

Joint Meeting of the Planning Commission and Board of County Commissioners
September 5th, 2007
Custer County Courthouse
Westcliffe, Colorado

Present:

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

The meeting was called to order at 1:00 P.M. by Keith Hood, Acting Planning Commission Chair.

BARNES: *MOVED* to accept the Minutes of the August 7, 2007 Joint Meeting of the Planning Commission and Board of County Commissioners.

BAILEY: *SECONDED* the motion on the floor.

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

Zoning Office Report:

- Septic and Zoning Permits issued this month have remained consistent with the number of permits issued in August of 2006.
 - The Office is still having issues with sign violations & those are being resolved.
 - Our next Site Tour is scheduled for September 27, 2007, which is at Humboldt Peak, and Wetmore Fire Department.
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Dave & Brenda Roeвер of the Eagle Summit Ranch
Special Use Permit Hearing

Property Address: 8333 County Road 271 Westcliffe, CO. 81252

Schedule Number: 101-49-904

HOOD: Read the applicant's statement, "Dave and Brenda Roeвер request a Special Use Permit to operate the Roeвер Learning and Resource Center within their parsonage home on David Roeвер_ Parcel B located on Eagle Summit Ranch. As I approach age 60, my entire career has been in public service, Ministry and Military. At retirement my services in both areas is strongly sought after and my old body cannot travel as before. Hence, my dearest associates and friends still seek my advice and desire to visit my home here in Westcliffe, CO. Additionally, the wounded young warriors returning home from Iraq and Afghanistan desire mentoring in the field of my expertise. They will visit my residence and I will advise them and direct them in quite council, to give them a future after their devastating injury.

HOOD: Mr. Roeвер have anything to add to this applicant's statement?

DAVE ROEVER: No sir.

HOOD: Is there questions from the Planning Commission?

BAILEY: You have 108,000 thousand gallons of water for your operation annually, if you exceed those needs where will the water come from?

MARK HAINEY: (Representing Eagle Summit on all technical issues), We also have a well on Parcel A, which is also licensed to use as a supplement.

BAILEY: Your application states that you will need up to 266,000 thousand gallons.

HAINEY: Yes sir, we have been given permission by the Division of Water Resources to use the well on Parcel A for the supplemental needs.

HOOD: This has been cleared by Division 2?

HAINEY: Yes

RORICK: Will there be medical services needed from the county?

HAINEY: We would be using County Medical Services for Ambulance and in the event of an emergency, but we do have volunteer medical staff that would be on site. None of our participants will require consistent medical attention. These men are already out of the medical system and on their own.

BARNES: Are you a Bed & Breakfast?

HAINEY: That was the closest box we could check for the state.

BARNES: You have to get a permit to run a Bed & Breakfast?

MARY GAITHER: Yes, even though it was stated that our operations are not to the extent of a Bed & Breakfast.

BARNES: You also talked about porta-potties in your application.

HAINEY: Those will be just temporary during construction. The porta-potties will not be on the premises after the project is complete and the Special Event is over.

BARNES: There is also a letter in here from the President of the home owners association, which implies that there were some concerns.

HAINEY: I am not sure if they are represented here today, though I was present last month at their monthly home owners meeting and tried to address their concerns and felt like we had done so successfully.

BARNES: It didn't say that they were against you; they just said they had concerns, and I wanted to make sure that those concerns were represented. It seems the engineered septic is not adequate for what you're doing and you are going to make plans for annual pumping.

HAINEY: We need to add another 500 gallons or have it pumped annually, so at this point we are planning to pump it.

RORICK: You will have groundskeepers? Where will they be housed?

HAINEY: All employees that work on or for the Ranch will live off property, but they are all homeowners in the county.

BAILEY: What were the concerns from the Home Owners Association?

HAINEY: One of the concerns was that one of our guests would get loose and cause havoc he community. We told them that we were putting up a fence to keep the neighbors out and our guys in.

CLINCE: I do have a letter that expresses concerns, but not opposition. This document was written by Alex Wilcox, the President of the Dilley Ranch Homeowners Association. I will begin with the last paragraph where the concerns are addressed and Mr. Johnson may answer these concerns one at a time. Is this to be a mental hospital of sorts?

HAINEY: No.

CLINCE: Is this to be a hotel?

HAINEY: No.

CLINCE: Is this to be a religious center?

HAINNEY: No.

CLINCE: Are there going to be more than one structure enough to constitute a bungalow or bed & breakfast type of situation?

HAINNEY: No. The only structure on the B parcel will be the one structure.

CLINCE: What will be the average population at any one given time and how long will they stay?

HAINNEY: We are looking at 8 guests for 10 days, for 26 weeks a year.

HAINNEY: What is the water drawdown effect resulting from large number of guests on the property and its affect of the area aquifer and individual well in the surrounding area?

HAINNEY: I feel that that would be addressed in the well permit.

CLINCE: What is the impact on the county roads resulting from the increased vehicular traffic?

HAINNEY: All our guests will be brought in on one van from the airport and returned to the airport on that same vehicle.

CLINCE: Is this facility to become some kind of college or university?

HAINNEY: It is connected to college and university, the participants will be able to get college credits for participating in the program, but they will only be with us for those 2 weeks.

CLINCE: If so what State educational standards must be adhered to?

HAINNEY: The program is accredited through university.

CLINCE: If the veterans are suffering from some sort of mental breakdown, or flashbacks, what is to be the level of security and medical and psychological supervision?

HAINNEY: Our participants are highly screened and we do not anticipate having any issues.

CLINCE: What safety precautions have been taken, in the event a service person wanders off of the compound into the surrounding residential neighborhood, and causes harm to a neighboring resident?

HAINNEY: My question is how many veterans live on the Dilley Ranch? We have the same concerns.

CLINCE: There has been talk of construction of a helicopter landing facility to bring either participant directly from mental hospitals or via military aircraft. Plus there has been talk of high ranking military generals flying in via military aircraft to provide inspection.

HAINNEY: No.

CLINCE: That answers all of the questions from Alex Wilcox

HOOD: Are there any more comments?

GREG LANG: (Dilley Ranch Resident) We are totally in favor of this.

CLARA McCUTCHEON: (Lot 16, Dilley Ranch) Fully support the Roevers in their application.

LORAIN SILVA: (Dilley Ranch Resident) I have never seen excessive noise or dust, and Alex Wilcox did not have permission of any Dilley Ranch home owners to submit that letter.

PASTOR DAN DeVIDEO: (Pastor of Westcliffe Community Church) Voiced his support of the Ranch.

DORIS LEE: (CR 265) Voiced support of Dave Roevers taking care of our veterans.

CHAPLIN DAVE: (Ranch of Hope) Voiced his support of Dave Roevers and the Eagle Summit Ranch.

MARTHA DAVIS: (Neighbor of Dave & Brenda Roever) Voiced Support for the Eagle Summit Ranch.

JACK SLATER: (Owner of the Oak Creek Grade General Store) Voiced support for the Eagle Summit Ranch.

CHARLES BOGLE: (Leader of the American Legion Post in Westcliffe) The American Legion uniformly supports the endeavors of Dave Roever and the Eagle Summit Ranch.

RORICK: You said there would be screening, what would be the qualifications?

DAVE ROEVER: I interview them personally. Guys that have lost limbs that may feel like they don't have a future. These are the individuals that I am catering to. In the interview process I check out their spirit and attitude, and if they show a desire.

SARAH SENDERHAUF: Was seated as a voting member, to set up to fill a vacancy in the Planning Commission.

BARNES: *MOVES* to recommend the Board of County Commissioners **APPROVE** this Special Use Permit with the following conditions: They comply with all Federal, State, and Local regulations, The Special Use Permit be tied to the owners of the land and not the land itself, It be reviewed after one year and by a compliant basis after that,

BAILEY: Recommended that a receipt of annual water usage as well as septic pumping be submitted to the Planning & Zoning Office Annually.

DOWNEY: Recommended we allow more time for individuals to stay in the case of snow storms.

BARNES: Adds these recommendations, to the *MOTION*.

CLINCE: The Motion now states: The Planning Commission recommends the Board of County Commissioners **APPROVE** this Application for a Special Use Permit with the following conditions:

1. That the applicants comply with all Federal, State, and Local Regulations.
2. It will be reviewed after 1 (one) year, and by complaint basis afterwards.
3. The applicants submit annually, a receipt of annual water usage as well as a receipt of annual septic pumping to the Planning & Zoning Office.
4. The Special Use Permit is tied to the organization and applicants who own the land and not the land itself. Therefore upon change of ownership, it will revert back to a single family dwelling status.
5. A maximum of 8 (eight) individuals may stay for a maximum of 16 (sixteen) days at 26 weeks annually.

HOOD: The Planning Commission voted unanimously to **APPROVE** the application for a Special Use Permit for Dave & Brenda Roever and the Eagle Summit Ranch.

BARNES: Yes, and stated that this is a good thing for the county plus the Roevers have complied with every county regulation in the past.

BAILEY: Yes, and echoed Vic Barnes reasoning for approving the application.

RORICK: Yes, and stated that we should do anything we can to help out veterans.

COKER: Yes, and stated that it was our responsibility to help.

SENDERHAUF: Yes, and stated that the community is clearly in approval of this application, the Roevers have addressed all the communities' needs plus taken extra steps to lessen the impact of this operation.

HOOD: Yes, and stated that this would definitely be a worth while addition to our community.

SHY: *MOVED* to **APPROVE** the recommendation made by the Planning Commission.

CUSTER: *SECONDED* the Motion on the floor.

DOWNEY: The Motion to **APPROVE** the recommendation of the Planning Commission passes unanimously, along with the conditions stated in the recommendation.

Humboldt Peak Partners
Presentation of the Preliminary Plan Phase of PUD Process

Property Address: 5295 County Road 129 Westcliffe, CO. 81252
Schedule Number: 102-89-851

HOOD: 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. Proposal includes 75% open space.”

BUCK BLESSING: We have been listening to the community and the comments that came from the meeting three months ago. We have had two or three meetings with the community to and decided to make some changes based on those meetings. Mr. DeWeese was concerned about the cookhouse and the style, so we’ve reduced the size. We now have pictures of the style that show how it will fit in. Bill Gillette wanted our promises to be in writing. He wanted to make sure that we were going to do what we said we were going to do, and we couldn’t weasel out. So, I think we addressed this issue. Jerry Brown was concerned about losing Ag land, so are we. We want all this land to stay agricultural. For that reason this PUD has 88% of the land remains untouched and additionally, the remainder of the ranch will be under easement. Everyone should know that our intentions are the same as the ones who are concerned about this land. Wendy Geary and Rock Canda are concerned about the well and the septic and whether we are going to dry up enough land for our water uses, we now have that engineered now and that’s in the package. Dorothy Nepa was concerned about wildlife friendly fencing, and we are not going to have perimeter fencing around our houses, additionally we are going to have lighting provisions. That’s one reason we are all here, is to walk out at night and see a sky full of stars. Sally & John Brandenburg and Kirk Charbenneau along with two letters to the editor, are concerned in general about PUD’s, and thought PUD’s were bad. A few comments that came out of those letters were, “Why don’t we just follow the zoning rules.” and another one was, “Why do we have to keep changing the rules.” I want to make a point very clear. We are within the PUD provision and we did not set the PUD provision in place, and we’re not the first to ask to use it. In the zoning rules is this ability to use a PUD to increase density if you are willing to protect open space. The rules allow 10 units on 80 acres if you leave 75% of the space open. We’re asking for 6 units on 80 acres and we’re going to leave 88% of the land open. What we are asking for is actually less than the rules allow. The thing that’s been important for us and this came from discussions at our very early public meetings, for people that are concerned about PUD’s, the thing that’s really important, if we’re going to use the PUD process, and we feel that’s what we need to use to get the development we want. Plus I just have one more thing to say, that there are people that don’t want anything to happen on our ranch, and to those people I would say that that’s not going to happen. Somebody’s going to do something on that ranch, and the worst possible thing that could happen, is that it gets broken up into smaller parcels. I’m against that and I think that most people are against that. So, how do you use the PUD process and set a good precedent? As opposed to using it and setting a bad precedent? In my mind a bad precedent would be to go out East of Macy Road, and put 10 houses on 25% of the land and have 75% open, and you’ve got 10 houses right out

in the middle of the valley where everybody sees them. So how do we set a good precedent that can be looked at in the future by the Commissioners and the Planning Commission, and say if we're going to consider another one of these, does it meet the criteria we set up for this one. The things that I feel we've done to set a good precedent are: first, everything's hidden. We have tucked away all these homes so you can't see them. Secondly, we have worked with our neighbors. I spoke with Scott and Wendy and they had a problem with our cookhouse being too close to their property line, so we moved it. We held public meetings, and that's the kind of precedent of process you should follow. Third, nothing is sellable. We're not doing this so that we can put a for sale sign up and sell a house. It's all one and it will all be owned by one entity, and this is not a subdivision. There's no commercial use and the last one is that we have put size restrictions on everything we build. I want to remind people what we are doing here. We have three families and we all have kids, and we all want a place to give to our generations and that's the heart of it. We want to have horses on the property and we want trails for hiking and horseback riding. We want this to be a place for our kids and grandkids to come back to. That's the overriding thing that has driven everything we are doing. To make this a special place that fits in a special valley, we don't want it ever developed we don't want a bunch of housing. That's why we intend to put a conservation easement on the property. At the last meeting, we heard three things from the planning commission and the board of county commissioners, the first was the size of the cookhouse. Everyone said that the size of the cookhouse made this project look commercial, so we cut the size of the cookhouse. Some people might still think that that is too large, but we have actually worked with an architect, to come up with a drawing to show you what we really need. We want a place where the kids can watch movies, we want to have a ping pong table and a pool table, and we might want to have a foosball table. We want to have a nice quiet place for people to sit and relax, there's going to be eating so there's a dining room. That takes space, and that's why it's the size it is, but we did reduce it down to a comfortable size we thought we could handle. Second thing we heard was, how many members could you have in your LLC? What are doing now is permanent and in no instance in the future will there be changes to this. There are only three families today. We don't have anyone waiting in the wings to come join us. We have six cabins and that will be at two families per cabin. So that rules out the timeshare, where you have 50 different families per unit. The last thing we heard was that you want to see a connection between the PUD and the easement. We spent a lot of time working on that piece and that is very hard to do because of certain regulations. We can't tell you that we are going to put an easement on the rest of the land. That would be looked at as a quid pro quo. All I can tell you is what our intentions are. What I told you last time was that we would do a phased gifting of the remainder of the ranch, reserving three home sites for ourselves in the woods. We are now looking at speeding that up and doing a gift all in one year. So that the entire property would be gifted and put under easement in one year. (There is a slight possibility that it would go into the septic area, but it wouldn't go past that in any circumstance.) We are giving up the three home sites in the woods. We do hope to negotiate with the San Isabel Foundation the right to have a couple of very small size limited overnight cabins in the woods. So if you came down with your family and your kids wanted to spend the night in the woods instead of in a cabin by the cookhouse, but that's a separate thing, we're not going to reserve any rights for home sites. That's our intention.

TOM BRAUN: (Showed drawings that were approved in March.) Following that approval we began to look at more specific application. We still have the ranch headquarters and six home sites. We've gone from circles to actual shapes. These vary in size from just a half of an acre to over three quarters of an acre. We have taken a step towards additional detail in the plat itself prepared by Coy Myers a surveyor. What it would do upon final plat approval is plat or creates?

DOWNEY: Before you go to the next chart could you show where residences 7 & 8 are on that chart?

BRAUN: There are six new potential home sites.

DOWNEY: Where are the three existing ones?

BRAUN: (Indicated their locations.)

BRAUN: This document would create an 80 acre parcel. One concern that came up was, about these six home sites, could they be sold separately from the ranch. We indicated that they would not be and we would find some mechanism to make sure that this would not happen. This is a family compound; this is not a real estate deal here. We thought that the simplest ways to show that home sites would not be sold was to not create them. Rather than creating roughly two acre lots, we did not create any lots. We have simply defined six building envelopes, they are dimensioned and tied to known points so they can be located in the field. There is no additional property that could be sold. The point of all this is to use the mechanisms within the subdivision regulation and PUD regulation to back up and support our responses to concerns we have heard. The plat also acknowledges an access easement that would have a written legal description in our submittal. We have also prepared engineered drawings. Crabtree and Associates in Salida has done the work for us. There were also concerns brought to us about how many septic systems and wells would be needed. We had proposed just two wells that would serve the entire property. One well would serve home sites (one) through (three), the other well would serve sites (four) through (six) as well as the cookhouse. We indicated at the sketch plan we would submit an augmentation plan for approval of the wells through the state water engineer, and indicated was that the total consumptive use would be .41 acres to dry up to support the domestic use that would be obtained through these two wells. Each building would have a septic tank but just two leach fields. We would gravity feed or pump to common leach fields to serve three buildings and another leach field in another location to serve the other four. Paul Snyder will talk about the CC&R's , and plat other documents to provide regulatory controls and limitations on the plan. Two things came up, one concerning commercial use, and timeshare.

PAUL SNYDER (Attorney for Humboldt Partners): What I have handed you is a draft for covenants and restrictions for the PUD. The idea is to put black & white an enforceable way the things that both Tom and Buck have told you. This is where it really says that the houses are limited to 2,600 square feet. The cookhouse will be limited to a 4,800 square feet. It essentially tracks the county zoning resolution in terms of height restriction. So that you have a maximum of the 25 foot height restriction at the high point of the grade, and 35 foot at the low point. It makes sure that there cannot be a dumping ground and that there cannot be commercial uses. It says that there cannot be any activity on the property that is inconsistent with or in violation of applicable zoning rules. Lynn Attebery brought up the point that the Planning Commission would like to identify specific things that can't be done on a property such as a motorcycle range. There was an issue of ownership. Lynn said why don't you put language in there that addresses that. On page 2 articles 3A. No entity owning the property shall have any more than 12

members or shareholders. I made that attempt that the property not be operated as a timeshare as the term is commonly known. We addressed that specifically in the limit of ownership. Lynn addressed the fact that if you have 12 owners what if one of the entities has a hundred. I think we have addressed that in the language too, and if it needs further tweaking we can do that. It shows the intent for Buck Blessing and Humboldt Peak Partners to put their signature on the line that limits it in a way that you have it identified. Another issue came up that if these are covenants frequently those can be amended by a vote of the members. We have gotten rid of that in two ways, as Tom said, there are no lots. This will be a single lot.

BRAUN: We have addressed many things with these documents and if allowed to move to the final stage these plats and documents will become final. If Justin Krall has any comments on wildlife impact those will definitely be addressed. We have been inspected for wildfire hazards. Though, not that much has changed in the big picture. The PUD is an opportunity for increased density, and I hope we addressed all concerns on this issue.

RORICK: Instead of covenants could you use conditions?

SNYDER: I think we could do something like that.

BARNES: You put in here that this wasn't prime wildlife habitat, I would object to that. It's been pointed out to me where you have your leach fields is close to an active ditch, don't those leach fields interfere with the high water table. I think the water level is high there. How do you do a septic when the water table is high?

BRAUN: If those are issues, our engineer will address them, but they are not required until the final plat stage. Our engineers have told us that we can serve with this leach fields and wells.

BARNES: You have a statement on sustainable development, but then states we aren't going to do it.

BRAUN: This would pertain to drilling techniques that are efficient. Using friendly designing material, insulation, and windows.

BLESSING: We intend to use sustainable development and processes; we just don't want them in the report.

BRAUN: In the PUD requirement they talk of a sustainability report in 5, 10, and 20 increments. Though, I think it may pertain to larger subdivisions.

BARNES: On page 7 you talk of wetland areas.

BRAUN: All of our building envelopes are outside of those areas. Roads will be below Army Core of Engineers thresholds.

BARNES: Doesn't have anything to do with Federal Wetlands programs?

BRAUN: These are wetlands as mapped by our biologist, and very well may be added to federal programs. Our purpose is to not challenge that in any case.

SHY: Is there any implication here that we are to enforce any covenants? Because I don't think we want to get into that.

BLESSING: It is just another mechanism to restrict ourselves.

SHY: The only enforcement here is for the next LLC that may buy the property.

BRAUN: These rules would be in place. These would be internal rules.

SNYDER: We may be titling this wrong as it should be PUD restrictions and conditions.

SHY: It seems difficult for us because we have never enforced covenances and restrictions.

BLESSING: We could have them as conditions of the PUD.

COKER: When you did an inventory of an open space you used areas that would be used as leach fields as well.

BRAUN: We can modify our open space number to exclude areas for septage.
HOBBY: Will you have garages on these cabins?
BRAUN: We've listed this as a possibility.
HOBBY: How much space between each cabin?
BRAUN: Between 2 and 3 we have two hundred feet, one hundred feet between one and any others, five is a hundred to a hundred and fifty feet between it and the cookhouse. We have a lot of room to put garages and sheds.
BARNES: What happens to the remaining 300 acres?
BLESSING: It takes a lot of language to secure that land and we are looking every opportunity, but that in itself takes time. That is probably the one reason why we may need another extension, because that may take some time. It is a very complex process, and it is the very thing that may cause us to ask for an extension.
SHY: Made clear all entities that should be notified per the Zoning Resolution.
DOROTHY NEPA: Was unclear on the PUD process.
HOOD: Explained the Phases and the processes to Mrs. Nepa.

**Wetmore Volunteer Fire Department
Presentation for a Special Use Modification**

Property Address: P.O. Box 67
Wetmore, CO. 81253
Schedule Number: 100-81-117

HOOD: 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."

HOBBY: Read Septic Engineers letter, "I spoke with Tom Grethel from AG Engineering who engineered the septic system for the Wetmore Fire Dept. The septic system is engineered for 10 people and 150 gallons of water from the kitchen per day. If meetings are not held every day he does not foresee any problems with the septic system. If there were large usage day after day then someone will have to watch the septic tank and get it pumped out when necessary. If the septic system is used for day to day events of more than the recommended usage, the septic system would have to be redesigned by the engineer." The septic system can be used as it is designed even for minimal usages on events.

CHARLIE JUDGE: We won't even use the minimum. We are only there once or twice a month, where we had been there every Wednesday with a half a dozen people working. We had meeting with area fire departments and probably didn't get but a few uses. We want to have commissioner meetings out there. We hadn't foreseen this use and it will be very low impact. Voters don't come to use facilities.

BARNES: How do you say its low impact?

JUDGE: These events won't last for more that three or four hours and will be very infrequent. We are not having these events at the moment, but we wanted to cover what

may happen, in the future. Mainly to get around paying for porta potties for commissioner meetings and voting.

BARNES: So, there will not be continual use for events.

JUDGE: In the case of a large fire where a large number of people come in, they usually furnish porta potties.

SHY: This request will last you a while and you are covering all your needs?

JUDGE: I believe so; the people in the Wetmore area are very interested in this facility. We didn't build this facility with all this in mind, but I think we have taken the future into consideration.

HOBBY: Anything unforeseen would be covered by our special event permit.

DOWNEY: Just as a reminder we have the review of the Special Event Permitting process on the table for discussion.

HOOD: The next site tour is scheduled for September 27, and the next meeting will be October 2, 2007.

BAILEY: *MOVES* to adjourn the meeting.

BARNES: *SECONDED* the motion.

HOOD: Adjourned the meeting at 3:15