

Planning Commission Minutes

June 20, 2023

Member Present and seated as Board: Chair Cary Aloia, Leonard Brown, Mike Mitchell, Charles Stillings, Andrew Atchley, and Jerry Gallegos. Randy Kern – Advisory, Dixie Diltz – Secretary.

Andrew Atchley was seated in Travis Cross's seat.

Members Absent: Travis Cross, Russell Pratt, and Martha Williamson

Others Present: Skip Schoen RGC Administrator, Edwin Mast, Ruben Mast, and Hayden Christensen.

Andrew Atchley made a motion to accept the agenda as presented. Charles Stillings seconds.

Leonard Brown made a motion to approve the minutes of the May 16, 2023, meeting with corrections, Jerry Gallegos seconded, motion passed unanimously.

Chair Aloia calls forth the first item of business, a public hearing to hear a conditional use application presented by Edwin Mast. She opens the public meeting and gives the floor to secretary Diltz for presentation of the first application. Secretary Diltz gives an overview of the application and Staff Report informing the board that the applicant has been operating a countertop manufacturing business at this location for the past couple of years under a Cottage Industry permit, with no complaints or issues. The applicant now wishes to enlarge the footprint of the business and be able to add up to 5 employees in the future. Further details from Staff Report were read including the list of referral agencies notified and the responses received from said referral agencies. The only concern of staff was the response received from the Division of Water Resources, which states the application should be denied without a "legal water source". The applicant plans to purchase and haul water for the business from Monte Vista, and staff is unclear if this is a "legal water source".

Chairman Aloia asks the applicant if he has anything more to add, then opens the floor for the board to discuss. Jerry Gallegos questions how the purchased water would be monitored, would there be records kept. Secretary Diltz suggests that if that is the avenue the board wishes to take, they could set a monitoring schedule in the "conditions of recommendation". Mike Mitchell says that he was thinking that if the applicant has verifiable receipts, it could be checked when the County Staff does the annual review. Leonard Brown questions why Mr. Mast cannot get a well on the property. Edwin Mast explains that the Division of Water will not permit a new commercial well on the property due to size of property and the existence of the household well already on the property. Secretary Diltz explains that they checked to see if he could do an augmentation plan, but due to there not being a recharge pond above Mr. Mast's property, he cannot get augmentation water either. Cary Aloia questions what the legal ramifications or precedence set might be if we allow this without a legal water source? Mike Mitchell states that if he is purchasing from a source that has legal water to sell, why would it not be a legal water source? He feels that this satisfies the requirements for "legal water source". Jerry Gallegos questions what the legal amount of water they should have for 3 – 5 employees and how can staff verify they are purchasing enough when we don't really know what that amount should be? Is it appropriate for us to approve this without knowing the amount he should be buying? Mike Mitchell asks Randy Kern if he can calculate the amount? Randy Kern asks the applicant if the plan is to use a cistern tank of potable water to service the restrooms and use the non-potable water in the production of counter tops? Edwin Mast says that his plan was to use the non-potable he purchases from Monte Vista in the restrooms and he would buy potable water for the employees to drink. Randy Kern says that the State regulates the plumbing within the building, and that domestic plumbing inside the building is for potable

water, not for non-potable water. Jerry Gallegos questions if the applicant has planned for or budgeted for the purchase of water and what amount of water he plans to use? The applicant says he has planned for about 500 gallons once to twice a month. Randy Kern says he can come up with a suggested number of gallons per day per employee for wastewater side but doesn't have any idea on the freshwater side.

Further discussion on where potable versus non-potable water should be allowed. Secretary Diltz verifies that this building would not require any type of fire suppression being a commercial building. Randy Kern states he does not think so, it's still not that large of a building.

Cary Aloia asks what type of things staff will need to be able to monitor the water use if the board moves that way. Secretary Diltz states that she would recommend against setting the staff up to have to monitor these types of situations, it creates a paperwork nightmare and then if the applicant comes up short or doesn't have all the receipts needed, staff has no enforcement parameters to rectify the situation. There is one conditional use application in the county right now that is supposed to have a substitute water supply plan approved by May which hasn't been approved yet and there is no good means of enforcement to handle the noncompliance. Mike Mitchell says the County needs to accept the responsibility to monitor, inspect and enforcement the requirements. Cary Aloia states she still feels that the DWR clearly says the application should not be approved, Mike Mitchell says the water purchased from Monte Vista is a legal source. Cary Aloia says she just doesn't want to continue to set the County up to have issues down the road and she feels the P&Z Board should do the best job they can do to prevent issues in the future. Andrew Atchley asks if there are any other situations that Randy Kern is aware of that have been approved where a commercial business is operating using a cistern? Randy Kern says not that he is aware of, most of the commercial businesses are in the municipalities and have municipal water, there are some residential applications where they are using cisterns, like in Jasper area.

Mike Mitchell asks the applicant if he would be installing a new wastewater treatment system to handle this. Edwin Mast says yes, he is. Charles Stillings runs some numbers on the calculator, for 5 employees, using Randy's guess of 15 gallons a day per person, its 2,250 gallons per month. If the applicant was thinking 500 gallons once or twice a month, he isn't covering even the minimum. Edwin Mast says he is not sure where he got his number from, but someone gave him a number and that's what he used to get his once or twice a month, at the most he is think one load of water every two weeks.

Mike Mitchell makes a motion to recommend approval of this application with the condition that the applicant provide verifiable receipts for the water purchased for his annual inspections. Chair Aloia calls for further discussion or a second. Charles Stillings seconds the motion. Chair Aloia calls for a roll call vote: Charles Stillings – Aye, Mike Mitchell – Aye, Leonard Brown – Nay, Jerry Gallegos – Nay, Andrew Atchley – Nay. Motion does not pass, Secretary Diltz asks if there is any further discussion.

Mike Mitchell says that if you're willing to say no, you need to come up with an alternate solution, like he should go somewhere else to build and not just give a no. Leonard Brown says he doesn't know what he could do, but that his reason for saying no is that there needs to be more information and clarity on this. Pat (DWR) says that the only realistic option would be to augment a well though the SLV Water Conservation District, however, this is not possible at this time and there is no guarantee of the division doing this in the future. He feels that it is our job here to help the people achieve what they want to do, but we need to do it without putting a bigger burden on the County, because it's just not going to happen, you're going to say they must provide receipts, but a few years down the road, it's just not going to happen. Mr. Mast has been there for a year and a half, and he is here now asking for 3 -5 employees, in another year and a half, hopefully your business grows, then down the road we have 10 employees out there and are we still hauling enough water? This just seems like a "hokey deal" it's not clean, it's not in line with what is in the code book. The

codebook says that they must have water, they can get water, it just doesn't seem legit. Mike Mitchell says that they are getting water and the City of Monte Vista water is a legal water source.

Reuben Mast speaks from the audience stating that what he sees is that we are looking at details of getting water to him, inspections will be done within the building, plumbing will be inspected, so what we are looking at is what is coming from outside the building to the inside of the building, basically we're looking at a source. If he understands that right, the companies that haul water are legal, his tanks are going to be legal, he's pumping it into the cistern. So, there's the stopping point he believes.

Leonard Brown makes a motion, that we table this for better information or deny the application based on lack of water? Cary Aloia states that she doesn't see that there is more information to get at this point unless they are going to just pursue other avenues. It's clear in the letter from DWR, that there isn't another way to get a well on the current property, so tabling it would just be kicking it down the road. She feels they should just decide based on the information as presented, then there are next steps for the applicant to take.

Chair Aloia asks if we need another motion or to vote on the one on the table? Secretary Diltz says that she doesn't have a good motion on the table. Leonard Brown kind of made one but it wasn't complete. Edwin Mast states that he was told he needed to get a legal water source, and he thought he had jumped through the hoops to do that, but what he is hearing now is that he can't even get it with a legal water source. Where is the ill-legal water source coming in? Leonard Brown says he is not saying it's ill-legal. Edwin Mast says that is his big question and he would love to hear what does work? Leonard Brown states he doesn't know, that is why he isn't ready to approve it yet, he doesn't know what does work.

Leonard Brown makes a motion to recommend approval of the application without any burden on the County as far as record keeping. Chair Aloia asks for discussion of motion or a second. Mike Mitchell seconds motion and opens it to discussion. Jerry Gallegos states that he has a concern for that general area because it seems like every time we have something come in we start allowing things here and there, and that whole area is outgrowing itself to a point where it is really putting us into quite a bind and to him, what the applicant is requesting and what the board seems to want to recommend or approve is vague or too grey. The burden of proof should be on the applicant, and he is concerned that we are going way overboard on things in that area, and we need to be consistent with what we do, and we need to follow the code book. The applicant asks what else they can do and the only thing he can think of that they could do is move the entire operation to a location appropriate for business and where they can get commercial water. Andrew Atchley questions, "If we are considering the City of Monte Vista as a permitted source of water, does that mean that anywhere in Rio Grande County has access to a permitted source of water?"

Chair Aloia calls for roll call vote: Charles Stillings – Aye, Mike Mitchell – Aye, Leonard Brown – Aye, Jerry Gallegos – Nay, Andrew Atchley – Nay. Motion passes 3:2.

Secretary Diltz informs Mr. Mast that the motion to recommend approval of the application to the BOCC has passed. The next meeting will be in front of the Board of County Commissioner's.

Chair Aloia calls forth the second item of business and requests staff report from secretary Diltz.

Secretary Diltz gives an overview of the application and staff report informing the Board that the applicant, Hayden Christensen, would like to have the zoning changed on his property located at 1514 S County Road 4 E, Monte Vista. This property is currently zoned agricultural estate, and the applicant wishes to change that to commercial. This was the prior location of Catlin's Greenhouse. Mr. Christensen is growing produce in the greenhouse's and wishes to have a retail store on site to sell the produce. He has a similar business up north and has been very successful. They plan to model this business the same as their other business.

Hayden Christensen says that his business would have customers spread out over 50 weeks of the year versus the 8 weeks period that Catlin's Greenhouse had, however he doesn't expect to have the volume of customers all at once, so impact would be less intense. Mike Mitchell questions the "farm store" term and asks if they will have only produce or if they would have farm implements, or supply's. Hayden explains that it would just be the produce, he explains it as a produce stand and says that may be a better term to use. Mike Mitchell questions the water needs and availability. Hayden explains that when Catlin's sold the property, they split off one of the house's and two wells and all the other buildings on the north side. That left the one agricultural well that was used for seasonal use. The Christensen's purchased augmentation water for that well for extended use and they can purchase more augmentation water as need increases.

Jerry Gallegos makes a motion to recommend approval of the change of zoning from AE to Commercial. Mike Mitchell seconds the motion, and the motion passes unanimously.

Secretary Diltz tells the Board that she doesn't have any new updates on the Code Book amendments currently.

With no further business, Leonard Brown makes a motion to adjourn, Jerry Gallegos seconds. Meeting adjourned at 2:58 pm.