

# Meeting of the Planning Commission

July 11, 2017

Custer County Courthouse  
Westcliffe, Colorado

## **Present:**

Planning Commission: Vic Barnes, Patrick Lynch, Keith Hood, Pat Bailey, Bill Donley and Dale Mullen

Absent: Chris Nordyke

Associate Members: Skip Northcross and Mike Carter.

Absent: Lance Ingram, Mike Shields and Steve Henning

Staff: Jackie Hobby

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

Pledge

BARNES: We have six people on the Planning Commission and normally we have seven. We have one alternate available. SKIP NORTHCROSS will replace CHRIS NORDYKE.

BARNES: JACKIE will give us the zoning report.

HOBBY: In the month of June we had eight septic inspections, thirteen special conferences, seven compliance inspections and five violations review. Permits issued during this month are nineteen septic permits compared to seven last year and forty-six zoning permits compared to thirty-four last year. Permits issued year to date for 2017 are fifty-two septic's compared to thirty-six last year at this time and one hundred and forty-nine zoning permits this year compared to one hundred and three last year.

BARNES: Thank you JACKIE.

LYNCH: Regarding the Zoning violations, what was the nature of those?

HOBBY: Building without a permit or living on your property without a septic system.

BARNES: We have two items of business today. One is the hearing phase for a Special Use Permit. GLEN CHOATE for Bumble Bee Storage. The next one will be with the June 26, 2017 meeting regarding Building and Fire Codes.

We will start with the hearing phase for the Special Use Permit. GLEN would you come to the podium. If any of the audience would like to speak you will need to come up to the podium and identify yourself. Glen do you have anything to add or update from our, presentation last month.

CHOATE: The only thing I would like to add is that in the newspaper of June 29, 2017 there was an article about VISCOUNT SILVER MINE. They are going to incorporate the Silver Cliff pit mine and the entrance to that is only three hundred fifty feet away from the Shadow Hills entrance of Mineral. Everyone is worried about my clients driving on this road. That will create traffic on that road. It does not have anything to do with me. I am just pointing this out. There will be another project that will impact the area more than what I am doing.

BARNES: Do you have anything else to add?

CHOATE: No

BARNES: Does the Planning Commission have any questions?

BAILEY: In the original statement, you said that all phases will be fenced. Phase one is the center row. You are going to use containers for the side fence. How are you going to do that?

CHOATE: What I would prefer to do is just have one fence in between the units and have solid rows that create a fence like situation. That way I do not have to worry about animals getting trapped in between. This fence will be eight feet (8').

BAILEY: Phase one is only one row?

CHOATE: Yes

MIKE CARTER: Joined the meeting as an alternate.

BAILEY: How is that going to work?

CHOATE: What I wanted to do is to stagger them. They will not be all the same size units. The forty-foot (40') ones will be on the outside row. The twenty and thirty-foot (30') ones will be on the inside or east row. You will not see any stagger from the road.

DONLEY: Phase one will be two rows?

CHOATE: Yes

BAILEY: Phase one is only showing one row.

CHOATE: Well, what I want to do is make this phase one.

CHOATE approached the Planning Commission with a sketch showing what he would like phase one to be now.

BAILEY: This has changed. It's not going to look like this now.

CHOATE: Yes, I thought I would finish phase one and two, and then do the fence. So now I thought I would start with these two units.

HOBBY: You, have changed your application?

CHOATE: Yes, I guess I have. I could stick to that. I thought it would be better for the people that live in Shadow Ridge.

HOBBY: I will go make copies of this sketch for everyone.

BARNES: Are there other questions from the Planning Commission?

CARTER: I seen on the MLS that your property is for sale.

CHOATE: Yes, I have nothing set in stone at this time so the property will be for sale.

BARNES: Any other questions?

HOBBY: Handed out the new phases that CHOATE would like to do.

BAILEY: We had things in the past where they have changed. This is a change in the application.

DONLEY: If you do two shorter rows then all you need to do is move the end fence down when you add on more containers.

CHOATE: Yes, that was the idea. Apparently, everyone is getting upset about it.

LYNCH: We are only trying to follow procedure and this is a change.

HOBBY: Your original application was one row. Then you were not going to do total fencing. You were going to fence in between the rows.

CHOATE: Yes, after I started the second row I was going to start the fence.

HOBBY: Ok, but now you are doing two rows, but shorter, and fence in between the two shorter rows. So, you would do one half of phase one and one half of phase two. This would be two rows of ten and you would be able to fence it and just keep moving the one side of the fence each time you added to the rows.

BARNES: If we consider this fenced, we are changing the application.

LYNCH: To be clear in my mind what you have marked is phase one, two and three? So only ten containers in each row?

CHOATE: What would happen is phase one now will become the first section and phase two.

BARNES: Any further questions from the audience.

BARRON BROADSTON: I live on Calcite in Shadow Ridge. We moved in about four years ago and we moved in there because of the views. We live on our back porch. The minute I walk out of my house the first thing that is going to hit my eye is this. Right now, it's beautiful green and we can see the Defender Mine. We have some traffic on County Road 243. Primarily it's the trucks hauling rocks out of the gravel pit. There are half dozen people that pass by to go up there and walk their dogs. We are going to have more traffic. It's the closest paved road to this gentleman's facility. I know if it goes in as planned is going to affect the value of my home. Unfortunately, I am not too happy about that. We don't need any more trucks on our roads and the city can't fix them fast enough. We don't have any kids in there yet, but we will. I don't want to look out and see a bunch of containers, or big fences. Having your property being devalued, I don't think it's necessary.

BARNES: Yes, would you like to speak?

JOAN BROADSTON: I am a resident of Calcite in Shadow Ridge. We are very close to that facility and remind you of the traffic and dust. We checked with other storage people and there does not seem to be a need for it. The other thing I would like to ask you is these are not permanent containers. They are just left on the ground so how does that effect the tax rate?

HOBBY: It will be taxed as commercial property if he is approved to have this facility.

CHARLES RORICK: I represent THE BRIDGE LLC. We own the deed boundary around that mining claim. I don't understand if he intends to fence the perimeter, will he put cattle guards in where the County Road cuts across the corner? I would like that clarified. It's close to residential and at some point. We thought we might go with residential and we sure do not want this gentleman in there with these containers. Will he be using his well?

BARNES: Glen would you come up and respond.

CHOATE: THE BRIDGE LLC is the only adjacent land owner and the other people live nearby. As far as the fencing goes, I am trying to keep it minimal. I only plan on enclosing about three acres of the ten acres. You can continue to graze on my property and there won't be any cattle guards.

JIM REID: Lives on County Road 255. I am an owner with CHUCK RORICK. Are you going to fence this all out?

CHOATE: We are going to put in two rows and fence off each end, that is all. As I increase the row the fence will move on one side.

BARNES: Any questions from the audience.

Hearing none

BARNES: Does the Planning Commission have any questions?

MULLEN: Reclarification on the color the units will be?

CHOATE: A beige color.

BAILEY: How high is the fence?

CHOATE: It will be eight feet (8') and the containers are eight feet so it will all be one level.

BAILEY: What type of fence?

CHOATE: I am going to use a chain length fence with rib stripping inside and a secured gate.

BAILEY: When these folks look at this, what will they see?

CHOATE: They will be seeing the south side, which is where the gate will be.

CARTER: The access to all these units will be in the fenced in area?

CHOATE: Yes

BAILEY: That does not make sense, if you look at phase three.

CHOATE: I don't know if I will get to a phase three.

BAILEY: Well, we have to know because that is what you presented.

CHOATE: Yes, I would have to have a fence on the outside on the edge about twenty feet (20') from the storage lockers.

BARNES: We have a new member in the audience. Do you have any comments

KIT SHY: I live on Calcite in Shadow Ridge in the Town of Westcliffe. I am concerned about the traffic that would be on the nearest paved road. When you are hauling furniture, you want the smoothest road. The coloring needs to be enforced. I am also concerned about weed control. Everyone you disturb the ground weeds come back in. The lighting will be motion detected, so every time a cow or deer go by the lights will come on.

BARNES: GLEN would you like to address the new issue of weed control?

CHOATE: I will take care of the inside of the area. The outside will be taken care of by the cows.

BARNES: Will you clarify the lighting?

CHOATE: They will be solar lights that will work on a motion sensor. Having the fence, it shouldn't pick up much motion outside the fence. That is the idea for having the strips inside the fence.

BARNES: Will these be shielded?

CHOATE: Yes, they will be dark sky friendly.

BARNES: Any questions for Glen on the latest developments?

JAMES JOHNSON: Brittany Road. A couple of things that I am not exactly sure of. I understand what it looks like here but now I understand that it has changed. Phase one is thirty (30) units and phase two will be sixty (60) units.

CHOATE: Phase one would be all of phase one and two and phase three will now be phase two. I will not have a phase three.

JOHNSON: What will the color of the stripping be in the fence?

CHOATE: I will try and match the unit color of beige.

BARNES: Do we want a new diagram that details phase one and phase two.

Members voiced agreement

BAILEY: In the past, when we had a Special Use Permit, whatever it is we made our decision based on the application as written and now this has changed. This should have been done at last month's meeting and presented at this month's meeting. What we have done in the past is tabled it and let him resubmit a new application or we deny the application as is.

HOBBY: I think it would be a great idea if this was tabled until next month.

BARNES: You have the option to go back to your original application or submit a new application and we will table this until next month.

HOOD: This is your choice. If you make the changes then we will wait a month and table it. If you want to go forward today then you must go forward with the original application.

LYNCH: I make a motion that we table this application until next month.

BARNES: That is your choice GLEN.

CHOATE: Then let's go forward with the original application.

NORTHCROSS: How will the fencing look?

CHOATE: It will be twenty feet (20') away from it. It will be several months before any fencing goes up. I will be putting in several units before I even think about it.

BAILEY: The application states that it will be fenced in all stages.

CHOATE: No, I don't believe that is what it says.

BAILEY: Read the applicants statement *"The purpose of this Special Use permit is to be able to use my 10 acres as a storage facility using shipping containers. The project will be done in 3 phases of 30 containers for a total of 90 storage units. The property will have 24/7/365 access and will be fenced through the 3 phases*

*Thank You*

*Glenn Choate"*

CHOATE: Then I will put a fence up right away.

BAILEY: The first question at the beginning was how are you going to fence this.

CHOATE: I believe my new method is a better way to do this. I will table this until next month.

BARNES: We have a motion on the floor that we table the application until next month. Do I have a second?

NORTHCROSS: Seconded the motion

BAILEY: I would suggest that you get these plans to the Zoning office with exactly what we are going to see.

BARNES: Your meeting will be August 1, 2017 at 1:30. We have a motion and a second. All in favor.

Everyone voted in favor.

BARNES: The next item of business is that the BOCC requested that the Planning Commission handle the question of a building and fire code for the unincorporated part of Custer County. We started with a public meeting on June 26, 2017. Seventy-four people attended the meeting, thirty-seven people testified, thirteen people were opposed, five were in favor and two were neutral. We received four letters against the building code with three of the letters being from the same author.

BARNES: What the Commissioners want is whether we recommend that the Custer County Zoning Resolution be amended to include the 2006 Building and Fire Code. I would like for the Planning Commission to make a recommendation, which will be a recommendation to the Board of County Commissioners.

BAILEY: I make a recommendation that we don't recommend to the Commissioners that we change the Zoning Resolution to include the building or fire code. This has been going on since the late 90's and every time the consensus of the county has been no, and that is who we represent.

HOOD: Seconded the motion.

MULLEN: I hear that individual personal preference of one hundred and thirty-seven people or something like that determines the decision of the Planning Commission. Basically, if the noise level is high enough in the no condition, the Planning Commission will support a no. Based upon the input from these people without any consideration or subject matter or analytical analysis.

BARNES: Analytical advisors if available, should have been presented at the public meeting.

MULLEN: You don't believe that the Planning Commission has the responsibility to look at the pros and cons in an analytical way yeo or nay?

BARNES: We have done this four times.

MULLEN: You are comfortable that the past predicts the future.

BARNES: Yes, with this particular subject. When we advertise a public meeting, it is the responsibility of the people that have a stake in this to come and testify. If they do not testify, we don't have much choice.

MULLEN: We always have choice. You don't make legislation or policy from citizens only.

BARNES: What is your suggestion. That we go solicit this?

MULLEN: Yes

BARNES: I don't agree with that. If they don't want to testify and make their feelings known. We make our decisions based on the public input we have

MULLEN: I don't care what you think and you don't care what I think. I am expressing my opinion.

CARTER: Are we presuming that this tiny handful response is an accurate representation of the County?

HOBBY: No, we have done this before.

CARTER: That is not my question. A tiny handful of people representing Custer County as if it were an election. And this is the final result of an election in Custer County.

BARNES: What this is MIKE is our decision based on the information supplied to us. This is a recommendation to the three Commissioners. They can do whatever

they want. They can accept it, or reject it. It could be, as we all know from the testimony that we had, that they will put this on a ballot and that is the representation that you and DALE are seeking.

HOBBY: This board makes recommendations only. The Commissioners, can take it to a ballot or accept it.

BARNES: I understand your question MIKE. The ballot is what they want and that is the representation that you are talking about. The only information that we have is what has been presented to us.

LYNCH: In the previous four times, did the Planning Commission not recommend the building code?

BAILEY: The first two times, it did not even make it to us because there was too much opposition in the County about it. That went on for several meetings and after that they did not even bother with it.

BARNES: The last one was spread out over two years. There was a committee, DALLAS ANDERSON has all the documentation and he volunteered to share that information again.

BARNES: We have a responsibility to act on the information that is presented to us.

LYNCH: Would you refresh my memory on the comments for and against.

HOBBY: Seventy-four people attended the meeting, thirty-seven people testified, some people spoke more than once and they are only counted as one. Thirteen people were against, five were yes and two were undecided. Twelve people that testified owned homes in Custer County.

BARNES: All in favor say aye, all opposed same sign.

We have five in favor of the recommendation of not recommending the 2006 building code and fire code. Two in favor of recommending the 2006 building code and fire code.

DONLEY: I make a motion that we adjourn.

BAILEY: I second the motion.

Meeting adjourned 2:36 P.M.