

Joint Meeting of the Planning Commission and Board of County Commissioners

February 4, 2014
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission: Vic Barnes, Pat Bailey, Rod Coker, Bill Donley and
Cindy Howard

Absent: Patrick Lynch and Keith Hood

Associate Members: Dale Mullen and Chris Nordyke

Absent: Glen Livengood

County Commissioners: Lynn Attebery, Allen Butler and Kit Shy

County Attorney: absent

Staff: Jackie Hobby and Chuck Ippolito

The meeting was called to order at 1:05 P.M. by Jackie Hobby, Custer County
Planning and Zoning Office Director.

HOBBY: Acting as Chairperson to conduct election of officers. There were two
nominations, VIC BARNES for Chairperson and KEITH HOOD for Vice-
Chairperson. Is there anyone else that is interested in the Chairperson or Vice-
Chairperson position?

No reply

HOBBY: All in favor please raise your hand.

Motion passed unanimously.

HOBBY: I would like to introduce our two new Associate Members and they are
CHRIS NORDYKE and GLEN LIVENGOOD. GLEN LIVENGOOD is absent
today and he sends his regrets. We are missing a seated Board Member and if
everyone agrees we will replace KEITH HOOD with DALE MULLEN. Since
CHRIS NORDYKE is new.

VIC BARNES was elected Chairperson and KEITH HOOD, Vice-Chairperson.

BARNES: Moved to the Chairpersons seat to continue the meeting. Thank you
everyone.

Pledge;

BARNES: Now we will need to elect a secretary, official newspaper and posting
place.

DONLEY: Made a motion to have JACKIE HOBBY as Secretary, Wet Mountain
Tribune the official newspaper, and the Custer County Courthouse bulletin board
as the official posting place.

BAILEY: Seconded

Motion passed unanimously by voice vote.

BARNES: We need to approve or amend the minutes from November 6, 2013.
Are there any corrections? Then they will stand as read.

BARNES: JACKIE would you please give a Zoning report.

HOBBY: In the month of January we did five septic inspections, five special conferences, and two compliance inspections. Permits issued during this month in 2013 to date we have issued zero septic permits compared to two septic for 2014. Zoning permits at this time last year eight compared ten this year.

BARNES: Thank you JACKIE. We have one agenda item today. This is the second phase of the Special Use Permit request by MUSIC MEADOWS and ELIN will be representing the application. Everyone that wants to come up and speak please give your name and any affiliation. First of all welcome CHRIS. I will start. This is a two phase Special Use Permit and we had our first meeting which was a presentation on November 6, 2013. This is the second part and this is the hearing and generally we make a recommendation to the Commissioners. I will read the request from last time.

Music Meadows Ranch requests a special use permit for guest ranch operations including:

Horseback Riding-Day rides

Overnight and Multi-Night Stays at Existing Vacant Ranch House-Three bedroom/2 bath house sleeps up to nine. "In House" meals provided.

Horse Related Retreats/Clinics- With "In House" meals provided.

Agri-Tourism Group Visits & Cook Out-Organized through coordination with Ralph McPherson of El Pueblo History Museum.

BARNES: We are missing PATRICK LYNCH, we will fill his seated position with CHRIS NORDYKE.

BARNES: JACKIE did you receive any additional correspondence from adjoining property owners?

HOBBY: No, MR. BOYER called and is present in the audience.

BARNES: We appreciate you being here. ELIN would you like to comment on your application?

GANSCHOW: Most of you know me, I am ELIN PARKER GANSCHOW. I am going to pick up where we left off and I was told to think of every possible thing that we would be doing at the Ranch, so that is addressed in this meeting. In addition to the items that I have mentioned the in house meals are optional. We are going to have a small space inside the house that would have some souvenir items; it could be clothing, cups etc., items that are specific to us. It will not be a shop; it will be a small space inside the house. The other thing is that we have our food service license and I did not think to bring it. I can provide that to the Zoning Office. Any questions in what we are offering at the ranch?

BARNES: Are you going to discuss the water?

GANSCHOW: Yes, I thought I would answer any questions that deal with the actual operations and then discuss the water.

BARNES: Any questions from the Planning Commission?

No reply

BARNES: Any questions from the Commissioners?

BUTLER: Do you have bonfires or cooking hotdogs out on a campfire?

GANSCHOW: As long as there is not a fire ban. We have an outdoor fire pit that we make available with guidelines for people that stay there. We always call the Sheriff Department before we do anything to see if there is a fire ban. The Agri cookout will be on a propane grill. We use the barn and we provide porta-potties at the barn for the day traffic. They are not using the house. The house is only for overnight guests. The water issues, we have several options. I got my guidance from JERRY LIVENGOOD and a couple of the Board Members about some solutions. We have to convert the domestic well into a commercial exempt well. That would mean that the water would be no longer available to water the yard. We decided this is an effort on trial in terms of our own business model (whether it's going to work). I did not want to make any big investments. We have a stock well on our dry land and we have tanks up there we are thinking of connecting to that, we have looked at several options. A less expensive well is a spring well if we could find water close to the barn. We decided ultimately for this year to see how this business does. Grape Creek comes through the corral right now and we have one wet pen. It is only in last five years that we installed a frost free hydrant. The yard is not set up to be watered only with sub-irrigation water and unless we are in a severe drought we don't have to be that concerned about watering the yard. If we don't need additional water then I will not haul any water. If it is another year like the last three and the creek is dry, I will need to haul water. That is the solution for now. I don't want to do anything expensive until I see if this will be profitable.

HOBBY: Do I have this correct you are going to turn your domestic well into a commercial exempt well and you are going to haul water to the livestock.

GANSCHOW: Yes and I will put a meter on the commercial exempt. Another thing that we briefly have talked about is the septic system. I know from within our family, I do not have any documentation. We upgraded the septic in 1980's with Mr. Collins.

HOBBY: The recommendation from the Zoning Office is to get an engineer to evaluate the current system.

COKER: Does it have to be an engineer?

HOBBY: Yes

MULLEN: JACKIE I have three questions. The first one is help me understand what this Special Use Permit is for, is it for commercial operations on a private ranch. Is that what the county is going to grant to ELIN?

HOBBY: Yes, correct me if I am wrong, a lot of what ELIN was doing fell under the agricultural use. When she added overnight stays serving meals it went into a Bed and Breakfast.

MULLEN: I am looking at Division II Resources letter from October 24, 2013 that you provided for us prior to the November meeting. I am trying to sort out what I heard ELIN say from her casual conversation with JERRY LIVENGOOD versus what is in this letter. It refers to commercial exempt. You said something about your conversations with MR. LIVENGOOD, that if you should be outstandingly successful, which I hope you are in this endeavor, is that going to change? You will live on with this commercial exemption?

GANSCHOW: Yes, it is one of the important things that I am telling you all. If we abandon the operation and we took it to the state, can we revert the well back to a domestic well? If I go out of business we can under current regulations. That is very important to my family. This year I will haul the water if needed.

MULLEN: This commercial exempt well permit, you going forward initially just on an agreement with MR. LIVENGOOD? Or have you filed for a commercial exempt well for your operations this year?

GANSCHOW: Once I know that I have approval for my Special Use Permit.

MULLEN: The last question has to do with the septic and you mentioned that you usually ask for the applicant to provide you with an engineered septic analysis.

HOBBY: In the Zoning files we looked for information on the septic and could not find it. Since this is commercial, it will need to be done by a Professional Registered Engineer.

GANSCHOW: Yes, those are two things that will need to be done.

BARNES: Any other questions?

HOWARD: On the septic do we provide something that it will need to be regularly pumped.

SHY: That will be part of the engineer's recommendations and it would be up to the engineer.

HOWARD: I missed the November meeting so the dates are seasonal on the operation?

GANSCHOW: No, it could be year around.

HOWARD: Do you have a sales tax license?

GANSCHOW: Yes, I have had that for years.

HOWARD: You are taxed different if you are in town?

GANSCHOW: Yes, I have a bookkeeper that keeps all that straight.

HOWARD: Do you pay the Lodging Tax, quarterly.

HOWARD: Will you be selling alcohol on the premises?

GANSCHOW: No, we are not selling alcohol.

HOWARD: You have a commercial liability policy?

GANSCHOW: Yes, it's a million dollar policy. I have carried that for the horseback operations. It is written to cover people that stay there?

GANSCHOW: Yes

BARNES: Any other questions?

NORDYKE: So there are people lodging overnight?

GANSCHOW: Yes

NORDYKE: Is that how you will be advertising?

GANSCHOW: Yes

NORDYKE: How many rooms.

GANSCHOW: We have three bedrooms and two bathrooms, it's the original house and we will not add on ever. It's in a conservation easement that restricts commercial growth. It is also written to accommodate a small operation like this.

NORDYKE: I would imagine that the septic tank is ok. I would imagine that the leach field would probably fail.

GANSCHOW: I would say with the kind of use that I am asking for it would be less use as if there was a family that lived in the house full time.

BAILEY: Did you say that you could not do water catchment. The state made that legal about three years ago because of the drought.

BARNES: You need to apply for a permit.

COKER: It is well specific and only applies to certain criteria.

GANSCHOW: I will look into that.

BARNES: Generally on Special Use Permits we don't have an end point. It goes as long as you are the owner and operator. We try to avoid going back to make revisions. What would we do if you are successful and you want to go for another well, do we need to make provisions at this time?

GANSCHOW: If we put in another well it would be for livestock water only and would not be associated with this application it would be for the ranch.

BARNES: Commissioners do you have any questions or comments?

SHY: This land is under a conservation easement, has the easement holder been notified?

BARNES: Yes, we have a letter from BEN LENTH, he is the Executive Director.

ATTEBERY: You said you would get another well on thirty five acres which you would need to separate out. Does the conservation easement allow you to do that?

GANSCHOW: I don't know, that is a good point.

BARNES: I am confident that would not be a problem.

ATTEBERY: You talked a little about that when you are in town you have a sales license.

GANSCHOW: I have a sales tax license and a food service license for both sales operations.

ATTEBERY: MR. NORDYKE asked about the numbers and that was vague to me, if it's a two bedroom house, where does the staff stay?

GANSCHOW: The staff does not stay there. They show up do whatever and then go and come back to make lunch. You have three different choices, you are on your own, someone cooks for you which would cost more, or we buy the food and you choose to cook it yourself.

BARNES: The number in your application is nine.

GANSCHOW: Yes, that is guests, and that would be a maximum and it probably is an average of four.

HOBBY: You have three bedrooms, but you are talking nine guests. Your septic is sized by the amount of bedrooms which is two per bedroom. So my concern is the number of guests.

HOWARD: It sounds like a vacation rental instead of a B&B, except with the cooking. My question is with the maximum amount of occupancy will it be opened up for weddings, campsites, RV or anything like that?

GANSCHOW: No, my lease with my family states that it is not allowed.

ATTEBERY: Have we seen that lease?

HOBBY: No

GANSCHOW: I can supply it.

BARNES: Any further questions from the commissioners?

No reply

BARNES: Are there any questions from the audience?

DAVID BOYER: Thank you for letting me come in and discuss this. I own some property south of town and I am an adjoining land owner. We have two prior groups that have investigated the use of agri-tourism not adjacent to our property. Basically these people were proposing to cross our land and they would fix the fence and redo the gates that they damaged. That is why I am here today, to find out more and ask questions. Where is the destination for the horseback riding? We are interested in protecting the perimeters of our property. We are interested in being good neighbors and I believe we have been. What is the threshold when you have a change in use? Does this require an augmentation? How are we protected from them crossing our land? My main interest for being here today is learning exactly what the plan is.

BARNES: Thank you DAVID

GANSCHOW: I will start with the last first. All the riding originates from the ranch house. It only occurs on our side of the fence. We don't take fences down, we do repair the fences as needed. There will not be any issues with that.

BOYER: Are you planning to access the county road?

GANSCHOW: No, the only reason we would be over there is to retrieve cattle. We have additionally insured our neighbors so I will put your name on it also. We will put all the neighbors that adjoin the property on our insurance policy.

COKER: A commercial exempt well does not require an augmentation plan.

DONLEY: In a calendar year you can use one hundred and eight thousand gallons. When you get to one hundred and eight thousand gallons you can't use the water until next year. It all goes back in through the septic.

BOYER: This seems open ended and when would it require an augmentation plan?

DONLEY: The water will be metered and will be read annually. The permit only allows one hundred and eight thousand gallons.

GANSCHOW: Our occupancy rate will hopefully increase over time and the house is only comfortable for four people. We have the ability up to nine and we have never had that yet. It is a business model that is looking at capitalizing on existing infrastructure.

DONLEY: If ELIN'S usage goes above one hundred and eight thousand gallons she will need to find another source of water.

COKER: You can haul it.

DONLEY: Also you could change the use of some of your water.

BAILEY: Your water rights are tied up with the easement so you would need to get their approval.

BARNES: KIT do you have a question?

SHY: A little perspective. One hundred and eight thousand gallons is a little hard to think about with a whole year. It works out to about three hundred gallons a day. The way the state calculates use it is based on the number of bedrooms and you are talking about three bedrooms. That would be about two hundred and twenty five gallons per person per day.

The state has recognized that condition and uses it as a yearly number, so that you can take advantage of your occupant days if there is no one there the next day. Because of the yearly number you are able to spread that out over time.

ATTEBERY: What name is this going under, the LLC? Is it going to the lease, Music Meadow Ranch? Is it going to the whole thing?

GANSCHOW: Yes it's going to Music Meadows Ranch. I lease from the company and I have my own thing.

ATTEBERY: Understand that it is going to the whole thing, if it is that way. You understand that?

SHY: He is saying that it applies to the entire property and not just a portion of it.

GANSCHOW: Right, we have a company that is registered with the state that is called Upmost Enterprises and then we have two enterprises Sangres Best Grass Fed Beef and Music Meadows Ranch. That is the way the business is registered.

BOYER: I am sorry if you have already answered this. Does your conservation easement allow further growth?

BARNES: I might be able to help you out ELIN. You have a building envelope. Within the building envelope of ten acres, you can do some development within that building envelope. No structures can be built outside that building envelope.

MULLEN: JACKIE, is this a correct statement that she is indicating a maximum of nine people staying there. What if she has nine camping and nine in the house? Does that violate the Special Use Permit?

HOBBY: If the condition is placed on it by the Planning Commission and ELIN stated earlier that camping would not be allowed. The current septic is for three bedrooms and six people, which could change when we get the engineers report.

MULLEN: Any issue with the county that there would be unsupervised commercial use?

HOBBY: Most of our commercial activity is not supervised.

MULLEN: So when you have a group of horseback riders, they do not self-ride?

GANSCHOW: No, they are guided.

MULLEN: The last question has to do with the Special Use Permit. Does it live with the land, the owner or the endeavor if approved?

BARNES: It depends what we put in the conditions.

GANSCHOW: That is a good point, if one of my kids steps in and wants to continue the business. Do they have to go do this all over again?

BARNES: If it's granted to Music Meadows LLC. Now if Music Meadows LLC were to sell it to another entity then they would need to get a Special Use Permit. It goes with the owner and not with the land.

HOWARD: Isn't the agency renting the house? Are the horseback rides a different entity?

GANSCHOW: We have a federal tax number tied with this.

HOWARD: So you will need to tie both of them together or it will be a violation. Whichever agency is going to rent the house and have the horseback riding needs to be the permit holder.

ATTEBERY: Certainly as the Planning Commission has stated you would like to see the endeavor move forward. I don't believe the Planning Commission is in a position to come up today with some of these conditions that have been brought up here today. I believe that there are companies within companies that need to be straightened up.

HOBBY: The land owner is the LLC, then you lease it from your siblings, and that is Music Meadows Ranch.

GANSCHOW: It is Music Meadows Ranch not Music Meadows LLC. If you search the state for our company you will need to look for Upmost Enterprises.

HOBBY: That is the grass fed beef?

GANSCHOW: No, Sangres Best is the grass fed beef. So we have a three year lease at Music Meadows Ranch LLC to do these operations and it is all spelled out.

BARNES: The application should be Music Meadows Ranch.

GANSCHOW: Yes

BAILEY: This should be Upmost Enterprises doing business as Music Meadows Ranch.

SHY: Consistency needs to be followed, whoever paid for the insurance. What name is the well permit in, if the application is being given to Upmost? Do they have the authority to get a well change on this property? Several entities here and we are asking one of them to do several different things. If she applies for a commercial exempt well permit, that needs to be in the landowners name. But the application is in the name of the operator the insurance is in the name of who? In the counties stand point, this Special Use Permit needs to be issued in all of these entities if they are all in cooperation to do a part of the requirements of the application.

GANSCHOW: I would say that the well permit would be the only one. Everything else will be under Upmost.

SHY: It's all the same person but she has a lot of hats and all the hats need to be listed.

BAILEY: I don't agree that the well is part of the LLC and is also part of the application approval. If Upmost goes defunct the ranch is still there along with the well. They are on their own to put the well back to domestic. We want to make sure that the SUP stays with the entity that is doing this activity. If they are gone, the SUP is gone.

SHY: One of the requirements is that they have the well permit, so if she can handle that fine.

BARNES: You're advocating changing this application? It would be Music Meadows LLC dba as Upmost Enterprises dba Music Meadows Ranch?

BAILEY: Music Meadows Ranch LLC is the existing ranch and it has nothing to do with this application.

HOWARD: The conditions on that would be Music Meadows Ranch LLC converts to a commercial exempt well and has the septic system engineering done on the septic. Some of the conditions would be on the property owner and some would be on the applicant.

BARNES: Can we put conditions on an LLC that we did not grant an application to?

MULLEN: We would not do that. Upmost has to put these check marks in the box before they are issued a SUP.

SHY: One question is if this SUP is going to be in the name of Music Meadows Ranch or Music Meadows Ranch LLC.

BAILEY: Upmost Enterprises dba Music Meadows Ranch.

SHY: They do not own the land. Do we have a letter from the landowner saying that they are good with this? We will need to see the lease.

ATTEBERY: Did you say you have a lease for three years? So are we going to write a SUP for three years?

HOWARD: No, if there lease is terminated then the SUP goes away.

ATTEBERY: They usually go with the land.

BARNES: The bulk of them go with the owner.

GANSCHOW: The way that the lease it is written it is renewable.

HOBBY: We need to see the documents on the family lease etc. and we should postpone this application until we see the other documents.

SHY: Is that a staff recommendation?

BARNES: We would need to see if ELIN is comfortable with that.

GANSCHOW: Ok, I will black out the parts I don't want you to read.

SHY: In all fairness the understanding here is that there are two more issues that are important, the well permit and the engineering on the septic system. She could be working on that also.

BARNES: ELIN is making the request; she is the one that makes that decision.

ELIN: It could be done in two ways, make a decision based on those conditions being met and at the next scheduled meeting or I supply the documents within a certain length of time and then I am approved, which would be contingent on me supplying the lease, engineer specs and well permit once those boxes are checked. You would give me a period of time to accomplish this. Then we would not have to have another hearing.

BARNES: I will offer a suggestion that there are a lot of things up in the air. There is a strong sense of urgency we would be wise to defer until next month. What is the pleasure of the Planning Commission?

BAILEY: If we do this ELIN needs a list of the items that need to be taken care of and provide answers to.

GANSCHOW: Yes, that sounds good.

DONLEY: Do we recommend to the Commissioner that we approve this application provided that the conditions are met.

BUTLER: No, we are not interested in that at this point.

DONLEY: That's a non-issue?

BUTLER: Let's get it all put together, she could bring us an engineer plan that says no or we might need to discuss. It's up to you to make a motion.

MULLEN: Are we not in the position to make a recommendation to the County Commissioners. Then it goes on to the Commissioners for their approval or denial. If the County Commissioners approve it then it lives with JACKIE and she checks off the conditions and then it's a done deal.

BARNES: We can do that but we have to be prepared today to give a list of conditions that are contingencies.

MULLEN: JACKIE has been writing for the last half an hour and she must have a list.

GANSCHOW: You want proof of cooperation from Music Meadows LLC in a lease, engineering on the septic, well permit change. I don't want to change the permit if I am not approved.

MULLEN: That does not stop us from moving it down the line and we make a recommendation and when she has met all the contingencies you issue the SUP.

HOWARD: You need a copy of the insurance policy, tax license and some language containing a transfer and expire on expiration of the lease.

GANSCHOW: It needs to be transferrable if one of my children inherits the enterprise.

BUTLER: We want it to be clear that we want these things to be in the file and we would like a motion and then we would decide whether to put it back on the office.

BARNES: I don't think we want to put it back on JACKIE. It's our job to detail the conditions. It might be her job to see if those conditions have been met.

SHY: I picture this as being deferred to as a decision to a future meeting. I don't know if this appropriate time to discuss this without their motion. The applicant is informed of our concerns at this meeting, giving her a chance to work on those. A decision with contingences without further knowledge of them would be inappropriate.

DONLEY: A decision by whom, the Planning Commission or the Board of Commissioners?

SHY: Well the decision is over here and the recommendation is over at the Planning Commission.

BARNES: What is the pleasure of the Planning Commission?

MULLEN: I will counter by saying what is the pleasure of the chair?

BARNES: I think there are a lot of things still up in the air. I would feel more comfortable if we detailed these pretty precise. We can go through the list and fine tune it at the next monthly meeting and make a decision. Would you agree with that LYNN?

ATTEBERY: Yes, I understand that the LLC has a lease with her; do we have something in writing that says she can do this? If I was a Lessee from the LLC and I just had my lease, I can interpret what I want and move forward. We do not know this. We need a document stating this also the names need to be squared away. We need the other documents. The Planning Commission has the opportunity to make a recommendation to the Board of Commissioners at this time.

GANSCHOW: The only one that will take me anytime is the engineer on the septic. I don't know how they do it with the weather.

NORDYKE: I have a suggestion. The first thing is have the septic pumped. I also would suggest you get a new leach field.

GANSCHOW: You are telling me to put in a new system.

NORDYKE: No, it's just a suggestion, for further use not to have any problems.

MULLEN: My interpolations, not that I necessary support it, is that we should delay it until the March meeting. Do we need a motion or do we just delay it?

HOWARD: I want to make sure we have answered all of DAVID BOYERS concerns?

BOYER: I think so.

MULLEN: Are you opposed to this endeavor or you opposed to it with some considerations?

BOYER: I am not opposed to the basic plan. We are trying to protect our interest down there. Past experiences when people come across our land and cut the fences and gates, then give a hand shake and say they will repair them.

MULLEN: From what you have heard in this room do you feel any better now than when you came in?

BOYER: Yes, I do.

GANSCHOW: What action do you want me to take concerning the well permit? I can't imagine you wanting me to make that change without having approval.

BARNES: If you want assurances then you will need to wait until the decision is made, if that is going to be the March meeting, and in that case if everything else was met I would imagine the motion would be that you are approved contingent that you get the commercial exempt well.

GANSCHOW: I will provide a letter to the Planning and Zoning Office that they support the well permit change.

ATTEBERY: It will be the LLC that will need to do the well permit.

HOWARD: How many members are in the LLC?

GANSCHOW: Five members.

HOWARD: Do you have the authority to change the well permit?

GANSCHOW: No.

BAILEY: If the decision is going to be next month, this will still be contingent on the conditions, whether today or next month. So I would like to make a motion to recommend to the Commissioner's that they approve this SUP based on the following contingencies. That the SUP would be enforced after these are met: Commercial exempt well, lease agreement showing that Music Meadows Ranch LLC has leased to Upmost enterprises dba Music Meadows Ranch, engineer has given recommendation's on the septic system with a three bedroom house, whatever recommendations are made are taken care of, the only overnight stays will be in the house, no camping rv's etc., a copy of the sales tax license, food service license, liability insurance and additional insurers.

DONLEY: I second the motion.

BARNES: The SUP goes with the owner.

BAILEY: The owner being upmost Enterprises dba Music Meadows Ranch.

HOWARD: Not assignable or transferable.

BARNES: Also they need to comply with all state, local and federal regulations. That would cover everything else, also administrative reviews. Do we need limited retail?

BAILEY: No, that is inside the house. They cannot build another commercial structure.

BARNES: Why can't they build another structure?

GANSCHOW: I don't think I can because of the scope of my lease.

BARNES: They can do it within the building envelope on the conservation easement.

MULLEN: Does the SUP restrict her future business growth? We don't want to do that.

BARNES: We will have JACKIE go through the list.

HOBBY: Engineer report on the septic, commercial exempt well, family lease, insurance policy with additional names, sales tax license, food license, only overnight in the house, project must comply with all state, local and federal, letter from LLC stating that you have permission and administrative review, limited retail activity limited to the existing house.

BARNES: We have a motion and a second to approve the application of upmost enterprises dba Music Meadow Ranch.

ALL in favor

Motion passed unanimously

REASONS:

BAILEY: Yes, they have been doing a limited portion of this for the last four to five years and originally came into the office. To my knowledge we have not had any complaints. She came in the first time to see if she could do it and what she had to do to get it done. I am comfortable with the contingencies.

DONLEY: Yes, because if all the contingencies are met it would be an asset to the local economy.

MULLEN: Yes, because with the contingencies it makes a valid SUP consistent with others that we have done. I don't believe at this point we will be any smarter than we are today.

HOWARD: Yes, pretty much echoing BILL'S comments. It has the potential of being an asset to the community. I also believe that the devil is in the details. We need to make sure that the local, state and federal requirements are met when we issue an SUP.

NORDYKE: Yes, I believe it would be a valuable asset to the county, bringing people in and you never know how many of them will buy a building permit and move here.

COKER: Yes, I voted in support of the motion and it's an activity that we need encourage in the valley. I believe we have addressed the issues that it will be a success and we don't have any problems.

BARNES: Yes, I believe the pros outweigh the negatives. Elin has done a good job trying to address the issues. I believe this will be a benefit to the community.

BARNES: The recommendation now goes to the County Commissioners to approve the project, ALLEN.

SHY: I want to have some more discussion. Do we need a motion to do that?

BUTLER: It's in and before the Board of Commissioners.

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

BUTLER: Ok, there is that motion. I will second it so that we can have discussion.

SHY: My concern is that like all deliberative bodies, we all go like this and say we got it done and it goes to staff. Every one of these details has a whole lot of contingencies here. This is not similar to anything I have seen before and almost nothing is done. All these contingencies have to be met and the only arbitrator of the contingencies is JACKIE. We are putting the entire burden, not only the decision but the follow up, on her. In the past I have seen people make decisions that you get this and this done and bring it back to us. Then you get everyone's eyes on it to make sure that contingencies were met, everyone's expertise that we all bring to the table and I think this is a problem in deliberative bodies everywhere. You pass it on to our bureaucracy to make sure that all the contingencies are met. I don't believe that is acceptable. Some of them are a little vague and we are not sure about the septic and we are not sure about what the engineer report will say. These things will all come back to JACKIE and she will say yes you did that and that one. But everyone in this room will be the first one to jump her case when something wasn't done right. I don't think that's fair. We have washed our hands of part of our responsibility in handing it all to JACKIE. I have watched her struggle with these things over there. I would be a little bit happier if we would see some of this laundry list of things we are talking about be clearly conveyed to ELIN, which is only fair to her because it is a complicated list, and see how far along she can get with those by the next meeting and we look at the results of that. That is where I am coming from. I certainly do not want this to end up being a habit where we get a complicated issue and we give all the tough stuff to the staff. The staff has done a really good job on research to inform us on how to make the decision and we don't have enough stuff. Now we say ok go get the stuff and when she gets it you tell her it's ok. That's where I see it landing and that's not a pleasant thing for us to do. If we are willing to do that and JACKIE is willing that, I would like to hear from her about this as well not just the deliberative body. How do you feel about all these issues?

HOBBY: Most of the issues, the septic systems, I deal with from a day to day basis. I have no problem with that. I do have a problem with looking at a lease because it is a family lease. I feel that a lot of the actions I can handle but if it becomes a larger issue I do not want to do it.

BARNES: I share the same concerns. Is there some way to put in a mechanism that once this list is developed, that it is reviewed by the Commissioners or the Planning Commission to protect JACKIE.

ATTEBERY: Mr. Chairman you need to remember that I just made my motion to get to discussion. There is nothing that says we are going to agree with them.

BARNES: I understand that, I am just offering a possibility.

SHY: That is fair in the discussion process.

BUTLER: Your recommendation is what?

BARNES: To protect JACKIE because of some of the issues. Once this laundry list is developed, JACKIE can come back and make sure before the County Commissioners that they are comfortable?

BUTLER: I think that would be a good idea

BAILEY: The burden is not on JACKIE, the burden is on ELIN. ELIN needs to get this information to her and it is in the file. Ok, I got everything and before she does anything with it now what do we want her to do?

SHY: Some of this requires some interpretation.

BAILEY: The Chairman of the Planning Commission makes sure everything is in order or do we need to go to the Commissioners because we have already made a recommendation? Now you want to make a decision, whenever that is?

ELIN: Out of that long list most of it is cursory stuff. I have the licenses and the lease is there. I will send it over. The lease and permission from the LLC to change the well are the things that you are most concerned about. We know that the engineer is going to tell us about the septic. So the other issues are easily handled through JACKIE. JACKIE can send all the stuff to each of you. The letter from DEB could be in the office tomorrow supporting the change in the well.

BUTLER: Chairman calls for the question? Do you need the motion read because a lot of the comments did not have anything to do with the motion.

BUTLER: All in favor of the motion say I.

BUTLER: Replied I

BUTLER: Opposed say I

ATTEBERY and SHY were opposed.

BUTLER: The motion is denied.

REASONS:

SHY: My reason for voting against it is because we have not discussed the procedure. I don't think we have precluded another possible motion. I will tell you the reason for making that one. I don't think the procedure is outlined clear enough as to who is responsible for what documentation and review.

ATTEBERY: Even though I did make the motion, as I mentioned earlier it was to try to get us into discussion. I think until we can take a close look at this verbiage that's included in some of this stuff we are not being cautious enough. Everybody knows in this room that we like to see anything and everything move forward to help the applicant when we can. Looking at the best interest of the county, we need to take a closer look at a couple of things.

BUTLER: Chairman supported the motion from the PC and I did so because at the very end we were talking about the fact that most of the documents were already done. In the beginning I was dead set against it. The reason that I am for it now is because, I think JACKIE after she talked, she can handle it. The two items on there, I am cautious about and in the end it might turn out that you can't do the well and the septic.

BUTLER: I will entertain another motion.

SHY: I will make a motion that we instruct staff to provide ELIN with the entire laundry list that was proposed in the motion from the Planning Commission and we encourage her to work on them as fast as she can so that we can hear this again at the next meeting or whatever meeting you choose after that.

ATTEBERY: Second the motion.

BUTLER: Any discussion.

GANSCHOW: How much notice will you need in your office?

HOBBY: I will need to do a public notice in the paper, so you have about two weeks.

BAILEY: These are contingencies, which she needs to do. If she can't get the septic, if she can't get it done next week, she should be able to get on your agenda. You can do your thing any time you want.

SHY: My motion wasn't that these are contingencies. My motion was that it was a laundry list of concerns and that we would hear the issue at the next Planning Commission meeting.

BAILEY: Does it have to be at one of the meetings, or a normal meeting?

BUTLER: He said Planning Commission meeting.

MULLEN: Can I have a clarification. My understanding is that the Planning Commission made a recommendation that this SUP be forwarded to the Commission for its vote. With the recommendation of approval, what I just heard was that the three county commissioners denied the SUP as recommended. So does this start over again and come back to the Planning Commission and be re-reviewed and re-recommended or can it live on with recommendations from the Planning Commission and what needs to be hammered out is between the applicant and the commissioners?

BAILEY: No, with what KIT just said.

SHY: There is a motion on the floor and I believe you act at our pleasure. We ask you to hear something next month, and then the motion passes as that.

MULLEN: Are we starting over or are we re-reviewing? Right now this issue is dead.

SHY: I will re-state the motion

BUTLER: I second that.

SHY: I made a motion that we provide ELIN with a list of concerns and that we hear this issue next month at the next regular planning commission meeting.

MULLEN: We are re-starting her application.

SHY: I did not say that. We are hearing this issue, her application is still on the table.

MULLEN: She was denied.

SHY: We did not approve this application.

MULLEN: How is that different from being denied? You said you did not approve but what I heard is that you denied.

SHY: No, what I said is that we did not accept the recommendation of the planning commission. Is that right LYNN?

ATTEBERY: Yes

SHY: We did not accept your recommendation of approval. I don't believe that means we denied it.

BARNES: To follow up, KIT, you indicated in the motion that it would be deferred until the March meeting. Is there anything wrong, in that she could re-apply without the application fee and we would handle it?

HOBBY: She does not have to re-apply. We are only going to deal with the issues that she has to meet the contingencies and we all will look at them. You get a packet with all the documents and when we come back she can decide if its next month or the following month.

BARNES: I think DALE makes a good point that the application was denied.

SHY: There is a very clear distinction not accepting the recommendation to approve and denying. We did not deny the application we just did not accept your recommendation to approve.

HOBBY: They did not deny it.

BARNES: Ok

BUTLER: All in favor of the motion that KIT made?

Motion passed unanimously

REASONS:

ATTEBERY: Again, the reasons that I voted for it, I believe there is some documentation that we need to look at. We are hearing from the applicant and we have full faith in the applicant, but we have some corporations involved and some things that we need clarified and I think we have heard what you have had to say today. We need to do some other things. You can come back here in March or you don't have to come back. that is entirely up to you. As we pointed out you do serve at our discretion and that was the way it was last time. We need to know some things.

SHY: I voted the way I did because I want to see it keep moving. I think that providing her with a list of concerns and how she addresses them is up to her. She might not get any of them done or she might get them all done next month; she may not want to meet next month. We will have a meeting about it next month. If she is not here, fine. She brings everything then were done. If she brings one half of it then we are one half done. It is continuing, that is the intent of my motion. It continues with our discussion, not the requirement of the Zoning office as a final arbitrator of all these facts.

BUTLER: I would like to see it proceed and move on. Let's get a date and move forward. It's a good process.

BARNES: Ok, we will be meeting next month if ELIN has the documentation ready. I have one other item I would like to bring up. I think we need to re-visit the Zoning Resolution. I came before the county commissioners about three months ago and at that time KIT agreed to contact JOHN and I guess he was going to start the legal review. I don't know if we have had an update. I feel that we need to get that moving again. I don't know what we need to do and we have put a lot of time and effort into it and its going to be a year that we have been in this holding pattern.

SHY: Point well taken.

HOWARD: I have one comment that I am having a difficult time of hearing when the furnace comes on.

HOBBY: We will see if we can get it turned off.

BUTLER: Since there is no further business by the county commissioners we are done.

BARNES: We have a motion to adjourn from BILL and PAT seconded it.

All in favor
Motion passed unanimously
Meeting adjourned at 3:15 P.M.