



DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 Dodge Street., Delta, CO 81416
November 9, 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
Tate Locke
Jacob Gray
Kate Darlington

Hardy Hutto
Layne Brones
Cindy Watson

Absent Members:

Steve Schrock
Steve Shea
David Marek (Associate)

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Planner I, Angie Kemp
Delta County Code Compliance Officer, Everett Neil

A. MEETING MINUTES

1. Regular Planning Commission meeting of:

a. October 26, 2022

RECOMMENDATION: Approve the action minutes as presented.

Jacob Gray moved to approve the minutes as presented. Tate Locke seconded the motion.

Motion carried unanimously.

B. PUBLIC HEARING ITEMS

1. 2022 Land Use Code Update

Continued from October 26, 2022. Public Hearing to consider Public Draft 2022 Land Use Code Update.

RECOMMENDATIONS: Staff recommends that the Planning Commission:

- Continue the Public Hearing on the 2022 LUC Update to November 16, 2022; and
- Provide direction to Staff for finalizing the draft LUC.

Edits will be incorporated into a Final Draft that will be considered for certification on November 16, 2022.

[NOTE: All redline edits, comment boxes, and highlights will be removed for the Final Draft to be presented 11/16/22.]

Eli Wolcott was present to address his comments submitted on October 26, 2022.

Planning Director, Carl Holm reviewed remaining items in the Land Use Code as well as the comments received by Eli Wolcott:

- Chapter 1, Section 6.C.2.e: Associate Members (Alternatives). BoA requested adding an Associate member, Staff suggests adding the language "one Associate member shall be appointed from the Planning Commission".
- Chapter 1, Section 6.C.3.a: Staff recommends removing Lot Size Variances process. This would address the complaint from local surveyors of uncertainty created with variances. Also, the new zoning designations provide an avenue to look at an area to assess if smaller lots are appropriate, rather than case-by-case. A future consideration is consider a Legacy Lot Subdivision process for larger land holdings.
- Table 2.a: Zoning Districts: Rural Industrial/Commercial. Eli Wolcott requested Commercial and Industrial be separated. Staff feels separating Commercial and Industrial zoning districts would be a future consideration and not needed at this time.



- d. Table 2.a: Zoning Districts: Public/Quasi-Public. Eli Wolcott raised questions regarding ROW being zoned differently than parcels. Staff noted that Zoning designations generally extend to the centerline of abutting street (ROW). The PQP zoning designation would be related to parcels used for the purposes stated, versus ROW. The County does not intend to change the zoning designation of ROW's.
- e. Table 2.b: Land Use by Zoning District: Manufactured Home Park 3+. Eli Wolcott requested Manufactured Home Park 3+ be changed to 5+ to align with the State regulations. Staff noted that the threshold came from a pre-LUC resolution. Staff, after discussion with Eli prior to these comments, had added clarification that this applies where the units are rented, not those owned and used by the property owner.
- f. Table 2.b: Land Use by Zoning District: Assisted Living. Eli Wolcott requested the definition of Assisted Living be reinstated exempting less than 8 beds. Staff noted that this did not change in the update. Eli noted a conversation with the prior director when the LUC was processed in 2020. It was determined that State statute addresses this so no change is needed.
- g. Table 2.b: Land Use by Zoning District: Kennel. Eli Wolcott raised the question of why Kennels are a Permitted Use but Horse corrals are Allowed. Staff clarified that horse corrals consist of fencing for livestock, associated with Ag uses. Kennels are a commercial use which involve water, barking dogs etc.
- h. Table 2.b: Land Use by Zoning District: Storage Facility (Indoor/Outdoor). Eli Wolcott requested a Storage Facility not be prohibited in the A35 and A20 zoning districts, and asked why they had been. Staff noted that this is a commercial use that places development pressure on Ag lands which, is not the highest and best use of that land. The Planning Commission recommends a Storage Facility be a Limited Use in the A35 and A20 zoning designations, but that it be evaluated to avoid Ag land.
- i. Table 2.b: Land Use by Zoning District: Short-Term Rentals. Eli Wolcott requested clarification on why Short-Term Rentals are being restricted. Staff noted that there is a different level of review because it is a commercial use. The Planning Commission did request that Short-Term rentals be a Permitted Use in the A5 zoning designation instead of Limited Use so that the level of review is consistent with similar uses like bed & breakfast.
- j. Table 2.b: Land Use by Zoning District: Wireless Communications Facilities. Eli Wolcott expressed concern with Eligible Existing Facilities, Building Mounted Facilities and Small Wireless Facilities being a Permitted Use with no Notification. The Planning Commission has requested the use be changed from Permitted Use to Permitted Use with Notification. The Planning Commission suggested that there should be a cost associated with the Notification.
- k. Chapter 2, Section 4.B.2.b: Manufactured Housing Units. Eli Wolcott requested the language "certified installer and" be removed. The Planning Commission accepted the request.
- l. Chapter 2, Section 4.B.2.d: Eli Wolcott requested Staff remove the word "units" and replace with "movers". The Planning Commission accepted the request.
- m. Chapter 2, Section 4.B.2.f: Eli Wolcott requested Staff amend the sentence with "must be completely unabandoned". Staff recommends no changes be made to this sentence. The Planning Commission determined that the process affords reasonable timeframes.
- n. Chapter 2, Section 4.B.5.d: Accessory Dwelling Unit (ADU). Eli Wolcott requested clarity on the restriction of Short-Term Rentals. Staff clarified if a dwelling unit is rented under 30 days it becomes subject to transient occupancy tax (ex. hotel room), which is a commercial use. If over 30 days, it is considered residential.
- o. Chapter 2, Section 4.B.6.b: Site Design and Utilities (Additional Residences). Staff removed conflicting language to comply with applicable design standards and not require locating units to fit future subdivision standards. The intent is to encourage clustering, not subdivision. Per the Planning Commission direction on 10/26/22.
- p. Chapter 2, Section 4.G.1: Renewable Energy Facilities. In response to the CHC letter, Staff has removed the language "Applicable standards and any conditions of approval shall not serve to treat a Renewable Energy Facility applicant differently than any other development applicant."
- q. Chapter 2, Section 4.G.1.c.1: Renewable Energy Facilities. In response to the CHC letter, Staff recommended removing the first two sentences and replace with "Commercial-scale energy facility projects should avoid significant adverse impact on agricultural lands (soil identified by Natural Resources Conservation Service (NRCS) as prime farmland or farmland of statewide importance) or agricultural operations.
- r. Chapter 3, Section 1.A.3: Variation to Lot Size. Staff recommends removing Variance to Lot Size completely to address surveyor concerns expressed about uncertainty. Including the new residential



zoning designations affords an avenue to rezone and look at the change in a bigger picture versus case-by-case. The Commission noted their intent to include Legacy Lot standards as a future consideration.

- s. Chapter 4, Section 2.F.1: Road Naming. Eli Wolcott recognized a typo. Staff has corrected the typo.
- t. Chapter 4, Section 7.J.5: Confidentiality. Eli Wolcott requested there be language added to make plans available to neighbors within 1000 feet and remove the word "confidentially". Staff noted that the language was designed to follow the LEPC (Local Emergency Planning Committee).
- u. Chapter 5, Section 1.A.2: Application of Section. Staff has added language as recommend by an engineer currently preparing a Traffic Impact Study. "In addition, a Traffic Impact Study may be required if the Director determines that the location or size of the proposed development would impact traffic conditions in the surrounding area. When a traffic impact study is required, the study shall be completed by a Colorado registered Professional Engineer. Selected items from Table 5.a (below) may be excluded if the Director determines that it is not applicable to the situation and exclusion is specifically authorized by the issuing authority. Larger developments proposed in congested areas obviously require more extensive traffic analysis, whereas smaller sites may only require a minimal analysis of traffic on site and at immediately adjacent intersections. In determining how large a Study area to include, a general guideline is to carry the analysis out at least as far as those areas where newly generated site traffic represents five-percent (5%) or more of roadway's peak hour capacity. Where site generated traffic will be less than 5% of the roadway capacity, the intersections adjacent to the site should, at a minimum, be analyzed. The Study area boundaries may also be influenced by impacts other than pure capacity relationships such as neighborhood short cuts, traffic noise and hours of operation."
- v. Chapter 7, Section 1.D.1: Application Fees and Escrows. Eli Wolcott requested clarification on the fees for Permitted Uses. Staff clarified no Site Plan Review fee has been charged for Allowed and Permitted Uses as they were effectively the same (current practice). However, that has changed in this LUC and a fee may be charged for Permitted Uses going forward. Staff noted that Delta County fees are much lower than surrounding jurisdictions and do not cover actual costs for processing applications.
- w. Chapter 7, Section 4, Table 7.c: Required Public Notice by Application Type. Eli Wolcott suggested not reducing notice requirements. He is requesting Limited Uses to still be noticed. He also suggested making variances a "Mail 2". Staff added back in the language to post for a Limited Use
- x. Chapter 7, Section 5.B: Neighborhood Meetings. Eli Wolcott requested staff change the language from "provided" to delivered." Staff advises no change in the language for this item as Staff cannot predict US Post Office Service. Staff did not recommend the change on this item.
- y. Chapter 8, Section 1: Administrative Review Process. Eli Wolcott requested the language be cleaned up regarding Allowed Use vs. Permitted Uses. Staff suggested edits according to how the Planning Commission clarified Allowed vs Permitted Uses.
- z. Chapter 8, Section 2.B. Public Hearing Process (Conditional Use). Staff noted that it was recommended that the Planning Commission be a decision-making body for Conditional Uses. However, the Board of County Commissioner was not ready to make that change at this point. The PC recommended no change, but asked that this be added to the future considerations.
- aa. Chapter 9, Section 4.2: Timing. Eli Wolcott requested the appeal timeframe not be reduced from 30 calendar days to file to 15 calendar days to file. Staff does not feel the timeframe needs to remain at 30 days as the Director may afford additional time (up to 30 days total). The Planning Commission recognized that an aggrieved party will know if they want to appeal and does not need 30 days, delaying the applicant, to decide.
- bb. Chapter 12, Section 1.A.2: Scope of Regulations: Purpose and Intent. Eli Wolcott contends there is a new County review of exempt Boundary Adjustments (35+ acres). Staff clarified that the LUC includes language from State statute that provides exception to the exemption that should be included so that it is followed, not just assume a subdivision over 35-acres is exempt.
- cc. Chapter 12, Section 1.C.4: Street Plans. Re move language from the existing resolution (Appendix to LUC) and re-worded to clarify the intent applies to all development where the property connects to a public road or intends to dedicate a road to the County.
- dd. Chapter 12, Section 5.I.2. Eli Wolcott stated the language is not applicable to Agriculture. Staff clarified the language in the note.
- ee. Chapter 12, Section 5.I.4. Eli Wolcott proposed changes such that single family changing to farmworker housing does not need a re-review. Staff adjusted the language to state "Unless approved otherwise, all lots within this subdivision have been approved for one single residential and/or agricultural uses only."



Any further subdivision or any change or intensification of use may require the lot owner to process the request in accordance with applicable regulations of Delta County."

- ff. Chapter 13, Section 4.B: Investigation. Eli Wolcott commented that the Code Compliance Officer cannot enter property without authorization or notice. Staff explained the process. It was clarified that the Code Compliance Officer will assess the property without making contact because ownership is not known up front (only Assessor records to go by). However, the Officer will (does) not trespass onto the property (e.g., locked gate, posted).
- gg. Chapter 14, Section 2: Definitions: Accessory Dwelling Unit (ADU). Eli Wolcott requested clarification on why the size limitation on an ADU is 1,000 square feet. Staff noted that the size limitation was due to ADU's being secondary to the main unit. It needs to be connected to infrastructure of the main unit. A variance could be requested to exceed the numerical standard of 1,000 square feet.

Eli Wolcott submitted comments regarding the 1-acre building envelopes and stewardship areas. The Planning Commission informed him that they will address Stewardship Area concerns in the future.

C. DEPARTMENT REPORT

Director Holm provided an update on the December 14, 2022 meeting date. Should the BoCC send the Land Use Code back to the Planning Commission, they will have 30 days to respond. If the Land Use Code update is approved by the BoCC, there will not be a meeting in December.

The Planning Commission will review a copy of the Land Use Code at the next meeting with the redline corrections made as well as a Resolution and a summary of what has been updated and what the Planning Commission has identified as future considerations.

Planning Commission terms for Steve Shea, Layne Brones and Jacob Gray expire January 31, 2023. In addition, there are two vacant Associate positions open. Notification process has been started.

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

None

ADJOURNMENT

The next Meeting will be held on November 16, 2022 at 5:30pm in Delta, CO.

Meeting adjourned at 7:35 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson