

# Joint Meeting of the Planning Commission, Board of County Commissioner

June 14, 2011  
Custer County Courtroom  
Westcliffe, Colorado

## Present:

Board of County Commissioners: Lynn Attebery Chairman, Jim Austin Vice Chairman  
Allen Butler Commissioner  
Planning Commission: Vic Barnes, Sherry Rorick, Rod Coker, Bill Donley, Keith Hood, Paul Buckles & Pat Bailey  
Associate Members: Dale Mullen, Brad Stam, & Lockett Pitman  
County Attorney John Naylor  
Staff: Jackie Hobby  
Absent: Dorothy Nepa & Ken Lankford

The meeting was called to order at 1:05 P.M. by VIC BARNES Planning Commission Chairman.

COMMISSIONER ATTEBERY: Reconvened the Board of County Commissioners June 14, 2011 meeting back into session at 1:06 P.M.

Pledge;

BARNES: The first item on the agenda will be to approve the minutes for May 3, 2011.

BAILEY: I move that we approve the May 3, 2011 minutes.

DONLEY: Seconded the motion.

BARNES: All in favor

Motion passed unanimously

BARNES: JACKIE will give a Zoning report.

HOBBY: In the month of May we had 12 septic inspections, 1 Septic contractors test, 6 Special Conferences and 4 compliance inspections. In 2010, in the month of May, we had 19 septic permits and 23 Zoning permits. Permits issued year to date in 2011 are 65 and in 2010 were 26. Also you were handed a public notice and that is what will be posted in the Wet Mountain Tribune. These are the dates for the Subdivision hearings.

BARNES: The Subdivision Regulations are the last draft and everyone has had an opportunity to look over them. So the next part of the process is to go to the public and get input. We have two days scheduled and it will be published, July 13, 2011 at 1:00 P.M. and July 18<sup>th</sup> 2011 at 7:00 P.M. in the Custer County Courtroom. JACKIE did you have something else you needed to say?

HOBBY: Yes, two letters were submitted to the Zoning Office one from an Associate Member. CINDY HOWARD stated that she would be resigning as an Associate Member. The next letter was from GERRY DEARBORN has resigned from being a seated Board Member on the Board of Zoning Adjustment. We will need to replace this position at a later time. Our next meeting for the BZA will be in July.

BARNES: We have two agenda items for today and I would like to remind everyone that when you do speak, come up to the podium and identify yourself and who you are affiliated with.

BUCKLES: Mr. Chairman, can we get clarification on the initial agenda that included SOCKRITER.

HOBBY: I apologize, SOCKRITER has pulled their original Special Use Permit application.

BARNES: The first agenda item is a Special Use Permit request; I would like to remind everyone that the Special Use process is a two phase process. Today is a presentation only and August 2, 2011 will be the hearing. This is a presentation for GARY and RHONDA PATTERSON and the first thing I will do is read out loud what GARY wrote on his application on the opening statements and then GARY can expand on that. I will read the applicants statement." *I plan on building a block building used for custom meat processing and butchering of domestic livestock and wild game. This service will accommodate local ranchers and patrons who purchase animals for their consumption, as well as hunters during hunting seasons. This is a trait that I learned in high school at Jennings Market in Westcliffe, and have used ever since graduation for all of our personal and family use. I feel that this is not a need for everyone but for several it is a trade that is becoming harder and harder to find without traveling great distances. I plan on complete butchering of domestic animals that are ready for butcher. This will include butchering and cooling the carcass to individually wrapped packages ready for the home freezer. Smoking and curing of pork products, and processing of wild game during hunting seasons. This type of business ties into some agriculture needs of the Wet Mountain Valley. I will not be offering resale or any over the counter products.*

Then the applicant's statement addresses the other issues of traffic, parking, water usage, septic system, signage, fire protection, dust concerns and the applicants can go into more in detail on that. GARY would you like to come up to the podium and introduce yourself.

GARY PATTERSON: Basically it is a trade that I learned in high school and I also cut our own meat every year. I would like to go into this business and we would make it convenient for a lot of local ranchers to have this available to them. Hunting season we would be able to process the wild game. I estimate maybe fifty people. I would like to offer this service to as many people as I could. I will be running this business by myself. We will be limited to the amount of product that I can do. I have heard that one possible concern would be the flies. That is a concern to us also. We live on this property and we will take every precaution and do whatever needs to be done to maintain a clean, sanitary and safe property. I have a diagram on how we plan to do this and we have talked about access and we will probably move the building more to the north up by the barn.

HOBBY: GARY would you explain the steps you are preparing at this time if you get approved before you retire.

PATTERSON: My goal is to retire in approximately two years. This will be a supplemental income to my retirement. I don't want it to be full time, it could turn into more than I want. At the most what I could do would be three large animals at a time in one week. Realistically I don't believe I could do that much, and two would probably be the limit. On waste, I spoke with Mission Wolf and they would like to have some and the rest will go into the landfill. The septic system would tie into the existing septic system. The hides will be taken by a leather company; I am trying to make a deal with TANDY in Colorado Springs. I spoke with the state about using our well and I could but then I would have to put a meter on our well and we could not use it for any outside watering. We are going to put a cistern in and I have made arrangements with Round Mountain to purchase water from them and haul it myself.

BARNES: JACKIE have the adjoining land owners been contacted?

HOBBY: Yes, five adjoining land owners have been contacted, with zero response. We also contacted Road and Bridge and the Division of Water Resources their responses are included in your packet. Division of Water Resources recommended that the PATTERSONS get a contract from a legal water source which is the letter from Round Mountain Water. We did receive a couple of comments which are not from adjoining land owners.

HOBBY: Read the following letters from HOLLY HAWN, IVY FOSTER and NANCY LARKIN and they are entered into the record.

BARNES: I received a comment from a neighbor and they could not attend today's meeting. I informed the individual that we cannot take that kind of response over the phone. We would need something in writing if they could not attend. Planning Commission do you have any comments? Do you have any comments from the site tour?

RORICK: I have a question; the scrap will be disposed of at a landfill. Is that the county landfill or someplace designated on your property?

PATTERSON: No, not on our property. This would be at our local landfill through the trash service or I will haul it.

RHONDA PATTERSON: GARY spoke with Royal George Meat Packing and they use the landfill in Canon City. If ours is not available we could use this landfill.

BUCKLES: In one of the letters there was the question raised that Federal Regulations and EPA would need to be addressed.

PATTERSON: I don't know any Federal Regulations. I do know of the State Regulations.

BUCKLES: Another question was sales tax, which would mostly be labor and that is not taxed. How would the water that you purchase get to your facility?

PATTERSON: I would have to haul it myself or contract it with someone that hauls water.

BARNES: Any more questions?

LOCKETT: You mentioned that there is one person that processes meat. Is there only one?

PATTERSON: That I know of.

LOCKETT: You mentioned taxes. Being outside the two towns would the taxes be different.

BAILEY: No, that is sales tax that you are talking about. They would not be under that. They would be taxed by the State on the building as commercial that would be the same as in town.

LOCKETT: Are there any covenants?

BARNES: No, any other questions or comments?

BAILEY: At one time we had three processing facilities here.

BUCKLES: Do you see yourself requesting additional signage?

PATTERSON: No, I really don't think so. Most of the advertising will be in a newspaper.

RHONDA PATTERSON: Most of our advertising will be word of mouth. Most of the people that GARY spoke with and patrons that come to the window where I work have been very favorable. They offered letters of support and we will be bringing them in to the next meeting.

BARNES: Commissioners do you have any questions or comments?

BUTLER: We have no problems with the adjoining land owners, water source, and trash. Can you think of any other impact that it will have?

RHONDA PATTERSON: No not at this time, I think that a lot of people are not aware of is that we have been cutting up wild game and beef for our family and friends since 1991. We butcher between 100 and 125 chickens a year, we do hogs and at least 3 beef a year. This is not something new, and we have never received any complaints.

ATTEBERY: I only have one comment and that would be to bring your letters of support.

LOCKETT: One other question. Since this will be a commercial operation are there any other inspections that will have to be done?

PATTERSON: Yes, a brand Inspector when it is cattle, a health Inspector which is state.

HOBBY: You will not be selling any meat at your shop?

PATTERSON: Yes, that is correct. Our main concern is cleanness. We live there also.

BARNES: Any questions from the audience.

TOM LARKIN: I live on county road 255. I am JEFF THOMAS' next door neighbor and I occasionally work at the Chop Shop, I am here to support my neighbor. My only concern is that we see a lot of business rise and fall here in the valley. Sometimes I wonder where people's heads are at the kinds of business people try to start here and they are doomed to fail. I am not saying that's the case here with all due respect. My only point is that the Chop Shop is a viable business and provides a valuable service to the community and I would hate to see it undermined. I don't know if there is enough business to support two.

BARNES: Thank you.

WILLIAM BORGES: I am a hunter of big game for many years in different areas. It is always hard to find someone to process your game. I think if there was a facility like this, I am all for it.

BARNES: Thank you.

ROBIN WALLERICH: I live at 556 county road 192. I live across the road from PATTERSONS and I guess the only reason I am here is when I read in the newspaper a little blurb that they were having a Special Use Permit hearing. I called my neighbors to find out what they had in mind and was told to come today. Apparently the five people that were notified are all relatives of the PATTERSON family. That is fine but some of us live close and we will be impacted. I don't want to sound like a grouch. If you are a neighbor you should be treated like a neighbor and come over and tell us what you have in mind. We did not get that and quite a few people are concerned. Speaking of the Chop Shop is in a commercial area and we are not in a commercial area. When I lived in town and when the Chop Shop was butchering the blood flowed freely down the alley. It draws flies to the restaurant, and we spoke with them and the Town did not do anything about it. I have a reaction to a meat processing plant, so I want to know more about it. I am hopeful that I will get the answers here today so I can tell the neighbors what is going on. I would like a copy of the application so we know what is going on.

BAILEY: Which property is PATTERSON on this map?

HOBBY: The property with the big black bold line.

BAILEY: Which property is ROBINS'?

HOBBY: Her property is south of PERSHBACKER/BERRY parcel.

RITA WILSON: We live at 395 county road 192 and we are adjoining land owners. We have come to support this endeavor. As the fire has been going on we have had contact with our neighbors. They have voiced their support and will be writing letters.

BARNES: There will opportunity to comment at the hearing in August 2, 2011

HOBBY: I believe it would be to the benefit of the audience for GARY to explain the meat processing.

PATTERSON: It's not a plant. Its small one man operation. There will be a block building 30' x 40'. I would have a room that would be a cooler and a room where we slaughter. I do not want the blood to go down the drain. That is not good for a drain. We will capture as much as possible. We will hang the animal for ten days, and then we will cut it up and wrap it, place it in the freezer for three hours it needs to be frozen. All the packages will have "not for sale", what is in the package and the customer's name. My cooler will hold up to eight animals. That way three could be in the cooler waiting to be picked up if three more animals come in. Realistically there will only be two. I will have a smoker for the pork, to cure and smoke the ham and bacon. I plan on doing sausage and pepperoni also.

RHONDA PATTERSON: Something to keep in mind, nothing will be killed outside. The waste will be captured and disposed of properly. We will not be dumping on our place. Our place is very sacred to us. We own a lot of property that has been in our family for years and we do not want to destroy it. This is not a cheap process for us. We both work and we need to get approval before we move on. We will not open August 3<sup>rd</sup> if we get approved.

MULLEN: Do you think this will only be seasonal?

PATTERSON: Hunting season will only be seasonal. I will be operating this all year long, based on demand.

MULLEN: It was brought up today that there were problems with the Chop Shop and the blood. What will be different from your situation?

PATTERSON: I will capture as much as I can and contain it and I will limit it as much as I can.

RHONDA PATTERSON: I am sorry I did not contact ROBIN. She is not an adjoining land owner and I was wondering about all the times we have butchered for our family if you noticed anything that has been a problem for you?

ROBIN WALLERICH: No, you keep your place beautiful. No, I just wanted to know what you have in mind.

RHONDA PATTERSON: I apologize for not contacting you. We disclosed everything to the adjoining land owners and the Zoning office, and we thought we did our due diligence.

PITMAN: Any blood that you do not capture will end up in the septic?

PATTERSON: Yes and we hope that will be minimal. I am in a very public job and a lot of people come in and say great things. JEFF THOMAS came in and said he encourages us for what you are doing and wished us the best of luck and I thought that was really great of JEFF to come in.

BARNES: Any question from the Planning Commission or Board of County Commissioners?

BAILEY: There are two entrances to your property, one at the main house and one down the road. The one down the road will be the main entrance for the processing.

PATTERSON: Yes

BARNES: If there are no other questions that is the end of the presentation and we will have the hearing on August 2, 2011 at 1:00 P.M. in the Courtroom. Thank you. We will move on to the next item on the agenda. DALE MULLEN will replace ROD COKER.

BARNES: Our next agenda item is a request for a Vacation and Re-plat for Horn Creek Conference Grounds Association. I will read the applicants statement. *"Applicant intends to vacate and relocate interior lot lines on this parcel as indicated on the attached plot plan. This will provide for better utilization of the parcel, allow for the modification of the existing drain field, and reduce the overall lot density from 5 lots to 3 lots. Existing Parcel is entitled to 5 wells. The proposal will reduce that to 3 wells.* ROD COKER will be making the presentation.

ROD COKER: I am here on behalf of HORN CREEK. DOUG JONES, our Executer Director, would have been here but we are right in the middle of making room for the Rainbow Trail staff and children due to the fire. DAVE SCHNEIDER is here and he is the Maintenance Supervisor for Horn Creek and is also licensed to install septic systems. COKER handed out a map that indicated what the proposed parcels would look like if approved. DAVE SCHNEIDER realized that we would need to do some modifications to the existing septic system that serves the existing dwelling. When he went to the Zoning office they realized that the existing dwelling drain field is located on lots 6 and 7. The rules state that all components must be located on the same lot, so we need to vacate the lot line between 6 and 7. We thought we should do other things if we were going to do that in order to make the other 5 lots more marketable. We are proposing to change things on the map. The line that has the x on it is the one that will be abandoned and then the new line would be considered lot 8A and lot 6A and lot 4 would remain as lot 4 and lot 7 would disappear and lot 9A would disappear.

DONLEY: Since you mentioned lot 9A, what happened there previously?

COKER: When the property was bought it was discovered that this house was too close to the lot line. In the old days the diagonal that shows 166.4 feet that was actually a square lot and

they swapped land in order to meet the setbacks and that was done prior to Horn Creek acquiring the property.

BARNES: Does the Planning Commission have any questions?

BUCKLES: On this other map is that an easement?

COKER: Yes, what we will do is abandon the current easement and create a new easement. Lot 8A would have a new easement; the old easement goes within 10 to 20 feet of the house. This easement has never been built.

MULLEN: Are there any responses from the neighbors or community?

HOBBY: Yes, six adjoining land owners were notified. We have some letters in response.

HOBBY read the letter dated June 13, 2011 with eight signatures from property owners to the Planning Commission and entered it into the record. Also we received a letter from COWART dated June 16, 2011 and it was read aloud and entered into the record. When this first came up DAVE SCHNEIDER came into the office and was applying for a modification to the existing dwelling and that was when it was discovered that the septic system and dwelling crossed over other lot lines.

BARNES: Are there any other questions? For clarification HOBBY stated that there were six adjoining landowners notified. You have a consolidated letter from some people and that would be BORGES, ZARRA, ELLEDGE, HAVEY and CAREY. We have three that responded that are adjoining land owners from the six letters that were sent out.

MULLEN: You have received a letter that you were allowed to speak for Horn Creek. Is there a Homeowners Association?

HOBBY: Yes

COKER: I do not believe that there is an active Homeowners Association and this would not be affected if there was.

BARNES: Commissioners do you have any questions?

BUTLER: How did that house become located on the line?

COKER: I don't know. That took place before we bought the property.

RORICK: I should mention that MR. BORGES came by our house the other day and spoke with my husband because we have Dry Creek water rights, I was actually in the other room and I did not have this information in my packet. Should I be recused? I don't want anything down the road to affect this.

BARNES: I will refer this to the County Attorney.

ATTORNEY NAYLOR: I do not see a problem, entirely different.

BUCKLES: To clarify this Horn Creek purchased this as it sits today?

COKER: Yes, from an individual.

BARNES: Any questions from the audience?

BORGES: My name is WILLIAM BORGES I live at 23 Little Horn Road. There are a few issues here and I am representing these people that could not make it to the meeting today. Another creek runs through this property besides dry creek and water runs through there and my concern is the septic system that would go in there.

HOBBY: The State of Colorado has septic rules and also Custer County has septic rules that we have to follow. Every septic installed in Custer County has to meet these standards and the septic components have to meet the set minimum number of feet from all water ways.

BORGES: I understand that, but I wonder about the two creeks that run through this property it is going to interfere with the water rights down the road. Dry Creek runs through my property and other property and I just don't see any clarification and if you went out and measured all this they would be in violation.

HOBBY: The existing septic system?

BORGES: Yes, this right and the other thing is these lot lines have been established for many years and I don't see any reason for them to be moved anymore. It's a shame that I have to come in here and talk about this issue. On the letter lot 4 is not an issue and if you look on the front of the paper it is included. Why is this domestic well on this paper? is it a new well or the existing well.

HOBBY: This is an existing well, already located on the property, for the home already located on the property. Concerning lot 4 we are not doing anything to this lot line and it was included in the application because that is the legal description of the property. So, we are taking a subdivision that was platted in 1965 with all these small parcels and taking what originally would be 5 lots and making them into 3 lots. This would be less density so instead of 5 potential wells and 5 dwellings you are only going to have 3 wells and 3 dwellings.

BORGES: There is no reason to move these lot lines. If the house sits in the middle of these lot lines, tear the house down and put it where it belongs. Everyone has to be in compliance with the Zoning. The ZARRAS' will lose the view of the mountains and the park area in lot 9A.

BUCKLES: Do they own lot 9A.

BORGES: No, they do not.

BARNES: Anything that is built on south of there, they would lose their view. Regardless that could happen right now even if there was not a line change.

BORGES: I would like to see the survey where the house is sitting on both of those lots, because when I view the house that is a different story.

COKER: Could you please put up the overhead, the overhead was drawn by Shy Surveyors.

HOBBY: Here is the existing. Lot 4 will remain the same then Lot 8 we will remove the existing lot line and place it up here. By Zoning Regulations you are allowed one dwelling and accessory structures. On the map there is already an existing home and they will not be allowed another dwelling. If this is approved we will end up with Lot 8, and Lot 9A will become one parcel and will be known as lot 8A. A portion of lot 9A will be added to the existing Lot 6 and lot 7 and it will become lot 6A and lot 4 will remain the same.

DONLEY: What will be the acreage size for lot 8A?

COKER: About an acre and a half.

BORGES: There are two creeks that go through this property, Spring Creek and Dry Creek and I am very concerned about the water.

BUCKLES: Would you expand on what your concern about the water is?

BORGES: I was born and raised here in Custer County and there has always been a water problem with Horn Creek.

BUCKLES: We are all concerned about water. It seems that the parties that own those water rights would be most vocal about preserving them.

BORGES: That is why I am here; there are two people that have first water rights.

BUCKLES: How would this lot line change impact those flows?

BORGES: The closeness of the creek. They need to be one hundred feet from the creek.

BUCKLES: The lot lines are already established.

BORGES: Yes, but if anything was built there, like a septic system they would need to be legal. Someone needs to go out there with a tape measure and clarify all that and then it would be fine.

BUCKLES: That occurs through the Zoning Office.

BAILEY: The existing septic system, if they are going to modify or change the existing septic system will need to meet all the regulations.

HOBBY: Yes,

BARNES: Any further questions?

BAILEY: The State would take care of the water rights. The only thing the County has to worry about is the leach field is it the proper distance from these creeks. We do not have anything to say about water rights that is the State.

BORGES: In order to put a leach field in there is not enough room, from the creeks.

BARNES: I believe what would happen is if someone builds on the lots then the Zoning Office would make that determination based on State and County Septic Regulations.

BORGES: Yes, I understand that they might need to be engineered and anyhow my request is to deny moving the lot lines. Thank you very much.

BARNES: Thank you. Mr. Chairman

ATTEBERY: Because of what you said VIC, and the way the creeks run through there we have a situation with lot 4 that was created and it might be an unbuildable lot. My suggestion is to look at lot 4 also.

HOBBY: Your suggestion is to look at lot 4 and, if it is not buildable, combine it also?

ATTEBERY: Yes, I do not know if you can do much with lot 4 you will need to combine it with lot 8A.

BUCKLES: Wouldn't that have to be a request from the land owner?

ATTEBERY: Yes

DONLEY: Would Horn Creek consider, instead of making three lots of this, make 2 lots?

6A would consist of all of lot 4 and lot 7 and lot 6 and the north portion of lot 9A. That would give you about three and half acres. The second lot would be 8A. That would give you an acre and half?

COKER: We could look at that. I could not do that today because there is a lien on the property and the banker would need to approve something like that. Whether or not lot 4 is a buildable lot it is not up for discussion today.

MULLEN: I have sat and listened to everything and I do not understand why lot 4 was brought to this party. It seems to me what we are addressing here about lot 4 is incidental to the issue. You could have left it off the table and we could address 4 lots becoming 2 lots.

COKER: I would not argue with that. As JACKIE said earlier, as it exists now this is 5 lots, because of the legal description on the deed and title.

LOCKETT: I have a question. Don't we need to measure the septic.

BARNES: No, that is not our issue.

HOBBY: No they have not applied for a septic modification. If they went to all this expense without checking it out themselves that is not our problem. The septic is not a Planning Commission issue, it is a Zoning issue.

LOCKETT: Horn Creek should have checked this out.

HOBBY: Yes, they probably already know the situation because they have an employee that has a license to install septic systems.

BARNES: We need to deal with the current application as it is. It is not our job to worry about the leach field it is JACKIE'S job. If Horn Creek is willing to accept that responsibility then that is their choice.

COKER: We will do things the right way if and when this is approved.

LOCKETT: What is the urgency of doing this right now?

COKER: The existing drain field has reached its usable life and it needs to be replaced.

MULLEN: I make a motion that we recommend to the Commissioners to accept the proposal.

BUCKLES: Seconded the motion.

BARNES: Any discussion

BAILEY: This application came about because they wanted to change the leach field and the Zoning Office says that this house was across two lots which obviously cannot happen. In



order to rectify that problem you will need to vacate some lot lines and redo the interior and not boundary lines. This has nothing to do with lot 4 because of the legal. What we are doing is getting this house on a legal platted lot and adjusting the lot lines according so this would be a legal house on a legal lot. That is what is in front of us right now.

BARNES: Any further discussion?

RORICK: This would be taking 5 lots down to 3 lots and it would reduce density.

BARNES: All in favor of the motion

Motion passed unanimously

REASONS:

MULLEN: Yes, I think it's regrettable about the history of Horn Creek. That is incidental and I stand with PAT BAILEY on exactly what we are voting on and voted in favor of it.

BUCKLES: Yes, reduction in density is consistent with the Master Plan, and 5 lots down to 3 lots.

RORICK: Yes, because of the density issue.

STAM: Yes, all the previous reasons that were stated.

DONLEY: Yes, decreases the density and clean up a situation that was out of Horn Creek's control. It will be better for the area.

BAILEY: Yes, because of the density and protection of the wells and the septic issue. this corrects the problem that was created with the house on two lots.

BARNES: Yes, it is consistent with the Master Plan. People like to have less density and the water issue is not our decision and the drain field is not our decision. I think it does take a situation and make it better. We now have a recommendation for the Board of County Commissioners.

BUTLER: I would move that we accept the Planning Commission's recommendation.

AUSTIN: Seconded the motion.

ATTEBERY: Any discussion?

ATTEBERY: All in favor say I,

Motion passed unanimously

REASONS

AUSTIN: PAT explained it clearly. They have a process involved with the right result. Less density and cleaning up a situation that is against Zoning Regulations.

ATTEBERY: The main reason I voted in favor with the recommendation is because it was unanimous decision and we do look at density issues. Maybe not this Board but we will see lot 4 again.

BUTLER: I agree with the Board. I believe you ask some good questions. The comments that were made were very good and it makes the house and lot legal. I hope Horn Creek can make it work.

BARNES: Your vacation and re-plat has been approved, anything else?

HOBBY: They will need a survey done on mylar and signatures and recording.

ATTEBERY: We will adjourn from the Planning Commission meeting and meet in the Board room in ten minutes.

DONLEY: I will make a motion that we adjourn the Planning Commission meeting at 2:09 P.M.

BAILEY: Seconded the motion

Motion passed unanimously