

Joint meeting of the Planning Commission, Board of County Commissioners and Board of Zoning Adjustment

February 5, 2002
Custer County Courthouse
Westcliffe, Colorado

Present:

Planning Commission:

Mr. Lynn Attebery Mr. Pat Bailey Mr. Victor Barnes Mr. Alden Gray
Mr. Keith Hood Ms. Sherry Rorick

Board of Zoning Adjustment:

Mr. Rob Canterbury Mr. Bill Donley Mr. Pete LoPresti Ms. Dorothy Nepa
Mr. Art Solomon

Associate Members:

Mr. Jim Austin Ms. Robyn Canda Mr. John Campbell Mr. Skip Northcross
Mr. Gary Roberts Mr. Selby Young

County Commissioners and Attorney:

Mr. Dick Downey Mr. Larry Handy Mr. John Naylor

Staff:

Mr. Linc Lippincott Mr. Dan Bubis Ms. Christy Kesselring

Absent:

Mr. Dale Hoag

The meeting was called to order at 1:02 P.M. by Planning Commission Chairman, LYNN ATTEBERY.

Appointments made at the January 15, 2002 Board of County Commissioners' meeting were: Board of Zoning Adjustment: Rob Canterbury and Peter LoPresti; Planning Commission: Pat Bailey and Sherry Rorick; Associate Members: Jim Austin, Robyn Canda, John Campbell, Skip Northcross, Gary Roberts and Selby Young.

ATTEBERY explained that he did not wish to be Chairman this year and nominated HOOD for Chairman of the Planning Commission and RORICK seconded. HOOD declined. ATTEBERY nominated BAILEY who also declined. ATTEBERY then nominated BARNES. BARNES declined. While NAYLOR sought a solution to this impasse, the appointments were halted.

The Planning Commission minutes were approved on BAILEY'S motion and BARNES' SECOND.

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ZONING OFFICE REPORT

- 0 I.S.D.S. Variances were issued in December and January.
- 0 Non-Conforming Lot Variances were issued in December and January.

Office Summary

DECEMBER

14 Septic inspections, Site reviews, or Violation reviews
2 Violation reviews
0 Homeowner Septic installation test
1 Septic Contractor test
8 Special conferences

Permits issued:	<u>2000</u>	<u>2001</u>
Septic	4	6
Zoning	15	9

JANUARY

16 Septic inspections, Site reviews, or Violation reviews
1 Violation Review
0 Homeowner Septic installation test
3 Septic Contractor test
42 Special conferences

Permits issued:	<u>2001</u>	<u>2002</u>
Septic	10	3
Zoning	17	6

•Year End Summary

Permits issued:	<u>2000</u>	<u>2001</u>
Septic	156	132
Zoning	268	273

Revenue:

Septic Permits	\$ 22,950.00	\$ 20,925.00
Zoning Permits	\$ 89,994.07	\$ 80,642.98
Use Tax	\$ 26,690.46	\$ 29,303.73
Total Income	\$155,516.18	\$144,184.76

- The hearing on the Zoning Resolution will be continued, after today's input, to March 6,

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2002. The Commissioners will be available to hear input tomorrow February 6, as the tentative agenda states, which was published in the Trib.

- The next workshop on the proposed Master Plan will be February 12, at 6:30 p.m.
- The office has received a security alert concerning terrorist attempts to obtain information posted on web sites regarding infrastructure in order to target critical infrastructure components.
- Lippincott asked the audience to participate in the water study.

ATTEBERY agreed to chair today's meeting. BARNES nominated HOOD to be Vice-Chairman of the Planning Commission. BAILEY seconded and the motion passed unanimously. ATTEBERY nominated Hood to represent the Planning Commission at Regional Planning. RORICK seconded and the motion passed unanimously. SOLOMON nominated DONLEY as Chairman of the Board of Zoning Adjustment. NEPA seconded and the motion passed unanimously. SOLOMON nominated NEPA as Vice-Chairman of the Board of Zoning Adjustment. LOPRESTI seconded and the motion passed unanimously. BAILEY nominated BUBIS to be Secretary to the joint boards. SOLOMON seconded and the motion passed unanimously. DONLEY nominated the Wet Mountain Tribune as the official publication for public notices. HOOD seconded. CANTERBURY nominated the Daily Record as the official publication for public notices and LOPRESTI seconded. After some discussion NAYLOR explained that the paper needed to have an office in the county and CANTERBURY withdrew his nomination. The Wet Mountain Tribune as the official publication for public notices motion passed unanimously. DONLEY moved that the public notices that are posted on the bulletin board "be in a locked cabinet and that the County Clerk and Recorder be in charge of the cabinet and keep a record of when things are posted, when they're taken down and keep them on file. It needs to be someone that is bonded ...". NEPA seconded and the motion passed unanimously. After further discussion SOLOMON moved that "we facilitate the construction of and/or the utilization of the existing box with glass and lock, that we appoint/allow/request the Zoning office to handle the posting of all notices, since they do that now anyway, and that they take the responsibility of locking, posting, logging and retaining in an archive, those notices that have been posted. The date posted and the date removed." The archive time will be 1 year. NEPA seconded and the motion passed unanimously.

The Woods at Gem Mountain Property Owners Association/ Variance from Section 11.4A of the Zoning Resolution/ Re-zone from Zone IV to Zone II

Property description: All those lots in The Woods at Gem Mountain, filing 1 and The Woods at Gem Mountain, filing 2 in Custer County

Joe Arbuckle represented the Property Owners Association and explained that they would like to change the Zoning classification from Zone IV to Zone II. A Zone II designation would allow one dwelling per 35 acre lot instead of the current one dwelling per 5 acre lot. In order to have the Planning Commission consider his request, Arbuckle requested a variance from the requirement that the property in question abut an existing District having the zoning classification desired. Arbuckle explained that 15 of the 41 lots are in Custer County. There is unanimous agreement from the property owners to effect this change. He then informed the Boards on the depths and flow rates of the existing wells. SOLOMON quoted the 1995 Zoning resolution and stated "based on a case of hardship, and the hardship that appears to be explained in paragraph 3 of the hardship variance says that if there is 'exceptional topographic conditions or other extraordinary and exceptional situation or condition of such a piece of property', and therefore, since I believe there are, in fact, other extraordinary and exceptional situations or conditions of such piece of

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property and under the guidelines of a hardship variance, I make a motion that we approve a variance based on the way that's written". NEPA SECONDED and the motion passed with CANTERBURY voting no. BARNES MOVED to recommend to the Board of County Commissioners APPROVAL of the request and GRAY SECONDED. The motion passed unanimously. HANDY MOVED to ACCEPT the recommendation of the Planning Commission to change The Woods at Gem Mountain from Zone IV to Zone II. DOWNEY SECONDED and the motion passed unanimously.

John J J & Dorothy I Enea Family Trust, Thomas C Fulton & Sandra L Perkins, Stephen G & Deborah L Yackley, Butch & Linda's Place LLC, Darvin L & Victoria R Wallis, Harold & Mary Virginia Nelson, Ann Marguerite Pringle, Robert E & M Bridget Dean Pratt, Leon C & Judy A. Tupy (property owners in the Woods at Buck Mountain, Filing 1), and Burton F & Antoinette J Fedde / Re-zone from Zone IV to Zone II

Property description: All that part of NE4 Sec 8-21 -73 & part of NW4 Sec 9-21-73 Containing 35.20 acres M /L Desc in BK 206 PG 41 and all lots in The Woods at Buck Mountain, Filing 1 except Lot 9 .

Harold Nelson was present to represent the property owners and explained his request to change the zoning of The Woods at Buck Mountain, Filing 1, from Zone IV to Zone II. Kit Shy, owner of Lot 9, was present to explain why he was opposed to a re-zoning affecting his property. Nelson explained the crux of the request by stating that re-Zoning The Woods at Buck Mountain, Filing 1 from Zone IV to Zone II will make the zoning consistent with the expectations set forth in the Covenants for the subdivision. That expectation was that the minimum lot size was 35 acres and that there could be no more than one dwelling per lot. Re-zoning will also protect existing water wells, many of which have very low production, protect private property rights by preventing population from becoming more dense than what the property owners expected, and preserve open space necessary to support existing wildlife habitat. Other landowners who spoke in support of the re-zoning were: Mary Nelson, Judy Tupy and Annie Pringle. Shy explained that he did not authorize anyone or any organization to speak on his behalf and that he wanted to be excluded from this request. He stated that he was not asking for anything and since there is not a property owner's association, no one could make this request for him. Shy also pointed out that the terrain and geography were more like Eastcliffe or Antelope Valley than those characteristics on the Sangres 35 acre zone). RORICK MOVED to recommend that the County Commissioners Deny the request. GRAY SECONDED and the motion passed 3 to 2 with BARNES and BAILEY Opposed. HANDY MOVED to NOT accept the recommendation of the Planning Commission to deny the request to re-zone and DOWNEY SECONDED. The motion passed unanimously. HANDY MOVED to change the zoning of the Fedde parcel and all lots in the Woods at Buck Mountain, filing 1, except Lot 9, from Zone IV to Zone II. DOWNEY SECONDED and the motion passed unanimously.

Proposed Zoning Resolution

The commissioners were present to hear input on the proposed Zoning Resolution. HANDY MOVED to continue the hearing until the March 6, 2002 meeting. DOWNEY SECONDED and the motion passed unanimously.

The Site Tour for the March 6, 2002 meeting is canceled because the only agenda item is the continuation of the hearing on the proposed Zoning Resolution.

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The meeting of the Planning Commission and Board of Zoning Adjustment was adjourned at 4:06 P.M.

Submitted by,

Daniel S. Bubis
Secretary