

Joint meeting of the Planning Commission, Board of County Commissioners and Board of
Zoning Adjustment

November 5, 2003
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission:

Mr. Lynn Attebery Mr. Pat Bailey Mr. Vic Barnes Mr. John Campbell
Mr. Keith Hood Ms. Sherry Rorick

Board of Zoning Adjustment:

Mr. Bill Donley Mr. Pete LoPresti Ms. Dorothy Nepa

Associate Members:

Mr. David Bartholomew Ms. Renee Bolkema

County Commissioners and Attorney:

Mr. Dick Downey Mr. Larry Handy Mr. Dale Hoag Mr. John Naylor

Staff:

Mr. Linc Lippincott Mr. Dan Bubis

Absent:

Mr. Gerard Dearborn Mr. David Harmon Ms. Christy Kesselring Mr. Skip Northcross

The meeting was called to order at 1:03 P.M. by LINC LIPPINCOTT, Moderator.

BARTHOLOMEW and BOLKEMA filled the Board of Zoning Adjustment seats left vacant by the absence of NORTHCROSS and the position left vacant by the resignation of Canterbury. HOOD was appointed to replace BARTHOLOMEW when BARTHOLOMEW had to leave.

LIPPINCOTT called for approval of the October 2003 minutes. BARNES MOVED to approve the minutes. CAMPBELL SECONDED and the motion passed unanimously.

ZONING OFFICE REPORT

- 0-I.S.D.S. Variances were granted.

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Office Summary

October 2003

13 Septic inspections, Site reviews, or Violation reviews
0 Violation reviews
0 Homeowner Septic installation test
1 Septic Contractor test
34 Special conferences
12 Compliance Inspections

Permits issued:	<u>2002</u>	<u>2003</u>
Septic	7	12
Zoning	24	22

- U.S.G.S. has been contacted for information on how they perform the geologic survey. The survey is a third party inspection which takes about 21 days to complete. It includes a site visit and we are then informed about whether the development will pose problems such as drainage, erosion or slope stability. They are sending the correct forms to request a survey.
- Division II Water Resources has agreed to a winter training session tentatively scheduled for February 11, 2004. The training will cover water issues such as subdivisions, exemptions, commercial wells and how well permits are issued. The consensus from the Boards was that afternoon would be best.
- Appointments to the Boards will be made in the middle of January. Any member who's term is about to expire, or any audience member, needs to submit a letter stating that they would like to be appointed. The letter must be in the Planning and Zoning Office by January 1, 2004.

LIPPINCOTT turned the meeting over to the Planning Commission.

CUERNO VERDE AIRPORT ASSOCIATES, INC. / WRAY PEDRO / PLANNED UNIT DEVELOPMENT -
PRELIMINARY PLAN HEARING

Property description: A PARCEL OF LAND IN SECTION 25, T 23S R 72W and in SECTION 30, T 23S, R 71W.

Schedule number: 102-35-995/102-35-996

BARNES explained that he had an opportunistic meeting concerning this application. He stated that there wasn't an exchange of information, but rather that he encouraged the party to present testimony at the hearing.

Pedro was present and represented himself. Pedro explained that he had made changes to the covenants based on the feedback he had received from the Planning Commission workshops.

Based on a discussion with the Fire Inspector, Roger Squire, the office modified the recommended conditions relating to fire safety. After discussion by the Planning Commission and the applicant, these conditions were modified and the agreed upon conditions are dated November 5, 2003 and are attached.

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Pedro explained that he would like approval of the Preliminary Plan so he can move on to the Final Plan Phase. He said that he realized that he couldn't receive final approval until his water augmentation plan modification has been approved by the State and then accepted by the Planning Commission and Board of County Commissioners. The amendment was submitted to water court and the comment period ended October 30, 2003. If the amendment isn't approved, Pedro stated, he would seek water from another source. There was also some discussion about the Uses Allowed and that some Board members would like additional refinement prior to acceptance of the Final Plan.

BARNES MOVED to recommend that the Board of County Commissioners APPROVE the Preliminary Plan with two contingencies, 1) approved water augmentation plan, and 2) the list of approved uses be further refined. BAILEY SECONDED and the motion passed unanimously by role call vote. ATTEBERY said that this was the first PUD request under the new rules, and that he would like to see this application continue through the process. HOOD expressed concerns about the uses and water.

DOWNEY stated that he didn't believe that the requirements detailed in Appendix C.2.8 which requires evidence of a water supply that is sufficient in quality, quantity and dependability had been satisfied and therefore MOVED to REJECT the motion of the Planning Commission and DENY the approval of the Preliminary Plan. The motion died for a lack of second. HANDY said that the water issues continue to come up and that Pedro shouldn't be held up from fixing his water issues, and therefore MOVED to ACCEPT the recommendation of the Planning Commission to APPROVE the Preliminary Plan for Silver-West Business Park. HOAG SECONDED and the motion PASSED with HANDY and HOAG voting in FAVOR and DOWNEY voting OPPOSED.

Workshops were scheduled for November 13, November 18 and December 4, 2003, from 10:00 A.M. to noon in the Custer County basement. Pedro requested that he be allowed to do both the Presentation and the Hearing at the next meeting, if the workshops are successful. HOOD MOVED that the Planning Commission not allow Presentations and Hearings at the same meeting because having both at the same time poses problems such as the applicant expecting a decision without allowing the Planning Commission time to fully consider the request. BARNES SECONDED and the motion passed unanimously by role call vote, with ATTEBERY saying that it was very important to follow the process outlined in the Zoning Resolution.

GEORGE G., HANNAH AND L.B. WITHERS/SPECIAL USE PERMIT PRESENTATION

Property description: A TRACT OF LAND LOCATED IN THE SW4 OF SE4 OF SEC 15-21-69

Schedule number: 102-22-905

Withers presented his request for a Special Use Permit at the old Tough Teat Dairy location in Wetmore. Withers explained that he would like to add storage facility and office space to his list of uses. He explained that the R.V. camp sites and storage units would be "in the bottom, under the hill". These activities would not be visible because of the topography of the ground.

After a discussion about the allowed uses, BAILEY MOVED to recommend that the Board of County Commissioners APPROVE the Special Use Permit request for the convenience store in the existing building with gas pumps and excluding the request for horse boarding, R.V. campgrounds, storage and overnight guest rooms. Withers may modify this Special Use Permit to ask for those items after a year at no cost. CAMPBELL SECONDED and the motion passed unanimously by role call vote. The conditions of approval are the Withers Special Use Permit Conditions dated November 5, 2003 and are attached.

DOWNEY moved to ACCEPT the recommendation of the Planning Commission in APPROVING the Special Use Permit request for the convenience store with gas pumps. HANDY SECONDED and the motion passed unanimously.

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SKY PEAK PARTNERS, INC. / ROGER CAMPER / SUBDIVISION PRELIMINARY PLAN

Property description: TWO PARCELS OF LAND IN SECTION 20, TOWNSHIP 22 SOUTH, RANGE 72 WEST FORMERLY KNOWN AS the GEROUX PARCEL NORTH and the GEROUX PARCEL SOUTH.

Schedule number: 101-73-800, 101-73-850

ATTEBERY recused himself from voting on this issue but continued moderating the meeting. Camper was present and represented himself with assistance from Kit Shy, surveyor, and Rick Fendel, water attorney. Camper and Shy explained that all of the Preliminary Plan submission requirements have been made. He explained that the final plat will address roads, drainages, and building envelopes or setbacks to protect drainages. Water is to be supplied from the Upper Arkansas Water Conservancy District's water augmentation plan. The developer would like to have the roads constructed between approval of the Preliminary Plan phase and submission of the Final Plan phase in order to avoid the need for bonding.

Fendel addressed the concerns of Round Mountain Water and Sanitation District (RMW&SD) and answered Board questions regarding water. He explained that the water court could not approve a water augmentation plan that will injure other water users. He also explained that there aren't any Potential Sources Of Contamination (PSOC) from the proposed subdivision according to the Source Water Assessment Plan for Round Mountain Water and Sanitation District's wells. The purpose of the State and County I.S.D.S. regulations is to ensure that septic systems don't pollute ground water. The developer has agreed to provide utility easements in the road easements to allow RMW&SD to provide services to property south of the proposed subdivision. The property owner directly south has stated that they do not wish to be annexed into the RMW&S District. RMW&SD did not have a representative to present their objections.

BAILEY MOVED to recommend that the Board of County Commissioners APPROVE the Preliminary Plan and not require a U.S. Geological Survey. BARNES SECONDED and the motion passed with BARNES, CAMPBELL, BAILEY and RORICK voting in FAVOR. Hood voted OPPOSED.

HANDY MOVED to ACCEPT the recommendation of the Planning Commission in approving the Preliminary Plan. HOAG SECONDED and the motion passed with HANDY and HOAG voting in FAVOR and DOWNEY wasn't present.

FRANKLIN D. and DARILYN WAGNER (FORMERLY JAGOW) / VACATION OF INTERIOR LOT LINES/CREATION OF THE UNDERSIZED LOT

Property description: TRACT IN N2S2 SECTION 3 6 46 12 DESCRIBED IN BOOK 194 PAGE 719 CONTAINING .88 ACRES MORE/LESS ALSO KNOWN AS TRACT C AS NOTED IN THE SURVEY DATED 9/25/84 AND TR IN S2 SEC 36 46 12 DESCRIBED IN BOOK 165 PAGE 781

Schedule number: 100-93-454/102-05-450

BARNES replaced LOPRESTI on the Board of Zoning Adjustment because LOPRESTI had a previous commitment.

Wagner was present to answer questions from the Boards. She explained that she had 2 small lots and would like to combine them into 1 larger lot.

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Marguerite Kaminski was present to state her prepared objections contending that both parcels were illegally created after zoning was adopted and that there was no hardship to grant a variance.

There was a discussion about the date of creation. Shy questioned Naylor on whether the date of creation was the date of conveyance rather than the date of recording the deed. Naylor responded that the contract did create the lot. The date of contract for the original lot appears to be February 7, 1970 and the date the deed was recorded was May 3, 1971. The second lot was created by survey September 25, 1984 and designated as Tract C on that survey. This .88 acre lot was between the original 1 acre lot and the roadway insuring access.

NEPA MOVED to APPROVE the Creation of the Undersized Lot based on all the evidence of the non-conforming lot, and the addition of ground to it in the year 1984, all of which has been held in one ownership over that period of time. And in order to make it legal at this point for the site to be used as an entire site together, we agree that this is a 1.88 acre lot in a 35 acre zone and allow permits to be issued for a single family dwelling. I would further add to it that the unique physical quality that creates this hardship is a huge tree that needs to be saved on the property, in an open field. BOLKEMA SECONDED and the motion passed unanimously by role call vote, with BARNES explaining that this is in keeping with the history of how the Board of Zoning Adjustment has handled these types of requests in the past.

CAMPBELL MOVED to recommend that the Board of County Commissioners APPROVE the Lot Line Vacation. A survey is required and the new lot shall be described by metes and bounds. RORICK SECONDED and the motion passed unanimously by role call vote. ATTEBERY explained that historically the Planning Commission has tried to make that bad situation better by allowing people to create larger lots.

HANDY MOVED to ACCEPT the recommendation of the Planning Commission and APPROVE the Lot Line vacation. DOWNEY SECONDED and the motion passed unanimously.

DARLENE TRUE / SUBDIVISION REGULATION WAIVER

Property Description:N2SE4 SEC 32-21-69 ALL LYING N OF HWY 96 CONT 63.57 AC M/L

Schedule number:101-59-151

True was present and her husband Larry Klaholz explain the request. The 66 acre parcel has had a trailer on the western edge since 1976. This 13.93 acre piece has an household use well permitted on 5 acres. One septic permit is on file and appears to be on this piece.

If the Subdivision Regulation Waiver is granted, the remaining parcel will be 49.5 acres. It has a dwelling and a domestic well. There was a discussion regarding the validity of the well permit and its location and that the parcel had never been created for the well permit. The intention is to sell this parcel to a third party.

BAILEY MOVED to recommend that the Board of County Commissioners DENY this request based on this is a subdivision and should go through the Subdivision process and the Boards are trying to decrease density not increase. And we did deny a similar waiver request across the street. BARNES SECONDED and the motion passed unanimously by role call vote. ATTEBERY stated that someone had tried to do the same thing across the street and it was denied because of the neighbor's objection and this parcel has the potential for 3 dwellings.

DOWNEY MOVED to ACCEPT the recommendation of the Planning Commission to DENY the Subdivision Regulation Waiver. HANDY SECONDED and the motion passed unanimously.

The next Site Tour is December 4, 2003

The next meeting will be in December 9, 2003.

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Workshops to discuss the Silver-West Business Park PUD are: November 13, November 18 and December 4, 2003, from 10:00 A.M. to noon in the Custer County basement.

The meeting adjourned at 7:25 P.M.

Submitted by,

Dan Bubis
Secretary

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Withers Special Use Permit Conditions:

1. Special Use Permit will be issued when proof that all applicable State and Federal permits have been obtained. A current copy of these permits will be kept on file in the Planning and Zoning Office.
2. A County and/or State Access Permit will be obtained and a copy will be kept in the Planning and Zoning Office.
3. Parking will be contained within the property boundaries.
4. The applicant will comply with all applicable Federal, State, and County Regulations.
5. The permit will be reviewed in one (1) year or upon receipt of a written complaint.
6. The signage for the business will be in compliance with the County and State requirements, except that the word "store" will be allowed on both sides of the roof.
7. Hours of operation are unrestricted.
8. Legal source of water must be obtained and shall be provided by a commercial well.
9. Sales tax license must be obtained. A current copy of this license will be kept on file in the Planning and Zoning Office.
10. Septic System must be Engineer-Designed.
11. External lighting must be hooded and shall only be what is required to ensure safe conditions and should not be any more intrusive on the rural atmosphere than necessary.

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Conditions for approval of Silver-West Business Park

1. Permitted uses are low impact commercial businesses, support services, assembly, distribution, and light manufacturing as detailed in “Silver-West Business Park Permitted Uses” document. Retail businesses are not allowed without the prior approval of the Custer County Planning Commission.
2. Aviation related businesses are not allowed on these Lots unless application has been made and permission granted to do so by the Custer County Airport Authority
3. No more than two structures may be constructed on each lot, one of which may be an aircraft hangar.
4. All utilities shall be underground.
5. Full time residency is not allowed with the exception of proprietor’s or security occupancy which shall be contained within an allowed structure, and total area shall not be larger then eight hundred (800) square feet.
6. County zoning requirements shall be adhered to.
7. Roofs and walls of structures shall be non-reflecting in nature.
8. All structures shall be constructed in accordance with the Uniform Fire Code and the Uniform Building Code as it relates to the Uniform Fire Code. The codes shall be the current common codes adopted by the towns of Westcliffe, Silver Cliff and the Wet Mountain Fire Protection District. If the County adopts a Building Code that code shall take precedence. All structures shall be constructed to meet the 1 hour burn rating at a minimum. The Fire Inspector may increase the requirements after reviewing the blueprints and proposed uses for the proposed structure(s). The blueprints shall undergo a plan review prior to a Zoning permit being issued. The fees for the plan review and inspections shall be set by the Wet Mountain Fire Protection District. All inspections by the Fire Inspector shall be according to his availability. Annual fire inspections of all structures shall be required.
9. All outside storage shall be hidden from view by a visual barrier which shall not exceed eight (8) feet in height.
10. None of the Lots shall at any time be divided, subdivided or re-subdivided.
11. In order to protect the aviation clear zone, antennas, flag poles and other similar construction shall not be allowed to exceed twenty-eight (28) feet in height.
12. All open space or common property shall be owned and maintained by the Silver-West Homeowners’ Association and shall be kept as such for perpetuity.

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13. Security and control of all access from Silver-West Business Park to the public airport, shall be the sole responsibility of the land owners of Silver-West Business Park and Silver-West HOA. A signed letter of agreement between the developer of the Silver-West Business Park and the Airport Authority Board addressing these issues shall be submitted to, and filed by, the Planning and Zoning Office.
14. The Silver-West Homeowners' Association shall be responsible for adherence of and compliance with the terms and conditions of the approved water augmentation plan.
15. Custer County Planning and Zoning Office shall not issue any permits for construction until the construction plan and specifications have been approved by the Silver-West Business Park Architectural Control Committee and the Wet Mountain Fire Department Fire Inspector.
16. A commercial sanitation company shall be contracted for regularly scheduled refuse removal. The HOA shall be responsible for ensuring that the properties are well maintained and free from debris.
17. Compliance to the terms and conditions specified will be reviewed at the discretion of the Planning and Zoning Office, during compliance inspections, and on a written complaint basis.
18. The Staging Area designated on the eastern edge of the development shall be for the exclusive use of the Fire Department and shall remain so in perpetuity. The Fire Department may use the property for staging and water storage. No permanent structures shall be constructed in the Staging Area.
19. Water storage shall be 20,000 gallons on the Staging Area. 10,000 gallons of which shall be installed when the first lot begins improvements and the remaining 10,000 gallons shall be installed when the second lot is improved. Both tanks shall be connected and have the necessary apparatus as agreed upon by the Fire department. Additional water storage requirements on each lot shall be determined by the Fire Inspector based on: the fire protection needs in the general area, type of use, structural components and storage and amount of combustible materials. All water storage containers must be located below ground.

Silver-West Business Park Permitted Uses

The following uses are allowed in the Silver-West Business Park and any deviations or exceptions must be approved by the Planning Commission and Board of County Commissioners. If, in the opinion of the Planning and Zoning Office, the use is deemed to not comply with the “Low Impact” designation, the request will be made to the Planning Commission and Board of County Commissioners.

Low Impact Commercial Businesses

Support Services

Examples:

- Ambulance**
- Automobile Body Repair and Painting**
- Automobile Rental**
- Bookkeeping / Tax Service**
- Bus and Taxi Service**
- Child Care**
- Crematorium**
- Furniture Upholstering**
- Greenhouse – wholesale**
- Janitorial**
- Laboratory**
- Mortuary / Funeral Home**
- Museum**
- Offices**
- Pest Control**
- Religious Institution or school**
- Riding Arena – no boarding**
- Studio / Radio Station**
- Taxidermy**
- Travel Agency**

Small Component / Low Impact Assembly (A.K.A. Light Manufacturing) For Wholesale Distribution Only

Examples:

- Printing / Publishing / Bookbinding**
- Metal Fabrication**
- Machine Shop / Blacksmith Shop**
- Wood Shop**
- Sign Shop**
- Cabinet Shop**
- Metal Shop**
- Electrical Parts / Components Shop**
- Ceramic Shop**
- Glass Shop**
- Construction Trades Shop(s)**

Permitted uses as of 11/5/03

Silver-West Business Park

Feed Repackaging

Seed Repackaging

Food Preparation – wholesale packaging

Medical Supplies

Wholesale Distribution and Storage

Examples:

Ceramics / Glass

Fertilizer / Feed – pre-packaged

Electrical Components

Stone Products

Medical Supplies

Pharmaceutical Supplies

Frozen Foods / Non-perishables

Self Serve Storage

Household Goods Storage

Fulfillment Center