regarding communication and notification to adjoining property owners.

*Jim Keen makes a motion to amend the original motion to include direct communication to property owners. Second by Bob Meyer.*

ROLL CALL VOTE:

*Jim Keen: Amendment to the original motion to notify all property owners in the EDZ get a letter explaining they have 2 options, remain zoned as they are or become part of the EDZ.*

*ALL IN FAVOR. Motion carries 7-0.*

PC and Staff discuss notification requirements be included in regulations; stating that adjacent and/or adjoining neighbors be notified when a property owner chooses to utilize the EDZ Overlay. A recommendation is discussed.

Vince Hooper explains the current rezone process as part of the Resolution 18-15. County initiated rezone process. We don’t require notification when it is county initiated.

Dan Michalak talks of how a property owner may notify his neighbor of his intentions and the neighbor may be frustrated because he is unable to do anything about it.

Staff and PC discuss how the neighbor may come to the county for further information and to ensure compliance. Communication is always a good idea. Any property owner is
welcome to come to the county and discuss their concerns. The county has regulations to help other citizens.

Vince Harris: The notification letter should have the applicants name and address on there as well.

Linda Krausert would like to let everyone know via newspaper.

__Bob Lewis makes a motion that the adjoining neighbors be notified. Second by Kipp Parker.__

**ROLL CALL VOTE:**

__Bob Lewis makes a recommendation for notification of adjoining property owners when a property owner chooses to utilize the EDZ Overlay. This is to include CDS contact information and applicant contact information.__

**ALL IN FAVOR. Motion carries 7-0.**

**PC DISCUSSION:**

Linda Krausert asks how everyone in Elbert County can be notified.

Christina Stanton answers Linda’s question: we will have a press release.

Vince Harris states the next meeting will be on August 7, 2018.

Jim Keen makes a motion to close the hearing. Second by Linda Krausert.

**MEETING ADJOURNED AT 9:25 PM**