

BLACK FOREST GLIDER PARK SUBDIVISION

a/k/a KELLY AIR PARK

Amended Development Plan and Guide

Developer: Benjamin F. Kelly

Date: June 19, 2002

As Amended June 19, 2002

DGA 01-03-01

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CHAPTER I

I-A General Provisions

1. Authority - The authority of this Development Plan and Guide is Part II, Section 17, (Planned Unit Development) of the Elbert County Zoning Regulation. The authority for Section 17 of the Elbert County Zoning Resolution is the Colorado Planned Unit Development Act of 1972, as amended.
2. Adoption - The adoption of this Development Plan and Guide shall evidence the findings and decision of the Elbert County, Colorado, Board of County Commissioners that this Development Plan and Guide for "Black Forest Glider Park" is authorized by the provisions of Part II, Section 17 of the Elbert County Zoning Resolution and that such Part II, Section 17 in this Development Plan and Guide comply with the Colorado Planned Unit Development Act of 1972, as amended.
3. Relationship to County Regulations The provisions of this Development Plan and Guide shall prevail and govern the development of "Black Forest Glider Park", provided, however, that where the provisions of this Development Plan and Guide do not address a particular subject, the relevant provisions of the Elbert County Zoning Resolution or any other applicable resolution or regulation of Elbert County shall be applicable.
4. Enforcement - The provisions of this Development Plan and Guide relating to the use of land shall run in favor of Elbert County residents, occupants, and owners of the land within "Black Forest Glider Park" without any limitation of any power or authority granted by law.
5. Subdivision Plat

A subdivision plat showing all proposed lots, runways, common area improvements, setback requirements and easements shall be submitted and approved by the Board of Elbert County Commissioners, in conjunction with this Development Plan and Guide.

PROPERTY DESCRIPTION: (BLACK FOREST GLIDER PARK SUBDIVISION)

A parcel of land being the West ½ of Section 35, Township 9 South, Range 65 West of the 6th P.M., County of Elbert, State of Colorado, being more particularly described as follows:

Commencing from the Southwest corner of Section 35; thence N 00E00'00"E for a distance of 5298.95 feet along Elbert County Road 5, to a point being the Northwest corner of said Section 35; thence S 89E128'18"E for a distance of 2666.14 feet to a point being the North 1/4 corner of said Section 35; thence S 00E02'52"W for a distance of 5288.66 feet to a point being the South 1/4 corner of said Section 35; thence N 89E41'33"W for a distance of 2661.66 feet along Elbert County Road 98, to the point of beginning, and containing 323.73 acres of land, more or less.

I-B Preamble - Statement of Intent and Commitments

- A. It is the intent of the Elbert County, Colorado, Board of County Commissioners to promote the zoning of the property by clarifying appropriate use and location restrictions to protect the adjoining land owners and the residents of the area while maintaining the flexibility required to meet the uses of the runway facilities by the lot owners and their invitees. For purposes of this development guide, invitees shall mean family members, friends and guests of residential lot owners. Invitees shall not include lessees of hangars or lessees of aircraft on residential lots and no such lessee shall be permitted to use the runway facilities and common areas. Lessees of hangars and lessees of aircraft shall be permitted on the commercial lot and such lessees shall be permitted to use the runway facilities and common areas. Nothing in this provision should be construed to prohibit a residential lot owner from leasing his entire residential property and the use of his residential property to another person. Such person shall assume the rights and status of the residential lot owner and shall be bound by the restrictions on use of the property and common areas to the same extent as the residential lot owner.
- B. The Elbert County, Colorado, Board of County Commissioners recognize the rural atmosphere and land uses of adjoining properties and commit to restrict the uses of the premises through covenants in a manner that will not detract from the esthetics or property values.
- C. The lot owners will initiate and maintain a program with the Soil Conservation Service to control erosion within the property and to control noxious weeds.
- D. In order to mitigate any possible fire hazard, the applicant has installed a fire cistern according to the recommendations of the Elbert Fire Protection District. The cistern was operational prior to the use of the runway facilities or construction of improvements on any of the lots.
- E. Toxic or hazard waste - discharge of toxic or hazardous waste, as defined by EPA or OSHA, into any on-site sewage disposal system is prohibited. Such waste, if generated, shall be disposed of in accordance to accepted EPA and/or OSHA standards.
- F. Each lot owner at the time of purchase of a lot shall be provided with a copy of the letter with respect to the water supply for the subdivision issued by the Office of the State Engineer, Division of Water Resources. Each lot owner, by acceptance of a deed to a lot, covenants and agrees that in the event a water augmentation plan for the subdivision is approved which allows individual wells to be drilled into the Upper Dawson aquifer, each lot owner shall transfer to the homeowners association any right, title or interest he may have in and to the Lower Dawson aquifer.

I-E County Certification

This Planned Development has been reviewed and found to be complete and in accordance with governing Elbert County Regulations.

(Signature) Wayne Serrey
Board of County Commissioners, Chairman

7-17-02
Date

(Signature) Kenneth L. ...
Planning Department, Director

7.17.02
Date

STATE OF COLORADO)
) ss.
COUNTY OF ELBERT)

I hereby certify that this Development Plan and Guide was filed in my office on this 18th day of July, 2002 at 03:35 o'clock a.m./p.m., and was recorded per Reception No. 421484.



Carrie L. Fison
County Clerk and Recorder

CHAPTER II

A. INTENT

For the purposes of this development guide, the subdivision is divided into three distinct types of lots based upon permitted uses.

1. Common Area (Runway and Taxiways)
2. Commercial Lot
3. Residential Lots

COMMON AREAS (RUNWAY AND TAXIWAYS)

A. INTENT

The common area shall consist of the runway and taxiways designated as Tract A on the plat. The Homeowners Association shall promulgate rules and regulations for the control and use of the runway and taxiways by the members of the Homeowners Association and their invitees. It is the intent that the common area be used primarily for glider flying activities and for limited powered aircraft activities by members of the Homeowners Association and their invitees.

B. USES PERMITTED BY RIGHT

The sole purpose for which the common area may be used is as an airfield where aircraft take off, land, and generally conduct flight operations and for the conduct of any other operations directly connected with the control of flight operations by lights, radio, signs, wind socks, control towers, instrument landing aids, and any other activity directly related to the control of flight activities. The use of the common area does not include storage, repair, or fueling, which activities may be conducted only on the various lots, subject to the limitations contained herein.

C. USES PERMITTED BY SPECIAL REVIEW

Any uses of the common area which, are not directly related to the conduct of flight operations will be permitted only upon prior approval by a Board of Directors of the Homeowners Association and the Board of Elbert County Commissioners.

D. RESTRICTIONS ON USE OF COMMON AREA

It is the intent that the common area be used primarily for the conduct of glider flight activities and for light power planes by the lot owners and their invitees. In order to promote such flight activities, no jet aircraft or any powered aircraft which has a gross take-off weight in excess of 12,500 pounds shall be allowed to operate from the common area. The proposed traffic patterns for gliders and for powered aircraft are attached hereto as Exhibit "A" and incorporated herein by reference.

E. EFFECT OF COVENANTS AND RESTRICTIONS ON COMMON AREA

All restrictions on use of the common area contained in this Development Plan and Guide and contained in the Declaration of Covenants shall terminate as to the common area and be of no further force and effect upon either (a) the dissolution of the Homeowners Association or (b) transfer of ownership of the common area to the County of Elbert through tax sale or otherwise. Upon receipt of ownership of common area by the County of Elbert, for any reason, the Board of Elbert County Commissioners shall be authorized to re-zone the common area to provide for any use thereof which is determined by the Board of Elbert County Commissioners to be in the best interest of the residents of Elbert County. In the event that within the twenty (20) years immediately following the formation of the homeowners association, any taxes or assessments on the common areas are not paid when due, the taxing authority may assess 1/57th of such unpaid taxes or assessments against each lot owner. Such assessment shall constitute a lien against the residential or commercial lot which may be foreclosed upon pursuant to the statutes of the State of Colorado.

F. EXEMPTION FROM SETBACK RESTRICTIONS

The runways to be placed within the common area shall be exempt from the normal one thousand (1,000) feet setback requirement but shall be setback as set forth on the Plat.



COMMERCIAL LOT

A. INTENT

Lot 8 is designated on the plat as a commercial lot. Only those commercial activities which are directly related to aviation shall be conducted on Lot 8. No commercial activity conducted upon the commercial lot shall interfere with or any manner conflict with the aviation activities conducted from the common area.

B. USES PERMITTED BY RIGHT

1. Offices for the conduct of a glider aviation F.B.O. and/or glider aero club.
2. With respect to the operation of a aero club, facilities for a meeting room, food service for up to twenty (20) persons and temporary lodging facilities for not more than eight (8) persons.
3. Hangar facilities for temporary and permanent storage of aircraft and gliders.
4. Tie-down facilities for aircraft, gliders and glider trailers.
5. Facilities for the conduct of aircraft maintenance and repair.
6. Facilities for aircraft fuel storage and sales.
7. Ground and flight instruction.
8. Retail sales of pilot supplies.
9. Retail aircraft rental and sales.
10. Other services customarily offered by an aviation F.B.O. and/or aero club.



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C. USES PERMITTED BY SPECIAL REVIEW

Commercial uses of the commercial lot which are not directly related to aviation shall be permitted only upon approval by the Board of Directors of the Homeowners Association and the Elbert County Colorado, Board of County Commissioners.

D. EXEMPTION FROM LANDSCAPING REQUIREMENT

The commercial lot shall be exempt from the normal landscaping requirements contained in the Elbert County rules and regulations as such requirements are not compatible with the authorized use of the commercial lot.

RESIDENTIAL LOTS

A. INTENT

Lots 1 - 7 and lots 9 - 57 are designated on the plat as residential. All residential lots shall have runway access. In addition to residential use of his lot, each lot owner and his invitees shall have the right to use the common area for the conduct of aircraft flight activities.

B. USES PERMITTED BY RIGHT

The primary use of the residential lots shall be for residential purposes. Each residential lot owner may construct upon his residential lot a residence and related outbuildings. In addition to construction of a residence and related outbuildings, each residential lot owner shall be allowed to construct upon his residential lot one aircraft hangar. Construction of more than one aircraft hangar is specifically prohibited. A hangar may not be constructed on a residential lot prior to the construction of a residence. As amended: A hangar may be constructed on a lot simultaneously with the construction of the residence; however, under no circumstances shall the construction of a hangar be completed or put to use before the completion of the residence and the issuance of a certificate of occupancy, if applicable, for the residence on the lot. No aircraft hangar may be used as a living space, residence, or dwelling. No living space, residence, or dwelling shall be constructed in an aircraft hangar. No more than five (5) aircraft at a time shall be parked, tied down, stored or allowed to remain on any residential lot for more than forty-eight (48) hours. No commercial business or trade shall be carried on upon any residential lot except those home occupations specifically permitted by Elbert County Residential Zoning. Rental of hangar space and aircraft shall be strictly prohibited. No person who is not an owner or an invitee may maintain, store, or park any aircraft on any residential lot.

C. VARIANCE ON LOT 50

There is located on Lot 50 an existing barn which does not comply with setback requirements from the eastern property line. A variance is granted to allow such barn to remain in its present location. In the event the existing barn is destroyed, torn down or removed, this variance shall terminate.

D. SETBACK REQUIREMENTS

The building setback requirement from the front property line shall be sixty (60) feet from the edge of the road right-of-way.