

Planning Commission Meeting
March 20, 2012

I. CALL TO ORDER

Chairman Dwight Freeman called the meeting to order at 1:30pm; other members present were, Pam Bricker, Mike Mitchell, Leonard Brown, Grover Hathorn and Rose Vanderpool, Secretary.

Members absent: Vernon McCallister

Others Present: See attached list.

II. Acceptance of Agenda: Pam Bricker moves to approve agenda as submitted; Leonard Brown seconds motion; motion carried unanimously.

III. Accept Minutes: A motion to approve the February 21, 2012 minutes as submitted was offered by Mike Mitchell and seconded by Leonard Brown; motion carried unanimously.

IV. NEW BUSINESS: Lester Yoder Conditional Use for a private cemetery. The Planning Commission discussed easements to which Mr. Yoder stated that they would use the current deeded 30 foot easement located on Tracts 1-2 of the Wildlife Estates which then crosses Tract 4 owned by the applicant then on to Tract 5 where the 2-acre cemetery will be located. The cemetery will be donated to the Amish Church and all State procedures will be followed. Chairman Freeman entertains a motion; Grover Hathorn moves to recommend approval and also states that this conditional use will be transferrable pending the division of land and subsequent new owner (Amish Church); Mike Mitchell seconds motion; motion carried unanimously.

Second Item; Anna Helton Conditional Use for Adult Novelty Store; Chairman Freeman opened the floor for discussion. Ms. Helton submitted pictures of her store. Ms. Helton has opened her business, minus the adult portion on March 1st, 2012. The square footage of the items in question is about 129 feet and is partitioned off with no one under 18 signs beyond this point. The total square footage of the store is 967.5 square feet. Ms. Helton will offer a variety of biker clothing, Tupperware, candles, etc. Ms. Helton also submitted a petition with signatures of support. Ms. Helton stated that she has been in business since March 15, 2011 and Tricia Creech had the same type of store located in Monte Vista city limits for several years. The Monte Vista Code Officer who may have been contacted by the State Auditor advised her of the violations and that is why she is here today. Nothing will be in the window fronts, parking will not be an issue I never have more than two persons in my store a day, sometimes I have no one. Chairman Freeman entertains a motion; Pam Bricker moves to recommend approval; Mike Mitchell seconds motion; motion carried unanimously.

Third item: Steve and Sharon Reznik Conditional Use for a Bed & Breakfast – Chairman Freeman the application and opened the floor for discussion. Mr. Reznik stated that Pronghorn Ranch majority lot owner (38 lots of the 53) is not opposed to this request. There are a total four homes and the rest are vacant. The covenants do not state that you can't have this type of use; The "Ranch" is a gated community, guests, friend, different mail carriers have a code, the code is

valid depending on circumstance then deleted. The Bed and Breakfast will offer breakfast only. If they offered more than that, the Reznik's would need to follow stricter guidelines through the State. The Reznik's can offer cheese and some wine without having to obtain a liquor license. Mr. Reznik was made aware of the bed tax/lodging tax. Mr. Reznik stated that no signage is planned at this time. There is a non-exclusive easement for ingress/egress that comes off of Pronghorn Trail, onto the Mark and Mary Kay Jones property it is a deeded 60' wide easement. Mr. Jones stated that in trying to respect his neighbors he has prepared a summary of how this is a significant impact but more importantly a public safety hazard. This is a commercial activity in a semi Ag area; Mr. & Mrs. Reznik contacted other property owners, but never them, and they will be the most impacted by this. Mr. Jones stated that rock fall has occurred in the past and is evident that rocks could fall onto the existing footprint of the Reznik's home and possibly, when guests are there. This endeavor will degrade our rural quality, lower our values, is a risk to the traveling public, and wildlife. Mr. Reznik stated that Mr. Jones has not liked anything we submitted, they have had to have attorney's involved when we were in the process of submitting plans to build our home. Mr. Jones submitted a letter to Randy Kern with the same geologic hazard concern. Randy Kern stated that he requested that the Reznik's sign a waiver that states the county is not responsible for any geologic hazard (Rock fall). Mr. Hathorn questioned how that waiver would work for others. Mr. Hathorn believes that the waiver won't help the situation. The County could still be liable. Mike Mitchell moves to recommend approval but requests legal advice as to how to implement a waiver of non-liability for Rio Grande County; Pam Bricker seconds motion; motion was tied with 2 nays and 2 ayes; Chairman Freeman had to vote to break the tie; motion carries with 3 ayes and 2 nays. (County Attorney Bill Dunn suggests that a Civil Engineer hired by the applicant, to do a geological hazard study to include a bi-yearly review for any possible changes from the first finding and that the report be sent to the Rio Grande County Land Use Office).

V. Old Business: Continuance of the Conditional Use Application submitted by Rudy Bauer (Family Adventure Recreational Ministry) S $\frac{1}{2}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of 6-39-7, held on February 21, 2012. The Planning Commission tabled their recommendation for further review; they visited the site on March 5, 2012 and on March 9, 2012. Chairman Freeman asked Secretary Rose Vanderpool to read letters submitted ; Parvez Malik, Charles and Nannette Roberts, Stephanie Gripine, Rita Parrotte, Steve Massey, and River Valley Group submitted letters and are opposed and would like the Planning Commission to deny this request. (See attached letters)

Chairman Freeman asked Mr. Bauer if he would like to add additional comments; Mr. Bauer stated that he had visited with Randy Kern, Building Inspector earlier today to discuss capacity limits, and depending on what category of plumbing code this will fall under it was determined that a 48 person capacity at the site at one time is probably the maximum, this is a rough guesstimate. The current septic system is inadequate in size and the current location of this system is in a flood plain, so it definitely would need to be an engineered mound system or moved outside of the floodplain. Mr. Bauer explained that per the Rio Grande County Development Code Article XII., List of Uses; there are approximately 90 items that he doesn't need approval for. Mr. Bauer would be allowed to build two homes any size a swimming pool, hot tub, putt putt golf. Playgrounds and soccer fields are also permitted. Mr. Bauer could invite friends to stay at his place any time. Mr. Bauer doesn't want to do that. I want to be a good

neighbor, and I am an open book. Mr. Bauer stated the he is a professional Planner, this is my job, and I put plans together all over the country. What wouldn't be permitted are the 5-RV sites. Mr. Bauer stated that his plan is less impactive and the county would have a say in everything that goes in. The Solar Field is not included at this time. The Solar Field is a future endeavor that may never happen and it will require a separate conditional use application. The 'FARM' operates with families in mind, it isn't a place where parents can drop off their kids, it will be a place where families unite and have fun with the amenities we will provide. Mr. Bauer noted that there has been some mudslinging in regards to his credit. Mr. Bauer stated that he has had civil judgments against him. Mr. Bauer stated that he has seven children, all were paid for without insurance, but when his wife was diagnosed with MS the bills surmounted and he had to go get a job that provided insurance. The judgments have been paid and some are still being paid. My personal finances are not backing this plan. I have passed a very scrutinizing application process with the IRS to obtain the 501(C) 3 Public Charitable Foundation status.

Ms. Bricker asked Mr. Bauer how will operations work, will groups reserve a date and are walk-ins allowed to just come in at any time. Mr. Bauer stated that both are welcomed. The programs will be as such that anyone can plug in without feeling lost. This so far is exclusive to summer months and some of the facilities will be winterized. I do plan on having a full time manager at some point. Chairman Freeman asked Randy Kern about the septic and building codes; what are the number of bathrooms allowed per the plumbing code and what are the guidelines for yurts? Mr. Kern stated that there aren't any guidelines specific to yurts, but the building code does address 'dwelling' and he would to interpret the codes and move forward accordingly. The septic design, depending on the amount of gallons used per day would be sized by use. If the amount exceeds 2000 gallons a day then the State would need to review it. The size of the septic system is based on the number of bedrooms but in this case the system would need to be engineered based on use. All buildings will need elevation certificates if they will be in a flood plain. The yurts will not have plumbing or cooking areas in them they are strictly for shelter and sleeping. The yurts will accommodate at least 4 people. Mr. Hathorn asked Randy Kern if he has talked with any neighboring towns in regards to yurts. Randy has not.

Mr. Loren Buss spoke in opposition of this plan. Mr. Buss stated that he lives outside the 1500 foot notification boundary but as a concerned citizen he would like to address this. Mr. Buss stated that this area is a predominately agriculture/residential area. There is no other recreational type use in close proximity, the closest one, if you can even compare the two, is the Fishing Dock in Del Norte on the Rio Grande River which is approximately seven miles west. The idea of not have a manager on site is a concern, vandalism, littering will increase, people will not adhere to private property rights, the livestock will be harassed by dogs. We have the Silva/Atencio Ditch; there will be more litter plugging up our head-gates than we already have. Mr. Buss asked if the Corps of Engineers had been notified. Secretary Rose Vanderpool stated yes, and that a no response deemed approval on their part. Mr. Bauer spoke with the official that has authority in Rio Grande and was advised that if he is approved, that official would then become more involved and/if may require a Low Impact 404 Permit. Mr. Buss also state that he is in the spray business and already is threatened by annoyed people and doesn't want more complaints by people who don't understand the agricultural way of life. Mr. Buss also mentioned the mountain lion and bear activity is very high and has concerns for public safety. Mr. Webb spoke is very opposed and there is opposition from several land owners, asked the Planning Commission how much opposition did they need to deny this application, what does it take? What precedent will you set if you approve this? Mr. Getz sent a letter but the Land Use

Office has not received a copy of that letter. (Someone in the audience gave me a copy) Ms. Parrotte stated that she didn't want to come across as NIMBY (not in my backyard) she stated that everything is in the floodplain and the county needs to stick to the codes. Mr. Mitchell asked where her property is located. Ms. Parrotte stated that her home is located in the Plaza Del Rio Subdivision and was within the 1500 foot notification process and they also have approximately 350 acres of conservation easements along the Rio Grande. Mr. Mitchell asked Ms. Parrotte what are the permitted uses on a conservation easement? Ms. Parrotte stated depends on the agreements. Can you hunt, graze, tent or camp on the conservations. Mrs. Parrotte stated that she didn't know for sure, but in one instance they did allow a group with RV's to camp on a conservation easement for observation/study. Mr. Brown asked Mr. Bauer if this doesn't get approved what are you going to do. Mr. Bauer stated that per the Development Code he can do most of what he has planned. I do multi-million dollar projects all over the world. Mr. Mitchell stated that at the State level there is a big push for Agri-Tourism and sees this as a step in that direction; this area is not pristine, this land is not prime agricultural land. Chairman Freeman entertains a motion siting the Rio Grande County Development Code Article XII. C, (1 through 6). Mr. Mitchell moves to recommend approval to the Board of County Commissioner's with the following limitation of the number of yurts from fifteen to ten; no Solar or Rifle/Archery Range (See below for proposed limits of Conditional Use ; Leonard Brown seconds motion; motion carried with 3 ayes and 1 nay. Limits on the Conditional Use Permit:

1. Tent camping area limited to one acre.
2. Yurts: maximum number limited to 10.
3. Community Garden: limited to one acre garden.
4. Log/Canvas Structure. This will be a structure providing covered shelter, but still having a floor of flag stone on the ground; limited to 1500 square feet.
5. Pool (1) and hot tubs (2).
6. One Climbing structure.
7. Restrooms and showers plumbed off of the "augmentation" side of the well; five each. One restroom and shower inside the building will be plumbed off of the "domestic" side of the well.
8. The partially finished home that will be completed as a large room gathering area upstairs and a heated area downstairs for pressure tanks, water heaters, and storage.
9. Outdoor living/Cooking area. Food for Phase one will be cooked on grills and in beehive ovens, located in this area. There will also be refrigeration and running water for cleaning.
10. One mini-golf course (18 holes).
11. Septic tank and leach field, expanded for the new operation.
12. Handicap drop off, electrical line, and pad mounted transformer to serve the outdoor living area.
13. Two Volleyball courts.
14. Five Recreational Vehicle spots with full, 30 amp, hookups.
15. Existing pad mounted transformer and proposed pad mounted transformer.
16. Twenty-two Guest parking spots.
17. One Rope Bridge.
18. One Zip line return.
19. Archery/rifle range is deleted.
20. Primary access.
21. One Zip line over.
22. One Amphitheater with noise levels governed by the current Del Norte noise ordinance.
23. One Zip line express.
24. Secondary, emergency access.
25. Solar field not included under this conditional permit; a separate conditional use permit will be submitted if and when this is considered.
27. One Disc Golf course (18 holes)

In addition, FARM will work closely with the Webb's to the north to develop an acceptable noise and visual buffer close to their property line. We will also work closely with the DOW and USDA to develop

wildlife sanctuaries and interpretive programs for families to learn about conservation and conscientious urban wildlife interface design and management. We also agree to post the property with appropriate warning signs for nearby pesticide and fertilizer operations.

VI. Adjournment: Meeting adjourned

Secretary

Chairman