

## Town of Eldorado Plan Commission (EPC) Meeting Minutes

July 13, 2021

Plan Commission Member Attendees (5) and terms:

x	Jeremy Brenner, Chairperson (5/1/2019 - <b>4/30/2022</b> )	x	Jenna Borski, Secretary (5/1/2021 - <b>4/30/2024</b> )	x	Aaron Rickert, Town Supervisor #2 (Town Board Liaison) (5/1/2021 - <b>4/30/2023</b> )
x	Lee Wenker, Vice Chairperson (5/1/2019 – <b>4/30/2022</b> )	x	Jeff White, Member (5/1/2021 – <b>4/30/2024</b> )		

Staff or Town Board Member Attendees:

x	Cheryl Pionke, Town Clerk	x	Gary Miller, Town Chairman (5/1/2021 - <b>4/30/2023</b> )		Attorney Matt Parmentier
	Mike Pionke, Highway Patrolman	x	Dave Jahns, Town Supervisor #1 (5/1/2021 - <b>4/30/2023</b> ) Permit Officer		

*Note: As of June 2021, minutes no longer include public attendance. Names will be included for agenda items or contributions under public input or as deemed necessary by EPC.*

**Call to Order, Pledge of Allegiance and Agenda Review:** Meeting called to order by Jeremy Brenner at 7:00 p.m. followed by pledge of allegiance.

**Review & Approve Minutes:** EPC reviewed the public hearing & EPC meeting minutes from June 8, 2021. Five copies circulated to public per May 2021 decision. Motion made by White/Brenner to approve minutes. Motion carried 3-0. (Wenker abstained; Rickert not yet arrived).

**Tracking # CP-2021-06-28-Ihrig**

**Concept Plan – Application for Rezone – James & Jodi Ihrig:**

**Location/Description of Property:** N8537 Tutz Rd / T07-16-16-15-11-005-00

**Parent parcel acres:** 4.193 +/-

**Current zoning:** Residential

**Proposed parcel acres:** N/A

**Area of dedication acres:** N/A

**Proposal:** Rezone back to Ag to allow continued use as hobby farm and construct additional ag-related buildings

**Base Farm Tract (BFT) Acres:** N/A (Residential) per Base Farm Tract map with parcel data as of 12/31/2013 and Zoning Ordinance Map Certified by DATCP on 11/20/2013

**Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05):** N/A

**Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05):** N/A

Ihrig purchased the property over 15 years ago and has had goats, chickens, etc. as a hobby farm. The property used to be zoned A-1, Exclusive Ag. He recently applied for a building permit for an ag-building and was denied because the property is currently zoned Residential. Ihrig informed EPC he was not informed of the rezone from A-1 to Residential. Dave Jahns, Permit Officer, stated the property is zoned Residential and already exceeds the maximum square footage for accessory structures. Jahns also pointed out that existing structures on the property are currently legal, non-conforming lots since they pre-date the current Zoning Ordinance (e.g., accessory structure is located just five feet off the east property line). Ihrig stated he obtained the permit for that building from Elmer Wohler a long time ago (Secretary Note: Wohler was the long-time Permit Officer prior to Dave Jahns and also served on the Zoning Board for many years. The “Zoning Board” preceded creation of the Plan Commission in 2010 after adoption of the Town’s first Comprehensive Plan in 2009).

Borski explained that when the Town was going through rewriting the Zoning Ordinance, the County was also working on their Zoning Map. At the time, Sam Tobias, County Planner, (now retired) contacted the Town and went through an exercise to identify clusters of three or more residences outside the hamlet of Eldorado (in the ag district) and rezone them to Residential. Borski stated that EPC was not in full support of this effort but was unable to prevent it from happening. The County directed the Town through this "Town-initiated" rezone process. Ihrig's property was one of three properties on Totz Road that were selected for this rezone to Residential. Borski was not involved in the specific notifications given but the Town Clerk at the time would have had to meet the required public noticing in advance of the rezones.

The differences in standards, permitted and conditional uses between A-1, Exclusive Ag, and A-2, General Ag, were discussed in detail for Ihrig to decide if he prefers to apply for rezone to A-1 or A-2. Ihrig prefers A-1. Side and rear yard setbacks for future buildings were discussed with Ihrig for his proposed building. EPC provided Ihrig with the Process Instructions and application for Rezone. The application is due by Monday, 7/19/21 in order to be public noticed in time for a public hearing on 8/10/21. EPC requested Borski contact current County Planner, Terry Dietzel, to discuss the intention to rezone this property from Residential back to A-1 and verify the County has no concern.

**Tracking # CP-2021-07-06-Baker**

**Concept Plan – Application for Rezone and Possibly Combination of Lots – Christopher V. Baker & Keetra C. Baker:**

**Location/Description of Property:** vacant land on Dike Rd / T07-16-16-35-13-003-00

**Parent parcel acres:** 9.62 +/-

**Current zoning:** Rural District, RD

**Proposed parcel acres:** same

**Area of dedication acres:** N/A

**Proposal:** Rezone from RD to General Ag, A-2, and possibly combine 4.0 +/- acres from an adjacent parcel (Wagner)

**Base Farm Tract (BFT) Acres:** N/A - not assigned per Base Farm Tract map with parcel data as of 12/31/2013 and Zoning Ordinance Map Certified by DATCP on 11/20/2013 (zoned RD)

**Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05):** N/A – zoned RD

**Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05):** N/A – zoned RD

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**Tracking # CP-2021-07-06-Wagner**

**Concept Plan – Application for Minor Land Division (MLD) of Rural District Land with Rezone – Aaron & Melissa Wagner:**

**Location/Description of Property:** W7762 Dike Rd / T07-16-16-35-13-008-00

**Parent parcel acres:** 9.67 +/-

**Current zoning:** Rural District, RD

**Proposed parcel acres:** 4.02 +/- acres for sale & retain 5.67 +/- acres

**Area of dedication acres:** N/A

**Proposal:** Split 4.02 +/- acres from parcel to rezone, sell and merge with Baker's lot

**Base Farm Tract (BFT) Acres:** N/A - not assigned per Base Farm Tract map with parcel data as of 12/31/2013 and Zoning Ordinance Map Certified by DATCP on 11/20/2013 (zoned RD)

**Minimum Acres Required to be Maintained as Farm (20:1 ratio) (BFT acres/1.05):** N/A – zoned RD

**Maximum Nonfarm Residential Acres Allowed (BFT – BFT/1.05):** N/A – zoned RD

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Chris Baker explained he and Keetra recently purchased their vacant lot and want to rezone it from RD to A-2, General Ag to initially put large accessory structure(s) with a bathroom/plumbing on it for personal equipment & storage, plant trees and eventually build a home. Timing for construction is uncertain. They do plan to install a culvert & driveway soon. Baker also explained that they are considering purchasing the back 4.02 +/- acres of Wagner's lot to

merge with their lot, squaring off Wagner's remnant. They want to talk through the options for this and placement of their accessory structures & house with and without the merge. Aaron Wagner and Dave Jahns, Permit Officer, were included in the discussion.

- EPC informed Baker that if he purchases the 4.02 +/- acres from Wagner but the parcels are not merged, his structures will need to meet the side-yard setbacks from the property boundary between the two parcels, even though they are contiguous and under common ownership.
- EPC reviewed the definition of a flag lot in the Land Division / Sub-division Regulations and agreed that, if the Baker lot were to be merged with 4.02 +/- of the Wagner lot, it would not be creating a flag lot and would be allowed. Creation of flag lots are prohibited in the ordinance.
- EPC stated the 4.02 +/- acres from Wagner will need to be rezoned from RD to A-2 to merge with Baker's lot and suggested Wagner consider whether he would like his entire 9.67-acre parcel rezoned A-2 at the same time (no additional cost). Wagner will review permitted and conditional uses allowed in each district to decide.
- If requesting the split, Wagners remnant parcel will need to meet the minimum lot size, dimensions & setbacks for the applicable district (as would the 4.02 +/- lot if not being merged with Baker's lot).
- Baker informed EPC he will work with Eric Freiburg of E T Surveying and pay for the survey. EPC informed Baker that the entirety of both parcels will need to be surveyed to include in the proposed Certified Survey Map (CSM) since Wagner's remnant will be less than 35 acres (with no contiguous parcels) per County rules.
- EPC agreed no further concept plan review is needed for either parcel if they move forward with the rezones and land division as proposed.
- The applications for rezone for both Baker and/or Wagner can be submitted in advance of the application for MLD/combination if it will take longer to work out the land transfer and Baker needs to move forward with the rezone.
- A percolation (perc) test will be needed for the MLD/combination application for the Town to approve the CSM (ideally perc test submitted with the application but at least prior to final approval of the CSM). Perc tests are generally good for five years so Baker may need to repeat the test prior to constructing their home.
- EPC & Jahns clarified that the 350-foot maximum setback for dwellings, attached garages and non-ag structures (commonly referred to as the "driveway setback") in the A-2 district does not apply for ag buildings. EPC suggested Baker consider applying for a variance to the 350-foot setback prior to installing the driveway.

EPC provided both Baker & Wagner individually with applications for rezone from RD to A-2 and MLD (also used for combination of lots) and application process instructions. Fees will include:

- \$350 for rezone of Baker's lot,
- \$350 for rezone of Wagner's lot (or rezone of only split land) and
- \$300 for approval of a single CSM (with applications by Baker & Wagner) to split Wagner's lot and merge a portion with Baker's lot (creation of Lots 1 & 2).

All property owners listed on the deed need to sign the applicable applications. Rezone applications need to be submitted at least three weeks prior to the EPC meeting to post the legal notice for public hearing.

**Status Update – Chapter 17 Zoning Ordinance Amendments effective May 13, 2021:** The approved ordinance amendments (creation of section 17.22 on Solar Energy Systems and revised section 17.58(1) are posted on the Town of Eldorado website under the "Town Ordinances" tab. Borski provided EPC members with hard copies of each amendment for their books.

**Status Update – Frank and Jeni Mazanka MLD, Rezone & Variances:** Borski reported the Board of Appeals held their public hearing for the variances on June 16, 2021 and approved the variances for lot size for Lot 1 (less than 3.0 acres for A-2 District) and lot dimensions for Lots 1 & 2 (road frontage & lot width) of the proposed CSM by acceptance of the proposed CSM, contingent upon recording the driveway easement at the Register of Deeds per the EPC/Town Board. Gary Miller, Town Board Chairman, will be able to sign the CSM when the recorded easement is provided to

the Town. The Board of Appeals also approved a variance to the maximum setback for the dwelling, attached garage and non-ag structures of 350 feet (commonly referred to as the “driveway setback”) with no additional conditions. Reference the Board of Appeals minutes for additional details.

**Status Update – Gary Rabe MLD & Conditional Use Permit (CUP):** The Town Board approved the CSM at the June Town Board meeting without conditions. The CUP for a non-farm residence (NFR) is drafted. However, Matt Parmentier, Town Attorney, recommended EPC consider recording the CUP for a NFR at the Register of Deeds. This needs further discussion by the EPC prior to finalizing the Rabe’s CUP (next agenda item).

**Conditional Use Permits (CUPs) for Non-Farm Residences (NFRs) – Should they be recorded at the Register of Deeds (past & future)?** During legal review of the Rabe CUP for NFR, Parmentier recommended EPC consider recording CUPs for NFRs at the Register of Deeds. Borski provided EPC with a copy of the email chain that details the considerations. Borski also provided EPC with a list of CUPs for NFRs issued by the Town and a list of options moving forward. The Town recorded only one of the seven CUPS for NFRs at the Register of Deeds so far (Vis on the Rickert Bros LLC base farm tract (BFT) possibly due to the requirement to obtain a variance for exceeding max setback). During discussion, EPC agreed recording the CUPs on all parcels within the applicable BFT is not desirable due to workload in recording the initial CUP and subsequent renewals. EPC also prefers, at this time, to not record CUPs for NFRs on the applicable parcel for the same reasons. EPC asked Borski to discuss with Parmentier the potential to include a disclaimer or condition that it is the property owner’s responsibility to disclose the permit and notify future owners.

**Review of General Inquiries Since June 8, 2021:**

- Brenner wanted to discuss process to get EPC recommendations to the Town Board for action after a public inquiry at the June Town Board meeting following some miscommunication on the Rabe MLD. After discussion with Cheryl Pionke, Town Clerk:
  - Borski will resume sending a brief summary email to the Town Board members & Pionke (& Brenner as EPC Chairman) following EPC hearings/decisions.
  - Borski will continue to provide an email of the EPC hearing & meeting minutes to the Town Board when completed.
  - Pionke will provide hard copies of the applicable applications (available in the file) to Dave Jahns & Gary Miller in advance of the Town Board meeting.
  - Aaron Rickert, Town Board Liaison, is also responsible to provide additional information during Town Board meetings based on first-hand knowledge on EPC.
  - The Plan Commission Report at Town Board meetings will continue to be given by Brenner but may be given by other EPC reps in Brenner’s absence (usually Borski or the TB liaison).
- Borski received an inquiry on constructing additional buildings at N8030 Sales Rd (zoned Commercial). Submittal of a Site Plan to EPC is needed as opposed to specific setbacks and square footage requirements in the Commercial District. Public comment that any development needs to consider County, State & Federal regulations as well (e.g., stormwater, grading, wetlands, adj. to I-41).
- Borski also received an inquiry from Theresa Schultz of Lasting Impressions, LLC regarding timing for submittal of their application to merge the two lots at as a required condition of their CUP, which is due in September 2021. The survey will not be able to be completed in time to process in August. EPC agreed that they need to continue to move forward with their Surveyor with best faith efforts toward progress and keep the EPC apprised of the schedule.
- White informed EPC Doug Rehm is waiting to submit his applications for MLD & Rezone for the perc test. EPC asked White to communicate that the applications can be submitted in advance of receiving perc test results. The perc test is only necessary before the Town can sign the CSM as previously confirmed with the Town Attorney.

**Public Input:** None

**Next Meeting Date & Tentative Agenda:** August 10, 2021 – Ihrig Rezone Public Hearing; possibly Baker/Wagner Rezones & MLD/Merge Public Hearing; Status Updates; follow-up to CUPs for NFRs.

[Note: Regular EPC meetings are tentatively scheduled for 7:00 p.m. the second Tuesday of each month, pending agenda items.]

**Adjourn:** Motion made by Wenker/Borski to adjourn the meeting. Motion carried 5-0. Meeting adjourned at 9:20 p.m.

Respectfully submitted,

Jenna Borski  
Member/Secretary  
Town of Eldorado Plan Commission