ELBERT COUNTY
Meeting Minutes
PLANNING COMMISSION HEARING
BOCC HEARING ROOM
215 COMANCHE ST
KIOWA CO 80117
April 16, 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 7:01 pm.

PRAYER: Led by Kipp Parker

PLEDGE OF ALLEGIANCE: All

ROLL CALL

Commission members present: Peter Hoogendyk, Danny Willcox, Jim Keen, Linda Krausert, Dan Michalak, Kipp Parker, and David Lenio.

Staff present: Christina Stanton, CDS Director; Tracey Aaron, CDS Administration; and Andrew Baker, Baseline.

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)
Christina Stanton: Updates PC on the XX and NZ zoning changes occurring in the near future
  • In the process of sending notices to property owners
  • Next PC Hearing is May 7, 2019
  • Update on previous omitted referral submitted for Gambel Hills

CONSENT AGENDA:
  • No items

CITIZEN COMMENTS ON GENERAL ITEMS
  • None

END PUBLIC COMMENTS

APPROVAL OF MEETING MINUTES:
  A. March 5, 2019 – Approved as written
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.

ANDREW BAKER (Baseline): GAMBEL HILLS – RZ-18-0085 & MD-18-0086
Andrew Baker briefly introduces himself to the Planning Commissioners.

Overview of DELBERT HILLS - Application RZ-18-0085 & MD-18-0086:
- A request to approve a rezone from Agriculture (A) to Agriculture Residential (AR)
- Request to approve Minor Development to subdivide a 53.6 acre parcel into five, a little over 10 acre lots
- Owner: Gambel Hills LLC
- Applicant: CJ Kirst, Tahoe Consulting
- Pre-application meeting was on Nov. 15, 2018
- Community meeting was on Dec. 17, 2018
- Application submittal:
  - Dec. 18, 2018
  - Feb. 19, 2019
  - March 22, 2019 – addressed referral comments
- Goes to BOCC on May 8, 2019
- Notice of Public Hearing was sent out, via mail, to all property owners within 1320 ft.
- Sign posted on CR 154
- Newspaper: Elbert County News on March 28, 2019
- Projected located on western side of Elbert County; northeast of Elizabeth
  - Northwest corner of CR 154 and CR
- One existing house on the property
- Zoned A-Agriculture
- Surrounded by AR zoning which is what this project would be rezoned to
- Lot #5 has the existing home on it
- Planning 4 new residential homes on other properties
- Applications were sent out to Referral Agencies per Elbert County Regulations. The following sent back comments:
  - Dept. of Health and Human Services
  - Planning Dept
  - IREA
  - Surveying (Baseline)
  - Colorado Division of Water Resources
  - Intermountain Rural Electric Association (IREA)
  - Xcel Energy
  - Century Link
  - Black Hills Energy
  - Elizabeth Fire Protection District was not sent a referral request due to error but was to
be included. They have been sent a referral request and will be given an adequate review period to respond and provide comments.

- Typical comments would include fees and driveway construction, which would not necessarily change the rezoning, plats, or Conditions of Approval
- The 2019 fee resolution for Elizabeth Fire does require a $1,226.00 per house, impact fee would be applied to this as well

Andrew Baker informs the PC he will continue his presentation and inform them of what the Recommendations currently are. Advises to keep in mind there may be additional comments and/or Conditions from Elizabeth Fire in the future, which could change the final Conditions.

He also gives the PC the option of continuing with the presentation and recommending approval now or continuing the hearing to a later date. He continues with notable referral comments:

- Colorado Division of Water Resources
  - Augmentation plan recently approved
  - Project has adequate water supply
  - Well must be re-permitted
    - Per CJ Kirst, well has just been permitted a few hours previously
- Elbert County Health and Human Services
  - Residential lots must be a minimum of 10 acres for well and septic
  - OWTS must be applied for and permitted
  - Setbacks must be met
- IREA
  - Requested utility easements

Rezoning Evaluation: Proposal is consistent with criteria in Elbert County Zoning Regulations Part I, Section 6.B.

- Staff Considerations:
  - Complies with the goals and policies of the Elbert County Master Plan
  - Compatible with surrounding land uses
  - Impact of public services
    - The applicant has provided adequate access and utilities
  - No adverse impact on the environment
  - Minimal impact on traffic
  - No known impact on public health and safety

AR Zoning Standards:
- Each lot meets the zoning regulations in the AR district
- Meets minimum lot area and minimum lot width

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-18-0085 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 rezone request 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 BOCC

Minor Development Evaluation: Proposal is consistent with the criteria of Elbert County Subdivision Regulations Section I. C.

- Staff Considerations:
  - Compliance with the Subdivision Regulations, the Zoning Regulations, and the Master Plan
  - Complies with statutory provisions
  - Complies with Colorado Health Department and Colorado Dept. of Transportation regulations
    - No known conflicts were identified because the project does not have access to any state highway
  - Proposal is consistent with Elbert County Subdivision Regulations
    - Applicant has submitted all required information
  - Criteria for Approving or Denying Minor Residential Development
    - CDS has prepared a written recommendation
    - The applicant may respond to CDS’s recommendation
    - Planning Commission shall consider all evidence presented

STAFF FINDINGS AND RECOMMENDATIONS FOR MINOR DEVELOPMENT:
1. General conformance with the Elbert County Comprehensive Plan

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

3. Conformance with the Agriculture Residential zone district

4. Compatible with existing and allowable land uses in the surrounding area

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

Staff recommends the Planning Commission recommend Approval of MD-18-0086 to the BOCC, subject to the following conditions:

1. The applicant shall remove the Public Hearing sign with seven (7) days of a decision by the BOCC

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 BOCC

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 the CDS for County signatures and recordation by the Elbert County Clerk and Recorder

Prior to recording of the plat, the applicant shall submit a revised letter from the Colorado Division of Water Resources confirming the well has been re-permitted and that they received all pertinent information

Andrew Baker states this is the point where the PC can add to the conditions of approval or continue it until information is received from the Elizabeth Fire Dept.

PRESENTATION CONCLUDED

Planning Commission discusses their options:

Dan Michalak feels it should be continued.

Kipp Parker prefers to move forward; if there is a way to pass it subject to the Fire Departments response.

Linda Krausert feels it is important to get complete details from Fire Dept. before moving forward.

Dave Lenio agrees with Kipp Parker.

Jim Keen prefers to continue.

Danny Willcox feels it lacks critical components.

Dave Lenio agrees with Danny Willcox.

Danny Willcox concludes there will be no vote tonight, but due to all those who showed up, they will listen to the applicant and allow anyone to speak. There will be a vote to continue to a date certain.

CJ KIRST, APPLICANT - DISCUSSION

- Simple application
- 53 acres divided into 5, 10 acre lots
- No needed public improvements
- It conforms with the area
- Similar uses surrounding property
- Does not expect anything out of the ordinary from Elizabeth Fire
- Would like continuance on May 7th to stay on schedule and prior to BOCC on May 8th
- Available for any questions or concerns

PUBLIC COMMENT

Britany Bulthaup: Questions if they will pave the road and who makes that decision. Also wants to know if it is going to be propane or natural gas; easements for such. Questions IREA and where the electrical lines would go.

Paul Lester: Curious on how water is determined.

John Maubach:
- Concerned about entry points on CR 154
- Deterioration of CR 154 due to all the trucks going up and down it
- County does not take care of it often enough
- Each lot have own well and what aquifer is used? Impact on more use?
- Concerns over safety on corner of CR 154 and CR 5

Kim Lester: Thanks PC for doing Pledge of Allegiance
- Agrees with John Maubach
- Concerned over plowing and would like it to be plowed sooner due to large hill
- Worries about emergency services reaching them when road is not plowed quickly

Darlene Wieland-Collett: Questions the number of homes

CJ Kirst responds:
- Generally, 200 trips per day are required to pave a road
- This project will not exceed the trip limit
- Pay significant transportation fees for roads and the repair of via TAZ fees
- Have dedicated easements for gas and electric
- No decision made on natural gas or propane
- Have a legal process for calculating water and usage
- Each home is allowed to use .75 acre feet per year
- State confirms amount each property is allowed to use
- Will use the Upper Dawson
- Have augmentation plan
- State oversees drilling of wells and mandates drilling to the bottom of aquifer for new wells
- 3 lots take access off CR 154; others will use CR 5
- Required distance between driveways
- Intersection of CR 154 and CR 5 is already existing; not planning on changing it; may be a county issue

Danny Willcox recap CJ’s responses to citizens’ questions
- Reminds public that all documentation is online
- Explains calculation of 200 trips. Relates to 10 trips per day, per home
- Analysis is for this particular subdivision only
- The county looks at all roads
- Recommends the citizens contact Road and Bridge regarding their concerns over the mud and repair of the roads. The county will look to see if there are any issues.

CJ Kirst explains the dedication of right of way. There are no additional roads.

Linda Krausert encourages the citizens to speak to Road and Bridge with their concerns, as they are more than willing to help.

END OF PUBLIC COMMENT

PLANNING COMMISSION DISCUSSION

Kipp Parker asks what a line means on the exhibit shown. Also questions a right-of-way.

CJ Kirst explains it’s an easement for gas. There was also an old railway which went through there. The right-of-way is 30 feet.
Dan Michalak speaks of water rights and asks how the applicant will sever the water rights. Also states that without seeing the augmentation plan, there is no way to see if they meet the 300 year plan. Suggests it be completed prior to the BOCC hearing.

CJ Kirst confirms the augmentation plan is done and submitted to CDS staff in March. The water rights will be conveyed with a Special Warranty deed at closing.

The Planning Commission and CJ Kirst continue to discuss the water and what the State allows and the standard procedure.

**Date certain is May 7th for continuation.**

*Dan Michalak makes a motion to continue the hearing of Gambel Hills Rezone, RZ-18-0085 and MD-18-0086 to a date certain of May 7th at 7pm. Linda Krausert seconds. ALL IN FAVOR. Motion carries 7-0.*

*Motion is made to adjourn. ALL IN FAVOR.*

**MEETING ADJOURNED AT 8:02 PM**