



DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 Dodge Street., Delta, CO 81416
October 12, 2022

Chair Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Board of County Commissioner's Room.

ROLL CALL

Planning Commission Members in Attendance:

Tom Kay	Kate Darlington
Steve Schrock	Steve Shea
Jacob Gray	Layne Brones
David Marek (Associate)	Cindy Watson

Absent Members:

Tate Locke
Hardy Hutto

With all member(s) present from District 3, David Marek (Associate) can participate but is not able to vote.

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Angie Kemp
Delta County Community Development Administrative Assistant, Kim Henderson
Delta County Code Compliance Officer, Everett Neil
Delta County Administrator, Robbie LeValley

A. MEETING MINUTES

1. Regular Planning Commission meeting of:
 - a. September 14, 2022
 - b. September 19, 2022

RECOMMENDATION: Approve the action minutes as presented.

Cindy Watson moved to approve the minutes as presented. Layne Brones seconded the motion.

Motion carried unanimously.

B. PUBLIC HEARING ITEMS

1. Land Use Code Update
Public Hearing to consider the Public Draft of the Delta County Land Use Code Update (Released 9/21/2022).
RECOMMENDATIONS: Staff recommends that the Planning Commission take public testimony on proposed changes and provide direction to staff.

The Planning Commission heard from members of the public.

Chuck Cherek addressed the Planning Commission regarding protecting neighbors from being impacted by a project, specifically as it related to undergrounding transmission lines with solar projects.

Martin Horvath addressed the Planning Commission regarding zoning designations. He advocated to return to lot density averaging, relating it to his family's property on Rogers Mesa. It was explained why the County moved away from density averaging to the Land Use Code (LUC), and how his particular case could work under the LUC.

Eli Wolcott (via Zoom) noted that he was losing his voice so he would submit written comments.

Randy Wilmore was present to address comments submitted in writing to the Planning Commission in regards to Variances, Boundary Line Adjustments, Parcels split by Dedication in Fee Title, Application Review



Process, Pre-application meetings, Setbacks, Subdivision Regulations, Building Envelopes and Stewardship Areas.

The Planning Commission had a discussion regarding Boundary Line Adjustments and the goal of the Land Use Code was to make things more predictable. Boundary Line Adjustments should have a separate category and not be included in the Subdivision Category. The Planning Commission clarified that a Boundary Line Adjustment is not a subdivision and should not be required to show all items that are required in a Subdivision (road center lines, house/feature). The Boundary Line Adjustment plats should include any existing easements, irrigation headgates and septic/leach fields.

Planning Director, Carl Holm provided clarification on items noted in the written questions/comments from Wilmore and Company (dated 11 October 2022):

- a. Is the administrative variation to lot size outside of the administrative modification and variation regulations? Does creating a lot smaller than 2.5 acres require a variance?
Yes. Currently the LUC requires all lots smaller than the minimum to go to the BoA. Proposed changes would create criteria where the Director could approve a variance to lot size. If it does not meet any one of the criteria, it must go to the Board of Adjustments. Delta County created this for flexibility, but that does create less certainty. Other jurisdictions do not allow variance to lot size, must meet the minimum (more certainty).
- b. Is a parcel split by dedication in Fee Title by preexisting conditions or can it also include new dedication?
It can be either way. If land was (or is) dedicated by Fee Title and accepted, it would effectively split the property and create two legal parcels. A road petition or easement does not meet that qualification. If there is a question on if there is a fee title or not, Planning will consult the County Attorney.
- c. Why is a BLA subject to development regulations (e.g. setbacks)?
It was agreed that a BLA is not a subdivision. However, modifying a property line is development that is subject to the Land Use Code standards (e.g. setbacks). There was discussion what should or shouldn't be require for a BLA. It was suggested that Mr. Wilmore provide specific suggestions in this regard.
- d. Does a fee need to be charged for a pre-application?
Under the current code, a pre-application is required for every application. Proposed changes would take out the requirement, but allows an applicant to request a meeting or if the Director feels all Land Use Departments need to discuss an issue that may have been discovered. Planning also is able to meet with potential applicants to go over their plans before they submit an application (no fee).
- e. If there is a BLA following an existing fence line, there might be a non-residential building that does not meet setbacks.
At this point, the LUC does not distinguish between residential and non-residential structures. The Admin Modification process affords the Director to grant a minor variance up to 25%. Simply exempting non-residential buildings opens a door for people to build first and then process a BLA. There needs to be thought on how to balance structures like barns from new structures, but that requires some level of review. A different setback could be created for a non-residential buildings (e.g., barn, shed), fences would be exempt from the setback requirement.
- f. Request an example where reduction of setbacks is not used to change requirements of Chapter 4.
The example is requirement for a 10-foot setback for parking in Chapter 4. An Administrative Modification could not be granted by the Director for this standard.
- g. Can a Site/Sketch Plan be submitted for a variance before hand so the applicant can decide if they want to move forward?
There have been complaints about the process taking too long so the LUC update affords the ability for the BoA to hear the variance and Minor Plat together, avoiding a separate, subsequent action by the Director on the Minor Plat. If someone wants to submit a Site Plan and see if the variance is approved first, they can. Alternatively, they can apply for both the variance and Minor Plat by submitting a Sketch Plan...provided there is adequate detail for considering the subdivision. That Sketch Plan could be conditioned with Final Plat requirements.
- h. No direct access to lots less than 5 acres from a county road in a standard subdivision (3+ lots)?



Under the existing LUC, lots fronting any County road could not take direct access. The update proposes that the lots could have direct access as long as it is on a local road, but not a collector or arterial road. If the lots front a collector or arterial, then they require a shared access. That access does not need to be a dedicated County road, but does need to be constructed to County standards with appropriate easement(s) and maintenance agreement(s). It was determined that this relies on classification rather than existing function/use of a road.

i. Building Envelopes/Stewardship Areas

The Planning Commission had a lot of discussion around this. At this point, we landed with 1 acre building envelopes and substantial area for Stewardship Areas based on projects that we reviewed, recognizing that the update includes more options for rezoning. Language that was adopted with the LUC does read like a conservation easement. However, a clustered subdivision is an option (not forced) and the point is to provide some sort of flexibility in exchange for removing density and lot size requirements. Putting the land into a conservation easement for the tax benefit would meet the requirement for financial surety and long-term maintenance. In exchange, they can get more, smaller lots. The LUC does require designating Stewardship Areas as tracts. The goal/intent is to make it clear who is responsible to manage the Stewardship Area and what the restrictions are. So that it continues to operate as anticipated even if the property changes ownership. The implementing practice has been to make sure Stewardship Areas are identified and clearly mapped on the Plat, not requiring designation as a tract. In addition, we have been requesting a plat note regarding limitation on use of that area.

The PC recognized that this may need to be a discussion for another update, not part of this one.

j. Acreage summary is redundant and does not need to occur when in the summary table.

Staff agree that we do not want, need, to create redundancy. Staff noted that it was not clear where this issue came from in the LUC, so requested Mr. Wilmore to provide more info about where the issue arises from.

k. Staff agreed that the Name of the Treasurer being listed on the plat is not needed.

l. Plat Note 8 has gotten longer. Planning noted that they will speak with the County Attorney on whether it needs to include entire list of Right to Farm.

m. Boundary Line Adjustment definition

Staff agreed to remove the "less than 35-acres" off the end of the definition.

The PC recognized a letter received from Schumacher & O'Laughlin, LLC (Attorneys at Law) on behalf of Citizens for a Healthy Community (CHC) with regards to renewable energy facilities. This letter was referred to the County Attorney to address the legal arguments.

The PC requested Planning bring back possible changes to the sections discussed from the Wilmore and Company letter to the next meeting. In addition, Mr. Wilmore was encouraged to suggest specific language changes if desired following the discussion.

C. DEPARTMENT REPORT

Planning Director, Carl Holm informed the Planning Commission of the following:

1. The Board of County Commissioners will be reviewing the Delta Paving Gravel Pit on October 18th. This was continued from the September 20, 2022 meeting.
2. The Board of County Commissioners will be reviewing PLN22-048/Mazurie Preliminary Plat on October 18th.
3. The Board of County Commissioners approved the Armstrong-Final, Corona-Final, Victorian-Final and Brown-Preliminary subdivisions as well as the Ehlers rezone per PC recommendations.
4. All pre-Land Use Code projects have cleared but one which is SUB20-010/Tribble Subdivision. This application is pending a signed Access Maintenance Agreement.
5. Escrow Accounts have been closed out with approximately 6 accounts remaining.
6. The Junk/Rubbish Ordinance update has been adopted. Relate to that, Planning developed SOPs for code compliance that can be presented at a later PC meeting.
7. A Department Status Report was created for all Land Use Departments (Planning, Engineering, GIS, Env Health) to coordinate and better streamline the review process.
8. The Planning Department Budget meeting is scheduled for October 21, 2022. Special requests include a permitting database/process program and matching funds for an affordable housing grant.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

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- In addition, we are asking to continue preparation of a Natural Resources Coordination Plan that was planned for 2022 but did not happen with other priorities.
9. County Administrator Robbie LeValley provided an update on the County Surveyor. The Board of County Commissioners will be appointing a County Surveyor since there is no one on the ballot and Jesse Messenger is not interested to continue.

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

Chair Tom Kay requested Planning send a notice to the Planning Commission members regarding the Delta County Quarterly Economic Update.

ADJOURNMENT

The next meeting will be held on October 26, 2022 at 5:30pm in Delta, CO.

Meeting adjourned at 7:38 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson