

REQUEST: A variance request to increase the maximum building height of thirty-five feet (35') to 39.9 feet

LOCATION: A parcel of land, Metes & Bounds 76 All 35 Acres N2NW4SW4, N2N2S2NW4SW4, N2S2N2S2NW4SW4 SEC1 T1S R76

E2SE4NE4SE4, E2W2SE4NE4SE4 of SEC2 T1S R76 County of Grand, State of Colorado.

ZONE DISTRICT: R-Residential District

AREA: 5.7 acres

STAFF CONTACT: Robert C. Davis, AICP, Director

ATTACHMENTS: 1) Vicinity Map
2) Variance request letter and application
3) Proposed building plans and elevations
4) Submittals from Becky Arnold
5) Red Hawk Ranch Sketch Plan
6) Red Hawk Ranch Multi-Family Site Plan

BACKGROUND and PROPOSAL ANALYSIS

The applicant is requesting height variances from the required 35 feet to 39.9 feet for three buildings located in Parcels MF1 and MF2 of the Red Hawk Ranch Subdivision proposal. The three buildings containing 72 residential units subject to the variance request are to be located within Planning areas MF-1 and MF-2 located east of Indian Grass Road and within the recently approved preliminary plat. This project is being proposed as community workforce housing.

Adjacent land uses include a residential home located to the north. The parcels to the south and west are currently undeveloped. Located to the east is the Crooked Creek open space corridor. A 50-foot open space buffer with a berm is located between MF-1 and the residential land use located to the north.

This Sketch Plan has been updated to address items that were reviewed at the December 8th, 2021 Planning Commission hearing. These updates include reconfiguring Building A to include 24 units which has resulted in the length of the building footprint being significantly reduced. This reduction resulted in a significant increase in the open space buffer located to the north. As illustrated on the Sketch Plan, the 50' buffer has been increased to approximately 112' at the narrowest point.

It is important the Board of Adjustment consider how the proposed structure would impact the view of the mountain scenery. The developer has adjusted the plan several times to help reduce the impact of the building on the residential lot to the north.

Building Height Regulations

The Grand County Zoning Regulations, Section XX Definitions state the following:

(10) BUILDING HEIGHT: Height of building is the vertical distance of a structure measured from the lowest elevation of finished grade, 10 feet away from the structure, to the highest point of the structure.

a) Maximum building height, measured 10 feet away from the structure, may not exceed 35 feet above finish grade, if less than a 5 foot change in finish grade within the building footprint.

b) Maximum building height measured 10 feet away from the structure, may not exceed 40 foot above finished grade, if more than a 5 foot change in finish grade within the building footprint. Height of building is the vertical distance of a structure measured from the lowest elevation of finished grade, 10 feet away from the structure, to the highest point of the structure.

The topography of the subject site is relatively flat and the grade does not change more than five (5) feet across the footprint of the buildings. As such, the required maximum building height is 35 feet. The drawing below depict how building height is currently calculated.

Compliance with Zoning Regulations

I. Zoning – Section 4, Residential District

- 4.1 Use: Multiple-family residential
- 4.2 Minimum Lot Area Total 5.7 Acres; required minimum is 7,000 sq. ft.
- 4.3 Minimum Lot Width required minimum is 60'
- 4.4 Minimum Front Yard 30' is required new construction shall comply.
- 4.5 Minimum Side Yard 5' is required new construction shall comply.
- 4.6 Minimum Rear Yard 20' is required new construction shall comply.
- 4.7 Maximum Building Height 35' feet is permitted the proposed building is roughly 39.9 feet

✓ PROPOSED VARIANCE

- 4.8 Water Quality Setback 30' is required new construction shall comply.

Zoning – Section 16, Board of Adjustment

- A. 16.1 (1). *To hear and decide appeals taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the*

course of the administration or enforcement of the provisions of these regulations. Provided however, no appeal shall be allowed for building use violations that may be prosecuted pursuant to Section 19.1(2) of these regulations. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.

The Applicant is requesting a variance to 39.9 feet because the proposed structure would not pass Staff's zoning review of the building permit when submitted.

16.1 (2). *To authorize, upon appeal in specific cases, variances to the:*

minimum area of lot;

minimum lot width;

minimum front yard;

minimum side yard;

minimum rear yard;

maximum height of buildings;

regulations where, by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these regulations.

16.1(3). *Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provisions of this regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment, upon an appeal relating to said property, may grant a variance from the strict application of these regulations so as to relieve such difficulties or hardships if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and these regulations.*

B. 16.1(4). *Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.*

There are no special topographical conditions of the lot that would make it onerous to comply with the 35 foot height limit. Because the project is characterized as workforce housing, providing a much needed product in the county, there is a hardship associated with building a feasible affordable housing development under the current height restrictions. The additional height requested would result in additional units rendering the project more feasible for the development of affordable housing. The challenge that exists with Red Hawk Ranch meeting this goal is to design a project that can be built at a reasonable cost, while meeting the income requirements of the tenants that qualify for renting the units. Meeting these thresholds are paramount to allow the developer of the project to obtain the financing, tax credits, and comply with rent and income parameters established by CHFA and HUD programs.

Based on these considerations the project has been designed as a three-story walkup comprised of 25% one bedroom and 75% two-bedroom units that will offer alternatives to both singles, couples and small families. This design is efficient to construct and hopefully can meet the budget constraints needed to finance and develop a project of this type. As density is reduced the building cost per square foot increases impacting the feasibility of the project. In addition, by having 72 smaller units the density increase should come close to balancing out with an alternative of 50 larger multi-family "free market" units.

Based on 2021 standards established by CHFA for income limits and maximum rent amounts based on the areas AMI (average median income) of its employees set rents and income levels as follows,

| <u>Unit Size</u> | <u>Monthly Rent*</u> | <u>Income Limits per Household **</u> |
|-------------------|----------------------|---------------------------------------|
| One bedroom unit | \$1,183 to \$1,774 | \$44,160 to \$75,720 |
| Two bedrooms unit | \$1,420 to \$2,130 | \$50,480 to \$94,500 |

* These figures are based on 80% to 120% of AMI for 2021.

** These income limit ranges are based on one to four person households (see attached CHFA schedule).

SUMMARY AND RECOMMENDATION

Staff does not find any practical difficulties with the site that would justify a height variance since the topography is relatively flat.

There are, however, special reasons related to undue hardship that may be considered. Because of the nature of the affordable housing development being proposed, the project's affordability would be negated if the buildings were less dense or built to the 35 foot height requirement. The applicant says that the project needs high density in order to make it an affordable product as the density helps to overcome land costs. Although the applicant still would be able to build 35 foot tall buildings on the site, it is unlikely that an affordable housing project would be constructed there if the densities were reduced.

Given the focus of this effort is to increase the number of badly needed affordable housing in the community, the variance may be warranted. Staff feels that the burden of proof is on the applicant to demonstrate the proposed variance would not significantly hinder the views of its neighbors although a building of 35 feet would to some degree do the same.

Staff, therefore, recommends APPROVAL of the variance request to increase the height of the two buildings proposed for Multiple-family 1 and Multiple-family 2 from 35 feet to 39.9 feet.

Landis Arnold presents Photo Journal

Landis Arnold presents a photo journal that gives visual building height reference to existing views expressing concerns. Pictures covered angles of mountain ranges from North, South, West and East.

Commissioner Marcus Davis asks are all the photos taken from one location.

Landis Arnold confirmed that all the photos are taken from the Arnold property.

Approximately 25 minutes into Landis Arnold presentation Commissioner Silverio requests the presentation concludes to allow for Board and public comment.

Landis Arnold concludes by requesting that the board sticks to the 35' regulation for the North building.

Commissioner Silverio noted.

Commissioner Silverio Opens Discussion to the Board

Commissioner Marcus Davis commends Fred Cooke the applicant significant setback changes 112'. Marcus asks Robert Davis to pull up the slide showing the 37-39' rendering. I do see there has been distinctive attempts to continue making changes in favor of public feedback. With that said I want to take a look at this new. Robert you can answer this, the renderings had measurements on them and I want to confirm that those measurements follow the standard 10' away from foundation. So we are looking at grade, with drainage and grading we are looking at the specific height. What's the 10' perimeter to the highest point of the building? That's the 39.9'?

Robert Davis, Director Community Development, states that would not be. I do not believe that they were provided.

Commissioner Marcus Davis asks has those measurements been adapted, or are we asking for the wrong variance here to begin with?

Fred Cooke states that they did look at that.

Commissioner Marcus Davis asks again, it's the lowest 10' perimeter to the highest point anywhere on the building because that is the definition of the variance?

Fred Cooke states yes.

Commissioner Marcus Davis states that is the definition of height that will provide the variance.

Commissioner George Davis asks on each level going up that the 39 going up?

Fred Cooke confirms that it is 10' out going up to the highest point of the building

Commissioner Marcus Davis asks anywhere on the building?

Fred Cooke confirms. Also, it should be noted that the 35-39' is only 12% of the skyline view of the shortest building. As it goes up it appears that shown in the rendering here, that there is a considerable more 25% variance than the shorter building vs the taller building.

Commissioner Marcus Davis states that they are using the original drawings.

Fred Cooke confirms.

Commissioner Marcus Davis states, however, what I have been looking at that the 35' is our standard build height and just mentally calculating somewhere in between highest presented. This is your back two buildings, but your first building that is staggered two slides up, is the building that we are here for today?

Fred Cooke Confirms.

Commissioner Marcus Davis asks so what we are looking at in this slide is the proposal for today? This is the proposal for the northern most Multi-family and the shortest side of this building that faces the Arnold property?

Fred Cooke states the elevation II is new that we are proposing today.

Commissioner Marcus Davis not this one?

Fred Cooke confirms.

Commissioner Marcus Davis states he wants to make sure that we are talking about the correct things. That is still Elevation I

Robert Davis, Director Community Development states that the title is a typo and should read Elevation II. Because all the buildings are the same height.

Commissioner Marcus Davis asks so what are you asking for today a stair stepped or all the same?

Fred Cooke confirms all the same. We just changed the façade to soften it and more pleasant.

Commissioner Marcus Davis states that he likes the stair stepped a little better. I appreciate your email as well as the conditions. I believe that this answers the questions outlined on the second page of the Arnolds Family letter. That the variance is only applicable to the development rent control workforce and that you are working with the Board of County Commissioners (BOCC) approval. If granted would be conditioned entirely on BOCC approval and conditions of this certificate. I am trying to keep up with all of the changes. Last time I saw this there was a lot of question and concern of the discussion of rent control and this solidifies it with conditions. This makes it a preferment thing. The parking 112' is the actual distant from the property 50' + 62'. The height calculations from 35' to 39.9' is a 4.9' variance. Our master plan is a guidance document it is not a must meet document one of the main things that we talk about is view corridors. With these new renderings where is the applicants renderings of the view corridors that they are willing to meet? I have seen what the public put together with old data for those views. What is the break up to as we are looking south and do we meet that view of view corridors? I am kind of on the fence here. I would like to see better renderings with the proposal at hand I do not have those in front of me and I don't believe

that I can make an educated or fully informed decision this evening. The conditions are a huge improvement. Again I really like the stair stepped look with the first building being at 35' would help, I do not believe that I have full information to make a decision tonight.

Fred Cooke states that it should also be noted that we will be building a berm that will have trees to soften it.

Commissioner Marcus Davis states it will soften it but again let's get a rendering, let's see what it will look like because that will be part of the landscaping plan through the rest of the subdivision process anyway.

Commissioner Silverio asks we are ruling on the height variance for MF1 & MF2 that third proposed building the variance would have no say that building correct?

Fred Cooke confirms.

Commissioner Silverio Opens Public Comment

Commissioner Silverio for the sake of time there will be a limit of three minutes.

Diane Howell introduces herself and states, Marcus in addition to what you were talking about, I had a great conversation with Ed. I went back to Grand County's Master Plan and it says exactly what you are saying. Diane reads 2.4.1 of the Master Plan. The natural and cultural resources of Grand County are what we are worried about. I think it is great that you are trying to build something, but I think that it needs to comply with the ranch type view and community.

Chris Burguist introduces himself and states that he is Becky Arnold's neighbor. What you are looking at is 72 units, and you have enough land that you could build 72 units while staying under 35'. It's crazy, there is no reason for it. There is a dire need for low income housing, I understand that. I don't understand with the amount of land, why you can't shorten them and make them longer and that should take care of your problem.

Hugh Campbell introduces himself and states concerns regarding traffic and infrastructure of Tabernash.

Commissioner Marcus Davis states that the Planning Commission is the hearing to discuss those concerns.

Hugh Campbell states understanding, and states that he agrees with other neighbors that building should be held to the standard height regulations.

Thor Arnold introduces himself and states that he is an architect and produced renderings and views from Becky Arnold's property. I want to pointedly address the Issue of the proposed height of 39.9' the elevation that is shown on these drawings right now clearly shows a height from top of slab to top of building of 39.9'. The earlier conversations stated that when taking a height per Grand County Regulations 10' away from the edge of the building over hang, the height would be 39.9' that is clearly not correct. The sketch plan clearly shows that the site slopes more than two feet from the South West corner of that 10' building perimeter to the North East of building perimeter. You

absolutely have to add that extra two feet of the natural slope to the proposed 39.9'. Therefore the request of the proposed 4.9' height variance is incorrect. You should clearly table this entire proposal until provided correct drawing, that includes the actual slope of the existing topography, and show that in relation to the building.

Susan Volk states that she agrees that this should be tabled.

Commissioner Marcus Davis asks Robert Davis to address this conflict on the height. The height that is shown is 39.9'. That is not how our height is measured because of slope and drainage. The variance that you are asking for would put the applicant in a bind and is not correct. We have to be exact on this. I do believe that we need new elevation renderings on this.

Commissioner Silverio asks Fred Cooke if he would like to table the height variance and come back next month on the second Wednesday of the month.

Fred Cooke asks for clarification on what is needed.

Commissioner Marcus Davis clarifies that they will need a rendering that shows the height from a 10' perimeter to the highest point of the building.

Commissioner George Davis recommends that if you drop a garden level and dropping that in.

Fred Cooke states that they are trying to stay within budget to keep the rental prices low and affordable.

Commissioner George Davis states that he would like him to take a look at that.

Commissioner Marcus Davis states that we want to make sure we have accurate measurements to make the most educated decision.

Commissioner Silverio asks Fred Cooke if we could table this and come back next month.

Fred Cooke requests that we table the height variance for Red Hawk Ranch

Commissioner Marcus Davis asks Becky Arnold if the applicant is taking the steps in the right direction.

Becky Arnold states I have a lot of issues that will be brought up with the BOCC. This is a problem with Tabernash in a whole, not just Becky Arnold. I appreciate moving the building. I would like to see multifamily in the middle of the development.

Commissioner Marcus Davis Requests to close the meeting.

Motion to close the hearing was requested by Commissioner Silverio, Marcus Davis approved. Seconded by George Davis. All in favor "aye", none apposed, hearing is closed.

Motion to Adjourn. So moved by George Davis. Seconded by Marcus Davis. All in favor, "aye" all opposed, hearing none this meeting is adjourned.

Meeting Closes 6:39pm