ELBERT COUNTY
Meeting Minutes
PLANNING COMMISSION HEARING
BOCC HEARING ROOM
215 COMANCHE ST
KIOWA CO 80117
MARCH 5, 2019

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 7:04 pm.

PRAYER: Led by Jim Keen

PLEDGE OF ALLEGIANCE: All

ROLL CALL

Commission members present: Peter Hoogendyk, Danny Willcox, Anthony Hartsook, Jim Keen, David Lenio, Justin Klassen, and Dan Michalak

Staff present: Christina Stanton, CDS Director; Tracey Aaron, CDS Administration; Troy Hangen, CDS Planner; Vince Harris, Baseline; Vince Hooper, Baseline; and Ben Thurston, Baseline.

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)
● No items

CONSENT AGENDA:
● No items

CITIZEN COMMENTS ON GENERAL ITEMS
● None

END PUBLIC COMMENTS
PUBLIC HEARING BEGINS

Danny Willcox reviews the Public Hearing process:

This matter requires this body to conduct a quasi-judicial hearing, which means the body must find facts and base its decision upon the application of the adopted regulation standards/criteria and the competent, substantial and material evidence received during this hearing. Planning Commission can either approve, approve with conditions, or deny. All testimony must be competent, on topic and not repetitious.

VINCE HOOPER (Baseline): INTEGRITY AUTO – RZ-18-0004

Vince Hooper briefly introduces himself to the Planning Commissioners.

Overview of INTEGRITY AUTO - Application RZ-18-0004:

- A request to Rezone an 8.75 acre portion of a 43.76 acre parcel from A – Agriculture to C – Commercial
- The remainder 35 acres will remain Agricultural
- Owner of property is Unbridled Holdings LLC
- Owner of Integrity Auto is Jim Jerrold
- Auto Repair business
- Rezoning will resolve the zoning violations
- Since adjacent to Town of Kiowa, asked town to consider annexation per IGA
- Town of Kiowa did not want to annex property
- BOCC Hearing is for March 27, 2019
- Public Notice of Hearing
  1. Mail property owners within 1,320 feet
  2. Sign: posted on N. Elbert Rd
- Business is located near Hwy. 86 on N. Elbert Rd, Kiowa
- Mailed out referrals to many agencies: Notable Comments
  1. Elbert County Dept. of Health and Human Services
     - Concerns related to currently used septic system deficiencies have been corrected
     - 2nd septic system must be properly abandoned
  2. Colorado Division of Water Resources
     - If the parcel should be subdivided into 2 separate parcels, matching the zoning boundaries, the existing well permit will be invalid and must be re-permitted
- Elbert County Zoning Regulations criteria talks about the suitability of the proposal in relation to the community and/or area
  1. Density
  2. Lot size
  3. Population
  4. Water use
  5. Open space
  6. Agriculture lands

- Rezoning Evaluation
  1. Staff considers the application suitable with considerations:
• Property location adjacent to Town of Kiowa boundaries, contains existing commercial uses
• Intersection of 2 principle arterials – Hwy 86 and N. Elbert Rd.
• Property is in transition between Town of Kiowa and commercial uses to the east and agricultural uses to the west and south
• No environmental concerns
• Potential for future annexation

2. Adequate resources to support the proposed rezoning and uses. Issues to consider:
   • Schools
   • Roads
   • Law Enforcement
   • Animal control
   • Fire Protection
   • Social Services

   ● Staff Considerations:
     o Did not receive any concerns from the referral agencies/service providers about the ability to serve proposed commercial uses at site
     o Rezoning approval standards: Provides further guidance and criteria regarding rezoning:
       1. Complies with the goals and policies of the Elbert County Master Plan
          ● The proposed rezone was evaluated in relationship to goals and policies for:
            o Commercial Development
            o General Community Resources
            o Public Safety
            o Transportation
            o Water, sewer, waste & disposal
            o General environment
            o Wildlife
            o Historic resources
            o Water conservation

       2. Compatible with surrounding land uses
          ● The proposal is to rezone only a portion of the parcel to Commercial and to maintain the Agricultural zoning on the remainder is compatible

       3. Adversely impact the provision of public services
          ● Proposed zoning will not be detrimental
          ● Did not receive any objections from referrals

       4. Proposed zoning would adversely impact the environment
          ● No sensitive species or habitats have been identified on the property
          ● No adverse environmental impacts by rezone

       5. Create traffic congestion or burden the existing road system
          ● Property’s location at the intersection of two Principle Arterials, Hwy 86 and N. Elbert Rd, ensures adequate road capacity

       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
          ● Would not create any detrimental impacts to the health and safety of Elbert County

STAFF FINDINGS AND RECOMMENDATIONS:
1. It is in general conformance with the Elbert County Comprehensive Plan.

2. Meets criteria for approval in the Elbert County Zoning Regulations.

3. Elbert County Subdivision Regulations are not applicable to the rezoning.
4. Is compatible with existing and allowed land uses in the surrounding area.

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

Staff recommends the Planning Commission recommend Approval of RZ-18-0004 to the BOCC, subject to the following conditions:

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

2. The rezoning shall not become effective until all fees are paid, 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 secondary septic system that exists on the site must be properly abandoned, including crushing & burying, following Elbert County Department of Health & Human Services standards prior to hearing before the BOCC. Documentation of proper abandonment shall be provided to Elbert County Department of Health & Human Services.

5. Well permit no. 310900 was issued for this parcel on the basis that the subject 43.76 acres consisted of a single parcel. If the parcel is proposed to be subdivided into two or more parcels, well permit no. 310900 will be invalid, and the well must be re-permitted. Availability of any new permit would be determined at the time an application is submitted to the Colorado Division of Water Resources.

PRESENTATION CONCLUDED

JIM JERROLD, APPLICANT - DISCUSSION
- Owner of Integrity Auto Repair
- Represents Unbridled Holdings LLC who is current property owner

PUBLIC COMMENT
Tanner Lindt:
- Overall in support
- Concern is if Jim Jerrold sells his property to someone else; would like a clear separation between Agriculture and Commercial area
- Doesn’t want someone to expand the Commercial property out further

END PUBLIC COMMENT
PLANNING COMMISSION DISCUSSION

Jim Jerrold: Immediately following the rezone, has intentions to create a subdivision which will ensure a clear division.

Dan Michalak: Concerns over traffic and turning lanes given its location and if any of this was in consideration. Wants to ensure it meets Elbert County Regulations.
Vince Hooper: Public works had no worries or concerns and was comfortable with the current road access. Applicant did receive a driveway permit from Public Works.

Jim Keen: Very pleased with the clean-up and improvements Integrity Auto has made on the property. For many years prior to, the place was a “dump”.

Justin Klassen: Asked if well permit was specific to subdivision.

Vince Hooper: Clarifies the response received back from the State Dept. regarding the well. Further clarifies the applicant is not proposing to subdivide at this point. (Vince recaps the area to be rezoned Commercial using visual data.)

Jim Keen makes a motion to approve RZ-18-0004, Integrity Auto Rezone, with the 5 Conditions. Dan Michalak seconds.

Motion open for discussion:

Peter Hoogendyk: Asks if it is in compliance with the Fire District.

Jim Jerrold: States he is 100% in compliance.

Vince Hooper: It was also inspected by the Building Dept.

Danny Willcox: Asks if the second septic system has been abandoned. Requests the septic system be found and remedied prior to presenting to the BOCC. Health and Human Services will need to inspect and validate proper abandonment. Added to Conditions.

Vince Hooper confirms Condition.

Jim Keen makes a motion to approve RZ-18-0004, Integrity Auto Rezone, with the 5 Conditions, including additional requirement (to Condition #4) of validation of proper abandonment of septic system prior to going to BOCC. Dan Michalak seconds. All in favor. Motion carries 7-0, with 2 absent.

END PLANNING COMMISSION DISCUSSION

BEGIN PUBLIC HEARING: DELBERT HILLS RZ-18-0094 AND MD-18-0095

BEN THURSTON (Baseline): DELBERT HILLS – RZ-18-0094 & MD-18-0095
Ben Thurston briefly introduces himself to the Planning Commissioners.

Overview of DELBERT HILLS REZONE - Application RZ-18-0094 & MD-18-0095:

- Request to rezone from A-Agriculture to AR- Agriculture Residential
- Minor Development to subdivide into six, 10 acre lots and one, 87 acre lot
- This application falls under previous regulations due to submittal prior to adoption of new regulations on Feb. 1, 2019
- All information is based on prior regulations
- Applicant is CJ Kirst from Tahoe Consulting LLC
- Existing property is 161 acres
- Currently unplatted and has 1 existing home on (proposed lot 3)
Scheduled for BOCC on March 27, 2019
 Notices were mailed to owners within 1,320 feet from property
  o Posted Sign on CR 1 / Delbert Rd.
  o Published in newspaper, Feb. 14, 2019
 Property is located on Delbert Rd.
 Surrounding area consists of zoning RA-1/Residential Agriculture and A /Agriculture
 87 acre lot could be subdivided into eight, 10 acre lots in future
 Proposal includes dedication of CR 178
 Spring Valley Ranch would have the obligation to connect CR 1 to CR 178
 Application was sent to referral agencies per Elbert County Regulations
 Notable comments from referral agencies:
  o Colorado Division of Water Resources:
    ▪ Could not conclude water supply was adequate
    ▪ Confusion regarding existing augmentation plan
    ▪ Applicant will submit an amendment to the augmentation plan upon completion
    ▪ Received follow up letter from CDWR on Feb. 22, 2019, which confirms under the existing plan, there is adequate water supply
  o Elbert County Public Works / County Engineer, and Douglas County Engineering:
    ▪ All have similar comments
    ▪ Require a full review of CR 178
    ▪ Traffic impact and needed improvements associated with Spring Valley Ranch’s planned connection to CR 1 will be reviewed by both counties
    ▪ Staff has added requirements to “Conditions of Approval”
  o IREA and Century Link:
    ▪ Both utilities will not accept vacating existing easement via plat
    ▪ Agree to vacate by separate documents at the appropriate future date

Elbert County Zoning Regulations: PART 1, SECTION 6.B – General Rezoning Approval Standards
  ● Rezoning complies with the Comprehensive Plan
  ● Is compatible with the surrounding land uses
  ● Will not adversely impact the provision of public services
  ● Does not adversely impact the environment
    o Specific improvements will be addressed at the time of the building permit review
  ● Will not create traffic congestion or burden to existing roads
  ● No known impact on public health and safety

REZONING FINDINGS & RECOMMENDATIONS
  1. In conformance with the Elbert County Comprehensive Plan.
  2. Meets all criteria for approval in the Elbert County Zoning Regulations.
  3. Not applicable to the Elbert County Subdivision Regulations.
  4. Compatible with existing and allowed land uses in the surrounding area.
  5. Will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

Staff recommends the Planning Commission recommend APPROVAL of DELBERT HILL REZONE RZ-18-0094 to the BOCC, subject to the following conditions:
  1. The applicant shall remove the public hearing sign(s) within seven (7) days of a decision by the Board of County Commissioners.
  2. The rezone shall not become effective until all fees are paid, conditions of approval are met, and the Rezone Exhibit is recorded.
  3. Recordation of all appropriate documentation to occur within 180 days of approval by the Board of County Commissioners.
Elbert County Subdivision Regulations:
  ● SECTION 1.C – Acceptance of a Subdivision
    ○ Complies with Elbert County Subdivision Regulations, Zoning Regulations, and Comprehensive Plan
    ○ In compliance with all applicable statutory provisions
    ○ Colorado Health Department and Colorado Dept. of Transportation
      ▪ No conflict with Health Dept.
      ▪ Was not referred to the Colorado Dept. of Transportation as it does not access any state highway
  ● SECTION X.C. – Required Submittal for Minor Residential Development
    ○ Applicant has submitted all required information
  ● SECTION X.D. – Criteria for Approving or Denying Minor Residential Development
    ○ The Staff Report constitutes the Community & Development Services (CDS) written recommendations and proposed findings. CDS has communicated with the applicants regarding the application, and the applicant is aware that they may respond to CDS Department’s recommendations and findings
    ○ Planning Commission should consider all evidence presented

MINOR DEVELOPMENT FINDINGS & RECOMMENDATIONS
1. The proposal is in general conformance with the Elbert County Comprehensive Plan.
2. The proposal meets the criteria for approval in the Elbert County Subdivision Regulations.
3. The proposal is in general conformance with the standards of the Agriculture Residential zone district, should it be approved.
4. The proposed land use is compatible with existing and allowable land uses in the surrounding area.
5. The proposed land uses will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

Staff recommends the Planning Commission recommend APPROVAL of DELBERT HILL MINOR DEVELOPMENT MD-18-0094 to the BOCC, subject to the following conditions:
1. The applicant shall remove the Public Hearing sign within seven (7) days of a decision by the Board of County Commissioners.
2. The minor residential development will not become effective until all fees are paid, conditions of approval are met, and the required documents are recorded.
3. Recordation of all required documents shall occur within 180 days of approval by the Board of County Commissioners.
4. The subdivision plat shall comply with the submittal requirements in the Elbert County Subdivision Regulations and the applicant shall submit two copies on mylar to Community and Development Services for County signatures and recordation by the Elbert County Clerk and Recorder.
5. Prior to construction of any portion of CR 178, Elbert County shall review and approve complete construction documents, geotechnical report, and drainage report for the road.
7. Impact fees shall be paid to Rattlesnake Fire Protection District in the amount of $2,897 with the building permit for each home. The developer and builders shall comply with the Rattlesnake Fire Protection District Builders Guide.
8. Prior to recording the plat, the applicant shall submit a revised letter from the Colorado Division of Water Resources confirming an adequate water supply. RZ 18-0094 & MD 18-0095 Delbert Hill Rezone and Minor Development. *(ELIMINATE #8 – LETTER OF APPROVAL RECEIVED FEB. 22, 2019.)*

9. Prior to recording the plat, Elbert County and the applicant shall enter into a Subdivision Improvement Agreement.

10. All Elbert County fees shall be paid to Elbert County prior to recordation of the plat.

MINOR RESIDENTIAL DEVELOPMENT PRESENTATION CONCLUDED

CJ KIRST, TAHOE CONSULTING – APPLICANT PRESENTATION

- Received recommendation of approval back in July for the northern rezone and minor development
- Did not take it to BOCC
- After discussing with many neighbors, decided to rezone the entire 160 acres
- Created new site plan so all lots will access CR 178
- Plan to return to subdivide the 87 acres into 10 acre lots
- Further explains the situation with the water and augmentation plan
- Will get an amendment to the augmentation plan for approval to use the Upper Dawson wells
- Otherwise, the Denver Aquifer does not require augmentation

Danny Willcox and CJ Kirst discuss the rights-of-way.

PUBLIC COMMENT

Scott Marx: Questioned if all the buildings on lot 3 will be removed or destroyed.

CJ Kirst: At this point in time there are no specific plans to tear the buildings down.

Tom Silchia: Questions the remaining 18-20 acres outstanding.

Kahl Forrington: Talks of the traffic study done which states there is no major impact on Delbert. Believes the report is inaccurate and deceiving.

Tom Maroney: In support of this development and CR 178. States it has dragged on too long.

CJ Kirst: All the acres are accounted for; there are some dedicated to the county for right of way. The balance is within the lots; there is no open space dedication.

Danny Willcox confirms there is cash-in-lieu for open space rather than dedicating property.

CJ Kirst addresses the traffic study. Much of the traffic will come from the east and its future development, not from these 7+ lots.

END PUBLIC COMMENT

PLANNING COMMISSION DISCUSSION

Jim Keen: This application was submitted under the old regulations which allows a minor to be 7 lots. The new is less than 4. Confirms with staff that the future lots will no longer be considered a minor subdivision.
Christina Stanton confirms Jim Keen’s understanding is correct.

Dan Michalak: Asks CJ Kirst if he will be paving the roads to county standards.

CJ Kirst confirms.

Justin Klassen: Discusses the late letter received from the State regarding water.

Ben Thurston: Suggests it be included as a Condition of Approval to echo the opinion of the State Engineer’s office.

Justin Klassen: Asks Chairman to include a Condition of Approval.

Danny Willcox: Discusses the need of an augmentation plan be cleaned up prior to presentation to the BOCC.

CJ Kirst explains he doesn’t need a plan; he can pull a well permit for the Denver Aquifer under the old Carlson Ranch decree, which is explained in the Feb. 22, 2019, letter.

Tom Maroney states even if the augmentation plan does not get approved, they still have the water from the Denver Aquifer.

Discussion continues regarding water.

Justin Klassen asks for clarification regarding the demolition of the home on lot 3.

Ben Thurston explains that if they were to remove the existing home, then they would be able to have an additional 7 lots.

Danny Willcox discusses the SIA and asks if it has been worked out with the county.

CJ Kirst states it has not been finalized yet.

Danny Willcox:
- Would like the SIA and agreement worked out with the county and in place prior to presentation to the BOCC
- The SIA is a very important part of the application
- Secondly, would like the deeding of the rights-of-way to the county completed prior to the BOCC hearing

Tom Maroney explains this process will be done upon approval of the final plat and will be dedicated to the county at that point. When the owner signs the final plat, it states these roadways are dedicated and belong to the county. It’s not a separate deed.

Danny Willcox asks the SIA to be added to the Conditions.

Ben Thurston agrees and states it will be added to Condition #9, wording to include “prior to the BOCC hearing, the applicant shall finalize the SIA with the county attorney.”

Dan Michalak asks who will own the water rights.

CJ Kirst: No determination has been made yet.
All agree to remove Condition #8.

END PLANNING COMMISSION DISCUSSION

Dan Michalak makes a motion to approve Delbert Hills Rezone, RZ-18-0094, subject to the following Conditions 1-3. Second by Jim Keen.
   ● All in favor. Motion carries 7-0

Dan Michalak makes a motion to approve Delbert Hills Minor Subdivision Development, MD-18-0095, subject to the following Conditions 1-7, amending 9 to add, “…prior to the BOCC hearing, the applicant shall finalize the SIA with the county attorney.”, and 10. Second by Peter Hoogendyk.
   ● All in favor. Motion carries 7-0

5 MINUTE BREAK

CHRISTINA STANTON PRESENTATION – AMENDMENTS TO ECZR & SPECIAL EVENT PERMITS:
   ● A request to amend certain sections of the Elbert County Zoning Regulations and add regulations pertaining to Special Event Permits
   ● Applicant is CDS
   ● Scheduled for March 27, 2019, BOCC hearing
   ● Noticed in Elbert County News on Feb. 18, 25, and March 4, 2019, per requirement
   ● Proposed amendments
     o Article I:
       ▪ Additions to the Enforcement of Rubbish, Trash, or Junk section
       ▪ Directly from Ordinance 12-01
     o Article II:
       ▪ Addition of the “Rezone Exhibit” in the General Requirements Table
       ▪ Correction of notification templates; minor edits
       ▪ Addition of a Mailing Notice Template for Community Meetings
       ▪ Addition of certification language for mailed notices
     o Article IV:
       ▪ Added a sentence for clarification to the descriptions for Light and General Industrial
       ▪ Referenced back to the Land Use Table
     o Article V:
       ▪ Added “Greenhouse (non-commercial)” as an accessory use in all agriculture and residential districts
     o Article XIII: Special Events
       ▪ Added new language for “Special Events”
       ▪ Currently states insurance is required only on county property and county rights-of-way, which needs to be revised
     o Appendix A: Definitions
       ▪ Added definitions for “Cash-in-Lieu of Open Space” and “Residential Subdivision”
       ▪ Revised “Dwelling, Single-Family” definition
         ● Removes “700 square foot” requirement from definition to allow tiny homes, but must meet building codes
         ● Removed the statement requiring one kitchen
   ● Christina Stanton requests feedback and/or corrections
**PC DISCUSSION AND QUESTIONS**

Dan Michalak: Questions MH (Mobile Home). Thought it was eliminated.

Christina Stanton explains it is an obsolete district, but we still have several areas currently zoned MH, Simla and Matheson.

Vince Harris states there is a large development, approximately 200 acres north of Elizabeth, zoned “MH”.

Peter Hoogendyk: Asks for clarity on page 152, “Vision Clearance Triangle”.

Vince Harris: “Vision Triangle is at an intersection. We measure back from the radius a number of feet to create a triangle on both sides of the radius and connect those 2 points so that it creates a vision triangle and you can’t have anything over generally 42 inches in that. So, when you are in a car, you can see around the corner; you can see traffic coming down the street.” It’s a visibility triangle.

- There won’t be different dimensions
- Must meet a transportation standard
- Every zone district must comply with a visibility triangle
- It’s a standard triangle for every intersection
- May need to be reworded for clarity
- It is enforced by the Zoning Officer

Christina Stanton will revise and check with Public Works as well.

**PC DISCUSSION CONCLUDED**

Peter Hoogendyk makes a motion to APPROVE Amendments to ECZR and Special Event Permits. Second by Anthony Hartsook.

- Motion carries 6-1
- 2 Commissioners absent

Justin Klassen asks if the Special Events Permit will affect outdoor marriages due to the number of people.

Christina Stanton explains there are a list of exemptions and conditions

- If over 100 attendees, it will fall within a “minor”
- If over 500, it will fall within the “major” category
- Intent is to ensure safety
- Fire Departments require notification of event as well

Peter Hoogendyk asks about wedding venues.

Christina Stanton explains those require a review and Special Use by Review (SUR). SUR’s are required if more than 3 events take place within a year on Agriculture or Residential property. It’s 30 or more for Industrial or Commercial.

Vince Harris suggests rewording for further clarity.
Dan Michalak makes a motion to adjourn. All in favor.

MEETING ADJOURNED AT 8:58 PM