

COMMUNITY & DEVELOPMENT SERVICES

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**MEETING MINUTES
 PLANNING COMMISSION**

BOCC Public Hearing Room, 215 Comanche Street, Kiowa, CO 80117

DATE: May 20, 2025 TIME: 7:00 PM

- 1. CALL TO ORDER:** 7:00 PM – Chair Kirkwood
- 2. PRAYER:** 7:01 PM – Chair Kirkwood
- 3. PLEDGE OF ALLEGIANCE:** 7:02 PM - Led by Chair Kirkwood
- 4. ROLL CALL:** 7:02 PM – Wendy Doyle
Commissioners Present: Chair Kevin Kirkwood, Vice Chair Robert Poletiek, Van Sands, John Gresham, Kyle DeNardo, Nicole Hunt, Diana Edstrom, and Dan McCallin.
Commissioners Absent: Dede Schott-Grace and Kyle DeNardo.
Staff: Jennifer Jones, Planning Manager; Danny Klibaner, Land Use Planner; and Wendy Doyle, PC Recording Secretary.
- 5. STAFF REPORT:** 7:03 PM – Jennifer Jones
 Recent actions of the Board of County Commissioners (BOCC) reported.
- 6. CITIZEN COMMENTS** Unrelated to public hearings: 7:03 PM – Chair Kirkwood
 Opposition to Xcel Power Pathways. Elbert County Environmental Alliance (ECEA) Kerry Jibblits (Board Chair)-19656 Wedemeyer Rd., Kiowa, CO 80117. Expressed appreciation to staff for creating the Xcel Power Pathways page on Elbert County's website. Topics included possible future Xcel wind and solar projects; transmission lines power/presence/locations; and county electricity needs and beneficiaries.
CITIZEN COMMENTS CLOSED
- 7. OTHER BUSINESS:** 7:07 PM – Chair Kirkwood
 - A. Amendment to the Bylaws**
Call for Motion: 7:09 PM - Chair Kirkwood
Commissioner McCallin moved to amend the Planning Commission Bylaws that currently allots three minutes for the public to speak on pertinent issues in front of the Planning Commission (PC) to be changed to not exceed five minutes or the discretion of the chairman.
Commissioner Poletiek seconded the motion.
Motion Passed 7 – 0.
 - B. April 22, 2025, Work Study Session Regulations Updates**
Call for Motion: 7:11 PM – Chair Kirkwood
Negate of motion, discussion ensued. Topics included redlines status of Economic Development Zone (EDZ), Concept Brief, Community Meeting, and Landscape Warranty; regulations references/impacts/effective date(s). Staff to provide redlined information to PC for review prior to June 17, 2025, PC meeting; excluding Tree Preservation Ordinance and Design Guidelines. Commissioner McCallin
 - request for a timeline for the Tree Preservation Ordinance.
 Chair Kirkwood
 - PC will review dedicated redlines and make final approval on June 17th assuming redlines are in hand and it is the first item on the agenda. Staff-concurred.
 Commissioner Edstrom
 - inquiry on the impacts to current applications in the pipeline should the BOCC approve the removal of the EDZ. Staff-

no changes would go into effect until approved by the BOCC and recorded. Staff will defer to the County Attorney on the exact timing of how the process will work should the BOCC approve the removal of the EDZ. Staff (not speaking 100% legally/not an attorney) changes typically defer to the standards at the time of their application; however, if a district no longer exists, does not know if that is an option. Staff will provide clear information to the PC on June 17th.

Chair Kirkwood

- request for it to be a force of habit to get the County Attorney in attendance;
- request that the County Attorney be present at the June 17th PC meeting and be available to answer questions. Staff will let the County Attorney know of the request; and
- request that questions raised (matters of record) be presented to the County Attorney to be answered prior to June 17th. Information may be submitted via e-mail.

8. PUBLIC HEARING PROCESS: 7:21 PM – Chair Kirkwood

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 one of 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.

PUBLIC HEARING #1: 7:22 PM – Chair Kirkwood

BIJOU HILLS MET TOWERS (SUR-2024-0109, SUR-2024-0114, & SUR-2024-2490)

Staff Presentation: Danny Klibaner, Land Use Planner - presented three separate applications each requesting approval for a Special Use by Review (SUR) for the installation of a tower to be used for the collection of meteorological data on property zoned Agriculture (A). The proposed towers will obtain wind data and be located on separate parcels with separate ownership; however, each application is identical in applicant, nature of the proposed construction, and proposed SUR restrictions.

Bijou MET Tower Woehrel 0498, SUR-2024-0109: 60-meters tall (197 feet) tower located at the southwest corner of County Road 93 and County Road 90. Parcel #0109300013. Property Owner Kimberly G. Woehrel.

Bijou MET Tower Hertneky 0598, SUR-2024-0114: 81.3-meters tall (266 feet) tower located south of County Road 90 and west of County Road 105. Parcel #0114100074. Property Owners Clark William Hertneky, Scott Edward Hertneky, Mary Sandra Gecewicz, and Beth Anne Koester.

Bijou MET Tower Chambers 0798B, SUR-2024-2490: 60-meters tall (197 feet) tower located south of County Road 102 and east of County Road 149. Parcel #9935100137. Property Owners Delvin Lee Chambers and Jolene Frances Chambers.

Based upon review of the approval criteria found in Elbert County Zoning Regulations, Article III.E.5, and the findings in the Staff Report, staff recommend approval with conditions of the three Bijou Hills MET Tower Special Use by Reviews.

Applicant Presentation: Mathew Pagan, Tyler Streb, and Ashley Boden with Bijou Hills Wind, LLC (BHW) on behalf of Property Owners – presented an overview including proposed meteorological towers are temporary, not expected to exceed seven years; three similar towers were deployed in Elbert County in 2018; per Federal Aviation Administration (FAA), a top light is required only on the Hertneky 81.3-meter tower; exclusionary fencing will exist at anchor points supporting each mast as well as each mast for no potential contact with the structures once they are installed.

Public Testimony Opened: Chair Kirkwood

Testimony in favor: Chris Hertneky, 20950 County Road 93, Ramah, CO 80832. No issues or concerns, and Bijou Hills has responsibly and attentively dealt with the current MET tower ½ mile away.

Testimony in opposition: None

Public Testimony Closed

Board Discussion: Chair Kirkwood

Brief discussions held between PC, Staff, and Applicant included inquiries, responses, and requests. Topics included compatibility/ownership/performance/status of existing three towers approved in 2018; timelines of existing and new tower use/decommission; deployed MET towers in Colorado; data collection utilized to determine location suitability for a wind project - preliminary stage analysis; potential to proceed with a wind project; not currently operating wind or solar

generation projects in Colorado; energy company covering many different types of technologies; zonings and land uses; tower height variations; FAA painting and lighting compliance; wildlife, wetlands, and streams; decommissioning; SUR zoning regulations (no specific timeframe limit/annual review); standard cattle panel fencing (4 feet tall); locations of existing MET towers; and timeline from erecting towers through making a decision to proceed with a wind project.

Commissioner Hunt:

- request for consideration of a decommissioning condition of approval assuring the County that decommission will happen within 90 days (a set time) in the event of lease expiration, data collection ends, or project is cancelled. The applicant will be quick to get their stuff back in order and be able to restore the land back to its former agricultural use; and
- request for consideration of some type of time limit or deadline to the SUR; perhaps, a shorter SUR that potentially could be extended if the project warranted extension.

Commissioner Poletiek:

- inquiries about if there is any infrastructure, transmission lines, nearby any of these particular MET towers that would be associated with a wind turbine project. Applicant-not sure has accurate information to answer the questions at this point because everything is so early stage and unknown; and
- inquiry if applicant has already surveyed the area, landowners, neighbors, and so on associated with interest in the potential of a wind turbine project. Applicant-we have done that survey you're speaking of and spoken to landowners etc.; but, again, this is all very preliminary.

Commissioner Edstrom:

- inquiry about the absence of sign pictures and affidavits in the agenda packet. Staff-applicant provided sign pictures and affidavits which will be provided to the BOCC; and
- request for a condition of approval (referencing MET Tower Woehrel) that there is a current deed with the landowner's name on it to be included in the BOCC packet.

Commissioner Kirkwood:

- inquiry and consideration for a condition of approval. Should FAA regulations change to require markings and lighting on 60-meter towers, would the applicant paint and light the two proposed 60-meter towers. Applicant-if currently mandated, yes. Staff-matter is included as a staff recommended condition of approval.

Board Discussion on Recommended Conditions of Approval.

Call for Motion: 8:44 PM - Chair Kirkwood

Commissioner Poletiek moved the Planning Commission makes a *recommendation of approval* to the Board of County Commissioners for Bijou MET Towers: Woehrel 0498, SUR-2024-0109; Hertneky 0598, SUR-2024-0114; and Chambers 0798B, SUR-2024-2490, subject to the conditions of approval recommended in the staff report and the additional three recommended by the Planning Commission.

Three Planning Commission Recommended Conditions of Approval:

- Towers to be decommissioned and removed from the subject properties within 120 days of any lease ending, conclusion of data collection, or project cancelation;
- A suggested timeline for the SURs to be limited to five years; and
- Agenda packet provided to the BOCC includes an updated deed with the landowner's name on it for the Woehrel tower property.

Commissioner Sands seconded the motion.

Call for Roll Call Vote: Chair Kirkwood

Diana Edstrom – NAY. I would be very happy to vote for this application. I'm not happy to vote for it with a timeframe on a business as to how they're doing their business. I don't see any reason for that, and it doesn't make sense to me so, other than that, I would vote yes on this.

Dan McCallin – AYE.

Nicole Hunt – AYE.

John Gresham - AYE.

Van Sands – AYE.

Robert Poletiek – AYE.

Kevin Kirkwood – AYE. With the idea that this is going to become more interesting in a short amount of time.

Motion Passed 6 – 1.

PUBLIC HEARING #1 BIJOU HILLS MET TOWERS (SUR-2024-0109, SUR-2024-0114, & SUR-2024-2490) CLOSED: 8:48 PM

PUBLIC HEARING RECESS: 8:48 PM – 9:00 PM Chair Kirkwood

PUBLIC HEARING #2: 9:01 PM – Chair Kirkwood

KIOWA DISCONNECTION – COUNTY INITIATED REZONE: DIGBY PROPERTY RZ-2025-901

Staff/Applicant Presentation: Danny Klibaner, Land Use Planner – presented the proposed rezone for the Digby Properties Parcels: #8320418003, #8320418002, and #8320418001 which were disconnected from the Town of Kiowa. The subject properties are located adjacent to the Town of Kiowa, CO; vacant; comprise approximately 113.5-acres; and were zoned Planned Development (PD) within incorporated Kiowa. PD zoning is undefined under Elbert County Zoning Regulations (ECZR). Elbert County is the applicant requesting to rezone the Digby Properties from PD zoning to Agriculture (A) which will define allowable land uses and set standards. No development is proposed at this time and any future development will be subject to the necessary platting and zoning processes as applicable.

Project Background: In 2002, the parcels were annexed into the Town of Kiowa with the land planned for residential, commercial, and open space with a planned development. The development did not come to fruition and the land was removed from the incorporated town by decree in 2024. Rezoning is required as zoning does not transfer between jurisdictions.

Process for County Initiated Rezone: The BOCC, PC, or the Board of Adjustment (BOA) may, at any time, direct the Community & Development Department (CDS) to initiate rezoning for any parcel(s) of land within the unincorporated area of Elbert County. The BOCC initiated this rezoning process on February 19, 2025, it was assigned a CDS Case Planner, and the application was sent for a referral and public noticing as is standard practice.

Based upon review of the approval criteria found in the Elbert County Zoning Regulations, Article III.C.4, and the findings in the Staff Report, staff recommend approval of RZ-2025-901, Kiowa Disconnection: County Initiated Rezone (Digby Rezone).

Public Testimony Opened/Closed: None - Chair Kirkwood

Applicant Rebuttal: None – Chair Kirkwood

Board Discussion: Chair Kirkwood

Brief discussions held between PC and Staff included inquiries, responses, and requests. Topics included rezone will not impact the existing easement required by and owned by a separate property owner; rezone by legal description only; rezone exhibit not required; and reasons to initiate a County Initiated Rezone.

Call for Motion: 9:12 PM - Chair Kirkwood

Commissioner Sands moved the Planning Commission makes a *recommendation of approval* to the Board of County Commissioners of RZ-2025-901, Kiowa Disconnection: County Initiated Rezone (Digby Rezone).

Commissioner Poletiek seconded the motion.

Motion Passed 7 – 0.

PUBLIC HEARING #2 KIOWA DISCONNECTION – COUNTY INITIATED REZONE: DIGBY PROPERTY RZ-2025-901 CLOSED: 9:12 PM

9. ADJOURNMENT: 9:13 PM – Chair Kirkwood

Commissioner Poletiek moved to adjourn.

Commissioner McCallin seconded the motion.

Motion Passed 7 – 0.