

COMMUNITY & DEVELOPMENT SERVICES

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MEETING MINUTES
PLANNING COMMISSION

Agriculture Building, 95 Ute Avenue, Kiowa, CO 80117

DATE: August 20, 2024 TIME: 7:00 PM

1. **CALL TO ORDER:** 7:07 PM - Chair Willcox
2. **PRAYER:** 7:07 PM - Chair Willcox
3. **PLEDGE OF ALLEGIANCE:** 7:08 PM - Led by Chair Willcox
4. **ROLL CALL:** 7:08 PM – Recording Secretary
Commissioners Present: Chair Danny Willcox, Vice Chair Kevin Kirkwood, Van Sands, Mike Buck, John Gresham, Dede Schott-Grace.
Commissioners Absent: Eric Carlson, Robert Poletiek, 1 Vacant Seat.
Meeting Staff: Marc Dettenrieder, Director of Community and Economic Development; Kelsey Lanham, Land Use Planner; Danny Klibaner, Land Use Planner; Wendy Doyle, PC Recording Secretary; Carrie Seubert, Planning Technician.
(Staff in attendance: Jennifer Jones, Planning Manager)
Elbert County Staff Consultants: Sandra Hoffman AICP, Senior Associate, Logan Simpson Design; Graham Anderson, Senior Analyst, Anderson Analytics, LLC.
5. **REMINDER TO TURN OFF CELL PHONES:** 7:09 PM - Chair Willcox
6. **STAFF REPORT:** 7:09 PM - Marc Dettenrieder. Phantom Creek Preliminary Plat approved by the BOCC on August 14, 2024.
7. **CONSENT AGENDA ITEMS:** 7:10 PM None – Marc Dettenrieder
8. **CITIZEN COMMENTS:** (unrelated to public hearings) 7:10 PM None – Chair Willcox
9. **APPROVAL OF MEETING MINUTES:** 7:11 PM

MOTION: 7:11 PM

Commissioner Kevin Kirkwood made the motion: Approve the **June 4, 2024**, Planning Commission meeting minutes as presented. Commissioner Van Sands seconded the motion. **Motion Passed 6 – 0.**

MOTION: 7:12 PM

Commissioner Kevin Kirkwood made the motion: Approve the **June 18, 2024**, Planning Commission meeting minutes as presented. Commissioner Van Sands seconded the motion. **Motion Passed 6 – 0.**

MOTION: 7:12 PM

Commissioner Van Sands made the motion: Approve the **July 2, 2024**, Planning Commission meeting minutes as presented. Commissioner Kevin Kirkwood seconded the motion. **Motion Passed 6 – 0.**

MOTION: 7:13 PM

Commissioner Kevin Kirkwood made the motion: Approve the **August 6, 2024**, Planning Commission meeting minutes as presented. Commissioner Van Sands seconded the motion. **Motion Passed 6 – 0.**

10. PUBLIC HEARING PROCESS: 7:13 PM - Chair Willcox presented:

Appointed by the Board of County Commissioners (BOCC), the Planning Commission is a quasi-judicial volunteer board that essentially takes the application at hand, 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. The recommendation is 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: 7:19 PM

1. Industrial Tower West – Matheson, Special Use by Review Permit (Case No. SUR-2024-2063)
2. Daryana's Backyard – Special Use by Review Permit (Case No. SUR-2024-4167)
3. EC East – Planned Unit Development (PUD) (Case No. PD-2023-6327)
4. EC East – Preliminary Plat (Case No. PP-2024-6327)
5. EC East – Service Plans for Metropolitan Districts

PUBLIC HEARING #1, INDUSTRIAL TOWER WEST – MATHESON, CASE NO. SUR-2024-2063: 7:19 PM

1. Industrial Tower West – Matheson, Special Use by Review Permit (Case No. SUR-2024-2063)

STAFF PRESENTATION: 7:19 PM

Kelsey Lanham, Land Use Planner. Applicant is requesting a Special Use by Review Permit for the installation of a 195' wireless telecommunications tower. Applicant: Kyle DeNardo, Industrial Tower West, LLC. Property Owners: Mark and Tara Hernandez. Location: 20631 County Road 149, Matheson, CO 80830, just within the Town of Matheson's jurisdiction. Approval for a Special Use by Review (SUR) Permit was approved in 2020; however, due to inactivity, new application and approval required. Currently zoned Agriculture (A), the 61.821 acre property has primarily been used for residential purposes with agriculture uses; owners reside on the property. Surrounding properties zoned Agriculture (A), except for those located directly within the Town of Matheson. Application submitted May 23, 2024; noticing completed in accordance with Zoning Regulations; and no objections are outstanding from contacted referral agencies. Slides presented and reviewed included aerial and zoning maps, SUR exhibit, visual rendering, and referral agencies – responsive/unresponsive. The proposed telecommunication tower will be set back at a distance greater than what is required and will provide telecommunication service to properties within Elbert County.

The Elbert County Zoning Regulations determines that a Special Use by Review Permit must follow eight (8) review criteria set forward in Article 111.E.5, (a) – (h). The following criteria was presented and reviewed:

- The use is in harmony and compatible with the surrounding area and neighborhood;
- The use will not have an undue burden on available infrastructure;
- The use will not unduly increase traffic congestion or burden the existing road system;
- The use will not cause significant air, odor, water, noise, or light pollution;
- All sanitation requirements will be met;
- The use will be adequately landscaped, buffered, and screened;
- The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County; and
- Supplemental Standards are met for specific uses, as applicable.

Planning Department finds the proposed Special Use by Review (SUR) Permit Application compliant with all applicable regulations, and recommends the Planning Commission recommend APPROVAL to the Board of County Commissioners for Special Use by Review Application SUR-2024-2063, Industrial Tower West – Matheson; subject to the following 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 Special Use by Review shall not become effective until all fees are paid, conditions of approval are met, and the Special Use by Review Exhibit is recorded; and*
3. *Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.*

STAFF PRESENTATION, Public Hearing #1, Industrial Tower West – Matheson, CLOSED: 7:26 PM

APPLICANT PRESENTATION: 7:26 PM

Teresa Sweigart, Applicant Representative. The 195' self-support cell tower will fulfill a gap in coverage in the area and meet needs of customers.

APPLICANT PRESENTATION, Public Hearing #1, Industrial Tower West – Matheson, CLOSED: 7:27 PM

PUBLIC TESTIMONY: 7:27 PM None – Chair Willcox

APPLICANT REBUTTAL: 7:28 PM None – Chair Willcox

BOARD ONLY DISCUSSION: 7:28 PM

Brief discussions between Staff, Planning Commissioners and Applicant included tower setback; easement access; construction timeline; wireless service; and fire department communications.

BOARD ONLY DISCUSSION, Public Hearing #1, Industrial Tower West – Matheson, CLOSED: 7:30 PM

MOTION: 7:30 PM

Commissioner Kevin Kirkwood made the motion: Recommend APPROVSL for Case No. SUR-2024-2063, Industrial Tower West – Matheson, Special Use by Review (SUR), to the Board of County Commissioners with the Conditions of Approval outlined in the Staff Presentation.

Commissioner Van Sands seconded the motion. **Motion Passed 5 – 0 with 1 Abstention***

*Commissioner Danny Willcox abstained from vote due to Conflict of Interest; formerly on the Elbert County Communications Authority (ECCA) Board.

PUBLIC HEARING #1, INDUSTRIAL TOWER WEST – MATHESON, SUR-2024-2063, CLOSED: 7:30 PM

PUBLIC HEARING #2, DARYANA'S BACKYARD, SUR-2024-4167: 7:31 PM

2. Daryana's Backyard Special Use by Review Permit (Case No. SUR-2024-4167)

STAFF PRESENTATION: 7:31 PM

Danny Klibaner, Land Use Planner. Applicants/Owners: Graeme and Daryana Cowie. Location: 4167 Private Road 188, Elizabeth, CO 80107, 35-acre lot with primary home surrounded by grasslands, zoned Agriculture. Request is for a Special Use by Review (SUR) for a dog boarding/kenneling business to accommodate a maximum of 30 dogs. Open year-round, Monday thru Sunday; no new structures proposed; must purchase water for the animals; current septic system and residential well not allowed to be used for proposed special use. Surrounding properties North/South/East zoned Agriculture, West zoned Residential Agriculture 1. Pre-Application meeting June 9, 2022; Formal Application May 5, 2024; noticing completed in accordance with Zoning Regulations; all referral comments and concerns addressed by applicant. Property location, aerial and zoning maps slides were reviewed.

The Elbert County Zoning Regulations determines that a Special Use by Review Permit must follow eight (8) review criteria set forward in Article 111.E.5, (a) – (h). The following criteria was presented and reviewed:

- The use is in harmony and compatible with the surrounding area and neighborhood;
- The use will not have an undue burden on available infrastructure;
- The use will not unduly increase traffic congestion or burden the existing road system;
- The use will not cause significant air, odor, water, noise, or light pollution;

- All sanitation requirements will be met;
- The use will be adequately landscaped, buffered, and screened;
- The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Elbert County; and
- Supplemental Standards are met for specific uses, as applicable.

Planning Department finds the proposed Special Use by Review (SUR) Permit Application compliant with all applicable regulations, and recommends the Planning Commission recommend APPROVAL to the Board of County Commissioners for Special Use by Review Application SUR-2024-4167, Daryana's Backyard Special Use by Review, 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 Special Use by Review shall not become effective until all fees are paid, conditions of approval are met, and the SUR Exhibit is recorded;
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval;
4. The applicant must retain records and receipts of bulk water purchases and provide records as requested by the County;
5. The applicant must be licensed through Colorado's Pet Animal Care and Facilities Act (PACFA) prior to opening;
6. Additional Condition of Approval per the Planning Commission during public hearing: Recommend the County review and evaluate the Special Use by Review (based on and in compliance with current Zoning Regulations) on an annual basis.

STAFF PRESENTATION, Public Hearing #2, Daryana's Backyard SUR, CLOSED: 7:43 PM

APPLICANT PRESENTATION: 7:43 PM

Grace Erickson (Providence Consulting) Applicant Representative and Graeme Cowie, Applicant. Ms. Erickson reported the bulk water contract with Parker, CO is pending approval; required Pet Animal Care and Facilities Act (PACFA) license in progress; request for up to 30 animals (peak times/holidays) daily average 4 – 8.

APPLICANT PRESENTATION, Public Hearing #2, Daryana's Backyard SUR, CLOSED: 7:45 PM

PUBLIC TESTIMONY: 7:46 PM

Lisa Drangsholt, 3713 Green Mtn Cir, Parker/Bill Murray, 3600 Green Mtn Cir, Parker/Lou Braden, 3875 Twin Buttes Pl, Parker/Syl Murray, 3600 Green Mtn Cir, Parker/Sue Fink, 4369 Pvt Rd 188, Parker/Lee Braden, 46719 County Rd 17, Parker/Barbara Brickley, 3884 Longs Peak Cir, Parker. Topics included noise-30 barking dogs, incompatible/not in harmony with neighborhood, high number of neighborhood homes, decreased property values and quality of life, increased traffic, dangerous roads, animal containment/safety, animal/human hygiene in the home, property improvements, experienced kennel owners, footage per dog/kennel, current farm animals on property.

PUBLIC COMMENT, Public Hearing #2, Daryana's Backyard SUR, CLOSED: 8:02 PM

APPLICANT REBUTTAL: 8:03 PM

Grace Erickson/Graeme Cowie responded to comments and concerns provided online and during public testimony, referencing applicants' operating a kennel business in Lakewood, CO for past 10 years with no noise complaints; supervised/contained outdoor schedule; outdoor area structure; PACFA license regulations, traffic-not day trips necessarily, a lot of clientele "vacationing" will drop-off/pickup; scheduling by appointment only.

APPLICANT REBUTTAL, Public Hearing #2, Daryana's Backyard SUR, CLOSED: 8:06 PM

BOARD ONLY DISCUSSION: 8:06 PM

Brief discussions between Staff, Planning Commissioners and Applicant included kennel business, no breeding; PACFA regulations and inspections; noise and noise study performed; number of animals; consideration of Condition of Approval pertaining to County annual SUR review; neighbor concern mitigation; County complaint process/enforcement; outdoor area fencing/screening; no signage planned.

BOARD ONLY DISCUSSION, Public Hearing #2, Daryana's Backyard SUR, CLOSED: 8:27 PM

MOTION FOR PUBLIC HEARING #2: 8:29 PM

Commissioner Van Sands made the motion: Recommend APPROVAL of Daryana's Backyard SUR (Case SUR-2024-4167) to the Board of County Commissioners with the updated Conditions of Approval outlined in the Staff Presentation. Commissioner Dede Schott-Grace seconded the motion. **Motion Passed 6 – 0.**

PUBLIC HEARING #2, DARYANA'S BACKYARD SUR, CASE NO. SUR-2024-41672, CLOSED: 8:30 PM

PUBLIC HEARING RECESS: 8:30 PM - PUBLIC HEARING RESUMED: 8:47 PM

**PUBLIC HEARING #3 EC EAST PLANNED UNIT DEVELOPMENT (PUD) REZONING, CASE NO. PD-2023-6327
AND PUBLIC HEARING #4 EC EAST PRELIMINARY PLAT, CASE NO. PP-2024-6327: 8:48 PM**

3 and 4. EC East PUD Rezoning (Case No. PD-2023-6327) and EC East Preliminary Plat (Case No. PP-2024-6327)

STAFF PRESENTATION, Public Hearings #3 and #4 (Concurrent): 8:50 PM

Sandra Hoffman, Logan Simpson Design, Senior Associate - Contract Plan Reviewer for Elbert County Community and Economic Development. Landowners Colorado Ranch and Land Holdings II, LLC, and Elbert Plains Land Holdings, LLC, are requesting approval to rezone 1,290.2-acres from Agriculture (A) to Planned Unit Development (PUD) and for a Preliminary Plat. The project site is located within unincorporated Elbert County Northeast of the intersection of County Road 166 and Kiowa-Bennett Road. EC East will be developed following the Conservation Community requirements, providing a minimum of 50% open space, clustered neighborhoods, with a maximum of 2,450 dwelling units, 48.2-acres commercial services, 49.2-acres of industrial uses at full build out, and a future school site included in the plat 15.1-acres. Parks/open space 645.1-acres (50%) will be open to the public. The project will be built in phases over at least 20 years. Noticing completed in accordance with Zoning and Subdivision Regulations. *Referral comments were addressed, except applicant will address the Colorado Division of Water Resources 300-year assured water supply through creation of a Water and Sanitation District.* Metropolitan Districts as defined in C.R.S. ss 32-1-101 et seq., will be formed for the purpose of financing, constructing, and maintaining certain public improvements including local roads and open space The Metropolitan Districts will maintain collector roads, local roads, private roads, drainage facilities, and open space within the subdivision.

3. EC East PUD Rezoning (Case No. PD-2023-6327)

Pre-application meeting October 27, 2022, PUD Application submitted February 1, 2024. Location/Surrounding Zoning and Uses/PUD Rezoning Exhibit, and Referrals slides were presented. PUD Development documents meet the General Requirements listed in Zoning regulation Article VII.D and E. for Planned Unit Developments and the Guide/Standards reflect the goals of the Elbert County Comprehensive Plan. PUDs are authorized by Colorado state statute Title 24, Article 67, C.R.S. The six (6) PUD Review criteria in Article VII.F that must be considered by the Planning Commission have been met.

Planning Department recommends the Planning Commission find:

- 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 Ordinance regulations;
- The proposed rezoning meets the requirements of the Elbert County regulations for a PUD;
- The proposed rezoning is compatible with surrounding land uses;
- The project will not adversely impact public services;
- The proposed rezoning will not adversely impact the environment;
- The proposed rezoning would not create unreasonable traffic congestion or burden the existing road system without improvement; and
- The proposed rezoning will not result in significant impact to the health, safety and welfare of the residents, and landowners in the surrounding area.

Planning Department finds the proposed PUD Rezoning and Preliminary Plat Permit Applications compliant with all applicable regulations, and recommends the Planning Commission recommend APPROVAL to the Board of County Commissioners for the EC East PUD Rezoning, Filing No. PD-2023-6327, located Northeast of County Road 166 and Kiowa-Bennett Road, subject to the following three (3) Conditions of Approval:

EC East PUD Rezoning (Case No. PD-2023-6327) Conditions of Approval:

- 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;
- Developer must demonstrate that the Board of County Commissioners has approved the service plan for one or more proposed metropolitan districts authorized to provide water within the plat boundary area no later than one year from date of Resolution approving the Preliminary Plat or provide the County with a proposed Financing Plan demonstrating capacity to construct the water infrastructure and serve the community shown on the plat no later than 18-months after the Preliminary Plat is approved; and
- Development Guide Agreement (DGA) is completed and acceptable to the County Attorney in final form.

4. EC East Preliminary Plat (Case No. PP-2024-6327)

Pre-application meeting October 27, 2022, and Preliminary May 28, 2024. Preliminary Plat/Landscape/Lot Type Exhibits, Land Use Table and Site Data slides presented. Article IV and Article XI of the Elbert County Subdivision Regulations; Open Space – Conservative Community requirements; and Housing requirements (including residential density and diverse housing types) have been met.

Planning Department recommends the Planning Commission find:

- The proposed Preliminary Plat (PRLM Plat) is in general conformance with the Elbert County Comprehensive Plan;
- The proposed PRLM Plat meets all the criteria for approval in the Elbert County Zoning Regulations and the EC East PUD;
- The proposed PRLM Plat meets the requirements of the Elbert County Subdivision Regulations;
- The proposed PRLM Plat will not result in significant impact to the health, safety and welfare of the residents, and landowners in the surrounding area;
- The proposed PRLMN Plat has provided evidence to establish a public sewer disposal system that will comply with all applicable laws and regulations; and
- The proposed PRLMN Plat has provided evidence that soil conditions requiring special precautions have been identified and will meet all codes and ordinances.

Planning Department recommends the Planning Commission recommend APPROVAL to the Board of County Commissioners for the EC East Preliminary Plat (Case No. PP-2024-6327), located Northeast of County Road 166 and Kiowa-Bennett Road, subject to the following five (5) Conditions of Approval:

EC East Preliminary Plat (Case No. PP--2024-6327) Conditions of Approval:

- 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;
- The Preliminary Plat shall not become effective until all fees are paid, conditions of approval are met;
- Developer must demonstrate that the Board of County Commissioners has approved the service plan for one or more proposed metropolitan districts authorized to provide water within the plat boundary area no later than one year from date of Resolution approving the Preliminary Plat or provide the County with a proposed Financing Plan demonstrating capacity to construct the water infrastructure and serve the community shown on the plat no later than 18-months after the Preliminary Plat is approved;
- 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; and
- No building or driveway permit shall be allowed on a slope of twenty percent (20%) or greater or areas currently subject to flooding prior to grading, without the applicant submitting a special engineering feasibility study to the Building Department, with a building permit application. The study shall show the feasibility of the site to be engineered, to allow for construction on the site impacted by the excessive slope, and what methods are to be utilized.

STAFF PRESENTATION, Public Hearings #3 and #4 – Concurrent, CLOSED: 9:09 PM

APPLICANT PRESENTATION: 9:10 PM

Jim Yates, Colorado Ranch and Land Holdings II/Craft Companies, introduced the EC East *Project Team*:

Carolynne White, Brownstein Hyatt Farber Schreck; Bruce Lytle, P.E., Lytle Water Solutions; Chris McGranahan P.E., LSC Transportation Consultants; Andrew Knudtsen, Economic and Planning Systems; Brian Hart, P.E./Susan Wade, PLA-Redland; Dave Takeda, P.E., MSK Consulting, LLC; Marie Russo, PWS, ERO Resources Environmental; Dianne Miller, Miller Law PLLC. Elbert County Entitlement Process: Rezone to Planned Unit Development (PUD), Preliminary Plat (followed by Final Plat process), and a District Service Plan (separate presentation). Project principles include Smart Growth and Conservation/Water Conservation/Phased Development (over 25 years)/Commercial and Economic Development/Community Partnership. Slides reviewed included Elbert County's PUD Criteria; Conservation Community Criteria; Subdivision (Preliminary Plat) Criteria; Comprehensive Plan Compliance; and Housing Needs Assessment. Additional slides included EC East-Overview (Utilities/Infrastructure/Amenities/Regional Infrastructure); Planned Unit Development Guide; Preliminary Plat-Site Plan; Parks, Trails, and Open Space; Water – Supply, Denver Basin Water System/Characteristics/Availability/Demand; EC East Water Reuse System; Elbert County Master Transportation Plan; Traffic Impact Analysis; Economic/Fiscal/Net Fiscal Impacts; Revenue and Expenditure Projections; Community Outreach.

APPLICANT PRESENTATION, Public Hearings #3 and #4 – Concurrent, CLOSED: 10:08 PM

PUBLIC HEARING RECESS: 10:09 PM - PUBLIC HEARING RESUMED: 10:19 PM

CHAIRMAN - SCHEDULING DISCUSSION PERTAINING TO CONTINUANCE, DATE AND TIME CERTAIN:

10:19 PM - 10:29 PM

PUBLIC HEARING RECESS: 10:29 PM - PUBLIC HEARING RESUMED: 10:37 PM

PUBLIC TESTIMONY: 10:37 PM

EC East Planned Unit Development (PUD) Rezoning and EC East Preliminary Plat:

Beverly Durant, 40968 Kiowa-Bennett Rd; Rep. for Michele Murphy, Attorney-Kiowa School District; Otto Burden, 41435 Country Rose Cir, Parker; Jamie Schmidt/Butterfly Pavilion, 9321 W. 90th Dr, Westminster; Suni Mills, 27310 Forest Ridge Dr.

Topics: Noticing Location; Roads – existing/proposed/improvements/maintenance/safety; Water; Incompatibility; Public Services; Wildlife; School District/Developer/Schools; Infrastructure; Impact Fees; Sustainability Goals; Property Taxes; Affordable Housing; Excel Power Pathway Towers.

PUBLIC TESTIMONY, Public Hearings #3 and #4 – Concurrent, CLOSED: 10:57 PM

12. MOTION FOR MEETING CONTINUANCE; DATE AND TIME CERTAIN: 11:00 PM

Commissioner Kevin Kirkwood made the motion: Move for a Meeting Continuance to THURSDAY, AUGUST 22, 2024, 6:00 PM, ELBERT COUNTY AGRICULTURE BUILDING, 95 UTE AVENUE, KIOWA, CO 80117.

Commissioner Van Sands seconded the motion. **Motion Passed 6 – 0.**

