

COMMUNITY & DEVELOPMENT SERVICES

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**Meeting Minutes
PLANNING COMMISSION MEETING
BOCC Hearing Room 215 Comanche St. Kiowa
DATE: January 24, 2023
TIME: 7:00 PM**

- 1. CALL TO ORDER** at 7:09 pm by Chair Hoogendyk
- 2. PRAYER**
- 3. PLEDGE OF ALLEGIANCE**
- 4. ROLL CALL**

Chair-Peter Hoogendyk, Vice Chair-Danny Willcox, Van Sands, Duane Owens, Eric Carlson, Roger Burton, Deanna Schott-Grace, and Kevin Kirkwood.

Absent: Mike Buck

Staff present: Greg Thompson, AICP - CDS Director and Matt Karney CDS Land Use Planner

- 5. REMINDER TO TURN OFF CELL PHONES**
- 6. STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S) PERTAINING TO MATTERS OF THIS BOARD**

Greg Thompson reported that there were no new actions by the Board of County Commissioners since the last Planning Commission meeting.

- 7. CONSENT AGENDA ITEMS ARE RESERVED FOR ITEMS** that are deemed to be non-controversial. This allows the Planning Commission to spend more of its meeting time for issues in which there is a need for a more significant discussion. If anyone desires to address the Commissioners regarding an item from this day's consent agenda, please ask that the item be removed from the consent agenda for further discussion.

None

8. CITIZEN COMMENTS

- Greg Lopez, 36792 View Ridge Drive, Ponderosa Park, Elizabeth, expressed concern about minutes not including his letter for December 6, 2022, Planning Commission.

Citizen Comments Closed at 7:15 p.m.

9. APPROVAL OF MEETING MINUTES

A. January 3, 2023, Meeting Minutes

Commissioner Kirkwood made a motion to approve the January 3, 2022, meeting minutes.

Commissioner Carlson seconded the motion.

Motion Passed 8 – 0

10. PUBLIC HEARING PROCESS

Chair Statement: 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.

All testimony must be competent, on topic, and not repetitious.

Chair - The order of business for Public Hearings will be as follows:

1. Open Public Hearing
2. Staff Presentation
3. Applicant Presentation (if any)
4. Public Testimony
5. Public Comment Closed
6. Applicant Rebuttal
7. Board Only Discussion
8. Board Motion and Roll Call Vote
9. Close Public Hearing

11. PUBLIC HEARINGS opened at 7:16 p.m.

- A. Continuation of Bandera East PUD and Bandera West PUD Amendment to Independence PUD (PA-22-0036)
 - Commissioner Owens requested clarification on the percent of the roads that are to see a negative impact.
 - Brian J. Connolly with Otten Johnson explained the “intersection level of service” that is tied to traffic increases.
 - Commissioner Owens expressed concern over roundabouts such as the one proposed at County Road 1 and County Road 166.
 - Brian J. Connolly explained monies have been paid already to Douglas County for its construction.
 - Commissioner Burton inquired about the requirements for oil and gas that is permitted by right in the Independence PUD.
 - Brian J. Connolly explained minor oil and gas is use by right and major use is considered a special use. There can be clarification by the Board of County Commissioners as to what they would like to see in the PUD.

- Commissioner Burton requested clarification on the lot sizes in the Independence PUD in that they seem smaller.
- Brian J. Connolly indicated that the lot sizes are determined at the time of platting and lot sizes are smaller as open space and unit count are more.
- Commissioner Burton mentioned multi-family is allowable, but none is proposed in the applicant's drawings.
- Commissioner Wilcox asked about the unit cap – if open space is “main bar” the developer must meet.
- CDS Director Thompson explained the conservation community standards from the Elbert County Development Regulations.
- Commissioner Wilcox asked the reason for the Independence PUD change.
- Brian J. Connolly explained the improvements to be made on County Road 158 and County Road 1 need to be funded. County Road 1 will be two-lane, but right-of-way will be provided if expansion is needed later.
- Commissioner Sands inquired about the improvements to Country Road 158.
- Jim Yates with Craft Companies stated the applicants are following the County's lead for road improvements.

Vice Chair Wilcox made a motion to approve Continuation of Bandera East PUD and Bandera West PUD Amendment to Independence PUD (PA-22-0036) with six staff recommended conditions:

1. The public hearing sign shall be removed within seven (7) days of decision by the Board of County Commissioners.
2. The PUD shall not become effective until all fees are paid, conditions of approval are met, and the PUD zoning exhibit is recorded.
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.
4. The applicant shall amend the PUD exhibit to include the planned access to the adjacent property to the north as well as add the existing east-west right-of-way on the northern property line.
5. The applicant will be required to repave County Road 158 between County Road 1 (Delbert Road) and County Road 13.
6. In addition to the existing obligations regarding County Road 1 (Delbert Road), the applicant will be required to construct County Road 1 (Delbert Road) between County Road 5 (Hancock Parkway) and County Road 158.

Commissioner Sands seconded the motion.

Deanna Schott-Grace and Kevin Kirkwood abstained.

Motion Passed: 6 – 0

Chair-Peter Hoogendyk called a 10-minute recess.

B. Continuation of Independence 3 New and 3 Amended Metropolitan Districts and Service Plans

- CDS Director Greg Thompson presented an overview of the new and amended plans.
- Presentation by Graham Anderson with Anderson Analytics:

Metropolitan Districts in Colorado and Elbert County – Educational Overview & Summary and Review of the Proposed & Amended Service Plans for Independence Metropolitan District Nos. 2-6 Commercial.

Public Hearing Opened for Metropolitan District and Service Plans at 8:11 p.m.

- Chair-Peter Hoogendyk asked if the service plans are acceptable.
- Graham Anderson stated that the service plans are consistent with other service plans approved in Colorado.
- Commissioner Owens asked why services plans frontload debt service surplus.
- Mr. Anderson stated that it is a typical and sustainable practice.
- Mr. Thompson presented on the approval criteria. He then stated that staff recommend approval of the requests: Amend three metropolitan districts and create three new ones – SR-22-0046, SR-22-0047, SR-22-0049, SR-22-0050, SR-22-0051, and SR-22-0052.
- Diane Miller presented on behalf of the applicant. She is with Miller Law at 1641 California, Suite 300, Denver, CO 80202. Also with her was Jim Yates with Craft Companies; Laci Knowles, Managing Director of D.A. Davidson Companies; Tim Morzel, D.A. Davidson Companies. D.A. Davidson Companies put together financing plans for the projects.
- Commissioner Kirkwood asked what the current water taps are.
- Jim Yates stated \$25,000 for water, \$40,000 for all connections. A rate study is done to reassess fee amounts.
- Commissioner Kirkwood asked if the applicant is comfortable with the risk and the debt added.
- Mr. Yates stated the service plans are solid and explained the logic behind it.
- Mr. Commissioner Kirkwood asked if another downturn would adversely impact the districts.
- Mr. Yates indicated there is enough private capital available for the developer to fund some projects while the bond market is slowed.
- Vice Chair Willcox asked why 4% as the interest rate.
- Mr. Anderson stated it is a common assumption based on his figures.
- Vice Chair Willcox asked what the County would fund in terms of infrastructure.
- Mr. Yates stated the developer will pay all improvements necessitated by the development.
- Greg Lopez, 36792 View Ridge Drive, Ponderosa Park, Elizabeth commented on the letter he wrote in December referencing Colorado Revised Statutes and Elbert Zoning Regulations. Mr. Lopez states the applicant has failed to comply with signage and public notification requirements. Mr. Lopez asked the Planning Commission to vote against this application.
- Nicole Hunt, 515 Signal Ridge Circle, Elizabeth commented on notification issues on each of six metropolitan districts.
- Jeff Hunt, 515 Signal Ridge Circle, Elizabeth commented on notification issues and abuse of metropolitan districts. Asked the application be denied.
- Sherry Wahl, 38636 County Road 5, Elizabeth, commented on financial abuse of metropolitan districts and huge amount of debt homeowners must pay back. She also commented on traffic issues on County Road 158.
- Terry Duffy, 20566 Eagle Feather Lane, Elbert commented on concerns with district meeting debt obligations and financial impact to homeowners.
- Ken Turnbull, 7651 Carolyn Drive, Castle Rock spoke in support of metropolitan districts. Metro districts are the only one going to fund infrastructure.
- Gary Muccelli, 38851 Country Lane, Elizabeth commented on traffic concerns with County Road 158.

- Susan (Beverly) Schick, 4122 Downwest Ride, Elizabeth commented on County overspending. She would like to wait for the anticipated county audit before action on this and that application is pre-mature until audit is complete. She also expresses concerns about water and search for water.
- Brad Eidt, 1110 Legacy Trail, Elizabeth commented that the cost of this application burdens owners of the PUD.
- Dennis Duffy, 20566 Eagle Feather Lane, Elbert commented on financial impact to residents and that it was not clearly reported.

Public Comment Portion of Hearing closed at 10:23 p.m.

- Diane Miller explained the transparency involved for districts. Future home buyers can choose to live in or outside a metropolitan district, and disclosures are required. Districts can increase assessed values.
- Commissioner Owens asked who runs the district if no homes are built.
- Ms. Miller stated that board members will usually be corporate until home sold.
- Commissioner Owens asked about the notification issue.
- Mr. Thompson stated the applications meet the Title 32 notification requirements as stipulated in the Elbert County Zoning Regulations.
- Commissioner Carlson asked if there was a requirement for letting residents know about districts.
- Ms. Miller stated it is a requirement to give notice to new home buyers.

Vice Chair Willcox made a motion to approve Independence 3 New and 3 Amended Metropolitan Districts and Service Plans.

Commissioner Sand seconded the motion.

Motion Passed: 8 – 0

12. Work Session

None

13. ANNOUNCEMENTS

None

14. ADJOURNMENT

Meeting adjourned at 10:44 p.m.