



ELBERT COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS MEETING MINUTES

Regular Meeting Held in the BOCC Meeting Room

April 27, 2022 at 9:00 AM

A. INVOCATION/PLEDGE OF ALLEGIANCE:

County Clerk Dallas Schroeder preformed the Invocation and led the Pledge of Allegiance.

B. CALL TO ORDER AND ROLL CALL

The regular meeting of the Board of County Commissioners was called to order at 9:02 AM. Deputy Clerk Amanda Moore preformed roll call and all commissioners were present.

C. APPROVAL OF AGENDA

Motion: Approval of Agenda as presented.

Commissioner Grant Thayer made a motion to Approve the Agenda as presented. Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

D. CONSENT AGENDA

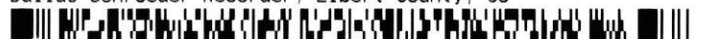
Motion: Approval of Consent Agenda as presented

Commissioner Rick Pettitt made a motion to Approve the Consent Agenda as presented. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

1. Approval of CDS Mylars as needed
2. Approval of Vouchers as needed
3. Acknowledgement of Receipt of Variance Reports
4. Resolution of acceptance for Independence Phase 1 and 2 roads for full County maintenance.
5. Hi-Test Liquor License Renewal
6. Quit Claim Deed Granting Roads to the Town of Elizabeth



E. ELECTED OFFICIALS/DEPARTMENT HEADS/STAFF REPORTS

None

F. CITIZEN PUBLIC COMMENT

None

G. DISCUSSION ITEMS

1. Elbert County Wildfire Annual Operating Plan

County Manager Sam Albrecht presented the Annual Wildfire Operating Fund and stated that the agreement has been approved by the Sheriff's Department and Fire Chiefs. Mr. Albrecht requested that this item be moved to action.

Motion: To Approve the Annual Wildfire Operating Fund as Presented.

Commissioner Grant Thayer made a motion to Approve the Annual Wildfire Operating Fund as Presented . Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

H. ACTION ITEMS

1. Consideration of April 13, 2022 Minutes

Motion: Approval of April 13, 2022 Minutes

Commissioner Richardson abstained from the vote.

Commissioner Grant Thayer made a motion to Approve the Minutes as presented. Commissioner Rick Pettitt seconded the motion.

Yes - Grant Thayer, Rick Pettitt

No - None

2. Public Hearing - Consideration of Special Event Liquor License for Cowboy Up In Kiowa

Motion: To Open a Public Hearing for Consideration of a Special Event Liquor License for Cowboy Up In Kiowa

Commissioner Rick Pettitt made a motion to Open a Public Hearing for Consideration of a Special Event Liquor License for Cowboy Up In Kiowa . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Public Hearing Opened at 9:06 AM.

Deputy Clerk Amanda Moore presented the application for a Special Event Liquor License. Ms. Moore noted that this event would take place at the Hitch n Post on County Rd 13 in Elizabeth.



Public Comment: None

Motion: To Approve the Special Event Liquor Permit for Cowboy Up In Kiowa.

Commissioner Grant Thayer made a motion to Approve the Special Event Liquor Permit for Cowboy Up In Kiowa . Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Motion: To Close a Public Hearing for the Special Event Liquor Permit for Cowboy Up In Kiowa

Commissioner Rick Pettitt made a motion to Close a Public Hearing for the Special Event Liquor Permit for Cowboy Up In Kiowa . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Public Hearing Closed at 9:07 AM.

3. Public Hearing - Consideration of Special Event Liquor License for Elbert Town Committee

Motion: To Open a Public Hearing for Consideration of a Special Event Liquor License for Elbert Town Committee

Commissioner Grant Thayer made a motion to Open a Public Hearing for Consideration of a Special Event Liquor License for Elbert Town Committee . Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Public Hearing Opened at 9:08 AM.

Deputy Clerk Amanda Moore presented the application and noted that this annual event has no changes.

Public Comment: None

Motion: To Approve the Special Event Liquor License for Elbert Town Committee

Commissioner Rick Pettitt made a motion to Approve the Special Event Liquor License for Elbert Town Committee . Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Motion: To Close a Public Hearing for the Special Event Liquor License for Elbert Town Committee

619504 B: 827 P: 892 MM

05/11/2022 10:56:53 AM Page: 3 of 29 R 0.00 D

Dallas Schroeder Recorder, Elbert County, Co



Commissioner Grant Thayer made a motion to Close a Public Hearing for the Special Event Liquor License for Elbert Town Committee . Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Public Hearing Closed at 9:09 AM.

I. BOARD PLANNING

1. Agenda Items for Next Meeting

- a. PW Facility Update
- b. Supplemental Appropriation discussion

Commissioner Richardson called a recess at 9:10 AM to return at 11:00 AM for the Board of Health Meeting.

J. BOARD OF HEALTH 11:00 A.M.

The Board of Health meeting was called to order at 11:00 AM. Deputy Clerk Amanda Moore preformed roll call and all commissioners were present.

1. Quarterly Board of Health Report

Motion: To Open the Board of Health Meeting

Commissioner Rick Pettitt made a motion to open the Board of Health Meeting. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

The Board of Health Opened at 11:01 AM.

Public Health Educator Lisa Helseth presented the quarterly public health report. Ms. Helseth stated that community health assessment interviews are still ongoing and that data collection will hopefully be complete in May. Ms. Helseth went over the secondary data review, which was collected in 2021. (this information was included in the packet)

Public Health Nurse Sara McIntosh provided a COVID update. Ms. McIntosh went over the current numbers in the county and the year to date covid testing numbers. Ms. McIntosh reminded the residents that there is testing available at the public health building and that they are hopeful to start expanding their diagnostic testing as well.

Environmental Health Specialist Stacey Rinehart provided an update on septic permits, food licenses and vital records.

Commissioner Richardson asked for specifics regarding the overdose/drug deaths and why the high of amount of kidney disease. Mr. Richardson also asked if mental health access was the reason for the rise in

that area or are they seeing more mental health issues.

There was a brief discussion on the stats and Ms. McIntosh informed the commissioners that TB numbers went down.

Public Comment: None

Motion: To Close the Board of Health Meeting

Commissioner Grant Thayer made a motion to Close the Board of Health Meeting. Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Board of Health Closed at 11:35 AM.

Commissioner Richardson called a recess until 1:00 PM to return for Land Use Hearings.

K. LAND USE HEARINGS 1:00 P.M.

The Land Use Hearings were called to order at 1:02 PM. Deputy Clerk Amanda Moore performed roll call and all commissioners were present.

1. Owen Self Storage - Request for Inclusion in the Economic Development Zone Overlay

Land Use Planner Matthew Karney provided a history of this property, including a plat that was signed and recorded back in 2000. Mr. Karney explained that this property is currently being used as residential and is located between Cornerstone Church and the Hitch N Post. Mr. Karney explained that the property owner has requested inclusion in the EDZ overlay and, because of the flood plain on the property, only a small portion could be used for RV storage. Mr. Karney provided Community and Developments recommendations. CDS recommends denying a county initiated rezone, vacation of floral plat and the EDZ site plan to be approved by the BOCC.

Applicant Cody Owen, 36250 County Rd 13, Elizabeth. Mr. Owen explained their plan for the property and answered questions from the Board.

Commissioner Thayer stated that if they vacated the residential plat that was recorded in 2000, then the property could be included in the EDZ.

Public Comment: None

There was a brief discussion between the BOCC and the applicant regarding the vacation of the plat.

The Board agreed with the CDS recommendations.



Toscano Rezone (case: RZ-21-0080)

2. A request to rezone approximately 20.9-acres from Agriculture (A) to Agriculture Residential (AR) on a property located at 22903 County Rd 15-21, Elbert.

Motion: To Open a Public Hearing for the Toscano Rezone RZ-21-0080.

Commissioner Rick Pettitt made a motion to Open a Public Hearing for the Toscano Rezone RZ-21-0080 .
Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Public Hearing Opened at 1:118 PM.

Land Use Planner Matthew Karney presented a request to rezone 22903 County Road 15-21 from Agriculture to Agriculture Residential. Steve and Kristen Toscano are the owners and Tom Maroney is the applicant. Mr. Karney provided information on the 60 acres, the property owners would like to rezone a 20 acre parcel and divide it into two lots. Mr. Karney said that during the referral process they were told that the well for the current residence on the remaining 40 acres would have to be re-permitted to reflect the change. Staff recommends approval with the condition of re-permitting well no.208794.

Commission Richardson asked if the property owners live on the property in questions.

Steve Toscano stated that they do live on the property.

Public Comment: None

Motion: To Approve the Toscano Rezone RZ-21-0080

Commissioner Grant Thayer made a motion to Approve Toscano Rezone RZ-21-0080 . Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Motion: To Close a Public Hearing for Toscano Rezone RZ-21-0080

Commissioner Rick Pettitt made a motion to Close a Public Hearing for Toscano Rezone RZ-21-0080 .
Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Public Hearing Closed at 1:29 PM.



Cornerstone Rezone (case: RZ-21-0060)

3. A request to rezone approximately 47-acres from Agriculture (A) to Agriculture Residential (AR) on a property located at 32471 N Elbert Rd, Kiowa.

Motion: To Open a Public Hearing for the Cornerstone Rezone RZ-21-0060

Commissioner Rick Pettitt made a motion to open a Public Hearing for the Cornerstone Rezone RZ-21-0060. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Public Hearing Opened at 1:30 PM.

Land Use Planner Matthew Karney presented a request to rezone 32471 N Elbert Road from Agriculture to Agriculture Residential. Mr. Karney mentioned for the record that RZ-21-0060 and RZ-21-0085 are referring to the same application. Mr. Karney stated that Justin and Stacy Upchurch are the property owners and CJ Kirst is the applicant. Mr. Karney explained that the property is located next to a propane storage/industrial business. Mr. Karney explained that during the referral process it was requested that a type 1 gravel road be constructed and school impact fees paid to Elbert schools. CDS and Planning Commission recommend approval with conditions.

Applicant CJ Kirst, 5730 Otero Ave, Centennial. Mr. Kirst stated that they agree with the conditions listed.

Commissioner Thayer has concerns about building permits close to propane tanks.

Mr. Kirst stated that there are set back requirements set for those types of tanks and that will be looked at during the permit process.

Public Comment:

Deidra House, 9448 County Rd 134, Kiowa. Ms. House has concerns about the area being infested with prairie dogs and the construction pushing them into neighboring properties.

Mr. Kirst stated that they will look into that.

Motion: To Approve the Cornerstone Rezone RZ-21-0060.

Commissioner Rick Pettitt made a motion to Approve the Cornerstone Rezone RZ-21-0060. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Motion: To Close a Public Hearing for the Cornerstone Rezone RZ-21-0060

Commissioner Rick Pettitt made a motion to Close a Public Hearing for the Cornerstone Rezone RZ-21-0060. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Public Hearing Closed at 1:43 PM.

Rockhaven Rezone & Final Plat (case: PD-21-0069 & FP-21-0071)

4. A request to rezone a 79.32--acre parcel from Agriculture (A) to Agriculture Residential (AR) and a final plat splitting the parcel into seven (7) total lots: six (6) of 10-acres and one (1) 19-acre lot at 741 County Rd 146, Elizabeth.

Motion: To Open a Public Hearing for Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071.

Commissioner Grant Thayer made a motion to Open a Public Hearing for Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071. Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt
No - None

Public Hearing Opened at 1:44 PM.

Land Use Planner Matthew Karney presented a request for a rezone and final plat of a property from Agriculture to Agriculture Residential on 79 acres to include creating seven (7) lots total. Mr. Karney explained that there will be seven (7) 10 acre lots and one (1) 19 acre lot. Mr. Karney explained that CDS has waived the preliminary plat process and requested for BOCC consideration of variance under art 1.H.1 for site access due to hardship. There were no other areas for access into this area. Mr. Karney explained that the water plan has been approved and a request for the current well to be re-permitted. CDS and the Planning Commission recommend approval with conditions. Proof of fire flow requirements, impact fees to Elbert county for ADU, re-permitting well no. 134346 and proof of well abandonment for no. 23047.

Owner and Applicant Chad Roach, 2929 S Evans Way, Franktown. Mr. Roach explained that they plan to build a larger home for their family on the property. His family and extended family also plan to build homes on the other lots. The lots will not be for sale. Mr. Roach explained that they will pay the cash in lieu for the open space.

There was a discussion on ADU vs. Single Family, Fire requirements, covenants and emergency access.

Public Comment:

Greg Lopez, 36792 View Ridge Dr, Elizabeth. Mr. Lopez believes there is confusion over the fire department requirements, and expressed concerns over loose ends seen in the conditions. Mr. Lopez would like to see the power lines buried, road inspected and approved and covenants for road maintenance. Mr. Lopez requested this item be continued.

Diana Edstrom, County Road 41, Elbert. Ms. Edstrom asked that if this item is going to be continued that Mr. Lopez's comments are included. Ms. Edstrom asked if the Commissioners can legally make a property owner give them an easement?

Mr. Roach addressed the access to the property, Core's recommendations and fire flow questions.



There was a brief discussion regarding conditions and the need for covenants and emergency access.

Motion: To Approve Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071

Commissioner Rick Pettitt made a motion to Approve Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071 with conditions. Commissioner Grant Thayer seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Motion: To Close a Public Hearing for Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071

Commissioner Grant Thayer made a motion to Close a Public Hearing for Rockhaven Rezone and Final Plat PD-21-0069 & FP-21-0071. Commissioner Rick Pettitt seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

Public Hearing Closed at 2:30 PM.

Commissioner Richardson called a recess at 2:30 PM and returned at 2:41 PM.

5. **Kiowa Outdoor Adventure Special Use by Review & EDZ Site Development Plan (cases: SU-21-0079 & EZS-22-0009)**

Location: SW of Hwy 86 and CR 134.

Commissioner Rick Pettitt recused himself from the discussion and vote.

Motion: To Open a Public Hearing for Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009.

Commissioner Grant Thayer made a motion to Open a Public Hearing for Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009. Commissioner Chris Richardson seconded the motion.

Yes -Chris Richardson, Grant Thayer

No - None

Public Hearing Opened at 2:42 PM.

Community and Development Director Greg Thompson presented the applications for special use by review and EDZ site development plan. The owners are Nikki and Deborah Ullom. Mr. Thompson explained that the property is 25 acres SW of Hwy 86 and County Rd 134 in Kiowa. Mr. Thompson stated that the special use is for a campground facility and the EDZ is for an RV storage facility and Putt Golf. Access to the site will be on the east side of County Rd 134 and does meet the criteria for zoning requirements. CDS and Planning Commission recommend approval with the conditions listed.



Applicant Deborah Ullom, 11195 Copper Canyon, Kiowa. Ms. Ullom stated that she has no problems with the conditions other than #4 and #9. Ms. Ullom explained that #4, the traffic study had already been complete and the campground was included in that and #9 CDOT did not make any recommendations after two referral periods. Ms. Ullom also stated that this is the first time hearing about these conditions. Ms. Ullom explained the intention is to create a place to stay for people visiting the area. It will include gas firepits in campground area, bathroom facilities and RV/Boat storage. The RV/Boat storage will have privacy fencing all around it and it will be closer to Hwy 86.

Mr. Thompson stated that with the limited sight distance at County Rd 134 and Hwy 86, the idea is to make sure there are no others conditions required by CDOT.

The Commissioners asked that it specify signage and not construction costs.

Public Comment:

Deidre House, 9448 County Rd 134, Kiowa. Ms. House voiced her concerns over traffic safety, transients coming through town and does not feel this will serve our community well.

Chris Cross, 9747 County Rd 134, Kiowa, Mr. Cross voice his concerns over the fencing, robberies and having to call the police. Mr. Cross requested a twelve foot fence around the entire property. Mr. Cross questioned who would be responsible for road maintenance.

Tanner Lindt, 9652 County Rd 134, Kiowa. Mr. Lindt stated that there was a fence line issue and an easement that was granted by previous owners. Mr. Lindt stated that there is no longer an agreement but he is wanting the fence to stay in place and is willing to sign an agreement not to take the property.

Todd Brown, County Rd 134, Kiowa. Mr. Brown has concerns over potential traffic accidents and the very vague conditions listed.

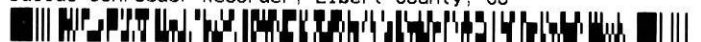
Linda Kurhan, County Rd 134, Kiowa. Ms. Kurhan stated that she will be moving in with Mr. Cross shortly. Ms. Kurhan voiced her concerns over the lighting and fencing. Ms. Kurhan is concerned that a 4 foot fence will not keep people off of the property and away from their unfriendly dogs.

Diana Edstrom, County Rd 41, Kiowa. Ms. Edstrom stated that we do need this type of business. Ms. Edstrom explained that there are many different events throughout the year and the only other campground is at Casey Jones. Ms. Edstrom announced that she is a camping transient.

Public comment closed.

Ms. Ullom responded to the concerns. Ms. Ullom does not have a problem with a "no atv" sign, they agreed to a 4 ft field fence, people who have \$100,000 campers are not usually breaking into houses, there will be a lighting plan, Mr. Lindt fence issue is a civil matter , condition #9 is unfairly being thrown at her today and the traffic study has already been done.

There was a discussion regarding fencing, conditions and the intersection.



Commissioner Richardson called a recess at 3:43 PM and returned at 3:50 PM.

There was further discussion over the fencing and intersection.

Commissioner Richardson called a recess at 4:04 PM so the applicant and CDS director could modify the conditions that are agreed upon and returned at 4:21 PM.

Motion: To Approve Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009.

Commissioner Grant Thayer made a motion to Approve Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009 with the modified conditions. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer

No - None

Motion: To Close a Public Hearing for Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009

Commissioner Grant Thayer made a motion to Close a Public Hearing for Kiowa Outdoor Adventure Special Use by Review and EDZ Site Development Plan SU-21-0079 & EZS-22-0009. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer

No - None

Public Hearing Closed at 4:27 PM.

L. ADJOURNMENT

Motion: To Adjourn

Commissioner Grant Thayer made a motion to Adjourn. Commissioner Chris Richardson seconded the motion.

Yes - Chris Richardson, Grant Thayer, Rick Pettitt

No - None

The meeting Adjourned at 4:28 PM.



March 15, 2022

Honorable Planning Commission Members,

I respectfully request that you continue this hearing to a date certain for three (3) important reasons.

First, On February 1, 2022, under the Open Records Act for information I requested very specific information pertaining to this project. **(Attachment A)** As stated in the staff report the 2nd formal referral period was from December 30 to January 18, 2022.

While I did receive some of the information I requested, I did not receive all the information that I requested. Due to not receiving all the information it limited my ability to properly review the application.

I requested the following information:

A list of all referral agencies that were provided the information concerning this project for comments and all comments received from any referral agencies and I did not receive the information.

The email **(Attachment B)** found in the 2nd Referral Response from Rory Hale, Director of Public Works, dated January 25, 2002, states,

"Please make sure we have something from the Fire District regarding the road."

There is an email dated Jun 16, 2021, from Kara Gerczynski, Elizabeth Fire District, **(Attachment C)** stating the following:

If the easement is vacated, then we would allow the one access. That access has to be designed as a road according to Elbert County Road and Bridge Standards. That new road would have to be named and all properties (including the existing house) would have to be addressed off the new road. The new road would need a 100' diameter cul-de-sac at the end.

The staff has not provided any documentation from the Fire District regarding waving the need for a 100' diameter cul-de-sac at the end of the road and the final plat map shows no cul-de-sac at the end of the road as required by the Elizabeth Fire Department.

There is not mention of the road being a private road or a local road in the staff report. In addition, at this time the staff report does not mention the need for the road to be built to Elbert County Road and Bridge Standards.

Second, the applicant has not properly followed Elbert County Zoning Regulations – Amendment #4; Article II. General Requirements and Procedures, Section E – Public Notice Requirements for Land Use Applications, subsection 5 Mailed Notice Procedure, sub-subsection (e)(2) Mailing Notice Template for Public Hearing.



I have attached a copy of the "NOTICE OF PUBLIC HEARING" that was mailed to the surrounding neighbors (**Attachment D**) along with a copy of the "NOTICE OF PUBLIC HEARING" template on page 46 of 224 of the zoning regulations. (**Attachment E**)

As you can see the applicant neglected to include the time for both the Planning Commission and the Board of County Commissioners Public Hearings.

This information is vital as it ensures that the public knows the time of the hearings should they choose to attend.

Lastly, in a letter dated August 25, 2021 (**Attachment F**) the applicant informed the CDS staff of their intention to construct an Accessory Dwelling Unit (ADU) during the time of the formal rezoning submittal approval process as permitted under Elbert County Zoning Regulations – Amendment #4; Article V. Uses and Supplemental Standards; section E, subsection 2 (c)(3).

(3) On lots 20 acres or larger there is no size limitation on the ADU. The size of the ADU may exceed the size of the primary dwelling unit.

The staff report does not mention the intentions of the applicant to construct an ADU on the property simultaneously while seeking a rezoning of the property. It is unclear if the ADU complies with all the requirements outlined under the regulation guidelines.

There is no documentation that the ADU was permitted. And should the rezoning be approved on which lot the ADU is or will be located to ensure that it meets the proper setbacks. In addition, the ROCKHAVEN FINAL PLAT map does not show any ADU on any of the lots and yet the physical property has (2) separate address markers at the entrance of the property.

The staff has not properly addressed this issue in their report.

(c) The size of any ADU shall not exceed the size of the primary dwelling unit and shall be limited to:

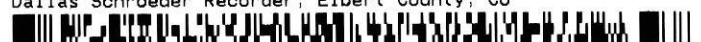
(1) On lots less than 10 acres: one thousand two hundred (1,200) finished square feet, except when completed as a finished basement.

(2) On lots 10 acres or larger: one thousand eight hundred (1,800) finished square feet.

(f) The access to the accessory dwelling unit shall utilize the same driveway as the primary dwelling unit.

(g) A non-integrated ADU shall be assigned a separate address for emergency response purposes.

These are just some of the reasons that I respectfully request that you continue the public hearing to a date certain so that I can address the numerous concerns with the Community & Development Services (CDS) staff.



Should you feel the need to **NOT CONTINUE** the hearing than I would ask that you consider adding items 4 – 8 to the **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 Exhibit is recorded; and
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners' approval.

4. Per the agreement with CORE Cooperative applicant will convert all existing overhead electrical facilities underground prior to pulling any building permit for any additional dwelling units.

5. Private/Public Road design to comply with County Road standards and must be fully constructed prior to any additional development occurring on the property and approved by Elbert County Road and Bridge to ensure that the health, safety and welfare of the residents and surrounding landowners is protected.

6. That all residential lots are responsible for the maintenance and cost of all necessary improvement to the private/public road as needed or required by the County to ensure that the health, safety and welfare of the residents and surrounding landowners is protected.

7. Permitted Uses in the AR zoning district for this property be reclassified to **Use by Special Review**: this is due to the potential of increase in traffic should these uses be exercised on the property and to ensure that the health, safety and welfare of the residents and surrounding landowners is protected.

Hemp Production
Religious Institution
Cemetery
Schools Private or Public
Fire Station
Law Enforcement Station
Park and Recreation Area, Public

8. The gate at the end of the vacated easement off of View Ridge Drive will be removed and a permanent fence or barrier will be installed to prevent any construction/personal vehicle or vehicles access off of View Ridge Drive onto the property.

Respectfully submitted,


Greg Lopez
Elbert County Resident
36792 View Ridge Drive
Elizabeth, CO 80107



LIST OF ATTACHMENTS:

ATTACHMENT A: OPEN RECORDS REQUEST

ATTACHMENT B: RORY HALE, DIRECTOR of PUBLIC WORKS LETTER

ATTACHMENT C: ELIZABETH FIRE DISTRICT EMAIL – KARA GERCZYNSKI

ATTACHMENT D: MAILED NOTICE OF PUBLIC HEARINGS TO RESIDENTS

ATTACHMENT E: MAILING NOTICE TEMPLATE FOR PUBLIC HEARINGS – ZONING REGULATION

ATTACHMENT F: AUGUST 25, 2021, LETTER FROM APPLICANT – ADU NOTIFICATION



EXHIBIT A



COUNTY OF ELBERT

OFFICE OF THE BOARD COUNTY COMMISSIONERS

P.O. BOX 7
KIOWA, COLORADO 80117
Clerk to the BOCC 303-621-3134

Chris Richardson
District 1
Rick Pettitt
District 2
Grant Thayer
District 3

OPEN RECORDS REQUEST

Date: 2/1/2022

Please be specific on what information you are requesting so that your request can be filled in a timely manner and to insure that you get the correct information. Requests that are vague or overly broad will require further specificity prior to processing the request.

I request: _____

Applicant/Representative: Todd Strawser
Applicant: Chadwick Roach
Applicant Address: 2329 Evans Way, Franktown, CO 80116
Project Name: RockHaven / Roach Subdivision Rezone, Preliminary Plat, Final Plat
Location of Proposal: 741 County Road 146, Elizabeth

Attach additional sheets if necessary

GREG LOPEZ
Print Name

[Signature]
Signature

Email: glopez9356@msn.com
Address: 36792 VIEW RIDGE DR
ELIZABETH, CO 80107

Phone Number: 303) 596-3364

***You must provide either your postal address or email.**
****You must provide proof/copy of government issued ID**
*****You may be required to submit a deposit for requests**

Document Updated 11/18/2020



COUNTY OF ELBERT

OFFICE OF THE BOARD COUNTY COMMISSIONERS

P.O. BOX 7
KIOWA, COLORADO 80117
Clerk to the BOCC 303-621-3134

Chris Richardson
District 1
Rick Pettitt
District 2
Grant Thayer
District 3

OPEN RECORDS REQUEST

Date: 2/1/2022

Please be specific on what information you are requesting so that your request can be filled in a timely manner and to insure that you get the correct information. Requests that are vague or overly broad will require further specificity prior to processing the request.

I request: _____

- Proof of all fees being paid by the applicant to Elbert County.
- All documents submitted by the applicant, Chad Roach or his representatives.
- Community Meeting Sign In Sheet from the community meeting held on July 12, 2021 as referenced in the Community Meeting Handout dated February 1, 2021.
- A list of all referral agencies that were provided with the information concerning this project for comments.
- All comments received from any referral agencies.

Attach additional sheets if necessary

GREG LOPEZ
Print Name

Greg Lopez
Signature

Email: glopez9356@msu.com
Address: 36792 VIEW RIDGE DR
ELIZABETH, CO 80107

Phone Number: 303) 596-3364

***You must provide either your postal address or email.**
****You must provide proof/copy of government issued ID**
*****You may be required to submit a deposit for requests**

Document Updated 11/18/2020





COUNTY OF ELBERT

OFFICE OF THE BOARD COUNTY COMMISSIONERS

P.O. BOX 7
KIOWA, COLORADO 80117
Clerk to the BOCC 303-621-3134

Chris Richardson
District 1
Rick Pettitt
District 2
Grant Thayer
District 3

OPEN RECORDS REQUEST

Date: 2/1/2022

Please be specific on what information you are requesting so that your request can be filled in a timely manner and to insure that you get the correct information. Requests that are vague or overly broad will require further specificity prior to processing the request.

I request: _____

- The letter sent to the referral agencies outlining the response date.
- The name of the individual assigned to this project for review within Elbert County Community and Development.
- The anticipated date this project is expected to be schedule before the Elbert County Planning Commission.

Attach additional sheets if necessary

GREG LOPEZ
Print Name

[Signature]
Signature

Email: glopez9356@msn.com
Address: 36792 VIEW RIDGE DRIVE
ELIZABETH, CO 80107

Phone Number: 303) 596-3369

***You must provide either your postal address or email.**

****You must provide proof/copy of government issued ID**

*****You may be required to submit a deposit for requests**

Document Updated 11/18/2020





COUNTY OF ELBERT

OFFICE OF THE BOARD COUNTY COMMISSIONERS

P.O. BOX 7
KIOWA, COLORADO 80117
Clerk to the BOCC 303-621-3134

Chris Richardson
District 1
Rick Pettitt
District 2
Grant Thayer
District 3

OPEN RECORDS REQUEST

Date: 2/1/2022

Please be specific on what information you are requesting so that your request can be filled in a timely manner and to insure that you get the correct information. Requests that are vague or overly broad will require further specificity prior to processing the request.

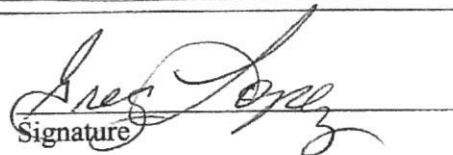
I request: _____

____ Todd Strawser, applicant representative mentioned that he received an email/letter from Rory Hale, Director of Public Works, stating that the project was not required to meet the standards below:

____ **REQUEST: COPY OF EMAIL/LETTER FROM RORY HALE, DIRECTOR OF PUBLIC WORKS**
____ **OR**
____ **ANY CORRESPONDENCE PERTAINING TO IDENTIFIED PROJECT**

Attach additional sheets if necessary

GREG LOPEZ
Print Name


Signature

Email: glopez9356@msn.com

Address: 36792 View Ridge Dr
ELIZABETH, CO 80107

Phone Number: 303) 596-3365

***You must provide either your postal address or email.**
****You must provide proof/copy of government issued ID**
*****You may be required to submit a deposit for requests**

Document Updated 11/18/2020



EXHIBIT B

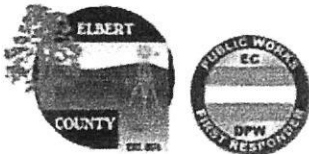
From: Rory Hale
To: Matthew Karney
Cc: Greg Thompson
Subject: RE: Elbert County Referral Request: Rockhaven
Date: Tuesday, January 25, 2022 9:58:28 AM

Matt,

I'm okay with the revised proposal. Please make sure we have something from the Fire District regarding the road.

Rory T. Hale

Director of Public Works
Elbert County Government
Office 303-621-3157
215 Comanche Street
Kiowa, CO 80117



From: Matthew Karney <Matthew.Karney@elbertcounty-co.gov>
Sent: Thursday, January 20, 2022 8:19 AM
To: Brooks Kaufman <bkaufman@core.coop>; Rory Hale <Rory.Hale@elbertcounty-co.gov>;
dcaddressing@douglas.co.us; Planning and Engineering Referral Request
<PlanReferralRequest@douglas.co.us>
Subject: FW: Elbert County Referral Request: Rockhaven

Good morning all,

I am looking to return comments to the applicant today as his second referral period has ended. The applicant has redrawn his subdivision design following CDS and others not approving of a less than 10-acre lot and revised his application to be a straight rezone opposed to a previously supported PUD. Let me know if you have any questions, otherwise if you could respond at your earliest convenience, it would be greatly appreciated.

Thanks,

Matthew Karney
Land Use Planner I
Elbert County Government

Ph: (303) 621.3185
Em: matthew.karney@elbertcounty-co.gov

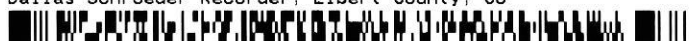


EXHIBIT C

Broker/Owner

Denver: 303-798-5888

Colorado Springs: 719-649-1470

On Wed, Jun 16, 2021 at 2:17 PM Kara Gerczynski <kara@elizabethfire.org> wrote:

Hi Todd,

I have looked over the parcel and the drawing and I think there is a lot of history in reference to access on this parcel. I believe there was an original access off of View Ridge Dr. and sometime ago the access changed to CR 146. I can still see the remnants of that access. Is there still an active easement for the property off of View Ridge Dr? If so, could it serve as a secondary access point for fire service only.

If the easement is vacated then we would allow the one access. That access has to be designed as a road according to Elbert County Road and Bridge Standards. That new road would have to be named and all properties (including the existing house) would have to be addressed off of the new road. The new road would need a 100' diameter cul-de-sac at the end.

Please let me know if you have any questions.

Kara

-----Original Message-----

From: Todd Strawser <toddstrawser@gmail.com>

Sent: Wednesday, June 16, 2021 1:10 PM

To: Kara Gerczynski <kara@elizabethfire.org>

Cc: Chad Roach <chadwickroach@gmail.com>

Subject: 741 CR 146 map drawing

Kara,

We just spoke, here is the drawing for the property referenced in my email.



Hallmark Properties
PO Box 34
Franktown, CO 80116

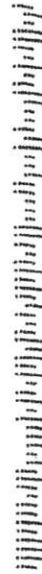
DENVER CO 802
14 FEB 2022 PM 8 L



Gregorio and Lisa Lopez
26792 View Ridge Dr
Elizabeth, CO 80107

EXHIBIT D

6010738555 H071



NOTICE OF PUBLIC HEARING

2/15/2022

for a Rezoning

AND

NOTICE OF PUBLIC HEARING

for a Final Plat

PROPERTY ADDRESS: 741 County Road 146, Elizabeth 80107

CASE NUMBER(S): PD-21-0069 & FP-21-0071

Please be advised that **Chad Roach**
has made application to Elbert County **for a Rezoning** **AND**
for a Final Plat on the above referenced property.

Project Description:

A rezoning of 79+ acres from Agriculture (A) to Agriculture-Residential (AR), and a major plat splitting this acreage into six (6) lots of approximately 10-acres and one lot of 19-acres. Lots will be served by individual well and septic and access to all lots will be through one (1) private road connecting to County Road 146.

A public hearing will be conducted on the above referenced application by the

☒ **Planning Commission on 3/1/2022**

Location: Elbert County Administration Building, BOCC Room, 215 Comanche Street, Kiowa

☒ **Board of County Commissioners on 3/23/2022**

Location: Elbert County Administration Building, BOCC Room, 215 Comanche Street, Kiowa

As a neighboring landowner and member of the public, you are encouraged to attend these public hearings. To review the full application, contact the Elbert County Community & Development Services (CDS) Department at 303-621-3136.

☐ **CDS Director for Administrative Decision on**

Location: Elbert County Administration Building, 215 Comanche Street, Kiowa

Sincerely,

619504 B: 827 P: 892 MM
05/11/2022 10:56:53 AM Page: 23 of 29 R 0.00 D
Dallas Schroeder Recorder, Elbert County, Co



Chad Roach

PRINT NAME

☒ Owner ☐ Representative

EXHIBIT E

(2) Mailing Notice Template for Public Hearings

NOTICE OF PUBLIC HEARING

(Date)

(Address)

(Case #)

(Addressee)

Please be advised that on behalf of **(owners name)**, **(applicant)** has made application to Elbert County for a **(project type)** on the above referenced property.

(Description of the site and the uses proposed, in simple, concise language, without unexplained abbreviations.)

A public hearing will be conducted on the referenced application by the:

Planning Commission on (____ Date: ____) at (____ Time: ____)

Board of County Commissioners on (____ Date: ____) at (____ Time: ____)

Location: Elbert County Building, Board Hearing Room, 215 Comanche Street, Kiowa, Colorado.

As a neighboring landowner and member of the public you are encouraged to attend this public hearing. To review the full application, contact the Elbert County CDS Department, Elbert County Government, at (303) 621-3185.

Sincerely,

(Name)

(Representative Capacity)

597340 B: 805 P: 989 RES
07/23/2020 04:18:01 PM Page: 50 of 310 R 0.00 D
Dallas Schroeder Recorder, Elbert County, Co

619504 B: 827 P: 892 MM
05/11/2022 10:56:53 AM Page: 24 of 29 R 0.00 D
Dallas Schroeder Recorder, Elbert County, Co

EXHIBIT F

August 25, 2021

Elbert County Planning Department
Kiowa, CO

Elbert County Planning Department:

Included below is our **Phasing and Financial Plan**.

Fall/Winter of 2021

Pursue rezone and subdivision process

Our intention is to pursue the construction of ADU on the property during this time, under the right of any landowner to build an ADU on a property over 40 acres.

Q1 2022

Upon approval of the subdivision and rezoning, we will be making [REDACTED] Elbert County Open Space.

At the onset of suitable weather, or when otherwise appropriate, we will begin construction of the private road. This will be privately funded by the owner. Power and natural gas will also be coordinated with IREA and Black Hills for delivery at the same time. The design process for these utilities has already been started.

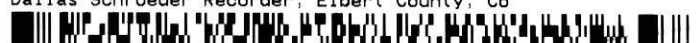
We expect to immediately submit for building permits with the county on 3-4 of the new subdivided lots. Details regarding the size and exact location of these homes are still TBD. We will install the private driveway extensions around the time that we finalize the location and details of the individual home sites and apply for building permits.

Please don't hesitate to contact me with any further questions!

Sincerely,



Chad Roach
[REDACTED]
[REDACTED]



FW: Rockhaven Subdivision

Kara Gerczynski <kara@elizabethfire.org>

Wed 4/13/2022 2:22 PM

To: Greg Lopez <glopez9356@msn.com>

From: Kara Gerczynski

Sent: Wednesday, April 13, 2022 2:21 PM

To: Greg Thompson <Greg.Thompson@elbertcounty-co.gov>

Cc: glopez0356@msn.com

Subject: Rockhaven Subdivision

Hi Greg,

Hope you are doing well. I had a visit from Greg Lopez the other day about the fire departments requirements for the Rockhaven Subdivision. He had pulled the exhibit for the planning commission and the conditions for approval for the project and the fire departments requirements were not listed. I just want to make sure the fire departments requirements will be conditions for approval for the project.

Two major issues were access and fire flow requirements:

1. The applicant shows a road with the appropriate turn around on the drawings
2. The applicant will have to choose one of three options to satisfy fire flow for the project
 - a. Install an approved automatic sprinkler system in each home (This will have to be a plat note on final plat drawing)
 - b. Install a 30,000 gallon cistern
 - c. Pay a cash in lieu of \$1040.00/new lot created.

Please let me know if you have any questions moving forward.

Thanks

Kara

Kara Gerczynski
Division Chief of Prevention and
Administration

303-646-3800

kara@elizabethfire.org

146 N Elbert Street

Elizabeth, CO 80107

elizabethfpd.colorado.co



9652 Highway 86 History

1. 7/26/2017 – My ex-wife and I purchase the property. Based on a survey completed with the purchase, we discovered the fence line was off by about 10'. We were told that it had been like that for 30+ years because of the gas lines that ran right along the property line. Over the years my driveway has edged over the property line by a foot or too.
2. Post Purchase – I tried to have the gas lines professionally located and was told that at least one line could not be located. I spoke with Charlene Bucis (owner at the time) about the fence/gas line issue. She had no issues with the fence line remaining where it was.
3. 1/11/2018 - Ward Vanlerberg purchased the property. Shortly after purchasing we spoke about the fence/gas line issues. He had no issues with the fence line remaining where it was.
4. 1/23/2019 - EDZ was passed, and I support it.
5. 1/21/2020 – Adam and Ashley Wildeman purchased the property.
6. 1/6/2021 - Jubilee Subdivision Community Meeting – I spoke with Tom Maroney about my concerns with the fence/gas lines. Tom said there are many fences that do not sit on the property lines in the country. He sees that all the time. (In fact, on the south and east portions of the property, their fence is about 10' onto county property.) He said it would not be a problem to do an easement to allow my fence line to stay where it is.
7. 1/20/2021 – I spoke with Adam. He did not see a reason to do to a formal easement for the fence rather than a gentleman's agreement, but ended up agreeing to do the easement. In the months that followed, Adam and I had a great working relationship that included me grazing his property, maintaining his fence, fixing his blown down listing sign, and offers to allow his kids to come play with my alpacas.
8. 4/8/2021 - Easement for the Fence - Signed: 4/8/2021, Recorded 6/16/2021 (Recpt # 609205)
9. 5/12/2021 – Land Use Hearing for Jubilee Subdivision - Commissioner Richardson asked about anything that came out of the community meeting (minutes 32:43 – 33:42). Tom Maroney mentioned the fence/gas line issue and stated they had granted me an easement for that. The Jubilee subdivision as approved
10. Mid 2021 - Chris (neighbor to the south) purchased and had no problem with the fence line.
11. 7/30/2021 to 4/5/2022 - Debbie purchased her property, was informed about the history with the fence/gas lines and the easement, said they would be removing the fence because they felt they were allowed to, would not acknowledge safety concerns, and would not discuss possible remedies.
12. Fall 2021 – I was unable to attend the community meeting because I was away with family, but Debbie was already well aware of my concerns.
13. Mid 2021 – I sought some legal counsel that said they believe I could have a case for adverse possession. If I pursued litigation, I could likely delay their project because if successful it would change the property setbacks and could change the site improvement plan.
14. 4/5/2022 Planning Meeting – The Planning Commission said they are not allowed to consider the easement or potential adverse possession litigation and that I must raise my concerns with the Commissioners.
15. 4/5/2022 After the Planning Meeting – I spoke to Debbie. She acknowledged the safety concerns with the gas line and acknowledged that they did not need to move the fence in order to accomplish what they wanted for their operation. We spoke generally about potential solutions to the situation, but did not come to any agreements.



16. 4/6/2022 – I emailed Debbie as a follow up to our conversation the night before. Debbie said “I think there is a way to work out the fence situation and your driveway. But for now we are honestly focused on the county process.”
17. 4/8/2022 – I spoke with Greg Thompson on the phone. I told him about conversation with Debbie. He recommended having the sit down and coming to an agreement prior to this meeting.
18. 4/8/2022 – I emailed Debbie about Greg’s suggestion, but have not received any response.
19. 4/27/2022 – There is no formal or informal agreement about the fence.

Solutions to My Objections to the Land Use Plans

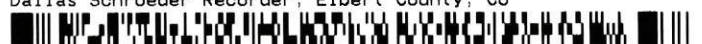
I would ask you as the Commissioner’s that if you are going to approve the EDZ and USR that you make it conditional on the owners agreeing to one of the following mutually beneficial agreements.

Option 1:

They will change the style of fence to field fence or chain link fence, with visual blocking slats, that is at least 4’ tall (what they expressed they wanted), but will forever leave it in its current location (formalized through an updated/clearer easement agreement). In exchange I would not ask for any trees or other unmentioned visual barrier on the western side of their property. I will also agree to, if they request, install snow fence on my property to attempt to help them with potential snow drifting issues that could arise from their chain link fence. I will also agree not to ever pursue adverse possession of the portion of land between the fence line and our property line (formalized through a signed agreement). Finally, if they provide me with a post hole layout and specs, I will dig any post holes they need, on the west side of their property.

Option 2:

If they can locate the gas line, I will voluntarily forfeit the easement agreement and the fence (field fence or chain link fence, with visual blocking slats) will move to the true property line. In exchange they agree to have their excavating contractor move my driveway over to the west, with a 2’ buffer to the fence, and regrade it for proper drainage. I will also agree not to ever pursue adverse possession of the portion of land between the fence line and my property line.



BOARD OF COUNTY COMMISSIONERS

ELBERT COUNTY, COLORADO



CHRIS RICHARDSON, Chair, COMMISSIONER District 1



RICK PETTITT, COMMISSIONER District 2



GRANT THAYER, Vice-Chair, COMMISSIONER District 3

ATTEST: Amanda Moore

Deputy Clerk

BY: 

Deputy Clerk to the Board of County Commissioners; Amanda Moore

