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 pm by Chair Dan Rosales

PLEDGE OF ALLEGIANCE – Led by Linda Krausert

ROLL CALL

Commission members present: Dan Rosales, Ron Turner, Brian Harris, Paula Wilderman, Dan Michalak, Bob Lewis, Linda Krausert, Jim Keen, and Kipp Parker.

Staff present: Sam Albrecht, County Manager; Vince Harris (Baseline); Acting Interim CDS Director; Tracey Aaron, CDS Administration; Vince Hooper, PMP Baseline; Ethan Watel, Baseline Planning and Engineering.

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)

A. No items – Sam Albrecht

B. Citizen Comments not related to hearing items on agenda tonight. – None

CONSENT CALENDAR

A. No items – Ethan Watel

MINUTES TO APPROVE

A. None
A. Chair Rosales gave a brief overview of the contents of the hearing before the Planning Commission this evening, then turned the hearing over to Vince Harris.

B. Vince Harris spoke as a representative of Baseline Planning and Engineering, as well as reminding the attendees that he is currently acting in the capacity of interim CDS Director for Elbert County.

C. Vince Harris gave an overview of the items on the agenda for the hearing tonight; he spoke regarding the best way to go through these items for the evening and explained to the attendees and Planning Commission what the proposed changes, or amendments, would involve. He continued to describe the process that is underway regarding amendments being proposed to be made to the Elbert County Zoning Regulations. He suggests that all three items on the agenda tonight be handled somewhat together, with each portion of the process requiring a separate motion and roll call vote for each. What follows here are bullet points of his description of the proposed amendments and processes, and what the purposes are for these changes.

- Add a new “Overlay Zone District” to the Elbert County Zoning Regulations
- There is no existing procedure for the county to rezone other than for a single property. This would create a process for the county to have a way to help property owners rezone their property that is within the corridors (to be mapped later) that would be used for the EDZ.
- The third component is regarding enforcement issues within the county, and how there have been many struggles to maintain and enforce remedies regarding zoning and land use violations that occur in Elbert County. The CDS Department has worked with Bart Greer, the County Attorney, to put together appropriate processes and procedures that will enable Elbert County to ultimately have a steadier and stronger platform on which to stand when it comes to code enforcement issues that arise in Elbert County. Whether it is Administrative or through the Courts, Bart Greer has worked to put together good legal standards and processes that will aid in a better code enforcement system moving forward.

D. Vince Harris returned to the process of the first topic and the creation of the Overlay Zone District. He continued to explain the Economic Development Zone (EDZ) and the Overlay Zone District. Vince Harris continued to discuss the process, up to this point, of what has been going on to bring these proposed amendments to the point of being presented to the Planning Commission, giving them an opportunity to vote on these items. Vince Harris continued to speak to the process incorporating these proposed amendments and changes into the Elbert County Zoning Regulations. He also spoke at the Open House that was held in December to present these ideas to the citizens of Elbert County, and to get input and comments on how the citizens of Elbert County felt.
• Phase I – Creation of Overlay District, the Overlay Zone District doesn’t change the existing zoning. If a property is zoned Agricultural it will remain Agricultural, there would simply be the allowance of a property owner to take advantage of the possibility for them to develop a portion of their property. Utilizing the “Overlay” zoning to include approximately 1320 feet into their property from the centerline of the road right of way that would allow them to maintain their agricultural zoning, but also be able to use their property for other commercial endeavors. They would have to go through a commercial site plan process with the CDS Department prior to doing anything commercial on their property, but the creation of this Overlay Zone District will be a great way for people to use their properties in different ways, and it will benefit the County, ultimately, as well. Vince Harris continued to explain the different ways and different scenarios if this Overlay Zone District is approved.

• Phase II – Information and referral gathering process put into effect, after approval of the Overlay District, if it is approved as an added Zone District.

• Phase III – The County would begin the notification process; the BOCC would notify the citizens as to when and where hearings would be held, and how this will work.

• Phase IV – PC and BOCC will have the public hearings to determine where the Economic Overlay District would be applied and would result in additions to the maps of the county; where the allowance would be for persons to be able to take advantage of this newly added zone district, should it be approved.

G. Prior to turning the hearing over to County Manager Sam Albrecht, Vince Harris displayed a map of Elbert County and gave possible examples of where this Economic Development Zone and Overlay District may possibly be located/mapped. He also spoke to the process and how it would work, should this Overlay District be approved. He referenced a map contained in the PC packet that shows some of the possible areas for the EDZ Overlay District to be located. He reiterated that should the EDZ Overlay District be approved; the normal process would be followed still; Site plans would be required, as well as the standard referral processes.

H. Sam Albrecht spoke to the presentation regarding the Overlay District that was given the previous week; he also spoke to the Planning Commissioners as to how the ‘Gallagher Amendment,’ passed in 1982, affects Elbert County and how property taxes are assessed. He proceeded to give a short presentation regarding the ratio of residential property taxation as opposed to commercial property taxation. This presentation gave the PC an overview of what future impacts the implementation of an Economic Overlay District may have for Elbert County.

End Staff Presentation
Dan Rosales introduced Linda Krausert as the newest member of the Planning Commission and gave thanks to her for giving of her time to be a part of the Elbert County Planning Commission.

Begin Public Comment

- **Heather Lively** - 525 S. Pearl St., Elizabeth – Chairperson of Elizabeth Planning Commission. Speaks on behalf of Elizabeth PC
  Concerns:
  Encroachment upon Elizabeth, Master Plan of Elizabeth, Abundance of new septic systems, increase in brown water possible with the implementation of the Overlay. Appreciation that Elbert County maintains respect regarding the 3-mile distance agreed upon with the IGA between the County and Elizabeth.

- **Grace Erickson** – 151 S Banner St., Elizabeth – Community and Development Director for the town of Elizabeth.
  Concerns:
  Proposed Overlay District is inconsistent with the Master Plan and IGA, the town is proposing a meeting at the staff and attorney level, as well as a meeting with the Town Manager, so that the town of Elizabeth may voice their concerns during these meetings, prior to the proposal for the Economic Development Zone/Overlay going before the BOCC.

- **Jim Lohmann** – Arrowhead Trl., Elizabeth,
  Concerns:
  Agenda items outside of the Development Zone; not sure how to comment on what’s being proposed, he doesn’t know details as nothing else is being addressed.

- **John Dorman** – 1968 Carlson Rd., Elizabeth
  Concerns:
  Spoke to the Code Enforcement items on the agenda. He stated that Code Enforcement is weak, at best, there are not consequences for the actions of people not abiding by the ‘rules,’ and he feels that the Code Enforcement procedure needs to be stronger. He presented some ideas and procedures that he put together regarding possible input from him and his offer to help dealing with Code Enforcement issues in the County, some of which he feels have been going on for far too long.

- **TJ Steck** – Fire Chief in Elizabeth, - representing the Seven Fire Districts in Elbert County, representing the Fire Chief’s Association.
  Concerns:
  The Chief’s Association fully supports the idea of the Overlay; however, they just recently received the packet and are concerned about the process. They haven’t had the opportunity to review the information within the packet and suggest possibly postponing the approval of the Overlay until a time that the Chief’s Association has had the opportunity to review the information and get answers to many of their questions. Questions include taxation, sale of parcels, use and tax process.

- **Ward Van** – CO RD 134, Kiowa – Spoke to his excitement about the proposed Overlay District; he spoke to developing the property on the
west side of Kiowa, and he wants to provide a service and a commercial tax base to Elbert County. He wants to be the first applicant if the Overlay District is approved.

End Public Comment

Staff Responses

A. Vince Harris spoke to the process of the Overlay, and the process regarding the Code Enforcement. The goal of the addition of the Code Enforcement section to the ECZR include violations, penalties, remedies, fines. He also addressed the concerns of the Fire Chiefs Association and a possible continuance to a date certain, if necessary.

B. Sam Albrecht addressed the concerns of the town of Elizabeth; he spoke to the fact that the County and all parties involved are more than willing to work with Elizabeth; it is the opinion of the County and the parties involved in creating this Overlay District that it does not violate the IGA, and it was stated that the goal of Sam Albrecht and those involved in the County is to work with the town of Elizabeth and any and all who may have concerns so that they may strengthen the IGA.

End Staff Comments

The Planning Commissioners proceeded to discuss the Overlay Zone District. Questions included the following topics:

- Locations where the Overlay may be mapped.
- Other agencies besides Fire District that may not have had an opportunity to review the information. Vince Harris spoke to the reference in the packet regarding the jurisdictions that did receive the referral packets.
- Appropriate time frame for Fire District to review documents; TJ Steck answered that there will be a meeting in approximately 10 days.
- Should a referral be sent to the Sheriff’s office as well? Vince Harris agreed that it would be appropriate.
- Concerns with the IGA/Elizabeth and other townships and the legality of the proposal of the Overlay. Sam responded that he has met with the County Attorney.
- Process of working with the townships – Sam spoke to how the County can support annexation plans, water and sewer plans and development, mile by mile, he feels that the County and the Townships can work together, and there can be amendments to the IGA.
- Concerns about appropriate wording regarding enforcement issues and remedies. Vince Harris speaks about the lack of procedures to this point; he has been working with the County Attorney, and the County Attorney is comfortable with the wording regarding the changes to Code Enforcement changes upcoming within the Regulations.
• Question as to Part II Section 27; should be Part II Section 28. Vince Harris states that right now Section 27 is a ‘blank’ section, this has been discussed.
• Taxation of properties; Vince Harris speaks to the Assessor taxing properties according to the “Use,” not zoning.
• What is before the PC to be approved? Sam Albrecht answered that they will be voting on the insertion of an Economic Development Zone to the Zoning Regulations. The policies and procedures, the mapping, etc., will be added; the vote this evening is only for the creation of a new zone district.
• Questions to the process.
• Concerns regarding water; would it be adequate, according to Fire Code in some of the mapped zones?
• Simplification of the Rezone process; takes out a lot of the steps that are currently in place.
• Water concerns; Vince Harris speaks to the fact that there will still be steps in place to ensure there will be adequate water, etc. There will still be referrals sent out; the rezone process will be simplified because of the allowance of the use of the Overlay district, but the requirements currently used in the rezone process will still be a part of the process. There won’t be items left out just because the Overlay Zone District is created.
• Regarding the Code Enforcement portion of tonight’s hearing; it was mentioned that there appears a possible need for more clarity. Vince Harris spoke that he could not speak for Bart Greer, but reiterated that during past discussions, it was brought up that language may need to be changed somewhat, the changes proposed would be agreed upon and confirmed prior to the new Code Enforcement section being adopted. Vince Harris stated that there needs to be a process added to the Zoning Regulations; later, there will be additional steps added to the process.
• Clarification amongst the Planning Commission members and staff as to what the process is for this evening; these are the first steps to create these zone districts within the Elbert County Zoning Regulations.

Hearing Recess for 10 minutes

• Paula Wilderman had one additional question regarding the distance allowed with the creation of the Overlay District. She wondered how it would work if someone’s business were to go further into the property than the proposed quarter mile zone. Vince Hooper answered that currently, the way the Development Zone is proposed, it allows for the ¼ mile distance. Should someone hope to utilize additional area of their land that exceeds that distance, they can go through different avenues, dependent upon the situation, as to what they may be able to do; whether it is to ask for additional land to be applied to the Overlay, or use a ‘buffer zone,’ or apply to utilize more of their property for the Overlay District.
• Kipp Parker asked for additional information regarding working through the differences that appear to be in place with the town of Elizabeth and the County, and the IGA.
• Discussions regarding the town of Limon and their tax revenue they receive from properties that are literally within yards of the Elbert County line.
• Uses by right questions; Vince Harris stated that they could “mix and match,” the underlying zoning would be the original zone classification of the parcel, but they could also utilize the Overlay Zone District.
• Grace Erickson spoke to the different zone districts that exist in the town of Elizabeth.
• Paula Wilderman discussed the possibility of respecting the IGA between the County and the town of Elizabeth. She feels that the answer is simple, and the IGA should be followed. Dan Rosales responded that there are other topics that play into this; he also mentions the possibility of “conditions of approval,” and Bob Lewis asked for clarification for when the Overlay comes within 3 miles of any township. Paula proceeded to state that she would like to see this topic continued for many reasons; most of which have to do with referrals, responses, and working out some of the details.
• Ron Turner speaks to a possible continuation. Vince Harris stated that he has no idea and can’t speak for the Fire Department and when they may or may not be satisfied, and he doesn’t know when the IGA may be worked through and Elizabeth and the County can come to an agreement. Ron Turner was asking about a possible time frame, if this was to be continued this evening, Vince Harris stated that he has no way of estimating any type of time frame as to when any of these items could be resolved.
• Bob Lewis spoke to the landowners who may be “held hostage” and unable to take advantage of the Overlay District just because there are a “few wrinkles” that may need to be worked out.
• Jim Keen states that he is ready to move forward.
• Dan Rosales speaks to putting in Conditions of Approval; it is brought up that the steps that will follow the recommendation of approval involve coordinating with the Fire Districts, the townships, and the Sheriff’s office, among others. This is simply a recommendation to create the new Overlay Zone District and add it to the Elbert County Zoning Regulations.

Bob Lewis made a motion that the Elbert County Planning Commission recommend the BOCC approve the addition of the Overlay Zone District, Part II Section 28 – Attachment B in the PC packet; further discussion regarding this vote being conditional on discussion with the town of Elizabeth, the Fire Chief’s, and the Sheriff’s office. Sam Albrecht spoke to the PC and stated that he will put all his resources behind him to speak with all the referenced entities and jurisdictions to ensure all are on board. This additional discussion generated a motion being made to amend the original motion to include a condition that the County would meet with the town of Elizabeth, the Fire Chief’s as well as the Sheriff’s office prior to this topic
going to the BOCC for a vote. The motion for this amendment was made by Dan Michalak, and a second by Ron Turner, all were in favor.

The original motion made by Bob Lewis and a second by Ron Turner to recommend approval for the addition of Part II, Section 27, and the Economic Overlay Zone District was brought to the table for a vote; all were in favor.

Bob Lewis made a motion that Revisions to Part I Section 6 as outlined in Attachment C, Revisions to the Rezoning Procedures and Requirements be recommended for approval to the BOCC. Ron Turner asked for clarification of verbiage and specific direction as to how this should be carried out. Vince Harris suggested how this could be remedied; he spoke to making it a formal action. There was further discussion with Vince Hooper, as well as Dan Rosales. After the additional discussion, it was determined that there should be an amendment to the motion made by Bob Lewis to vote on the Revisions to Part I Section 6 as outlined in Attachment C. There was a motion made by Ron Turner to amend the terms of Page 18, part C 1-A, to strike out ‘Directs’ and change the wording to be more specific. The second was made by Jim Keen, and the motion carried, after Vince Harris suggested that wording could be included to specify that the PC, the BOCC, or the BOA “directs with an official approved resolution from that board.” There was additional discussion as to who the applicant may be in an individual scenario; Vince Hooper clarified that it would be the same, no matter who the applicant was. Dan Rosales also wanted to ensure that all items would be reviewed with the County Attorney. Vince Harris suggested that it would be a good idea to communicate with the County Attorney.

The original motion made by Bob Lewis, with a second by Jim Keen, to recommend for Approval the Revisions to Part I, Section 6 of the Rezoning Procedures and Requirements represented in Attachment C went to a vote, all were in favor.

There were additional questions brought up by Ron Turner regarding Part I Section 7, he mentions that he would like to see some wording changed to say “support,” as the original wording looks like regulation. He also brought up the fact that Elbert County officials and/or their designees are “empowered” to inspect persons’ property to ensure the appropriate permits have been obtained. After discussion, it was decided, after Vince Harris suggested that perhaps wording could move towards a statement regarding “upon issuance of legal means” or “authority” should be inserted appropriately to protect the rights of the property owners and to ensure that any official cannot just, at any time, come into or on someone’s property to inspect something to confirm that all procedures and requirements required by Elbert County were appropriately followed.

There was a motion made by Dan Michalak, with additional wording to be added by staff, for Part I, Section 7, Revision of Enforcement of the Zoning Regulations, with Part I Section 7.1 to support Part II; a second was made by Paula Wilderman, all were in favor and the motion carried.
Announcements - NONE

Meeting adjourned at 9:50 PM