

COMMUNITY & DEVELOPMENT SERVICES

P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3185 FAX: 303-621-3165
cds@elbertcounty-co.gov



MEETING MINUTES
PLANNING COMMISSION

BOCC Hearing Room, 215 Comanche St., Kiowa, CO

DATE: April 16, 2024 TIME: 7:00 PM

1. **CALL TO ORDER:** 7:02 PM - Chair Willcox
2. **PRAYER:** 7:02 PM - Chair Willcox
3. **PLEDGE OF ALLEGIANCE:** 7:02 PM - Led by Chair Willcox
4. **ROLL CALL:** 7:03 PM
Commissioners Present: Chair Danny Willcox, Vice Chair Kevin Kirkwood, Van Sands, Mike Buck, John Gresham.
Commissioners Absent: Eric Carlson, DeDe Schott-Grace, Robert Poletiek, 1 Vacant Seat.
Staff Present: Marc Dettenrieder, Director of Community and Economic Development; Guilherme Motta, Sr. Land Use Planner; Wendy Doyle, PC Recording Secretary.
Staff Contract Planner – Remote: Sandra Hoffman AICP, Logan Simpson Design, Senior Associate.
5. **REMINDER TO TURN OFF CELL PHONES:** 7:04 PM - Chair Willcox
6. **STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S) PERTAINING TO MATTERS OF THIS BOARD:** 7:04 PM
M. Dettenrieder reported: Feb. 28, 2024 - CORE SUR and 1041 APPROVED, Barkin Barn SUR APPROVED; Mar. 13, 2024 - Phantom Creek Rezone APPROVED, Phantom Creek Preliminary Plat CONTINUED to May 8th BOCC meeting.
7. **CONSENT AGENDA ITEMS:** 7:05 PM None – M. Dettenrieder
8. **CITIZEN COMMENTS:** (unrelated to public hearings) 7:05 PM None – Chair Willcox
9. **APPROVAL OF MEETING MINUTES:** 7:05 PM

Approval of January 16, 2024 Planning Commission Meeting Minutes.

MOTION: 7:06 PM

Commissioner Van Sands made the motion: Approve the January 16, 2024 Planning Commission meeting minutes as presented.

Commissioner Kevin Kirkwood seconded the motion. **Motion Passed 5 – 0.**

Approval of February 6, 2024 Planning Commission Meeting Minutes.

MOTION: 7:06 PM

Commissioner Kevin Kirkwood made the motion: Approve the February 6, 2024 Planning Commission meeting minutes as presented.

Commissioner Van Sands seconded the motion. **Motion Passed 5 – 0.**

Approval of February 20, 2024 Planning Commission Meeting Minutes.

MOTION: 7:08 PM

Commissioner Kevin Kirkwood made the motion: Approve the February 20, 2024 Planning Commission meeting minutes with the agency CDPAG corrected to CDPHE in the additional Condition of Approval located on Page 4, Motion for Public Hearing #2. Correct wording: additional Condition of Approval: CDPHE Phase 2 Environmental Review of Proposed Lot 10.

Commissioner Van Sands seconded the motion. **Motion Passed 5 – 0.**

10. PUBLIC HEARING PROCESS: 7:09 PM - Chair Willcox presented:

The Planning Commission is a volunteer board appointed by the Board of County Commissioners (BOCC), a quasi-judicial commission that essentially takes the application at hand and references the regulations and ordinances in place and compares them with the application. Following the public hearing, the commission may vote three ways: 1. Vote to recommend approval; 2. Vote to recommend denial; 3. Recommend approval with conditions. Recommendations are forwarded to the BOCC holding the authority to approve the application. All testimony must be competent, on topic and not repetitious. The Chair's statement concluded with the order of business for public hearings.

11. PUBLIC HEARINGS: 7:11 PM

1. Elora (formerly known as Sterling Crossing) Preliminary Plat (Case PP-2023-2003)
2. Kelly Air Park PUD Amendment (Case 2023-2465)
3. Elbert County Regulation Updates

PUBLIC HEARING #1: 7:11 PM

1. Elora (formerly known as Sterling Crossing) Preliminary Plat (Case PP-2023-2003)

STAFF PRESENTATION: 7:12 PM

Marc Dettenrieder, Director of Community and Economic Development introduced Presenter (Staff Contract Planner) Sandra Hoffman AICP, Logan Simpson Design. Applicant/Property Owner: Dan Sheldon, Miller United Real Estate, LLC; (Former Property Owner: Platte River Performance Center, LLP). Location: Unincorporated Elbert County generally located East of Delbert Road (CR-1) and South of East County Line Road (CR-194). The applicant is requesting to subdivide 196.8-acres following the Open Space - Conservation Community requirements found in the Elbert County Subdivision Regulations, Article XI. Section K.6 (a) – (c) and 7, by providing 57% open space/park area (with 107.6-acres of undeveloped property held as such in perpetuity, as well as 5.2-acres of active park land within the proposed community); 308 single-family residential lots and a 4.1-acre commercial lot with Planned Unit Development Zoning; The Elora Metropolitan District will be created and responsible for on-site roads, open space, and infrastructure. Article XI.K.8.(a) Residential Density, Conservation Community requirements met including water and sewer services provided by the City of Aurora. Article XI.K.8.(b) Diverse Housing Types, is met with a variety of lot sizes. Subdivision Regulations, Article IV Preliminary Plat met; Surrounding properties: North – Arapahoe County, Undeveloped Open Land; South – (RA-1) Residential Agriculture-One, Large Lot RA; East – (RA) Residential Agriculture, Large Lot RA, and Open Land; West – Douglas County, Agriculture and Large Lot Residential; Northwest – Master Planned Community in City of Aurora – Arapahoe County, Single-Family. Access to the development will be from two roadway connections to Delbert Road (CR-1) and two roadway connections to East County Line Road (CR-194). Preliminary Plat Application submitted 1/18/24; all notification requirements met. Slides presented and reviewed included vicinity maps, exhibit, referrals, and trails exhibit reflecting easement and connection to the regional trail system. Referral comments were addressed, except for items that must be resolved prior to moving forward with the Final Plat hearing process. Applicant provided a letter, dated April 20, 2024, that identifies how they intend to obtain consensus with Douglas County, Arapahoe County, City of Aurora, Elbert County, and the Colorado Geological Survey regarding: Delbert Road (CR-1) dedications and improvements; East County Line Road (CR-194) dedications and improvements; utility easement locations and dimensions; slopes greater than 20% mitigation.

S. Hoffman confirmed the Subdivision Improvement Agreement (SIA) draft will be presented to the Planning Commission along with the Final Plat. Between this Preliminary Plat and the Final Plat, the applicant will not be allowed to move forward to public hearing until they feel confident they have the "buy-in" from all the surrounding jurisdictions or they bring the SIA to the Planning Commission for its input on the document.

Planning Department findings on proposed Preliminary Plat:

- Is in general conformance with the Elbert County Comprehensive Plan;
- Meets all the criteria for approval in the Elbert County Zoning Regulations and the Elora (formerly known as Sterling Crossing) PUD;
- Meets the requirements of the Elbert County Subdivision Regulations;
- Will not result in significant impact to health, safety and welfare of the residents, and landowners in the surrounding area.

Planning Department recommends the Planning Commission recommend APPROVAL to the Board of County Commissioners of the Elora (formerly known as Sterling Crossing) Preliminary PUD Conservation Plat (Case PP-2023-2003), 196.8-acre site at the Southwest corner of Delbert Road (CR-1) and East County Line Road (CR-194) with three (3) conditions of approval.

Conditions of Approval:

1. The applicant will be required to remove the public hearing sign within seven (7) days of a decision by the Board of County Commissioners;
2. The Preliminary Plat shall not become effective until all fees are paid, conditions of approval are met;
3. A Subdivision Improvement Agreement (SIA) must be completed and acceptable to the County Attorney in final form prior to the Final Plat going to public hearing. Elements included in the Agreement that must be reviewed by Douglas County, Arapahoe County, and the City of Aurora, include the following: (1) Delbert Road (CR-1) dedications and improvements; (2) East County Line Road (CR-194) dedications and improvements; (3) The City of Aurora must review and agree with the water/wastewater infrastructure and easement locations within Elbert County and maintenance responsibility.

STAFF PRESENTATION FOR PUBLIC HEARING #1 CLOSED: 7:26 PM

APPLICANT PRESENTATION: 7:26 PM

Mark Kieffer, Norris Design - Planning and Landscape Architecture, introduced his fellow Development Team members: Applicant/Property Owner MU Elora, LLC (Miller United Real Estate) – Dan Sheldon; Kevin Lovelace, LJA Engineering – Civil Engineer; Mike Rocha, SM Rocha, LLC - Traffic Consultant. Key stakeholders were recognized, and Mr. Kieffer touched upon the history of the Elora PUD (approved by the Board of County Commissioners in December of 2023); Preliminary and Final Plat processes, including the Subdivision Improvement Agreement (SIA) - a document between the developer, owner and County ensuring identified improvements are put into place; Preliminary Plat does not request approval of any additional units previously approved in the PUD zoning; proximity of Elora to other developments in the area; water supply and Intergovernmental Agreement (IGA) entered between City of Aurora, Elora Metropolitan Districts, and the Developer; applicant's community outreach and support efforts; and recapped Preliminary Plat approval criteria.

APPLICANT PRESENTATION FOR PUBLIC HEARING #1 CLOSED: 7:42 PM

PUBLIC TESTIMONY: 7:42 PM None – Chair Willcox

APPLICANT REBUTTAL: 7:43 PM None – Chair Willcox

BOARD ONLY DISCUSSION: 7:43 PM

Chair Willcox noted: questions and comments related to off-site improvements will be addressed in the Subdivision Improvement Agreement (SIA) in the Final Plat process.

Brief discussions between Staff, Planning Commissioners and Applicant included:

Groundwater rights deeded to City of Aurora: accessibility/restrictions, water dedication presented in the Intergovernmental Agreement (IGA) - applicant will provide County staff with the water dedication and preservation of water in a drought situation language to be forwarded to Planning Commissioners; applicant will reference the IGA with an access location in the Final Plat and SIA; City of Aurora Water system/supply/usage accountability/connections/various fees/taps/utility locations/maintenance/issue resolution. In an emergency drought situation, City of Aurora Water reserves the right to drill in Elbert County; however, should such need arise, City of Aurora Water would adhere to standard processes, procedures and provisions required by the Colorado Division of Water Resources, Colorado State Engineer's office and Elbert County (including the groundwater 300-year supply rule) - applicant will work with staff to establish the process through which a well would need to be approved and ensure that that approval process would apply the valid criteria; staff reiterated water data was reviewed and approved by the Colorado Department of Water Resources in the referral process. Additional topics of discussion included: metro district/service plan; mill levy/taxes; infrastructure; exceeded open space code requirements;

Aurora's emergency warning system; applicant to enter into individual negotiations for various agreements with City of Aurora, Arapahoe County, and Elbert County prior to Final Plat.

Clarification in Applicant documentation, Page 211, Landscaping: Cool weather grass, 500 ft. to be corrected to 500 sq. ft.

BOARD ONLY DISCUSSION FOR PUBLIC HEARING #1 CLOSED: 8:16 PM

MOTION FOR PUBLIC HEARING #1: 8:16 PM

Commissioner Van Sands made the motion: Recommend approval of Elora Preliminary Plat (Case PP-2023-2003) to the Board of County Commissioners with the Conditions of Approval outlined in the Staff Presentation.

Commissioner John Gresham seconded the motion. Motion Passed 5 – 0.

PUBLIC HEARING #1 CLOSED: 8:18 PM

PUBLIC HEARING #2: 8:18 PM

2. Kelly Air Park PUD Amendment (PA-2023-2465)

STAFF PRESENTATION: 8:18 PM

Guilherme Motta, Sr. Land Use Planner. Applicant: James O. Norman, VP Kelly Air Park HOA. Owner: Kelly Air Park Association. Location: 24652 David C. Johnson Loop, County Road 124, Elbert, CO 80106. The applicant is requesting a PUD Guide Amendment for updated language on the Kelly Air Park Plat and Written PUD Guide: "The area of land between Lot 57 and Lot 8 as defined on the KAP Plat, is known as the Kelly Air Park 'Annex' within Tract A. The Annex may contain items such as the (AWOS); the cistern; may be used for Kelly Air Park Common Area material and equipment storage necessary for repair and maintenance of the Kelly Air Park Common Area; and may contain items that support the Kelly Air Park community as approved by the membership." Surrounding properties: North, South, and East (A) Agriculture Open Land; West – (A) Agriculture Open Land and (RA) Residential Agriculture Single-Family Residential. Access is from County Road 5 and County Road 98. This matter is presented in accordance with Elbert County Zoning Regulations, Article VII.D.4, Page 114. Pre-Application meeting waived by CDS Director; Community Meeting not required by regulation; application submitted January 31, 2024; no changes to the PUD Graphic Plans. No objections are outstanding from the contacted referral agencies; however, two conditions pertaining to disturbed soil and potential future restrooms were required. Property location, aerial and zoning maps slides were reviewed.

Six (6) Review Criteria presented in Article VII.F., (a) – (f) for Planned Unit Development requests were presented. The Planning Commission is to consider the criteria in its review of this application. The Kelly Air Park PUD has already been approved and aligns with the goals of the Comprehensive Plan; has been deemed compatible with its surroundings; has its own water and wastewater services, agreements with fire protection, etc.; changes will not adversely impact the environment; changes proposed do not affect traffic or the road system; is not detrimental to health, safety, and welfare of the present or future inhabitants of Elbert County.

Planning Department recommends the Planning Commission recommend APPROVAL of the Kelly Air Park PUD Guide Amendment (Case PA-2023-2465), subject to the following conditions.

Conditions of Approval:

1. The applicant will be required to remove the public hearing sign within seven (7) days of a decision by the Board of County Commissioners.
2. If any soil is disturbed, it needs to be reseeded with appropriate native seed. Dust and erosion need to be controlled. Noxious weeds must be controlled.
3. If, in the future, restrooms are to be installed, Elbert County Public Health will need to be contacted for Onsite Wastewater Treatment System (OWTS) application and permitting.

STAFF PRESENTATION FOR PUBLIC HEARING #2 CLOSED: 8:28 PM

APPLICANT PRESENTATION: 8:28 PM

Jim Norman, Vice President, Kelly Air Park HOA, reviewed the Tract A Location slide and Land Use Details slide presenting updated language for the new note on KAP Plat and Written PUD Guide, previously reviewed in the staff report. The HOA has

ideas, not plans approved by membership, and wants flexibility going forward. When decisions are made, County processes and requirements will be adhered to.

APPLICANT PRESENTATION FOR PUBLIC HEARING #2 CLOSED: 8:32 PM

PUBLIC TESTIMONY: 8:32 PM None – Chair Willcox

APPLICANT REBUTTAL: 8:32 PM None – Chair Willcox

BOARD ONLY DISCUSSION: 8:33 PM

Brief discussions between Staff, Planning Commissioners and Applicant included:

Staff Agenda Packet: size/content/omit duplication/include most pertinent documentation/reflected Elbert County Fire Protection District (non-existent) and Kiowa Fire Protection District (incorrect) – Elbert Fire Protection District exists and is correct; randomly reflected Case RZ-22-0064 (incorrect) - Case PA-2023-2465 is correct. Staff to rectify inconsistencies per Marc Dettenrieder. Additional topics: electricity; materials stored; noxious weed control and soil erosion programs - Jeanne Allen, 24686 Kolstad Loop, Elbert, CO 80106.

BOARD ONLY DISCUSSION FOR PUBLIC HEARING #2 CLOSED: 8:37 PM

MOTION FOR PUBLIC HEARING #2: 8:37 PM

Commissioner Kevin Kirkwood made the motion: Recommend approval of Kelly Air Park PUD Amendment (Case PA-2023-2465) to the Board of County Commissioners with the Conditions of Approval outlined in the Staff Presentation.

Commissioner Mike Buck seconded the motion. **Motion Passed 5 – 0.**

PUBLIC HEARING #2 CLOSED: 8:39 PM

PUBLIC HEARING RECESS: 8:39 PM – 8:47 PM

PUBLIC HEARING #3: 8:47 PM

3. Elbert County Regulation Updates

STAFF PRESENTATION: 8:48 PM

Marc Dettenrieder, Director of Community and Economic Development presented the stages of progress: eight (8) proposed regulation updates initially reviewed by the Planning Commission during an in-person work session held on January 2, 2024; minor adjustments were incorporated based upon feedback; revised updates electronically provided to Commissioners for review and feedback; proposed updates finalized for Planning Commission Public Hearing.

Planning Department recommends the Planning Commission recommend APPROVAL of the Elbert County Regulation Updates to the Board of County Commissioners.

STAFF PRESENTATION FOR PUBLIC HEARING #3 CLOSED: 8:49 PM

BOARD ONLY DISCUSSION: 8:49 PM

Brief discussions between Staff and Planning Commissioners included:

Design Guidelines, Page 450, item #3 to be corrected to read item #2; should/shall and may/will usage and determination; existing regulation language presented; proposed updates (new language) highlighted with strike-through lines; initial updates phase - focus placed on a select, limited number of sections in the regulations; emphasis to be placed on verbiage and materiality in forthcoming proposed regulation updates - M. Dettenrieder. Reference was made to Regulations Page 122, E. Open Space, Recreation, and Trails, #9: Open space should include water in sufficient amounts to satisfy the needs of the open space and provide adequate firefighting water supply – further discussion required, condition of approval proposed.

BOARD ONLY DISCUSSION FOR PUBLIC HEARING #3 CLOSED: 9:31 PM

MOTION FOR CONDITION OF APPROVAL FOR PUBLIC HEARING #3: 9:32 PM

Commissioner Danny Willcox made the motion: STRIKE-THRU TO BE REMOVED from “Article VIII. Design Guidelines for Residential Development, E. Open Space, Recreation, and Trails, #9” to be recommended to the Board of County Commissioners as a Condition of Approval in recommended Approval of Elbert County Regulation Updates.

Commissioner Kevin Kirkwood seconded the motion. **Motion Passed 5 – 0.**

BOARD DISCUSSION WITH STAFF: 9:33 PM – 9:38 PM

MOTION FOR PUBLIC HEARING #3: 9:38 PM

Commissioner Danny Willcox made the motion: Recommend Approval of Elbert County Regulation Updates to the Board of County Commissioners to include the Planning Commission's recommended Condition of Approval: STRIKE-THRU TO BE REMOVED from "Article VIII. Design Guidelines for Residential Development, E. Open Space, Recreation, and Trails, #9." Commissioner Kevin Kirkwood seconded the motion. **Motion Passed 5 – 0.**

PUBLIC HEARING #3 CLOSED: 9:38 PM

12. ADJOURNMENT: 9:38 PM

MOTION: 9:38 PM

Commissioner Van Sands made the motion: Move to adjourn the April 16, 2024 meeting of the Planning Commission. Commissioner Mike Buck seconded the motion. **Motion Passed 5 - 0.**

Minutes approved by Planning Commission 05/21/2024
Wendy Doyle, Recording Secretary