

Joint Meeting of the Planning Commission and Board of County Commissioners

October 2, 2007

Custer County Courthouse

Westcliffe, Colorado

Present:

Planning Commission Chairman: Lynn Attebery
Planning Commission Members: Sherry Rorick, Pat Bailey, Vic Barnes,
Rod Coker, Keith Hood, Bill Donley
Associate Members (PC): Sarah Senderhauf, Christy Veltrie
County Commissioners: Carole Custer; Dick Downey; Kit Shy
Planning & Zoning Office Staff: Jackie Hobby; Brian P. Clince
County Attorney: John Naylor

The meeting was called to order at 1:00 P.M. by Lynn Attebery, Planning Commission Chair.

BARNES: *MOVED* to accept the Minutes of the September 5, 2007 Joint Meeting of the Planning Commission and Board of County Commissioners.

BAILEY: *SECONDED* the motion on the floor.

ATTEBERY: The motion to **APPROVE** the August 7, 2007 Minutes *PASSES*.

Zoning Office Report:

- Bill Donley will fill vacancy on the Planning Commission with a term ending in 2010.
 - The Office is still having issues with sign violations & construction without a permit and those are being resolved.
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Humboldt Peak Partners

Hearing of the Preliminary Plan Phase of PUD Process

Property Address: 5295 County Road 129
Westcliffe, CO. 81252

Schedule Number: 102-89-851

ATTEBERY: Reads the applicants statement, "Preliminary Plan, PUD application for 80 acre parcel to include two existing caretaker units, ranch buildings, six new cabin sites and a common ranch cookhouse."

TOM BRAUN: We are now at the second stage of the three stage process and our purpose remains the same, to create a family compound & minimize change. We will have subtle changes occurring on our ranch with the addition of controls from public comment. The PUD provisions in your Zoning Resolution are about flexibility and we are reaching for a balance. The elements not changed in our application: the cluster of home sites around the cookhouse modified building envelopes which are outside of wetland areas. These envelopes establish control on location of housing. We are just trying to be cognizant of environment and neighbors. More elements not changed: we will only use three wells, we will have two leach fields that will be a mound type

engineered system, there will be no individual lots, there will be no commercial uses, we have put limitations on square footage of housing, we will use natural building materials, we will use agricultural fencing, there will only be twelve partners, and finally this will not be a timeshare. This is being done all in accordance with the PUD regulations that the county has set forth, and we ask for your approval. There are questions of precedent; and because of the constraints we have put on ourselves this should establish a precedent. We want to put the remaining land in conservation easement, and you could make that a condition for approval of the final phase. We have identified three different parcels where we reserve the right to five home sites. Though, we will have the conservation easement on the 323 acres before the next stage. At final plan review we will have all the nuts and bolts and drainage plans and engineered plans. The conservation easement is a big part of the plan. What could happen if this doesn't go further today? The housing will be spread out, with no controls and little restraints on where housing will be, lighting used and so on.

BUCK BLESSING: I echo everything Tom has said today. Every time we have heard objections to our project, we have done everything possible to comply. We have held two public meetings to get feedback. We understand that PUD's shouldn't be on the valley floor, but our property is different. We have heavy vegetation and trees on our land; it isn't prime flat hay farming land. How are we going to protect the rest of our land? The IRS won't give us the easement based on the PUD approval. We can not give up the five remaining home sites. So if I don't follow through with our intentions what position does that put the county in? The easement will protect all view corridors and it will keep the water with the land. Minimum commitments we have made include: we can't sell or lease water outside of the county, the ag land will be managed as one parcel where we can't fence property because it's one ag easement. We heard the question that if we are not approved, how will be approved next. The next individuals will do whatever they want. They could sell water, use whatever lighting. We want a family compound. The PUD process allows for a clustering of housing and that's what we need and this is important to us.

DOWNEY: How many buildable lots are there without the PUD?

BLESSING: Six.

DOWNEY: there are two dwellings present with wells?

BLESSING: One well.

DOWNEY: Since the sketch plan you have added five home sites.

BLESSING: The value of the other property is in the home sites we plan to give away.

ARLENE JANASKI: How many commercial and domestic wells will there be?

BLESSING: We are working on an augmentation plan, because we plan on drying up .4 acres. This augmentation plan has not been submitted yet. We are ready to meet the requirements of the final plan phase.

ARLENE JANASKI: What will be the impact to our roads?

BLESSING: I can't answer that.

WENDY GEARY: Scott & I aren't happy with the PUD, but we are happy that they have answered all the concerns. Our concerns may be personal and selfish and if it is going to go through we are opposed. Precedence is being set here and we should all be concerned. I may be the next one applying for a PUD.

BARNES: If this is approved today, the easement will be in place for final approval.

BLESSING: The easement will be for the 323 acres, but the real tax benefit comes from the five home sites.

BARNES: What is the disadvantage of postponing now and getting the easement on the land and the five home sites?

BLESSING: I cannot commit to giving those up. The risk is too great on the hope that the PUD is approved.

BARNES: It comes down to who wants to trust who first.

BLESSING: You will get the blanket easement on the 323 acres and worst case scenario is that you will have 80% to 90% of the remaining water staying in the county.

DONLEY: Is any of the proposed PUD irrigated?

BLESSING: 44 acres will be irrigated, and we eventually want 400 acres under the easement.

DONLEY: The dried up land will come from acres irrigated from the PUD?

BLESSING: Yes

BARNES: I would ask Mr. Naylor to comment on any contingencies of this plan.

JOHN NAYLOR: The conditions of the final plan will come with the engineered plans, augmentation plans, and the conservation easements.

BARNES: Can the approval be contingent on these conditions?

NAYLOR: Yes. That happens all the time.

DONLEY: Can we give approval on one piece of property based on what they will do on another piece of property?

BLESSING: You cannot ask for it, but we have offered it.

BARNES: What about other commitments?

BLESSING: Pending your approval, they will be entered in the record.

SHY: Your written offer is in the record and with the easement. We will need time to review it.

NAYLOR: Approval of the covenants will be on the Plat.

ATTEBERY: (Read the conditions and covenants that Buck Blessing put on the PUD)

HOOD: *MOVED* to **APPROVE** a recommendation to the Board of County Commissioners for approval of the Preliminary Phase of the PUD process contingent on: the conditions enumerated in Buck Blessings Letter, entered into the record and dated October 2, 2007, Conditions and restrictions placed upon them in a separate document titled, Proposed Conditions of Approval.

COKER: *ADDED* to the motion with the condition that the Buck Blessing Letter speaks for the entire LLC, and not just Buck Blessing.

ATTEBERY: Stated the **MOTION** on the floor. The Planning Commission recommends the Board of County Commissioners **APPROVE** the Preliminary Plan Phase of the PUD process with the conditions that: are enumerated in the letter entered into record from Buck Blessing dated October 2, 2007, conditions and restrictions are placed upon them in a separate document titled, Proposed Conditions of Approval, and that these documents speaks for the entire LLC and not just Buck Blessing.

ATTEBERY: The motion *PASSED* unanimously.

HOOD: Yes, they have applied stricter regulations than we have asked for.

DONLEY: Yes, I am satisfied that the water will stay in Custer County, and that adds certainty to an uncertain situation.

BARNES: Yes, I feel the concept is good. The likelihood that the six parcels will be sold is high and this is a better alternative.

BAILEY: Yes, the sketch plan needed something for the 323 acres and hope the five home sites are gifted.

RORICK: Yes, because of their compliance with the counties master plan.

COKER: Yes, the PUD process is working and Buck is doing what he said he would do.

ATTEBERY: Yes, the process is working and it is up to the applicant to do what they have said for the next phase of this process.

SHY: *MOVES* to **APPROVE** the recommendation of the Planning Commission with the added conditions that: the final plat will show roads with a 20 foot driven surface, and a fire mitigation plan for structures as well as fuel mitigation plan with cisterns.

CUSTER: *SECONDS* the motion.

DOWNEY: States that he does have a problem with the five buildings.

DOWNEY: The motion to **APPROVE** the recommendation of the Planning Commission with the added conditions of Commissioner Shy *PASSES*.

BILL DONLEY: Recuses himself from the next agenda item.

CHRISTY VELTRIE: Is chosen to fill the vacancy on the Planning Commission.

Wetmore Volunteer Fire Department Hearing of a Special Use Modification

Property Address: 200 CR 290
Wetmore, CO. 81253
Schedule Number: 100-81-117

ATTEBERY: Reads applicants statement, “Previously submitted SUP on 6/8/2006, for fund raising events to include meals, breakfasts & dinners, dances, community socials, wedding, and emergency prepared functions, training functions, and stationing outside service and equipment. The application at the time stated that portable toilets would be utilized for all functions other than fire related events, not fire department normal events. For example departmental training etc... We would like to amend our application to allow low impact community meetings such as voting and commissioner meetings to be added with out financial burden.” Is there any addition to this statement?

CHARLIE JUDGE: I would like to have no alcohol restriction.

BAILEY: These meetings will be low impact?

JUDGE: Yes, No one hangs around after voting sessions, or commissioner meetings. The porta potties were just too restrictive.

BARNES: *MOVES* to recommend the Board of County Commissioners **APPROVE** the Special Use Modification with the following conditions only: the Special Use Permit is reviewed on a written complaint basis only, they must comply with all local, state, and federal regulations, the Special Use Permit is for organization of the Wetmore Fire Department only and not the land on which they occupy, therefore upon change of ownership of the property the use of the land reverts back to the uses allowed by right of the Custer County Zoning Resolution, and finally that porta potties will be required for

any activity other than the day to day activities including low impact activities at the facility.

HOOD: *SECONDS* the motion.

ATTEBERY: The motion to recommend the Board of County Commissioners **APPROVE** the Special Use Modification and to include the listed conditions only, *PASSES* unanimously.

BAILEY: Yes, I have no problem with the modification.

VELTRIE: Yes, no problem.

COKER: Yes, this modification will make their facility more workable.

HOOD: Yes, this will help Wetmore Fire greatly.

RORICK: Yes, I echo everyone.

BARNES: Yes, I feel the same as everyone here.

ATTEBERY: Yes, this is a better deal and it will help Wetmore Fire Dept.

DOWNEY: *MOVED* to **APPROVE** the recommendation of the Planning Commission.

CUSTER: *SECONDS the motion.*

DOWNEY: The motion to **APPROVE** the recommendation of the Planning Commission *PASSES* unanimously.

**Estate of Donald and Virgil Lawson
Hearing of a Waiver of the Subdivision Regulations**

Property Address: 182 CR 295
Wetmore, CO 81253
Schedule Number: 101-11-903

ATTEBERY: Read the applicants statement, “The applicant desires to create an undersized lot (7 acres) to comply with the desires of the deceased Donald Virgil Lawson. To comply with the deceased, Donald Virgil Lawson divides the house on the described property on attachment 1, #2 to his grandson Randy Lee Lawson of Wetmore Colorado.” Do you have any addition to this statement?

RANDY LAWSON: Entered his surveyed map into the record and explained the layout of the property to the Planning Commission.

HOBBY: Explained the findings of the Board of Zoning Adjustment, earlier that morning. The BZA had **APPROVED** the applicants request to Create an Undersized Lot. Mr. Naylor explained at this hearing that a Will can be an exemption to the subdivision regulations, as well as create a hardship for the grantees.

KEN HUDSON: Where does the water come from for the seven acres?

LAWSON: A well is on the property and goes with the house.

NAYLOR: A Will is equivalent to a court order and is an exception to subdivision regulation and zoning regulation. Any objection to the Will from established regulation could be viable only if it is an obvious attempt to go around subdivision or zoning regulation.

DONLEY: Where lines are drawn in the Will makes sense to how the ranch is being used.

DONLEY: *MOVES* to recommend the Board of County Commissioners **APPROVE** the Waiver of the Subdivision Regulation for the Estate of Virgil Lawson.

BARNES: *SECONDS* the motion.

ATTEBERY: The *MOTION* to recommend the Board of County Commissioners **APPROVE** the Waiver of the Subdivision Regulation for the Estate of Virgil Lawson *PASSES* unanimously.

COKER: Yes, this makes sense to how the land is used.

HOOD: Yes, John Naylor's explanation of how the Will works with regulation creates the hardship.

RORICK: Yes, there is no change in density.

BARNES: Yes, there is no change in density.

DONLEY: Yes, I echo Vic and Sherry.

BAILEY: Yes, this was a formality.

ATTEBERY: Yes, for obvious reasons that were made clear today.

CUSTER: Are there any implications with the well?

NAYLOR: No.

SHY: *MOVES* to **APPROVE** the recommendation of the Planning Commission.

DOWNEY: *SECONDS* the motion.

DOWNEY: The motion *PASSES* unanimously.

Steve & Judith Mitchell
Hearing of the Waiver of the Subdivision Regulations

Property Address: 106 County Road 182
Westcliffe, CO. 81252

Schedule Number: 100-44-650

ATTEBERY: Read the Applicants statement, "I request to add the described, "proposed parcel" (approximately 1.5 acres) to my existing property (1.53 acres) to make this non conforming lot more conforming. This would also decrease potential density in the area. This would also give me more space away from the Verdemont radio tower which represents a hardship to me. Approval would be subject to a survey, also subject to all existing easements (CR 182R). Upon completion internal lot line would be vacated to create one larger more conforming parcel." Do you have anything to add to this statement Mr. Mitchell?

STEVE MITCHELL: I really want to preserve my views. From the site tour it is obvious where a good building site would be, so I would like to purchase this land, then vacate that interior lot line, as well as preserve the easement.

ATTEBERY: What were the Board of Zoning Adjustment findings this morning?

HOBBY: The BZA **APPROVED** the request to Create an Undersized Lot.

RORICK: Was the tower there in 1994?

MITCHELL: Yes. Though, when it was first installed it was much smaller than it is now. There have been modifications to it within the past few years that increased it size.

DONLEY: *MOVES* to recommend the Board of County Commissioners **APPROVE** the Subdivision Waiver for Steve Mitchell.

BARNES: *SECONDS* the motion.

ATTEBERY: The *MOTION* to recommend the Board of County Commissioners **APPROVE** the Waiver of the Subdivision Regulation for Steve & Judith Mitchell *PASSES* unanimously.

DONLEY: Yes, this makes a lot of sense.

RORICK: Yes, this makes sense for the Mitchells.

HOOD: Yes, any thing to make this area more conforming.

COKER: Yes, I echo Keith.

BAILEY: Yes, this creates a more conforming situation.

BARNES: Yes, this will increase lot size.

ATTEBERY: Yes, this is the best thing for this area.

SHY: *MOVED* to **APPROVE** the recommendation of the Planning Commission with the following conditions: that in any further subtractions from the property of Mary Jagow, she maintains a minimum lot size of 35 acres, and the division of Steve Mitchells property by the road in no way implies that there are or ever may be two lots because this application has created this situation and not the county.

DOWNEY: *SECONDED* the motion.

DOWNEY: The motion to **APPROVE** the recommendation of the Planning Commission with the following conditions: that in any further subtractions from the property of Mary Jagow, she maintains a minimum lot size of 35 acres, and the division of Steve Mitchells property by the road in no way implies that there are or ever may be two lots because this application has created this situation and not the county, *PASSES* unanimously.

Joy Y. Korkowski & Brad T. Yamamoto
Presentation for a Special Use Permit

Property Address: 2265 County Road 358
Westcliffe, CO. 81252

Schedule Number: 101-99-403

ATTEBERY: Read the Applicants statement, “We would like permission to develop and use the two properties listed as a spiritual retreat center. We would like to build the following permanent structures: a caretaker residence, a second structure for guest lodging, a meeting hall, and a garbage/storage shed. The uses of the retreat center would be as follows: a weekly program of lectures and guided meditations, open to the public, guest accommodations for personal retreat practice, periodic group seminars averaging 60 to 120 participants up to 6 to 10 times a year, one or two annual events averaging 450 participants up to 600 participants over a five day period using tents, temporary structures and services.” Are there any additions to this statement?

CHARLOTTE JORGENSEN: We want a place with natural beauty because we love the land. We will have all functions on the larger portion of the property. Our Special Use Permit entails major aspects: it will be open to the public, we will offer public lectures or seminars, and some members of group will be here for extended times for meditation, smaller groups from 20 to 120 will come through the weekend and they will most likely

be shuttled in, once or twice a year for approximately four to five days, we will have our large course for approximately 350 to 450 people. People will stay on the premises, they will be in courses all day. In the future we would like to have up to 600 people, and they will be camping. (Charlotte explained positions of structures and proposed structures on the site) We will have a meeting hall, bunkhouse, designated Parking Area, cistern for water protection, dining tent, shower, trailers. We may need a catering service for the larger function. Garbage collection will be set up for areas for camping and RV parking. As for water, we cannot apply for wells with out ownership of the property. There already is one existing well. We would like a commercial well to supply the bunkhouse and meeting hall and a domestic well for an additional house. There will be three wells total. She then showed the planning commission different access point to the property, where they will run the tour buses for the large event up county road 358. For the personal retreats, five individuals will be on site at one time. The seminar will be hosted every six weeks, which will entail approximately 30 individual cars for seminars. The annual course will require 2 to 6 large tour buses and 70 individual cars that will be parked on the premises. People are required to register with us and drive at a maximum of 15 miles per hour while on county maintained roads. We feel the felt activity will be less than expected except for the larger course.

DONLEY: Will there be platforms for tents?

CHARLOTTE: No.

DONLEY: Will you have a commercial well?

CHARLOTTE: We want an exempt commercial well and hope to meet the 108,000 gallons per year. If our estimates are low we would purchase water, or drill a second commercial well.

VELTRIE: We need a road boss to comment on having tour busses on county road 358. Plus, there will be no economic benefit to our community because of your proposed entry and exit locations.

CHARLOTTE: If you like, we can bring the busses through Westcliffe.

BARNES: There are structures mentioned on your website, that are not listed on your application.

CHARLOTTE: What is listed on the website was created before we even had the potential for this property.

BARNES: You mentioned that our county is more flexible?

CHARLOTTE: That pertains mostly to the land itself. We had first looked in California were the terrain was to steep or just could not meet our needs. Plus, the process is much easier here. This process in California entailed a great deal of more work and money, with inspections and engineers and regulation.

BAILEY: You lead this foundation?

CHARLOTTE: I am the treasurer.

BAILEY: How long has this organization been around?

CHARLOTTE: 1994. The organization was founded just for the purpose of acquiring property.

BAILEY: The sale of this property is contingent approval of this Special Use Permit?

CHARLOTTE: Yes.

BAILEY: Is this the first property that your foundation will own?

CHARLOTTE: The first large property in the U.S. All other properties are in Europe.

VELTRIE: Tents will be used for the large function or regular usage?

CHARLOTTE: Both. The Bunkhouse would hold approximately 60 people.

SHY: I am concerned about your water calculations.

CHARLOTTE: We figured the water calculations depending on where they stay, because we figured campers use very little water. We figured 15 gallons daily for campers, 50 gallons daily for people staying in the cottage, 40 gallons daily for people staying in the Bunkhouse.

COKER: I suggest you develop a more comprehensive study for all water usages.

**Mitch & Robin Young
Presentation for a Special Use Permit**

Property Address: 4456 County Road 129
Westcliffe, CO. 81252

Schedule Number: 100-05-313

ATTEBERY: Read the applicants statement, “Young’s Forestry Inc. would like to move their business to 4456 County Road 129. The current location is not well suited for processing or customers. We need a location that is easily accessible for both.” Are there any additions to this statement?

ROBIN YOUNG: No.

VELTRIE: Before you had plans on Highway 69?

YOUNG: Yes, but this is nothing to the scale of the last project.

BARNES: How much land will you have?

YOUNG: Less than one acre.

RORICK: Where will the wood come from?

YOUNG: From field operations. We will use wood that is conducive to the land. There will be no imposition to view shed from wood on site. Plus the wood processing will be fast.

CUSTER: We should ask Road & Bridge about possible impacts to roadways.

YOUNG: My one ton dually will be are largest piece of equipment on the roads.

DOWNEY: How many customers do you expect daily?

YOUNG: One to five at the very most weather permitting. More than 85% of our income is created from the field work.

DOWNEY: Will you sell lumber?

YOUNG: Yes.

SHY: All by-products will be sold, preventing piles. Plus, will you comply with all OSHA regulation?

YOUNG: Yes.

HOBBY: There is also the issue of a refund, applied to this permit.

BARNES: *MOVES* to recommend the Board of County Commissioners **APPROVE** the refund of money paid on the Young previous Special Use Permit application minus money spent on postage to adjoining property owners.

DONLEY: *SECONDS* the motion.

ATTEBRY: The *MOTION* to recommend the Board of County Commissioners **APPROVE** the refund of money paid on the Young previous Special Use Permit application minus money spent on postage to adjoining property owners *PASSES* unanimously.

CUSTER: *MOVED* to **APPROVE** the recommendation of the Planning Commission.

DOWNEY: *SECONDS* the motion.

DOWNEY: The *MOTION* to **APPROVE** the refund of money paid on the Young previous Special Use Permit application minus money spent on postage to adjoining property owners *PASSES* unanimously.

BARNES: *MOVES* to adjourn.

HOOD: *SECONDS* the motion.

ATTEBRY: The October 2, 2007 joint meeting of the Planning Commission and the Board of County Commissioners is adjourned (4:31 p.m.).