

Joint Meeting of the Planning Commission and Board of County Commissioners

April 1, 2008
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission: Lynn Attebery, Pat Bailey, Rod Coker, Keith Hood
Sherry Rorick, Vic Barnes and Bill Donley

Associate Members: Kenneth Paterson, Dee Hoag, Paul Buckles,
Dan Fox and Roger Camper

County Commissioners: Kit Shy, Dick Downey and Carole Custer

County Attorney: John Naylor

Staff: Jackie Hobby

The meeting was called to order at 2:30 P.M. by PAT BAILEY. Planning
Commission Chair.

Pledge;

BAILEY called for approval of the February 5, 2008 minutes.

VIC BARNES: Commented that his name was absent from the roll call and that
the number six should be changed to seven.

BARNES: Made a motion to accept the minutes with the changes.

ROD COKER: SECONDED. The motion passed unanimously by voice vote.

ZONING OFFICE REPORT

-Staff has been busy organizing the files.

- We have completed 6 compliance inspections, 7 special conferences, and 2
septic inspections.

- The Zoning permits and the Septic permits are the same as last year at this
time.

BAILEY announced the first agenda item for HUMBOLDT PEAK PARTNERS
LLC final presentation on the PUD.

HUMBOLDT PEAK PARTNERS PRESENTATION ON FINAL PHASE OF PUD PROCESS

Property Address: 5295 County Road 129
Westcliffe CO. 81252

Schedule number: 102-89-851

BAILEY: Is the applicant present?

BUCK BLESSING: Yes,

BAILEY: Read the applicants statement, *"Final Plan, PUD application for 80 acre
parcel to include two existing caretaker units, ranch buildings, six new cabin sites
and a common ranch cookhouse"*

BLESSING: Nothing has changed. We still plan on 6 building envelopes with cabins and a cookhouse. The PUD is not sub dividable and the size restrictions still remain. After receiving public comment we down sized everything down. We have applied for a conservation easement and have not received final approval. Membership in the LLC is limited to 12 members. We met with MICK KASTENDIECK from the Wet Mountain Fire Dept. and agreed on two 16' roads with access onto Horn Road and Macy Road. On one or two of the places will be a 12' width, due to the need to save stands of aspen trees. KASTENDIECK has approved this. We will install a dry hydrant for fire protection on the pond. We met with ATTORNEY PAUL SNYDER and have a development agreement and the only issue that remains is approval and signing the development agreement. BAILEY: Would you discuss the water issues that have now come to our attention.

BLESSING: Yes, we had an engineered report done by GEORGE FOSHA, P.E. and he stated that we would need to file an augmentation plan. We have not filed because we do not have approval for the PUD from the county and did not want to incur the expense until we had approval.

VIC BARNES: Have you seen the water letter from HEIDI FREY?

BLESSING: Yes, I don't know how she could comment. We have not filed any paper work with her office and Ms. FREY has not seen the GEORGE FOSHA letter. Our water attorney BARNEY WHITE suggested that we wait to file an augmentation plan until we get approval. At this time we already have an augmentation plan filed with the state concerning water on the ranch that was previously promised by the former owner that shows we have plenty of water.

ATTORNEY PAUL SNYDER: Representing HUMBOLDT PEAK PARTNERS commented that the conservation easement ties the water with the land and that the water could be leased to the municipal towns of Westcliffe and Silver Cliff or to the County and that it also could be leased to an individual if it is used for agriculture purposes only. The water on the property is adequate and will have to do an augmentation plan at a later date if this is approved.

SHERRY RORICK: This letter flat out states that you will injure the senior water rights, but don't you have the number one water rights?

BLESSING: Correct.

DICK DOWNEY: We have a Water Commissioner sitting in the audience we can ask him these questions.

WATER COMMISSIONER JERRY LIVENGOOD: HEIDI FREY is only looking at the deed; she has no other information to use until an augmentation plan is submitted. The HUMBOLDT PEAK ranch has senior water rights and I do not see any problem.

PAUL BUCKLES: Are there 12 members in the LLC? Is there possibility for more members? Could another LLC with 12 members become a partner?

BLESSING: Yes, I have two daughters and if they get married and have children they would be included also. It is not our intent that other LLC's become partners the main goal is to prevent a commercial use or time share.

BUCKLES: If it would sell could this be sold to a major corporation.

BLESSING: No, it does not matter the restrictions go with the land not the owner.

KEN PATTERSON: Is this PUD only for 80 acres?

BLESSING: These 80 acres cannot be subdivided further they must stay the same and the other 324 acres will be addressed in the conservation easement. There will be no perimeter fencing and none of the water can be sold. We can lease water but only 10% of the property can be dried up. It is our intention to give up the building sites, but if we change our plans we have to have permission from the county.

KIT SHY: You have provided access for the fire dept. and indicated that you would have a dry well on the pond for fire prevention. Is this pond legal?

LIVENGOOD: At this time I don't believe that this pond is legal.

BLESSING: We do not plan on doing any work this summer and will have an augmentation plan filed before any building is done.

SHY: Another question about water. Have you checked the quality of the water?

BLESSING: No, but I am sure that will be done as we move forward.

DAN FOX: Does this give you the right to create and sell properties?

BLESSING: Yes, in paragraph 4B of the conservation easement.

FOX: If you exercised that right would they be limited to the build zones?

BLESSING: Yes, under this proposal they are building envelopes and sales are subject to the PUD approval and the Conservation Easement.

ROGER CAMPER: Can you sell the water rights like to Denver?

SNYDER: No, this conservation easement is in perpetuity also, in reflection, the second access to Horn Road does not work with the Conservation Easement. I will work on that.

SHY: I wanted to add that is hard to digest a 33 page document that was dated March 30 2008 and make comments. We received the document today and I would like to encourage you to get all documents into the office at a more reasonable time.

BARNES: I believe that there is some confusion over page 8 in the Preliminary plan over the augmentation for the water. Does this augmentation plan need to be in place before the PUD?

BLESSING: We can't do an augmentation plan at this time, it is very costly and we plan on doing it after we have approval for the PUD. We have senior water rights so I don't think it will be a problem.

BARNES: Is there any way to solve the water issue?

LIVENGOOD: Not at this time until they have an augmentation plan.

DOWNEY: I have a suggestion that the applicant consider coming back at the May 6, 2008 meeting and continue with the presentation phase.

BLESSING: I would like to get through it today and during the May 6, 2008 meeting go for a final approval.

DOWNEY: Recited the requirements necessary to complete the PUD from page 63 of the Zoning Resolution.

BARNES; I believe that the applicant needs to know specific questions on what we will ask the applicant when he returns for the next meeting.

SNYDER: We can not give any better information on the water until we file for an augmentation plan.

KEITH HOOD: Do we need to see if the water is legally available before a PUD is approved?

BILL DONLEY: They will not be able to build if they don't have the water.

BLESSING: How would you ever approve a PUD? It will take years in water court to get an augmentation plan approved.

SNYDER: How can we address this? The water is there. We don't want to file for an augmentation plan until we have approval of the PUD.

NAYLOR: Approval of the PUD, if it's structured correctly will state that they can't do anything until an augmentation is approved and recorded in the County.

HOOD: He will still have to apply for zoning permits. This is only approval for a PUD.

NAYLOR: Yes, they will still have to apply and pay the fee for all permits.

SYNDER: So I will come back with written evidence to satisfy that I have the water without going through the process right now of an augmentation plan. I will have another presentation for the final phase of the PUD. The Development Agreement will be modified to say that there must be an approved water augmentation plan and an approved conservation easement on file with the county before any development begins.

LYNN ATTEBERY: Moved to approve the recommendation that HUMBOLDT PEAK PARTNERS LLC. Return on the May 6, 2008 Planning Commission and Board of County Commissioners meeting to do another presentation with limited public questions.

ROD COKER: Seconded the motion.

The motion passed unanimously by roll call.

DOWNEY: Moves to approve the recommendation of the Planning Commission.

CAROLE CUSTER: Seconded the motion.

DARLA DEE WILHITE/SUP Wild West Cowboy Church

Legal Description: Rangeview Sites 1, lot 4

Schedule Number: 100-40-350

BAILEY: Read applicants statement.

BAILEY: Are the applicants present?

MIKE WILHITE: Yes, I will be speaking for my wife DEE and also the pastor

LARRY SMITH of the Wild West Cowboy Church in Pueblo West is here to answer any questions.

BAILEY: Were the adjoining land owners contacted?

HOBBY: Yes with 2 replies. The first letter is from Angus Thompson and the second is from Jerry and Mary Seifert.

LETTERS ENCLOSED: (2)

BAILEY: Would you like to add to your statement?

WILHITE: This would be an extension to the Cowboy Church in Pueblo West.

The Wild West Church intends to provide religious and social activities to the residents of Custer County. We will be using County Road 243 as the access into the property and the highway 69 access will be used for ingress and egress for emergency personnel. The proposed septic will be engineered by AG Engineering.

We sent out 54 letters to all the surrounding neighbors and I have prepared books for everyone with all the responses that we have had. I brought along the pastor from the Pueblo West Church. He will be our Pastor if we get approval. At this time I would like him to explain our intentions.

SMITH: We would like to keep the western culture in tact. We will combine the church activities along with the culture of the country cowboy to insure that the children and community have the influence of church with agriculture included. We will have blue grass music and services it will be non- denominational.

WILHITE: This will be light use of the property, Sunday service and will not be an 8 A.M.to 5 P.M. seven days a week operation. We expect to see one hundred congregants each Sunday. We will be keeping with the western culture. Round Mountain is considering selling us water and will haul it to the property. The household well on the property will only serve the existing structure that will be used for the pastor's home.

BAILEY: Will you have Porta-Potties for major functions?

WILHITE: I suppose so we will have a 3000 gallon cistern located on the property.

DONLEY: The 3000 gallon cistern is for fire prevention only and can't be used for potable water and I correct?

CAMPER: yes, it is not potable and can only be used for fire prevention.

BAILEY: Ms. HOBBY, please give MR. WILHITE the formula for how many port-a-potties are needed for different number of attendees.

BUCKLES: This is a long list that you have on what you would like to have on the property. I noticed that you have corporate events will you be marketing this facility to corporations'?

WILHITE: When we applied for the SUP we were told to list all activities that we could possibly think of so that we would not have to come back and apply again. The majority of the activities will be for the congregation and the rest will be done on a case by case basis. This is not a business venture.

BUCKLES: You listed horse boarding?

SMITH: No, this will only be done if we have an event in the arena and people bring their horses. If there was another fire like the iron mountain fire we would board the livestock on the property as a community service.

BARNES; The list that we received, you will be eliminating some of them? Would it not be possible, if you wanted to do some of the other activities that you would apply for a special event permit?

WILHITE: Yes, I will make an amendment to the activities.

DONLEY: You also have listed a café a bookstore also an indoor arena.

SMITH: We would continue with a café like a coffee shop and the bookstore would be for religious books for those attending services that need a Bible. This would not be like a Barnes and Noble.

WILHITE: I would also like to respond to the two letters. First I would like to respond to the ANGUS THOMPSON letter. Tax exempt is a tradition, not a law, and goes back many years. I agree that ANGUS THOMPSON makes an excellent point and the Planning Commission can make any request of us. The

second letter from SEIFERTS I do not see a problem with their operation conflicting with ours.

BAILEY: I spoke with the Assessors office and J.D. HEINRICH said that the tax exempt status comes from the state and not from his office. They have 37 acres and the state makes the determination on what is tax exempt.

BUCKLES: A lot of questions still need to be answered about the water and activities.

WILHITE; ROUND MOUNTAIN WATER wrote a letter about the water and I will make a new statement concerning the activities on the property.

HOBBY: The WILHITES will need a contract from a water source and I did not think that ROUND MOUNTAIN WATER was a legal water source.

BARNES: We will need more information from ROUND MOUNTAIN WATER , or we will need a contract from a legal water source stating that they will deliver water for 10 years to the property.

BAILEY: Reminded everyone about the subdivision workshop April 10 2008.

COKER: *Moves to adjourn.*

RORICK: *Seconds the motion*

Adjourned at 4:15 P.M. passed unanimously by voice vote.