ELBERT COUNTY
Meeting Minutes
PLANNING COMMISSION HEARING
BOCC HEARING ROOM
215 COMANCHE ST
KIOWA 80117
NOVEMBER 27, 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 Peter Hoogendyk

ROLL CALL

Commission members present: Peter Hoogendyk, Dan Michalak, Bob Lewis, Linda Krausert, Jim Keen, Kipp Parker, Justin Klassen

Staff present: Christina Stanton, CDS Director, Ethan Watel (Baseline), Vince Hooper, (Baseline)

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)

Christina Stanton states there is none.

CITIZEN COMMENTS ON GENERAL ITEMS – None

CONSENT CALENDAR
A. No items

APPROVAL OF MEETING MINUTES:
A. November 20, 2018 – Approved

Bob Lewis asks for each PC member to give their name and what part of the county they live in:
Linda Krassert: Northwest part of Sun County
Dan Michalak: Running Brooke Estates off CR 13
Jim Keen: East of Kiowa about 15 miles. Vice Chair.
Bob Lewis: Western part of the county, not too far from Town of Elizabeth
Peter Hoogendyk: Northwest corner
Justin Klassen: Southwest part of Elbert County
Kipp Parker: Far Eastern part of the county. Near CR 193

*Bob Lewis welcomes Justin Klassen as the newest member of PC.*

PUBLIC HEARING BEGINS

VINCE HOOPER (BASELINE) – PRESENTATION OF STAFF REPORT
Bob Lewis asks Vince Hooper to give a brief description of who Baseline is.
Vince Hooper responds: They are the planning consultants for the county.

Overview of PEAK VISTA REZONE - Application RZ-18-0032
- Rezoning only, independent of a subdivision
- Applicant is Rio Grande Alameda
- Representative is CJ Kirst and is in attendance
- Proposal to rezone 75.88 acres from A to AR
- Public notice was mailed to adjacent property owners
- Property did have a notice sign
- Public notice appeared in the Ranchland News
- Location of property is on Kiowa-Bennett Rd.
- Currently zoned Agriculture (A)
- Most property surrounding it is large lot, Agricultural, 35 acres or more parcels
- Sun Country PUD is approximately 3.5 miles from property
- As part of the review process, referrals were sent to required agencies
  - Many county offices
  - Emergency Management
  - Public Works
  - Engineering
  - Sheriffs
  - Elbert County Museum
  - Colorado State offices
  - Federal offices
  - Local governments
  - Utility companies
- Out of those referral agencies, comments received were from:
  - Black Hills Energy: no comment
  - IREA: Requested additional utility easements
  - Colorado Geological Survey: No objections
  - Colorado State Forest: No objections
  - Excel Energy: No conflict
Kiowa Fire District had comments typical of a subdivision, although currently this is not a subdivision. Should the applicant pursue a subdivision in the future, the following are what the Fire District would like to see imposed (as shown on Power Point):

- All roadways constructed to Elbert County public road standards
- All dead-end roads shall have 60 ft. cul-de-sac
- All driveways must comply with Resolution 03-23
- All addresses properly marked with approved signage
- Provide 8.5 x 11” map showing street names and addresses
- Fire Impact Fees = $1,902.00 per lot
- Must provide either:
  1. Fire sprinkler system for each house; or
  2. Minimum 30,000 gallon water tank for water tank; or
  3. Provide cash-in-lieu = $1,040
- Provide CC & R requirements for open burning permits from Kiowa District. Provide language to District for approval

Colorado Division of Water Resources:

- “it is our opinion that the proposed water supply is adequate and can be provided without causing injury decreed water rights”.
- The CO Division of Water Resources first referral response (May 2018) was that the proposed water supply is not adequate and cannot be provided without causing injury to decreed water rights. After the submittal of additional information from the applicant on a second referral, this opinion was revised as stated above, opinion of adequacy.

As of November 9, 2018, all referral comments have been resolved either through providing additional documentation or revisions to the proposed plans

Zoning Regulations contain guidelines to help evaluate the proposed rezoning:

- Impact on the community considerations:
  - Density
  - Lot size
  - Perimeter lots
  - Population
  - Water use
  - Water / Sewer
  - Open Space
  - Agricultural lands

In reviewing such, Staff came to the conclusion that:

- The dominate densities, lot sizes, and uses in the immediate vicinity are large agricultural parcels 35 acres or more
- One 5 acre lot zoned RA-1 located at the southwest corner of Kiowa-Bennett Road and CR 174
- Sun Country Meadows PUD contains 4 acre residential lots, creating a more dense, larger residential neighborhood and is more consistent with the proposed rezoning

Peak Vista proposes to utilize well and septic systems for any future residential uses. Parcels surrounding Peak Vista receive water and sewer from a well and septic system

Applicant will provide cash-in-lieu of open space land dedication

Whether the Community / area has the necessary resources and infrastructure to support the application

- issues to be considered:
  - Schools
  - Roads
- Law Enforcement
- Animal Control
- Fire Protection
- Ambulance Services
- Library Services
- Social Services

**Staff Review:**

- The area has the necessary resources to support the uses and densities as proposed.
- With compliance to Development Impact Fee requirements, there will be no deficiency in community resources necessary to support the proposed uses and densities.
- Evaluate the potential impacts on the environment and suitability of the proposed densities and zoning on the property:
  - Applicant provided an environmental report of site:
    - No sensitive species or habitats
    - No trees
    - No birds of prey
    - No wetlands
    - No 100 year flood
  - Applicant provided a Cultural Resources Report:
    - There were Native American / prehistoric archaeological remains on the land site; however, they would probably not be considered “historic properties” or eligible for National Register of Historic Places.
- Compatibility of the proposed zone with the Elbert County Comprehensive Plan: Goals and Policies
  - Residential Development
  - Public Safety
  - Transportation
  - Water, sewer, and waste disposal
  - General environment
  - Water quality
  - Forestry and noxious weed management
  - Wildlife
  - Historic Resources
  - Water conservation
- Policy with residential development is to preserve open space:
  - **RD2** - *To preserve open space and preserve the rural character of Elbert County, clustered residential development patterns are encouraged on lands within one-mile of paced roads and existing utility corridors where they exist and within the three-mile service and/or influence areas of County towns.*
  - **Staff findings:** Peak Vista has direct access to Kiowa-Bennett Rd and in the future, will have frontage on to CR 174. However, the frontage is not being proposed as an actual traffic vehicular access.
    - The lot configuration that is suggested by the submitted information would not typically be considered clustered, nor rural in character for Elbert County.
  - **RD3** - *Residential Development policy #3: The County should consider incentives that encourage new residential development to provide a diverse range of housing options.*
  - **Staff findings:** Staff is not aware of any incentives the county currently has or encourages applicants to pursue in providing diversity in housing options. The 10 acre
minimum size lot that will result from the proposed AR zoning is anticipated to accommodate single family housing type that is typical for this area of Elbert County.

- **Transportation Policy (TR1)** is encouraged to locate proximate to improved arterial roads or such roads should be provided by the developer
  - Staff findings: In this case, as previously mentioned, they do have direct access to Kiowa-Bennett Rd.

*Justin Klassen questions the future extension of CR 174 and being a thoroughfare.*

*Vince Hooper responds the proposal is not intended to have direct access onto CR 174, only Kiowa-Bennett Rd.*

- **Environmental Policy #1 (EN1):** All development, including residential, industrial, commercial, and public utilities should be designed and constructed in a manner that is respectful to the environment.
  - Staff findings: This is not a subdivision, but part of the consideration for rezoning is to see how the proposed zoning is to fit on to the property. Some environmental conditions were found on the site that will help the applicant on future plans for subdivision and development, but they weren’t significant enough to warrant a specific limitation for the property.
- **HR1:** The County should encourage the preservation of historical sites and buildings as well as important archaeological and paleontological sites.
  - Staff findings: As discussed previously, the Cultural Resource investigation did find some archaeological features on the site. They came to the conclusion that it would not be significant because the remains are deposited directly on ancient deposits without a datable stratigraphic context and lack any diagnostic items.
    - The report concluded that archaeological resources found on the site would not be eligible for listing under Section 106 of the National Historic Act (they advise what to do with historical sites) as they do not meet the criteria for listing.

**Rezoning Approval Standards:**
The following criteria and questions help review the proposal and determine whether it’s appropriate for recommendation of approval:

1. **Does it comply with the goals and standards of the Elbert County Master Plan:**
   - Staff comment: Based on what we just went through with the Comprehensive Plan Update, it does comply with the goals and policies and the future design of subdivision will ensure design of those goals.

2. **Whether the proposed rezoning is compatible with surrounding land uses:**
   - Staff comment: As discussed, this is the only 10 acre site proposed within immediate area. However, when a larger 3+ mile areas is considered, the 10 acre lot size is more compatible with the 4 acre lots of Sun Country Meadows PUD.

3. **Whether the proposed rezoning would adversely impact the provision of public services:**
   - Staff comment: There is no concern with this specific parcel and it should have no adverse impact to public services.

4. **Whether the proposed rezoning would adversely impact the environment:**
   - Staff comment: The property does not contain any land within the 100 year floodplain, or any 20% slopes or greater. As stated previously, the archaeological findings were not significant enough to require any preservation.

5. **Whether the proposed zoning would create traffic congestion or burden the existing road system:**
a. Staff comment: The applicant has committed to providing additional ROW and access easements as requested by EC Public Works Dept. Additionally, Peak Vista’s direct access onto Kiowa-Bennett Rd., a minor arterial will ensure capacity of the existing road system is adequate for the proposed use.

6. Whether the proposed rezoning will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County:
   a. Staff comment: The proposed rezoning and corresponding uses will not create any detrimental impacts to Elbert County.

STAFF FINDINGS AND RECOMMENDATIONS:
1. The proposal is in general conformance with the Elbert County Comprehensive Plan Update 2018.

2. The proposal meets all the criteria for approval in the Elbert County Zoning Regulations.

3. The Elbert County Subdivision Regulations are not applicable to this project.

4. The proposal is compatible with existing and allowable land uses in the surrounding area.

5. The proposal will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

STAFF RECOMMENDS THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ-18-0032 TO THE BOCC WITH CONDITIONS:

The Planning Commission recommends APPROVAL of RZ-18-0032 PEAK VISTA REZONE TO AR a 75.88 property at 43584 Kiowa-Bennett Rd. SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant will be required to remove the Public Hearing sign(s) within 7 days of a decision by the Board of County Commissioners.

2. The rezoning shall not become effective until all applicable fees are paid, including impact fees, conditions of approval are met, and the Rezone Exhibit is recorded.

3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners’ approval.

4. Any future subdivision of the subject property will require the dedication of the 30 foot Right of Way along Kiowa-Bennett Rd., depicted as Tract A on the Rezone Exhibit; and the dedication of 53.5 foot Right of Way (one-half of a 107 foot wide needed right of way) along the southern boundary of the rezoned property for the future extension of CR 174, depicted as a 53.5 foot Access and Utility Easement on the Rezone Exhibit.

Bob Lewis asks if the comments from Public Works were given to the PC.

Vince Hooper states it was only part of the pre-application process.

VINCE HOOPER PRESENTATION CONCLUDED
APPLICANT PRESENTATION AND RESPONSE: CJ KIRST

- States Vince did a good job at summarizing and illustrating compliance
- Clarifies CR 174. If the property ever were to develop or if the county wanted to build CR 174 (to the east), it would have that portion to put a ROW in place. It’s not connected to anything right now.

PUBLIC COMMENT:

Kay Snow: Few concerns:
- Wishes the property was divided into 35 acres
- Sees no covenants
- Water. They have water rights in Denver Aquifer and don’t want the properties to take from their rights.
- 21 wells in that section is quite a bit

Beverly Durant: Opposition
- Not an area for a subdivision
- Fundamental change to the community
- Ranching and farming / Agriculture community
- Adverse consequences
- What is meant by diverse housing? Yurts?
- Notice was deplorable; couldn’t see the small, yellow sign well; not able to park the car to read it; sign was hard to find
- County website was not updated timely
- Didn’t get notice until the day before last week’s hearing
- Dangerous place for subdivision
- Effect on water table
- Contaminate land
- Kiowa Creek dries up every year
- Kiowa-Bennett is dangerous and not maintained or plowed properly
- Commissioners stated in July Prairie Times that the mission of Elbert County is to support the western lifestyle; we live by the code of the west, “some things are not for sale”

Dale Varner: Concerns
- Kiowa-Bennett Rd. safety concerns
- Cash-in-lieu for open space: where do those dollars go?
- No birds of prey? There are birds of prey everywhere, but maybe they are not nesting in that particular area
- Where do the artifacts found on the land go? Who gets them?
- Clarity on “options”

PUBLIC COMMENT CLOSED

APPLICANT RESPONSE:

Darcy Tiglas, Consultant (Biologist) with Tiglas Ecological Services from Loveland, Colorado

Clarifies their reports:
• Birds of prey: Considers all birds of prey, including Burrowing Owls. Looks for stick nests as well and found no trees at this site. There are no prairie dogs for birds of prey to consume either.

• Cultural Resources: What we found were small flakes of petrified wood, which are all over Elbert County. They come from Native Americans who often collected this material and made tools among other things. No hand tools or artifacts were found; they were only petrified wood flakes which probably came from underground.

CJ Kirst, Applicant

• CC&R’s are associated with subdividing; we are not there yet until we get the rezoning approved.

• Water: Approved to utilize Denver Basin wells. They spent a lot of time evaluating to ensure there is sufficient amount of water. There are no issues with the Denver Basin and will trust the State Engineer’s report.

• The County tells us what notification signs to use and where to put them. County guidelines were followed.

• The building caught on fire and the owner had it demolished for safety purposes.

• Road safety: Had a Traffic Assessment Report done. They look at impact and found there would be no adverse conditions created with the additional 7 lots.

• Open space: County requires an appraisal and tells them how much they owe at the time of planning.

PLANNING COMMISSION DISCUSSION AND QUESTIONS:

Dan Michalak: These are going to be very deep wells. References the last paragraph written by the Department of Water Resources. Wonders what the State is trying to tell us regarding water. Raises concerns.

Bob Lewis: Just attended a Water Resources workshop. The paragraph written by State is common language.

Vince Hooper: Concurs. This is a typical response we get at the end of most letters.

Bob Lewis: Division of Water Resource wants us to have a water plan for each agency level. The County is putting one together right now. Each metro district within our community all have to come up with short term/long term water plans.

Jim Keen: Most of these questions are appropriate for subdivision, but we are only doing a Rezone tonight. How far is it from Kiowa-Bennett Rd. to proposed access road?

CJ Kirst: Approximately ¼ mile.

Peter Hoogendyk: Unnamed tributary. Should be a no build area on the zoning exhibit.

Justin Klassen: Being in conformance with surrounding properties is always a concern. I believe in property rights. Growth will continue to happen, but this is concerning because we are throwing an AR zoning out in a large area of A zoning when the growth hasn’t pushed its way out there. Not opposed to it, but these things need to meet conformance to surrounding properties per the Comprehensive Plan.

Kipp Parker: Questions Staff regarding cash-in-lieu of open space land. Asks Staff to please elaborate.

Vince Hooper: Money goes into a fund in Elbert County. They hold it for open space purposes. The amount is based on appraised value. There are some numbers in the Staff Report. There are a variety of Resolutions on
how to allocate those particular funds. They are currently going through the revision process to utilize it more specifically.

Kipp Parker: Property rights are held in the highest esteem. The 35 acre properties are a residential property in my opinion; they are a lifestyle thing. You can’t make an agriculture living off of them.

Bob Lewis: Make a general point: We are on a 300 year water plan. These wells are not for the Dawson, but the Denver. Division of Water Resources have a formula they use. Recaps the petrified wood chips and how common they are.

Bob Lewis also discusses “adjacency”: Elbert County used to have a rule that whatever a lot did, the surrounding lots could do as well; this led to a lot of 2 acre lots. We dropped that word “adjacency” because it was creating a creeping effect. It allowed developers to pick what they thought the market was looking for versus larger lots.

Justin Klassen: Adjacency and conformity are two different definitions. Understands “adjacency rule”, but currently we use “conforming” in the Comprehensive Plan. What is conforming and how is it different?

Vince Hooper: The Comprehensive Plan is a guideline; policies. It doesn’t give specific details or regulation standards. It leaves it subjective and open ended.

Vince also explains the cash-in-lieu fees. There is a list of the impact fees in the packet as well as open space/cash-in-lieu fees, which are based upon appraised value calculations.

Bob Lewis: At the rezone point, do we normally talk about topography and building envelopes or is that in the Subdivision section?

Vince Hooper: Neither a yes or no answer to that. What we need to discuss are: environmental factors that would limit the development of the property; is the land appropriate for the land use and density being proposed. Need to define areas that may be inappropriate for future development. These items can be looked at more closely at the subdivision stage. One of the requirements for the rezone exhibit is to provide all natural and manmade water sources; drainage, trenches, etc.

Darcy Taglis: The reason why it was identified as a swale is it’s where 2 hills come together for purposes of the environmental work. That area would be addressed in a drainage report which would be required in the next phase if something were to be developed. The swale is there although it may not be jurisdictional.

- US Army Corp. of Engineers would be the one who determine if it’s a jurisdictional waters of the U.S.

Peter Hoogendyk: It’s still an area where it can’t be built in.

CJ Kirst: We deal with drainage issues all the time. If it’s not jurisdictional or a floodplain, there is ability to realign it or pipe it to miss structures. This is not the time to address it but is normally at the time of platting. We don’t have a drainage report prepared.

Dan Michalak: Thanked Justin for bringing up something. The leap frog development is quite right for Justin to bring up. Not against property rights and agrees with Kipp.

Jim Keen: There must be a balance. It always comes down to property rights. Makes a motion to approve this.
Jim Keen makes a motion to for APPROVAL of RZ-18-0032 Peak Vista, subject to Conditions of Approval 1 through 4 as recommended by Staff. Second by Kipp Parker.

Justin Klassen: Brings up point about “conformity”. The land owner has every right to do the rezone; met the process and has filled the requirements. As for the PC, we must determine if this is in conformity with what we are intending the direction this county is to go. While taking into consideration personal property rights. Reiterates this is just the rezoning aspect. Must take into consideration conformity as well as the owners’ personal property rights.

ROLL CALL VOTE:

ALL IN FAVOR. APPROVED: 7 - 0

END PC DISCUSSION AND QUESTIONS

10 MINUTE BREAK: 8:30PM
RETURNED: 8:40PM

BEGIN PUBLIC HEARING

STAFF PRESENTATION: AMENDMENT TO ELBERT COUNTY SUBDIVISION REGULATIONS – ETHAN WATEL (Baseline)

Public Hearing introduction of the proposed revisions to the Elbert County Subdivision Regulations (ECSR).

Subdivision Regulations are a piece of the Land Use Regulations which the county uses specifically for parceling off land for sale. This process has devolved down from State Statutes to Elbert County to BOCC. All counties have regulations which are designed to piece off land via the Planning Department.

The process began about a year ago. Main goal was to take all the Regulations and Resolutions, piece them all together into one new document.

- Goal was not to make large changes, but instead targeted proposals
- Create / begin a true codified Code for land development application processes
- Simplify the number of processes
- Clarify overlapping and conflicting regulations
- Streamline timeframes
- Ensure developers prepare quality plans and designs and understand the process
- Increase citizen communication and clarify expectations

The proposed, new ECSR contain Articles while the current ECSR have Sections.

ARTICLE I. ENACTING CLAUSES

- Much comes from the existing regulations
- Added Approval Criteria. Currently there are no specific approval criteria for subdivisions
- Variations of zoning standards up to 10% may be considered during the plat process.
ARTICLE II. GENERAL SUBDIVISION REQUIREMENTS AND PROCEDURES
- Central main piece of the new regulations
- Single Article that has all the processes in common in one spot
  - Referrals
  - Notices
  - Applications and submittal materials

ARTICLE III. PRE-APPLICATION CONFERENCE
- Pre-application process

ARTICLE IV. CONCEPT PLAN
- Existing process. No changing it as it is a required process before Preliminary Plat submittal.
- Community meetings are still required.
- After community meeting it goes to Planning Commission / BOCC work sessions. Not public hearings
- Some changes – discussed having a waiver of one year from the last public meeting of the application
- Example: a PUD rezoning is approved at a BOCC hearing allowing 350 lots. If the formal application for the subdivision preliminary plat is submitted within one year of that hearing, then the Concept plan may be waived. If over a year since last meeting, it must go back to the Concept Plan.
- This is for 4 or more lots

ARTICLE V AND ARTICLE VI. PRELIMINARY PLAT & FINAL PLAT
- Applicable for 4 or more lots
- Single family. One home per lot
- New regulations: No concurrent hearing for preliminary and final plats
- Final plat could not be heard until all conditions of the preliminary plat have been met
- An additional public meeting has been added for anything over 4 lots
- Streamlining and keeping county and citizens comfortable with what’s going on
- Subdivision Improvement Agreement (SIA) must be negotiated and approvable with the Final Plat before Final Plat goes to public hearing
- Did some clean up: Referral agencies, requirements, plat exhibits, separated out items that are to be included as separate documents

Kipp Parker asks how it was determined to go from 8 lots to 4.

Ethan responds 7 or less is a Minor Development. 8 or more is the traditional preliminary and final plat. Most applications which are reviewed are 7 or less lots. It was determined through work sessions and discussions with BOCC along the year.

ARTICLE VII. MINOR SUBDIVISION
- New process intending to replace the existing Minor Residential Development and Minor Business/Commercial / Lt. Industrial Development processes
- Clarifies Minor Subdivisions must adjoin a public road, no a private road with public easement and not through an existing subdivision
- These are only recommendations and are open for discussion
- Creating 3 or fewer lots. Single family. One principle residence per lot
- “Tract” is defined as non-buildable piece of land
- Current Minor Residential Developments are for 1 – 7 lots, parcels, or tracts
Proposes: Review and Approval is delegated to a new administrative review and approval process
Approved and denied by CDS Director, with notice of decisions – can appeal decision to the PC with justification that plat does not meet Elbert County Regulations. Ultimately can be appealed to BOCC

ARTICLE VIII. AMENDMENTS TO APPROVED PLATS
- Put all processes in one spot
- Administrative process. CDS Director approve or deny
- Clearly define the different types of plat amendments
- Refers to “a” – “f” in Article but highlights a couple below:
  - Adjustments to property lines and the elimination of interior property lines involving any combination of lots, parcels or tracts, which does not increase the number of existing legal building sites and does not increase the number of lots, parcels or tracts
  - Adjustments or eliminations of previously established building envelopes regarding location and configuration

ARTICLE IX. EXEMPTIONS
- The current Subdivision Exemptions are buried in the Plat Amendment but that is not what an Exemption is, it’s something that’s allowed by State Statute. Gives the county the right to define division of land or illegal transfer.
- Proposed Article IX contains the following types of two types of exemptions:
  - Improper division of land / illegal transfer
    - Applies to private party who swears they were unaware of the unlawfulness of the division (existing). Only for first time offenders; cannot do it again OR
    - Applies to land that is being used for public or quasi-public purposes including but not limited to: utility facility, park, open space, fire station, sheriff substation, library, metro district office, water/sewage facility, cemetery, and school district facilities (new)
  - A boundary line adjustment between unplatted parcels
    - Only for unplatted A-zoned parcels
    - This section is moved from the Admin Lot Line Adjustment process that is presently in the Zoning Regulations

Ethan Watel briefly explains how XX parcels are an illegal lot and must get changed, as done previously.

- Exemptions will still go through the BOCC
- Non-administrative

ARTICLE X. VACATION OF RIGHT-OF-WAY, PUBLIC EASEMENTS, AND PLATS
- The current Vacation regulations are buried in Section XIII. Design Standards
- Creates standards for the content of the Vacation Exhibit
- Process is unchanged except for standardizing notice periods. PC to BOCC for approval
- Creates approval review criteria (as opposed to “conditions”)
- Clarifies vesting of property per State Statute

ARTICLES XI AND ARTICLE XII. DESIGN STANDARDS AND STUDIES and IMPROVEMENTS
- Mirror images of what are in the regulations today
- Street requirements are removed and given to the Department of Public Works
During referral process, they will be able to weigh in as well as the County Engineer.

- Minimum lot sizes (related to water & sewer/septic) are memorialized
  - Well & septic: 1 dwelling unit per 10 acres
  - Central Water & septic: 1 dwelling unit her 5 acres
  - Central Water & Central Sewer: Less than 1 dwelling unit per 5 acres
  - There is a table on this on page 64. Article XI.E

- Water: 300 year supply requirement
  - A new 300 year water rule will be incorporated. Current requirements are cited from 1041 regulations. A revision is forthcoming.

Peter Hoogendyk points out a problem with wording on the table page 64. Should not state “less than 1 dwelling” as you can’t have less than a dwelling.

Ethan Watel notes error and also adds wording to the table, in middle column, “Central Water / Sewer”.

**ARTICLE XIII. VESTED PROPERTY RIGHTS**

- No changes

**APPENDIX A. MAP REQUIREMENTS**

- This will incorporate the current Regulations Section XV, to be modernized and updated
- Line weight, margins, how exhibits should be prepared

**APPENDIX B. CERTIFICATIONS, DEDICATIONS, AND ACKNOWLEDGEMENTS**

- The certificate blocks were updated as necessary for new titles. Who signs which documents was revised
- A standard dedication statement with guidelines for individuals, corporations, partnerships, LLCs, etc. was added

**APPENDIX C. DEFINITIONS**

- Definitions are from the current regulations. Definitions for Lot and Tract were added

Ethan Watel talks of Subdivision applications; who would be the recommending body; who could appeal; and is it recorded. Needs discussion and tweaking.

- This is a proposed draft
- Comprehensive Plan was taken into consideration
- We are hear for questions and willing to make recommendations

**END ETHAN WATEL PRESENTATION**

**BEGIN: PC OPEN DISCUSSION AND QUESTIONS**

Jim Keen: Questions rezone just done previously tonight. It wouldn’t be a Minor Subdivision and questions the road proposed as to whether it would have to be paved.

Ethan Watel explains that if that came in after the proposed regulations it would not be Minor. It would be a full Preliminary Plat and Final Plat process. Each application is unique therefore, the road would default back on Public Works. They may require paved roads for some Subdivisions.
Peter Hoogendyk agrees having paved roads make much more sense.

Bob Lewis: Article XII. B. Discusses right-of-ways and private easements versus public easements.

Ethan Watel talks about what a “public street/road” is. Is it a public right-of-way or a private road with a public easement over it? Has had discussions with the Director of Public Works about allowing easements with public access over them.

Bob Lewis states how Rory Hale doesn’t want to maintain any more roads because he knows his budget will not expand. Using this information, we are stuck with allowing private easements to serve broader and broader house addresses. Public Works states they will need to create a private road to Public Works standards. Value of properties on those easements drops. Are the intentions to cut it off at one set of lots?

Ethan Watel: Given that situation, in theory we could make a private easement into a public right-of-way, which is through a complicated process. Public Works would have to accept it. The intent behind this was clarification. Proposed wording - “Each proposed lot must have access on a public right-of-way or a private road with a public access easement”.

Bob Lewis and Kipp Parker agree with Ethan’s wording suggestion and must include it’s based on Public Works standards.

Ethan Watel states he can make the suggested changes upon consensus.

Dale Varner: Would like to add something new. Owns 3 acres. Questions hunting in subdivisions. Saw people hunting on a 2 acre lot. Feels the regulations needs to address this.

Peter Hoogendyk: References page 49. Would like clarification on such statement, “The CDS Director may classify other minor developments as minor subdivisions and thus exemptions from the regular platting process, when there is sufficient evidence provided as to the minor nature of the proposed subdivision”.

Ethan Watel: References Minor Residential Developments today, Section 10, B-2, “The Planning Commission may classify other minor residential developments as exemptions from the regular platting process, when there is sufficient evidence provided to the minor nature of proposed subdivision.” We simply swapped CDS Director with PC. Has to admit it is not needed to classify exemptions and is ok with striking.

Peter Hoogendyk would like to strike the last sentence in Article VII, B-2, page 49.

Ethan Watel: Feedback from work sessions: if you have to go through an existing Subdivision that went through an entire preliminary Final Plat process, you can’t just tack on another couple more lots. You need to go through a full review of that and analyze all that traffic.

Peter Hoogendyk talks of how this whole thing was created because people kept doing Minor Sub., Minor Sub., Minor Sub., and we need to stop this process, so they can no longer do such.

Christina Stanton: Agrees. That is our intent.

Ethan Watel talks of why 3 lots were chosen as the cut off. The idea behind that is so the CDS Director can approve the 1-3 lots. PC will still see the plats for 4 and up. Wanted to keep it streamlined.
Peter Hoogendyk and Dan Michalak support the 3 lot minor being administrative.

Kipp Parker feels we are just adding time and costs to the individuals involved. Would like to be mindful of additional costs that may be incurred given his own experience.

Ethan Watel explains a Minor Subdivision is inherently a less costly process. It’s shorter, less documents. The reason behind this is because most often it’s a “mom and pop” coming in to do a lot split. However, when it’s a 7 lot, it’s hardly ever a “mom and pop”, it’s a developer. The other decision is to let the PC determine it’s a “mom and pop” subdivision and lets it become a “Minor”, which is how it’s stated currently.

Bob Lewis asks where the wording is located regarding a Preliminary and Final Plat not being concurrent. It follows along with Kipp’s comment which adds another public hearing which could be expensive.

Ethan Watel finds it in Article V.B.3 in proposed regulations. Page 38 in clean version of regulations.

Bob Lewis agrees it’s important to establish good guidelines, but let’s make it as simple as possible for developers. He likes it being concurrent and having that option open.

Christing Stanton states that much of the language came from the BOCC work sessions where they did not like having it at the same time because there were a number of conditions on part of the Preliminary Plat that were just copied over onto the Final Plat.

Ethan Watel states another concern the BOCC had was “citizen pressure” at the hearing. For example, Independence was dormant for a number of years and then all of a sudden everything you have to do is in front of you in one night. People felt there was no point to have a Preliminary Plat if you were just going to move onto the Final Plat. It is a balancing act. Agrees it would add to the cost for the applicant to do 2 sets of hearings.

Bob Lewis asks what the team things about this.

Linda Krausert suggests there be an option dependent on the application.

Dan Michalak talks of the complexity of some applications.

Bob Lewis would like to leave it as is per the current regulations.

Dan Michalak states there needs to be a balancing act of some sort.

Ethan Watel states the PC could recommend to strike it and the BOCC could take the advice or not.

Bob Lewis suggests we have something where the applicant and CDS Director decide whether to have 2 hearings or combine them into 1.

Kipp Parker suggests the CDS Director make an administrative decision. Does not want to create another government meeting for some poor shmuck.

Bob Lewis would vote to remove it. CDS Director may waive the Preliminary Plat if she determines; would leave 2 but strike 3.
Vince Hooper explains there is a risk the applicant takes if they do a Preliminary Plat and Final Plat together. As there could be a problem with the Preliminary Plat and then they must change the Final Plat.

Bob Lewis would like to give the Staff the flexibility to get the job done and save money.

Justin Klassen asks how to notify a process that may be a Preliminary Plat, Final Plat combined, but could be. If CDS determines no Preliminary Plat is needed and it goes straight to Final Plat, or it is done concurrently, but then it breaks apart, then is it necessary to re-notify.

Ethan Watel clarifies if the Preliminary Plat is approved but the Final Plat stops, then it will need to be re-noticed.

*Planning Commissioners continue to discuss the options regarding concurrent review and the CDS Director’s role in determining a concurrent review of a Preliminary Plat and Final Plat is needed or not and how to word such in the regulations.*

In conclusion, the PC agrees to strike the wording, “but in no circumstances shall the Preliminary Plat and Final Plat be considered at the same public hearing.”

Dan Michalak: References page 13-15 would like to add headings. As well as having a whole chart on one page; referencing page 22-23.

Peter Hoogendyk: Recommends keeping wording consistent to state CDS.

Ethan Watel agrees to change wording with “alleys” to “easements and all roadways”.

Kipp Parker suggests discouraging alleys but not state “prohibit” due to existing alleys in certain towns.

*Planning Commissioners continue to make small word changes, consistency in numbering and word usage, as well as clarity and typos.*

Jim Keen would like to give the CDS Director more flexibility to make a 4 lot a Minor and have it done administratively. Feels 3 lots is too low.

Kipp Parker: The “one size fits all” doesn’t work. We need to make this with as much flexibility as possible.

Christina Stanton: There will be a set list of criteria the applicant would need to meet. Would like to place something in regulations which states if there are major impacts, then it may be necessary to follow such regulations. Where if there are no impacts, then it could be done comfortably as a Minor.

Peter Hoogendyk fears legal liability if one applicant is treated differently than another.

Justin Klassen believes it must be a set standard and not left up to the CDS Director, no matter who they may be. Agrees with Jim that the number must be higher than 3 lots but less than 7 lots.

*Planning Commissioners continue to debate the number of lots to be considered a Minor and done administratively.*
Planning Commissioners agree 4 lots is acceptable.

_Kipp Parker makes a motion to continue to next meeting, December 4, 2018. Second by Linda Krausert. Motion carries 7-0._

_Peter Hoogendyk makes a motion to adjourn. Second by Kipp Parker. All agree, motion carries 7-0._

MEETING ADJOURNED AT 10:10 PM