

MINUTES
OURAY COUNTY PLANNING COMMISSION
REGULAR MEETING

March 15, 2016 7:00 – 9:00 p.m. (appx)

Meeting held at the Land Use/Road & Bridge Offices, Conference Room
111 Mall Road, Ridgway, Colorado

Attending:

PC: Miller, Jackman, Williams, Carr, Baskfield, Currin, Peters
Staff: Castrodale, Sampson, Whitmore
Absent: Parker

Note: These minutes are not intended to be a *transcription* of the hearing. Comments are abbreviated and paraphrased. Every intention is made to capture the intent and meaning of the comments made during the hearing.

I. Call to Order – Regular Meeting of the Ouray County Planning Commission (8:00 P.M.)

1. **Public Hearing (7:00 PM):** The purpose of the hearing is to review and make a recommendation to the Board of County Commissioners on an application by Del-Mont Consultants, Inc., authorized agent for the Law Family Trust and the Owners Association of Elk Meadows Estates, Inc. on a proposed final plat amendment of the Elk Meadows Estates Subdivision No. 2 - Lot 222, to correct an encroachment by the house on Lot 222 on to the greenbelt (open space).

A. Staff Presentation

- Castrodale explained the application
 - Lot 222 (owned by the Laws) and green belt Elk Meadows
 - Law Parcel is 1.066 acre, open space parcel is 7.18 acres
 - Castrodale showed a map of the location
 - Castrodale explained the history of the subdivision and the construction of the home.
 - Assessor lists home as being built in 1981
 - No permit on file
 - 2015 ILC discovered the encroachment
 - Application seeks to exchange land between the private parcel and the green belt
 - Explained why a boundary adjustment process wasn't used for this application
 - Explained a condition that will require a signature by a lien holder on the green belt

- When property lines are adjusted, the existing home will then comply with setbacks
- Castrodale read his conclusion from the staff report:

It is Staff's opinion that the proposed plat amendment of Elk Meadows Estates Subdivision No. 2 is in compliance with the standards and regulations found in Section 6.12 of the Ouray County Land Use Code. Therefore, Staff recommends the Planning Commission forward the subject application to the Board of County Commissioners, with a recommendation of approval, with the following conditions:

1. The Applicant shall make any revisions to the plat, as noted by the Staff and the Planning Commission and shall provide a new/revised plat to Staff to be included with the packet for the Board of County Commissioners.
 2. The BOCC will not sign the application until all other required signatures are obtained, including signature by the open space lienholder (USDA).
 3. The Applicant shall record the approved plat within 7-days from the final approval and signature from the Board of County Commissioners.
 4. Any future construction on either affected lot shall require prior issuance of a building permit by the Land Use Department.
- Peters disclosed that he had worked with Del-Mont before and had done some work with Danika Gilbert, but that there is no conflict.
 - Carr disclosed that he had also done work with Del-Mont, but did not have a conflict.
 - Jackman also disclosed that he had known Bill for many years, but did not have a conflict.

B. Applicant Presentation

- Owner selling property
- Lien on open space was a result of getting a loan through the USDA to make infrastructure improvements.
- Property is under contract
- No survey done when purchased by Laws, and it was not disclosed to them.
- Does not see any issues with meeting the conditions, including the signature from the USDA.

C. Questions from Planning Commission

- Carr asked how it made it through title

- No survey done, original owner carried note
- Jackman asked if there had been any public comment
 - 3 responses to notice and they were all in favor of approving the application
- Peters asked about septic systems
 - No septic system, Elk Meadows is on sewer system
- Williams asked why condition #4 is on there, does it apply to all buildings
 - Safety plat note, all buildings would require a building permit
- Miller asked what the structure was in the green-belt
 - Water treatment plant
- Carr asked if they asked the applicant if they have building permit records
 - Staff has not asked them. Bill offered to send an email to the Law's to see if they happen to have them
- Baskfield asked what happens if the BOCC doesn't approve
 - Property owner wouldn't be able to sell
- Peters asked about the grammar in condition #4
 - It was decided to remove the word "prior"
 - Any future construction on either subject lot will require a building permit issued by the County
- Carr suggested waiving the fee

D. Public Comment (open at 7:20)

- James Cammack; owns adjacent lot. Is fine with the proposal, but asked if it was unreasonable to ask for a stipulation that the home is restricted to its current height
 - Jackman clarified that Cammack wanted the restriction to not allow the height to get higher. Jackman noted that the Planning Commission could discuss during their deliberations
- Close at 7:24

E. Planning Commission Deliberation

- Currin stated that he seemed that it was a reasonable request, but did not see the need to restrict height
- Whitmore noted that it would be inappropriate to spot zone the parcel to limit the building height
- Williams; applicants bear some responsibility, would not be in support of waiving the fee
 - A straw vote was taken and it was not the recommendation of the PC to waive the application fee
- Jackman asked if restricting the home on the portion that is in green space would still be spot-zoning

- Whitmore stated that she would need to research the subject further
 - It was clarified that the new lot lines are 25' from the existing home
 - Baskfield speculated that the building location was chosen because it was a spectacular setting. Asked if it would be a challenge to add a plat note, to deal with height
 - Bill noted that if approved, the home would no longer be on the green-belt property
 - Williams; noted that the PUD was from 1971, and also that the new subdivisions have building sites established. And given the legal opinion, she would not be in favor of adding a plat note for height
 - **MOTION:** Currin moved that the Planning Commission forward the subject application to the Board of County Commissioners with a recommendation of approval with the following conditions:
 1. The BOCC will not sign the application until all other required signatures are obtained, including signature by the open space lienholder (USDA).
 2. The Applicant shall record the approved plat within 7-days from the final approval and signature from the Board of County Commissioners.
 3. Any future construction on either affected lot shall require a building permit by the land use department.
 - **SECOND:** Miller seconded motion
 - **DISCUSSION:** No discussion was had
 - **VOTE:** A vote was taken and the motion passed unanimously.
2. **Public Hearing** (7:45 PM, or immediately following the previous item): The purpose of the hearing is to review and make a recommendation to the Board of County Commissioners on an application by Masters & Viner, P.C., authorized agent for the Elk Mountain Resort, LLC, on a proposed final plat amendment of the Elk Mountain Resort PUD – Phase 1A, for the purpose of the construction and use of a modified on-site waste water treatment system (OWTS) and to allow caretaker/maintenance use of the property while prohibiting any commercial use.
- Called to order at 7:34
 - Peters and Carr disclosed again that he had worked with Del-Mont, but did not have a conflict
 - Peters and Currin disclosed that they had worked with Mr. Masters before, but had no conflict
- A. **Staff Presentation**
- Castrodale introduced the topic
 - Showed a vicinity map of the area

- Discussed the history of the development
- Development is no longer active, and is currently in “maintenance mode”
- CDPHE has new standards that the existing sewage system will not meet those new standards
 - Elevation does play a role in that
- New full system (over 2,000 gallon) would cost 0.5 -1.5 million
- Sub 2000 gallon would then come under county review, and not state review, and is what the application seeks to accomplish
- Reviewed which structures would be served by the new system. 28 other buildings would no longer be served
- New system would be limited to 8 persons/day
- Commercial use suspended until a new full (2000 gal+) system was installed that did comply with the state requirements
- Castrodale finished with his conclusion:

Reasonable to support the owners desire to maintain and market the property

Cost to upgrade the system is probably not cost effective for a resort that has not operated in approximately 9 years

In Staff’s opinion the request complies with the Land Use Code section 6.12, and is not in conflict with the County Master Plan.

Therefore, Staff is recommending the Planning Commission forward the subject application to the Board of County Commissioners, with a recommendation of approval with the following conditions:

1. Final approval by the BOCC is subject to issuance of a revised septic permit, issued per the information and materials provided with the application.
2. The authority of the Elk Mountain Resort to conduct commercial and resort-conference center operations is suspended as long as the revised OWTS system remains in use.
3. Any application to re-open the resort facility and commence with the original approved commercial operation is conditioned upon the approval of an OWTS, or other wastewater treatment facility, in compliance with current Colorado Department of Public Health and Environment regulations for such use.
4. Use of the Elk Mountain Resort property and facilities is restricted to those operations necessary for maintenance of the infrastructure, and marketing of the facility to prospective purchasers.

5. All structures shall remain in a *winterized*, non-functioning status and shall not be serviced by the OWTS system, with the exception of the following:

- a. Main Lodge
- b. Valhalla Shooting Club
- c. Maintenance Shop
- d. Fresh Water Plant
- e. Housekeeping, Shipping/Receiving
- f. Porters Cottage
- g. Aspens Cottage

6. Final approval by the BOCC is subject to approval and recordation of an Amended Plat of the Elk Mountain Resort – Phase IA. The recorded plat shall include all necessary plat notes, including, but not necessarily limited to the following:

a. Ouray County has approved the construction of a modified on-site wastewater treatment system (OWTS), requiring issuance of a Septic Permit issued by the Ouray County Land Use Department, to serve the following structures only:

- i. Main Lodge
- ii. Valhalla Shooting Club
- iii. Maintenance Shop
- iv. Fresh Water Plant
- v. Housekeeping, Shipping/Receiving
- vi. Porters Cottage
- vii. Aspens Cottage

b. The authority of the Elk Mountain Resort to conduct commercial operations has been suspended by the Ouray County Board of County Commissioners as long as the revised OWTS system remains in use.

c. The use of the resort and the seven (7) structures served by the OWTS system shall not exceed an average monthly usage of eight (8) persons per day.

d. Any application to re-open the resort facility and commence with the original approved commercial operation is conditioned upon the approval of an OWTS, or other wastewater treatment facility, in compliance with current Colorado Department of Public Health and Environment regulations for such use.

B. Applicant Presentation

- Mr. Masters introduced Greg Tokasetak (spelling may not be accurate) as a representative to the owners of Elk Mountain Resort

- Has worked with owner since 1997
- Waste water facility was built to regulations in place at the time, and then the regulations changed
- Does not make economic sense when the property is not currently active
- Talked with Delmont and Land Use Staff during the process
- The reason to maintain septic for these buildings is because they have sprinklers
- They have care-takers using two buildings
- Two cottages that may be used by the owner or potential buyers
- It is not actively being marketed
- PUD conference center, only one in the county
 - Conditions are restrictive
 - Difficult to market
 - Had discussions about potentially amending LUC to operate as a facility other than Motel use
- Looking for resolution to allow continuance of property maintenance

C. Questions from Planning Commission

- Williams noted a redundancy in the Staff Reports
- Williams – how is the maximum use going to be monitored?
 - Larry (Engineer) explained how the new systems work
 - Ponds and liners are still in good condition
 - Determined the maximum capacity with mathematical equations, and a conservative number was 8 person/day as a year round average. You could have 100 people there for 2 or 3 days and then 2 people there for 2 or 3 months
 - Castrodale noted that they would not be monitoring on a daily basis – rather complaint enforcement
 - Larry noted that in order to satisfy OWTS permitting process a head count was required
 - Williams asked if the goal is to stop discharge, then would it be better to modify the condition to monitor discharge
 - Larry: currently monitor and could ask them to continue monitor, or request a log book
 - Jackman, would you still have a discharge point.
 - Larry – no
 - Any discharge from the pond would not be legal
 - Jackman – asked if it would be unreasonable to require notice if pumping is required?

- Masters – wouldn't be unreasonable, and it's very unlikely that discharge will occur
- Masters – so little water going through that the meter typically doesn't read
- Williams just wants to ensure that records are maintained
- Miller asked if care-takers stay on-site
 - i. Masters – one of the care takers may stay one or two nights a week to avoid snowmobiling out, but there are no regular overnight stays
- Asked if the one empty pond in the aerial photo was functional
 - Engineer stated that it was functional, but must not have had water on the day that the picture was taken
- Peters; ponds seem to have more capacity than you probably every need?
 - Larry; that is very likely
- Peters; Liners installed in 2000, would you estimate how much longer will last?
 - Guaranteed for 20 years, due to elevation they will probably last longer than 20 years, and will probably be good for another 10-15 years
- Baskfield; are you planning to use treatment system with existing ponds, but permitted for a smaller capacity, or excavate for a new system
 - Larry; there are several things allowed by the OWTS regulations. They will now install tank and then effluent would then go to the existing ponds
 - Masters; solids will collect in the tank and the ponds will serve the purpose of the leach field
 - Masters; plan calls for a 2,000 gallon tank, but they're difficult to locate
- Baskfield; are you maintaining the ponds for future use?
 - Larry; not likely utilization of the ponds will be allowed for a large system in the future because of State regulations
- Williams asked if they should add a condition that notification is required when pumping is required
 - Jackman asked to readdress this issue during planning commission deliberation
- Jackman asked the county attorney if the application complies with state law
 - Whitmore; yes

D. Public Comment (Opened at 8:03)

- No public comments were stated
- Public comment closed at 8:03

E. Planning Commission Deliberation

- Currin; comfortable that it's been engineered and is fine with it.
- Williams asked if condition about pumping should be added?
 - Castrodale said that would be reasonable.
 - Wanted to note that the building inspector has reviewed the application and is comfortable issuing a septic system for the design as proposed
- **MOTION:** Peters moved to forward the application to the BOCC with a recommendation of approval with the following conditions.
 1. Final approval by the BOCC is subject to issuance of a revised septic permit, issued per the information and materials provided with the application.
 2. The authority of the Elk Mountain Resort to conduct commercial and resort-conference center operations is suspended as long as the revised OWTS system remains in use.
 3. Any application to re-open the resort facility and commence with the original approved commercial operation is conditioned upon the approval of an OWTS, or other wastewater treatment facility, in compliance with current Colorado Department of Public Health and Environment regulations for such use.
 4. Use of the Elk Mountain Resort property and facilities is restricted to those operations necessary for maintenance of the infrastructure, and marketing of the facility to prospective purchasers.
 5. All structures shall remain in a *winterized*, non-functioning status and shall not be serviced by the OWTS system, with the exception of the following:
 - a. Main Lodge
 - b. Valhalla Shooting Club
 - c. Maintenance Shop
 - d. Fresh Water Plant
 - e. Housekeeping, Shipping/Receiving
 - f. Porters Cottage
 - g. Aspens Cottage
 6. Final approval by the BOCC is subject to approval and recordation of an Amended Plat of the Elk Mountain Resort – Phase IA. The recorded plat shall include all necessary plat notes, including, but not necessarily limited to the following:

APPROVED ON 4/19/2015

a. Ouray County has approved the construction of a modified on-site wastewater treatment system (OWTS), requiring issuance of a Septic Permit issued by the Ouray County Land Use Department, to serve the following structures only:

- i. Main Lodge
- ii. Valhalla Shooting Club
- iii. Maintenance Shop
- iv. Fresh Water Plant
- v. Housekeeping, Shipping/Receiving
- vi. Porters Cottage
- vii. Aspens Cottage

b. The authority of the Elk Mountain Resort to conduct commercial operations has been suspended by the Ouray County Board of County Commissioners as long as the revised OWTS system remains in use.

c. The use of the resort and the seven (7) structures served by the OWTS system shall not exceed an average monthly usage of eight (8) persons per day.

d. Any application to re-open the resort facility and commence with the original approved commercial operation is conditioned upon the approval of an OWTS, or other wastewater treatment facility, in compliance with current Colorado Department of Public Health and Environment regulations for such use.

7. The owner notify the county for any need for pumping the OWTS.

- **SECOND:** Williams seconded motion
- **DISCUSSION:**
 - The Planning Commission discussed the condition regarding discharge
 - Whitmore noted that the application is not to further regulate OWTS, but rather to amend a plat in a fashion that will allow the applicant to install an OWTS system that will comply with the State and County OWTS regulations.

APPROVED ON 4/19/2015

Could add plat note that the applicant shall follow the OWTS regulations

- The Planning Commission discussed the condition further, and it was decided to make a friendly amendment to strike condition #7

- **VOTE:** A vote was taken and the motion passed unanimously

3. Request for approval of minutes; 3/1/2015

- **MOTION:** Williams moved to approve
- **SECOND:** Miller seconded motion
- **DISCUSSION:** None
- **VOTE:** A vote was taken and the motion passed unanimously
 - Currin; abstained but questioned if they needed 4 members
 - Whitmore; clarified that fewer members could approve
 - The Planning Commission discussed the meeting on March 15, 2016

4. New business

- Castrodale; Tamara is working up a cost estimate of implementing the new point system for wildfire
- Next meeting will be a workshop on telecomm – April 5th 6-8pm
- Williams asked about public comment regarding Ham radios
 - Castrodale will verify that those comments were addressed

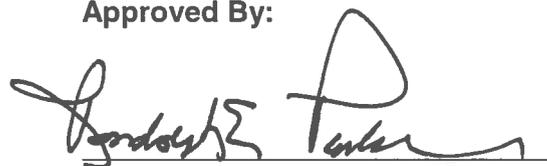
5. Adjourn Regular Meeting

- **MOTION:** Peters moved to adjourn
- **SECOND:** Carr seconded motion
- **DISCUSSION:** None
- **VOTE:** A vote was taken and the motion passed unanimously

Submitted By:

Bryan Sampson
Associate Planner

Approved By:



Sheelagh Williams
Temporary Chair