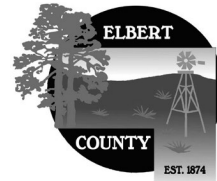




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ELBERT COUNTY



COMMUNITY & DEVELOPMENT SERVICES P.O. BOX 7

ELBERT COUNTY Meeting Minutes PLANNING COMMISSION HEARING ELBERT COUNTY BOCC HEARING ROOM, FAIRGROUNDS / AG BUILDING 95 UTE AVE. KIOWA CO 80117 JANUARY 5, 2021

Note: These meeting minutes are only a summary of the meeting. Duplication of the audio recording is available, for a fee, by contacting Community & Development Services.

Tonight's Planning Commission Hearing will be in person as well as via ZOOM. Phone accessibility is also available for all citizens.

The Planning Commission Meeting was called to order at **7:05 p.m.**, in the Ag Building.

PRAYER: Peter Hoogendyk

PLEDGE OF ALLEGIANCE: All

ROLL CALL

Commission members present: Danny Willcox, Van Sands, Linda Krausert, Peter Hoogendyk, Dan Michalak (Zoom), and Jeff Franken

Staff present: Christina Stanton, CDS Director; Greg Laudenslager, CDS Planner; and Jenn Klich, CDS Planner

STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S)

- Christina Stanton reviewed items that were on the December 23, 2020, Board of County Commissioners agenda and the actions taken:
 - Bussie-Windland RV Repair SUR (SU-20-0009)—Approved
 - Holly Acres Side Yard Variances (VA-20-0066)—Approved
- Christina Stanton brought up discussion items on PC Reimbursements
 - Planning Commissioners need to keep their own record of mileage and site visits and provide to CDS
 - Considering costs of purchasing printers and reams of paper for PC members to print their packets versus the costs of reimbursement for mileage to pick up packets

CONSENT AGENDA

- None

CITIZEN COMMENTS

- None

APPROVAL OF MEETING MINUTES

- December 15, 2020—On motion by Peter, second by Dan these were approved as written. The motion passed unanimously: six (6) to zero (0).

PUBLIC HEARING BEGINS

Danny states that there was a request from the applicant for the Spring Valley Ranch DGA Amendment #3 to be continued. Jim Marshall, applicant, confirms. Peter motions to continue the Spring Valley Ranch DGA Amendment #3 (DG-20-0073) until a date certain of January 19, 2021. Linda seconded the motion. 6-0.

Danny Willcox reviews the Public Hearing process:

The Planning Commission is volunteer. The process begins with a Staff presentation. The Applicant presentation is next, followed by the public testimony. This is a quasi-judicial process; evidence will be reviewed per application. The Applicant may address the public concerns after all comments are made. Public comments are limited to 3 minutes per person. Planning Commission will have a discussion and finalize the process. Planning Commission can either approve, approve with conditions, or deny/continue to another date.

GREG LAUDENSLAGER, CDS Land Use Planner: CARLSON REZONE, RZ-19-0016

- Greg reviews the application and details of the staff report.
 - A request to rezone approximately 17.68 acres from Agriculture (A) to Agriculture Residential (AR) on a larger 60.014 acre property.
 - Land Owner: Eric & Robin Carlson
 - Size: 17.68 acres of a larger 60.014 acre property
 - Pre-Application Meeting: November 30, 2017
 - Application Submittal: March 1, 2019
 - Referral Process:
 - 1st: March 26 – April 17, 2019 (21 days)
 - 2nd: September 30 – October 14, 2020 (14 days)
 - Board of County Commissioners: January 27, 2021
 - Reviewed existing site conditions
 - Notices
 - Sign: Posted on property on December 15, 2020
 - Mailed: To property owners within 1,320 feet of the subject property boundaries on December 15, 2020
 - Newspaper: Published in the *Elbert County News* on December 17, 2020
 - Reviewed the aerial and zoning maps
 - Reviewed the referral process and comments
 - Reviewed the Rezone Exhibit
 - Reviewed the Rezone criteria and staff findings
 - Reviewed application against Comprehensive Plan
 - Recommended that the Planning Commission recommend Approval of the Carlson Rezone (RZ-19-0016) subject to the following conditions:
 - The applicant will be required to remove the public hearing sign within seven (7) days of

- approval by the Board of County Commissioners;
 - The Rezone shall not become effective until all fees are paid, conditions of approval are met, and the Rezone Exhibit is recorded; and
 - Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.
- Eric Carlson, applicant, stated the correct address is 36411 Paradise Circle, Elizabeth
- Danny confirmed it is correct. Stated the powerpoint must have had it incorrect.
- Danny asked for citizen comments—none.
- Danny asked for discussion for Planning Commissioners—none.
- Danny asked for a motion
- **Dan motioned to recommend approval to the Board of County Commissioners for RZ-19-0016, subject to conditions 1-3. Peter seconded the motion. The motion passed unanimously: six (6) to zero (0).**

JENN KLICH, CDS Land Use Planner: RICCI REZONE, RZ-20-0055

- Jenn reviews the application and details of the staff report.
 - A request to Rezone approximately 35 acres from Agriculture (A) to Agriculture Residential (AR)
 - Land Owner: Bruce Ricci (as to a contractual interest with Jeff & Helen Hamilton)
 - Applicant/Representative: Tom Maroney
 - Size: 35 acres
 - Location: 29684 County Road 17/21, Elizabeth
 - Pre-Application Meeting: July 23, 2020
 - Application Submittal: August 27, 2020
 - Referral Process:
 - 1st: September 25 – October 16, 2020 (21 days)
 - Board of County Commissioners: January 27, 2021
 - Reviewed existing site conditions
 - Notices:
 - Mailed: To property owners within 1,320 feet of the subject property boundaries on December 7, 2020
 - Sign: Posted on the property along County Road 17/21 on December 2, 2020
 - Newspaper: Published in the *Elbert County News* on December 10, 2020
 - Reviewed the aerial and zoning maps
 - Reviewed the Rezone Exhibit
 - Reviewed the Referral process and comments
 - Reviewed the Rezone criteria
 - Reviewed the Comprehensive Plan
 - Reviewed staff's findings
 - Recommended that the Planning Commission recommend Approval of the Ricci Rezone (RZ-20-0055) subject to the following conditions:
 - The applicant will be required to remove the public hearing sign within seven (7) days of approval by the Board of County Commissioners;
 - The Rezone shall not become effective until all fees are paid, conditions of approval are met, and the Rezone Exhibit is recorded;
 - Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval;
 - A note is to be added to the Minor Plat Exhibit stating payment of Cash-in-lieu of Open Space Fees were paid at time of development;

- Fees due for the rezone to Elizabeth School District shall be paid prior to recordation;
- Fees due for the rezone to Elizabeth Fire Protection District shall be paid prior to recordation.
- Tom Maroney stated he had nothing to add, staff did a very thorough job.
- Danny asked for citizen comments or questions.
- Diana Edstrom, 26060 County Road 41, Elbert—Stated that several of the documents in the package appear to be for the old owners (Hamilton), and she hasn't been able to find ones under the name of the new owner (Ricci). Said she couldn't find a new warranty deed, the property was closed on September 9, 2020. Went on to state that the legal description is from 1995. Claims that the legal description appears to have some inaccuracies. Stated Greg Toles, from the Assessor's Office, had comments about these inaccuracies and that he provided a reception # for a corrected legal. She continued and stated that the title insurance and statement of taxes were all for Hamilton. Ms. Edstrom further stated that she did not see the drainage study, which is a required document for all rezones. She stated that the rezone is not compatible with the surrounding area—open and no clusters of homes. Discussed surrounding lot sizes. Also stated that she thought the old railroad beds runs along the property. Ms. Edstrom stated she would try to talk faster.
- Danny stated that she get 3 minutes.
- Ms. Edstrom stated she believed she “gets 10 minutes if I well put together...”
- Danny stated “No, you get three minutes.”
- Ms. Edstrom stated, “Your Bylaws...”
- Danny stated, “No, you get three minutes and it's up to the chair if it can go longer.”
- Ms. Edstrom disagreed and attempted to finish. She stated that there was confusion regarding whether it was an access drive or private road.
- Danny asked Ms. Edstrom to send her comments ahead of time. He also stated she could leave her comments with staff after the meeting. Danny reiterated that she is only allowed three minutes and to have any additional time must be decided by the Chair ahead of the meeting.
- Danny asked about the record of ownership. Danny stated that the County records showed that it was under the correct ownership.
- Ms. Edstrom stated that there was no deed in the package.
- Jenn stated that if staff doesn't have something, like the deed, it would be added to the packet later or added as a condition of approval.
- Peter stated that there is a note in the application that explain the ownership and changes in process.
- Danny confirmed that it covers.
- Jenn stated that the inconsistencies in the legal description have been corrected.
- Tom Maroney discussed the disclosure of the contractual agreement. The package can't be changed in the middle of the process. Stated that the Final Plat and Rezone Exhibit does not have Hamilton signing. He further stated that the drainage study requirement is up to staff to determine, especially on smaller lot projects. He also added that the referral agencies have the ability to request additional studies if they feel it is warranted. Discussed compatibility. Stated he didn't believe Diana was a neighbor. Stated staff does a very thorough job and don't miss anything.
- Michelle Nealy, 26218 County Road 41, Elbert—Asked where prior gentleman (Tom Maroney) lives. Stated she feels like the Planning Commission just sends everything to the Board of County Commissioners.
- Candace Head-Dylla, 446 Meadow Station Circle—Feels it is unfortunate when someone who is asking questions and trying to understand the process is termed a “trouble-maker”. She finds that disturbing.
- Danny asked if there questions from the Board.
- Tom asked if he could rebut.
- Danny said go ahead.

- Tom stated he lives a ¼ mile away and has live here since 1992—longer than anyone around.
- Dan asked Tom where he is in the process of getting water.
- Tom stated that they applied for their adjudication and augmentation plan at the same time, before they made formal application. Stated the State is taking an extremely long time due to COVID. They are at six months right now, but they are hoping to have the decree before the BOCC meeting. Stated that if they don't have it before BOCC it is standard to be continued until they do have it.
- Peter stated that water doesn't have anything to do with the Rezone, which is what we are reviewing.
- Dan stated he just wanted to know where it was in the process.
- Danny stated we can do the rezone but can't do the minor without the water.
- Karen Downs, 4755 Private Road 192, Elizabeth—There is a discrepancy on the water and ownership, why is this application being discussed?
- Danny stated that Tom answered these issues.
- Karen stated that there were all these unknowns and asked why are we here.
- Danny stated because all we are looking at is a rezone of a piece of property. We are not looking at a development where water is a requirement.
- Karen stated that all the requirement have not been met.
- Jenn stated that the expectation is that they will be met by the time they are before the Board of County Commissioners. She further stated that if the material is not available for analysis then the Board will not hear the project, it will be continued to a date in the future. Also explained that the Rezone doesn't actually happen until recordation, and all items must be addressed prior to recordation.
- Danny stated that the Planning Commission typically puts conditions on an item that has to be addressed before it goes to the BOCC.
- Jenn further stated that a lot of it is a timing issue. Materials will be addressed prior to recordation.
- Danny asked for questions from the Planning Commission.
- **Dan motioned to recommend approval to the Board of County Commissioners for RZ-20-0055, subject to conditions 1-6. Van seconded the motion. The motion passed unanimously: six (6) to zero (0).**

GREG LAUDENSLAGER, CDS Land Use Planner: CJ's ANIMAL ADVENTURES, SU-20-0058

- Greg reviews the application and details of the staff report.
 - A request to approve a Special Use by Review for a zoological park called CJ's Animal Adventures.
 - Land Owner: Carolyn Lantz
 - Size: Approximately 10 acres of a larger 59.76 acre property
 - Pre-Application Meetings:
 - 1st: February 19, 2019
 - 2nd: August 20, 2020
 - Community Meeting: September 16, 2020
 - Application Submittal: September 28, 2020
 - Referral Process:
 - 1st—October 1 – 22, 2020 (21 days)
 - Board of County Commissioners: January 27, 2021
 - Notices
 - Mail: Sent to property owners within 1,320 feet of the property boundaries on December 22, 2020
 - Sign: Posted on December 21, 2020
 - Newspaper: Published in the *Elbert County News* on December 17, 2020
 - Reviewed the aerial and zoning maps

- Reviewed SUR Exhibit
- Reviewed Application History
- Reviewed the Referral process and comments
- Reviewed Special Use by Review criteria listed in Article III.E.5.(a)-(h) of the Elbert County Zoning Regulations
- Reviewed the application against the Comprehensive Plan
- Stated that staff has determined that impact fees are not applicable to this SUR as there are no new structures associated with this Special Use by Review
- Reviewed Staff Findings
- Recommended that the Planning Commission recommend Approval to the BOCC subject to the following conditions:
 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.
 3. Recordation of all appropriate documentation to occur within 180 days of approval by the Board of County Commissioners.
 4. The driveway is to be improved to commercial standards before being open to the public.
- Carolyn Lantz stated that it is intended to be a zoological park that is a conservation/educational center. She stated that the zoological park permit is required through the State Parks & Wildlife and they only allow her to have certain things. The State reviews the fencing/containment.
- Danny wanted to make sure someone was overseeing the containment and originally had questions on required permits through the State.
- Danny asked if anyone else had questions.
- Linda asked whether the facility was going to be open one day a week.
- Ms. Lantz clarified that they would be open to the public one day a week. They primarily want to be open at least one day a week from noon to five since it is supposed to be educational they are going to encourage small groups. Stated that a guide is needed to go around and talk about the animals.
- Linda asked if this was something that would be open to schools to go to once COVID was over.
- Ms. Lantz stated they would like to.
- Linda asked about these animals and their habitat. She stated that we have a higher elevation and inclement weather. Will those animals be able to adjust?
- Ms. Lantz stated that all the animals have been born in the United States and they have all adjusted, but since they do have animals that like warmer environments the barns are heated.
- Peter asked if the well is approved for watering multiple stock. Do we have it on record?
- Ms. Lantz stated that the original permit was for domestic livestock—horses, cattle—kangaroos don't drink much.
- Peter asked whether there was a referral from the Division of Water Resources.
- Danny stated he had the same question. He also asked if we had a referral from the Division of Wildlife.
- Greg stated that didn't provide a referral but that they had been in contact and are very familiar with Ms. Lantz's facilities. He also stated that Casey Westbrook is available on Zoom if anyone had specific questions for him.
- Danny said, "Good, okay so he's aware of it. Alright."
- Ms. Lantz stated she still had some other processes to go through with the State.
- Danny asked if anyone else had questions. Peter? Dan? Jeff?
- Dan asked Casey Westbrook, Division of Wildlife, whether he looks at diseases that might be transmitted. Whether they had a list or is it better just to go through the Division of Wildlife.
- Casey stated they do have a list of pre-approved species. He further explained that there are two

lists, a regulated list and an unregulated list. Unregulated do not require approval. He stated that there are multiple options for licensing. He further stated that they do look at disease and some animals are prohibited due to those concerns and others.

- Dan asked at what point, or do they require people to follow rules and regulations of the American Zoological Society? Asked about caging and human facilities.
- Casey state some has to do with the type of license applied for. Stated that the license Ms. Lantz applied for is the zoological park license. American Zoological Society not involved with this license. Also, there is some level of involvement from USDA.
- Dan asked about the well permit. Stated that the domestic/livestock well may not cover her use. Discussed exempt wells. Urged the applicant and staff to look at this closer.
- Danny asked Dan if he wanted to add a requirement to check on the well.
- Danny asked Ms. Lantz if she has checked on the well.
- Ms. Lantz indicated that she had.
- Peter stated he would like to see some sort of determination of what is allow with that well as part of the process.
- Danny stated a condition should probably be added to check that the well requirement is adequate. The State should provide something to indicate that it is an acceptable use for the well.
- Ms. Lantz (undiscernible).
- Danny stated that there is nothing in the packet that states that the well is sufficient for the type of animals she will have.
- Dan stated we want to add a condition of approval, before it is sent to the County Commissioners that a determination be made that the well permit allows her to have the operation she has with the exotic animals.
- Danny asked if Dan was going to make that a motion.
- Dan stated he was going to allow staff to work on the wording.
- Danny stated to Greg that what they want is to verify that the well permit is acceptable for what the use is.
- Dan stated that exempt wells are for household use for watering domestic animals, typically 2-4. Exempt wells do not include livestock. Stated that her well permit is from 1983 so he is not sure what type of well she has.
- Greg stated that staff shall verify that the well permit is allowed for the use prior to being heard before the BOCC.
- **Dan motioned to recommend approval to the Board of County Commissioners for CJ's Animal Adventures, SU-20-0058, subject to conditions 1-4 with the addition of the new condition that Staff will verify that the well permit is allowed for the use. The motion was seconded by Peter. The motion passed unanimously: six (6) to zero (0).**

Linda motioned to adjourn the meeting. Peter seconded the motion. All in favor. Motion carried 6-0.

MEETING ADJOURNED at 8:56 p.m.