



**DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 Dodge Street., Delta, CO 81416
October 26, 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	Hardy Hutto
Steve Schrock	Tate Locke
Jacob Gray	Layne Brones
David Marek (Associate)	

Absent Members:

Kate Darlington
Steve Shea
Cindy Watson

With one member(s) absent from District 3, David Marek (Associate) is a voting member.

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Administrative Assistant, Kim Henderson
Delta County Code Compliance Officer, Everett Neil

A. MEETING MINUTES

1. Regular Planning Commission meeting of:

a. October 12, 2022

RECOMMENDATION: Approve the action minutes as presented.

Steve Schrock 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.

Eli Wolcott submitted comments the day of the meeting. Planning Chair Tom Kay informed Mr. Wolcott that the comments would be addressed at the November 9, 2022 meeting once they have been reviewed.

Kris Crawford with Wilmore & Company and Ken Schaaf were present to address comments regarding surveyor related items, including: Boundary Line Adjustments, Replats, Variances/Admin Modifications, Pre-Application meetings, Subdivision Design, Clustered Subdivisions, Fee Title Split and Definitions.

Director Carl Holm presented a summary overview status report:

1. Public comments received to date.
2. Remaining items to be addressed.
3. Future Consideration items.
4. Related Items.
5. Remaining process.

Planning Director, Carl Holm reviewed remaining items in the Land Use Code:



- a. Chapter 1, Section 5.B: Exemptions from Approval Requirement. Staff added language to reflect Allowed “by right” per PC discussion regarding Allowed vs Permitted Uses.
- b. Chapter 1, Section 6.C: Board of Adjustments, Powers and Duties. Listed BOA functions to include administrative appeals and special exceptions (variances). Included road standards based on recent event to provide an avenue for someone that questions/challenges a determination based on these standards, since no other avenue to appeal. Recommended language includes that there shall be no lot size variances (staff recommendation, also in Chapter 3).
- c. Chapter 1, Section 6.D: Planning Commission, Powers and Duties. Listed PC functions for clarity.
- d. Chapter 2, Section 1.C: Updates to Zoning Maps. Highlighted as a future consideration to update the zoning maps.
- e. Chapter 2, Section 2.A.2: Legend. Added example of non-habitable structures for clarity what is exempt as an Allowed Use, following PC discussion on 10/12. Also defined in Chapter 14.
- f. Table 2.b, Land Use by Zoning District (matrix). Identified CHC comment relative to renewable energy facilities (commercial scale). Recommend no change.
- g. Chapter 2, Section 3.B: Use of Recreational Vehicle... Highlighted recommended changes from 90 days to 12 months and relation to active permits per PC discussion 10/12.
- h. Chapter 2, Section 4.B.5: Accessory Dwelling Unit (ADU). Added standards for an ADU. Moved the size limit from the definition and added restriction for further subdivision as well as use of an ADU. Described differences between retaining affordable housing versus commercial use of the unit.
- i. Chapter 2, Section 4.C.1: Farmworker Housing. Added restriction that units shall not be sold or otherwise conveyed separate from the primary Ag property.
- j. Chapter 2, Section 4.C: Renewable Energy Facilities. Referenced applicable sections highlighted in the CHC letter. Explained staff interpretation of State statute, which is different from how CHC interprets. Staff finds no conflict with the CHC referenced statute, so not obligated to make changes.
 1. Introductory paragraph. Recommend deleting the last sentence as not critical to the operation of this section.
 2. Subsection c, subparagraph 1): Protection of Ag Lands. Recommend alternative language combining and replacing the first two sentences. Also, replaced “shall” with “should”.
 3. Subsection d: Standards and Limitations. Recommend no change to delete “or agricultural lands”
- k. Chapter 3, Section 1.A.3: Variation to Lot Size. Staff recommends removing the Variance to Lot Size all together. Partially in response to surveyor comments. The new zoning designations will allow options for rezoning where appropriate rather than case-by-case, lot-by-lot. Effectively, this has a similar incremental impact of lot size density averaging. Highlighted PC recommendation to add Legacy Lot standards for larger land holdings.
- l. Chapter 3, Section 1.B: Setbacks – Language added regarding non-habitable structures have 5 feet instead of 15 feet. In response to surveyor comments.
- m. Chapter 4, Section 1.A.1.c: Stewardship Areas. Remove “Stewardship areas shall be designated as tracts”. Response to surveyor comments.
- n. Chapter 6, Section 2: Impact Fees. Highlighted this as a future consideration. Language is there, but requires BoCC funding a nexus study to adopt fees by resolution.
- o. Chapter 7, Section 1.A.6: Informal Consultation. Insert “and/or pre-application” for clarity in response to surveyor comments.
- p. Chapter 7, Section 2.A.2: Incomplete Applications – Clarified that a checklist will be sent “after a pre-application”. Not after an informal consultation. Response to surveyor comments.
- q. Chapter 12, Subdivision Regulations. Responses to surveyor comments.
 1. Section 2.A.3 Boundary Line Adjustments. Highlighted language that was included to clarify the difference between Minor Plats and Boundary Line Adjustments (BLA). Recognizes BLA is not a subdivision, but is subject to Land Use regulations (in the Land Use Code).
 2. Section 2.A.1.C: Street Plans. Language has been taken out of the 1997 Resolution and added to the LUC. Intent is to incorporate this standard in the LUC and vacate the 1997 Resolution.
 3. Section 3.B.3: Lots (Access). Revised to clarify that standard this applies to collector and arterial roads only, not local roads.
 4. Section 3.C.2: Design Objectives (Clustered Subdivision). Highlighted this is for future consideration relative to Stewardship Areas.
 5. Section 3.C.3: Lots (Dimensions and Geometry)). Highlighted this is for future consideration relative to Stewardship Areas.



6. Section 3.C.5: Long Term Maintenance. Highlighted this is for future consideration relative to Stewardship Areas.
 7. Section 3.D: Use of Stewardship Areas. Highlighted this is for future consideration relative to Stewardship Areas.
 8. Section 5.B: Dedication. Dedication language offers option to include acreage and/or legal description.
 9. Section 5.G: Certificate of Taxes Paid. Revised per surveyors' suggestion.
 10. Section 5.I.8. Standard Note. Revised to be shorter per request by surveyors. Revised Plat Note "NOTICE TO LOT OWNERS: The lots identified on this plat are located in an agricultural area and are subject to the Nuisance Liability of Agricultural Operations Law as well as the Delta County Right to Farm and Ranch Policy".
 11. Section 5.I.11. Standard Note. Delete (related to Plat Note 8).
- r. Chapter 14, Definitions
1. Boundary Line Adjustment. Remove; "less than 35 acres" at end of sentence.
 2. Habitable Structure. Add; "Habitable Structure means a building that contains one or more dwelling units or that can be occupied for residential use. Such structures provide independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation".
 3. Non-Habitable Structure. Add; "Non-habitable Structure means any structure not identified as habitable as defined in this Code and would include but is not limited to garages, sheds, barns, and swimming pools.
 4. Replat. Revise; "All lands must be part of a previously recorded Subdivision" and Remove "All lands must be part of a previously approved plat".
 5. Subdivision. Revised to reflect the amended Chapter titles.

The Planning Commission had a discussion with a couple surveyors in attendance regarding topics that had been presented in the Wilmore letter: zoning designations, lot size variances, pre-application and application processes.

- a. Boundary Line Adjustment (BLA) versus Boundary Agreement (BA). Surveyors contend they should be able to just record a plat if all parties agree, regardless how the changed line could impact setbacks. It was discussed that surveying is different from land use. A BA applies to *disputed* boundaries. Since a BA corrects poor/missing records, statute exempts that from review. BLA is different where parties want to change a line, requires an agreement, which could be to fix a problem created by placement of a structure without regard to the property line or just because an owner wants to change their configuration. It was determined that a BLA should comply with the land use standards.
- b. Parcel Size, Zoning Designation. An example that was used, is if a parcel is 10-acres and the property owner wants to subdivide into two 5-acre parcels and are zoned A-20, they would not be able to subdivide their property without having to go through the variance process. The Surveyors do not want to go through a variance process to subdivide. There was discussion about parcels that already lack the minimum acreage as defined by their zoning designation. It was noted by all parties that zoning designations need to be revised to better reflect conditions and encourage development where it is appropriate. Current zoning maps do not accomplish this.
- c. Boundary Line Adjustments (BLA). The Surveyors do not feel that BLAs should be included in the Subdivision Regulations Chapter of the Code because they do not follow the same process/requirements of Subdivisions; they also feel that they should not be subject to County setbacks. Boundary Adjustments and Lot Line Adjustments were included in the previous Subdivision Regulations. Regulations pertaining to lot/parcel configuration have been consolidated into the Subdivision Chapter for clarity where it is all in one place. Minor Plats and BLA are both subject to administrative review so they are placed in the same section procedurally...rather than repeating the same thing over-and-over. Boundary Line Adjustments need to be reviewed relative to land use standards to ensure no *new* non-conforming conditions are created through the process. A BLA needs to comply with the land use standards, regardless what part of the Land Use Code it is located in.
- d. Survey Requirements. The surveyors asked if an entire several hundred-acre parcel needed to be surveyed, as they feel this is unnecessary to survey when only a small portion of the property is involved in the adjustment. Staff clarified that Planning has not required the entire parcel to be surveyed where a parcel with several hundred acres was involved. However, the plat does need to include adequate information to assess



impact of the line being adjusted, which may require survey work in the area where it is pertinent to the adjustment.

The Planning Commission (PC) discussed ADU standards. It was determined that ADU's should not be subdivided from the main residence. It was noted that a section for additional units requires designing to accommodate future subdivision. Staff acknowledged that should be amended to not force a subdivision. The PC also discussed use of an ADU as a Short-Term Rental (less than 30 days) versus accommodating affordable housing. It was decided to remove the STR/30-day restriction but clarify that an ADU is not for commercial purposes.

The Planning Commission discussed lot size variances. There was discussion about removing this variance section, but concern was expressed about leaving a void until the Legacy Lot standards are established.

The PC acknowledged comments received from Eli Wolcott, but preferred to defer this discussion until there has been more time to review them. It was requested that staff review the comments and bring back recommendations. The PC will follow a similar format to discuss these comments with Mr. Wolcott, as was done with the surveyors.

C. DEPARTMENT REPORT

None

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

Chair Kay stated that the Planning Commission will have the regular Planning Commission Meeting on November 9, 2022 to address the Wolcott comments and hold a Special Meeting on November 16, 2022 to consider a final draft LUC.

ADJOURNMENT

The next Meeting will be held on November 9, 2022 at 5:30pm in Delta, CO.

Meeting adjourned at 8:09 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson