

Planning Commission Minutes

October 15, 2019

Members Present: Chairman Leonard Brown, Cary Aloia, Dwight Freeman, Charles Stillings, Everett Myers, Mike Mitchell, Randy Kern and Dixie Diltz – Secretary.

Members Absent with notification: Grover Hathorn

Member Absent without notification:

Others Present: William Miller, Alesha Brady, Michael Brady, Alonzo Ruiz, Nicanor Ruiz, Ina Ruiz and Don Luedtke:

Chairman Leonard Brown called the meeting to order at 1:30 pm.

Cary Aloia made a motion to approve the Agenda as presented. Dwight Freeman seconds, motion passes unanimously.

Charles Stillings makes a motion to approve the minutes of the July 16, 2019 meeting with the correction on the last page of “in tack” changed to “intact”. Everette Myers seconds motion, motion passes unanimously.

First Item of Business: Division of land exemption application submitted by Michael & Alesha Brady for property located at 3565 E County Road 9 S, Monte Vista, CO.

Michael and Alesha Brady join the discussion.

Secretary Diltz presents the application to the Board. The application was submitted on Aug 27, 2019. Notice was mailed to surrounding properties within 1,500 feet on Sept 10, 2019. No comments have been received from any of those notified. Exempt Divisions of Land are not required to be published per the current regulations. The property is 85 acres +/- zoned agricultural estate; there is currently a residence on the property that is unoccupied. The Brady's are building a new home and wish to divide approximately 2.7 acres from the 85 acres as a one-time exempt division for financing purposes. The property is agricultural in nature with the majority of the ground under sprinkler irrigation. The preliminary survey shows a 100 foot buffer zone from the edge of sprinkler.

The application includes a well permit which allows for up to 3 residences, a letter from Pat Sullivan, RG Road and Bridge approving the proposed site for access and a letter from First South West Bank confirming the Banks agreement to release the portion of land in this request.

Land Use Staff recommends approval as it does not conflict with surrounding uses or landowners, that the land is adequate and capable of meeting the proposed use and that the use will not have adverse effect on soil, water, air or aesthetics of the area. Land Use Staff would ask that the applicant review and correct any addresses as needed.

Chairman Brown questions if the division is for 2.7 acres or 2 acres. Some of the maps in the application show 2 acres. Michael Brady explains that the 2 acres was their initial thought but when it was actually surveyed they determined they needed to go a little larger to the 2.7 acres. Mike Mitchell states that two is the minimum but he is glad to see it be a little larger for future needs. Dwight Freeman asked if there are any plans for the current residence. Michael Brady explains that it has been vacant for the past several years and would need a substantial amount of work, which they have no plans to do at this time. They don't want someone living that closely to them and have no plans of selling it.

Mike Mitchell comments that the access is good, they have water and the setbacks from the sprinkler are fine. Mike Mitchell makes a motion to recommend, Dwight Freeman seconds and the motion. The motion passes unanimously.

Second Item of Business: Conditional Use application submitted by Eddie & Laura Miller for a saw mill to be within a 50 x 120 (6,000 sq. ft) building. Secretary Diltz presents application to the board: The parcel of land is located at 0028 State Highway 370, Monte Vista; although the physical address is on State Highway 370 (county road 10 S) the proposed location of the saw mill would be along State Highway 15 South, with access through a neighboring property. The application was submitted on August 19 with notice to neighboring properties within 1,500 feet mailed on August 26th. Notice of Public Hearing was published in the Monte Vista Journal on Sept 4th. Due to a lack of quorum for the September Planning Commission meeting the meeting was rescheduled. Notice was then re-mailed to neighboring properties within 1,500 feet on September 10 and published in the Monte Vista Journal on September 18th. Comment has been received from one neighboring property stating their opposition to the proposed application. Due to the applicant stating that he would have no water available the application was not forwarded to DWR. Application was emailed to CDOT on Aug 26th and there were some things address that the applicant would need to do to get the access approved. As of my latest email from CDOT the applicant has not yet filed application for access.

Eddie Miller states that he has talked with the neighbor and the application has been filed with CDOT listing the neighbor as applicant.

Secretary Diltz continues: Per the RGCLUDC List of uses: Line #87 "Saw mill / planning mill" is a conditional use in the AR zone district. Article 12 Zoning Administration of the current land use development code outlines the standards by which conditional uses should be approved. Article 12 / c/ 1 states *"that the proposed location of the use, the proposed access to the site and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity"* among other requirements, (this is in your staff report).

It is the opinion of the Land Use Staff that the application as presented would not be compatible with the surrounding residences as indicated by the comment of the adjacent neighbor, that this could cause undue traffic hazards with the truck traffic on a major highway and that the applicant has not followed up with CDOT to fully vet this issue. Furthermore, Land Use Staff feels that the lack of water on site for sanitation and more importantly water for fire suppression could be detrimental to the public health, safety and welfare and could be materially injurious to properties in the vicinity. This property is 10 miles from the local fire station and approximately 2 miles from a fire well. The large size (6,000 sq. feet) of this proposed operation is not compatible with surrounding residences and open agricultural land and would be more appropriately located in an industrial type area with water, sanitation and fire

services available. Land Use Staff recommends denial of the application in the area proposed and with the conditions as proposed.

Maps are reviewed and location and proposed access is clarified on the maps provided.

Chairman Brown questions why he is using the access through the neighbor and does not get his own access. Eddie Miller states that it is an existing access that's been there for a long time. He states that he spoke with CDOT about a week ago and CDOT said that if the neighbor would apply for the access that would take all the difficulties out of the application and it would be between him and his neighbor what they used the access for. Dwight Freeman asked if the neighbor was in agreement with giving Eddie Miller access. Eddie says that he already has that agreement with the neighbor and he could get documentation from the neighbor if the County requires.

Everette Myers questions if the lumber would be for Eddie's own use or for sale? Eddie responds that most of it would be "pallet lumber", used by someone else to make pallets. It will be a minimal operation, about 7,500 or 8,000 board feet per day or about one-half of a semi load per day. The pallets are made here in the Valley then shipped to Colorado Springs.

Everette Myers questions the water, Leonard Brown questions if this is considered a commercial operation. Everette says it would be. Randy Kern asked if the building is open on one side or completely enclosed. Eddie says that it is just a three sided lean-to to keep the dust from swirling. Eddie says he is not opposed to drilling a well if he has to but he is comfortable without it for this size of operation. He plans to have no employees; it would be him and his two boys. Restroom facilities are discussed. The application states there would be "porta-johns". Discussion is held about if "porta-johns" are adequate as permanent sanitation. Randy Kern says that it would not be possible to have restroom facilities in an unheated open structure; however the way it has always been is that if you were going to have employees or public you have to provide restroom facilities, this is in the plumbing code.

Dwight Freeman asked where the logs would be coming in from. Eddie replies that it would be loggers coming in from all over. Amount in and amount out per day is discussed. Eddie tells the board that in the summer time the loggers are "running hard" and not as much in the winter. He states that his calculation would be about 3 vehicles per day "AVERAGED". Dwight clarifies that they would be stock piling the logs in the summer and Eddie agrees to this statement. He is hoping it would be a year round business. Cary Aloia questions if a saw mill would be a light industrial business, which Secretary Diltz confirms it generally, would be if looked at as a primary use. Mike Mitchell clarifies that the bi-products would be cut up as firewood and saw dust going to dairies. Eddie Miller adds that there is a pellet mill on the 104 and some of the sawdust would go there to make pellets and he already has people that want to park their trailers there and the scrap wood would go onto their trailers to be hauled away as firewood.

Chairman Brown states that he would like to see the proposal for the easement prior to making any decisions; he then opens the floor to public comments.

Nick Ruiz states that he is concerned about how big the operation would be. He isn't too concerned about 3 trucks a day as long as the sawdust and slab is being dealt with. Mr. Ruiz home is across the highway and just south of proposed location for saw mill.

Lorenzo Ruiz states that he is building his home right across from the proposed site. He is very concerned about how big it sounds like it will be and what the impacts with noise, dust and traffic will be to him living right across the road.

Eddie Miller says he actually looked at where the Ruiz's places are and will try to locate the building to block the less of their views and will try to muffle down the noise. It is proposed to be 100' off the road, although Mr. Miller says that he could change that. Chairman Brown reminds him that he has to keep the distance from the pivot too.

Mike Mitchell asked what would be located within the building. Eddie Miller states the he would be stacking the green lumber in the building.

Dwight Freeman brings the discussion to the well and says that he feels there should be some water available for fire suppression and sanitation. Mike Mitchell states that they will not be able to get a well big enough for fire suppression and that they would just be at the mercy of the fire department, he agrees that the sanitation would be an issue that needs to be addressed.

Cary Aloia states that she is concerned about the continuous move toward light industrial throughout that part of the County, this is an agricultural area and we need to look at what the zoning is. Mike Mitchell questions where they would be able to do this type of business in the county then. Secretary Diltz states that they should locate the large businesses in closer to the municipalities where the services are or could be more available. Discussion is held between board members as to the benefits of businesses in the county and the impacts to neighborhoods.

Dwight Freeman states that he still has concerns about the access as well as the water on this proposed application. He questions what would happen year's in the future and when new persons own the parcels or when the business expands and has employees. He feels that Eddie Miller should have his own access and needs water.

Eddie says he will do whatever he has to do to get this approved by the county.

Randy Kern suggests that what Eddie Miller may need to do is have another structure there that could be heated and accommodate the restrooms. He would need the well and an OWTS system.

Everett Myers agrees with the need to have sanitation facilities. Mike Mitchell states he agrees with this as well. Discussion is held related if the application could be approved with conditions or if the conditions that need to be met are more extensive and should require a new application. Chairman Brown states that if the board is having issue with restroom facilities, easement, water and sanitation then you almost do need to start over. He will need a new site plan, another structure, OWTS and well permit as well as easement from CDOT. Nothing we have in front of us now would even match what needs to be if we go forward with this. Cary Aloia talks about what the application fee covers and how the fees do not always cover the expenses of staff time, board member fees and notifications and so it not completely irrational even if it seems harsh, to have applicant re-apply if their applications are denied. Dwight Freeman states that if the board is considering tabling the application they need to be clear to the applicant what he would need to do to get to approval or if approval is even in the cards.

Eddie Miller states that he has talked with a surveyor and an easement agreement could be drawn up and recorded if it needed to be.

Mike Mitchell states for the record that he would not approve the application without a working restroom.

Don Luedtke is in the audience and is given the floor to speak; he is the neighbor whom sent in the written response. He states that he lives adjacent to the proposed site and he is concerned what happens to his property values if there is a sawmill across the street. With all the truck loads and stuff like that.

Dwight Freeman makes a motion to recommend denial of the application due to the size of the industrial use in an agricultural ranching district. Cary Aloia seconds.

Mike Mitchell requests discussion prior to vote. Mike states that “he feels that forestry is agricultural and this is forestry. We allow potato packing sheds to go into the community because they are a benefit to the community. If you drive through the forest and see all the lumber that’s being wasted and dying I think this would be a good benefit to the community if we do some harvesting of that lumber”. Mike states that he disagrees with the reasoning for denial, not that he disagrees with denying, but not for the reasons stated.

Everett Myers states that he is in favor of the application with the exceptions of the access, the well permit and the restroom facilities. But he feels there needs to be some sanitation and water there.

Dwight Freeman calls for a vote on the motion on the table. Cary Aloia: Aye, Dwight Freeman: Aye, Everett Myers: Aye, Charles Stillings: Aye, Mike Mitchell: No. Motion passes 4 to 1.

Next meeting for this application will be in front of the Board of County Commissioners on Oct 30, at 1:15PM.

With no further business the meeting was adjourned at 2:47 pm.