

Joint Meeting of the Planning Commission and Board of County Commissioners

November 18, 2008
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission: Keith Hood, Pat Bailey, Bill Donley, Vic Barnes and Sherry Rorick

Associate Members: Kenneth Patterson, Roger Camper

County Commissioners: Kit Shy, Dick Downey and Carole Custer

Absent: Lynn Attebery, Rod Coker, Paul Buckles, Dee Hoag

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;

PATTERSON: replaced Lynn Attebery

CAMPER; replaced Rod Coker

BAILEY called for approval of the October 7, 2008 minutes.

BARNES: Made a motion to accept the minutes.

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

ZONING OFFICE REPORT

- October 2008 we had 12 septic inspections, 12 special conferences, 24 compliance inspections and 1 septic contractors test.

-The Planning Commission will need to discuss next year the boundary lines between the Zones.

BAILEY announced the first agenda item

Arthur H. McCoy Revocable Living Trust / SPECIAL USE PERMIT

Legal Description: County Road 125

Schedule number: 101-48-751

PAT BAILEY: *read the applicant's statement:* "The trust is interested in subdividing from the whole parcel 6.84 acres described on the attached surveyors plat as a cemetery.

BAILEY: Were adjoining land owners notified?

JACKIE HOBBY: Yes, 13 with 2 responses against.

HOBBY: read the letters aloud from a Jerry Durling and Kathy Musgrave (enclosed)

BARNES: For the record is this a Special Use Permit and not Subdivision Waiver?

BAILEY: Yes, it is a Special Use Permit and the County Attorney did say that it also was in part a Subdivision Waiver.

PETER MICHAELSON: It is actually two variance a Special Use Permit and a Subdivision Waiver. I would like to address some of the issues that Mrs. Musgrave brought up in her letter. The McCoy's did have a buyer at one time for the remaining part of the Ranch. This sale was contingent on what the county was going to do about the McCoy request. The Sale has been terminated. Nobody's jumped the gun and we are very respectable of the county. The Trust still owns the 900 plus acres and could scatter ashes on the property and would not have had to have permission. That has been an activity that would have taken place anyway, either by ownership of the property or by an easement. We would rather have the property subdivided from the whole and would never be developed in any way. If the County does not want it to be a cemetery where bodies are buried there then the scattering of ashes would be ok with the family. Craig would like to see this as a place that the family can use as a sanctuary that the family could come to and scatter ashes on. If it has to remain undisturbed then it will. They are going to build a fence on that survey line to keep the cattle off it one way or another it will probably be a 4 string wire fence. Some family members would like to be able to bury out there. If the County requires that the burial is in vaults that will be all right , I also understand that there is a ground water issue. If the only kind of burial could be ashes and urns the family would agree with that. We would like both granted the Special Use Permit and the Subdivision Waiver. The Trust would like to sell the rest of the ranch and still maintain the 6.84 acres.

BAILEY; thanks I would like to ask for public input, when you are called please come up to the podium and state your name. So is their any public input? No response. How about the Boards/

DONLEY: I still have a question about the access to water. Since it's the only live water in that pasture I think it is important to leave it open for livestock.

MICHAELSON; that is not going to happen, even if they retain ownership they will fence out the livestock.

DONLEY: why can't they put a fence on the south side of the creek instead of the north side of the creek?

MICHAELSON: they chose to put the fence on the north side for historic purpose of scattering previous ashes.

Donley: Why don't they fence off 40 acres and don't have to talk to us?

MICHAELSON: that would be another option for them.

HOOD: My concern is that there are two irrigation ditches in there one the North and one on the South. We have changed the head gates twice on the ditches; we will need to have access to these ditches. We have got to be able to change those head gates. We are looking at a long term deal here. I'm sure they don't want to bury anyone in the swamp area.

MICHAELSON; Yes, you have every right to maintain those ditches.

HOOD: if they are going to do burials and urns, I need room to get a tractor in there to move my head gates.

MICHAELSON: yes, any reasonable condition that you would impose on the family they would not disagree with.

RORICK: How many times has that flooded?

HOOD: at least once every 10 years.

BARNES: I would like to pursue this water issue is there water to livestock?

MICHAELSON: there is two catch ponds on the property I have been told.

CAMPER; I am a little bit behind on this issue since I wasn't here for the last meeting but its my understanding that there is already ashes scattered on the property?

MICHAELSON: Yes.

CAMPER: If the family is saying that this is their sanctuary, why are they selling the rest of the property?

MICHAELSON: I don't believe that any heir has a connection to Custer County.

BAILEY: Commissioners do you have any questions?

COMMISSIONER SHY: Only one, don't they own the whole property and if they do then if they cut off the water wouldn't they be cutting off the water to themselves?

BARNES: Made a motion to recommend the Board of County Commissioners to approve the Special Use Permit with conditions:

1. Parcel must be platted a cemetery deed recorded.
2. All inurnments must be recorded.
3. No structures will be allowed.
4. Inurnments records identifying person and location must be recorded
5. Inurnments must be a minimum of 50' from any and all creeks and irrigated ditches.
6. The Special Use Permit will go permanently with the property.
7. Marker must be flush with the ground.
8. Deed restriction with all conditions recorded.

HOOD: Seconded the motion;

The motion passed with 5 in favor and 2 against.

REASONS:

HOOD: Yes, the conditions are strict enough

CAMPER: I voted yes but being a board member of ULA I want history recorded.

RORICK: I voted yes even though I don't believe it's a very good idea for that area.

PATTERSON: No, because of the little bit shy of 7 acres we need to protect the 35 and 80's.

DONLEY: No, they want to fence out all the live water with this, they could have did a 35 acre parcel and went about their business.

BARNES: Yes, I respect this family wishes to have a cemetery plot and with the conditions in place this should take care of any problems.

BAILEY; Yes I agree with VIC.

COMMISSIONER SHY: You have heard the recommendation of the Planning and Zoning is there any discussion about it?

COMMISSIONER DOWNEY: Yes, I want it to be made that a deed restriction shows the conditions on the property.

COMMISSIONER SHY: I agree with VIC and respect the families' wishes; in the state of Colorado you can bury people on your property without permission.

COMMISSIONER CUSTER: I have a concern about the less than 7 acres and so close to the ditch.

COMMISSIONER DOWNEY: I would like to make a motion that we approve the Special Use Permit with the conditions.

COMMISSIONER SHY: Seconded the motion
Special Use Permit **was approved.**

DONLEY: made a motion to adjourn

HOOD: Seconded the motion

Meeting adjourned at 4:00 P.M.