

DELTA COUNTY PLANNING COMMISSION
Regular Meeting

Delta County Roubideau Room
320 W. 5th St., Delta, CO 81416
Wednesday, January 25, 2023 @ 5:30 p.m.

Tom Kay, Chair
Tate Locke, Vice-Chair
Carl Holm, Director

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After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

5:30 P.M – CALL TO ORDER

ROLL CALL

DISTRICT 1

Cindy Watson
Steve Schrock
Steve Shea
Vacant, Associate

DISTRICT 2

Layne Brones
Tate Locke, Vice Chair
Hardy Hutto
Vacant, Associate

DISTRICT 3

Jacob Gray
Tom Kay, Chair
Kate Darlington
David Marek, Associate

A. PUBLIC COMMENTS

This is time set aside for the public to comment on matters not on the agenda. The Chair may set a time limit for speakers.

B. MEETING MINUTES

1. Regular Planning Commission Meeting of:

a. December 14, 2022

RECOMMENDATION: Approve the action minutes as presented.

CERTIFICATION OF POSTING

On January 20, 2023 at 11:30 AM, Kim Henderson did post the above AGENDA as public notice of the January 25, 2023 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacountyco.gov.

C. PUBLIC HEARING ITEMS

1. PLN22-066/Prock Investments LLC

Consider a Limited Use Permit to construct and operate an event venue and lodging facility consisting of a large, timber-framed building with up to ten (10) rentable rooms, a large event space with an adjacent commercial kitchen, onsite parking, and all individual utilities located east of Tessman Road, Delta (Parcel: 349314100003).

RECOMMENDATION: Staff recommends that the Planning Commission (PC)

CONTINUE this public hearing to February 8, 2023.

2. PLN22-157/Good (Wingard, West Rockies School)

Consider a Limited Use Permit to construct and operate a School, gymnasium, with an eventual addition of a church. The space will be utilized for school activities, events for the school or church, an outdoor playground with baseball field can be utilized for recreation. There will be onsite parking, and all development will occur on about 9 acres of a +/- 37.16-acre parcel located west of 1600 Road, Delta (Parcel: 349314103001).

RECOMMENDATION: Staff recommends that this item be removed from the PC schedule, and is processed administratively.

3. 2022 Land Use Code Update

Continued from 1/11/2023. Planning Commission deliberation to consider changes to the certified 2022 Land Use Code Update (Work Session). [*NOTE: The public hearing was closed on 1/11/23, so there is no public comment for this item.*]

RECOMMENDATION: Staff recommends that the Planning Commission (PC):

- a. Report recommended changes as part of the 2022 Land Use Code Update for:
 - i. Lot Size Variation (Substantive Change)
 - ii. Recycling-Renewable Energy Facility (Non-Substantive Change)
- b. Consider comments on the Certified Copy of the 2022 LUC Update.
- c. Direct Staff to report PC recommendations on said changes to the Board of County Commissioners (BoCC).

D. DEPARTMENT REPORT

This is time set aside for the Director to report on matters affecting the Department.

E. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

This is time set aside for the Commission to comment, request, or refer a matter that is not on the agenda for future consideration.

ADJOURNMENT

Next Meeting: Wednesday, February 8, 2023 at 5:30 pm in Delta, CO.

CERTIFICATION OF POSTING

On January 20, 2023 at 11:30 AM, Kim Henderson did post the above AGENDA as public notice of the January 25, 2023 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacountyco.gov.



**DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 Dodge Street., Delta, CO 81416
December 14, 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
Layne Brones	Tate Locke
Jacob Gray	Steve Schrock
Kate Darlington	David Marek (Associate)

Absent Members:

Steve Shea
Cindy Watson

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. November 9, 2022
 - b. November 16, 2022

RECOMMENDATION: Approve the action minutes as presented.

Layne Brones moved to approve the action minutes as presented. Jacob Gray seconded the motion.

Steve Schrock abstained from voting on the November 9, 2022 meeting minutes, since he was absent from that meeting.

Motion carried unanimously

B. PUBLIC HEARING ITEMS

None.

C. WORK SESSION

1. 2022 Land Use Code Update
Work Session to consider Board of County Commissioner change to the certified 2022 Land Use Code Update relating to Lot Size Variances.
RECOMMENDATIONS: Staff recommends that the Planning Commission consider Lot Size Variance criteria as part of the 2022 Land Use Code Update.

Planning Director, Carl Holm presented background information about how we got to this point and options for the Lot Size Variance to report back to the Board of County Commissioners.

Board of Adjustments Chair Mike Twamley was in attendance. There was discussion between the Planning Commission and Mike Twamley regarding what issues the Board of Adjustments is facing with the Lot Size Variances.

The Commission discussed options for the Lot Size Variance criteria. In the end, the Commission reached a general consensus on the following:

- a. Minimum lot size for a Variance shall be 1.0-acres.
- b. Variances to lot size will only be permitted in the A20 and A35 zoning designation. A Rezone will be encouraged for smaller lots in the A5 and RES zoning designations.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
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- c. A Variance will only be allowed for one (1) lot. The remaining lot(s) must meet the zoning designation. A Clustered Subdivision will be encouraged if two or more (2+) lots do not meet the minimum lot size.
- d. A 10-year restriction for further subdivision that requires a variance.

Chair Tom Kay requested Director Carl Holm take the Planning Commission's recommendation to the Board of Adjustment on December 15, 2022 for review and present the Planning Commission with a revised copy of the Land Use Code language reflecting the new revisions to the January 11, 2022 meeting.

DEPARTMENT REPORT

Planning Director, Carl Holm provided the following:

1. Angie Kemp will be leaving Delta County and her last day will be December 30, 2022.

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

None.

ADJOURNMENT

The next Regular Scheduled Meeting will be held on January 11, 2022 at 5:30pm in Delta, CO.

Meeting adjourned at 6:49 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson



STAFF REPORT

Delta County Planning Commission

Delta County Roubideau Room
320 W. 5th Street, Delta, CO 81416
Wednesday, January 25, 2023 @ 5:30 p.m.

PLN22-066/Prock Investments LLC

Consider a Limited Use Permit to construct and operate an event venue and lodging facility consisting of a large, timber-framed building with ten (10) rentable rooms, a large event space with an adjacent commercial kitchen, onsite parking, and all individual utilities located east of Tessman Road, Delta (Parcel: 349314100003).

PROJECT INFORMATION:

Property Owner(s): Prock Investments LLC
Applicant: Zack and Jennifer Prock, Brenda Brown
Site Address(es): TBD Tessman Road, Delta CO 81416
Parcel ID(s): 349-314-1000-03
Zoning: A35

Report prepared by Carl P. Holm, AICP, Director

RECOMMENDATION:

- a. Staff recommends that the Planning Commission continue PLN22-066/Prock to February 8, 2023.

SUMMARY/ DISCUSSION:

Staff talked with the applicant to move this item to a different date.



STAFF REPORT

Delta County Planning Commission

Delta County Roubideau Room
320 W. 5th Street, Delta, CO 81416
Wednesday, January 25, 2023 @ 5:30 p.m.

PLN22-157/Good **(West Rockies School, Wingard)**

Limited Use Permit to construct and operate a School, gymnasium, with an eventual addition of a church. Development will occur on about 9 acres of a +/- 37.16-acre parcel located west of 1600 Road, Delta (Parcel ID: 349314103001).

PROJECT INFORMATION:

Property Owner(s): Rick and Leona Good
Applicant: Don Wingard
Site Address(es): TBD 1600 Road, Delta
Parcel ID(s): 349314103001
Parcel Size: 120.0 Acres
Zoning: A35

Report prepared by: Carl P. Holm, AICP, Director

RECOMMENDATION:

Staff recommends that that this item be removed from the PC schedule to be processed administratively.

SUMMARY/DISCUSSION:

This application involves development of an agricultural field, taking about 9 acres out of production on the southeast corner of the property. An access to the developed site is proposed from 1600 Road, directly across from Dry Creek Circle. Across 1600 Road is a dense residential neighborhood. North of the property are lots created with the *Snaffle Bit Station Major Subdivision* (Reception #610990).



This Limited Use was initially being referred to the Planning Commission (PC) to address traffic impacts with this and applications for other larger projects in this same area. This referral as based on initial assessment that the project: *"May have material impacts on neighboring properties or public resources that are unusual in type or degree due to the context of the subject property."* Information was submitted as part of the application addressing some of the concerns **(Attached)**. In addition, notice was provided to properties in this area.

Staff has reviewed all documents submitted by the applicant. Neighbors had questions about the project, but no issues were presented. Therefore, staff finds there is sufficient information to address/mitigate the issue(s) administratively.

Attachment(s), in the following order:

1. Draft Resolution
 - o Conditions
2. Public Comments
3. Site Plan
4. Operation Plan
5. Floorplan



STAFF REPORT

Delta County Planning Commission

Delta County Roubideau Room
320 W. 5th Street, Delta, CO 81416

Wednesday, January 25, 2023 @ 5:30 p.m.

2022 Land Use Code Update

Continued from January 11, 2023, following closure of the public hearing. Consider changes of the certified 2022 Land Use Code Update to the Board of County Commissioners (Work Session).

RECOMMENDATION:

Staff recommends that the Planning Commission (PC):

- a. Report recommended changes as part of the 2022 Land Use Code Update for:
 - a. Lot Size Variation (Substantive Change)
 - b. Recycling-Renewable Energy Facility (Non-Substantive Change)
- b. Consider comments on the Certified Copy of the 2022 LUC Update.
- c. Direct staff to report PC recommendations on said changes to the Board of County Commissioners (BoCC).

[NOTE: The public hearing was closed on 1/11/23, so there is no public comment for this item.]

Alternatively, the PC could continue this matter until after the Board of County Commissioners Work Session on Monday, February 6, 2023.

Report prepared by: Carl P. Holm, AICP, Planning Director

SUMMARY:

On January 11th, the Planning Commission (PC) held a public hearing to consider adding criteria for variation to lot size as requested by the BoCC at their hearing on the LUC December 7th. The public hearing was closed and the Planning Commission



began their deliberation. Effectively, the remaining deliberation functions similar to a Work Session where people may attend the PC meeting, but there will be no opportunity for the public to comment on the LUC.

There will be discussion between staff and the Commissioners on the lot size variation regulation language, as directed by the Board of County Commissioners on 12/7/22. In addition, the PC began discussion related to Permitted Uses, Building Permits, Temporary Use of an RV during construction, and/or Accessory Business Use of the Home/Cottage Industry in response to public comments. Staff can also provide information about a few specific examples made during the public comment period.

On 1/11/23, a number of people spoke at the hearing on the whole Land Use Code, expressing opposition to regulation in general. Some spoke to specific concerns with the adopted 2021 Code as well as the certified 2022 Update. Staff has continued to receive comments with opinions about how people are interpreting the Codes. When questions are presented, staff has tried to respond. In some cases, we have responded to comments trying to clarify how the Codes are read/interpreted by staff.

DISCUSSION:

TEMPORARY USE OF AN RV DURING CONSTRUCTION.

The 2021 LUC limited use of an RV as a temporary residence to 90 days during construction. In the 2022 Update, we increased that to 12 months during construction ([Page 39](#)). Construction could go longer as long as there is an active plumbing or electrical permit (with the State). The PC considered the intent to allow more than 12 months if there is active construction - defined as having an active permit (State, Env Health/Septic). The following amendment was discussed as the most direct way to define how long an RV can be used as a temporary residence during construction [Subsection B(1)].

“Construction (Temporary). A recreational vehicle may be temporarily occupied as a dwelling unit during the period in which a dwelling unit is actively being constructed or installed on a subject property, provided that the occupant of the recreational vehicle is the owner of the property upon which the construction is occurring, or the contractor who is constructing the dwelling unit. Said use shall be Allowed for up to ~~twelve (12)~~ twenty-four (24) months during construction with an active plumbing and/or electrical permit (as applicable).”

This does NOT affect allowance for using RVs as a permanent residence [Subsection B(3)]. Effectively, a person could live in an RV longer provided they install and connect to water, septic and power within these 12 or 24 months.

ACCESSORY BUSINESS USE OF THE HOME/COTTAGE INDUSTRY

On 1/11/23, the PC deliberated on this topic ([Pages 42-43](#)). There was general consensus to have more definition around the threshold when the use changes from residential to commercial in nature. However, since both are Allowed Uses, they could



be consolidated into one called “Home Business”. Based on the PC discussion, staff has drafted the following revision for consideration (that would replace Subsections F & G in the certified copy – Chapter 2, Section 3):

F. Home Business

Home Businesses include any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident’s dwelling unit (subordinate to the residential use). In order to qualify as an Allowed Use, a Home Business shall:

1. Be conducted by the owner or occupant of the property. Home Business shall be limited to a maximum of five (5) employees on the site at any one time, including the owner/operator; and
2. Outdoor storage shall not exceed two thousand (2,000) square feet and must be screened from public view (from a public road); and
3. The Home Business shall not be the primary use of the property. The Director may allow an exception where the business is associated with an adjoining property under the same ownership; and
4. Utilize access included as part of the dwelling. The Home Business shall not have a separate, independent entrance from outside the building, unless otherwise required by State law or regulation; and
5. Clearly be incidental and secondary to the use of the residential use and shall not materially change the character of the residential use or of the neighborhood by excessive noise, odors, dust, lights, traffic, or other disturbances; and

Home Business that creates significant impacts to adjacent properties such as fumes, noxious odors, excessive noise, dust, and or traffic shall be subject to a Limited Use Permit (with a public hearing).

LOT SIZE VARIATION

There are two aspects to the lot size variance change for PC consideration:

- a. DELETE language (~~strikeout below~~) from the 2022 certified LUC [Chapter 1, Section 6(C)(3)(a)(2)(a)] regarding Board of Adjustment ([Page 26](#)):

3. Powers and Duties.

- a. *Powers.* The Board of Adjustment shall have all authority conferred upon it by this Code and C.R.S. § 30-28-101, *et seq.*, including the following functions:

- 1) Appeal of Administrative Determination or Decision.
- 2) Special Exception (Variance) to:



- a) Development Standards in this Code; ~~however, there shall be no variance to lot size.~~
 - b) Development Standards in the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.
- b. ADD language (red font below) establishing criteria for variations to lot size to Chapter 3, Section 1(A) as follows ([Page 79](#)):
3. **Variation to Lot Size.** The Board of Adjustment may consider variation of lot size from Table 3.a; *Lot Dimensions* (above), provided that all of the criteria in Subsections a-e (below) are met:
- a. The subdivision conforms to all other requirements of this Code (e.g., water, access, septic, floodplain, etc.).
 - b. The zoning of the parcel is either A20 or A35 (Note: rezoning could be an alternative for all zoning designations).
 - c. The subdivision is for a 2-lot subdivision (Minor Plat) where:
 - 1) One (1) lot has at least the minimum dimensions set out in the standards for the RES-1.0 zoning district (e.g., minimum 1.0 acre), and
 - 2) One (1) lot (remainder) meets the minimum requirements for the zoning designation where it is located (e.g., A20 = 20 acres minimum, A35 = 35 acres minimum).
 - d. The size and configuration of the new lot minimizes disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat.
 - e. The Final Plat is annotated such that no further subdivision of either lot created by this subsection is allowed for at least ten (10) years. This would not apply to remainder parcels exceeding seventy (70) acres that are exempt by statute from being divided into thirty-five plus (35+) acre parcels.

PERMITTED USES

Under the 2021 LUC, Permitted and Limited Uses require a Zoning Permit. Both are subject to Administrative Review, but a Permitted Use is ministerial (meaning approved if meets standards) and a Limited Use is discretionary (permit approved or denied).

Commentary noted that, under the 2022 Update, multiple uses in Table 2.b were amended to reflect “P” versus “A”. This was done to be consistent with the



Development Application Ordinance adopted in 2011. Under this Ordinance, Site Plan Review is required for all new residential and commercial development.

The resolution adopting the 2021 LUC repealed land use regulations. However, the LUC was adopted by resolution meaning that all land use ordinances remained in effect. An ordinance is a higher level of process; therefore, only an ordinance can repeal an ordinance.

Chapter 8 ([page 143](#)) changed Permitted Use to reflect the process being Site Plan Review. This is the same review that has occurred with access permits; however, now we also check setbacks and water.

It was noted that the word “permitted” might be creating the issue without recognizing other procedural changes. To address this, the PC discussed changing from “Permitted” (“P”) to “**Plan Review**” (“PR” or “P”) [[NOTE: retaining “P” reduces the number of changes](#)]. There are multiple places in the LUC where this would change.

BUILDING PERMITS

Land Use (aka Zoning) Code are NOT Building Codes. [Page 143](#) of the LUC [[Chapter 8, Section 1\(A\)](#)] includes a list of “Other Approvals and Permit May Be required” that came from the Development Application Ordinance.

Subsection “b” refers to “Adopted building and safety codes” that is meant to refer to codes that are adopted. Delta County has NOT adopted Building Codes. However, buildings/owners are required to follow Electrical and Plumbing Codes, and obtain permits through the State. This could be revised to something like: “Adopted building and safety codes and ordinances (e.g., Electrical and Plumbing Codes through the State)”

Subsection “d” refers to “**Business licensing regulations**”. Although this item was listed in the Development Application Ordinance (since 2011), Delta County has no business licenses.

RECYCLING-RENEWABLE ENERGY FACILITY

There are two aspects to renewable energy standards:

1. Use Specific Standards (Chapter 2, Section 4.G), starts on Page 54 of the certified copy. Subsection (f)(1) requires a Site Reclamation and Restoration bond that is to include costs associated with “... recycling and safe disposal ...”.
2. Conditional Use (Chapter 8, Section 2). Application requirements start on page 145. Where there is an application for a CUP, the Director can require information to assess impacts, including a Hazardous Materials and Waste Management Plan.

Staff suggests language amending Chapter 8, Section 2.A.2.d to clarify that the Waste Management Plan shall include plans for recycling waste and waste diversion [[Page 147](#)]:



- f. *Hazardous Materials and Waste Management Plan*. Provide a *Spill Prevention and Emergency Response Plan* identifying potential sources at-risk of causing a spill and planned response if a spill does occur. Include a *Wildfire Control Plan* including assessment and identification of at-risk communities/facilities with methods (strategies and tactics) for reducing potential impacts and protecting sensitive facilities. Prepare an *Environmental Site Assessment* to research the current and historical uses of a property to assess if current or historical property uses have impacted the soil or groundwater beneath the property and could pose a threat to the environment and/or human health. The Waste Management Plan shall include plans for recycling materials and waste diversion.

Adding this language will help inform the bond required in the Use Specific Standards for Renewable Energy Facilities.

PUBLIC COMMENTS

Staff was asked to address some comments made by the public at the hearing, so we have addressed those below. Comments on these and other parts of the LUC have been submitted since the hearing. Staff has attempted to respond to questions, and we have included these email communications (**Attached**).

1. “Environmental Study”

A comment was made in reference to an application where they were required to provide an “environmental study” and address access. The application was PLN21-083 (Brenda Toole); RV (Outdoor) Storage.

The specific use was not listed so staff had to determine if there was a use where it met the definition. Initially this was determined to be Rural Medium Industry, which is a Conditional Use in the A5 zone (Conditional Use Permit, PC/BOCC). As the use was further defined, by the applicant, staff was willing to consider this a Service that is a Limited Use in the A5 zone (Zoning Permit, Administrative).

Attached is the initial letter sent by planning along with a checklist of information required. There was no “environmental study” required; however, a Limited Use is required to prepare a traffic Study. They did not pursue this application and there was an email exchange in April (**Attached**). The application was ultimately withdrawn on May 9, 2022.

2. Code Compliance

Generally, a code compliance case is not a public matter. However, the property owner read part of a letter sent by the County’s Code Compliance Officer addressing a complaint we received. In order to provide the PC with the full context of the letter



read, we are attaching the complete letters sent regarding this matter, which are public documents.

Other commenters made allegations about trespassing. Code compliance is reactive, meaning we respond to complaints. A code compliance official makes notes of what is visible from a public right-of-way (including drone usage from within the ROW), aerial photography, and from a neighboring property (with permission). They can also drive up an unmarked driveway and make note of what they see, without a warrant. They cannot go through a closed/locked gate or where the property is posted as “no trespassing”.

After the initial contact, a case can be closed if there is “no merit”. Otherwise, a case is opened and initial contact may be in the form of an “Advisory Notice”. This is not a notice of violation, but rather is intended to make an owner aware that we received a complaint and outline possible violations present. Our goal is to try to gain voluntary compliance. However, the LUC does include additional steps if that does not occur in a timely manner.

3. Agriculture in A5

Comments were made asserting that changes in the 2022 LUC to imply that agriculture was not allowed in the A5 zone. It appears that some people interpreted it not being expressly stated in Table 2.a, which is a general description.

Staff noted that Table 2.b illustrates that “Agriculture, Agribusiness, Silviculture, Viticulture” are Allowed (by right) uses in all zoning designations, including the new residential zones. A distinction was made from A35 and A20 as larger lots lending themselves for commercial Ag. Recognizing some lots in the A5 have Agriculture uses, the trend has been to subdivide/use lots in the A5 for residential purposes...and storage. To reflect the “A” designation, the purpose (Table 2.a) could be amended as follows: *“This zoning district is intended for small-scale agricultural and large-lot residential uses.”*

4. “Grandfather”

At the hearing, a question was raised relative to impact on existing uses/structures – if they would be “grandfathered”. Staff noted that there are generally three different levels, simply described as follows:

1. Legal; Complies with applicable regulations, past and present.
2. Legal Non-Conforming; Complied with applicable regulations at the time it was established, but does not comply with current regulations.
3. Unlawful; Did/Does not comply with applicable regulations when established, past and present.

Chapter 1, Section 3 (Transitional Provisions) establishes how the LUC, when adopted in 2021, affects pre-existing conditions. Based on where the use/structure



falls, Chapter 11 (Nonconformities...) establishes when/how non-conforming conditions can continue, and when they need to be brought up to current regulations.

Each circumstance has unique characteristics. There was an example used at the PC hearing relative to cisterns. First of all, the 2022 Update clarifies that cisterns are not prohibited in all cases. The main issue is hauling water, since that is the first source that can be cut when water is limited (e.g., drought). The update includes a possible exception for the first residence where there is no other option (well, spring, purveyor, municipality, etc.). While the LUC does not limit the number of units allowed on a property, the number of units could be restricted from adding further units where there is no water (only hauled water). From a land use perspective, an ADU is considered an extension of the main residence - connected to the same utilities. However, some water purveyors view the ADU as a second unit if it includes a kitchen.

5. 35+ Acre Parcel (exemption) vs Lot (subdivision)

A comment was made about applying subdivision regulations where a Minor Plat included one lot less than 35 acres and one greater than 35 acres. In order to meet the State exemption "each" parcel must be comprised of: "thirty-five or more acres of land *and none of which is intended for use by multiple owners*" [CRS 30-28-101(10)(b)]. Therefore, this is a subdivision that is not exempt. Following the public hearing on 1/11/23, the commenter referenced a case addressing this issue - staff will provide that information when/if we get it.

In this particular case, the applicant also requested an exception (variance) for lot size. The LUC Update (Variation to Lot Size) proposes language to clarify that the restriction from further subdivision (per 2021 LUC) does not supersede State Statute. Definitions differentiating between lot and parcel have been added to the LUC Update.

As a subdivision, staff requested proof of water for both lots. The applicant contested this requirement for the larger (remainder) parcel. **Attached** is an email chain that reflects staff's analysis, that included consultation with the County Attorney. In the end, County and applicant agreed to a plat note clarifying that the remainder is not a developable parcel. The following condition was applied to the variance:

Prior to recording a Final Plat, a plat note shall be included as follows:
"The remainder portion of the property is for agricultural purposes only. A Development Application is required through County Planning before the site is developed. No residential or commercial use will be permitted until/unless the County is provided proof of an adequate domestic water supply pursuant to the Land Use Code". Alternatively,



the applicant can provide proof of an adequate domestic water supply for the remainder parcel similar to Condition 1 for Lot 1.

The PC could include a standard plat note where there are similar situations, or defer this as part of the Legacy Lot discussion (future LUC consideration).

6. Mobile Home Park

In the LUC Update [Chapter 2, Section B(3)(d)(6)], design standards for a Manufacture Home Park requires fire hydrants. It was discussed previously with the PC, and staff has and discussions with residents about areas where a hydrant is not physically possible (water line too small). It has been stated that the intent for project to meet Fire District recommendations for fire mitigation, where hydrants are not possible or needed. The PC could consider amending the LUC to clarify this intent, such as:

~~Each Park shall be equipped with fire hydrants in good working order and of such size, type, number, and location as~~ install fire mitigation improvements to satisfy applicable regulations of the appropriate fire agency.

Attachments (in the following order):

- PLN21-083; Application Package, Aerial Photo, Email exchange
- Wild Cooperative letters (4/26/22, 5/16/22, 5/25/22, 6/6/22)
- PLN22-158 email
- Public Comments (+ Staff Responses), since 1/11/2023



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

Kate Kelly
County Planner - I

November 19, 2021

Brenda Toole

Delta, CO 81416

Email: [REDACTED]

SUBJECT: PLN21-083/Toole RV Storage
Application Checklist

Ms. Toole,

Thank you for participating in the pre-application conference on November 8, 2021. Included at the meeting were staff representatives from County Planning, County Engineering, and County GIS Department.

Based on the information presented, this application would be for a covered RV Storage facility. You provided specifications for a covered structure used to park/store RVs that is open on four sides. There would be no water or septic for the RVs to connect, and you would not allow anyone to stay in them. You plan to start with three (3) RV spaces, located in an area between the two rental units and west of the ditch. You can apply for the three RV spaces now, and then a permit amendment would be required to expand. Alternatively, you could apply for the maximum number of spaces now, and develop the site at your pace.

The subject parcel is Lot 2 of the Elot Minor Subdivision, totaling 1.17 acres. This 1.17-acre parcel is a legal lot since it was legally created prior to adoption of the Land Use Code and zoning maps in January 2021. There is a 30-foot wide ditch easement along the eastern boundary of the subject lot, with one-half (15 feet) encumbering this property. In addition, the plat shows a 25-foot wide power easement cutting through the parcel. The parcel has been zoned per the Delta County Land Use Code as A-5.

Initially, staff viewed this as a Rural Medium Industry use, but after further review it would be more closely related to a service. Services like this are considered a Limited Use in the A5 zone, which is subject to administrative (Director) review. This Limited Use application is handled administratively, meaning the Director can take final action without a public hearing. Site Plan Review is included as part of the process that will require a plan drawn to scale that accurately reflects existing conditions, including existing improvements (rental units, access) and encumbrances (easements).

Records reflect that you also own the adjacent 2.16-Acre property to the west (Parcel [REDACTED]). Between the two properties, there are four access points from 25 Mesa Road, one house and two RV/trailers where you lease/rent your land. Adding this

use would be an intensification that affords the County the ability to review existing conditions. County records reflect one permitted address for the house with one access (eastern part of the loop). County Road Standards limit access to one per lot, so that would be a condition of a permit for this property. A Level I Traffic Study is required that can assess access/impacts for the proposed use. There is no record of permitted access or address for the 1.17-Acre lot. While the 2.16-Acre parcel is not part of the application, it appears that the access proposed to be used for the RV storage could be located on the neighboring property.

Required setbacks include a minimum of 25 feet from road RoW and 15 feet from all interior property lines for all structures (including septic). Also, no structures shall be constructed within any easements. A 30-foot Right-of-Way (RoW) for 25 Mesa Road was previously dedicated to Delta County. Based on the road classification, the RoW is 50 feet from the centerline. County Engineering may require additional RoW in the future for 25 Mesa Road, so please keep this in mind when planning for development of this property.

Enclosed please find a Land Use Application Checklist identifying the materials required with the subject application. This is a comprehensive checklist, but not all of the items are needed for this project. Only the materials/sections marked with an "X" in the checklist must be completed. Please coordinate with staff on any questions about documentation to make sure all materials are provided. An incomplete application will be returned.

Once a complete application is received, the materials will be routed to applicable agencies for review and comment. Referral agencies are afforded up to three weeks to respond. Adjacent property owners will be sent a courtesy notice that will coincide with this referral period. Once this referral step is complete, staff will inform you if we receive any recommendations affecting your application. After that, the matter will be scheduled for consideration by the Director.

The fee for this application is \$250. In addition, there will be separate applications and fees for access and address. When you are ready to submit your application, please remit the fee, minus the \$100 paid with the pre-application, with the application (Check should be made out to: "Delta County"). If you prefer to pay by credit card, you can contact the Planning Department (970-874-2110) and we can take that information or set up for you to pay electronically. Please note that there is a 2.5% service fee added to all card transactions.

Should you have any further questions, please feel free to contact me at 970-874-2110.

Sincerely,

Kate Kelly
Planner I

Enclosures

- Land Use Application Checklist



APPLICATION CHECKLIST

Project Name: **Toole RV Storage**

Applicant/Owner Name: **Brenda Toole**

Case/File #: **PLN21-083**

Project Planner: **TBD**

E-mail: **Planning@deltacounty.com**

Phone: **970-874-2110**

OVERVIEW

Delta County Planning Department is the lead agency to coordinate the processing of development applications for the unincorporated areas of Delta County. This form provides a comprehensive checklist of materials, plans, data, and reports required for submitting a development application. However, not everything on this form is required - this checklist has been customized to identify the materials specifically required for this project.

Only the following "checked (X)" items MUST be provided for a complete Application Submittal, including any and all requested materials from a pre-application meeting and/or cover letter. Failure to provide or complete any of the required items, including applicable fees, will result in the application being incomplete. Incomplete applications will be returned and not be considered filed until all items are received by the Department. Applications will be processed in the order they are deemed complete.

NOTE: Additional information may be requested based upon review of these materials.

Pre-Application Meeting (date): **November 8, 2021**

PERMITS

Type of Permit(s): **Limited Use (Services)**

Project Description: **Covered RV Storage**

FILING FEES

Fees are charged to offset the cost of processing an application for the permit(s) noted above (reviews, notices, hearings, and recordkeeping). The following fee has been calculated based on the entitlement(s) required. Applications filed within three (3) months of the pre-application meeting date noted above, will have a credit for the pre-application fee paid. Application fees are due and payable with submission of the application materials.

We accept Cash, Check or all major Credit Cards (2.7% fee applied at check out)

Please make checks payable to: "**Delta County**"

NOTE: Additional fees may be required for referral agencies and/or professional services (consultant) related to the application should they be deemed necessary. This fee does not include recording fees.

Total Fee: \$250 (minus \$100 pre-application fee)

Itemized list of Land Use fees can be found in Resolution 2021-R-007

REQUIREMENTS FOR APPLICATION

All items checked below are required for submission of the project application. All documents shall also be provided in an electronic format (.pdf). Plans shall be in a format so that they may be reproduced at 11x17 inches or greater.

DEVELOPMENT APPLICATION

Ordinance 2016-01 requires a Development Application for all new residential and commercial construction in the unincorporated areas of Delta County. This Application outlines the order in which County Permits must be obtained as part of the permitting process, starting with a Site Plan Review.

X	<u>Site Plan Review</u> . Process to ensure compliance with the permitting process, and to encourage quality development reflective of policies and regulations adopted for Delta County.
X	<u>Right-of-Way Use Permit</u> . Work within a County Right-of-Way (RoW) such as access, boring, cutting, weed control requires a RoW Use Permit. A financial guarantee is required (bond, letter of credit, County names as additionally-insured, etc.). <i>NOTE: Access will be determined as part of the Site Plan Review.</i>
	<u>State Highway Access</u> . Access onto a highway requires proof of an approved access permit from CDOT before County issues an address.
X	<u>Address Application</u> . Permitted access must be established in order to obtain an address (Right-of-Way Use Permit). Proof of access required for private, State, and Federal roadways. An address is required to initiate a septic permit application.
	<u>Road Name</u> . When any road, including private roads or driveway, service more than three (3+) addresses, a name must be issued by Delta County GIS. <i>NOTE: Road Name required prior to accepting a Final Plat (if applicable)</i>
	<u>Mobile Home Permit</u> . Installation of a mobile home requires a permit from the State. Ordinance 2006-10 restricts the moving of pre-HUD mobile homes (built before June 15, 1976) in Delta County. Upon the sale or transfer of title of any pre-HUD mobile home within the County, the mobile home may not thereafter be relocated to another location in Delta County unless the mobile home is permitted by the Delta County Planning Department following certification by a County approved inspector that the mobile home meets the standards set forth in Exhibit A of the Ordinance. A Pre-HUD Disposal Certificate must be obtained upon the relocation of any pre-HUD mobile home from any parcel of land in the unincorporated areas of Delta County to any landfill in Delta County.
	<u>On-Site Wastewater Treatment System (Septic) Permit</u> . An address is required to initiate a septic permit application. The standard septic system involves a septic tank (to hold wastewater from drainpipes until solids settle out in the tank) and a system of pipes that distributes the remaining liquid waste underground over a large area - the leach field. Completed applications (below) should be returned to the Delta County Health Department.
	<u>Stormwater Permit</u> . If the project involves development within 50 feet of a natural water feature or if it involves grading/modifying more than 1.0 acre of land, a stormwater permit might be required from the Delta County Environmental Health Division.
	<u>Floodplain Permit/Certificate</u> . All development within designated floodplains requires a Floodplain Permit Application and Checklist from the Delta County Environmental Health Division, regardless of any need/desire to obtain flood insurance. Once a permit has been issued and construction has been completed, a Registered Professional Engineer or Registered Surveyor must certify the elevations of a structure and certify that the development is adequately flood-proofed.

Other:

DEVELOPMENT PLANS

Plans illustrating existing and proposed conditions of the project.

X	<u>Aerial View</u> . View of the subject parcel and surrounding area at the same scale as the proposed project plan/plat to accurately depict what is on the ground today and how the project aligns (Color Copy). Illustrate the property line boundary and road names on the aerial map.
X	<u>Vicinity Map</u> . Identify the subject parcel. Include names of all adjacent property owners and adjacent subdivisions. Illustrate political boundaries (city limits, county lines, etc.) – provide distance from the closest Town/City boundary.
X	<u>Legal Description</u> . Subdivision, blocks, lots, recording information. Books and pages of metes and bound. Bearings on Section and ¼ Section lines (to the nearest second). Include metes and bounds description.
X	<u>Title Block/ North Arrow</u> . Date of preparation/revision of the map. Name and address of subdivider and record owner in the lower right hand corner. Name and address of the person who prepared the map in the lower right hand corner.
X	<u>Summary Table</u> . Information, including: a. Total land area proposed to be developed b. Number of Residential Units on the property c. Number of covered RV storage spaces d. Land Use (Zoning) designation(s)
	<u>Summary Table</u> . Information, including: a. Total land area proposed to be subdivided b. Number of buildable parcels c. Number of non-buildable parcels d. Size of buildable and non-buildable parcels (existing and proposed), calculated in acreage and square footage e. Land Use (Zoning) designation(s)
X	<u>Site Plan</u> . A bird's-eye view showing structures, major vegetation and topographical data of the subject property including information about how the subject conditions relate to adjacent properties. Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): a. North Arrow b. <i>Dimensions</i>. All dimensions to the nearest 0.01 foot, to scale no smaller than 1:200. Provide bearings & distances on all right of way and easement lines (existing and proposed). c. <i>Parcel</i>. Illustrate property lines of the entire parcel. d. <i>Roads</i>. Identify the primary road where the site takes access as well as any secondary roads/access. Indicate if roads are public or private - provide documentation of access/rights from the appropriate authority for private, State, Federal roads. Label all roads included on the plan with names. Include: existing right-of-way boundary and centerline (existing and proposed); aliquot lines, curve data on centerline. Submit a Road Name application for all interior roads (if applicable). Illustrate proposed right of way lines. e. <i>Access</i>. Identify any proposed access, bridge, culvert or at-grade crossings (existing and proposed). Survey (GPS) the location of existing, permitted access, bridges and culverts for the subject parcel. f. <i>Easements</i>. Survey existing easement lines (utility, slope, conservation, other). Illustrate proposed easement lines. g. <i>Utilities</i>. Survey and label all existing overhead and underground utility lines (water, sewer, electricity, gas, phone, cable, etc.) serving the property, include connection point(s) to main lines even if not located on the subject property. Survey existing utility pole locations. Illustrate proposed utility lines, including an easement if required – utility easements are encouraged to be

	located within or along access roads. h. <i>Irrigation Ditches/Pipelines.</i> Survey and label the location and ownership of all irrigation ditches and pipelines. Identify areas where irrigated agricultural and is located. i. <i>Existing Features.</i> Survey the location (GPS) of existing structures (buildings, fences, pump house etc), building envelopes/no build areas, setbacks, landscaped areas, service lines, drainage structures and features, wells and distribution lines, and septic systems. j. <i>Proposed Features.</i> Illustrate proposed structures (buildings, fences, pump house etc), building envelopes/no build areas, setbacks, landscaped areas, service lines, drainage structures and features, wells and distribution lines, and septic systems. For a more detail explanation of requirements for the site plan, please reference Chapter 4, <i>Site Design and Environmental Stewardship</i> in the Delta County Land Use Code. For all Sight Distance requirements, please reference Chapter 5, <i>Public Facilities, Infrastructure, and Services</i> in the Delta County Land Use Code.
	<u>Fuel Management Plan.</u> Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): a. Illustrate the general type/extent of natural vegetation to be retained (e.g. grassland, brush, trees) b. Emergency vehicle access (driveway and/or roadway) including width, slope and type of surface. c. Illustrate the area where vegetation will be maintained relative to the area where building may occur. Indicate if vegetation will be removed or routinely pruned. (See Chapter 4, Section 5.E Land Use Code)
	<u>Minor Plat (2-Lot Subdivision)/Preliminary Plat (Subdivision creating 3+ Lots).</u> Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): a. Existing parcel configuration (if more than one existing parcel is involved) b. All buildable parcels shall be illustrated using numbers c. All non-buildable parcels (roads, open space, etc.) shall be illustrated using letter designations d. Placement and location of all existing streets, easements, rights-of-way on the land proposed to be subdivided, and those abutting said land e. Approximate alignment of the proposed streets within the subdivision and their connections with existing streets or methods of terminating proposed streets. Streets shall be illustrated with letter designations f. Proposed uses of all portions of the subdivision, including but not limited to building areas, open space, streets, etc. g. All existing structures h. Method of water supply for each parcel within the subdivision i. Method of wastewater/sewage disposal for each parcel within the subdivision j. Street improvements, existing and proposed k. Drainage, existing and proposed l. Utilities, existing and proposed m. Overlay the proposed subdivision onto an aerial view to illustrate how the proposed property lines align with existing/natural features.
	<u>Replat and/or Lot/Boundary Line Adjustment (LLA).</u> Replat consists of amending a Final Plat, including but not limited to, revising notes recorded on the Final Plat (no new lots created). Might also include reconfiguring the lots; provided all lots are part of the original Final Plat (also see Lot/Boundary Line Adjustment). LLA involves adjusting lot lines between existing parcels/lots, resulting in an equal number of lots (no new lots created). Illustrate changing recorded notes and/or parcel lines (drawing of professional quality): a. Existing parcel/lot configuration and notes. b. Size of lots before and after the adjustment, calculated in acreage and square footage. c. Placement and location of all streets, easements, rights-of-way on the subject lands and those abutting said land. d. Proposed uses of all portions of the project area, including but not limited to building areas, open

	space, streets, etc. e. All existing structures, and set back from proposed property lines f. Illustration of existing and proposed wastewater/sewage disposal and location, including setbacks from property lines and water/irrigation/drainage. g. Illustration of existing and proposed water supply and location, including fire hydrants h. Drainage, existing and proposed i. Utilities, existing and proposed j. Overlay the proposed subdivision onto an aerial view to illustrate how the proposed property lines align with existing/natural features.
	<u>Boundary Adjustment.</u> Adjustment or revision of established, undisputed, existing boundary lines between parcels not previously subdivided, where such adjustment does not result in creating an additional lot less than 35 acres of land and none of which is intended for use by multiple owners. Illustrate boundary lines where all resulting lots are 35+ acres in size, not part of a prior subdivision, and not intended for development (drawing of professional quality): a. Total land area proposed to be adjusted. b. Existing parcel/lot configuration with pre-adjusted land area c. Proposed parcel/lot configuration with pre-adjusted land area d. Placement and location of all streets, easements, rights-of-way on the subject lands and those abutting said land e. All existing structures, and set back from proposed property lines f. Illustration of existing water supply and location, including fire hydrants g. Illustration of drainage and irrigation h. Certification by surveyor that no new lots are being created
X	<u>Constraints Map.</u> Map illustrating constraints that may affect the design, such as: a. North Arrow b. General Location of natural features such as rivers, streams, draws, ravines, ponds, wetlands, forest areas, tree and hedge lines c. Existing and proposed easements (utilities, access, water pipes, irrigation ditches, right-of-way, etc.) ~~d. Groundwater Recharge Areas~~ ~~e. Scenic View Shed~~
	<u>Grading/Slope Map.</u> The Land Use Code set standards to minimize grading on slopes 25%+. Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): a. North Arrow b. General Location of natural features such as rivers, streams, draws, ravines, ponds, wetlands c. Existing easements d. Survey top/toe of slope lines using 5-foot contours. Illustrate existing and proposed site drainage, including retention/detention areas. Highlight (shade) areas exceeding 25% slope. e. Illustrate locations of cut/fill f. Section View(s) illustrating the height of excavation and embankment, including proposed retaining walls. g. Drainage and erosion control plan <i>(See applicable sections of Chapters 4 and 5 Land Use Code)</i>
	<u>Vacate Road, Street, Rights of Way, or Easement.</u> Provide a plat clearly illustrating the public way which is to be vacated, and including all necessary dimensions (drawing of professional quality): a. Letter of Intent. Include information which indicates whether any public moneys have been spent on any portion of the public way and certify that no property will be left without proper access due to the proposed vacation. Describe extent of public way which is proposed to be (all or partially) vacated, including all necessary dimensions including the total right of way. Include the name, mailing addresses and telephone number of the applicant(s).

	b. Map titled: "Vacation Plat: A vacation of (name or description)". Cross-hatch or otherwise illustrate the portion of public way to be vacated. Include the names and addresses of all the owners of property which abuts the public way. c. Include on, or attach to the map, a legal description of the portion of the public way to be vacated.
	<u>Telecommunication (Justification) Plan.</u> Describe aspects of the project that may affect the design, such as: a. Explain how the project site (location) was selected over any other site. b. Locate any Scenic By-Way within one mile of the proposed site(s). If a facility is located within ¼ mile of a Scenic By-Way provide a detailed visual analysis from that roadway. c. Rationale for proposed tower design including: colors, textures, surfaces, scale, character and siting. Provide photo simulations from various views illustrating what the area looks like with and without the proposed tower. Mitigate as appropriate (screening). d. Identify other (existing) poles within the vicinity, and potential for co-location either on an existing tower or on this proposed tower. e. Hazard mitigation to withstand maximum forces expected from wind, tornadoes, blizzards and other natural occurrences. f. Provide documentation for proof of access to the proposed site (e.g. private road easement, etc.). g. Explain compliance with applicable rules, regulations and standards (FCC, FAA) h. Assess if there is any environmentally sensitive habitat within 300 feet of the proposed site. i. Visual Assessment (Photo Simulation) j. Lease/License Agreement
X	<u>Landscape/Lighting Plan.</u> Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): a. Illustrate the general location and type/extent of screening – fencing, vegetation, etc. proposed (including existing vegetation) b. Describe the type of vegetation (e.g. grassland, brush, trees) and how the vegetation/screening will be maintained. c. Illustrate the area where vegetation will be maintained relative to the area where building may occur. Indicate if vegetation will be removed or routinely pruned. d. Lighting. Any exterior lighting, except as required for FAA regulations for airport safety, shall be directed/shielded down and manually operated - used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. e. Identify anti-climbing measures (security)
	If revisions are made to the plans, include a revision block on all plans and reflect all changes made to the original Site Plan/Plat.
	Other:

ADDITIONAL REQUIRED INFORMATION

Information checked below is required because of the type of application and policies affecting the subject property and/or project:

	<u>Surveyor's Statement (Lot/Boundary Line Adjustment).</u> Certification of compliance with state statute and Delta County Land Use Code. Form provided by Delta County.
	<u>Surveyor's Statement (Boundary Adjustment).</u> Certification of compliance with state statute and Delta County Land Use Code. Form provided by Delta County.
	<u>Standard Signature Blocks (Subdivision Plats):</u> ○ Dedication (right of way being dedicated to Delta County) ○ Notarial (Property Owner's) ○ Mortgagees Approval (Where there is a mortgage on the property) ○ Delta County Surveyor's Approval (All Plats)

	- o Delta County Planning Department Approval (All Plats) - o Board of County Commissioner Approval (Plats that require BoCC acceptance of Final Plat) - o Certificate of Taxes Paid (All Plats) - o Delta County Clerk and Recorder's Acceptance (All Plats) <i>Separate attachment with standard/recommended language.</i>
	<u>Standard Plat Notes</u> (Subdivision Plats): - o Setbacks - o Irrigation - o Weed Control [Chapter 4, Section 7.G LUC] - o Lighting [Chapter 4, Section 7.H LUC] <i>Separate attachment with standard/recommended language.</i>
	Copies of any agreements with notarized signatures (access, road maintenance, ditch company, domestic water, subdivision improvements, etc.)
	<u>Variance Findings (General-setbacks)</u> . Narrative describing how the proposed project meets the required findings.
	<u>Variation to Lot Size</u>. The County may consider creation of new lots that do not conform provided specific findings are met: unique conditions (e.g. shape or topography), special circumstances (e.g. hardship), and conforms to other land use standards. Provide justification how the proposed parcel(s) meet the required findings in Chapter 3, Section 1.A.3 of the Delta County Land Use Code. <i>NOTE: Lots involved with granting a variance may not be subdivided further pursuant to Land Use Code Chapter 3, Section 1.A.3.d.</i>
X	<u>Traffic Study</u>. The intent is to assess the traffic created by the proposed use and demand for parking. Include assessment of the following road segments/intersections for the number of average daily vehicle trips and accident rates. <i>Level I.</i> Required for the following type of application: Limited Use, Conditional Use, and Preliminary Plat. Also required for additional residences, communal living, and seasonal farmworker housing involving 5+ units. <i>Level II.</i> Required when Level I study indicates impact to more than 20% of the road's capacity. <i>Level III.</i> Require when Level II indicates improvements are necessary to address traffic impacts of a proposed project. <i>See Table 5.a of the Land Use Code for scope of each type of study.</i>
	<u>35-Acre Road Resolution</u>. Letter describing the intended use of the lots and intended design of streets and/or highways to be dedicated for public use (Resolution 2003-R-027, Land Use Code Appendices).
	<u>Truck Routing Plan</u> shall be submitted to the Planning Department, for review and approval to address the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy trucks as they may be disruptive to nearby property owners and could potentially cause damage to the County Roads. Said Plan will also need to address the type of vehicles that will be used for this operation, the frequency of arrivals/departures, approximate hours of truck traffic, and any hazardous materials/hazmat materials being transported.
	<u>Biological Assessment/Wildlife Report</u>. The intent of an assessment is to evaluate potential for listed species to be present on the property or impacted by the proposed project: If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. (<i>See Chapter 4, Section 5.D Land Use Code</i>)
	<u>Soil Study</u>. Where the project proposes to include an onsite wastewater treatment (septic) system, we need a study that identifies there is adequate area and conditions for septic with proposed development based on soil conditions. [See Chapter 5, Section 2.B Land Use Code]
	<u>Geologic and Soils</u> report for this development to assess soil suitability and site characteristics pursuant to Chapter 8, Section 2 of the Land Use Code. Said Report needs to include a site visit by a qualified

	Engineer in regards to the site characteristics outlined in Colorado Geological Survey, SP-06 <i>Guidelines and Criteria for Identification and Land-Use Controls of Geologic Hazard and Mineral Resource Areas</i> . The report will need to address ground subsidence, expansive soil, and rock. The suitability of the soils will also need to be assessed in this report.
	<u>Proof of Water</u> . Chapter 5, Section 3.B(3)(b) of the Land Use Code identifies the type of evidence required to justify that the water supply is sufficient in terms of quality, quantity and dependability for the proposed use. Cisterns shall not be considered an adequate water supply for residential uses. <i>NOTE: Water line and meters must be installed prior to accepting the Final Plat, including the name of the domestic water provider and tap or certificate number on each lot and/or the location of the domestic well and spring</i>
	<u>Water Quality Report</u> . Required when/if a well is (will be) used to provide domestic water.
	<u>Irrigation Plan</u> . Describe the divisions, provide for ditch easements and submit a plan which shall assure the continued water flow and delivery systems in accordance with State of Colorado Water Law. Adjacent property owners and irrigation ditch companies shall be consulted. Illustrate and/or describe how the irrigation water is to be allocated, including the pertinent ditch company.). [See Chapter 5, Section 3.E Land Use Code] <i>NOTE: The shares of irrigation water to be conveyed to lots in the subdivision shall be noted on the final plat along with all required easements.</i>
	<u>Photographs</u> . Photographs to help visually depict existing conditions of the project site.
	<u>Photo Simulation</u> . An illustration of the project overlaying the proposed project onto photographs of existing conditions to reflect how the area looks in the future from certain points.
X	<u>Preliminary Title Report</u> . Report showing the legal owners and recorded encumbrances. Include description of all existing and evident easements for the subject property.
X	<u>Stormwater Management Plan</u> . Chapter 4, Section 7.B, <i>Stormwater Management, Grading, Erosion, and Sediment Control</i> , all Site Plans associated with a conditional use shall be accompanied by a Stormwater Management Plan, sealed by a Professional Engineer that certifies compliance with the requirements of subsection (1) Section 7.B.
X	<u>Drainage Report</u> , which consists of two parts: 1) a drainage study and 2) a drainage and erosion control plan. Drainage reports shall be in compliance with Chapter 4, Sections 7.B, <i>Stormwater Management, Grading, Erosion, and Sediment Control</i> , and any other applicable state or federal standards for grading, erosion, and sediment control.
	<u>Noise Mitigation Plan</u> . Chapter 4, Section 7.C, <i>Noise</i> , any noise that is generated by development shall not exceed the thresholds set out in C.R.S. 25-12-103, <i>Maximum Permissible Noise Levels</i> . to ensure that noise does not exceed the statutory limits. Noise that is generated by the development shall not exceed the thresholds set out in C.R.S. 25-12-103, <i>Maximum Permissible Noise Levels</i> , or any other specific exceptions created by the State of Colorado
	<u>Dust Control Plan</u> . Chapter 4, Section 7.F, <i>Dust Control</i> , requires all industrial or extraction uses to submit a Dust Control Plan. Said Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere, minimizing impacts to livestock, crops, and public health. Said methods shall include but not be limited to use of water for abating dust.
	Other:

OTHER REQUIREMENTS FOLLOWING PLANNING APPROVAL

X	<u>Recording Fees</u> . Recording fees are separate and in addition to the land use fees. (Clerk & Recorder Fee Schedule)
	<u>Final Plat</u> . Conditions and Improvements required as part of the preliminary/minor plat must be completed and accepted prior to approval of the final plat. (Land Use Fee Schedule; Resolution 2021-R-007)

	<u>Fire Impact/Mitigation Fee.</u> Fire impact fees shall apply to all new development located within any fire district where a resolution establishing such fee is approved and adopted (\$500/lot)
	<u>Open Space Impact/Mitigation Fee.</u> Open Space impact fees shall apply to all new development to be applied to public recreational facilities within the applicable Commissioner District (\$300/lot)
	<u>Road Impact Fee.</u> Road impact fees shall apply to all new development upon adoption of any resolution establishing such fee. (TBD)
	<u>Grant Deeds:</u> Grant Deeds with legal description to effectuate any change of land (new parcel, transfer of land, etc.).
	Other:

NEXT STEPS

Approving Authority: Based on the type of permit(s), this decision making authority is:	Director: X	Planning Commission – Board of County Commissioners:	Board of Adjustments:
Notice Required: If the “yes” box is checked, a notice will be published at least 14 days prior to the hearing/decision.	YES:	NO: X	
Appeal: Appeals must be filed within 10 days from the date of decision. Any decision or determination by the Director may be appealed to the Board of Adjustments. Any decision by the Board of Adjustments may be appealed to the Board of County Commissioners.			

DEPARTMENT USE ONLY

Checklist Given Out By:	DATE:
Checklist Received By:	DATE:

REFERRAL LIST

Proposed plans will be referred to following for comment and recommendations:

X	Environmental Health. On-site septic; floodplain; adequacy of sewage treatment; water quality.
X	County Roads and Bridges, District #1 . Use of public roads, including access and work within the right of way.
X	County Engineering. Design of County roads and facilities.
X	County GIS. Spatial information (mapping)
	County Surveyor. Maintain, perpetuate, and interpret legal records and public information which control land boundaries, property ownership and associated interests.
	Municipality and/or Adjacent County: . Potential impact on the municipality (services, infrastructure) , and Intergovernmental agreement (IGA).
X	Ditch Company: . Impacts on ditch, canal, pipeline, or reservoir infrastructure or operations (easements).
X	Water Provider: . Ability and willingness to serve; required facilities and easements. Adequacy of water supply.
	Wastewater Treatment Provider: . Ability and willingness to serve; required facilities and easements.
X	Electric Power: . Ability and willingness to serve; required facilities and easements.
	Natural Gas Provider: . Ability and willingness to serve; required facilities and easements.

	Communications Provider: ---. Ability and willingness to serve; required facilities and easements.
	Local Improvements and Service Districts: ---. Impact on services provided.
X	Fire District #1. Fire protection risk and risk mitigation.
	Delta County School District: ---. Projected impact on schools; school capacity, ability to serve the anticipate population.
	Delta Conservation District. Soil suitability; floodwater problems, wetland evaluation; and watershed protection.
	CO Dept of Transportation (CDOT). Use of State-owned roadways, including access and work within the right of way.
	CO Parks and Wildlife. Wildlife and habitat values; State Wildlife Action Plan.
	CO Dept of Public Health and Environment. On-site septic; adequacy of sewage treatment; water quality; Certificate of Designation (landfill).
	CO Division of Water Resources (State Engineer). Wells; adequacy of water supply; potential injury to water rights.
	CO State Forest Service. Evaluate potentially sensitive lands; wildfire risk and risk mitigation.
	CO Geologic Survey. Evaluate geologic factors that would have a significant impact on the proposed use of land.
	Bureau of Land Management.
X	Adjacent Property Owners.
	Other: ---

Untitled Map

Write a description for your map.

Legend
★ HOME

★ HOME

25 Mesa Rd



RV Storage 13897 25 Mesa Rd Delta PLN21-083 Toole RV storage

3 messages

Brenda Toole [REDACTED]

Mon, Apr 25, 2022 at 5:04 PM

To: "planning@deltacounty.com" <planning@deltacounty.com>

It is my understanding that Delta County Planning is going to review the adopted code and you are looking for input.

Please see attached application regarding my application to place 3 free standing, covered RV storage sites at [REDACTED] [Delta Co.](#)

I would like to reiterate the plan as follows:

Place 3 free standing RV covers on property

No utilities of any kind will be offered, no dump site and no electric or water provided

No one will be allowed to maintain their RV's on site

No one will be allowed to stay in any RV on site

Anticipation of RV being driven in or out of property possibly 4 times a year average 3 sites could result in 12 times an RV will be coming onto or leaving property. That is about the same amount of times the ranches move their cattle herds on 25 Mesa Rd.

As you can see by the application the planning department, in my opinion has misunderstood the potential impact these 3 storage spaces will have.

Originally the planning department stated this project would fall into Rural Medium Industry ie hemp processing, slaughterhouse, meat processing, sawmill. After several emails and a meeting with the planning board it was determined this project was indeed Rural Light Industry Without Retail.

I have reviewed the application several times and have come to the following conclusions:

See paragraph 5 of letter from Kate Kelly Planner 1, this states addition of the RV sites would intensify traffic which allows the county to review existing conditions. I did a level 1 traffic study but did not receive the results but spoke with Tim and he indicated the drive way on the west which is the access for the back RV site was not permitted. I would like to point out this access has been there since I bought the property in 1987, ALL access' were on property with exception of the access to the front RV [REDACTED] which letter indicates this has not been permitted, however I have the Delta County Road Name and Addressing Certification which replaced the original address of [REDACTED], this certificate became

effective 9-1-2003 control #3468. This access has been in place and consistently used as have all accesses. As I stated in the original planning meeting I doubt the original farmer, Kenny Brown applied for access permits back in the 50's-60's and there probably was no access permit required by the county at that time. Tim also stated circle drives were not permitted, all I did was connect the 2 access points, I did not create any new access points, again all these access points were present and in use when I bought the property in 87. I see no reason to revisit these access points. I see no reason to eliminate any current access points. All access points are necessary to allow safe and easy access to all sites. Also the circle drive is located on my property to the west of subject property, it is not involved with the RV sites.

Please see application page 8

Storm water management plan, This is a dry lot, no water has been allocated to this lot, it is obvious to anyone who comes to see the property, having a Professional Engineer certify this is a costly and unnecessary expense.

Drainage Report same as above, there is no water. minimal grading just to level out the sites, the property is basically level already. I plan to add some gravel under each cover to make it a nice place to park.

Referral List indicates I will need to contact the following agencies:

Environmental Health to comment on any on site septic, floodplain, adequacy of sewage treatment, water quality. None of these are applicable

County Road and Bridges the installation of 3 RV covered storage sites will have no impact on the existing county road, NA

County Engineering: design county roads and facilities, NA

Water Provider NA no water provided

Electric Power NA no elec provided

This RV storage is the highest and best use of this property with minimal impact, otherwise it is just a lot covered with weeds.

I am trying to capture tourist dollars as they drive by on their way to the Uncompahgre. RV's have to be parked somewhere, it may as well be in Delta County.

As you are aware, it is difficult to make a living in Delta county and with the planning department being so intrusive and making unnecessary requirements will only make it

harder for private enterprise to grow.

I do not think this was the original intent of land use zoning, but it has quickly become the octopus we all feared it would become.

I am asking you to review the application and make adjustments that fit the intended use of the property.

Thank you for your time and I will see you at the meeting April 27 at 5:30pm

Respectfully

Brenda J. Toole



Kate Kelly <kkelly@deltacounty.com>
To: Carl Holm <cholm@deltacounty.com>

Tue, Apr 26, 2022 at 7:53 AM

FYI - you might want to answer this one too.

[Quoted text hidden]

--

Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Carl Holm <cholm@deltacounty.com>

Tue, Apr 26, 2022 at 2:21 PM

To: [REDACTED]
Cc: Kate Kelly <kkelly@deltacounty.com>, Tim McCracken <tmccracken@deltacounty.com>

Ms. Toole,

We are in receipt of your email.

Relative to the land use, there are definitions that must be considered when determining where a use falls if it is not otherwise listed. Storage is not specifically included in the Land Use Code, neither listed as a use nor part of a definition. As such, we have to determine where it best fits. Definitions in Chapter 14 provide characteristics that distinguish between Light or Medium Rural Industry. One key distinguishing characteristic for the Rural Medium Industry is if the use includes outdoor storage or operations. (Note: We intend to recommend including storage as a specifically listed use in the Land Use Code).

You expressed intent to start with 3 RV spaces, but hoped to expand from there. Based on how you presented your plan, we agreed that it could qualify as Rural Light Industry; however, that Plan (information) was not included as part of your application, which from your email includes:

"- Place 3 freestanding RV covers on property

- No utilities of any kind will be offered, no dump site and no electric or water provided

- No one will be allowed to maintenance their RV's on site

- No one will be allowed to stay in any RV on site"

Without those defining characteristics, this could be considered a different type of use.

Just because something existed does not mean it is grandfathered equally. There is a distinction between legal nonconforming and unlawful uses and structures both in how they are defined and when/how they are brought into conformance. An important aspect is the regulations in place at the time the use/structure was established. If there was no regulations in place and now there is, or a permit was not required and now it is, then that is considered legal nonconforming. If a permit was required and we show no record of a permit being issued, that is considered unlawful.

When a use changes or is intensified, access is subject to review by the County Engineer under the Road Standards. Generally, these lots would be limited to one access permit each under the Road Standards. The current use of the subject site includes two existing units, and the proposal is to intensify the use by adding a Rural Industry type of use. While Road Standards are separate from the Land Use Code, Planning coordinates land use review with County Engineering. We address the parcel/lot affected by the application. In this case, it appears (based on aerial photography), that either: 1) there are two accesses on the subject property (aside from the horseshoe driveway on your other property to the west), or 2) one of the units on the subject property takes access across the property to the west (making 3 accesses on that property). If #2 is true, then the western parcel becomes part of the application since we look at the whole of the site/project and part of the access is located on the property to the west. If #1 is true, then the western property is not a part of this application but you have been informed of the nonconforming condition. We need an accurate site plan that identifies existing and proposed conditions of the subject site so we can make a better assessment.

Respectfully

Carl P. Holm, AICP

Director of Community Development and Natural Resources

Phone (o): 970-874-2105

Email: cholm@deltacounty.com

[Quoted text hidden]

[Quoted text hidden]

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the original transmission and its attachments. Notwithstanding the foregoing, sender and receiver should be aware that all incoming and outgoing emails may be subject to the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. Thank you.

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DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

ADVISORY LETTER

MAILED US POST
EMAILED PER EWELINA
4/26/22

April 26, 2022

Property Owner:
Wild Cooperative LLC (Care of Ewelina Bajda)
[REDACTED]
Crawford, CO 81415

Location of Complaint: [REDACTED]
Parcel ID/Account No: [REDACTED]
Zoning Designation: A35
Tax Acct: [REDACTED]
Land Abstract Code: 4471
Case Number: 2022-013

Delta County has received a complaint that the subject property may be in violation of one or more ordinances/codes regulated by Delta County. Well maintained properties improve the quality of life and increase property values throughout our community. Property owners are held accountable for the condition on their property, and owner information is obtained through Delta County Assessor records.

On 4/14/22 I (Code Compliance Officer E. Neil) was following up on a complaint regarding the address of [REDACTED]. There are two other addresses associated with the property which are [REDACTED] and [REDACTED].

I had researched the access and found there was a temporary permit issued however there was not a final access permit on file. After some discussion it was determined there would have to be some form of documentation provided by the property owner regarding an Access Permit that was not temporary.

I researched the property and there are 3 addresses confirmed in GIS. I researched the OWTS files and located an amendment from Environmental Health indicating confirmed OWTS systems for [REDACTED] and [REDACTED] Road for individual residences. According to the engineered design plans there were no set back issues. There was no confirmed OWTS for the address of [REDACTED].

I researched the well information for this property and found the well had been permitted ([REDACTED]) and was conditional. One of the conditions was as follows:

4. "The use of ground water from this well is limited to ordinary household purposes inside one single family dwelling. The ground water shall not be used for irrigation or other purposes."

5. *"The pumping rate of this well shall not exceed 15 GPM."*

There are currently at least 2 dwellings on this property and 2 OWTS on the property which violates the provisions of the well permit. There is no water purveyor of domestic water for this property. I am also unsure of the volume of use for the well or which structures are connected to an OWTS.

As I researched the property owner and it was listed as Wild Cooperative LLC. Which openly advertises (Facebook) development plans for multiple structures. This site advertises to build 4 to 6 more dwellings on private spaces each with a kitchen and a bathroom. This site also advertises multiple classes for survival training and wilderness gardening (Permaculture) which is a 6 week stay. The site describes a "Short Stay" which requests a 6-week commitment and 10 dollars a day for food and 10 dollars a day for camping. This indicates a Camp Ground based use of this property which it is not zoned for. The property is zoned as 4471 Agricultural Use.

Possible violation(s) brought to our attention include:

Section 2. Roads, Access, and Circulation

B. Access to State Highway System Required

1. **Generally.** No person may submit an application for preliminary or final plat approval unless the plat provides, pursuant to C.R.S. § 43-2-147, that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway access code. See C.R.S. § 30-28-133.1.

2. **Access Permits.** All connections to County Roads, State Highways, or Federal Highways shall be authorized by an access permit issued by the entity that controls access to the road or highway. A copy of the access permit is a prerequisite to sketch plan, site plan, or final plat approval.

Section 5. Development Approvals Required

A. Development Approval Required

Unless specifically exempted by this Code, development approval is required for development and redevelopment activities. The required development approvals are set out in this Section.

D. Effect on "Specific Development Approvals"

1. **Generally.** Property that is subject to an approved specific development pursuant to the former DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS, AS AMENDED, dated January 22, 2019 (repealed by this Code), may be developed in accordance with the specific development approval during the term of the specific development approval.

Section 5. Limited Use Approval Standards

A. Applicability of Limited Use Development Standards

1. **Generally.** An application for a limited use requires approval of a zoning permit and sketch plan. The Director may require submission of a site plan if it is determined that additional information or detail is necessary to review compliance with the requirements of this Code. The zoning permit and sketch or site plan may be approved if the application demonstrates compliance with:

a. Chapter 2, Section 5, *Limited Use Approval Standards*, if applicable.

- b. Chapter 3, Lots, Buildings, and Structures
- c. Chapter 4, Site Design and Environmental Stewardship
- d. Chapter 5, Public Facilities, Infrastructure, and Services

Campground means an area or tract of land on which accommodations for temporary occupancy (not to exceed six months in any one calendar year by any particular guest) are located, including for the parking or placement of recreational vehicles, such as motor homes, truck campers, mobile tiny homes, cabins, yurts, or tents used for human occupancy.

c. "L" means "limited use." Limited uses require a zoning permit and sketch or site plan approval. Zoning permits are issued by the Director After administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code. Applications for limited uses may be referred to specific referral agencies. If there is an "n" next to the L, then public notice of the application is required pursuant to Chapter 7, Section 4, *Public Notice*. See Chapter 9, Section 1, *Approvals and Denials*. Other types of permits (e.g., well permits, septic permits, or access permits) may also be required.

B. Additional Residences or Communal Living

1. Generally.

a. In general, one residence is allowed per lot. Additional residences may be constructed, placed, or installed on a lot in accordance with the provisions and limitations of this Section. The number of additional residences is not specifically limited, but adequate water, sewer, power, fire protection, and access must be provided for each unit in accordance with the standards of this Code and other applicable law.

b. A subject property that is developed with additional residences may also include accessory buildings that are not used as dwelling units (e.g., common buildings, storage buildings, barns, stables, etc.).

c. This allows for additional residences that are intended for permanent occupancy; however, such additional residences may also be used for seasonal housing, including seasonal farmworker housing. Additional residences that are used as temporary residential uses may be subject to Chapter 2, Section 3(B), *Temporary Uses of Recreational Vehicle, or other similar structure as Dwelling Unit*.

Required Corrective Action(s):

Based on the information collected Wild Cooperative LLC is required to complete a Development Application for the property indicated above. During this process (Site Plan Review) all other concerns can be addressed to bring the property into compliance. This process will also help guide the property owner to the proper zoning and use to gain the full potential the organization wishes to achieve with their mission statement.



If you believe the violation(s) noted do not exist on your property or have proof that they do not exist or have any questions regarding this notice, please contact the undersigned Inspector at (970) 874-2110. Failure to respond to the Required Corrective Actions (noted above) could result in additional enforcement action being taken to ensure that your property is in compliance. Additional action may include a Summons and Complaint, hearing, fines and/or penalties.

The following is important information for you to know if the violation(s) are verified:

- **Notice of Violation.** Failure to correct and/or discontinue the violations noted in this notice will result in the recording of a Notice of Violation on the property that could affect sale or refinance of the property until the violation is cleared.
- **Civil Enforcement.** The property owner of record is responsible for all activities on the property. Any person, firm, or corporation, who creates or maintains a Code violation shall be liable for the cost of enforcement which shall include, but not be limited to, the cost of investigation and inspection, costs to cure any violation or abate a nuisance, and costs of monitoring compliance.
- **Criminal Prosecution.** Willful failure to take the necessary actions to correct any violation of the County Code can result in criminal prosecution against the property owner(s) and/or occupant(s).

Thank you for working with me to help you accomplish the goals you have for the future of the property. I look forward to working with you to bring the property to the level of compliance required per the Delta County Land Use Code.

If you have questions about the Delta County Land Use Code it can be found on the website listed below:

[Land Use Regulations | Delta County, CO - Official Website](https://www.deltacounty.com/Land-Use-Regulations)

[https://www.deltacounty.com > Land-Use-Regulations](https://www.deltacounty.com/Land-Use-Regulations)

In addition, planning staff can assist with answering questions you might have (970-874-2110). Thank you for your assistance in this matter.

Respectfully,

Code Compliance Officer Everett Neil

Office Phone# 970-874-5915

Cell Phone# 970-901-1643



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

ADVISORY LETTER

Follow Up to Advisory Letter sent 4/26/22

May 16th, 2022

Property Owner:
Wild Cooperative LLC (Care of Ewelina Bajda)
[REDACTED]
Crawford, CO 81415

Location of Complaint: [REDACTED]
Parcel ID/Account No: [REDACTED]
Zoning Designation: A35
Tax Acct: [REDACTED]
Land Abstract Code: 4471
Case Number: 2022-013

COPY

EMAILED

Mrs. Bajda,

Thank you for your response to the Advisory Letter I sent you dated April 26, 2022 in response to a complaint submitted to Delta County. I appreciate your time and willingness to work through the issues I have noted regarding your property.

I find that there are possible violations which were not addressed in your response E Mail. Making the determination depends on facts when things were established and the County's interpretation of rules (regulations) in place at that time.

Existing Conditions:

Based on available records and the applicable regulations when the development occurred, I find the following reflects existing conditions:

There are three structures on the property each with an address assigned by the County however, there is a well permit for one residence which is not identified with a specific address. I need to have the specific address/residence using the well permit verified.

Unit #1 [REDACTED] certified address on 1/18/17 with a septic an OWTS not certified but an acknowledgement letter dated 12/8/16. The letter states this OWTS has been Grandfathered and is acceptable for use until it fails, then requires replacement.

Unit #2 [REDACTED] certified address on 10/31/18 with an OWTS # [REDACTED] with no indicated water purveyor. The E Mail you sent indicated the water was hauled for this unit.

Unit #3 [REDACTED] certified address on 10/31/18 with an OWTS # [REDACTED] with no indicated water purveyor. The E Mail you sent indicated the water was hauled for this unit.

There is one well permit (# [REDACTED]) on the property described as being used for one residence (existing condition). You have stated the other units are served by hauled water. According to the Water Commissioner you are in the process of developing an Augmentation Plan for domestic water for the other units (future condition).

Based on information provided on your website, your property has been used for Special Event purposes last year and scheduled for multiple Special Event uses this year. The Special Events you advertised were described as events open to the public with fees applied for the events and food service. The events included camping fees for 10 dollars and descriptions for Short Stays and fees. These Special Events took place last year and there are scheduled Special Events for this year. There were approximately 15 Special Events and appear to range from 14 in attendance to 120 attendees in the year 2021.

Your website states that you offer camping and solicit “sales” for people to build on this property but you retain the ownership of the underlying land.

I indicated in the Advisory Letter I could not find any record that the access to the property has been permitted. Following that notice I confirmed with former Road and Bridge Foreman, who processed that permit, the only documented access permit was for a temporary access, which has expired.

Applicable Regulations:

Land Use Code (LUC). Delta County adopted its Land Use Code on January 5, 2021. New development after this date, as well as uses established without required permits, are subject to these regulations. Administered by County Planning.

Specific Development. Effective January 2001, the County established specific development permit regulations that required a development agreement for uses including, but not limited to, commercial and /or industrial uses, recreational facilities ect. Administered by County Planning. These regulations were repealed when the LUC was adopted.

Development Application. Ordinance, established in 2011, requires a Development Application for all commercial and residential development, starting with a Site Plan Review.

Water/Wastewater. Regulations relative to water/wastewater prohibits use of hauled water as a domestic water supply for anything beyond the existing conditions, as outlined in this letter.

Road Standards. Regulations relative to access (roads and driveways). Administered by County Engineering with support from County Road and Bridge.

Findings:

Access: Access is based on the use of the property. I will need some documentation indicating the access was finalized and if not, this needs to be completed for the access. I will also establish what was permitted, in the County's perspective, when this access was established. Any change or intensification of use from the time an access is permitted is subject to a new permit.

Camping: Camping falls under a recreational use under the Specific Development regulations, and listed as a Limited Use (Administrative Discretionary Permit) under the LUC.

You have stated the website is outdated as related to the camping issue. If I am understanding your definition of outdated to mean you are not allowing camping this issue is resolved. Please update your advertisement to reflect this change. This would also include the advertisement for Short Stays.

If you are interested in creating a Campground please contact the Planning Department to guide you in the process required for permitting such use of the property.

***Campground** means an area or tract of land on which accommodations for temporary occupancy (not to exceed six months in any one calendar year by any particular guest) are located, including for the parking or placement of recreational vehicles, such as motor homes, truck campers, mobile tiny homes, cabins, yurts, or tents used for human occupancy.*

Events: Prior to the LUC, events were not specifically addressed, but have always been subject to permits where prepared food and/or alcohol is served/sold. Any new event is subject to Delta County Land Use Code standards for Special Events (Attached). Special Events are required to follow these guidelines to avoid possible violations. Under the LUC, events associated with a permitted (or legal nonconforming) commercial use are an Allowed Use, but is subject to a Development Permit. These standards do not apply to residential uses, but could be included with uses like wineries or resorts.

Residences: As indicated in the Advisory Letter, and your response E Mail, the number of listed residences has been verified as 3. As you have stated in your response E Mail "two residences are or will be hauling water" indicating there is currently no water supply to 2 of the listed residences. As you stated in your E Mail you are in the process of attempting to acquire well use augmentation to provide water for the other two residences.

The advertisement on your website indicated the following:

There are many ways to design the land to accommodate community members with a private quarter of an acre to one acre. The possible sites are ideal for small (under 600 square feet) natural homes. The dwellings can be earth-sheltered with passive solar design to approach zero-net-energy-consumption. The community stunts the remainder of the land and has shares in the Wild Cooperative which grows in value and quality.

The capital contribution for a share in the Wild Cooperative may be anywhere from \$25,000 to \$100,000 depending on the final number of members. If you're interested, please reach out to us at wildcooperative@hotmail.com for more information. We are open to discussion, owner financing, and see many possibilities how we can make this happen. Looking forward to hearing from you!

Based on this information your development advertisement indicates the intent to develop the property and this would be a violation of the following Land Use Code:

Section 5. Development Approvals Required

A. Development Approval Required

Unless specifically exempted by this Code, development approval is required for development and redevelopment activities. The required development approvals are set out in this Section.

You have mentioned the website is outdated. Is this section outdated as well? If this is not correct please make the proper adjustments to the website so this violation can be addressed. In the event this information is correct there are requirements for a Development Application and subdivision process. Please contact the planning Department to schedule an appointment to assist you with this process.

Conclusion: If you believe the violation(s) noted do not exist on your property or have proof that they do not exist or have any questions regarding this notice, please contact the undersigned Inspector at (970) 874-2110. Failure to respond to the Required Corrective Actions (noted above) could result in additional enforcement action being taken to ensure that your property is in compliance. Additional action may include a Summons and Complaint, hearing, fines and/or penalties.

The following is important information for you to know if the violation(s) are verified:

- **Notice of Violation.** Failure to correct and/or discontinue the violations noted in this notice will result in the recording of a Notice of Violation on the property that could affect sale or refinance of the property until the violation is cleared.
- **Civil Enforcement.** The property owner of record is responsible for all activities on the property. Any person, firm, or corporation, who creates or maintains a Code violation shall be liable for the cost of enforcement which shall include, but not be limited to, the cost of investigation and inspection, costs to cure any violation or abate a nuisance, and costs of monitoring compliance.



- **Criminal Prosecution.** Willful failure to take the necessary actions to correct any violation of the County Code can result in criminal prosecution against the property owner(s) and/or occupant(s).

Thank you for working with me to help you accomplish the goals you have for the future of the property. I look forward to working with you to bring the property to the level of compliance required per the Delta County Land Use Code.

If you have questions about the Delta County Land Use Code it can be found on the website listed below:

[Land Use Regulations | Delta County, CO - Official Website](#)

<https://www.deltacounty.com › Land-Use-Regulations>

In addition, planning staff can assist with answering questions you might have (970-874-2110). Thank you for your assistance in this matter.

Respectfully,

Code Compliance Officer Everett Neil

Office Phone# 970-874-5915

Cell Phone# 970-901-1643

ATTACHMENT A

COPY
Emailed

E. Special Events

1. Generally. The standards of this section apply to temporary special events that are likely to attract more than 500 people at any one time to a subject property that is not already put to a commercial, community, or hospitality use that would routinely attract large groups of people. Such events may include outdoor entertainment, cultural, religious, or charitable events, as well as flea markets, farmers' markets, craft shows, and comparable events.

2. Approval Standards.

a. Frequency and Duration. No subject property shall host a temporary special event more than 75 days per year (including setup and teardown), and no individual event shall be longer than 30 days.

b. Impact on Agriculture or Intensive Agriculture. The location and nature of the special event shall be such that it will not adversely affect adjacent and nearby agriculture and intensive agriculture uses that involve livestock; or create a material risk of trespass onto or damage to agricultural fields, grazing areas, or livestock pens.

c. General Site Requirements. The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.

d. Buildings and Structures. If existing buildings and structures are used, they must be in a condition that is safe and appropriate for the intended level of use and occupancy.

e. Access and Circulation.

1) The street from which access is taken must have adequate capacity to serve the temporary special event. The County may require a Traffic Impact Study to evaluate available capacity. A traffic management plan may be required to ensure safe access and safe operation of adjacent roads.

2) Safe on-site vehicular and pedestrian circulation routes shall be identified and unobstructed emergency access shall be provided.

f. Parking.

1) The parking area available for the temporary special event shall be sufficient to accommodate the peak demands of the event, assuming four attendees per vehicle.

2) Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (e.g., buses and vans), or the close association of the event with a permanent use that provides parking for attendees.

3) Parking may be provided in remote locations, provided that if parking is provided more than 800 ft. from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.

4) Truck parking and loading areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site. Trucks shall be routed away from local residential streets.

g. Noise. Noise controls may be required for temporary special events that are expected to generate high levels of noise or to operate after 9:00 p.m.

h. Security and Fire Protection. Adequate security and fire protection shall be provided for the proposed temporary special event. The County may require a fire prevention and emergency response plan that is approved by the applicable fire protection district.

i. Sanitation. Adequate restrooms (portable restrooms are acceptable) shall be provided to serve the event. Trash containers and recycling bins shall be placed in convenient areas, including principal places of assembly, near food and beverage vendors, near restrooms, and at pedestrian entry and exit points.

j. Cleanup and Restoration.

1) The site of the temporary event and the adjoining right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event.

2) If grass parking was utilized, restoration/re-seeding may be required to control dust in impacted areas.

3) The County may require a refundable deposit for site clean-up and restoration.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

SENT VIA

E. MAIL

ADVISORY LETTER

Follow Up to phone conversation 5/17/22

25TH
May 23rd, 2022

Property Owner:
Wild Cooperative LLC (Care of Ewelina Bajda)
[REDACTED]
Crawford, CO 81415

Location of Complaint: [REDACTED]
Parcel ID/Account No: [REDACTED]
Zoning Designation: A35
Tax Acct: [REDACTED]
Land Abstract Code: 4471
Case Number: 2022-013

Mrs. Bajda,

This is a follow up summary to the phone conversation we had on 5/17/22 speaking about the issues related to the subject property. This conversation was in response to the Advisory Letter I sent you dated April 26, 2022, which was in response to a complaint submitted to Delta County. I appreciate your time and willingness to work through the issues for this property.

Existing Conditions are as follows:

Existing Conditions:

There are three (3) Dwelling Units on the property each with an address assigned by Delta County. The following summarizes their current status:

Unit #1 ([REDACTED]) was issued a certified address on 1/18/17. The OWTS (septic) has not been certified, but we have an acknowledgement letter from Delta County Environmental Health dated 12/8/16. The letter states this OWTS has been "Grandfathered" meaning it is considered acceptable for use until it fails. When/if it fails, replacement is subject to a new permit with appropriate engineering. This unit is supplied water from the well as permitted. (noted below)

Unit #2 ([REDACTED]) was issued a certified address on 10/31/18. The OWTS is permitted (Permit # [REDACTED]). There is no indicated water purveyor. The E Mail you sent indicated the use of hauled water for this unit.

Unit #3 ([REDACTED]) was issued a certified address on 10/31/18. The OWTS is permitted (Permit # [REDACTED]). There is no indicated water purveyor. The E Mail you sent indicated the use of hauled water for this unit.

There is one well permit (# [REDACTED]) on the property described as being used for one residence (existing condition). You have stated the other units are served by hauled water. According to the Water Commissioner you are in the process of developing an Augmentation Plan for the well to provide domestic water for the other units (future condition).

We discussed documentation from your website indicating that you are performing other activities at this property. You have advised you are not selling off shares of the property for development and the information on the website is outdated. I was further advised you would no longer charge a fee for "camping" or continue with the Short Stay program as advertised on your website. I recommended the website be updated to clearly reflect there are no camping sites (as defined and regulated by statute) and there are no sites for sale to develop and build structures on the property. I explained if there was interest in becoming a campground the Planning Department would be available to assist in the process to have a campground in the future. If there is to be more development on the property, or a change/intensification of use from these Conditions, a Development Application needs to be completed and submitted to the Planning Department.

I did receive the letter you had indicating the access had been permitted in 2015, and it allowed us to confirm this is a permitted access. However it does not meet the County Standards:

The existing access into Ewelina's property is gated, and the gate is set back 22 feet and 4 inches from the roadway. was measured to be 22 feet and 4 inches. The required setback for a gated access is 35 feet.

The existing access was constructed with a width of 10 feet and 2 inches. Delta County Road Standards, in place at the time the access was built, require 12 feet in width.

The existing access is 42 inches from the neighbor's property. Delta County Road Standards, in place at the time the access was built, require minimum 5 foot set back from the property line.

The driveway was inspected by myself and Tim McCracken (Delta County Engineer) on 5/18/22. As noted this access is not built to Delta County Standards making it a permitted non-conforming access. Change/intensification of use from the existing Conditions could trigger requirement for a new permit and/or bringing the access up to current standards.

Findings Website:

This case cannot be closed until the website is updated to remove reference to activities that are not permitted or grandfathered. On 05/20/22 I observed the following information on the website identified as wildcooperative.wordpress.com. There are advertisements on your website which are contrary to residential use designations of your property and your statements during

the phone conversation on 5/17/22. The advertisements (Exhibit A) for an event on your property July 9-10 2022 states:

"Accommodations

Tent camping is available on the land for a suggested donation of \$10 per night per tent. Also free camping is available on the National Forest land just a few miles down the road."

This is outside the current land use for your property as a residential property. Prior to the Land Use Code, recreational facilities required a Specific Development permit. We have no record of such a permit being issued, so camping is not a grandfathered use for this property. Advertising camping open to the general public is not residential use. Under the Land Use Code, camping is a Limited Use, subject to a Zoning Permit issued administratively by the Director. Camping is also subject to other regulations established by statute.

On your advertisement for Becoming a Member (Exhibit B) states:

"There are many ways to design the land to accommodate community members with a private quarter of an acre to one acer. The possible sites are ideal for small (600 square feet) natural homes. The dwellings can be earth-sheltered with passive solar design to approach zero-net-energy-consumption. The community stewards the remainder of the land and has shares with the Wild Cooperative which grows in value and quality."

Prior to the Land Use Code, residential and commercial development was subject to the Development Application Ordinance, which requires Site Plan Review (approval). We have established the Existing Conditions consist of (3) three Dwelling (residential) Units. Any future development beyond the Existing Conditions requires the completion of a Development Application which is submitted to the Delta County Planning Department. Once the website has been updated to reflect the current use of the property the Code Compliance case can be closed.

Your website refers to multiple events help at this property. Unless permitted as an event center or established as a use where events are adjunct to that use (e.g. community center, winery, hospitality, etc.), each temporary event is a new activity. Under the Land Use Code, Special Events are an allowed use, subject to specific standards set forth in the Code and possibly Health regulations.

Conclusion:

Access: The access is permitted and is Legal Non-Conforming. The access is not built to current Delta County Road and Bridge Regulations however, Delta County will not require the access to be re-built to standards at this time. However, any intensification of the land use will

result in reviewing the access and requiring the access to be corrected to meet the Delta County Road and Bridge Regulations based on the land use.

Density: Currently there are (3) three dwelling units on the property each with OWTS. One dwelling unit has water supplied from the existing permitted well for one dwelling unit. Currently there is a future possibility of procuring water augmentation from the well to provide water for the other two dwelling units. The other two dwelling units are currently supplied with water by means of hauling from another source other than the well. Hauled water is not an allowed use under the current Land Use Code however, at this time this is a Legal Non-Conforming use based on the prior standards when the property was developed. Changes from the current described density and land use will require a Development Application with a Site Plan Review.

Land Use: The property is currently zoned as residential/agricultural property with irrigation. Currently the land use is not permitted for Development, Camping/Resort, Event Center or Commercial use. Future plans to intensify the use of the property will require a Development Application and Site Plan Review.

Intensification would include any new structures/development beyond the existing structures as outlined in "Existing Conditions" above. Changes of land use such as Development, Camping/Resort, Event Center or Commercial Use are an intensification of the land use and would require the proper permits and Development Applications.

This review revealed that the code compliance complaint can be closed once the advertisement/website (attached exhibit A & B) has been updated. The baseline has been established as a legal, non-conforming condition meaning a permit was not required before but is now. Legal, non-conforming uses may continue in a manner consistent with the current conditions. Intensification, modification, or development will require being brought into conformance with current Codes. The case can be re-opened if we find unpermitted expansion or continuation of any issues indicated in this letter. As noted in our conversation, including statements on your website imply intent and can be used as evidence in a Code Enforcement case.

Our intent here is to inform you about the regulatory requirements so that you can avoid issues in the future. If you have questions about the Delta County Land Use Code it can be found on the website listed below:

[Land Use Regulations | Delta County, CO - Official Website](https://www.deltacounty.com/Land-Use-Regulations)

[https://www.deltacounty.com > Land-Use-Regulations](https://www.deltacounty.com/Land-Use-Regulations)



Delta County Road and Bridge Standards

<https://www.deltacounty.com/DocumentCenter/Home/Index/12>

In addition, planning staff can assist with answering questions you might have (970-874-2110). Thank you for your assistance in this matter.

Respectfully,

Code Compliance Officer Everett Neil

Office Phone# 970-874-5915

Cell Phone # 970-901-1643

wild cooperative

EXHIBIT A

COPIED FROM WEBSITE
WILD COOPERATIVE. WORDPRESS.
COM ON 5/20/22

E. NEIL

Permaculture demonstration and educational site

The Heart of Nonviolent Communication® with Jack Lehman, certified NVC® trainer – July 9-10



(<https://wildcooperative.files.wordpress.com/2020/03/unnamed.jpg>)

DATE: JULY 9 – 10, 9:30 AM UNTIL 5 PM (BOTH DAYS)

We're all thirsty for connection, real connection. By integrating the principles of Nonviolent Communication® (NVC®) we can break free of conditioning (blaming, arguing, fault-finding, over-dependence on the left brain, etc.) enabling us to embody the more grounded, wild and joyful parts of ourselves.

The Foundations of NVC training is an opportunity to deepen our practice of empathy – the ability to listen to self and others and honesty – the ability to express what's ALIVE in us, in a way that creates connection rather than conflict.

Get a one day introduction on Saturday, July 9th or attend the full two-day training. The training will take place from 9:30 am until 5 pm on both days with one hour for lunch. Bring your own lunch. Closest restaurants are about 20 minutes away by car.

13 Continuing Education Credits (CEU's) approved by the New Mexico Counseling and Therapy Practice Board are available.

For more information about Jack's background and this empathic and honest way of communicating, please check out Jack's interview on the Co-creating Peace podcast (<https://www.buzzsprout.com/1554039/8691095>).

ACCOMMODATIONS

EXHIBIT A

Tent camping is available on the land for a suggested donation of \$10 per night per tent. Also free camping is available on the National Forest land just a few miles down the road.

We are planning on having the entire workshop outdoors in a screened event tent. Please, register to get the directions to the workshop location and check your Spam folders if you haven't received your detailed event email. Contact us at wildcooperative@hotmail.com (<mailto:wildcooperative@hotmail.com>) with any questions.

COST AND SUGGESTED DONATIONS

- full two-day class: \$175 (No one will be turned away for lack of funds.)
- optional camping: \$10 per day per tent

REGISTRATION

For more information about the training and to register contact Jack at girafferide@gmail.com (<mailto:girafferide@gmail.com>) or (505) 988-5464.

FROM JACK:

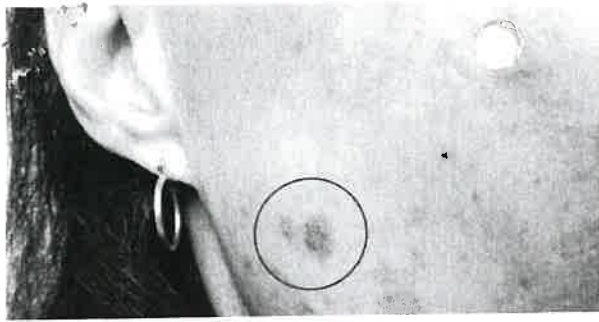


EXHIBIT B

ation and educational site

MD: If You Have Dark Spots, Do This
Immediately (It's Genius!)

GundryMD

Learn more >

Becoming a member

A partner who values a supportive community, cooperative nature, and honors all life as part of our family and relatives. Join our healthy village with resilient social, economic, cultural, and educational guilds and create a building block of a much needed new biotic culture.

Our fertile 16-acre land is situated on a gently sloped, south facing side of a lush valley outside of Crawford, Western Slope, CO with a year round sun exposure; ideal for food forest and passive solar houses, such as earthship, cordwood, cob, strawbale, and other sustainable affordable structures built with local and natural materials. There are still no building codes in our county! There is a year-round creek, a seasonal creek, good gravity-fed irrigation and domestic water, as well as rain water catchment and hydroelectric rights. The land is located nearly at the end of a dirt road surrounded by pristine West Elk Wilderness, BLM, and National Forest land, yet it is only 13 miles from Paonia, Colorado.

We see this future partnership as a model for successful living and business cooperation. This voluntary group of individuals with various skills and knowledge but common ethics is creating a healthy living environment for each other, greater community and nature. The business possibilities within the permaculture demonstration and education site allow the community to be financially solvent.

There are many ways to design the land to accommodate community members with a private quarter of an acre to one acre. The possible sites are ideal for small (under 600 square feet) natural homes. The dwellings can be earth-sheltered with passive solar design to approach zero-net-energy-consumption. The community stewards the remainder of the land and has shares in the Wild Cooperative which grows in value and quality.

Advertisements

REPORT THIS AD

CREATE A FREE WEBSITE OR BLOG AT WORDPRESS.COM. DO NOT SELL MY PERSONAL INFORMATION



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

June 6, 2022

Wild Cooperative LLC (Care of Ewelina Bajda)

[REDACTED]
Crawford, CO 81415

COPY

EMAILED 6/6/22

E-Neil

COMPLIANCE REPORT

Location of Complaint: [REDACTED]

Parcel ID/Account No: [REDACTED]

Zoning Designation: A20

Case Number: 2022-013

Delta County received a complaint that the subject property may be in violation of one or more ordinances/codes regulated by Delta County. Case #2022-013 was opened and a compliance review of was completed related to alleged issues on the above reference parcel(s). Alleged violation(s) brought to our attention included violations of the Delta County Land Use Code.

During the process of the investigation related to this case there was a meeting regarding the violations and Code Compliance Case. This meeting made it possible to move forward ultimately bringing this case to a close. The meeting was attended by Ewelina Bajda, Stanley Smigel and myself (Code Compliance Officer Everett Neil).

Existing Conditions:

There are three (3) Dwelling Units on the property each with an address assigned by Delta County. The following summarizes their current status:

Unit #1 ([REDACTED]) was issued a certified address on 1/18/17. The OWTS (septic) has not been certified, but we have an acknowledgement letter from Delta County Environmental Health dated 12/8/16. The letter states this OWTS has been "Grandfathered" meaning it is considered acceptable for use until it fails. When/if it fails, replacement is subject to a new permit with appropriate engineering. This unit is supplied water from the well as permitted. (noted below)

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We discussed documentation from your website indicating that you are performing other activities at this property. You have advised you are not selling off shares of the property for development and the information on the website is outdated. I was further advised you would no longer charge a fee for "camping" or continue with the Short Stay program as advertised on your website. I recommended the website be updated to clearly reflect there are no camping sites (as defined and regulated by statute) and there are no sites for sale to develop and build structures on the property. I explained if there was interest in becoming a campground the Planning Department would be available to assist in the process to have a campground in the future. If there is to be more development on the property, or a change/intensification of use from these Conditions, a Development Application needs to be completed and submitted to the Planning Department.

I did receive the letter you had indicating the access had been permitted in 2015, and it allowed us to confirm this is a permitted access. However it does not meet the County Standards:

The existing access into Ewelina's property is gated, and the gate is set back 22 feet and 4 inches from the roadway. was measured to be 22 feet and 4 inches. The required setback for a gated access is 35 feet.

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The existing access is 42 inches from the neighbor's property. Delta County Road Standards, in place at the time the access was built, require minimum 5 foot set back from the property line.

The driveway was inspected by myself and Tim McCracken (Delta County Engineer) on 5/18/22. As noted this access is not built to Delta County Standards making it a permitted non-conforming access. Change/intensification of use from the existing Conditions could trigger requirement for a new permit and/or bringing the access up to current standards.

Findings Website:

This case cannot be closed until the website is updated to remove reference to activities that are not permitted or grandfathered. On 05/20/22 I observed the following information on the website identified as wildcooperative.wordpress.com. There are advertisements on your website which are contrary to residential use designations of your property and your statements during the phone conversation on 5/17/22. The advertisements (Exhibit A) for an event on your property July 9-10 2022 states:

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On your advertisement for Becoming a Member (Exhibit B) states:

“There are many ways to design the land to accommodate community members with a private quarter of an acre to one acer. The possible sites are ideal for small (600 square feet) natural homes. The dwellings can be earth-sheltered with passive solar design to approach zero-net-energy-consumption. The community stewards the remainder of the land and has shares with the Wild Cooperative which grows in value and quality.”

Prior to the Land Use Code, residential and commercial development was subject to the Development Application Ordinance, which requires Site Plan Review (approval). We have established the Existing Conditions consist of (3) three Dwelling (residential) Units. Any future development beyond the Existing Conditions requires the completion of a Development Application which is submitted to the Delta County Planning Department. Once the website has been updated to reflect the current use of the property the Code Compliance case can be closed.

Your website refers to multiple events help at this property. Unless permitted as an event center or established as a use where events are adjunct to that use (e.g. community center, winery, hospitality, etc.), each temporary event is a new activity. Under the Land Use Code, Special Events are an allowed use, subject to specific standards set forth in the Code and possibly Health regulations.

Access: The access is permitted and is Legal Non-Conforming. The access is not built to current Delta County Road and Bridge Regulations however, Delta County will not require the access to be re-built to standards at this time. However, any intensification of the land use will result in reviewing the access and requiring the access to be corrected to meet the Delta County Road and Bridge Regulations based on the land use.

Density: Currently there are (3) three dwelling units on the property each with OWTS. One dwelling unit has water supplied from the existing permitted well for one dwelling unit. Currently there is a future possibility of procuring water augmentation from the well to provide water for the other two dwelling units. The other two dwelling units are currently supplied with water by means of hauling from another source other than the well. Hauled water is not an allowed use under the current Land Use Code however, at this time this is a Legal Non-Conforming use based on the prior standards when the property was developed. Changes from the current described density and land use will require a Development Application with a Site Plan Review.

Land Use: The property is currently zoned as residential/agricultural property with irrigation. Currently the land use is not permitted for Development, Camping/Resort, Event Center or Commercial use. Future plans to intensify the use of the property will require a Development Application and Site Plan Review.

Intensification would include any new structures/development beyond the existing structures as outlined in "Existing Conditions" above. Changes of land use such as Development, Camping/Resort, Event Center or Commercial Use are an intensification of the land use and would require the proper permits and Development Applications.

The baseline has been established as a legal, non-conforming condition meaning a permit was not required before but is now. Legal, non-conforming uses may continue in a manner consistent with the current conditions. Intensification, modification, or development will require being brought into conformance with current Codes. The case can be re-opened if we find unpermitted expansion or continuation of any issues indicated in this letter. As noted in our conversation, including statements on your website imply intent and can be used as evidence in a Code Enforcement case. Our intent here is to inform you about the regulatory requirements so that you can avoid issues in the future.

CONCLUSION:

This review revealed that the code compliance complaint has No Merit and the case has been closed. The baseline has been established as a legal, non-conforming condition meaning a permit was not required before but is now. Legal, non-conforming uses may continue in a manner consistent with the current conditions. Intensification, modification, or extension (e.g. replacing a unit) will require being brought into conformance with current Codes.



If you have questions about the Delta County Land Use Code it can be found on the website listed below:

[Land Use Regulations | Delta County, CO - Official Website](#)

[https://www.deltacounty.com > Land-Use-Regulations](https://www.deltacounty.com/Land-Use-Regulations)

Delta County Road and Bridge Standards

<https://www.deltacounty.com/DocumentCenter/Home/Index/12>

In addition, planning staff can assist with answering questions you might have (970-874-2110). Thank you for your assistance in this matter.

Sincerely,
Delta County Code Compliance Officer Everett Neil

Del-Mont Consultants, Inc.

Montrose, CO 81401

(970) 249-2251 Phone / (970) 249-2342 Fax

The information contained in this electronic mail transmission (including any accompanying attachments) is intended solely for its authorized recipient(s), and may be confidential and/or legally privileged. If you are not an intended recipient, or responsible for delivering some or all of this transmission to an intended recipient, you have received this transmission in error and are hereby notified that you are strictly prohibited from reading, copying, printing, distributing or disclosing any of the information contained in it. In that event, please contact Del-Mont Consultants, Inc immediately by phone at (970) 249-2251 or by electronic mail (service@del-mont.com) and delete the original and all copies of this transmission (including all attachments) without reading or saving in any manner.

From: Angie Kemp <akemp@deltacounty.com>
Sent: Tuesday, November 8, 2022 8:29 AM
To: Fred Ballard <fballard@del-mont.com>
Subject: Re: PLN22-158/Ballard

Good Morning Fred,

I want to see if you have received my last email sent October 28th. Please let me know.

On Fri, Oct 28, 2022 at 1:26 PM Angie Kemp <akemp@deltacounty.com> wrote:

Good Afternoon Mr. Ballard,

I was able to discuss your questions with the Director earlier in the week, but please excuse this delay.

An exempt subdivision is where ALL lots are 35+ acres. That is not the case here. Creating the 7-acre parcel makes this a 2-lot subdivision (Minor Plat).

The plat note is currently a requirement of the Land Use Code in exchange for a variance to reduce the minimum lot size. The intent is to restrict the number of times variances are granted as an exception to the LUC. That said, the BoCC has stated that they don't want land restricted in perpetuity. As such, the BOA has been applying a condition for 10 years. We are conducting an LUC update currently, and this language is certainly being looked at. In addition, we have not applied the restriction to parcels that can be split 35+acres for all lots/parcels since that would be exempt from subdivision regulations.

The LUC requires new development to provide proof of an adequate domestic water supply. Cistern are not allowed, which staff has interpreted to mean hauled water. This regulation applies to subdivisions to confirm that there is adequate domestic water for the future on the lot/parcel. The Director has suggested an option to add a plat note stating that the 70-acre parcel is for Ag only and cannot be developed until/unless provide proof of water. Otherwise, we need to see that there is a tap or well water available for both lots.

If you are interested in discussing this further, we can set up a call or meeting in-person. Just "reply all" here with some upcoming availability and we can get that scheduled. Also, if you still disagree, you can appeal the Director's determination to the Board of Adjustment. Thank you.

On Tue, Oct 18, 2022 at 9:09 AM Fred Ballard <fballard@del-mont.com> wrote:

Angie,

Thank You for answering the questions I sent over. There are a couple of concerns I have, not sure if I need to talk to the BOCC or who I need to talk to.

To place a plat Note and or consent that the property cannot be further subdivided seems unlawful to me without having a time frame. Who knows what can happen 20+ years down the road. There seems to be a disconnect from reality.

The other concern I have is the requirement for a water tap on a 35+ acre parcel. According to senate Bill 35 / C.R.S. 30-28-101(10) (b) The terms " subdivision" and "subdivided land", as defined in paragraph (a) of this subsection (10), shall not apply to any division of land which creates parcels of land each of which comprises thirty-five or more acres of land and none of which is intended for use by multiple owners.

There are more details discussed within Senate Bill 35 / C.R.S. 30-28-101 in which I believe limits what the County can require on a 35 acre parcel one being required to purchase a water tap that is not needed for agricultural land that is being used for raising hay / agricultural crops.

Sorry it is my understanding these taps are running in the neighborhood of \$10,000 dollars to be installed with a minimum monthly fee every month afterwards even if not being used.

Please give me your thoughts or put me in touch with someone that I can discuss these issues with.

Thank You

Fred Ballard

PLS 37690

Del-Mont Consultants, Inc.

Montrose, CO 81401

(970) 249-2251 Phone / (970) 249-2342 Fax

The information contained in this electronic mail transmission (including any accompanying attachments) is intended solely for its authorized recipient(s), and may be confidential and/or legally privileged. If you are not an intended recipient, or responsible for delivering some or all of this transmission to an intended recipient, you have received this transmission in error and are hereby notified that you are strictly prohibited from reading, copying, printing, distributing or disclosing any of the information contained in it. In that event, please contact Del-Mont Consultants, Inc immediately by phone at (970) 249-2251 or by electronic mail (service@del-mont.com) and delete the original and all copies of this transmission (including all attachments) without reading or saving in any manner.

From: Angie Kemp <akemp@deltacounty.com>
Sent: Monday, October 17, 2022 4:26 PM
To: Fred Ballard <fballard@del-mont.com>
Subject: Re: PLN22-158/Ballard

1. On page 2 How do you know if Road Dedication is required and how wide? The County Engineer will assess ROW dedication for any abutting roads. The width is based on the road classification- I have already sent this to him for review.
2. Utilities are already at the Lot lines will any utilities extensions be required beyond that point? Only when it comes time to build- A Development application will need to be submitted for any new development in Delta County.
3. Didn't see the Variance Criteria & Findings (LUC excerpts) can you please tell me what or where these are? Attached
4. Do you need the legal description for the whole property or each individual parcel? Individual Parcels. These won't be needed until it gets to the point of finalizing a subdivision plat (we will let you know when to submit a final plat and deeds after a variance is granted, all conditions are cleared (if applicable), and the reviews are complete by referral agencies, County Departments, and the County Surveyor.
5. On page 6 it states that "Lots involved with granting a variance may not be subdivided further pursuant to Land Use Code Chapter 3, Section 1. A.3.d., Is there a time frame for this or is this for eternity? The language does suggest FOREVER, but the BoCC has expressed concern with perpetuity, in most cases we are recommending to the BOA that lots that are formed through the variance process are restricted for 10-15 years instead. Not to include 35+ exemptions
6. I assume the above would just before the proposed 7.14 acre Lot, is that a correct assumption? It applies to both lots/parcels of the proposed subdivision.
7. According to Colorado State Statute the Remaining 72.62 acre would not be considered a Lot, want to confirm that Delta County is recognizing the State Statute? And no water tap will need to be purchased for the 72.62 acre remainder? A water source is needed for BOTH, let me know if you have a specific question about how this affects your project, because we could be perceiving it differently. We follow the standards set out in the State Statute.

On Fri, Oct 14, 2022 at 3:18 PM Fred Ballard <fballard@del-mont.com> wrote:

Angie,

Thank you for sending over this letter. I have a few questions

1. On page 2 How do you know if Road Dedication is required and how wide?
2. Utilities are already at the Lot lines will any utilities extensions be required beyond that point?
3. Didn't see the Variance Criteria & Findings (LUC excerpts) can you please tell me what or where these are?
4. What do you need for proof of adequate domestic water?
5. Do you need the legal description for the whole property or each individual parcel?
6. On page 6 it states that "Lots involved with granting a variance may not be subdivided further pursuant to Land Use Code Chapter 3, Section 1. A.3.d., Is there a time frame for this or is this for eternity?
7. I assume the above would just before the proposed 7.14 acre Lot, is that a correct assumption?
8. According to Colorado State Statute the Remaining 72.62 acre would not be considered a Lot, want to confirm that Delta County is recognizing the State Statute? And no water tap will need to be purchased for the 72.62 acre remainder?

Thank you for helping us through this process.

Fred Ballard

PLS 37690

Del-Mont Consultants, Inc.

Montrose, CO 81401

(970) 249-2251 Phone / (970) 249-2342 Fax

The information contained in this electronic mail transmission (including any accompanying attachments) is intended solely for its authorized recipient(s), and may be confidential and/or legally privileged. If you are not an intended recipient, or responsible for delivering some or all of this transmission to an intended recipient, you have received this transmission in error and are hereby notified that you are strictly prohibited from reading, copying, printing, distributing or disclosing any of the information contained in it. In that event, please contact Del-Mont Consultants, Inc immediately by phone at (970) 249-2251 or by electronic mail (service@del-mont.com) and delete the original and all copies of this transmission (including all attachments) without reading or saving in any manner.

From: Angie Kemp <akemp@deltacounty.com>
Sent: Friday, October 14, 2022 1:39 PM
To: Fred Ballard <fballard@del-mont.com>
Subject: PLN22-158/Ballard

Good Afternoon,

Please see the attached cover letter. Let me know if you have any questions.

--

Regards,

Angela Kemp

Planner I

[295 W. 6th St.](#)

[Delta, Co 81416](#)

970-874-2110

NOTICE: This email transmission from the County of Delta, and any documents, files, or previous email messages attached to it, are intended solely for the individual(s) to whom it is addressed and may contain information that is confidential, legally privileged, and/or exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any unauthorized review, forwarding, printing, copying, distribution, or use of this transmission or the information it contains is strictly prohibited. A misdirected transmittal of this email does not constitute waiver of any applicable privilege. If you received this transmission in error, please immediately notify the sender and delete the

Land use code

1 message

'Amber lee Trout' via Planning <planning@deltacountyco.gov>

Wed, Jan 11, 2023 at 9:52 AM

Reply-To: Amber lee Trout [REDACTED]

To: planning@deltacounty.com

Dear Commissioners,

I am a small business owner in Paonia (Fisher Medicine/Paonia Apothecary) and I am writing in opposition to the proposed land use code changes for the county. I moved to this county partly because of the ability to live how I prefer on the land, without excessive restrictions/codes/permits. This freedom to live how we want is part of what makes Delta county unique and it is to be protected and cherished! Please reconsider instituting these codes. It will affect people's interest in moving to this area and unfairly impinges on our personal freedoms.

Thank you,
Amber Fisher, LAc

[REDACTED]

Use of private property

1 message

dave smith [REDACTED]
To: planning@deltacounty.com

Wed, Jan 11, 2023 at 6:44 AM

Commissioners and county staff,

At the previoius meeting, the BOCC requested greater detail about our objections to the proposed changes in the Land Use Code.

First, I would like to express my disappointment and frustration that the proposed changes are in no way highlighted or redlined to allow for easy comparison between the existing code and the new document. It increases the difficulty of constituent understanding and their ability to provide constructive feedback. It could, at the very least, have a header that says DRAFT Delta County Land Use Code on each page, so we don't get confused when looking back and forth between the two documents for hours trying to discern the differences. Please see the following specific comments about the proposed changes to the Land Use Code.

Changes I approve:

- The addition of hyperlinks from the Table of Contents to the associated text
- Clarifying that personal-scale "renewable energy facilities" are allowed without requiring permits (Chapter 2 Section 4.G.1.a)
- The changes made surrounding the subdividing of lots (Chapter 3, Sec 1.A.3, Chapter 4 Section 1.C, Chapter 7, Section 3 and 4)
- The removal of the rural residential density clause that restricted the total number of dwelling units to one per minimum acreage allowed by the zone district (Chapter 2, Sec 4.B.1). however, the new language is no better. See my "change I don't approve of" below regarding this clause.
- The removal of excessive permitting required for Farmworker Housing (Chapter 2 Section 4.C.1)
- The removal of the limitation on cisterns as a water source for residential uses when no other water source is available, and the grandfathering in of existing cisterns (Chapter 5, Section 3.B.3)
the addition of a list of permit application components (site plan review, access permit, address permit, OWTS permit) and details about them (Chapter 7, Section 1.B.2)
- The addition of a timeframe (30 days) for the county to complete a sufficiency and technical review (Chapter 7, Section 2.B-C)

Changes I DO NOT approve:

- Excluding small-scale agriculture uses from the A-5 zoning category. (Table T.a) why wouldn't ag uses be allowed on lots in an ag zone? this makes absolutely no sense
- Requirements for permits on ALL rural/residential land uses in all zones, including building a home, farmworker housing, or an ADU, effectively taking away our Rights to do as we please with our own property, and instead requiring us to obtain permission from an appointed (not elected) planning director, our livelihoods and ability to shelter ourselves dependent on the whims, timelines, and fees of a government body (Table 2.b) additionally, there is a conflict between the table citing a requirement for all dwellings to be permitted, and the clause in Chapter 2, Sec 4.B.1 that states the first dwelling unit is allowed without permitting
- Requiring permits for non-impactful and low-impact side-business and on-farm activities, including light farming with retail, kennels, short term rentals, and places of assembly (is it even legal to require a permit to assemble on private property?) (Table 2.b)
- Limiting the definition of a "cottage industry" and limiting the amount of space and resources one can use to carry out these activities. also, requiring a permit if neighbors are "impacted". (Chapter 2 Sec 3.G) what does that mean? if someone smells the goats used to make cheese, a permit is needed? if someone can hear my table saw, I need a permit? who makes this determination? I recommend removing the clause about limiting the sign to one that really cannot be seen by the public (#6), and more clearly defining the process of determining when a Limited Use Permit will be necessary
- Requiring permits and placing more restrictions on guest ranches, short term rentals, and bed and breakfasts. (Table 2.b) i know short term rentals have gotten a bad reputation by a few extreme examples of an individual or company buying up several family homes and turning them into "airbnbs", which i also disapprove of. it decreases available housing for locals, drives up the cost of property, reduces the community aspect of a neighborhood, and can cause conflicts between the neighbors that live there full time and the renters. however, there are many more short term rentals in this county that are full-time residents either renting out rooms or an accessory dwelling on their property to supplement their farm and off-farm income. restricting these activities and requiring permits and fees on top of the taxes, platform fees, cleaning costs, overhead/maintenance, etc, will only be a detriment to the community here. there has to be a way to control the purchasing of family homes as short term rentals without impacting those who are living on their property full time and just renting out a space on their primary residence. perhaps the requirement for permits can be limited to residential zones and not ag zones, where hospitality uses are unlikely to impact neighbors
- Commercial cannabis facilities are still not allowed, not even with limited use permitting (Chapter 2 Sec 2.C)
- Changing the allowable time to live in a recreational vehicle while building a home from "90 days OR until the home is complete and habitable" to "12 months with an active electrical/plumbing permit". (Chapter 2 Sec 3.B) i've said it before but i'll say it

again: many of your constituents in this county are BARELY scraping by financially. completing their home may take years, as time and money allow. this is especially true with the sharply increasing costs of building materials and supplies, and the cost of living in general. additionally, a builder/property owner may not apply for their plumbing and electrical permits until they're ready to be inspected, which could be months or years into the construction process. this new language means that people building their homes will have to keep an active permit for up to a year while building, and will not be allowed to continue living on site if the construction process takes more than a year

- Limiting ADU's to one per lot, no matter the size or use of the lot (Chapter 2 Sec 4.B.5)
- Reducing the allowed number of days for Special Events from 75 days per calendar year to three events, and the allowed time of an event from 30 days to seven, and reducing the number of people allowed to less than 150, rather than the 500 that were allowed without permitting before (Chapter 2 Sec 3.E.1)
- Changing "accessory business use of the home" to disallow storage of business items in any structure or space outside the home, disallow signage that promotes your business to the public, limit the amount of space within the home that may be used for business, and dictate who may participate in the business (Chapter 2 Sec 4.F)
- The classification of additional residences and "communal living" as "public infrastructure" rather than the private residences they actually are, which creates a requirement for development permits and associated red tape (ie. traffic impact studies), (Chapter 2 Section 4.B.6, Chapter 3 Section 2.B)
- Requiring permitting for additional dwelling units after the first, and requiring dwelling units to be able to connect to MUNICIPAL water and sewer services (which don't exist in much of unincorporated Delta County (Chapter 2, Sec 4.B.1)

Let me respectfully remind you that YOU work for US, your constituents and taxpayers. There wasn't any individual in that packed room yesterday who was IN FAVOR of changing the LUC. So, why are you changing it, after years of developing the last one with community input and meetings, and having only approved it a year ago? What is so drastically wrong with it? What problems are we having (aside from subdividing property)?

You keep bringing up the dumping of raw sewage on private property. The existing LUC already prohibits this, so I'm not sure why you believe that constitutes a need to change the code. Mr. Suppes "assures us" that the changes will increase our freedoms, not restrict them, but we can read. The changes propose requiring MORE permitting and MORE restrictions for the uses/developments I cited above. We're not stupid, so I'd appreciate it if you would stop speaking to us as if we are. The commissioners insisted that Delta County has been posting about meetings and changes to the LUC on the Delta County Government Facebook page. However, the most recent post I can find with any mention of the LUC on DC's FB page is December 2021. Is there another page you are using to disseminate this important information on Facebook?

We, as a community, spent YEARS developing the Master Plan and current LUC. We all compromised and accepted what was adopted in 2021. Now, it seems, you're attempting to administratively undermine all that work and compromise to push through something radically different without adequate public input.

I implore you to reconsider your vote at the next meeting, until the restrictions and inconsistencies mentioned above are remedied.

David Smith, Delta county land owner

Support for Land Use Codes

1 message

Josh Langille-Hoppe [REDACTED]
To: planning@deltacounty.com

Wed, Jan 11, 2023 at 9:35 AM

Delta County Planning Commission,

I will not be at the meeting tonight; however, I want to voice my support for the proposed land use code.

I support the proposed land use code for the following reasons:

- 1) I believe it will help maintain the rural/agricultural environment that we love in Delta County;
- 2) It will help protect natural resources, land, and land owners from the impacts of uncontrolled and undesirable development;
- 3) It will make development more predictable within the county.

I urge you to approve the proposed changes in the Delta County land use code.

Thank you for your time and service.

Sincerely,
Josh Langille-Hoppe
Paonia, CO

Rural Residential permitting/regulations

1 message

'madison autumn' via Planning <planning@deltacountyco.gov>

Wed, Jan 11, 2023 at 9:13 PM

Reply-To: madison autumn [REDACTED]

To: "planning@deltacounty.com" <planning@deltacounty.com>

Dear delta county planning commission,

I am a young woman living in Paonia who has lived in a rural residences in Delta County. I moved to this county to live in a place with no building restrictions for rural residents. I am NOT in favor of any restrictive building codes for rural residents or small home businesses in Delta county. I AM in favor of restrictions on large scale farming practices that cause drastic harm to this beautiful valley.

Madison Mies
[REDACTED]

No permits limiting our private property rights!

1 message

Sarah Eller [REDACTED]
To: planning@deltacounty.com

Wed, Jan 11, 2023 at 8:58 PM

Dear planning committee,

I will be unable attend the meeting but wanted to say that I strongly oppose the change in policy requiring building permits in Delta County.

Thank you,
Sarah Eller

Delta County Land Use

1 message

Annaliese Miller [REDACTED]
To: planning@deltacounty.com

Thu, Jan 12, 2023 at 9:36 AM

To whom it may concern:

I was unable to make it to the planning meeting open to the public yesterday evening, and I want to make sure that I share my concern here over the proposed changes to the Land Use Code.

As a landowner, I am not in favor of the increased permitting restrictions for ADUs and Single Family Dwellings. A reason I love Delta County is that we have the ability to do on our land what we see fit. We have a community that relies on each other and communicates with each other. We do not need the county to regulate how we choose to build and live. In the case of our town, I believe there is adequate support for private parties to decide the best use of our land and shared resources without County restrictions.

Thank you for allowing me to share my concerns with you.

Annaliese Miller
[REDACTED]

Wednesday Meeting

1 message

Andrew Jeffers [REDACTED]

Fri, Jan 13, 2023 at 8:10 PM

To: planning@deltacounty.com

Hello

My Name is Andrew Jeffers. I was at the meeting on Wednesday and I left before the vote frankly because of the way others were acting in the meeting. I really didn't feel safe in the meeting and there were times that I felt threatened. Because of this, I probably will not attend anymore of these meetings in person. Thankfully, there is a zoom option.

I will tell you that I am against the changes you've proposed. I also think there were people at that meeting that had some very legitimate concerns but these concerns got drowned out by all the negativity. I appreciate the fact that most of you are volunteers and I feel bad that you were having to put up with this meeting as well.

I've lived here in Delta for two years and one thing I agree is it has felt like the planning commission is operating behind closed doors. I think your methods of communication may have worked during the 70's and 80's but I think the time has come to add other methods to get what you're doing out in the daylight. I'm not sure how you go about it but the change really needs to happen.

I think we can all come together and discuss things calmly and rationally. However, there is a faction in this country that want nothing more than to overthrow the government. I wish I had an answer as to how to deal with them, but I don't.

I remain.

Andrew Jeffers
[REDACTED]

Comments to Land Use Code 2022

1 message

Michelle Livingston [REDACTED]
To: planning@deltacounty.com

Fri, Jan 13, 2023 at 1:58 PM

Dear Planning Commission,

Regarding the recent proposed changes to the Land Use Code, I have the following primary concerns and comments:

- My biggest concern in the code is the restriction on ADU's as not being allowed as short-term rentals. The land use code references "Commercial purposes" which is slightly unclear, but the FAQ's say short-term rentals will not be allowed in ADU's. We have an ADU listed with AirBNB (has been running since before the first Land Use Code was adopted). We made a significant investment in this ADU after we bought our property with the intent to use it as a short-term rental as part of our farm. Agritourism on our property is a very significant part of our income, and we would not be able to run our small farm without that income. We rent seasonally, and will never rent the property as a long-term rental for a multitude of reasons, it's just not a fit.

Would agrotourism be considered a part of agribusiness (I certainly think it is), or fall under the definition of "Farm, Orchard, or Ranch" and therefore would this be an automatic allowable use? If agriculture is truly a top priority, small farms should have every option available to them to make a viable living (with respect to appropriate resources and facilities such as water/sewer).

In this same vein, are "glamping" accommodations or RV hookup sites available for short-term use automatically considered Campgrounds? I know several farms who receive income from additional short-term sites they rent out, and we have considered this as an additional revenue source. Would it be possible to have a simpler permitting process for, say, up to 2 camp sites on a farm? I do understand the need for appropriate water and sewer disposal, and a reasonable permitting process here seems appropriate.

This is a revenue issue for the County. The County receives lodging tax income from AirBNB, who collects lodging tax on our behalf and remits to Delta County (1.9%). These are funds that would not be paid if the rental was long-term. We realize we'd be grandfathered in, but why limit people who want to do future short term rentals as part of their farm? And speaking of revenues, I would support an increase in lodging tax to help fund affordable housing. These have been greatly popular in nearby areas: <https://coloradosun.com/2022/11/17/western-slope-voters-tax-short-term-rentals/>. These taxes have very little impact on us as owners (guests pay the tax), and greatly benefit local communities.

Regarding enforcement of this rule, how would it be fairly enforced? Would someone be constantly monitoring AirBNB to review every new listing?

Generally speaking, what will the permitting process entail for short-term rentals? Will they be granted to everyone who meets certain requirements? What would those requirements be? I don't see any specific mention of this in the review process.

- Regarding Accessory Business Use of a Home and Cottage Industry: to be clear, is agribusiness, and properties that fall under the definition of "Farm, Orchard, or Ranch" considered separately from other types of business and therefore not subject to these restrictions? For example, if a winery builds a retail area/tasting room, is it subject to these restrictions?
- I get the need for clarification of certain sections, thus the update. However, I don't understand why this code seems significantly more restrictive, especially on agricultural land. There were many changes from Allowable Use to Permitted or Limited Use on properties 5 acres and greater. What is prompting so many restrictions?

Thank you for your consideration of my comments.

Sincerely,

Michelle Livingston

Hotchkiss, CO

Please don't limit our land use rights

1 message

Sarahndipity [REDACTED]

Fri, Jan 13, 2023 at 5:11 PM

To: planning@deltacounty.com, IRIE-Cycling [REDACTED]

Planning commissioners,

My husband and I were not able to join the recent meeting, and it is incredibly important that we add our names to the hundreds against the proposed changes to our land use rights.

We do not want the future of small business and farm solvency to fall into the servitude cycle of local/ state/ or even federal statutory compliance.

We recently moved to the community from Mesa County because of the land use codes and people. We brought our nonprofit for children to the community. If the proposed changes were to go to into effect, we absolutely would move and unfortunately take the funding and support for families with us.

Mesa County's cost of living increased over 100% in the past 2 years making it nearly impossible for low income people to survive there. Let's be the community that supports it's citizens, land, water, animals, and small business

Please don't limit our rights.

Thank you so much for your time and dedication to making sure we make good decisions for this very special county. We are so grateful to have made the decision to move here. We moved because of the freedoms we have and want to keep.

Sincerely,
Sarah and Justin Johnsen

[REDACTED]

Fwd: Meetings

1 message

Wendell Koontz <wkoontz@deltacountyco.gov>

Wed, Jan 18, 2023 at 7:44 AM

To: Carl Holm <cholm@deltacounty.com>, Kim Henderson <khenderson@deltacounty.com>

fyi

----- Forwarded message -----

From: **Pamela Jackson** [REDACTED]

Date: Sun, Jan 15, 2023 at 9:31 PM

Subject: Re: Meetings

To: Wendell Koontz <wkoontz@deltacountyco.gov>

I wanted to thank you for setting up an additional meeting, as I had suggested in my initial email, regarding the LUC. That is a beginning. The citizens of Delta County need to KNOW what is being put into code and law, (and especially about the proposed fines, with no warning and no appeal process). These items are entirely different from anything Delta has ever done before. In fact, when we built our off-grid, straw-bale, south-facing solar homes on Garvin Mesa in 2020, we could not believe how incredibly kind the Delta County people were that helped us through our permit process for septic, etc.

I attended a 4 hour meeting today at the Paonia Library, where very concise information was given in regards to the 2021 Plan, and the revisions you will be voting on in the future. Over 68 people attended, through Zoom and in person. My estimation of the upcoming attendance at your Jan 31st meeting is in the hundreds.....Farmers, ranchers, long-time residents, as well as newcomers. The interest extends across all political aisles and all backgrounds. There is unanimous contention regarding the updates.

I had intended to relay this information to you at your Jan 17th meeting, but my work takes me to Grand Junction that day.

I will see you in Crawford on Thursday to continue this conversation.

Thank you for serving all the residents of Delta County.

Regards,
Pamela Jackson

On Jan 13, 2023, at 3:11 PM, Wendell Koontz <wkoontz@deltacountyco.gov> wrote:

Pamela,

The Commissioners need to wait for the Planning Commission to complete their work prior to having anything with the revisions to the LUC. We will likely schedule a work session with C. Holm to review all the changes then take the time to review and consider those changes. My best guess is the 21 Feb meeting earliest.

Regards,

Wendell A. Koontz

On Thu, Jan 12, 2023 at 5:19 PM Pamela Jackson [REDACTED] wrote:

I know when you meet. I was curious if you would meet specially, due to the immense misunderstandings, citizen unrest, etc having to do with the 50 pages of additions to the master plan, when all you asked for was one simple change... Also people are upset about the use of the word "permitted" when it used to say "allowed by right". I'm quite sure you heard about all this already.

Leslie Parker has a good idea to bring to the next planning commissioners meeting and I've been working on a very simple brochure that can be put in all the information booths and for all the realtors to hand out when they sell land in Delta County. Front page says: "Thinking about building in Delta County? Here's what you need to know." Inside has links for septic, electric, driveways, setbacks, zoning, etc.

There really is a lot of miscommunication flying around. I was at the meeting for 4 1/2 hours last night.

Just trying to help.

Thanks for responding,

Pamela Jackson

Sent from my iPhone

On Jan 12, 2023, at 8:28 AM, Wendell Koontz <wkoontz@deltacountyco.gov> wrote:

The BOCC meets every 1st and 3rd Tuesday of the month at 8:30 am. Special meetings and Work Sessions are posted on the website as needed.

On Wed, Jan 11, 2023 at 8:06 PM Pamela Jackson [REDACTED] wrote:

Will you have a commissioners meeting before Feb 7th, due to the public input/outcry about the Master plan?

Please let me know,
Pamela Jackson

Sent from my iPhone

--

Wendell A. Koontz
Delta County Commissioner District 3
wkoontz@deltacounty.com
O: (970) 874-2113
C: (970) 200-4251



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Wendell A. Koontz
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Fwd: Thank you for your time today....

1 message

Wendell Koontz <wkoontz@deltacountyco.gov>

Wed, Jan 18, 2023 at 7:33 AM

To: Carl Holm <cholm@deltacounty.com>, Kim Henderson <khenderson@deltacounty.com>

fyi

----- Forwarded message -----

From: **Adam Pittman** [REDACTED]

Date: Tue, Jan 17, 2023 at 2:30 PM

Subject: Thank you for your time today....

To: <mlane@deltacounty.com>, <dsuppes@deltacounty.com>, <wkoontz@deltacounty.com>

Dear commissioners,

I appreciate you allowing me the time to speak today regarding the proposed changes to the 2021 land use code, and wanted to follow up with a quick note.

Over a decade ago I spent many years of civil service in Asheville and Buncombe county, NC serving on numerous city and county boards and commissions, including both the City of Asheville and Buncombe County master plan commissions, as well as the Asheville and Buncombe county Parks and Recreation advisory boards, and the liaison between the two. Parks and Recreation is Asheville's second largest department (Police is largest) which manages all the city owned real estate and facilities. This was at a time when Asheville/ Buncombe county was at arguably the most pivotal point in their history; during those years changing from a smaller quaint community, to what it is today. Privately, before, during, and after my years of public service my business was in architectural design, development, and construction, working closely with the planning department, planning board, the city council and county commissioners to assist in achieving the objectives of the master plans' "smart growth" development strategies.

I fell in love with the North Fork, and the spirit in which the residents of Delta County come together as a community; the agriculture and cottage businesses engaged in, and supported by the community, and the freedom felt here to peacefully live our lives, and trade with our neighbors without restrictions. To me, this is an idyllic lifestyle reminiscent of what I imagine our country used to be, and what I wish it was today in its entirety.

As I mentioned in your meeting today, I am in favor of land use codes, as they offer protection for residents to quietly enjoy their lives without the threat of out of place industry. From my perusing the 2021 land use code, it seems reasonable, as do some of the proposed amendments; while others I feel could be overreaching and possibly misconstrued in certain circumstances. I will not address specific examples, rather to invite you to review a website put together by some community members that I found to be concise, and most helpful in my attempt to understand the difference between what is currently adopted and the proposed amendments. The site is: <http://www.deltacountyplanning.com>

From my experience in civil service, I understand that the advisory boards look to staff for recommendations, and council/ commissioners rely on the citizen advisory boards for the due diligence prior to voting on the adoption of ordinances. In this specific case, it appears that a very important process fell through the cracks. I by no means am implying blame or criticism towards staff, the planning board, the commissioners, or the community; just bringing to light the extensive public process of the master plan leading to the adopted 2021 code, and the lack of community knowledge and input in the proposed amendments to this document that quickly followed. With this in mind, I am requesting that you allow for a similar process to take place in the community now that more people are aware of what is on the table, so that the final document accurately reflects the spirit of the community as a whole.

Thank you for your time and attention,

Adam Pittman
[REDACTED]

--

Wendell A. Koontz
Delta County Commissioner District 3
wkoontz@deltacounty.com
O: (970) 874-2113
C: (970) 200-4251



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Re: LUC update

1 message

Kim Henderson <khenderson@deltacountyco.gov>

Tue, Jan 17, 2023 at 2:31 PM

To: "planning@deltacounty.com" <planning@deltacounty.com>

Cc: "mlane@deltacounty.com" <mlane@deltacounty.com>, "wkoontz@deltacounty.com" <wkoontz@deltacounty.com>, "dsuppes@deltacounty.com" <dsuppes@deltacounty.com>, Carl Holm <cholm@deltacounty.com>, Kate Kelly <kkelly@deltacountyco.gov>

Hi James,

The LUC was tentatively scheduled for 1/31, but will NOT be heard that day. We will send notice when it is scheduled for BoCC, tentatively 2/21.

Notice will be emailed to those we have email addresses for.

Kindest Regards,

Kim Henderson

Administrative Assistant

O: 970-874-2110

295 W. 6th St. | Delta, CO 81416

deltacountyco.gov | facebook.com/deltacountyco



On Tue, Jan 17, 2023 at 10:13 AM 'James McCain Jr' via Planning [REDACTED] wrote:

Hello,

I would like to know when the county is planning on voting for the new updates and what each of your positions are on the topic. I was under the impression there was a vote on this issue on the 31st, which seems to be removed from the clunky county website.

It is more than clear to the public that this issue is being rammed through. Not only did you not reach out for public input for the first version that was adopted in 2021 but your attempting to completely overhaul the code adding vague and nefarious language. None of this is ok with the public what so ever. If you all are so confident that there is some sort of silent majority, prove it. Put this to a public vote.

We are now aware and paying attention, best of luck.

James McCain
Rogers Mesa

Re: LUC comments

1 message

Lesandre Holiday [REDACTED]
To: Kim Henderson <planning@deltacountyco.gov>

Tue, Jan 17, 2023 at 2:54 PM

Hi Carl,

Wow, appreciate the detailed and prompt follow-up to our concerns.

What makes you say that your home business would no longer be Allowed (by right)?

We engage in light manufacturing (more like assembly), warehouse, and ship from our location, and so I thought the new LUC would consider us rural light industry. I'm going through the definitions again and see that we technically, barely still qualify as a cottage industry. The building is 2000 sq. ft and the secondary use of the property. But if we were to utilize the property for storage of a friend's backhoe or perhaps add a small shed for storage, I imagine we'd cross that line.

Relieved to hear that we won't encounter any hurdles to maintain our 'rural light industry, without retail' at this property. Appreciate you taking so much time with our questions, and I'll pass on the good word to others who are banging down your door with the same.

Best regards,
Lesandre

On Tue, Jan 10, 2023 at 10:36 AM Kim Henderson <planning@deltacountyco.gov> wrote:
Lesandre & Catherine

Thank you for providing concerns with some context behind them. Attached is a FAQ sheet we updated that I think could address some of your concerns. We posted this to our website and via the County's social media page.

The following are some specific responses:

1. Home Business/Cottage Industry (Rural Industry)

Will we be grandfathered in? Or will we have to undergo some process and fee to become compliant and maintain our huge investment?

The FAQs address this to some degree under "*Is there an exception for existing uses/structures?*"

In short, all uses are grandfathered in if they become non-conforming as a result of changes after they are established...provided they were established legally (meaning conformed with the regulations in place when established). Chapter 11 (unchanged from 2021-adopted) identifies when/if that changes.

Are we going to have an issue 40 years down the road if we sell the property?

No. The only issue I have seen is banks not accounting value for a structure that cannot be replaced.

A new owner can take over the business and continue it, but it becomes abandoned if inactive for 12+ months (no change from 2021 LUC). For example, to restart the excavator business at this point would be subject to the rules in place.

I would like to correct an assumption you made when you said:

Formerly the property was considered a "mixed-use" area, perhaps due to its proximity to the railroad and a crossing. It was zoned as A5 in the 2021 LUC. With the proposed updates, it will be rezoned to RES-1. Whether A5, RES-1 or even RI/C, *under the new LUC, our operation will no longer be allowed in right.*

Prior to 2021, there was no zoning. Your reference to "mixed use" might have been the Assessor's Assessment.

Assessments are based on what is there (legal or illegal, permitted or unpermitted), zoning has no impact on that.

There has been discussion about amending the zoning maps adopted in 2021, but there is no change proposed for the A5 zone as part of this update.

Also, I have a question for you on this item:

What makes you say that your home business would no longer be Allowed (by right)?

Having something more specific on this would help the discussion if something needs to be changed (e.g. size of space, number of employees, etc.).

2. Manufactured Home

Can the County elaborate the LUC on p. 48 and "the steps and paperwork necessary... to sell, move, set or demolish a Manufactured Home" when the time comes?

Installing a manufactured home defers to the State, similar to electrical and plumbing permits. Dept of Local Affairs' (DOLA) has a Housing Division that includes inspectors.

Demolition requires an asbestos assessment. That assessment will provide recommendations based on what they find.

Moving a manufactured home requires a permit for transporting an over-sized structure on the roads.

There is an ordinance for manufactured homes built prior to June 1976 (attached). Ordinances like this were not affected by adoption of the Land Use Code, but the LUC makes reference since the County is an extension of the State.

3. Affordable Housing

You state that: "Requiring a development permit will increase building costs."

I think you may be referring to building permits, which can be very costly. The fee for a Permitted Use under the 2021 Code is \$150 because it requires a Zoning Permit, similar to a Limited Use. We have drafted revised fees based on a Permitted Use being a Site Plan Review (\$50) - that was shared with the PC when we had public hearings in October/November 2022.

Delta County is much more permissive than most zoning codes. Delta County defines dwelling units to include all types of structures, including RVs, as long as there is adequate water, wastewater (septic), and access (as determined through a Site Plan Review). The number of units is not specifically limited (see Additional Residences... on page 50).

4. AirBnB (Short Term Rentals)

Why not shift those procedures and expenses to those profiting from short term rentals?

Comment noted. The update adds that an ADU cannot be used for commercial use (e.g., STR) to try to retain it as affordable housing.

Lastly, it was apparent at the latest County Commissioners' meeting that the citizens of Delta County do not support these updates. It was suggested that *we spent so much time and money crafting the LUC, why not take a little more time to 'run it up the flag pole' before revising it?*

Of course timing will be up to the Board. I want to note the process for this update has taken place over the past year with about 15 Work Sessions between the Board of County Commissioners, Planning Commission and Board of Adjustment. Also, there have been 7 public hearings to date, with notification exceeding the requirements of State Statute.

Respectfully

Carl P. Holm, AICP
Director of Community Development and Natural Resources
Delta County Administration Building
295 W. 6th Street
Delta, CO 81416
www.DeltaCountyCO.gov
Email: cholm@deltacounty.gov
Office: 970-874-2110

On Mon, Jan 9, 2023 at 9:33 AM Lesandre Holiday [REDACTED] wrote:

Thank you for crafting a Land Use Code to mitigate adverse impacts from commercial and industrial developments, conflicts between neighbors, and to protect water quality and ensure proper waste disposal.

We are glad to see regulations and guidance for wireless facilities in the proposed updates!

We also appreciate the amount of constituent time granted at BoCC and Planning Commission meetings.

However, some of the proposed revisions are concerning, detailed below. Questions are in bold.

1. OUR BUSINESS IS NO LONGER ALLOWED IN RIGHT

In 2016 my mother and I relocated our internet business from California to Delta County. We were considered 'cottage industry', operating from my garage, but had begun to outgrow the space.

After consulting the new LUC, we purchased a property in 2021 to serve our 'rural light industry without retail'. We spent \$125,000 renovating the space.

Formerly the property was considered a "mixed-use" area, perhaps due to its proximity to the railroad and a crossing. It was zoned as A5 in the 2021 LUC. With the proposed updates, it will be rezoned to RES-1. Whether A5, RES-1 or even RI/C, *under the new LUC, our operation will no longer be allowed in right.*

The property was previously owned by an excavator who would now be defined as 'rural medium industry' and was very much an impact to the neighbors and the public road. We have proven ourselves to be good neighbors and of *no* impact. Our company sustains seven households, generates tax revenue for and spends its dollars in Delta County.

Will we be grandfathered in? Or will we have to undergo some process and fee to become compliant and maintain our huge investment?

Are we going to have an issue 40 years down the road if we sell the property?

2. MANUFACTURED HOME

The property also has a manufactured home that is 20 years old.

Can the County elaborate the LUC on p. 48 and "the steps and paperwork necessary... to sell, move, set or demolish a Manufactured Home" when the time comes?

3. AFFORDABLE HOUSING & GENTRIFICATION

Permits and procedures are necessary for larger developments, but not for single family detached and ADUs, which were also allowed in right in the 2021 LUC. Requiring a development permit will increase building costs. This gives wealthier property owners an advantage and will also increase gentrification. Such development costs are then passed on to renters and buyers, making housing less affordable.

Many researchers have analyzed zoning survey data across the US and "found that more restrictive zoning—as measured by planners' responses—is strongly correlated with *less* housing production and *higher* housing prices. Survey data may not provide precise, literal measures of zoning, but they do capture planners' perceptions of their local communities." [See here](#).

[This study](#) also found that "more restrictive residential land use regulations and geographic land constraints are linked to larger booms and busts in housing prices." We are headed into another economic recession, and should not jeopardize Delta county land owners.

We need to ensure a diversity of housing choices that serve different household budgets, sizes, and other needs, and we do this by minimizing unnecessary permitting and procedural costs.

Furthermore, additional permitting procedures require a bigger bureaucracy to administer them. If development permits do not cover these expenses, then it becomes a tax burden which will be reflected at the polls when it comes time to Back the Badge or increase the library district mill levy. Property owners already complain about taxes. They'll vote down valuable measures if they're strapped with unnecessary development costs.

4. INSTEAD LET'S TAX / PERMIT AIRBNB & VRBO

Why not shift those procedures and expenses to those profiting from short term rentals? Across the globe, AirBnB has damaged local housing markets, reduced affordable housing supply, and gentrified communities. *Land Use Code can disincentivize this.*

More about the 'AirBnB' effect and ideas to regulate it can be found [here](#) and [here](#).

Lastly, it was apparent at the latest County Commissioners' meeting that the citizens of Delta County do not support these updates. It was suggested that *we spent so much time and money crafting the LUC, why not take a little more time to 'run it up the flag pole' before revising it?*

Thank you,

Lesandre Holiday Barley & Catherine Barley



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Public comment On zoning

1 message

Daniel Kennedy [REDACTED]

Wed, Jan 18, 2023 at 12:17 PM

To: "planning@deltacounty.com" <planning@deltacounty.com>

Thank you all for your hard work.

I just wanted to voice that I appreciate that Delta County is one of the Few counties in Colorado and the country that has minimal regulations.

And I think a lot of us enjoy this freedom. Even though it can come at the expense of ugly campers and trash Or a chicken farm in the wrong place and so on.

I hope that the new zoning regulations can be written in the fewest page as possible. With an eye to the most freedom to residents. And also to make life easy for the zoning department.

And hopefully preserve the green space and agricultural on the highway from fast food chains.

And if people are going build ugly commercial chicken farms or solar stuff Or noisy gravel pits that they do it Is in an appropriate zoning With some respect to their neighbors. And that there's some clear code there to protect the applicants and also the zone department from being yelled at by the public due to murky regulations.

I would definitely support regulation that promotes right to do industry, right to build a dwelling and right to farm. As generallt permitted uses.

And that we don't want active code enforcement patrols like many other counties and cities have.

But that I'm very willing to tolerate some ugliness and trash in exchange for freedom. And I think many of us are in this county. It's what makes us unique and why this county has such a spirit of freedom and hopefully supporting of agricultural and business and industrial and living.

I really do appreciate how our country was founded with extreme freedom and generally an ability to do as we please. And protect ourselves and be able to build homes and run business and have minimal regulation and taxes.

A "lean and mean planning department and regulations that celebrate freedom".

Daniel Kennedy
Western Colorado Tiny House
Founder
[REDACTED]

www.westerncoloradotinyhouse.com

Thank you

1 message

Lisa Taylor [REDACTED]

Wed, Jan 18, 2023 at 2:58 PM

To: "planning@deltacounty.com" <planning@deltacounty.com>

Hello Friends

My husband keeps "updating" me about the anger and mistrust that is being sent your way about the new planning / building codes. While I admit that I haven't read the document, I want to tell you that I for one support planning and building permits and codes. I feel that they are a necessary part of life and help to create a better community for everyone.

When driving around the County it's clear that something needs to be done. There are countless compounds where multiple RV's are parked and being lived in. Where is the sewage going? Who's protecting adjacent property owners rights?

I won't go on and on, but I will say Thank You for your work and please know that not everyone feels like the squeaky wheels feel. Please don't give into pressure. Delta County will be better off by moving forward in a positive direction. It will uplift the community and create a place where we can be proud of.

Thank you again and have a peaceful day.

Lisa Taylor

May peace prevail on earth!

Re: Concern and questions about the proposed changes to land use code

1 message

Nicole Carpenter [REDACTED]

Wed, Jan 18, 2023 at 11:11 AM

To: Kate Kelly <kkelly@deltacountyco.gov>

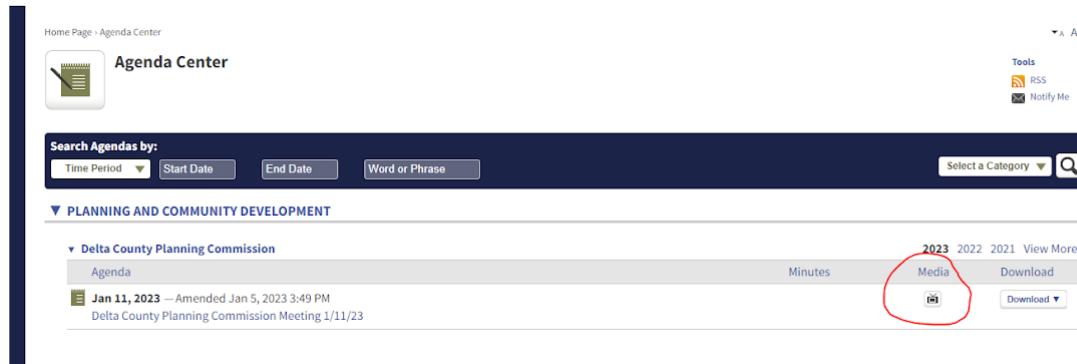
Cc: Kim Henderson <khenderson@deltacountyco.gov>, planning@deltacounty.com, rlevalley@deltacountyco.gov, mlane@deltacounty.com, dsupes@deltacounty.com, wkoontz@deltacounty.com, Carl Holm <cholm@deltacountyco.gov>

If anybody wants to reference the Jan 11 PC meeting, it is available for download here
<https://www.deltacountyco.gov/AgendaCenter/Delta-County-Planning-Commission-6>

On Wed, Jan 18, 2023 at 10:08 AM Kate Kelly <kkelly@deltacountyco.gov> wrote:
Good Morning Nicole,

If you go to the link below, you will see a little TV icon under the word 'Media' that is the link for the Zoom that was recorded for the 1/11 PC Meeting. You will have to download the link to open it.

<https://www.deltacountyco.gov/AgendaCenter/Delta-County-Planning-Commission-6>.



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Regards,
Kate Kelly
Planner I
O: 970-874-2110
[295 W 6th Street | Delta, CO 81416](https://www.deltacountyco.gov)
[deltacountyco.gov](https://www.deltacountyco.gov) | [facebook.com/deltacountyco](https://www.facebook.com/deltacountyco)

On Wed, Jan 18, 2023 at 9:00 AM Nicole Carpenter [REDACTED] wrote:

I appreciate your reply and the fee schedules. It is confusing that Table 2.a defines properties in zone A-5 as "intended for large-lot residential uses" and nothing else. I'd suggest the language be left as it is currently, "This zoning district is intended for small-scale agricultural and large-lot residential uses".

Do you have a recording of the meeting on 1/11 that I could have access to? I don't remember what Mr Holm said about grandfathering, and the language in Chapter 11 is about as clear as mud to me.

Thank you for your time

On Tue, Jan 17, 2023 at 4:01 PM Kate Kelly <kkelly@deltacountyco.gov> wrote:
Hi Nicole,

I do apologize for the late response. Carl has been out of the office since last Thursday.

In regards to the PC meeting on 1/11, we afforded the public the opportunity to express comments/opinions that we took note of. Some comments were made by Commissioners responding to comments that were intended to

clarify how the Code is either stated or interpreted by the County, as the implementing authority. There were a few questions that were answered: grandfathering, cisterns, Ag in A5.

We are not aware of anything in the Code that states that Ag is not allowed in the A5 Zone; maybe you are interpreting it not being expressly stated in Table 2.a? Table 2.a is a general description. During the Work Sessions and hearings the PC fully recognized Ag in the A5 zone. The distinction from A35 and A20 is the larger lots lending themselves for commercial Ag, and the trend to subdivide/use A5 for residential purposes.

We noted that Table 2.b illustrates that "Agriculture, Agribusiness, Silviculture, & Viticulture" are Allowed (by right) uses in all zoning designations; this includes the commercial zone as well as the new residential zones.

Through various exchanges there are a couple areas where the Commission felt the County's intent could be clarified, including but not limited to, Table 2.a.

It was also noted that the Work Sessions and hearings were attended by about half-dozen people. In some cases, people attending stated that they were talking to others and were conveying larger messages (e.g., Eli Wolcott, Wilmore Surveying, Citizens for Healthy Communities, COSSA/Solar).

I am attaching the current fee schedule (adopted 2021). I have also attached a draft fee schedule reflecting LUC changes to date that was shared with the PC in November.

Regards,
Kate Kelly
Planner I
O: 970-874-2110
[295 W 6th Street | Delta, CO 81416](#)
[deltacounty.gov](#) | [facebook.com/deltacountyco](#)

On Tue, Jan 17, 2023 at 1:35 PM Nicole Carpenter [REDACTED] wrote:

I have not received a reply from Mr Holm. Is he on vacation? When I spoke at the PC meeting last week, the planning commission all seemed surprised when I asked why ag uses were no longer allowed in zone A-5 in the certified revised LUC. They told me it wasn't true and insinuated that I was wrong. When I insisted that was what the document said, someone said it must be a mistake. So, for your reference, I have highlighted the changes made to A-5 allowed uses and attached them for you to easily correct your mistake. I look forward to hearing from Mr. Holm about this and all the other concerns I have brought up in previous emails. Thank you for your time.

Nicole Carpenter

On Thu, Jan 12, 2023 at 1:47 PM Kim Henderson <khenderson@deltacountyco.gov> wrote:

Hi Nicole,

Your comment has been received.

The Director will respond to your comment when he returns to the office.

Kindest Regards,

Kim Henderson
Administrative Assistant
O: 970-874-2110
[295 W. 6th St. | Delta, CO 81416](#)
[deltacountyco.gov](#) | [facebook.com/deltacountyco](#)



On Thu, Jan 12, 2023 at 1:40 PM Nicole Carpenter [REDACTED] wrote:

PC,

I have some additional comments after last night's meeting:

Several pc members reassured the crowd last night that no code enforcer would come to our door and penalize us for existing infrastructure or uses. However, i personally know someone who has already had trouble with the code enforcer for an existing access point to their property. There is no language in the new land use code grandfathering in existing infrastructure or uses. Add language to the document to guarantee property owners, and explain how people will prove that their uses and infrastructure existed before codes were put in place. Nothing is guaranteed unless it is explicitly written.

Clearly, no one knew you have spent the last year substantially revising the land use code that was just approved in 2021. You need to do better to involve and inform the community that your decisions will impact. We are aware that hundreds of people in the community participated in the development of the master plan and the original land use code, which you pointed out in an attempt to accuse us of not participating. Many of us participated in it. We made compromises and we're content with the plan we came up with. That's why we're mad that you're now changing it.

You spent an hour defending yourselves from name calling and explaining how you're just volunteers. You spent very little time addressing the proposed changes to the land use code.

When people started asking specific questions about the meaning of language in the code, you avoided answering and said that you answered written questions prior to the meeting. However, my comments received no reply other than a generic message of receipt. Nobody explained what problems you were having with the existing code that caused you to almost completely rewrite the whole thing. Nobody answered my question about whether the first home to be built on a property requires a permit or not. Nobody has explained why Ag uses are no longer allowed in zone A-5. How many people outside of the PC provided public input while developing this new document?

We're not confused. We don't think you're telling us that we can't do permitted activities. We're upset that we will need to seek approval from the government to build or carry out activities for things that we agreed would be a right in the master plan we worked so hard to develop.

Finally, please send me the current fee schedule for permitting.

Thank you for your time

Niki Carpenter

Sent from my iPhone

On Jan 4, 2023, at 13:51, Kim Henderson <khenderson@deltacountyco.gov> wrote:

Your comment has been received. Thank you.

Kindest Regards,

Kim Henderson

Administrative Assistant

O: 970-874-2110

[295 W. 6th St.](#) | [Delta, CO 81416](#)

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On Wed, Jan 4, 2023 at 11:43 AM Nicole Carpenter [REDACTED] wrote:
Commissioners and county staff,

At yesterday's meeting, the BOCC requested greater detail about our objections to the proposed changes in the Land Use Code.

First, I would like to express my disappointment and frustration that the proposed changes are in no way highlighted or redlined to allow for easy comparison between the existing code and the new document. It increases the difficulty of constituent understanding and their ability to provide constructive feedback. It could, at the very least, have a header that says DRAFT Delta County Land Use Code on each page, so we don't get confused when looking back and forth between the two documents for hours trying to discern the differences. Please see the following specific comments about the proposed changes to the Land Use Code.

Changes I approve:

- the addition of hyperlinks from the Table of Contents to the associated text
- clarifying that personal-scale "renewable energy facilities" are allowed without requiring permits (Chapter 2 Section 4.G.1.a)
- the changes made surrounding the subdividing of lots (Chapter 3, Sec 1.A.3, Chapter 4 Section 1.C, Chapter 7, Section 3 and 4)
- the removal of the rural residential density clause that restricted the total number of dwelling units to one per minimum acreage allowed by the zone district (Chapter 2, Sec 4.B.1). however, the new language is no better. See my "change I don't approve of" below regarding this clause.
- the removal of excessive permitting required for Farmworker Housing (Chapter 2 Section 4.C.1)
- the removal of the limitation on cisterns as a water source for residential uses when no other water source is available, and the grandfathering in of existing cisterns (Chapter 5, Section 3.B.3)
- the addition of a list of permit application components (site plan review, access permit, address permit, OWTS permit) and details about them (Chapter 7, Section 1.B.2)
- the addition of a timeframe (30 days) for the county to complete a sufficiency and technical review (Chapter 7, Section 2.B-C)

Changes I DO NOT approve:

- excluding small-scale agriculture uses from the A-5 zoning category. (Table T.a) why wouldn't ag uses be allowed on lots in an ag zone? this makes absolutely no sense
- requirements for permits on ALL rural/residential land uses in all zones, including building a home, farmworker housing, or an ADU, effectively taking away our Rights to do as we please with our own property, and instead requiring us to obtain permission from an appointed (not elected) planning director, our livelihoods and ability to shelter ourselves dependent on the whims, timelines, and fees of a government body (Table 2.b) additionally, there is a conflict between the table citing a requirement for all dwellings to be permitted, and the clause in Chapter 2, Sec 4.B.1 that states the first dwelling unit is allowed without permitting
- requiring permits for non-impactful and low-impact side-business and on-farm activities, including light farming with retail, kennels, short term rentals, and places of assembly (is it even legal to require a permit to assemble on private property?) (Table 2.b)
- limiting the definition of a "cottage industry" and limiting the amount of space and resources one can use to carry out these activities. also, requiring a permit if neighbors are "impacted". (Chapter 2 Sec 3.G) what does that mean? if someone smells the goats used to make cheese, a permit is needed? if someone can hear my table saw, I need a permit? who makes this determination? I recommend removing the clause about limiting the sign to one that really cannot be seen by the public (#6), and more clearly defining the process of determining when a Limited Use Permit will be necessary

- requiring permits and placing more restrictions on guest ranches, short term rentals, and bed and breakfasts. (Table 2.b) i know short term rentals have gotten a bad reputation by a few extreme examples of an individual or company buying up several family homes and turning them into "airbnbs", which i also disapprove of. it decreases available housing for locals, drives up the cost of property, reduces the community aspect of a neighborhood, and can cause conflicts between the neighbors that live there full time and the renters. however, there are many more short term rentals in this county that are full-time residents either renting out rooms or an accessory dwelling on their property to supplement their farm and off-farm income. restricting these activities and requiring permits and fees on top of the taxes, platform fees, cleaning costs, overhead/maintenance, etc, will only be a detriment to the community here. there has to be a way to control the purchasing of family homes as short term rentals without impacting those who are living on their property full time and just renting out a space on their primary residence. perhaps the requirement for permits can be limited to residential zones and not ag zones, where hospitality uses are unlikely to impact neighbors
- commercial cannabis facilities are still not allowed, not even with limited use permitting (Chapter 2 Sec 2.C)
- changing the allowable time to live in a recreational vehicle while building a home from "90 days OR until the home is complete and habitable" to "12 months with an active electrical/plumbing permit". (Chapter 2 Sec 3.B) i've said it before but i'll say it again: many of your constituents in this county are BARELY scraping by financially. completing their home may take years, as time and money allow. this is especially true with the sharply increasing costs of building materials and supplies, and the cost of living in general. additionally, a builder/property owner may not apply for their plumbing and electrical permits until they're ready to be inspected, which could be months or years into the construction process. this new language means that people building their homes will have to keep an active permit for up to a year while building, and will not be allowed to continue living on site if the construction process takes more than a year
- limiting ADU's to one per lot, no matter the size or use of the lot (Chapter 2 Sec 4.B.5)
- reducing the allowed number of days for Special Events from 75 days per calendar year to three events, and the allowed time of an event from 30 days to seven, and reducing the number of people allowed to less than 150, rather than the 500 that were allowed without permitting before (Chapter 2 Sec 3.E.1)
- changing "accessory business use of the home" to disallow storage of business items in any structure or space outside the home, disallow signage that promotes your business to the public, limit the amount of space within the home that may be used for business, and dictate who may participate in the business (Chapter 2 Sec 4.F)
- the classification of additional residences and "communal living" as "public infrastructure" rather than the private residences they actually are, which creates a requirement for development permits and associated red tape (ie. traffic impact studies), (Chapter 2 Section 4.B.6, Chapter 3 Section 2.B)
- requiring permitting for additional dwelling units after the first, and requiring dwelling units to be able to connect to MUNICIPAL water and sewer services (which don't exist in much of unincorporated Delta County (Chapter 2, Sec 4.B.1)

Let me respectfully remind you that YOU work for US, your constituents and taxpayers. There wasn't any individual in that packed room yesterday who was IN FAVOR of changing the LUC. So, why are you changing it, after years of developing the last one with community input and meetings, and having only approved it a year ago? What is so drastically wrong with it? What problems are we having (aside from subdividing property)?

You keep bringing up the dumping of raw sewage on private property. The existing LUC already prohibits this, so I'm not sure why you believe that constitutes a need to change the code. Mr. Suppes "assures us" that the changes will increase our freedoms, not restrict them, but we can read. The changes propose requiring MORE permitting and MORE restrictions for the uses/developments I cited above. We're not stupid, so I'd appreciate it if you would stop speaking to us as if we are. The commissioners insisted that Delta County has been posting about meetings and changes to the LUC on the Delta County Government facebook page. However, the most recent post I can find with any mention of

the LUC on DC's FB page is December 2021. Is there another page you are using to disseminate this important information on facebook?

We, as a community, spent YEARS developing the Master Plan and current LUC. We all compromised and accepted what was adopted in 2021. Now, it seems, you're attempting to administratively undermine all that work and compromise to push through something radically different without adequate public input.

I implore you to reconsider your vote at the next meeting, until the restrictions and inconsistencies mentioned above are remedied.

Thank you,
Niki Carpenter
Rogers Mesa

On Mon, Jan 2, 2023 at 10:56 AM Nicole Carpenter [REDACTED] wrote:

Commissioners, etc,

I'm completely blown away by the proposed changes to the land use code that were adopted (and heavily controversial) just last year. How is the Delta County planning department going to handle the volume of permit applications it will receive if nearly every single change of use or addition of use to nearly every single property in the county requires a permit? How much will a permit cost? How much time will it take to be approved? What factors might cause a permit to be declined? Are existing uses grandfathered in? For example, if I already have an ADU, a kennel, or a short term rental, will I be expected to show proof of a permit at some point in the future? If these activities/structures will be grandfathered in, which would be expected, how does one prove that such activities/structures were in existence prior to changes in the land use code?

I am entirely opposed to these proposed changes. All they do is increase the cost of living and doing business in Delta County, which is already one of the lowest income counties in the state of Colorado. As we head into yet another economic recession, our neighbors are going to be needing more side hustles and odd jobs to keep paying the bills, not fewer. Prohibiting or requiring permitting for such activities will make it harder for folks to make a living here. We all already have multiple income streams and most of us are barely scraping by. Making diverse income on ag/rural/residential land more difficult is a terrible idea.

I fully support a plan for Delta County that helps maintain our rural aesthetic and values. However, this proposition does the opposite of that. People who actually want to work in Delta County and be productive on their land will be faced with obstacles, being forced to move somewhere they can more easily make a living, while rich people who only want to buy up ag land to live on it and have a bunch of open, pretty space around them will move in from other areas and proliferate. It's happening already. Many of the A5, A20, and A35 parcels in the North Fork Valley that used to be productive farms, and orchards are now purely residential and completely unproductive.

As a side note, the links to email addresses for questions about permitting, and to email the county commissioners don't work. They only prompt my computer to open a mail app, which I don't have. Please actually write out the email address you expect people to use, so we can see it. It was very hard for me to find your email addresses.

Finally, I tried to join your last commissioners meeting via zoom and it didn't work. It appeared like I was in the meeting, but I couldn't hear any audio or see any video. There was no chat available to make a comment to indicate that I wasn't getting the information, nor could I activate my microphone to tell you. When I look at the calendar for tomorrow's meeting (Jan 3rd), the zoom meeting states it is for January 6th. Will the zoom meeting work this time? If it doesn't work tomorrow, who should I call?

<https://www.deltacountyco.gov/calendar.aspx?CID=14>

Thank you for your time and sincere consideration,
Niki Carpenter
Rogers Mesa

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Delta County Resident Concerns

1 message

Page Sol [REDACTED]
To: planning@deltacounty.com

Wed, Jan 18, 2023 at 11:02 AM

Hello there! I am a resident of Delta county and it has come to my awareness in the last couple of weeks that there are new land use codes being proposed that seem to be unclear and have great consequences if signed in to law.

I moved my family to Delta county to get away from the laws that encroach on our freedoms and to move away from the pointless runaround of bureaucracy; meaning, pointless permits, having to ask permissions for things that don't concern anyone but the stewards of my own land. This is what makes **Delta county an oasis, and it is why we have the political landscape we do**. The people that live here do NOT want more codes or enforcements, but rather to be free on our own property and in our pursuit of happiness. I loved how the previous code was NO COMPLAINT, NO PROBLEM. And that is how it should be.

I moved here in awe and wonder that it was actually possible to create what we've been wanting to do. Let me give you a little perspective of what that vision looks like:
Growing food for my family and the community, building a home that is connected to a well, having a few animals for meat and milk, and a small farm stand to support the costs. This entire vision is squashed by these land use codes. More than 40 land use codes **changed from "ALLOWED AS OF RIGHT" with "NO REVIEW NEEDED" to "Permitted use with a zoning permit"**. It makes the cost of everything unobtainable by the average family, especially in this day. This is unacceptable and not what WE THE PEOPLE of Delta County want. There are plenty of places to relocate to if there are a few select people who would like more codes and permitting. Try, Boulder, Aspen, Vail, +++ and growing. It's everywhere! That is why I say, Delta county is truly the oasis and the outlier and a very appealing factor, and why many people live here. We want to pursue our pursuit of happiness without government infringement which is our **"an unalienable right"** as given to us by the **Declaration Of Independence**.

Here are a few of the most concerning statutes in the codes:

- DENIES RIGHT TO USE A WELL OR SPRING TO PLUMB NEW CONSTRUCTION. (CH.2 SEC. 4.B.1)
- CURRENT PEOPLE HAULING WATER ARE PREVENTED FROM FURTHER DEVELOPMENT ON PROPERTY. (CH. 5 Sec. 3.B)
- CANNOT LIVE IN AN RV. (CH.2.SEC.3.B)
- GARDEN, FENCE, PLAY-SET, ETC REQUIRES REVIEW BY PLANNING DIRECTOR. (CH.2.SEC.2.D.2)
- NO MORE THAN 3 DWELLINGS OF ANY KIND ALLOWED ON PROPERTY REGARDLESS OF PLOT SIZE. (SEC.2.B)
- ALL HOME BUSINESSES SUBJECT to STRICT RULES and NEED PERMIT (CH. 2 SEC 2.F&G)
- CANNOT STORE HOME BUSINESS-RELATED TOOLS IN GARAGE OR SHED. (CH. 2 SEC 3.F.)
- NON-COMPLIANCE FINES OF \$1000/day. YOUR PROPERTY WILL BE SUBJECT TO LIEN & FORECLOSURE BY UNELECTED OFFICIAL.** (CH.13 SEC.E.2.A)

There are many, many more codes that do not align with the values of the people who reside in this county. And this is supposed to be about what WE the people want for our community.

I do agree there should be a few codes in place, but this is a total overreach of power and control.

What I am proposing is a total recall of this revision of 2021/2022 land use code. If you've read it, you can clearly see that the verbiage is not even applicable to the vast majority of Delta county, but rather a city.

I would really like to hear back from you, what the response is to my personal concerns of the above sited codes.

And also, what your take is on that influx of concern from Delta County residents.

Thank you so much for hearing my concerns,
Page from The Smiley Barn

Land use code.

1 message

Paul Durnez [REDACTED]
To: planning@deltacounty.com

Wed, Jan 18, 2023 at 8:31 PM

I live north of Cedaredge in the county out of town limits. I strongly appose the land use code being pushed on me. I am a veteran and firm believer in my constitutional rights. That includes my property rights. No government will ever tell me what to do with my property!!! If you don't listen to we the people, you will be replaced. Stop the madness.

Sent from my iPhone

Re: Concern and questions about the proposed changes to land use code

1 message

Nicole Carpenter [REDACTED]

Thu, Jan 19, 2023 at 10:35 AM

To: Carl Holm <cholm@deltacountyco.gov>Cc: Kate Kelly <kkelly@deltacountyco.gov>, Kim Henderson <khenderson@deltacountyco.gov>, planning@deltacounty.com, rvalley@deltacountyco.gov, mlane@deltacounty.com, dsupes@deltacounty.com, wkoontz@deltacounty.com

Thank you for that explanation about the reasoning behind the change from A to P for the construction of dwellings. I looked at the county's Document Center in the Planning Section and I'm not finding the Development Application ordinance. Is it located somewhere else? I'd be interested to read it for better understanding.

Page 50, Chapter 2 Section 4.B.6.a.2 states "The number of additional residences is not specifically limited" if adequate utilities are provided, however Page 47 Chapter 2 Section 4.B.1.b states that "The total number of dwelling units permitted on a parcel shall be limited to one dwelling unit per parcel. In addition, one Accessory Dwelling Unit is Permitted per parcel" (capitalization is from the document). Can you please clarify why this apparent contradiction is, in fact, not a contradiction?

Are you using "Permitted" as a noun and, therefore, only the first dwelling and ADU need a Permit, all subsequent residences do not require a Permit? Or are you using "permitted" as a verb, meaning allowed? It's not clear. Subsection B.1.b goes on to state that "additional units *MAY* be Permitted", if the required services are available. It doesn't say "additional units *SHALL* be permitted" if the conditions are met. This is not a guarantee and leaves it up to the discretion of the director/administrator/code enforcer. Additionally, Subsection B.1.b states that "the total number of units allowed...shall be restricted only by the ability to connect to MUNICIPAL services", which means that the use of well water, septic waste systems, and off-grid electric would negate this clause. Most properties in unincorporated Delta County are not connected to municipal wastewater services. They simply are not available.

You also didn't answer my question about proof of existing uses/structures. Can you please explain how residents and property owners will be expected to prove their uses were in compliance before the codes were created/changed?

I do appreciate your prompt and detailed replies.

On Thu, Jan 19, 2023 at 8:39 AM Carl Holm <cholm@deltacountyco.gov> wrote:

Couple things:

First, Section 2.1 of the Development Application Ordinance (Ordinance 2016-01, amending Ordinance 2012-02 and 2011-01): "Any new residential and commercial construction will require the completion of a Development Application which outlines the order in which individual County permits (including, but not limited to, access, address, and Onsite Wastewater Treatment System) must be obtained in include, as part of the permitting process, the completion of a Site Plan Review to be completed by the Delta County Planning Department..." It goes on to require applicants to consult with the Planning Department and refers to other applicable regulations like electrical and plumbing permits from the State. In the case of a mobile home, the State requires inspection when setting a mobile home. If the property is in the Floodplain, it is subject to a permit to build in the floodplain.

When the LUC was adopted, they were adopted by resolution. Ordinances require a higher level of review, and therefore cannot be repealed by resolution. Only an ordinance can repeal an ordinance. As such, all ordinances in place when the LUC was adopted were not affected by the resolution 2021-01, and remain in place. Therefore, uses changed from A to P in Table 2.b was to be consistent with this ordinance (law), and remove the conflict of referring to them as uses Allowed without review.

Second, Chapter 2, Section 4.B.1 (Rural Residential Uses, General Requirements) is referring to density, and speaks to being "Permitted", so I do not see a conflict as I am reading it. The exception is subsection "c" if changing to another residential use. This was added as part of comment from the public during the hearings asking what if I have a unit and want to change the use where it does not change the intensity (e.g., from residence to farmworker housing). That does not include uses that require a higher level of review (from permitted use to limited or conditional use). It also specifically does not include additional units or changing to a commercial use.

While the LUC does not limit the number of units on a property, the number of units could be limited based on other limitations (e.g., water). In many cases, subdivisions (pre-LUC) included plat notes restricting use of a property to one residence. The intent of this Section is to establish that a property can expect to be able to build one residence, even if needing to haul water because there is no other water source. It goes on to say that an ADU is also permitted. From a land use (LUC) perspective, an ADU is considered an extension of the main residence - connected to the same water source, septic, and electrical source. That said, there are some water purveyors that will view an ADU as a second unit if it has a kitchen.

On Wed, Jan 18, 2023 at 6:27 PM Nicole Carpenter [REDACTED] wrote:

Thank you, Mr Holm.

How does a property owner prove that their structure/use complied when it was established? That doesn't seem defined in the code.

I had another question that hasn't been answered, yet. It's unclear whether the first dwelling on a property needs a permit (or site review, whatever you're calling it). There appears to be a conflict in the proposed new code between Table 2.b citing a requirement for all dwellings to be permitted, and the clause in Chapter 2, Sec 4.B.1 that states the first dwelling unit is allowed without permitting. If I were to purchase a lot with an existing address, domestic water, power, and sewer and build a home, under the current code I am not required to talk to the county, as far as I understand it. I only need to get an electrical permit and have that inspected when construction is nearing completion. If the proposed new codes are adopted, it appears a person in the same situation WOULD need to bring paperwork to the county, file an application, and pay for a permit. That permit to build could be denied if certain conditions are not met. Am I correct?

Thank you for your time

On Wed, Jan 18, 2023 at 3:58 PM Carl Holm <cholm@deltacountyco.gov> wrote:

Here is an overview of "grandfathering". There are generally three different levels relative to a use/structure being grandfathered, simply described as follows:

1. Legal; Complies with applicable regulations, past and present.
2. Legal Non-Conforming; Complied with applicable regulations at the time it was established, but does not comply with current regulations.
3. Unlawful; Did/Does not comply with applicable regulations when established, past and present.

Chapter 1, Section 3 (Transitional Provisions) establishes how the LUC, when adopted in 2021, affects pre-existing conditions. Based on where the use/structure falls, Chapter 11 (Nonconformities...) establishes when/how non-conforming conditions can continue, and when they need to be brought up to current regulations.

On Wed, Jan 18, 2023 at 9:00 AM Nicole Carpenter [REDACTED] wrote:

I appreciate your reply and the fee schedules. It is confusing that Table 2.a defines properties in zone A-5 as "intended for large-lot residential uses" and nothing else. I'd suggest the language be left as it is currently, "This zoning district is intended for small-scale agricultural and large-lot residential uses".

Do you have a recording of the meeting on 1/11 that I could have access to? I don't remember what Mr Holm said about grandfathering, and the language in Chapter 11 is about as clear as mud to me.

Thank you for your time

On Tue, Jan 17, 2023 at 4:01 PM Kate Kelly <kkelly@deltacountyco.gov> wrote:

Hi Nicole,

I do apologize for the late response. Carl has been out of the office since last Thursday.

In regards to the PC meeting on 1/11, we afforded the public the opportunity to express comments/opinions that we took note of. Some comments were made by Commissioners responding to comments that were intended to clarify how the Code is either stated or interpreted by the County, as the implementing authority. There were a few questions that were answered: grandfathering, cisterns, Ag in A5.

We are not aware of anything in the Code that states that Ag is not allowed in the A5 Zone; maybe you are interpreting it not being expressly stated in Table 2.a? Table 2.a is a general description. During the Work Sessions and hearings the PC fully recognized Ag in the A5 zone. The distinction from A35 and A20 is the larger lots lending themselves for commercial Ag, and the trend to subdivide/use A5 for residential purposes.

We noted that Table 2.b illustrates that "Agriculture, Agribusiness, Silviculture, & Viticulture" are Allowed (by right) uses in all zoning designations; this includes the commercial zone as well as the new residential zones.

Through various exchanges there are a couple areas where the Commission felt the County's intent could be clarified, including but not limited to, Table 2.a.

It was also noted that the Work Sessions and hearings were attended by about half-dozen people. In some cases, people attending stated that they were talking to others and were conveying larger messages (e.g., Eli Wolcott, Wilmore Surveying, Citizens for Healthy Communities, COSSA/Solar).

I am attaching the current fee schedule (adopted 2021). I have also attached a draft fee schedule reflecting LUC changes to date that was shared with the PC in November.

Regards,
Kate Kelly
Planner I
O: 970-874-2110
[295 W 6th Street](#) | [Delta, CO 81416](#)
[deltacounty.gov](#) | [facebook.com/deltacountyco](#)

On Tue, Jan 17, 2023 at 1:35 PM Nicole Carpenter [REDACTED] wrote:

I have not received a reply from Mr Holm. Is he on vacation? When I spoke at the PC meeting last week, the planning commission all seemed surprised when I asked why ag uses were no longer allowed in zone A-5 in the certified revised LUC. They told me it wasn't true and insinuated that I was wrong. When I insisted that was what the document said, someone said it must be a mistake. So, for your reference, I have highlighted the changes made to A-5 allowed uses and attached them for you to easily correct your mistake. I look forward to hearing from Mr. Holm about this and all the other concerns I have brought up in previous emails. Thank you for your time.

Nicole Carpenter

On Thu, Jan 12, 2023 at 1:47 PM Kim Henderson <khenderson@deltacountyco.gov> wrote:

Hi Nicole,

Your comment has been received.

The Director will respond to your comment when he returns to the office.

Kindest Regards,

Kim Henderson
Administrative Assistant
O: 970-874-2110
[295 W. 6th St.](#) | [Delta, CO 81416](#)
[deltacountyco.gov](#) | [facebook.com/deltacountyco](#)



On Thu, Jan 12, 2023 at 1:40 PM Nicole Carpenter <nicolecarpenter86@gmail.com> wrote:

PC,

I have some additional comments after last night's meeting:

Several pc members reassured the crowd last night that no code enforcer would come to our door and penalize us for existing infrastructure or uses. However, i personally know someone who has already had trouble with the code enforcer for an existing access point to their property. There is no language in the new land use code grandfathering in existing infrastructure or uses. Add language to the document to guarantee property owners, and explain how people will prove that their uses and infrastructure existed before codes were put in place. Nothing is guaranteed unless it is explicitly written.

Clearly, no one knew you have spent the last year substantially revising the land use code that was just approved in 2021. You need to do better to involve and inform the community that your decisions will impact. We are aware that hundreds of people in the community participated in the development of the master plan and the original land use code, which you pointed out in an attempt to accuse us of not participating. Many of us participated in it. We made compromises and we're content with the plan we came up with. That's why we're mad that you're now changing it.

You spent an hour defending yourselves from name calling and explaining how you're just volunteers. You spent very little time addressing the proposed changes to the land use code.

When people started asking specific questions about the meaning of language in the code, you avoided answering and said that you answered written questions prior to the meeting. However, my comments received no reply other than a generic message of receipt. Nobody explained what problems you were having with the existing code that caused you to almost completely rewrite the whole thing. Nobody answered my question about whether the first home to be built on a property requires a permit or not. Nobody has explained why Ag uses are no longer allowed in zone A-5. How many people outside of the PC provided public input while developing this new document?

We're not confused. We don't think you're telling us that we can't do permitted activities. We're upset that we will need to seek approval from the government to build or carry out activities for things that we agreed would be a right in the master plan we worked so hard to develop.

Finally, please send me the current fee schedule for permitting.

Thank you for your time

Niki Carpenter

Sent from my iPhone

On Jan 4, 2023, at 13:51, Kim Henderson <khenderson@deltacountyco.gov> wrote:

Your comment has been received. Thank you.

Kindest Regards,

Kim Henderson

Administrative Assistant

O: 970-874-2110

295 W. 6th St. | Delta, CO 81416

deltacountyco.gov | facebook.com/deltacountyco



On Wed, Jan 4, 2023 at 11:43 AM Nicole Carpenter [REDACTED] wrote:

Commissioners and county staff,

At yesterday's meeting, the BOCC requested greater detail about our objections to the proposed changes in the Land Use Code.

First, I would like to express my disappointment and frustration that the proposed changes are in no way highlighted or redlined to allow for easy comparison between the existing code and the new document. It increases the difficulty of constituent understanding and their ability to provide constructive feedback. It could, at the very least, have a header that says DRAFT Delta County Land Use Code on each page, so we don't get confused when looking back and forth between the two documents for hours trying to discern the differences. Please see the following specific comments about the proposed changes to the Land Use Code.

Changes I approve:

- the addition of hyperlinks from the Table of Contents to the associated text
- clarifying that personal-scale "renewable energy facilities" are allowed without requiring permits (Chapter 2 Section 4.G.1.a)
- the changes made surrounding the subdividing of lots (Chapter 3, Sec 1.A.3, Chapter 4 Section 1.C, Chapter 7, Section 3 and 4)
- the removal of the rural residential density clause that restricted the total number of dwelling units to one per minimum acreage allowed by the zone district (Chapter 2, Sec 4.B.1). however, the new language is no better. See my "change I don't approve of" below regarding this clause.
- the removal of excessive permitting required for Farmworker Housing (Chapter 2 Section 4.C.1)
- the removal of the limitation on cisterns as a water source for residential uses when no other water source is available, and the grandfathering in of existing cisterns (Chapter 5, Section 3.B.3)
- the addition of a list of permit application components (site plan review, access permit, address permit, OWTS permit) and details about them (Chapter 7, Section 1.B.2)
- the addition of a timeframe (30 days) for the county to complete a sufficiency and technical review (Chapter 7, Section 2.B-C)

Changes I DO NOT approve:

- excluding small-scale agriculture uses from the A-5 zoning category. (Table T.a) why wouldn't ag uses be allowed on lots in an ag zone? this makes absolutely no sense
- requirements for permits on ALL rural/residential land uses in all zones, including building a home, farmworker housing, or an ADU, effectively taking away our Rights to do as we please with our own property, and instead requiring us to obtain permission from an appointed (not elected) planning director, our livelihoods and ability to shelter ourselves dependent on the whims, timelines, and fees of a government body (Table 2.b) additionally, there is a conflict between the table citing a requirement for all dwellings to be permitted, and the clause in Chapter 2, Sec 4.B.1 that states the first dwelling unit is allowed without permitting
- requiring permits for non-impactful and low-impact side-business and on-farm activities, including light farming with retail, kennels, short term rentals, and

places of assembly (is it even legal to require a permit to assemble on private property?) (Table 2.b)

- limiting the definition of a "cottage industry" and limiting the amount of space and resources one can use to carry out these activities. also, requiring a permit if neighbors are "impacted". (Chapter 2 Sec 3.G) what does that mean? if someone smells the goats used to make cheese, a permit is needed? if someone can hear my table saw, I need a permit? who makes this determination? I recommend removing the clause about limiting the sign to one that really cannot be seen by the public (#6), and more clearly defining the process of determining when a Limited Use Permit will be necessary
- requiring permits and placing more restrictions on guest ranches, short term rentals, and bed and breakfasts. (Table 2.b) i know short term rentals have gotten a bad reputation by a few extreme examples of an individual or company buying up several family homes and turning them into "airbnbs", which i also disapprove of. it decreases available housing for locals, drives up the cost of property, reduces the community aspect of a neighborhood, and can cause conflicts between the neighbors that live there full time and the renters. however, there are many more short term rentals in this county that are full-time residents either renting out rooms or an accessory dwelling on their property to supplement their farm and off-farm income. restricting these activities and requiring permits and fees on top of the taxes, platform fees, cleaning costs, overhead/maintenance, etc, will only be a detriment to the community here. there has to be a way to control the purchasing of family homes as short term rentals without impacting those who are living on their property full time and just renting out a space on their primary residence. perhaps the requirement for permits can be limited to residential zones and not ag zones, where hospitality uses are unlikely to impact neighbors
- commercial cannabis facilities are still not allowed, not even with limited use permitting (Chapter 2 Sec 2.C)
- changing the allowable time to live in a recreational vehicle while building a home from "90 days OR until the home is complete and habitable" to "12 months with an active electrical/plumbing permit". (Chapter 2 Sec 3.B) i've said it before but i'll say it again: many of your constituents in this county are BARELY scraping by financially. completing their home may take years, as time and money allow. this is especially true with the sharply increasing costs of building materials and supplies, and the cost of living in general. additionally, a builder/property owner may not apply for their plumbing and electrical permits until they're ready to be inspected, which could be months or years into the construction process. this new language means that people building their homes will have to keep an active permit for up to a year while building, and will not be allowed to continue living on site if the construction process takes more than a year
- limiting ADU's to one per lot, no matter the size or use of the lot (Chapter 2 Sec 4.B.5)
- reducing the allowed number of days for Special Events from 75 days per calendar year to three events, and the allowed time of an event from 30 days to seven, and reducing the number of people allowed to less than 150, rather than the 500 that were allowed without permitting before (Chapter 2 Sec 3.E.1)
- changing "accessory business use of the home" to disallow storage of business items in any structure or space outside the home, disallow signage that promotes your business to the public, limit the amount of space within the home that may be used for business, and dictate who may participate in the business (Chapter 2 Sec 4.F)
- the classification of additional residences and "communal living" as "public infrastructure" rather than the private residences they actually are, which creates a requirement for development permits and associated red tape (ie. traffic impact studies), (Chapter 2 Section 4.B.6, Chapter 3 Section 2.B)
- requiring permitting for additional dwelling units after the first, and requiring dwelling units to be able to connect to MUNICIPAL water and sewer services (which don't exist in much of unincorporated Delta County (Chapter 2, Sec 4.B.1)

Let me respectfully remind you that YOU work for US, your constituents and taxpayers. There wasn't any individual in that packed room yesterday who was IN FAVOR of

changing the LUC. So, why are you changing it, after years of developing the last one with community input and meetings, and having only approved it a year ago? What is so drastically wrong with it? What problems are we having (aside from subdividing property)?

You keep bringing up the dumping of raw sewage on private property. The existing LUC already prohibits this, so I'm not sure why you believe that constitutes a need to change the code. Mr. Suppes "assures us" that the changes will increase our freedoms, not restrict them, but we can read. The changes propose requiring MORE permitting and MORE restrictions for the uses/developments I cited above. We're not stupid, so I'd appreciate it if you would stop speaking to us as if we are. The commissioners insisted that Delta County has been posting about meetings and changes to the LUC on the Delta County Government facebook page. However, the most recent post I can find with any mention of the LUC on DC's FB page is December 2021. Is there another page you are using to disseminate this important information on facebook?

We, as a community, spent YEARS developing the Master Plan and current LUC. We all compromised and accepted what was adopted in 2021. Now, it seems, you're attempting to administratively undermine all that work and compromise to push through something radically different without adequate public input.

I implore you to reconsider your vote at the next meeting, until the restrictions and inconsistencies mentioned above are remedied.

Thank you,
Niki Carpenter
Rogers Mesa

On Mon, Jan 2, 2023 at 10:56 AM Nicole Carpenter [REDACTED] wrote:

Commissioners, etc,

I'm completely blown away by the proposed changes to the land use code that were adopted (and heavily controversial) just last year. How is the Delta County planning department going to handle the volume of permit applications it will receive if nearly every single change of use or addition of use to nearly every single property in the county requires a permit? How much will a permit cost? How much time will it take to be approved? What factors might cause a permit to be declined? Are existing uses grandfathered in? For example, if I already have an ADU, a kennel, or a short term rental, will I be expected to show proof of a permit at some point in the future? If these activities/structures will be grandfathered in, which would be expected, how does one prove that such activities/structures were in existence prior to changes in the land use code?

I am entirely opposed to these proposed changes. All they do is increase the cost of living and doing business in Delta County, which is already one of the lowest income counties in the state of Colorado. As we head into yet another economic recession, our neighbors are going to be needing more side hustles and odd jobs to keep paying the bills, not fewer. Prohibiting or requiring permitting for such activities will make it harder for folks to make a living here. We all already have multiple income streams and most of us are barely scraping by. Making diverse income on ag/rural/residential land more difficult is a terrible idea.

I fully support a plan for Delta County that helps maintain our rural aesthetic and values. However, this proposition does the opposite of that. People who actually want to work in Delta County and be productive on their land will be faced with obstacles, being forced to move somewhere they can more easily make a living, while rich people who only want to buy up ag land to live on it and have a bunch of open, pretty space around them will move in from other areas and proliferate. It's happening already. Many of the A5, A20, and A35 parcels in the North Fork Valley

that used to be productive farms, and orchards are now purely residential and completely unproductive.

As a side note, the links to email addresses for questions about permitting, and to email the county commissioners don't work. They only prompt my computer to open a mail app, which I don't have. Please actually write out the email address you expect people to use, so we can see it. It was very hard for me to find your email addresses.

Finally, I tried to join your last commissioners meeting via zoom and it didn't work. It appeared like I was in the meeting, but I couldn't hear any audio or see any video. There was no chat available to make a comment to indicate that I wasn't getting the information, nor could I activate my microphone to tell you. When I look at the calendar for tomorrow's meeting (Jan 3rd), the zoom meeting states it is for January 6th. Will the zoom meeting work this time? If it doesn't work tomorrow, who should I call? <https://www.deltacountyco.gov/calendar.aspx?CID=14>

Thank you for your time and sincere consideration,
Niki Carpenter
Rogers Mesa

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Land use code

1 message

Alicia Michelsen [REDACTED]
To: planning@deltacounty.com

Fri, Jan 20, 2023 at 8:52 AM

Dear County Comisiones and Planning Committee,

Thank you for your service to Delta County, I know that this type of work can be very challenging and that is difficult to please everyone.

I am writing to ask you to reconsider the code that has been proposed.

My main concern is around the housing and not allowing people to live in yurts, busses and non traditional types of housing.

I am concerned that the economics of our country and vast inflation are creating increased homelessness. I believe that in rural spaces we have an opportunity to creatively address these issues and come up with solutions to homelessness. Any code that would prevent people from living in a way that decreases consumption of water and fossil fuels, creates a small environmental impact and can share resources like water among multiple families - encouraging decreased consumption, should be reconsidered.

We also really need to consider and use technologies like rainwater catchment and composting toilets to make the most of the resources that we have.

One of my favorite parts of Delta County is the freedom that we have to build and live in alternative ways. I think that freedom is a common value among most residents here. Any measures that restrict people's rights and freedom are going to really stir up the renegades and create discord.

Best of luck sorting through all of this.

Respectfully,

[REDACTED]

--

Alicia Michelsen

she, her, hers

The Learning Council



The Learning Council
education, creativity & life skills

www.TheLearningCouncil.org

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alicia@thelearningcouncil.org

Citizen Comments on the LUC

1 message

Pieter Van Winkle [REDACTED]
To: planning@deltacounty.com

Fri, Jan 20, 2023 at 7:47 AM

Dear Planning Commission,

As a landowner in unincorporated Delta County, I am concerned by your recent effort to radically alter the fundamental structure of our rural community.

In particular, your proposal to require permitting for **rural light industrial** businesses is shocking and against the grain of why many of us live here, what we treasure about living here, and what makes our community a refuge from the madness on the front range and other places. We enjoy the freedom and ease of trade with our neighbors, especially when our activities don't offend or injure anyone. To take a broad brush across all self-starting farm and home industry is a slap in the face to us rural citizens. Please stand down from this proposal.

Secondly, your proposal to require **rural permitting and limits** for ADUs is something they've been trying to do for years and is not welcome here. Delta county is special for many reasons but one reason is because of our freedom to build or expand our residential spaces. There is plenty of room and we all know the real restriction is *access to water*. By restricting building itself, you are creating a Boulder-like land-use code that has no place in our wide-open community. Please remove this proposal and return it to as it exists in the 2021 LUC.

Same goes for your other proposals around further permitting, removing "allowed-as-of-right," tiny homes, RVs, variances, boundary adjustments, non-liability for government officials, accessory business use and cottage industry rules - all of which represent an **injurious and massive overreach**.

For example - in your new world we would practically need a permit to run a tractor - now you propose making it *easier* for a neighbor to put up a cell phone tower?! No hearings? No input from the neighbors likely to be most impacted? Meanwhile I can't store or assemble a machine for my rural light business without asking for your say-so? What's the thinking there?

What exactly are you trying to do to our rural community? And to this I would genuinely like an answer. It seems like the point of these proposals is to shift our community - like the rest of the world, sadly - from a community of craftspeople, farmers, citizens and entrepreneurs into a community of underlings and peasants.

STAND DOWN from your ill-conceived and control-obsessed efforts. Delta County is special because we are free, rural and quirky.

These proposals will raise costs for the people who make Delta County the special place we all treasure. If you proceed with these proposals, you are attempting to fit a square peg into a round hole. It will benefit no one except the large corporations and officials (appointed, not elected) who will be paid to enforce them.

I would like a reply to this, and I will plan to see you next Wednesday at the meeting.

Respectfully,

Pieter Van Winkle
Husband, Father, Local Business Owner, Permaculturist, Land-steward and Neighbor

[REDACTED]