

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

August 5, 2014  
Custer County Courthouse  
Westcliffe, Colorado

## **Present:**

Planning Commission: Vic Barnes, Bill Donley,  
Keith Hood, Patrick Lynch and Cindy Howard

Absent: Pat Bailey and Rod Coker

Associate Members: Dale Mullen and Chris Nordyke

Absent: Glen Livengood

County Commissioners: Allen Butler, Lynn Attebery and Kit Shy

County Attorney: absent

Staff: Jackie Hobby and Chuck Ippolito

The meeting was called to order at 1:30 P.M. by VIC BARNES, Custer County Planning Commission Chairman.

County Commissioner: ALLEN BUTLER made a motion to reconvene the Custer County Commissioner's

Motion passed unanimously.

BARNES: We need to have our Associate Members DALE MULLEN and CHRIS NORDYKE move to a seated positions to replace PAT BAILEY and ROD COKER.

BARNES: The first order of business is the minutes. We have two sets of minutes from the June and July meetings.

BARNES: Are there any additions or corrections to the minutes.

Hearing none minutes are approved.

BARNES: JACKIE would you please give a Zoning report.

HOBBY: In the month of July we issued twenty zoning permits compared to sixteen at this time last year. We issued seven septic permits compared to ten in the month of July last year. Permits issued to date are one hundred and ten compared to ninety seven this year. Last year we issued thirty four septic permits compared to thirty this year.

BARNES: Thank you, JACKIE. We have three agenda items and the first is a request for a Special Use Permit. We had the presentation last month and this will be the hearing phase. Would you like to come up to the podium?

BLAETIUS: I did some research about the American Disability Act to my knowledge it has not changed and it states that if you operate a Bed and Breakfast with five guest rooms or fewer and live in the house you are exempt from the ADA. So we are good there with those requirements.

BARNES: Thank you ROSIE, do you have anything else that you would like to add?

Hearing none

BARNES: Any questions from the Planning Commission?

Hearing none

Barnes: Any questions from the County Commissioners?

Hearing None

Barnes: Any questions from the audience?

Hearing none

BARNES: Hearing no questions, I will entertain a motion.

DONLEY: I move that we recommend to the County Commissioners approval of the Bed and Breakfast. I don't know of any conditions so whoever seconds the motion may want to add conditions.

BARNES: I will second the motion, with the following conditions.

1. The Special Use Permit will apply to the applicant, not the parcel
2. The Special Use Permit will be reviewed in one year then on a written complaint basis thereafter.
3. The project will comply with all Local, State and Federal Regulations.
4. A Legal source of water will be required with written proof provided to the Custer County Planning and Zoning Office.
5. All parking will be on applicant's property.

BARNES: We have a motion and a second with the agreed upon conditions, all in favor? All opposed?

Motion passed unanimously

REASONS:

DONLEY: I voted in favor; no objections from the adjoining property owners. All the conditions were met.

HOOD: I voted in favor with the conditions that were put in place and no objections.

LYNCH: I voted in favor and agree with the other comments.

HOWARD: I voted in favor and think it would be a great addition to Custer County.

NORDYKE: I voted in favor. I agree with all the other comments and the conditions that we have in place.

MULLEN: I voted in favor with the conditions that were put in place and secondly, no objections from the adjoining neighbors and it appear, to be common sense.

BARNES: I voted in favor and I agree with all the statements that were made. The application was presented well and you laid everything out well and there are no objections. We will turn the recommendation over to the County Commissioners.

ATTEBERY: I will make a motion that we accept the motion of the Planning Commission.

SHY: I will second that motion.

BUTLER: All in favor say I.

Motion passed unanimously

REASONS:

BUTLER: There were no objections; the Planning Commission put conditions on the application.

SHY: All the reasons cited and congratulate them and encourage them on their enterprise.

ATTEBERY: I will concur with my fellow commissioner.

BARNES: Thank You, Our next agenda item is the hearing phase for a Special Use Permit for a meat processing facility and the applicant HENRY MILLER is here. Would you please come up and add anything to your presentation.

MILLER: I don't believe I have anything to add. We applied for a commercial exempt well and at this time we have not received anything yet.

BARNES: For review you, are going to be taking the carcasses to Mission Wolf and Custer County Landfill. The blood will be stored and then taken away by an approved septic pumper. Are there any questions from the Planning Commission?

MULLEN: This will have USDA status?

MILLER: Yes

BARNES: Any questions from the Board of County Commissioners?

SHY: We always say that they must meet the State and Local Regulations. What process do we have to make sure that they have met them? Do they provide that information the Zoning Office?

HOBBY: We usually get copies of the forms. We have received the Enviro letter and the Landfill letter. When it comes to USDA every time that you slaughter an animal the inspector will be present. If it is USDA approved you would have a certificate from the state and you would make us a copy for our files in the Zoning Office.

BARNES: Any questions from the audience?

PITMAN: Where is the blood going to be taken?

HOBBY: Enviro picks up the blood and takes it to an approved facility.

BARNES: Do we have a motion?

NORDYKE: I make a motion that we recommend to the County Commissioners to approve the application.

HOOD: I seconded the motion with the conditions that MR. BARNES has.

BARNES:

1. The Special Use Permit will apply to the applicant, not the parcel.
2. The Special Use Permit will be reviewed in one year then on a written complaint basis thereafter.
3. The project will comply with all Local, State and Federal Regulations.
4. A Legal source of water will be required with written proof provided to the Custer County Planning and Zoning.
5. All parking will be on applicant's property.

BARNES: BOB do you have a comment?

SENDERHAUF: My name is BOB SENDERHAUF We are the real estate company that is handling this. It would be my recommendation that instead of having the permit go with the person it would go with the land. The reason that I am making that comment is, In the future if they would want to sell the property, they have put their time, effort and money into it. It is like building any other property you wish to sell as opposed to having someone start from scratch again. I believe it should go with the property as opposed to the applicant.

PLANNING COMMISSION: The new owners could apply for a Special Use Permit modification to have the Special Use Permit put in their names. The existing Special Use Permit goes with the applicant.

ATTEBERY: It has not been that many years that the Special Use Permit was changed to the applicant and not the land. It does put a different value on the land if you think about economics of the county. Sawmills are a good example. They went with the land and we still have a number of these that are still active. In the future the Board might consider that. It increases the property value if there is a business with the property.

SHY: If you do not make that part of the motion then the Special Use Permit would be attached to the land.

KEN PATTERSON: A meat packing building facility is different than any other business. You build a building specifically for that purpose. It really would not fit any other type of business. It seems that it would make more sense to go with the land.

BARNES: Thank you. What is the pleasure of the Planning Commission concerning this.

PLANNING COMMISSION: Comments were given on going with the land and going with the applicant. Change of ownership would require a Special Use Permit modification. After lengthy discussion it was decided to leave the conditions as they are.

BARNES: We have a motion and a second. All in favor? All opposed? Motion passed unanimously.

REASONS:

DONLEY: I voted in favor. The adjoining land owners had no objections, the applicant did his homework and did a lot of research and has answered our entire question, and it will be a benefit to the agricultural industry. It is in the agricultural zone.

HOOD: I voted in favor, will be an asset to the community. He has supplied us with everything that we have asked for. With all the permits that the state has, I don't think there will be a problem.

LYNCH: I voted in favor. They have been very consciences in due diligence in complying with all the other regulatory agencies'.

HOWARD: I voted in favor, I believe that the conditions that were placed on it the SUP covered what we needed and that it goes with the applicant and not the property.

NORDYKE: I voted in favor, I believe we need more business and it will be an asset.

MULLEN: I voted in favor, for the same reasons stated by MR. DONLEY.

BARNES: I voted in favor. There were no objections and it is basically an agricultural tradition even though it is a business.

BARNES: We will pass the recommendation on to the Custer County Commissioners.

SHY: Mr. Chairman I have a question. will it be attached to the owner, operator or applicant.

BARNES: It goes to the owner.

SHY: You attached it to the owner?

DONLEY: We attached it to the applicant.

SHY: The applicant will never change. If you have an owner and the owner changed and you had to get a new owner then there will be only one applicant for this permit.

DONLEY: We are attaching it to HENRY MILLER as the owner.

ATTEBERY: What if the license is not in HENRY MILLERS name?

DONLEY: Then that would be a problem.

ATTEBERY: I make the motion that we take the recommendation of the Planning Commission.

SHY: I will second that.

BUTLER: We have a first and second on the motion, any other discussion?

ATTEBERY: We have looked at this for a long time, I have made notes as we go along here and I keep making the same notes. The last few times that we have met this is the same situation as with the Bed and Breakfast we just did. Now these people have bought this property and they have a Bed and Breakfast on their property. Now that has increased the value of the property. It has not increased the value of the people; it has increased the value of the property. The same situation here. We are going down the road and keep making these permits to these applicants or owners or operators or licensees or whatever. When they go and sell it, they can't sell. They can sell the property and they can sell the license and permit. It is increases the property values in the county. The Bed and Breakfast is a great example. Those folks, if they had their property and now they have a license for a Bed and Breakfast, they have a different commodity then they bought two months ago. Sometime the Boards are going to have to think about some property values.

BUTLER: All of us in favor say I. All opposed  
Motion passes

BUTLER: I paused because I don't have a question, I have a comment. MR. MILLER I would like to see you succeed and I hope it works well for you. The question about property values I have not put into my mind yet. I would like to see you succeed. It is a good agricultural business it is probably in a good spot.

REASONS:

ATTEBERY: I voted yes. It was well thought out and it certainly is something that is needed. As far as the five thousand animals or fifty animals the complaints will take care of that if it would happen.

SHY: I voted yes, for all the reasons cited by everyone. We are going to have some of our decisions based more on the merits of the project and concerns of the project then people. One of these days we will have a decision challenged when we base it on personality whether it's ours or theirs. We only do merits of the project as presented.

BUTLER: I voted yes, because the adjoining property owners had no objections.

BARNES: My comment is that you did a good job of due diligence and we appreciate it.

DONLEY: I would like to echo VIC. Both of the applicants did extremely well. It was thought out and I would like to compliment the office and staff for presenting something we can act on instead of having to send the applicant back and forth.

BARNES: I third agenda item is for a vacation of parcel lines (s) and Replat. I will read the applicants statement. *"We are making the request of a vacation and replat of our property to clean up the tract lines that were established many years ago and to incorporate a piece of property that is used as an access road into the adjoining three tracts, thus making the area less dense. We intend to give an easement to the remaining three tracts, currently labeled Parcel D will be given to the owners to Tract No. 33 Alpine Ranch Acres. There are currently no plans for future structures on any of the parcels".*

SHY: Mr. Chairman, I prepared this document as part of a several yearlong process and I will need to recuse myself from the discussion. I would like to ask for your indulgence for asking any technical questions that might come up.

MICHEL: Hi, my name is JANET MICHEL and I will be presenting today.

MICHEL: Read the following.

**Presentation to Zoning and Planning Board**  
**August 5, 2014**

*Jan*

History: Lester and Martha Michel purchased the property, known as 341 Phantom Road, Westcliffe, CO 81252, in 1961 from Gerald Smith. There were three separate parcels. A fourth parcel, known as Lodge Road, was deeded to the Michels by Gerald Smith in 1971.

Pam Prince and I, Jan Michel, purchased all four of the Parcels, including Lodge Road, from my mother, Martha Michel, in 2006. We contemplated combining the parcels into a single property but thought they might be more valuable separately as each parcel could be sold separately and well and building permits could be secured for each parcel.

We have chosen to request a vacation and replat as "Dancing Pines Parcels A, B, C and D" for several reasons:

1. The back part of the driveway for 341 Phantom Road is located on two different parcels (A and B). We want to redraw the line so that the entire driveway is located on parcel B along with the improvements of a house and outbuildings already located on parcel B. This eliminates potential problems if the parcels are sold separately at some point in the future.
2. All four parcels have historic and permanent easement on Phantom Road. One neighbor, the owner of Tract 33, Alpine Ranch Acres, also has easement to their property via what is currently known as Lodge Road. We want to combine the Lodge Road acreage with the parcels adjacent to it. Our portion of Lodge Road would cease to exist as a separate parcel. This lowers the density of the area and "cleans up" the lines for future property owners. All four properties, the proposed Dancing Pines Parcels A, B and C, as well as Tract 33 of Alpine Ranch Acres, will have easement via the former Lodge Road. The easement also will continue to be maintained as an emergency Ingress/egress for other properties in the area.
3. Parcel D of the proposed Dancing Pines Parcels Vacation and Replat, a small, 0.18 acre piece of vacant land, will be deeded to the owners of, and will be incorporated into, Tract 33, Alpine Ranch Acres. Parcel D abuts Tract 33, incorporates the majority of the driveway of Tract 33, and is within six feet of the cabin located on Tract 33. The owners of Tract 33 have accessed their cabin by driving over this land since the '60s. Again, this "cleans up" the lines for future property owners, is a better use of the property, and is the neighborly thing to do.
4. The SunTrust Mortgage Company, holder of the mortgage on 341 Phantom Road, Westcliffe, CO 81252, has agreed to release the piece of land, labeled as Parcel D on the proposed Dancing Pines Parcels Vacation and Replat, from the mortgage and has agreed to the granting of an easement.

*Basically we are taking four parcels and turning them into three.*  
Thank you for your attention. Do you have any questions?

BARNES: Does the Planning Commission have any questions?

PLANNING COMMISSION: Asked questions about the easement that is on the Plat, lot D will be part of lot 33 vacating the common lot line between Lot D and Lot 33 will be part of the process.

Barnes: Does the Board of County Commissioners have any comments?

Hearing none

BARNES: Any further questions?

Hearing None

DONLEY: I make a motion that we accept the Plat as presented.

HOOD: I second the motion with the condition that the common line between Lot D and Tract 33 be vacated.

BARNES: We have a motion and second with a condition.

BARNES: All in favor? All opposed?

Motion passed unanimously

REASONS;

DONLEY: I voted yes, this will make the situation better and clarify things in the future.

HOOD: I voted yes, this will cleanup some descriptions and also cleanup the easement.

LYNCH: I voted yes, I agree especially with regards to the condition that placed upon with the common boundary line and tract 33.

HOWARD: I voted yes, it cleans up the parcels.

NORDYKE: I voted yes, same reasons that MR. Donley stated.

MULLEN: I voted yes, it cleans up without any complaints.

BARNES: I voted yes, for all the reasons expressed previously.

BARNES: We will pass the recommendation on to the recommendation to the Custer County Commissioners.

ATTEBERY: I make a motion that we accept the recommendation of the Planning Commission.

BUTLER: I will second the motion any other discussion?

Hearing none

All in favor say I? All opposed

Motion passed unanimously

REASONS:

ATTEBERY: I went along with the recommendation of the Planning Commission.

BUTLER: Yes, the same reasons and also there were no complaints and the work was done well.

BARNES: Thank you

BUTLER: Adjourned the County Commissioner meeting at 2:45 P.M.

DONLEY: Made a motion to adjourn

BARNES: Seconded the motion

Meeting adjourned at 2:45 P.M.