

# MEMO

**TO:** Board of County Commissioners  
**FROM:** Bryan Sampson  
**DATE:** 2/4/2020  
**SUBJ:** Olin Variance

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The Authorized Agent for Mr. Olin submitted an email to the Land Use Staff on November, 14, 2019, stating that they wish to withdraw the application for Variance. It also states that the commercial use and all tenants will be out by February 14, 2020.

It is Staff's opinion that the Board of County Commissioners should continue this public hearing to a date certain, in order to allow Staff to inspect the storage containers. This inspection will likely happen in late February, so a continuation date in March would be preferable.

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For your reference, the following is a historical summary of this property and this application:

- **1980** – Sketch Plan for commercial PUD submitted to Ouray County. Minutes state that: “In reply to a question from John Crim, Mr. Williams said that he would probably start with ten units and install a maximum of 30 units” (Note that this is the only reference that Staff could find pertaining to the number of units proposed/approved).
- **1982** – BOCC approval. Minutes state that: “*Commissioner David Calhoun moved and Commissioner Warren Comerer seconded that the mini-warehouse be approved and constructed according to previous recommendations*”
- **1986** – The Final Plat of the B and V Subdivision was approved by the County Commissioners. Lot 1 of this subdivision was noted as “FOR MINI STORAGE ONLY NO WATER NEEDED”.

- **2006** – Property owner inquired to the Ouray County Land Use Office about expanding the facility. The Land Use Administrator and the County Attorney both told him that he could not put more storage units on the property (see Exhibit D).
- **2009** – Plat was amended in order to allow a residential component on Lot 1. The note about mini storage and water was omitted from this 2009 amendment.
  - Note: When the amended plat was recorded, it omitted the note indicating “mini storage”, but because the County Commissioners approved the original 1986 plat with a land use of “Mini Storage” on Lot 1, and because storage facilities are not a use currently allowed in the Land Use Code, Staff considers this facility to be a “Legal Non-Conforming” Land Use.
- **2018 (October)** – The Ouray County Assessor notified the Land Use Office that there had been two “shipping containers” placed on the subject parcel, and then converted to mini-storage units.
- **2018 (October)** – Land Use Department notified the property owner that the mini-storage facility is considered to be a “Legal Non-Conforming Use” that cannot be expanded and the additional units must be removed or apply for a variance.
- **2019 (March)** – The Applicant applied for a variance to allow the expansion & this was scheduled for hearing on March 5, 2019. The Applicant, however, chose to withdraw the application on March 4, 2019, citing a desire to submit the application as a replat under Section 6 of the Land Use Code. The Land Use Department agreed to stay any further enforcement actions related to this matter for 45-days (until April 18<sup>th</sup>) to allow the Applicants to prepare a plat amendment application.
- **2019 (April)** – The Applicant and the Land Use Department disagreed on the proper process. Staff explained to the Applicant that a *variance application* was the proper process to follow. However, it was the Applicant’s desire to apply for a plat amendment under Section 6.12(D) “Technical Error/Defect”. It was/is the opinion of Staff that 6.12(D) is only appropriate for *non-subjective* matters, and therefore, if the Applicant was going to proceed with a plat amendment, the proper process would be 6.12(A,B,&C). The Applicant then stated a desire to appeal that decision, but ultimately, there was no application or application fee submitted to the County. On April 18, Staff notified the Applicant that the County would continue with enforcement action.
- **May 21, 2019** – A formal Notice of Violation was served to the Applicant, notifying him that the additional storage units (shipping containers) must be removed within 10 days (or by May 31, 2019).
- **May 30, 2019** – Following a discussion between Staff and the Applicant, the Applicant chose to pursue a Special Use Permit Amendment Application. At this point, the County Attorney directed Staff to accept whatever application the Applicant chose to submit. Staff then temporarily suspended any further enforcement with the caveat that it may

continue such enforcement if the application is not promptly submitted, not diligently pursued, or is ultimately denied (by the BOCC).

- **July 16, 2019** – The Ridgway Area Joint Planning Board reviewed the application for Special Use Permit Amendment and recommended denial to the Board of County Commissioners.
- **August 13, 2019** – The BOCC held a public hearing to consider the Special Use Permit Amendment, but continued the hearing to October 22, 2019, in order to allow the Applicant to resubmit the application as a Variance.
- **October 22, 2019** – The BOCC held the continued public hearing and noted that the new Variance application should also be reviewed by the Ridgway Area Joint Planning Board. The hearing was again continued to February 4, 2020, in order to allow review by the Joint Area Planning Board.
- **November 14, 2019** – The Authorized Agent for Mr. Olin sent an email stating that they wish to withdraw the application & that all commercial use of the structures will cease on February 14, 2020.

## Bryan Sampson

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**From:** Brad Switzer <bns@montrose.net>  
**Sent:** Thursday, November 14, 2019 10:46 AM  
**To:** 'Mark Castrodale'; 'Bryan Sampson'  
**Cc:** 'Carol Viner'  
**Subject:** RE: Olin Variance Application

Hi, Mark....

All storage tenants will be out , and all commercial use of the shipping containers will cease by Feb. 14, 2020. Thereafter, Mr. Olin intends to use the shipping containers for his own personal needs; and, the County may inspect the containers, if it deems it appropriate, in order to verify their status after 2/14/2020.

Under these circumstances, will the County pursue enforcing any other land use issues relating to Mr. Olin?

Regard, Brad S.  
Bradley N. Switzer, Esq.  
400 South 3<sup>rd</sup> Street  
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**From:** Mark Castrodale <[mcastrodale@ouraycountyco.gov](mailto:mcastrodale@ouraycountyco.gov)>  
**Sent:** Wednesday, November 13, 2019 2:45 PM  
**To:** 'Brad Switzer' <[bns@montrose.net](mailto:bns@montrose.net)>; 'Bryan Sampson' <[bsampson@ouraycountyco.gov](mailto:bsampson@ouraycountyco.gov)>  
**Cc:** 'Carol Viner' <[cav@mastersviner.com](mailto:cav@mastersviner.com)>  
**Subject:** RE: Olin Variance Application

Thank you for the update Brad.

Can you or Mr. Olin submit a letter stating his intent and also making clear that all units will be removed no later than \_\_\_\_\_.

With that letter we can go to the County Administrator and see if we vacate the February hearing or what the desired process will be.

Thank you.

**Mark Castrodale**

Planning Director  
Ouray County Land Use  
970.626.9775 x310

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**From:** Brad Switzer [<mailto:bns@montrose.net>]  
**Sent:** Wednesday, November 13, 2019 12:37 PM  
**To:** 'Mark Castrodale'; 'Bryan Sampson'  
**Cc:** 'Carol Viner'  
**Subject:** Olin Variance Application  
**Importance:** High

Hi, Mark and Bryan:

Mr. Olin wishes to withdraw his Variance Application for the additional storage units/shipping containers.

He is in the process of moving the current tenants out of the shipping container units; but, I am told, this could take 2 to 3 months (partly because of the existing leases and the holidays). Most of the tenants have already vacated their units; 4 or 5 tenants remain.

Please let me know if you have any comments or concerns regarding this matter.

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