

COMMUNITY & DEVELOPMENT SERVICES

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MEETING MINUTES

PLANNING COMMISSION

BOCC Hearing Room, 215 Comanche St., Kiowa, CO 80117

DATE: June 18, 2024 TIME: 7:00 PM

1. **CALL TO ORDER:** 7:06 PM – Chair Willcox
2. **PRAYER:** 7:07 PM – Chair Willcox
3. **PLEDGE OF ALLEGIANCE:** 7:07 PM – Led by Chair Willcox
4. **ROLL CALL:** 7:07 PM
Commissioners Present: Chair Danny Willcox, Vice Chair Kevin Kirkwood, Van Sands, Mike Buck, Dede Schott-Grace, Robert Poletiek, John Gresham.
Commissioner Absent: Eric Carlson.
Commissioner Vacancy: One Seat.
Meeting Staff: Marc Dettenrieder, Director of Community and Economic Development; Wendy Doyle, PC Recording Secretary. Staff in attendance: Catherine Armstrong, Land Use Planner.
5. **REMINDER TO TURN OFF CELL PHONES:** 7:08 PM – Chair Willcox
6. **STAFF REPORT:** 7:08 PM - Marc Dettenrieder
Board of County Commissioners approved Innovative HVAC Special Use by Review (Case No. 2024-2183) on June 12, 2024.
7. **CONSENT AGENDA ITEMS:** 7:09 PM None – Marc Dettenrieder
8. **CITIZEN COMMENTS (unrelated to public hearings):** 7:09 PM None – Marc Dettenrieder
9. **APPROVAL OF MEETING MINUTES:** 7:10 PM
Approval of May 21, 2024, Planning Commission Meeting Minutes.
MOTION: 7:10 PM
Commissioner Dede Schott-Grace made the motion: Approve the May 21, 2024, Planning Commission meeting minutes as presented. Commissioner Kevin Kirkwood seconded the motion. **Motion Passed 7 – 0.**
10. **PUBLIC HEARING PROCESS:** 7:10 - Chair Willcox

Appointed by the Board of County Commissioners, the Planning Commission is a volunteer body required to conduct a quasi-judicial public hearing. The body must find facts and base its decision upon the application of the adopted regulation standards and criteria, along with competent, substantial material evidence received during the public hearing. It is a Citizen Advisory Committee enabled to voice opinions on applications along with the applicant and citizens. **The one result from a Planning Commission public hearing is a recommendation:** 1. *Vote to recommend approval;* 2. *Vote to recommend denial;* 3. *Recommend approval with conditions.* Regardless of the recommended vote, citizen information and comments need to go to the Board of County Commissioners; where the ultimate decision of an application lies. All public hearing testimony must be competent, on topic and not repetitious. The order of business for public hearings was presented.

11. PUBLIC HEARINGS: 7:14 PM

- 1. Jerrold Rezone (Case No. RZ-23-9401)**
- 2. Spring Valley Metropolitan District No. 5 Amended and Restated Service Plan and District No. 7 Service Plan for Metropolitan Districts**

PUBLIC HEARING #1 OPENED: 7:14 PM

Jerrold Rezone (Case No. RZ-23-9401)

STAFF PRESENTATION: 7:14 PM

Marc Dettenrieder presented. Levi Jerrold, Applicant; Jeremy and Kim Correll, Property Owners.

Request originally heard by the Planning Commission on May 7, 2024; however, due to a noticing item, it is being re-heard.

Rezone 13.85-acres from Agricultural (A) to Agricultural Residential (AR) for the construction of a new residence. The parcel is being split off from the original 54.46-acre property. The remaining 40.61-acre property will remain zoned Agricultural (A). Location: 9400 County Road 74-82, Peyton, CO 80831; part of Section 13, Township 10 South, Range 63 West, 6th P.M., County of Elbert, State of Colorado; Elbert County - El Paso County border. Surrounding properties: North-Residential Agricultural (RA) and Residential Agricultural-One (RA-1); South-El Paso County, Colorado; East-Residential Agricultural (RA); West-Agricultural (A). Community meeting held Oct. 11, 2022; formal application submitted Aug. 8, 2023; noticing was completed in accordance with Elbert County Zoning Regulations; applicant has acknowledged and/or resolved all comments and objections raised during the referral process comprised of two (2) formal referral periods. Location, zoning, aerial maps, and referral responses slides were reviewed. Article III.C.4 of the Elbert County Zoning Regulations lists review criteria (a) - (f) for all rezone requests. The six (6) review criteria, with staff comment, were addressed. *Note: The Minor Plat (Case No. MP-23-9401) to subdivide 13.85-acres is not a part of the rezoning application and will be reviewed via Administrative Decision on June 27, 2024, pending the rezone application decision by Elbert County Planning Commission and the Board of County Commissioners.*

Planning Department Findings:

- The proposed rezoning is in general conformance with the Elbert County Comprehensive Plan.
- The proposed rezoning meets all the criteria for approval in the Elbert County Zoning Regulations.
- The proposed rezoning meets all the criteria for minor plats and residential development in the Elbert County Subdivision Regulations.
- The proposed rezoning will not result in significant impact to the health, safety, and welfare of the residents and landowners in the surrounding area.

The Planning Department recommends the Planning Commission RECOMMEND APPROVAL of the Jerrold Rezone (Case No. RZ-23-9401) to the Board of County Commissioners subject to the following 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 Rezone shall not become effective until all fees are paid, conditions of approval are met, and the Rezone is recorded with the Clerk & Recorder;**
- 3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners approval; and**
- 4. Subject to any valid easement or right-of-way.**

STAFF PRESENTATION CLOSED: 7:22 PM

APPLICANT PRESENTATION: 7:22 PM

Levi Jerrold presented. Rezone request being re-heard due to Elbert County's Assessor's listing of addresses requiring notification letters excluded El Paso County addresses within the notification perimeter. During the May 7, 2024, public hearing, the motion to Recommend Approval with Conditions of Approval to the Board of County Commissioners passed; however, following the meeting, the County determined a re-notification process was required to include El Paso County.

APPLICANT PRESENTATION CLOSED: 7:23 PM

PUBLIC TESTIMONY: 7:24 PM

Karrin Hopper, 9500 CR 74/82, Peyton, CO 80831, El Paso County, CO, referenced the June 11, 2024, Planning Staff Report, CED-Planning Dept. Analysis & Evaluation (rezone request review criteria) Article III.C.4 (e) Whether the proposed rezoning would create unreasonable traffic congestion or burden the exiting road system without improvements; Condition of Approval #4 Subject to any valid easement or right-of-way, presented in the Staff Presentation; public comment deadline one week prior to public hearing prevents comment on the staff report/agenda file posted one week after the public comment deadline. Ms. Hopper (*unrelated to the rezone request*) spoke of concerns including easement/legal easement document, driveway/driveway application, permitting, property access, and plat maps*.

PUBLIC COMMENT CLOSED: 7:26 PM

***STAFF/CHAIR COMMENTS Regarding Public Testimony: 7:27 PM**

Marc Dettenrieder - according to Elbert County Legal Counsel, the County does not resolve easement issues. Chair Willcox – advised public hearing is for Agricultural to Residential Agricultural Rezone request and directed Ms. Hopper to work with County staff and the applicant as to property egress, legal situations and how the plat is recorded.

APPLICANT REBUTTAL: 7:28 PM

Levi Jerrold (*unrelated to the rezone request*) commented easement and driveways are on the application plat, both driveways were permitted through the County during the residential home building process, and no changes to the driveways have been made that aren't allowed by the easement itself.

APPLICANT REBUTTAL CLOSED: 7:29 PM

BOARD ONLY DISCUSSION: 7:30 PM

- No comments or questions presented by the Commissioners, Staff, or Applicant relevant to the rezone request.

BOARD ONLY DISCUSSION CLOSED: 7:32 PM

MOTION: 7:33 PM

Commissioner Robert Poletiek made the motion: Recommend approval of Jerrold Rezone (Case No. RZ-23-9401) to the Board of County Commissioners with the Conditions of Approval outlined in the Staff Presentation.

Commissioner Van Sands seconded the motion. **Motion Passed 7 – 0.**

PUBLIC HEARING #1 CLOSED: 7:33 PM

PUBLIC HEARING #2 OPENED: 7:34 PM

Spring Valley Metropolitan District No. 5 Amended and Restated Service Plan and District No. 7 Service Plan for Metropolitan Districts

STAFF PRESENTATION: 7:34 PM

(A) Marc Dettenrieder presented a staff preview.

- A Metropolitan District is a quasi-municipal corporation that provides a financing mechanism for specific uses permitted by Colorado Statutes for development projects on the front end that is paid back via taxes over time from eventual lot/property owners which are located within the Metropolitan Districts.

Request is to approve one (1) Amended and Restated Metropolitan District Service Plan and approve one (1) new Metropolitan District Service Plan. The original service plan for the Spring Valley Metropolitan District No. 5 was approved in 2020 and is being amended to split the existing District 5 into District 5 and District 7. The District 7 service plan is similar to the service plans for Spring Valley District previously approved by the Board of County Commissioners. Debt limit is not being changed, and there are no other material modifications. Landowner – Spring Valley Land Investments, LLC. Applicant/Representative – McGeady Becher P.C. Location – Spring Valley Metropolitan District Nos. 5 and 7 are on the East side of County Road 13 and North of County Road 174. Currently zoned Planned Unit Development (PUD) for single-family residential and commercial; location and aerial maps presented; referrals – Butler Snow, LLP (legal analysis/statutory requirements), and Anderson Analytics, LLC (financial review of application and standards). Article XVI.D of the Elbert County Zoning Regulations states all service plan applications shall be reviewed using criteria established in SS32-1-203(2), C.R.S and SS32-1-203(2.5), C.R.S. Criteria was reviewed with staff comment.

Planning Department recommends the Planning Commission find:

1. There is sufficient existing and projected need for organized service in the area to be serviced by the Districts; and
2. The existing service in the area to be served by the Districts is inadequate for present and projected needs; and
3. The Districts are capable of providing economical and sufficient service to the area within their proposed boundaries; and
4. The proposal is compatible with existing and allowable land uses in the surrounding area; and
5. The area to be included in the Districts does have or will have the financial ability to discharge the proposed indebtedness on a reasonable basis; and
6. Adequate service is not or will not be available to the area through the County or other existing municipal or quasi-municipal corporations, including special districts, within a reasonable time and on a comparable basis; and
7. The facility and service standards of the Districts are compatible with the facility and service standards of the County within which the Districts are located and each municipality which is an interested party under Section 32-1-204(1), C.R.S. and
8. The proposal is in compliance with a master plan adopted pursuant to Section 30-28-106, C.R.S. and
9. The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area; and
10. The creation of the Districts will be in the best interests of the area proposed to be served.

In consideration of the criteria set forth in the Elbert County Zoning Regulations, the recommendation of the Planning Department is the Planning Commission RECOMMEND APPROVAL to the Board of County Commissioners of Spring Valley District No. 5 Amended and Restated Service Plan and District No. 7 Service Plan for Metropolitan Districts.

(B) Elbert County Staff Consultant Graham Anderson (Senior Analyst, Anderson Analytics, LLC) presented a summary and review of Spring Valley Metropolitan District No. 5 proposed Second Amendment and Restated Service Plan and Spring Valley Metropolitan District No. 7 proposed Service Plan. Detailed slides depicted current and proposed district locations including the No. 7 area proposed to be split from No. 5.; original and proposed service plan details; existing service plan approvals (service plan debt limit/maximum debt mill levy/debt levy authorized “limited – convertible to unlimited”/operations and maintenance levy = unlimited/service plan history); bond status of established district filings; and tax year 2023 (payable 2024) Spring Valley mill levies. Information specific to District Nos. 5 and 7 included illustrative mill levy, illustrative property tax; financial plan; development plan and market value assumptions with prior (February 2020 service plan approval) and proposed comparisons. In conclusion, a Summary of Proposed Financial Plans for District No. 5 and District No. 7 was reviewed.

STAFF PRESENTATION CLOSED: 8:06 PM

APPLICANT PRESENTATION: 8:06 PM

Jim Marshall, Spring Valley Land Investments, LLC, stated dividing one existing district into two is for the purposes of having two different builders, two different products and to match communities up with bonds; shared his experience and philosophy on bonds; service plan creates boundaries for the district and takes into account all of the statutes and regulations required; finance plan included in the service plan is a model plan and parameters may not be exact when they issue the debt. Spring Valley was the first improvement district (besides the Town of Elizabeth and Town of Kiowa) to build a wastewater treatment plant and water treatment plant - now in the process of building a re-use water system. Other topics raised included tap fees; Colorado legislation passed to allow re-use water to be put back into potable water systems; aquifers; benefits of metropolitan districts; and housing development status within Spring Valley districts.

APPLICANT PRESENTATION CLOSED: 8:14 PM

PUBLIC HEARING BREAK: 8:15 PM PUBLIC HEARING RESUMED: 8:26 PM

PUBLIC TESTIMONY: 8:27 PM None – Chair Willcox

APPLICANT REBUTTAL: 8:27 PM None – Chair Willcox

BOARD ONLY DISCUSSION: 8:28 PM

Brief discussions between Planning Commissioners, County Staff, and Landowner:

Financial plan adjustments for District No. 5 split to create District No. 7; total 323 lots – 160 lots District No. 5 and 163 lots District No. 7; issuing debt; bonds/bond shopping; housing market conditions; debt plan - aggregate; Water - tap fee

studies/increases, flat/sliding scale fees, inflationary cost increases on operational costs; school mill levy; donated land for schools; metropolitan district sizes; road maintenance; and water re-use.

BOARD ONLY DISCUSSION CLOSED: 8:41 PM

MOTION: 8:41 PM

Commissioner Kevin Kirkwood made the motion: Recommend approval of **Spring Valley Metropolitan District No. 5 Amended and Restated Service Plan and District No. 7 Service Plan for Metropolitan Districts** to the Board of County Commissioners with the Conditions of Approval outlined in the Staff Presentation.

Commissioner Dede Schott-Grace seconded the motion. **Motion Passed 7 – 0.**

PUBLIC HEARING #2 CLOSED: 8:41 PM

1. ADJOURNMENT: 8:42 PM

MOTION: 8:42 PM

Commissioner Dede Schott-Grace made the motion: Move to adjourn the June 18, 2024, meeting of the Planning Commission.

Commissioner Kevin Kirkwood seconded the motion.

Motion Passed 7 - 0.