



**PLANNING COMMISSION MEETING MINUTES**  
**September 9, 2020**

**Planning Commission Members in Attendance:**

Eli Wolcott  
Layne Brones  
Tom Kay  
Steve Schrock

Dick Gilmore  
Steve Shea  
Tate Locke

**Absent Members:**

Jacob Gray

**Planning Staff in Attendance:**

Community & Economic Development Technician II, Kate Kelly

Chairman Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Court House Room #234.

**Item #1: Approve Meeting Minutes for August 12, 2020 & August 26, 2020**

**Motion/Second:** Dick Gilmore moves to approve the minutes. Tate Locke seconds to approve the minutes. **Motion Carried Unanimously.**

**Item #2: MJ03-010 Smith Resource Preservation**

**Owner(s): Melinda and Delbert Smith**

**Representative: Julie Huffman Clay, Dodson, & Huffman, P.C.**

**Location: Located 2 ½ miles west of Cedaredge off of 2125 Road aka Happy Hollow Road**

**Proposal: Applicant is proposing to subdivide 58.791 acres into seven lots ranging in size from 4.850 acres to 12.328 acres**

The Delta County Community & Economic Development Technician II, Kate Kelly, presented the staff report for MJ03-010 Smith Resource Preservation. Applicant, Melinda Smith is present along with Attorney, Julie Huffman.

Items discussed were as follows:

- Irrigation/Water
  - Adjacent landowners have problems with getting water down to their property.
  - Lawsuit was filed; judge ruled the amount of water going in, needs to be the same going out.
  - Ponds have to fill up before they can get their water
    - Concern for people installing irrigation pumps to the ponds to water their lawns, irrigate pastures, etc.
    - Possibility of bypassing the ponds so owners of the subdivision don't pump water out of ponds; piping water around the ponds.
  - Water Master
    - Confirmed there will be one in place within the subdivision, who will also be part of the HOA and will be familiar with the system.
      - This is laid out in the covenants.
  - Irrigation plan has been approved by the Water Court.
    - Decree stating what is proposed for this subdivision does not injure anyone else's water rights.
      - There is enough water to serve 15 lots as determined by the Water Court.

- Measuring devices are in place at top and bottom and is under state control.
    - Will be recorded with the final plat.
      - Will address the covenants and the Water Master.
- Wells
  - State determines augmentation for the wells; and all requirements.
  - Domestic water will be part of the covenants only, as of right now.
- Easements
  - Easement for irrigation ditch will need to be shown on the final plat for the appropriate properties.
  - Possibility of an easement for the head gates.
- Subdivision Roads
  - Concern for the safety of the roads entering and exiting the subdivision.
  - Many wrecks have happened along this stretch of road and there was suggestion that the County widens the road and do a lot of work on the hill; the hill is sloughing off, etc.
- Mineral Rights
  - Concern for mineral rights being severed.
    - Melinda Smith states it was not her intention to sever the mineral rights.
    - She has confirmed with the assessors that the mineral rights have not been severed
- Property Pins
  - Pins don't seem to line up correctly.
  - Thought that Title Company missed the boundary adjustments in regards to the pins.
    - 11 boundary adjustments were done.
- Fences
  - Is the fence in good shape?
    - The whole property has a fence; the lots should be maintained by the property owners and this should be on the final plat.
- Dry hydrant
  - It was signed off on by the fire district.
- Traffic Study
  - Traffic study was done in 2010 based on 15 lots.
    - Reduction was based on concern for traffic.
- Wildlife Corridor
  - Is there a map to designate this?
    - No map
  - Clarification added to the final plat?
    - Yes
- Density Standard
  - The density standard was addressed by the variance.
  - Subdivision standards changed while the process happened but the variance has been approved by the BOCC.
- Power & Infrastructure
  - Power was installed to each lot several years ago and water as well.
  - Infrastructure is being placed now.
- Disputes
  - The word dispute is not agreed upon.
  - There are no current disputes about the water.
  - Irrigation Plan is preliminary.

**Motion/Second:** Steve Schrock moves to approve subdivision including staff recommendations with the inclusion of language from Section 2.7B-7A of

the Subdivision Regulations. Tate Locke seconds to approve subdivision. Steve Schrock requests to amend the motion to include the prescriptive easement for the Jensen property be added to the general body of easements and designated on the plat. Eli Wolcott moves to amend that the wildlife corridor be included on the plat. Layne Brones seconds amendment to include the wildlife corridors on the plat. **Motion carried with 6 yea votes and 1 nae vote.**

**To BoCC:** October 6, 2020 @ 10:00 a.m.

**Item #3: Land Use P.C. Discussion**

**Items discussed were as follows:**

- Meeting with municipalities
  - Friday September 11, 2020
  - Discuss UGAs and IGA
- Vested property rights
  - Clarification needed
- Elyse Casselberry addresses the Commission
  - Planning Commission is statutorily required to approve and adopt a master plan for the county. Also to provide input and review of subdivisions and development applications; zoning, rezoning, conditional permits, prelim plats.
  - BOA is statutorily established to review variances to this code; they are a neutral 3<sup>rd</sup> party review. Then they are the due process for the applicant or another interested party which is defined to decisions made by the director. If the Director denies an application, the recourse for the applicant is to go to the BOA before they have to go to court.
    - Public notice is required for BOA.
    - Variances on density do not apply anymore.
- Existing Setbacks
  - Concern about language that is not present for existing setbacks (CAFOs, etc.).
  - No real definitions for existing setbacks
    - Already existing
    - Needs to follow County setbacks of 25'
- Maps
  - Paonia Map
    - Commission member Steve Schrock voiced his concern about the zone change in the Bowie sighting area.
      - Robbie confirms the IGA is the same, the UGA is what changed.
    - He thinks it should be changed back to industrial/commercial and not be left zoned A20.
    - Would like for the Planning Commission to look at this for future use and the importance of the rail.
      - Spurs have been left, but can be reconnected; future use.
      - Mayor of Paonia wants to know what future of the line is once the mine closes.
        - Tourism, transportation, mass transit
    - Does the PC agree to change the map of Paonia?
      - Dick Gilmore does not think we should change it at this point; should stay in the A20 zone.
      - Tate sees no need for the change yet.
      - Eli Wolcott feels preserving the rail is a good idea. Does not think it should be changed on the map.
      - Layne Brones states to leave it as it is for the time being.

- Steve Shea thinks whatever protects the use of the rail, is what would be best.
  - Mayor of Paonia is not opposed to the rail but does not want it zoned rural/industrial.
  - Consensus is to not change the map.
- Public Comment from Allison Elliot
  - Concern about the 'by right' language and the toxic nature of these industries.
  - Seems there is 2 sorts of AG going on; industrial vs. entrepreneurial.
    - Consider an overlay district particularly for the North Fork area.
    - Business models are not compatible.
  - Commission Response
    - Layne Brones opposes overlay
    - Steve Shea opposes overlay
    - Eli Wolcott thinks the concern is valid but not sure the overlay is the right way to go; but there is a solution needed.
    - Tom Kay is not in favor of overlay
    - Tate Locke thinks compatibility is a bad move; agrees with Eli; need to be consistent in our approach to AG.
    - Consensus is no on the overlay district
  - Right to Farm
    - Allison would like to know if any other counties changed the language for this.
    - Does not think the language should be changed for this.
    - Concerns her that the proposed language favors equal footing and this could cause potential problems.

Commission Chair, Tom Kay, asks the PC members to write down their questions and issues and email them out so everyone can read it before the next meeting; to be prepared for discussion on the issues.

**Meeting adjourned at 8:59 p.m.**

**Respectfully submitted by:**

Community & Economic Development Technician, Kate Kelly