



A regular meeting of the City of Delta Planning Commission was held on Monday, June 2, 2014 at 6:30 p.m. in the City Council Chambers of City Hall at 360 Main Street, Delta, Colorado. Said meeting was posted in accordance with the Sunshine Law.

PRESENT: Richard Simmons, Chairman; Terry Osborne, Vice-Chairman; Ginni Selby, Commissioner; Tish Oelke, Commissioner; Gerald Roberts, Commissioner; Glen Black, Director of Community Development; Sharleen Walker, Planning Technician.

ABSENT: Lynn Williams, Commissioner; Carl Jahn, Commissioner.

GUESTS: Zane Wright, Jack and Carolyn Hawkins,

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES

A motion was made by Gerald Roberts, seconded by Ginni Selby to approve the minutes of the Planning Commission held on Monday, April 7, 2014 as written. All voted yes. Motion passed.

CITIZEN COMMENTS

None.

DISCUSSION REGARDING HAWKINS SUBDIVISION ONE, LOT 1

Glen Black, Community Development Director, discussed the following two agenda items with the Planning Commission. Mr. Black stated that it may be beneficial to the Planning Commission to review the entire project first and then hold the public hearings. Therefore, staff reviewed pictures of the property and the desired use of the property with the Planning Commission. Staff stated that the intent of the applicant is to pursue a lot split of the property, making one lot approximately 37 acres and the remaining lot approximately 124 acres; sell the 37 acre lot to a company that will apply for a Bureau of Reclamation permit for mineral extraction from the Mancos shale. Therefore the applicant is requesting a rezone, a conditional use for the mineral extraction and will then submit a lot split for staff consideration.

PUBLIC HEARING – REZONING HAWKINS SUBDIVISION ONE, LOT 1

Chairman Simmons opened the public hearing. The Planning Commission held a public hearing regarding an amendment to the official zoning map of the City of Delta, Colorado changing the zoning from “A-1” Agriculture to “I-R” Industrial Residential for 1221 Hwy 50, Hawkins Subdivision One, Lot 1.

Glen Black, Community Development Director, reviewed the requirements for rezoning with the Planning Commission. Mr. Black stated that only two zones in the City of Delta, allow for mineral extraction, I (Industrial) and I-R (Industrial Residential). Additionally, staff informed the Planning Commission that the Planning Commission makes a recommendation regarding the zoning to the City Council and the City Council will then consider approval, denial or set a de novo hearing.

Request:

The applicant is requesting that the above property's zoning designation be amended (rezoned) from A-1 to IR. The IR zone is intended to create a transition area between industrial districts and residential districts which will allow and encourage use and expansion of residential, uses, particularly those providing low cost housing stock, as a use by right, but also allow and encourage the expansion of industrial uses from the adjacent industrial districts. See Delta Municipal Code 17.04.210.A.

Criteria for Rezoning:

According to section 17.04.270 of the City Municipal Code, amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed **only** upon findings as follows:

1. The amendment is not adverse to the public health, safety, and welfare; **and**
2. a. The amendment is in substantial conformity with the Master Plan; **or**
b. The existing zoning is erroneous; **or**
c. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.

Petitions: There were 19 petitions mailed out and currently there have been 5 petitions turned in, all in favor of the rezone.

Staff Recommendations:

The Planning Commission should consider the following regarding this rezone request.

The future land use map shows the area to low density Residential-Rural (A-1 and RR).

The City of Delta Comprehensive Master Plan states on page 3-8, "The County total population rather than the City of "Delta population is used in this calculation because the commercial/industrial land uses serve much of the county population." Additionally, 3-9 states, "Based on the above assumptions and calculations, it appears that there is a sufficient supply of land now zoned commercial/industrial land within the City of Delta to accommodate 2030 demand for commercial/industrial square footage for the low growth scenario." (Currently our growth rate is between low to moderate.) Page 3-9 continues, "However, the potential supply falls short of the demand for commercial/industrial square feet for the moderate growth and high growth scenarios. It is likely that the shortfall could be accommodated within the plan outside the present City limits. Or the City could rezone some of the A-1 parcels within the City limits as commercial or industrial zones."

Additionally, if Planning Commission approves the rezone request, staff recommends that before any mineral extraction activities are commenced, that the applicant provides a copy of the State of Colorado Department of Reclamation, Mining and Safety permit to city staff.

Zane Wright, applicant representative, informed the Planning Commission that he would try to answer any questions the Planning Commission may have regarding the rezoning of the property. Mr. Wright stated that the proposal is to access the mineral extraction operation by Falcon Road, which is a private road, owned by the property owners of West Winds Airpark. The intent of the new owners would be to construct a brand new concrete road to the new facility. Additionally, Mr. Wright stated that two new 72 x 120 foot buildings would be constructed. The operation would include moving the overburden, moving dirt to one of the buildings, with two pits, with water filtration, extracting the food grade minerals and that one truck load a week would take out the extracted minerals in liquid form. Mr. Wright stated that the new operation would employ 8-10 people, plus the construction of the buildings. When the operation would be completed, in 15-20 years, the land would be left suitable for a residential area.

The Planning Commission questioned what the hours of operation would be and how the dust would be controlled. The issue of obtaining a CDOT access permit was discussed.

Chuck Clemons, resident of 1148 Mustang Lane, questioned the increased traffic on Falcon Road, given that the airplanes in West Winds use Falcon Road as a taxi-way to get to the air strip. Mr. Clemons stated that he also had concerns regarding maintenance of Falcon Road, because currently maintenance of Falcon Road is the responsibility of the subdivision.

Ron Rousen, interested citizen, stated he was in favor of the rezone because of new jobs for the area.

Staff informed the Planning Commission that two more petitions were received in favor of the request.

Chairman Simmons closed the public hearing.

The Planning Commission discussed the rezone request. Some members of the Planning Commission supported the rezone request because it was a good use of the land. Concerns were that the criteria for rezoning were not met and that if the property were rezoned, any use that is allowed as a use by right would be allowed in the new I-R zone. Other industrial uses were discussed that are already operating along the North Highway 50 corridor.

A motion was made by Terry Osborne, seconded by Tish Oelke to recommend approval of the zoning amendment request for Hawkins Subdivision One, Lot 1 also known as 1221 Hwy 50 from A-1, Agricultural to I-R, Industrial Residential to the City Council.

A motion was made by Tish Oelke, seconded by Ginni Selby to amend the previous motion to include that the request meets substantial conformity with the master plan, as other businesses are currently operating in this area that are industrial, therefore the area has changed since the property was previously zoned. All voted yes. The motion as amended passed.



Staff informed the applicant that this item is on the City Council agenda tomorrow night for approval, denial or to set a de novo hearing.

PUBLIC HEARING – CONDITIONAL USE HAWKINS SUBDIVISION ONE, LOT 1

Chairman Simmons opened the public hearing. The Planning Commission held a public hearing regarding a proposed conditional use at 1221 Hwy 50, Hawkins Subdivision One, Lot 1 to allow mineral extraction.

Glen Black, Community Development Director, reviewed the staff report and presentation with the Planning Commission.

Request:

The applicant requests a conditional use for Hawkins Subdivision One, Lot 1 for mineral extraction and processing. This request is based upon the Planning Commission approval on this same date and City Council approval of the rezoning ordinance at the City Council meeting to be held on June 3, 2014.

Section 17.04.210.C.5 for the I-R states:

CONDITIONAL USES:

1. Any industrial or commercial use, other than the uses by right listed above, which comply with the performance standards.
2. Automobile wrecking and salvage yards.
3. Junk yards.
4. Animal sales yards.
5. Mineral extraction and processing.
6. Trash disposal and recycling facilities.
7. Quarries and gravel operations.

D. PERFORMANCE STANDARDS:

1. No use shall be established in the I-R District which results in an unreasonable hazard to the community or creates a public or private nuisance.
2. No industrial structure shall be constructed within 100' of any existing Residential District unless effectively buffered by landscaping, berms, fencing, or other screening.
3. Automobile wrecking and salvage yards and junk yards shall have screening.
4. Both site built and factory built housing shall be constructed in compliance with applicable provisions of Chapters 15.04 or 15.05 of the Delta Municipal Code, shall be permanently attached to a permanent foundation, shall have brick, wood, masonry, stucco or cosmetically equivalent exterior surfaces, shall have a minimum width and length of not less than 20' each, and a minimum eave overhang of 12 inches. (Ord. 4, §1, 1999; Ord. 7, §2, 2009, Ord. 4, §7, 2011)

Criteria for Approval of a Conditional Use

According to section 17.04.260 of the City Municipal Code, no conditional use or change in a non-conforming use will be allowed unless the Planning Commission determines the following criteria are substantially met with respect to the type of use and its dimensional features:

1. The use will not be adverse to the public health, safety or welfare.
2. The use is not inconsistent with the City's Master Plan.
3. Streets, pedestrian facilities, water, sewer and other public improvements in the area are adequate.
4. The use is compatible with existing uses in the area and other allowed uses in the district and the type, bulk, height and location of any buildings or structures is compatible with other buildings, structures and the character of the area.
5. The use will not have an adverse effect upon other property values.
6. Adequate off-street parking will be provided for the use.
7. The location of curb-cuts and access to the premises will not create traffic hazards.
8. The use will not generate light, noise, odor, vibration, or other effects which would unreasonably interfere with the reasonable enjoyment of other property.
9. Landscaping of the grounds and architecture of any buildings will be reasonably compatible with that existing in the neighborhood.
10. Any other criteria specified by other City ordinances or regulations are met.

The Planning Commission may impose conditions as necessary to ensure that the above criteria are met.

Discussion

Mineral extraction and processing is regulated by the State of Colorado Division of Reclamation, Mining, and Safety.

The City of Delta Municipal Code allows mineral extraction and processing with specific performance standards.

There were 19 petitions mailed to surrounding property owners and there have been 5 petitions returned approving of the application.

The property was properly noticed in the newspaper and with a poster on the property.

Staff Recommendation

Staff recommends that Planning Commission review the criteria for a conditional use and the performance criteria for mineral extraction and processing within the I-R district and make a determination if all requirements and criteria are met. If all requirements and criteria are met staff recommends approval of the conditional use request. Additionally, staff recommends that before mineral extraction and processing commences, that the applicant provide a copy of the State of Colorado Department of Reclamation, Mining and Safety permit.

Staff suggested that a copy of the Bureau of Reclamation permit could be requested and that a plan of operation would be included with the permit.



The applicant representative did not have any additional comments, from those that were entered in the record for the rezone request.

Chairman Simmons closed public hearing.

Members of the Planning Commission stated that they need more information, specifically on the hours of operation, dust control, mineral rights, total acreage of disturbed area, volume of materials to be disturbed, reclamation plan, road maintenance, road use agreement (including possible conflicts with airplanes), CDOT access permit, signage, and health, safety and welfare concerns.

A motion was made by Terry Osborne, seconded by Gerald Roberts to table the conditional use request due to lack of information to make a final decision. All voted yes. Motion passed.

This item will be scheduled for the July 7, 2014 Planning Commission meeting and more information will be requested from the applicant to be presented at that time.

COMMISSIONER COMMENTS

None.

STAFF COMMENTS

Staff stated that they will work with the applicant to get more information for the Planning Commission regarding the conditional use request for Hawkins Subdivision, Lot 1 for mineral extraction.

ADJOURNMENT

A motion was made by Gerald Roberts, seconded by Ginni Selby to adjourn the regular Planning Commission meeting. All voted yes. Motion passed. The meeting was adjourned at 7:52 p.m. with no further action taken.

Sharleen R. Walker, Planning Technician