

## Planning Commission Minutes

October 17, 2023

Chair Cary Aloia called the meeting called to order at 1:35pm.

**Member Present and seated as Board:** Chair Cary Aloia, Charles Stillings, Jerry Gallegos, Russel Pratt Will Hathaway, and Leonard Brown. Dixie Diltz – Secretary.

**Members Absent:** Mike Mitchell, Travis Cross and Martha Williamson.

**Others Present:** Christine Haire, Rosie Miller, Homer Miller, Carson Brooks, Matt Entz and Jesse Entz.

Russell Pratt made a motion to accept the agenda. Leonard Brown seconds.

Russell Pratt made a motion to approve the minutes of the September 19, 2023, Charles Stillings seconded, minutes approved.

Chair Aloia calls forth the first item of business and invites applicants to come to the table. Secretary Diltz reads into record from the staff report. The application is a conditional use request presented by Homer Miller and Phillip Miller to operate a grocery store and deli on their property located at 5399 State Highway 370, (also known as the 10 S.) outside of Monte Vista. This parcel is approximately 145 acres and is zoned agricultural estate. It currently has a residence, private water well and OWTS on site. The applicants currently operate a laminate post manufacturing business from the property. Twelve notification letters were mailed to surrounding property owners within 1,500 feet on September 21 and notice of public hearing was published in the Monte Vista Journal on September 27, 2023. No written responses have been received as of today's date. The area consists of large agricultural lands interspersed with residential properties. There is a large Amish population which leads to several home occupations, cottage industries and conditional use businesses in the area. The referral agencies notified were listed as were as the responses from referral agencies. The applicant had provided a drawing of the proposed building just before the meeting today. Copies were included in the hand outs today and a response from DWR to assure the commercial well permit is still valid. The Land Use Staff recuses themselves from making a recommendation on this application due to conflicts and issues in processing of the application.

Chair Aloia questions the location of the driveway as well as the current use of the property and if there is any agricultural use of the property. Homer Miller states that no farming is done on the land as he doesn't have any water for it. He does graze some cattle for just a couple months each year. Chair Aloia states that the primary use of the land then cannot be agricultural so the proposed business cannot be a cottage industry accessory to agricultural. Secretary Diltz leads the board through the process of determining what the primary use of the land currently is and what they feel it would be if the business is allowed. She then references the table of uses. If they determine the business would be accessory to the primary use of the land then the application would be a cottage industry by conditional use, if the board felt the business would become the primary use with the residence as accessory then the application is a conditional use for retail business in agricultural zoned area. Randy Kern questions if the laminated post business will continue on the property creating two businesses on the parcel. Homer Miller states that the laminate post business will cease. The floor plan drawing is reviewed and the applicant states that he will have engineered plans for the commercial building. The access point is verified to be off the county road and not the state highway. The building is proposed to be approximately 7,200 square feet.

Charles Stillings states that he does not see the business as being accessory to the residence so the application would be for conditional use on agricultural land and not a cottage industry. Chair Aloia confirms then that this use table does not allow for a retail business in the agricultural estate zoning.

Secretary Diltz steps out of meeting to verify the zoning of the land. Upon returning she informs the board that the staff report is incorrect, and the land is zoned 'agricultural ranching' not 'agricultural estate' the property is 145 acres and AR is the correct zoning. Jerry Gallegos asks what the hours of the store would be? Homer Miller states it would be open 6 days a week from 8 to 5. Restroom facilities will be provided for customers and staff of 6 employees. They may add another restroom in the back of the store just for employees. The building plans will be reviewed, and the required number of restrooms will be determined at that time. Jerry Gallegos asks if the applicant feels there would be traffic congestion in the area with this business and the others in the area? Homer Miller does not think it will be an issue, as the traffic will be spread between several roads and coming from different directions. He explains that this business would be more of a discount grocery to include selling cold sandwiches, not hot food or food prepared on site. No inside seating "its not a restaurant", more like sub sandwiches and an ice cream machine.

Chair Aloia opens the public comment period, there is no public comment. She asks if there is any further discussion. Secretary Diltz reminds the Board that their option as always is to make a recommendation to the Board of County Commissioners for either approval, approval with conditions stipulating what those conditions are. Recommendation to deny the application, stating reason for denial from the Code Book or to table the application for more information from the applicant. Chair Aloia states that on page 3-21 the approval criteria are listed.

Leonard Brown states he feels that the business would become the primary use of the land with the residence being accessory. Many Board members agreed with this, and it is decided that this application would be for a retail business on agricultural land.

Leonard Brown makes a motion to recommend approval for a retail business on agricultural land. Russell Pratt seconds the motion, and the motion passes unanimously. The applicants' next public hearing will be November 1<sup>st</sup> before the Board of County Commissioners.

Chair Aloia calls forth the next applicant. Secretary Diltz reads the staff report. This application was presented by Carson Brooks for a snowmobile experience on lots 1 & 2 of the Young Plat subdivision on Forest Service Road 330 across from the Summitville mine site. Each parcel is approximately 37 acres and zoned agricultural ranching. Two notification letters were mailed to surrounding properties within 1,500 feet on September 18<sup>th</sup> notice of public hearing was published in the Monte Vista Journal on September 27<sup>th</sup>. The pertinent sections of the code book are listed. These parcels are located within the Summitville mine overlay area and are regulated by section 2.09.B. The request for comment list was read with the comments received all included in the packets. Department recommendation is to wait for Forest Service approval prior to moving forward on the application, staff spoke with the applicant as well a Marie Burgman from the Forest Service and feels there has been some miscommunication or misunderstanding between all parties surrounding the Forest Service timeline and unfortunately, we do not have the Forest Service final review as of today. Chair Aloia states that it appears to her that it may require further scoping and NEPA hasn't even started on review and some of the routes go over beaver ponds. Carson Brooks states that some of the proposed routes do not go over beaver ponds and they only want to get approval on one or two of the routes. Russell Pratt comments that this would increase the traffic on the roads. Carson Brooks states that they consider their guest part of the general public. Jerry Gallegos questions if there would be any living quarters up on the property? Carson Brooks states that they will not be. Cary Aloia asks about the comment on access points on the Forest Service Road. Carson Brooks states that they will be using snowmobiles and only running when there is snow on the ground, so he doesn't think there will be any impact to the ground beneath. Russell Pratt questions if the snowmobilers will stay on the private property. Carson Brooks states

that they are catering more to the family-oriented type business and not the adrenaline junkies. Secretary Diltz states that the guests would be using only the machines provided by Snowmobile Pagosa and this would give the applicants more control on where the machines were allowed to go. Charles Stillings asks if the applicant plans to groom the trail on Forest Service Road 330. The applicant says they do not plan to groom the trail, only to ride a machine up to break a track, but since the area is already heavily used by snowmobilers there will likely already be a track for them to use. The only part that is plowed is to the water treatment plant by CDPHE and he has talked with the manager at the treatment plant, and both feel it could be a mutually beneficial arrangement. Discussion on number of groom miles and effect on protected species as well as the necessity of obtaining the Forest Service permits due to the commercial aspect of the business is held. Charles Stillings questions if there will always be at least two guides on each trip. Russel Pratt asks if the area is in an avalanche area. Carson Brooks says there will always be two guides on each trip, the meadow is far enough out of the avalanche run area that it is fairly safe and he has done research on the Lynx and because they are nocturnal and burrow or make their dens in the trees and brush, and the area they are using for this proposed business is fairly flat meadow, he doesn't feel they will have much impact on the Lynx. Jerry Gallegos questions what the length of each snowmobile trip would take. Carson Brooks says they are thinking of starting at 2-1/2 hours but they don't want to rush through it so they will see how it works. Jerry Gallegos asks about sanitary facilities. Carson states that they will have two warming tents as well as an RV on site with toilet facilities. Cary Aloia asks about having a camping permit for the RV, Carson states that they could get the 180-day permit for camping on private property. Secretary Diltz clarifies that they could get the camping permit or if the application is approved the RV would be included with the approval and they would then not need an additional camping permit.

Cary Aloia states that there could be things that come out of the Forest Service review that this board may wish to review as well. Charles Stillings questions if the Board should table the application to await the Forest Service review. Russel Pratt states that there may be public comment.

The floor is opened to public comment. Matt Entz speaks from the audience; having been through the permitting process, he finds it concerning that the applicants have a website already promoting and advertising the business without having the approval from the Forest Service. Cary Aloia states that in her experience, permitting through the Forest Service and other government agencies can take substantial amount of time and her concern is that there may likely have to be a lot of changes made to the application as they move through the permitting process, and it may look completely different when this Board sees it again.

Jesse Entz speaks from the audience and questions if the applicants will provide avalanche gear for their clients even though the applicants say they will only be in the meadow, when they are traveling to the meadow, they will be in avalanche areas. Carson Brooks states that they are following what everyone else does, they are wanting to make sure they are aligned with what everyone else is doing. He also states that as part of the Forest Service permit, they were required to have some type of advertising, there is no booking or anything on the web site its only advertising. Will Hathaway asks if there is a chance the Forest Service will have approval before the next meeting. Carson Brooks says that he is hopeful that they will have something from Maria Berglund before the next meeting.

Russell Pratt asks if this would be the only use of the property, Carson Brooks states that it would be. Cary Aloia asks if the "purchase contingency" would be extended.

Matt Entz speaks from audience stating that he is a little confused on a few aspects, the first thing we heard was that this was to be teaching people how to snowmobile in a two- and half-hour time frame at Summitville. It takes longer than that to get to and from Summitville on a snowmobile. Someone mentioned that 70 acres isn't very much room with concern of going outside of the private property boundaries. He

questions if everything will be staged at the Park Creek trailhead. Carson Brooks states that they are looking at different options on the time frame, and those options are laid out in the proposal. Russell Pratt says that a lot of the instruction time will be spent on the ride to the property. Carson Brooks states that a lot of the initial instruction will be done at the parking lot learning about the Snowmobile before they even start.

Chair Aloia closes public comment period and asks if there is any further discussion or a motion on the application.

Charles Stillings states that previous applications have been held up and not even brought to the Planning Commission until they have their other permits approved, so it seems that it would be inappropriate to move this forward prematurely without waiting for the Forest Service permits to be approved.

Charles Stillings makes a motion to table the application until the Forest Service has approved the business application/ guide permits. Will Hathaway seconds the motion. Leonard Brown abstains from voting due to a connection to another snowmobile business in the County. The motion passes on a vote of 5:0.

Chair Aloia verifies there is no old business nor staff items on the agenda.

Leonard Brown makes a motion to adjourn the meeting at 2:43pm