

# **Joint Meeting of the Planning Commission and Board of County Commissioners**

May 6, 2008  
Custer County Courthouse  
Westcliffe, Colorado

## **Present:**

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

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

County Commissioners: Kit Shy, Dick Downey and Carole Custer

County Attorney: John Naylor

Staff: Jackie Hobby

Absent: Sherry Rorick and Roger Camper

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

Pledge;

FOX: replaced SHERRY RORICK.

BAILEY called for approval of the April 1, 2008 minutes.

VIC BARNES: Commented that the name MIKE should be MICK.

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

BILL DONLEY: SECONDED. The motion passed unanimously by voice vote.

## **ZONING OFFICE REPORT**

-The Custer County Planning and Zoning has seen a drop in issuing Dwelling  
permits for 2008 compared to 2007.

-In 2007 3 dwelling permits were taken out in the month of April compared to 1 in  
April 2008.

-In 2006 the total amount of money received through April was \$67,623 and in  
April of 2007 56,539 and in April of 2008 37,986

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

**HUMBOLDT PEAK PARTNERS  
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: In 2004 we started this project. I also brought along TOM BRAUN who will give an overview and BARNEY WHITE an expert on water and PAUL SNYDER for the Development Agreement.

TOM BRAUN: I went through some notes that I had and we started this project in 2004 with LINC LIPENCOTT from the Custer County Planning and Zoning office.

BUCK withdrew his first application after meeting with the PLANNING COMMISSION. BUCK then resubmitted an application for 6 building envelopes with cabins and a cookhouse. Nothing has changed we still want to preserve the ranching and family legacy of the ranch. The PUD is not sub dividable and the size restrictions still remain. Buck and I developed a plan to preserve the vegetation and preserve the agriculture use with clustering of the homes. TOM BRAUN held up a map showing an Ariel view of the ranch, as you can see BUCK would be allowed per your Zoning Regulations to put 3 homes on the 80 acre parcel and 3 on the 35 acre parcels. Buck decided along with the public comments that this plan that we have submitted meets the needs of BUCK and the public comments. We started this PUD on just the 80 acres and then we included all of the remaining acreage in the Conservation Easement. There will be no commercial uses this is not a time share. This is a family compound with limited partners. We have engineer drawings for the septic and leach fields and we met with MICK KASTENDIECK for the design of the road width for the fire department. We have low lighting only agriculture fencing will be allowed.

Hopefully their will be a balance between what the county needs and BUCK.

CHARLES WHITE: I don't pretend to know everything about water; I do have a practical sense about water. Our firm is in Denver we do work for Summit, Garfield and Pueblo County. I worked with GEORGE FOSHA and his plan for the water is a simple plan that will be easily approved by DIVISION II WATER. The Development agreement protects everyone until well permits have been approved.

ATTORNEY PAUL SNYDER: One of the things that have come clear is that the land that is not under the PUD is protected. With the Conservation Easement the water and hay are protected and nothing can be done on this property per the Development Agreement. The Conservation Easement creates and makes binding no building, only agricultural use. It does provide for 2 bunkhouse not to exceed 1200 square feet and the water can be leased for agricultural purpose

only or to the town of Westcliffe or Silver Cliff. Nothing can move forward until everything is recorded and signed. The Development Agreement states this.  
ATTORNEY JOHN NAYLOR: I believe that everything that we have talked about is covered in the Development Agreement.  
BAILEY: I would like to remind everyone that this is the hearing for the Final phase of the PUD and not to discuss anything from the previous hearings. Please stick to the final presentation of the PUD.

BLESSING: We have tried to address everything and I ask that you trust me to be a good steward of the land. Please keep your focus on the big picture. Open space and water. What you see today you will see tomorrow.  
LOCKETT PITMAN: I would like to thank BUCK BLESSING for working with all of us I have one question I don't see anything preventing BUCK from having RV pads and which he could sell or rent out.  
ATTORNEY SNYDER: No, there will not be any RV pads but in the same sense this will not stop someone who owns one of the cabins from parking their RV next to it.  
DAN FOX: In the Conservation Easement page 17 there is a clause that this can be terminated. It is not in perpetuity.  
ATTORNEY SYNDER: The Conservation Easement requires this type language for the Internal Revenue Service.  
PITMAN: I have another question; this is dealing with the water. Suppose a neighbor of BUCKS had sold his water and then wanted to lease the water from BUCK: This would be allowed?  
ATTORNEY SNYDER: In reality no, BUCK will only be able to dry up 10% of the property. I don't believe this is realistic. Like I said we could go on and on about what could happen.  
DONLEY: If the neighbor sold he would use his dry up in the first sale so this would be null and void.  
VIC BARNES: Will the findings be recorded?  
BLESSING: The findings are for you and will not be recorded.  
KIT SHY: The application is on the 80 acre not on the other remaining property and in the findings paper 1thru9 applies to the PUD and number 10 does not. I have a problem that we are making land decision for many generations and that the PUD is only for the 80 acres. As it stands we are deciding on land issues that will have an effect for 50 years or more.  
BLESSING: We have offered the remainder of the 323 acres on our own. I am willing to give this up also so that the ranch will remain agriculture.  
SHY: I have a hard time with the government making decisions for generations to come. I also have some wording issues. What do you mean when you say agricultural fencing?  
BLESSING: We do not want privacy fencing around the cabins etc.  
ATTORNEY SYNDER: Many of the words mean different things to different people, all this means to us is that you can fence for agriculture needs, perimeter fencing but we do not want fences that divide your cabin from the other one.

FOX: In the Conservation Easement can the other 5 parcels be sold?

ATTORNEY SYNDER: Yes.

PAUL BUCKLES: What are your intentions for the other 5 parcels? Will you sell them or have build out on them?

BLESSING: No, I have no intentions on selling them only if I get in dire financial need.

BAILEY: Is their any questions from the audience? Yes DOROTHY please come up and state your full name.

DOROTHY NEPA: Can you get wells on the other 5 parcels?

BLESSING: Yes, I am allowed 1 well on every 35 acres.

BARNES: Made a motion to recommend to the Board of County Commissioner APPROVE the 80 acres PUD.

DONLEY: Seconded the motion.

The motion passed unanimously by roll call.

Planning Commission Findings:

LYNN ATTEBERY: Yes, I believe the applicants have bent over backwards for the last four years and have done a 100% of what the county asked for.

ROD COKER: Yes, I voted to support. They addressed what we recommend for the PUD process and we all came to a mutual decision.

BARNES: Yes, for 2 reasons. Regardless of the PUD this is a historic ranch with 2 senior water rights with a conservation easement and keeping the water in Custer County this will remain agriculture.

DONLEY: Yes, this is the least objectionable way to accomplish the objectives of applicant and county.

KIETH HOOD: Yes, I had some reservation on the easement that was part of the requirements in the sketch plan BUCK accomplished this and I am happy with what he accomplished.

FOX: Yes, 80 acre stays under single ownership.

BAILEY: Yes, basically same reasons I was concerned about the whole ranch; they addressed this by including the remaining 323 acres.

DICK DOWNEY: Made a motion to APPROVE the 80 acre PUD.

CAROLE CUSTER: Seconded the motions stating that it sustains the agriculture and keeps the water in Custer County.

SHY: Motion has been made to APPROVE the PUD. I believe that you went above and beyond the normal application which included the remaining acreage. Motion passed unanimously by voice vote to APPROVE the PUD.

**DARLA DEE WILHITE/SUP Wild West Cowboy Church**

Legal Description: Rangeview Sites 1, lot 4

Schedule Number: 100-40-350

LYNN ATTEBERY: recused himself AG ENGINEERING is working with the WILHITES on this project and he is part owner of the company.

DAN FOX: recused himself. He is an adjoining land owner.

PAUL BUCKLES and DEE HOAG replaced them.

BAILEY: Read applicants statement.

BAILEY: Are the applicants present?

MIKE WILHITE: Yes, I will be speaking for my wife DEE who is home sick and also the pastor LARRY SMITH of the Wild West Cowboy Church in Pueblo West is here to answer any questions.

BAILEY: Were their any other letters from adjoining land owners or interested parties?

HOBBY: No, the same letters that I read at the last meeting. The first letter is from Angus Thompson and the second is from Jerry and Mary Seifert.

BAILEY: Would you like to add to your statement?

WILHITE: LARRY SMITH is the Pastor at the Cowboy Church in Pueblo West. This request is to have a Special Use Permit for the Wild West Church located North of Westcliffe. We intend to use County road 243 for our ingress and egress onto the property. We have an agreement with TALLAHASSEE WATER to provide the water. We will install a 5,000 gal cistern on the property we are not a commercial enterprise.

LARRY SMITH: I would also like to add that we will provide crisis counseling and marriage counseling also.

WILHITE: Last year one half of the participants in the benefit ride for the LIGHTHOUSE center are members of the Pueblo West Cowboy Church. The church is casual we are geared towards this type of environment. The cowboy and the western environment. We encourage the cowboy way and keep it country.

BAILEY: Are there any questions from the audience?

ANGUS THOMPSON: I am a resident of Custer County for 10 years. One of the questions that I have is what are your pastor's qualifications?

SMITH: I have a Bachelor degree from the NE Biblical School.

THOMPSON: You need to step up and pay property taxes also; you will be expecting the county services like everyone else but not contributing to the county.

WILHITE: What is a contribution? It is not only money we will provide emergency clothing, food and crisis and marriage counseling. LARRY our pastor does not live in a mansion or drive a fancy car. We will share what we have at any time to the residents of Custer County which is not always monetary.

BAILEY: Concerning the Property taxes, the State of Colorado determines how much property tax they will pay.

NEPA: Speaking to the fact that you will have an arena etc. We do have a lot of horse facilities already here. How much stock will be kept on the premise?

SMITH: 2 horses which are my personal stock. I use the horse to tell a story about GOD.

NEPA: I understand the concept of watering horses I have my own and it takes a lot of water.

WILHITE: Yes, we will have a 5,000 gallon cistern located on the property with a float valve to indicate when we will need water.

NEPA: How many people will your septic be designed for?

WILHITE: I imagine 100 to 150 AG ENGINEERING will be doing this.

NEPA: I am concerned with the quality of the water?

WILHITE: TALLAHASSEE TRUCKING will provide the water and they are tested by the state.

NEPA: How much will you charge to participate in your activities at the church?

WILHITE: Most of the activities charges will be only to defray the cost and the other will be contribution only.

NEPA: Custer County already holds gymkhanas and the 4-H.

WILHITE: We are not in competition with anyone.

DAN FOX: My wife Lori and I are adjoining land owners. Who will check on the usage of the property and the building plus the existing well the county? What will you be doing with the fertilizer left by the horses?

WILHITE: I don't believe that the usage of the well or the building will be an issue for anyone, and DENNIS SHAYDAK and I will be spreading the fertilizer on our pastures as needed. This will not be a problem do to the small size of the arena.

DAVE VOGEL: My first question is the lighting of the area?

SMITH: The only lighting will be low security lighting and most of the activities will be held indoors.

WILHITE: I would like to add to this we will be sensitive to DARK SKIES.

VOGEL: I would hope that you would be a good neighbor. I would like to have county assurance that the commercial activity is not going to creep any farther north.

ATTORNEY NAYLOR: Things change and the county cannot reassure that this will be the only SUP on or near this property.

VOGEL: I am not against this particular project I am against commercial activity moving north.

JEAN CATTERBERY: I believe this needs to be stated this was once a commercial property with the landscaping business.

JEANNE SCHMUTZLER: What is the time frame on the construction of the buildings?

WILHITE: The first building will be the worship center a 5,000 sq.ft. Building and in about a year we will do the arena.

BUCKLES: On the Plot map I see no provisions for parking.

WILHITE: We have a good idea where the parking will be located; we were going to pin it down once we had the building built.

BUCKLES: Will the parking lot be asphalt?

WILHITE: Gravel to get better drainage.

DONLEY: I have a question for HOBBY, Why did CRAIG WALKER write a letter.  
HOBBY: He is the president of the bank that owns this property.  
BARNES: I really don't know what we are approving. The list on the application is very long.  
WILHITE: We made a new description and removed Corporate Retreats and the Carnival. The Trail Rides will be conducted on the property.  
HOBBY: On page 6 & 7 was a new handout on the list that they would like to do. I will read the list to everyone.  
DOWNEY: What do you mean by Cowboy Dinner Shows this sounds like a commercial event to me?  
WILHITE: I compare it to the Cowboy Dinner Shows that are at the FLYING W RANCH, I will let ED SERIVINS speak about that.  
ED SERIVINS: We have a dinner along with skits. We started this at the Pueblo West Church and it has become a big hit. We start out with a skit and I am involved along with my wife and other members.  
DOWNEY: This still sounds like a commercial event. Will you be charging for it?  
WILHITE: Yes, we do charge.  
BUCKLES: Will you elaborate on the RV parking.  
SMITH; This is when we have an event that last for 2 or more days and people bring their horse trailers that have sleeping quarters inside they will park on the property during the event. They are all self contained and we will not offer sewage disposal or water to them.  
NEPA: Cowboy Dinner Shows open up a commercial activity to me and I believe that your list of events needs a lot of work.  
SCHMUTZLER; Do you have to be a member to participate?  
WILHITE: No it's for members and family and friends.  
BARNES: I believe if you could condense your list and I knew what I was approving it would be to your best advantage. We only have one report from CDOT and you are saying that they did not have an issue with you on the highway frontage.  
WILHITE: No, I received a letter from CDOT and since this will not be used only for emergency personnel. The Zoning office should have a copy of this.  
HOBBY: I do not have a copy of that letter.  
WILHITE: I will make sure that the Zoning office gets a copy of the letter.  
DONLEY: Moved to DENY the SUP.  
MOTION died for lack of SECOND.  
ATTORNEY NAYLOR: A workshop with the Planning Commission and the WILHITES will be the best way to go before continuing with this hearing.  
BARNES: I make a MOTION that we hold a workshop  
BUCKLES: I SECOND the motion that we table the SUP and have a workshop.  
BAILEY: The workshop will be May 22, 2008 from 10:00 A.M. to 12:00 A.M. at the Custer County Courtroom if available.  
Motion passed unanimously by voice vote.

**POCO BUENO/ROBERT HAMILTON**

Variance: SUP

Legal Description: Tract in NE4 desc BK 167 pg. 585 A/K/A 177 Highway 67

Schedule Number: 102-07-550

BAILEY: Read applicants statement. Is the applicant present?

ROGER MCKISSACK: I am representing ROBERT HAMILTON.

BAILEY: Does the Zoning office have a letter stating this.

HOBBY: Yes.

MCKISSACK: Robert would like to have a feed store and be able to sell ranch equipment also fencing material like the fencing that is surrounding the property now. This property and around it is commercial with the restaurants and gas station. ROBERT HAMILTON owns Emergency care and would like to have this on the property along with a propane sales and veterinary clinic. One of the homes will be used for an office and the other home for the watchman quarters. ROBERT HAMILTON employs a lot of people and this would also give people some jobs.

ATTEBERY: I would think that the Commissioners would like to see a traffic study done on this.

DOWNEY: Yes, we had one done on BECKWITH.

BARNES; this is like an Industrial compound. What do you want to start out with and do you want everything that you have on this list?

MCKISSACK: We do not want to put anyone out of business. The permit is very misleading we were told to list everything that we thought we would like to do on the property so that is what we did.

BUCKLES: I believe that you need to prioritize your list.

FOX: For a Special Use this is very broad use of the property.

BAILEY: I believe there are some important issues that you need to discuss with ROBERT HAMILTON. The Wetmore residents are not happy with all the uses that you have listed on the application.

HOBBY: We have received a petition with 163 signatures opposed to this SUP and 6 letters.

SHY: You need to plan. Part of the process is the planning. We don't see a plan and you already have all this opposition before you start.

MCKISSACK: The permit is misleading.

SHY: Experience has shown us that an applicant will fill out a permit and then later on want to do more than what his permit allows him to do.

BAILEY: MR. HAMILTON needs to decide if he wants to continue and narrow down the usage of the property.

NAYLOR: We need to continue with this presentation.

ATTEBERY: They need to do a traffic study.

DONLEY: MOVED that the presentation be continued at the Wetmore Fire Station on June 18, 2008 at 7:00 and a traffic safety study be done and submitted to CDOT.



ATTEBERY: SECONDED the motion.

DONLEY: Amended the MOTION that the owner ROBERT HAMILTON be present at the next meeting.

ATTEBERY: SECONDED the motion and MOVED that we adjourn.

Motion passed unanimously by voice vote.

Meeting adjourned at 6:30 P.M.