

GRAND COUNTY PLANNING COMMISSION MEETING MINUTES

Wednesday, February 9, 2022

MEMBERS PRESENT: Marcus Davis Kim Shepton
 Ryan McNertney Deborah Fitch
 Bob Gnuse Will MacDonald
 Lynn Adams Shaun Mullahey

MEMBERS ABSENT: Ralph Graves

STAFF PRESENT: Robert Davis Taylor Schlueter
 Maxine LaBarre-Krostue Lonie Ragsdale

The meeting was called to order by Chairperson Marcus Davis at 6:34 PM. Roll call was taken.

Minutes from January 19, 2022 were presented. Motion to approve by Kim Shepton. Seconded by Lynn Adams. All in favor, "aye". None opposed, minutes approved.

There were 6 people present at the WebEx/In Person Planning Commission Meeting.

CERTIFICATE OF RECOMMENDATION

Planning Commission, February 9, 2022

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| PROJECT NAME | Amended Final Plat, Lot 2-56, Fairways at Pole Creek Subdivision |
| APPLICANT | Donald M. Neff |
| LOCATION | Lot 2-56, Fairways at Pole Creek Subdivision 180 GCR 5113 |
| ZONING | Forestry & Open District |
| APPLICABLE REGULATIONS | Grand County Zoning Regulations, Grand County Subdivision Regulations, Grand County Master Plan |
| ATTACHMENTS | A. Development Application B. Project Narrative C. Vicinity and Detail Map D. Title Commitment E. Warranty Deed, Rec. No.: 2020007187 F. Proposed Plat G. Fairways at Pole Creek Subdivision - Plat, Reception No. 97011057 H. Statement of Taxes Due – 2022 I. Letter of Support from Fairways at Pole Creek HOA |
| STAFF PLANNER | Taylor Schlueter, Planner I |
| REQUEST | Approval of an Amended Final Plat adjusting the location of an existing building envelope |

I. DISCUSSION

a. Background:

Donald Neff, the “Applicant”, has been the owner of Lot 2-56 of Fairways at Pole Creek Subdivision since 2020, via a Warranty Deed recorded at Reception No. 2020007187 (Attachment A).

The property is located within Grand County Rural Growth Area 2 and is zoned Forestry & Open. The property is bordered by a single family residential use to the west, vacant lots to the south and north, and Pole Creek Golf Course to the east.

The Applicant is proposing an Amended Final Plat that would alter the location of the originally platted building envelope by moving its location approximately 100 feet west, away from the golf course fairway, in order to decrease likelihood of errantly hit golf balls from hitting the home they plan to build. This change will also increase the distance between adjacent building envelopes. Currently, platted building envelopes directly adjacent to the Applicant’s property line up more or less in a line. The Applicant’s proposal seeks to stagger his envelope, increasing the distance between his and each neighbor’s.

The Applicant has provided a letter of support from the Fairways at Pole Creek Home Owners Association.

b. History:

Fairways at Pole Creek was originally platted in 1997 at Reception No. 97011057. Each lot platted was assigned a specific building envelope location, in order to preserve scenic view corridors as well as maintain an increased distance between homes/lots.

II. PROPOSED PLAT

III. VICINITY & DETAIL MAP

IV. COMPLIANCE WITH GRAND COUNTY REGULATIONS

A. ZONING REGULATIONS

This parcel lies within the Residential District.

- (a) The amended lot will be for the purpose of constructing a single family dwelling.
- (b) This zone requires 30' minimum front yard setbacks, 5' minimum side yard setbacks and 20' minimum rear yard setbacks.
- (c) Minimum area of lot in this District is 15,000 square feet. The Applicant's proposal will not change the total lot size whatsoever.

B. SUBDIVISION REGULATIONS – 4.3 Final Plat

The Amended Final Plat shall contain or be accompanied by the following information:

Section 4.3 (1) (a-c) the final plat shall be representative of the preliminary plat proposed for immediate recording. The drawing supplied shall be at a scale of not less than 1"=100' on a 24" x 36" Mylar sheet.

Section 4.3 (2) (a) the title of the Amended Final Plat shall be amended to read:

AMENDED FINAL PLAT
LOT 2-56A, FAIRWAYS AT POLE CREEK SUBDIVISION
LOCATED IN A PORTION OF THE SW ¼ OF SECTION 4, TOWNSHIP 1 SOUTH, RANGE 76
WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF GRAND, STATE OF COLORADO
CONVEYANCE TO OWNER RECORDED AT RECEPTION # 202007187

Section 4.3 (2) (b) the legal description shall be written as follows:

Amended Final Plat, Lot 2-56A, Fairways at Pole Creek Subdivision

Section 4.3 (2) (b-d) these requirements have been met. One monument has been found, dimensions, angles, bearings, and similar have been referred. Rights of Way and easements are shown with recording information.

Section 4.3 (2) (g-h) this requirement has been met. Each amended lot displays acreage and square footage. Lots are dedicated for residential use.

Section 4.3 (2) (i) the final plat shall locate and describe all monuments and their ties to section corners and monuments.

Section 4.3 (2) (j) this requirement has been met. A title commitment has been supplied.

Section 4.3 (2) (k) A portion of the Dedication Statement shall be amended to read as follows (revisions in bold):

DEDICATION

KNOWN ALL MEN BY THESE PRESENTS: That Donald Neff is the owner of that real property situated in Grand County, Colorado, more fully described as follows: **THIRD AMENDED FINAL PLAT, LOTS 22 and 23, BLOCK 1, Fairways at Pole Creek Subdivision**. That he has caused said real property to be laid out and surveyed as: **AMENDED FINAL PLAT, LOT 2-56A, Fairways at Pole Creek Subdivision, A replat of Lot 2-56, Fairways at Pole Creek Subdivision**, and does hereby dedicate and set apart all the streets, alleys and other public ways and places shown on the accompanying plat for the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements.

Section 4.3 (2) (l) the surveyor’s certificate shall be amended to read as follows (revisions in bold):

SURVEYOR'S CERTIFICATE

I, _____, a duly licensed land surveyor in the State of Colorado, do hereby certify that this amended final plat of **LOT 2-56A, Block 1, Fairways at Pole Creek Subdivision, A Replat of Lot 2-56, Fairways at Pole Creek Subdivision** truly and correctly represents the results of a survey made by me or under my direction, and that said plat complies with the requirements of Title 38, Article 51, Colorado Revised Statutes, 1973, and that the monuments required by said Statute and by the Grand County Subdivision Regulations have been placed on the ground.

(Surveyor's Signature)

(Surveyor's stamp and registration number shall appear with this certificate)

Section 4.3 (2) (m-o) These requirements have been met, all Planning Commission, Board of County Commissioners, and “Planning” certificates have been added to the plat. **A box is provided for use by the Clerk and Recorder.**

Section 4.3 (2) (p-s) this requirement has been met.

Section 4.3 (2) (q) this requirement has been met.

Section 4.3 (2) (r-v) these provisions are not applicable.

Section 4.3 (2) (w) the physical address will be placed on the Final Plat Mylar. Addresses for the amended lot shall be: 74 GCR 691 aka Lakeside Lane.

Section 4.3 (2) (x-y) A statement of taxes showing that all current taxes have been paid shall be submitted prior to the recording of this Amended Final Plat. Electronic copy in .dwg or .dxf format of the Final Plat shall be submitted prior to the recording of this Amended Final Plat.

C. STAFF COMMENTS AND ANALYSIS

Staff feels that this proposal allows for acceptable densities within the Grand Lake region. Although reducing the previously platted density further protects visual corridors within cultural resource areas, it does not meet the zoning ordinance minimum area of a lot requirement.

D. STAFF RECOMMENDATION

Staff recommends the approval of the Third Amended Final Plat Lot 22A, Block 1, Fairways at Pole Creek Subdivision with the following conditions to be met prior to the recording of the Final Plat.

1. The title of the Amended Final Plat shall be amended (see 4.3 (2) (a) above).
 2. The legal description shall be amended (see 4.3 (2) (b) above).
 3. Amend the dedication statement (see 4.3 (2) (k) above).
 4. Amend the surveyor's certificate (see 4.3 (2) (l) above).
 5. Proof that all taxes have been paid shall be submitted (see 4.3 (2) (x) above).
 6. An electronic copy of the Final Plat shall be submitted (see 4.3 (2) (y) above).
 7. Quit Claim Deeds to describe the amended the legal description of the lots.
 8. All recording fees shall be paid by the Applicant.
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Commissioner Bob Gnuse compliments the applicant.

Donald Neff states it is number nine on the ridge course

Commissioner Bob Gnuse asks if he is just moving the building envelope not vacating the lot lines.

Donald Neff confirms.

Commissioner Bob Gnuse states no other questions.

Taylor Schlueter, Community Development, adds these changes increases the distance between the building envelopes of adjacent lots. We do have a letter support of the HOA and both neighbors.

Commissioner Deb Fitch states no questions.

Commissioner Will MacDonald asks why we can't just get rid of the building envelope. Is there an HOA restriction?

Taylor Schlueter, Community Development, states that there was an original plated building envelope. The project was presented as just moving it.

Donald Neff states that it started with the HOA. To stay with what the HOA would like to do, to leave the 75 foot building envelopes.

Commissioner Will MacDonald states no other questions.

Commissioner Shaun Mullahey states no questions.

Commissioner Lynn Adams requests that staff proof reads certificates, and states no questions.

Commissioner Kim Shepton states no questions.

Commissioner Ryan McNertney states a typo in section C of the certificate.

Commissioner Marcus Davis asks staff if the conditions listed are accurate.

Taylor Schlueter, Community Development, confirms.

Motion to recommend approval by Lynn Adams for Amended Final Plat, Lot: 2-56.
Seconded by Shaun Mullahey. No further discussion. All in favor "aye", none opposed.
Motion of approval carries.

CERTIFICATE OF RECOMMENDATION

Planning Commission - February 9th, 2022

PROJECT NAME: This Land is My Land Special Use Permit
APPLICANT: Renee Valentine, representing This Land Is My Land, LLC.
LOCATION: 12669 US HWY 34
REGULATIONS: Grand County Zoning Regulations Section VIII, Section 11.8 Special Use Permits, Grand County Master Plan
ZONING: Tourist District
ATTACHMENTS:

- A. Application
- B. Narrative Letter
- C. Detail & Vicinity Map
- D. Site Plan
- E. Aerial photography, Eagle view, September 13, 2019
- F. Osprey Subdivision Plat, Reception No. 96001225
- G. DWR Well Permit, No. 71781
- H. Statement of Taxes Due – 2022
- I. Quit Claim Deed, Reception No. 2020001086

STAFF: W. Taylor Schlueter, Planner
REQUEST: The Applicant is requesting a Special Use Permit for indoor and outdoor storage of boats and related equipment

DISCUSSION

Renee Valentine, representing This Land Is My Land, LLC. Hereinafter referred to as “the Applicant”, is the owner of Osprey Subdivision Lot 2, which lies across US Highway 34 from Trail Ridge Marina. Ms. Valentine has owned Lot 2 since 2019. In 2020, the property was transferred to a company run by Ms. Valentine, This Land Is My Land, LLC. Under a Quit Claim Deed recorded at Reception No. 2020001086 of the Grand County Real Property records.

The Applicant proposes to construct a sizeable shed on the currently vacant, 1.270 acre property, to be used for maintenance and repair of boats and other recreational equipment. The area surrounding the shed would also be used for overflow storage of boats and other recreational equipment.

The subject property is zoned Tourist, which while not explicitly allowing outdoor storage of recreational equipment, does allow for marinas. As this project is being sought in connection with

the owner of Trail Ridge Marina, with owners of each as partners, Staff feels it is an appropriate extension of the marina currently in use directly across the highway.

It should be noted that the subject parcel is currently accessed via one of two easements, both of which cross County-owned property. One is to the north, and one is more southern. CDOT is requiring the Applicant to close the northern most access point as a condition for approving a new use on the subject parcel. Staff has met the Applicant along with representatives from CDOT at the site in question. CDOT's conclusion was to have the Applicant close the northern entrance, and move all traffic to the southern entrance, which is nearly directly located across the highway from the existing access point for Trail Ridge Marina. Their intention is to reduce the number of access points off US 34 that are not directly across from another access point, and this SUP request triggers that requirement. **✓ A condition for approval of this SUP will require the Applicant to provide written documentation that the access point has been approved by CDOT as well as any owners currently using the northern-most access point, along with any new easements that may be required for current property owners to maintain access to their properties.**

This proposal lines up very similarly with another County-approved SUP, for Beacon Landing Marina. In 2014, an SUP was approved to allow the Owners of Beacon Landing to store boats and other recreational equipment across GCR 64 from the marina.

Given the nature of this business, it is possible that offensive noise, vibration, smoke, dust, odors, or glare may be noticeable at or beyond the property line. **✓ if this is determined to occur, the Applicant may be required to appear before the Board of County Commissioners to define appropriate measures that will need to be undertaken. The above will be made a stipulation of any Special Use Permit.**

COMPLIANCE WITH THE GRAND COUNTY MASTER PLAN

The Master Plan in effect and pertaining to this property was adopted in 2011. The property is located within the Grand Lake Growth Area as depicted within this Master Plan.

The Master Plan encourages and promotes the redevelopment and/or revitalization of currently underdeveloped, outdated or rundown areas. Further, the Master Plan encourages identification of potential redevelopment opportunities within growth areas and promotes infill and redevelopment in order to accommodate commercial development needs efficiently.

However, the Master Plan also emphasizes the need to sustain Grand County resident's quality of life by conserving the area's natural beauty and rural setting while building vibrant communities. Growth is directed to occur in and around existing communities in a way that complements and enhances the County's rural character.

Zoning in this area is substantially Tourist District, with every immediately adjacent parcel sharing this zoning designation. Commercial uses which are classified as a use-by-right in this Zone District include such things as restaurants, mini-storage warehouse facilities, and retail and commercial business, all of which would most likely pose a greater impact in terms of traffic, noise, and visibility.

COMPLIANCE WITH THE GRAND COUNTY ZONING REGULATIONS

This property is located within the Tourist Zone District. Commercial outdoor recreational areas and accessory facilities, automotive repair facilities, and marinas are uses requiring a special use permit and are reviewed under Section XI, Uses Permitted by Special Review as outlined below:

11.2 Conditions and Guarantees

Prior to the granting of any special use, the Planning Commission may recommend and the County Board shall stipulate such conditions and restrictions, upon the establishment, location, construction, maintenance and operation of the special use as are deemed necessary for the protection of the public health, safety and welfare. Any Special Use Permit granted by the Board of County Commissioners may incorporate such conditions as it deems necessary to require compliance with the standards for issuing permits as set forth in this Section XI.

Prior to issuance of a Special Use Permit pursuant to this section, the Planning Commission and Board of County Commissioners shall consider the following:

(a) The visual, environmental, physiographic and socioeconomic characteristics of the land to be used;

The 1.270 acre Lot 2 Osprey Subdivision is located on the west side of US Highway 34. The Lot currently is vacant and is accessed via an easement through County-owned property. The East side property line is screened with large, mature evergreens. The rest of the property lines are open with no natural screening and the general vegetation is grass and sage brush. The Applicant has offered to erect a fence as necessary for screening purposes.

The surrounding properties within this subdivision are either vacant or populated with Single Family Residences and the occasional detached garage. To the South of County Road 34 is a mix of Mobile Homes, Single Family Dwellings, Motels, and the Marina. Except for the allowable vehicles, boats and/or boat trailers associated with the Motels and the Marina, there are no areas of bulk outside storage nor any storage of equipment associated with maintenance facilities.

In general, this is an area with open views of Shadow Mountain Lake and the surrounding mountains.

(b) Evaluation of the broad ecosystems, topography, soils hydrology, geology, vegetation, wildlife, climate and unique fractures so that approved special uses shall result in the least possible adverse impacts within any zone district;

As stated above, the area is a natural sage brush meadow with the occasional trees planted by home owners. Within 250 feet to the south of the proposed Special Use Permit is the Northern shoreline of Lake Granby.

(c) Such uses shall serve an obvious public need;

The proposed uses are necessary uses associated with Trail Ridge Marina, and the land available directly on site at the Marina is not sufficient to accommodate the Marina's

needs. This location is ideal for the valid need for the marina to conduct maintenance and storage operations.

(d) Satisfactory proof shall be given that areas will be properly maintained.

As a condition outlined above, any complaints regarding the impact of this proposed use will be investigated by County Staff, and if found valid, the Applicant will be required to appear before the Board of County Commissioners.

Additional concerns regarding this proposed Special Use Permit include hours of operation, damage to County-owned property including the driveway off US 34, ground pollution caused by the maintenance operation, and potential offensive noise, light, and odors. **✓Therefore, all uses as outlined in the conditions of approval below shall be made a part of any approved Special Use Permit. ✓Additionally, all standard language and conditions of Grand County Special Use permits shall be made part of any approved Special Use Permit.**

Staff believes that the proposed Special Use Permit will cause no detrimental impacts to the adjacent property owners or surrounding area and that this request is in compliance with the requirements of the Grand County Zoning Regulations, as well as the goals and objectives outlined in the Grand County Master Plan.

STAFF COMMENTS

Courtesy notification was sent out to all neighbors within 500 feet of the project parcel. Notification was sent out in December 2021. Staff has not received any comments, however, **✓Staff is requiring that the Applicant provide written verification that all property owners affected by CDOT's requirement to close off an existing access point are in agreement with this proposal.**

STAFF RECOMMENDATION

Staff recommends the Planning Commission send forth a recommendation of approval for the Trail Ridge Marina Special Use Permit, with the following conditions:

1. This Special Use Permit shall only approved after the Applicant has provided written documentation showing that an agreement has been reached with the Colorado Department of Transportation, as well as affected neighboring properties, regarding access to the site. Additionally, any new easements required to maintain access for all property owners shall be required.
2. This Special Use Permit shall be valid for one year, at which time the impact of this project shall be reviewed, and an extension of the permit considered.
3. Hours of operation shall be as follows:
 - No limitation for moving boats or trailers in and out of the Lot 5.
 - Maintenance activities are limited to hours of operation between 7:00am and 7:00pm.

4. The Applicant shall be required to obtain a building permit issued by the Grand County Building Department, as is the case for any structures greater than 120 square feet.
5. Camping and/or using any vehicle or trailer, as temporary or permanent living quarters is strictly prohibited.
6. Best management practices for erosion, sediment control, and fuel storage shall be complied with on all disturbed areas of the site.
7. If exterior lighting is proposed, the Permittee shall be required to provide a lighting plan to Grand County prior to installation. It shall be directed to subtly illuminate functional areas. Fixtures shall be downward facing and hooded, and located below the eave lines.
8. During the term of this Permit, if any damage or injury is caused to the County-owned driveway off of US Highway 34, Grand County shall give written notice to the Permittee specifying the damage being caused by the operation. Within ten (10) days after such written notice, Permittee shall correct its operation to eliminate such damage and at its expense, repair the damage alleged to have been caused to the County Road. Notice shall be deemed to have been furnished at the time of the mailing to the Permittee at the address shown on this Permit Renewal. If the Permittee denies responsibility for the damage, then Permittee shall furnish written notice to the Board of County Commissioners of its denial of liability within the ten (10) day period provided herein. Within twenty (20) days after receiving said written notice denying liability, the Board of County Commissioners shall hold a hearing wherein the Commissioners will hear evidence regarding the alleged damage and the responsibility of the Permittee for such damage. At the conclusion of such hearing, the Board of County Commissioners shall make finding regarding Permittee's liability. If Permittee is found responsible for injury to the County Road, it shall be so advised in writing, as provided for above in the case of notice, and shall have ten (10) days in which to comply with the decision of the Board of County Commissioners.
9. The Applicant shall be required to appear before the Board of County Commissioners to define appropriate mitigation measures should visibility, noise, dust, glare, odor, hours of operation, or traffic become an issue.
10. If the shed is to contain any sink or water connection, the Applicant will be required to provide a well permit allowing such uses in a commercial building at the time of submittal of a building permit application to the Grand County Community Development Department.
11. Verification of property taxes paid shall be required before recording of this Special Use Permit.

12. That all standard language and conditions of Grand County Special Use permits shall be made part of any approved permit for this request, under the following headings, as follows:

- Control of Site
- Noxious Weed Control
- Site Maintenance and Storage of Abandoned Equipment
- Compliance with County, State and Federal Regulations
- Limitation of Liability
- Alteration of Terms and Conditions
- Access and Right to Enter Site
- Assignability
- Binding Contract
- Abandonment
- Violation of Terms and Conditions
- Non-Transferable
- Termination
- Rehabilitation of Site

Commissioner Marcus Davis asks if the applicant (Renee Valentine) has reviewed the certificate, and if they have any questions?

Renee Valentine confirms and has no questions.

James Valentine clarifies the CDOT access issue.

Renee Valentine states that we would primarily use the off season for traffic with winter storage. Is it possible for the board to consider a five year permit?

Commissioner Marcus Davis states no, this is standard.

Commissioner Bob Gnuse asks for clarification on who owns parcel 1.

Renee Valentine states a neighbor that they have a good relationship with.

Commissioner Bob Gnuse will the SUP contain rights to employee housing?

Taylor Schlueter Community Development, states that is not part of the proposal at this time.

Commissioner Bob Gnuse request clarification.

Commissioner Marcus Davis asks if it is substantial change to a SUP.

Commissioner Bob Gnuse asks if we don't approve it now will this affect the future plans.

Commissioner Marcus Davis states we are looking at the external boundaries. Apartments above would not change this.

James Valentine states that we would like in the future, we would look at moving the building envelopes.

Commissioner Marcus Davis asks if that answered his question.

Commissioner Bob Gnuse confirms and states no other questions.

Commissioner Deb Fitch states that the addition of the employee housing is a great idea. She loves this idea and she is all for it. No questions.

Commissioner Will MacDonald states it would be nice to see just the one parcel.

Commissioner Marcus Davis agrees and adds the following conditions.

13. Add standard language for why the comeback for substantial changes

14. (list as number one) – area of affect shop and living quarters

Commissioner Kim Shepton asks if CDOT is going to make the resident on that road drive always up and around to access their property.

James Valentine states it is in a lawsuit, it's between CDOT and the County.

Maxine LaBarre-Krostue, County Attorney, clarifies that the county does not have control of the access.

James Valentine asks does the county have ability to shut down the access since they own the easement.

Maxine LaBarre-Krostue, County Attorney, states no.

Commissioner Shaun Mullahey asks if the access is shut down is there an easement provisions for access?

Renee Valentine confirms.

Commissioner Marcus Davis states that it is on the plat. Is the alternate access to the north?

James Valentine states, no the road is not actually where it is on the plat.

Commissioner Kim Shepton asks if the blue roofed house they have a grandfathered in access?

James Valentine confirms.

Commissioner Marcus Davis states we have it conditioned so we are good.

Commissioner Lynn Adams asks if the neighbors are in approval.

Renee Valentine confirms, and states that only one of them are full time.

Commissioner Marcus Davis requests staff to get Letters of Approvals from neighbors before BOCC.

Commissioner Kim Shepton states that she is all for what you are doing. Are these all your boats?

Renee Valentine 22 of them will be ours.

James Valentine states that there is a huge need for storage.

Commissioner Ryan McNertney recommends staff to go through certificate to make sure language it is consistent.

Commissioner Kim Shepton recommends the approval This Land is My Land Special Use Permit motion to approve them as presented with the additional 3 conditions. Seconded by Shaun Mullahey. No further discussion. All in favor "aye", none opposed. Motion of approval carries.

CERTIFICATE OF RECOMMENDATION

Planning Commission February 9, 2022

PROJECT NAME: Mountain Lupin 2 Subdivision - Sketch Plan

APPLICANT: Justin Alexander

LOCATION: Metes & Bounds 76 ALL 4.88 Acres (1.739 AC) Lying E Of Range View Dr. in SW4SE4 SEC 23 T3N R76 (2.678 AC) Lying E OF County Road 44 and N of HWY 34 IN THE NW4NE4 SEC 26 T3N R76 (.466 AC) Lying SW of County Road CO RD 44 AND N of HWY 34 IN THE NW4NE4 SEC 26 T3N R76 otherwise known as 44 GCR 44

APPLICABLE

REGULATIONS: Zoning Regulations, Subdivision Regulations, Master Plan

ZONING: Tourist

ATTACHMENTS:

- a) Application and Narrative Letter
- b) Sketch Plan
- c) Vicinity Map
- d) Title Commitment
- e) State Well Permit

STAFF PLANNER: Robert C. Davis, AICP

REQUEST: The Applicant is proposing a four lot subdivision from a 4.88 acre metes and bounds tract of land.

V. BACKGROUND

Justin Alexander, the Applicant, is proposing a four (4) unit single family residential detached subdivision consisting of approximately 4.88 acres. The applicant proposes the use the sites for providing residences to family members.

The subject property is located within Urban Growth Area 2 (Grand Lake area). The parcel has a multi-use well which the State of Colorado adjudicated through the Water Division. The well permit provides a domestic well for multiple dwellings and irrigation of lawn and garden.

The four proposed parcels will use the existing multi-purpose well for all potable water requirements. The project site is serviced by Three Lakes Sanitation, which runs along County Road 44. The applicant is corresponding with Three Lakes on an approved capacity letter.

Access for all parcels is provided by GCR 44 and Highway 34. The current location of GCR 44 runs through the proposed subdivision parcel with a HWY 34 access point. Staff will discuss with county management whether to vacate the 1966 Right-of-Way and deed a new GCR 44 Right-of-Way in an alignment that matches the built location of the road.

The project site is an eclectic mix of permanent structures and out-buildings used for storage, along with numerous mobile storage van trailers. The property currently has a total of 6,658 square feet of permanent structures which dates back to the 1970's. The only livable structure is the permanent residence on Lot

The only structures with electric are the permanent residence on Lot 3 and the garage. Overhead Mountain Park electric infrastructure runs along GCR 44 and HWY 34. The existing overhead poles are sufficient for the additional four lots proposed. The project site currently has two separate electric meters, i.e., one meter for the current house and one meter for the existing garage. Natural gas main runs along HWY 34, with above ground meter and infrastructure located at the corner of County Road 44 and HWY 34, located on the subject property.

COMPLIANCE WITH GRAND COUNTY REGULATIONS

Conditions to satisfy Regulations shall be highlighted in the following sections in **BOLD**.

A. Grand County Master Plan

The Grand County Master Plan contains seven (7) Plan Elements that form the core of the Master Plan. The Plan Elements include policies and implementation actions, of which one is relevant to this proposal.

Plan Element 3 – Development: The Built Environment

As stated in Plan Element 3 in the Grand County Master Plan, density is encouraged within the Urban Growth Areas where existing infrastructure and public services exist. Visually important lands and the desired rural landscape character is maintained. This proposal minimizes disturbance of the rural and open land character that residents of Grand County cherish as this proposal is isolating development near existing development.

B. ZONING – Section 8.1 Tourist District

The property is allowable to be subdivided, consistent with its location within the Urban Growth Area. The site is surrounded by residential land to the north, residential and commercial land to the west, an indoor storage facility to the east, a church and residential land to the south across Hwy 34.

- (d) The use of these lots is for single family dwellings, consistent with uses by right in the Tourist District.
- (e) The District requires 30' minimum front yard setbacks, 20' minimum rear yard setbacks and 10' minimum side yard setbacks.
- (f) The minimum lot size in the Tourist District is one acre.

C. ARTICLE II - DESIGN STANDARDS– Sections 2.1-13

Each new subdivision platted in Grand County will, to some degree affect the character and environmental appeal of the land, the cost of services and maintenance to the purchasers and the County government, and the interests of investors in the subdivided land and surrounding areas. New subdivisions shall provide safe, convenient travel routes to and from and within the subdivision. Each lot shall provide a desirable setting for construction so that natural features of the land may be preserved, views protected, privacy permitted and screening from traffic ways made possible. Area needs for flood channels, open spaces, parks, schools, fire stations, water and sewage treatment facilities and similar community facilities must be provided depending on the location and density of each development. Although Article VIII of these Regulations provides for variances under certain circumstances, the following design standards shall be followed wherever possible.

Section 2.1 SPECIAL SITE CONSIDERATIONS:

No existing streams or lakes are near the property. The property has no wetlands, ponds, or irrigation ditches. There are no known concerning geographic characteristics associated with the property. The property is not located in a flood, avalanche, or rock fall zone. There are no environmental reports or known environmental incidents. No known issues related to dumping or landfill issues.

The project site has limited vegetation, which is almost entirely comprised of younger Lodge Pole Pine trees. The entire property was severely devastated by the Pine Beetle epidemic. There is a small Aspen grove next to HWY 34 and the County Road 44 intersection.

The property is not in a seismic or radiation hazard area, and does not pose any potential hazard or limitations for future land use or development. The geology has no concerning characteristics or affects the land use and subdivision development of the property.

The project site has a small elevation change from 8,371 ft. - 8,405 ft. for a total elevation change of 14 feet. The subject parcel has no slopes greater than 30%. The proposed structures shows four new homes on each subdivided lot. Each new proposed structure will be around 3,000 square feet.

• **Section 2.2 STREETS, ALLEYS, AND EASEMENTS:**

This application and required improvements shall comply with current Grand County Road and Bridge Standards.

GCR 44 is expected to existing driveway is anticipated to contain 32 Average Daily Trips (ADT's) which meets criteria for a Local/Low Volume Road by Grand County Current Road and Bridge Standards.

There appears to be multiple ingress/egress points into the as required by Section 2.2, paragraph 14.

- **Section 2.3 & 2.4 BLOCKS & LOTS:**

Minimum areas and widths shall be in compliance with the Tourist district requirements being a minimum of one acre for the area of lot and having a minimum width of one hundred and fifty (150'). Lot 2 has a minimum width of approximately 144 feet and would require a variance from minimum lot width because of the peculiar shape of the lot.

- **Section 2.5 DEDICATIONS AND PUBLIC AND PRIVATE RESERVATIONS:**

The road serving this subdivision shall be dedicated to the public by deed and part of the "designated county road system" but maintained by the owners of the subdivision and a property owners association. The dedication on the plat shall be approved by the County Attorney's Office similar to a version of the following, referenced by Section 1.4 (2) (b&c):

Recognized as a public right-of-way by deed, dedication or prescriptive use, and is a part of the designated County road system provided for by Article 2, Title 43, Colorado Revised Statutes, 1973, amended, and is dedicated or conveyed to the owners of the subdivision and their successors in title and constructed to County road standards, and a property owners' association or other legal entity acceptable to the Board of Commissioners is legally obligated to maintain such road to County standards.

This road shall be deeded to the public through a Quit Claim Deed recorded in conjunction with the Plat.

The applicant shall provide for common open space dedicated to the homeowners association that meets the following provision:

"The Planning Commission shall require the dedication, reservation or conveyance of acres or sites suitable for public purposes such as parks, flood channels, scenic areas and green belts, of twenty percent (20%) of the total area of the subdivision. The location of all such areas or sites shall be mutually agreed upon by the subdivider and the Planning Commission..." **Open space shall be delineated and calculations shall be included on a land use table in the Preliminary Plat submittal.**

- **2.6 SCHOOL LANDS:**

(1) All subdivisions shall provide for public school sites to serve the proposed subdivision and the future residents thereof and in accordance with these Regulations.

Lands would be dedicated at the following rate:

4 units

4 x .045 = .18 acres (7,840 ft²)

Fees in lieu were calculated for this parcel in the following manner.

School Fees Formula Calculation

4 units

4 x .50 = 2

4 x .09 = .18

.18 x \$7,307.70/acre = \$1,315.38 in school fees **ESTIMATED**.

This is an estimate solely relying on the sales price of the subject parcel. Other comps will be pulled to assess Fair Market Value as necessitated by the Subdivision Regulations. This impact fee shall be paid prior to recording the Final Plat.

- **Section 2.7, DESIGN STANDARDS FOR DRAINAGE, SEWER AND WATER:**

The property subject in this application appears not to be located in a ten (10) or one hundred (100) year flood plain and shall mitigate drainage to historic levels on site. **These requirements shall be fully analyzed in a Phase I Drainage Report which complies with Grand County Storm Drainage and Technical Criteria Manual shall be submitted with the Preliminary Plat.**

The Applicant intends to allow use of public sewer provided by Three Lakes Water and Sanitation District. [2.7 (2)]. Staff understands that a multi-use well has been approved by the State to support the proposed use.

- **Section 2.8 DESIGN STANDARDS FOR FLOOD HAZARD, FIRE HAZARD, GEOLOGICAL HAZARD AND MINERAL RESOURCE AREAS:**

Thinning of standing dead trees surrounding homes and other post mature plant material as recommended by Division of Natural Resources or State Forest service shall be completed. Any clearing and slash removal shall be done consistent with Division of Natural Resources guidelines. **No burning of slash shall be allowed and any disposal shall be included in the Engineers Estimate of Probable Cost provided with Preliminary Plat.**

As required by State Law, the Applicant shall research and verify sub-surface mineral extraction rights as referenced in this section below. Staff can provide a mineral resource procedure guide to help complete this process.

- a) *Mineral Resource Areas*

- i) *Prior to initiation of exploration or site operation, the operator or developer will provide a general exploration or development plan to the Planning Commission for review to insure compliance with applicable federal, state and county regulations.*
- ii) *In areas where surface and mineral rights are divided, the surface developer will show proof that the mineral owner has been notified of proposed surface development or improvements C.R.S. §24-65.5-103. Said proof may be in the form of a legal publication, one (1) time, in a newspaper of general circulation in Grand County.*
- iii) *Surface development may not preclude development of mineral resources, however, preference may be given to another use if sufficient technical or other evidence demonstrates that the economic value of the minerals present is less than the value of other use.*
- iv) *Mineral extraction and exploration are prohibited if such activity would cause significant danger to the public health and safety.*

- **2.10 ADDRESSING REQUIREMENTS TO ENHANCE 911 EMERGENCY SYSTEM: At Preliminary Plat, the Applicant shall provide proposed addressing.**

Reflective high visibility signs created by the local fire district shall be placed on each property being created by the proposed plat upon completion of construction. The sign installation shall be at the expense of the developer.

The addressing plan shall be reviewed by Grand Fire Protection District No. 1 and Grand County Office of Emergency Management (OEM) to help support tracking and response to new properties. The Applicant shall comply with Sub sections 2-3.

- **2.11 SLASH REMOVAL/DISPOSAL:**

Staff suspects that minimal clearing or removal of forest materials will be required on the subject property. Any clearing or removal that shall occur shall comply with this section and those guidelines set by Grand County Division of Natural Resources, East Grand Fire Protection District, and Colorado State Forest Service.

2.12 SOLID FUEL BURNING DEVICES Repealed via Resolution 2016 – 7 – 34

- **2.12 DITCH CROSSINGS**

There are no ditches on the subject property.

D. Article IV - SUBDIVISION – Section 4.1 – Sketch Plan

The purpose of the sketch plan review is for the Planning Commission to review the general layout of open space, critical areas (i.e., steep slopes), home sites, lot lines and roads and to insure: (1) that the proposed development is in accordance with the Master Plan and the Subdivision Regulations; (2) that adequate utilities and access are available; and (3) that the property on which the development is proposed is at least apparently suitable for development in the manner contemplated by the developer. The application shall comply with the Subdivision Regulations. The Sketch Plan addresses each of the following:

Section 4.1 (1) (a) *Relevant site characteristics and analyses applicable to the proposed subdivision. This Submittal complies.*

Section 4.1 (1) (b) *Reports concerning streams, lakes, topography, geology, soils and vegetation. This Submittal complies.*

Section 4.1 (1) (c) *Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision. This Submittal complies.*

Section 4.1 (1) (d) *In the areas of potential radiation hazard to the proposed future land use, these potential radiation hazards shall be evaluated. Most areas in Grand County show above average levels of Radon averaging 6.1 picocuries requiring mitigation of radon gas in any newly proposed structure. As similar with adjacent subdivisions, soil studies provided at Preliminary Plat shall include information on radon hazards within the subject parcel. This will determine appropriate mitigation measures upon application for building permits.*

Section 4.1 (1) (e-f) (e) has been repealed.

(f) A sketch drawing and other documentation showing the proposed layout or plan of development area, the total number and types of dwelling units and other buildings, the total area of greenbelt, and open space and their location, and the proposed area for school sites if applicable. **This Submittal complies with the exception of the greenbelt which must be provided at Preliminary Plat.**

Recommendation

Staff recommends approval of the Sketch Plan for Mountain Lupin 2, with the following conditions to be addressed with the submittal of the preliminary plat:

1. The applicant shall apply to the Board of Adjustment for a six (6) foot variance for the minimum width of Lot 2 because of the peculiar shape of the lot.
2. The Applicant shall consult with all utility providers and shall provide updated “will serve” letters as appropriate, and consult with Grand Lake Fire Protection District prior to submitting the preliminary plat.
3. Open space shall be delineated and calculations shall be included on a land use table in the Preliminary Plat submittal.
4. All preliminary plat requirements as contained in the Subdivision Process, Storm Drainage Standards and Erosion Control Manual are provided when the preliminary plat is submitted.
5. A Traffic Impact Analysis is required with the preliminary plat.
6. A site development plan that demonstrates that future uses and buildings can comply with applicable zoning, subdivision and access standards, snow storage requirements and storm drainage standards.
7. Driveway Plans that demonstrate compliance with County Road and Bridge Standards.
8. No burning of slash shall be allowed and any disposal shall be included in the Engineers Estimate of Probable Cost provided with Preliminary Plat.
9. As required by State Law, the Applicant shall research and verify sub-surface mineral extraction rights
10. At Preliminary Plat, the Applicant shall provide proposed addressing. The addressing plan shall be reviewed by Grand Fire Protection District No. 1 and Grand County Office of Emergency Management (OEM) to help support tracking and response to new properties.

11. All Preliminary Plat requirements are met

Commissioner Marcus Davis asks do you have the review agencies outlined Is CDOT a review agency? Can we add Grand County Road & Bridge?

Robert Davis, Community Development, confirms.

Commissioner Marcus Davis we will add the twelfth condition.

12. Add CDOT and Grand County Road & Bridge as review agencies and further discuss traffic studies.

Commissioner Marcus Davis asks why this is not a minor subdivision.

Robert Davis, Community Development, states that there is no public water and there are

four lots.

Commissioner Ryan McNertney asks if we will be able to meet the minimum lot size if they have to add the 20% open space tract.

Commissioner Marcus Davis states 0.976 which you don't have. Your minimum lot size wouldn't work.

Commissioner Kim Shepton asks if they could designate one lot to open space.

Commissioner Marcus Davis states that there would have to have one variance either for open space or minimum lot size. We need to amend condition number one to include through the appropriate authority.

Commissioner Marcus Davis clarifies with the board that Planning Commission does not have the authority to approve any variances.

Maxine LaBarre-Krostue, County Attorney, confirms.

Commissioner Bob Gnuse asks how many variances will be needed. Staff is calling the depth what is the actual width.

Commissioner Marcus Davis states that is correct. They will not need that variance.

Commissioner Bob Gnuse clarifies that the other open space would be the other variance.

Commissioner Marcus Davis confirms.

Commissioner Bob Gnuse states no other questions.

Commissioner Deb Fitch states no questions.

Commissioner Will MacDonald recommends adding a 13th condition for well sharing.

Commissioner Marcus Davis states that the state no longer issues well sharing agreements. If it does have an existing permit we will have to add the 13th condition.

13. Verify well permits and provide well sharing agreement if necessary

Commissioner Lynn Adams states that on page 8 "staff understand that the state has approved multi use well", we need to see that.

Robert Davis, Community Development, states that they will verify this.

Commissioner Will MacDonald requests removal of traffic study due to extensive cost on applicant.

Commissioner Marcus Davis adds to condition number 12 (see above). To discuss further need for a traffic study. Will, that's a good point. Staff will be in discussion with Grand County Road & Bridge and CDOT to see if it is needed. We are not controlling agencies on that so they might still require it.

Commissioner Will MacDonald states no other questions.

Commissioner Shaun Mullahey states no questions.

Commissioner Lynn Adams states no questions.

Commissioner Kim Shepton states no questions.

Commissioner Ryan McNerney states that the slash section states East Grand in 2.11. This is not in East Grand.

Commissioner Marcus Davis states that you are right. We need to amend condition number 10 to Grand Lake Fire.

Commissioner Bob Gnuse states that we need to amend condition number 11 to read “shall be met”

Commissioner Marcus Davis asks this is not an extension of an existing subdivision correct.

Robert Davis Community Development, confirms.

Motion to recommend approval by Ryan McNertney for Mountain Lupin 2 subdivision – Sketch Plan as amended. Seconded by Kim Shepton. No further discussion. All in favor "aye", none opposed. Motion of approval carries.

CERTIFICATE OF RECOMMENDATION

Planning Commission February 9, 2022

PROJECT NAME: Zoning Amendments – Changes to Penalties Section 19.4

TO: Grand County Planning Commission

FROM: Grand County Community Development

DATE: February 9, 2022

SUBJECT: Zoning Amendments –Changes to the Penalties Section

19.4 The County Attorney advises amending the Zoning Regulations to reflect statewide statute changes in county court actions for civil penalties with regard to zoning violations. The new state statute changes the penalty sections of the Zoning Regulations by removing language related to criminal penalties and replacing it with language for civil penalties. Civil law deals with the disputes between individuals, organizations, or between the two, in which compensation is awarded to the victim. Criminal law is the body of law that deals with crime and the legal punishment of criminal offenses. Another important distinction between civil and criminal law is the type of penalty paid for being found guilty. In a criminal case, if the individual charged with a crime loses the case, they're likely facing incarceration or some type of probation. For civil cases, the resolution to a case doesn't result in the "losing"

party going to jail. Often the judgement results in a financial penalty or an order to change behavior.

Currently the revised CRS 30-28-124(1) (a) states:

It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of any regulation in, or of any provisions of, any zoning resolution, or any amendment thereof, enacted or adopted by the board of county commissioners under the authority of this part 1. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof, or any provision of this part 1 commits a civil infraction guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment.. Each day during which such illegal erection, construction, reconstruction, or alteration continues shall be deemed a separate offense. (b)(l)It is unlawful to use any building, structure, or land in violation of any regulation in, or of any provision of, any zoning resolution, or any amendment thereto, enacted or adopted by any board of county commissioners under the authority of this part 1. Any person, firm, or corporation violating any such regulation, provision, or amendment thereof commits a civil infraction guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. Each day during which such illegal use of any building, structure, or land continues shall be deemed a separate offense. The Zoning Regulations will be amended to read:

SECTION XIX VIOLATIONS AND PENALTIES
19.1 VIOLATIONS (1) it is unlawful to use any building, structure, or land in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County. (2) IT IS UNLAWFUL TO OFFER, OPERATE, ADVERTISE, LET OR USE ANY BUILDING, STRUCTURE, OR LAND AS A SHORT TERM RENTAL WITHOUT A SHORT TERM RENTAL PERMIT. (3) It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County. 19.2 PENALTIES Any person, firm, or corporation violating any provisions of these regulations, or any amendment thereof, is subject to the penalty provisions of the Colorado Revised Statutes 30-28-124 as amended. guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment in the County jail for not more than ten (10) days, or both such fine and imprisonment. Each day during which such illegal erection, construction, reconstruction, alteration, or use of any building, or land continues shall be deemed a separate offense. Please find 'Exhibit A' identifying strikeouts and added language. The areas where the font color is red in Exhibit A indicates proposed changes. RECOMMENDATION

Staff Recommends approval of the proposed zoning amendments to Chapter 19 Violations and Penalties.

Exhibit a SECTION XIX VIOLATIONS AND PENALTIES 19.1 VIOLATIONS (1) it is unlawful to use any building, structure, or land in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County. (2) IT IS UNLAWFUL TO OFFER, OPERATE, ADVERTISE, LET OR USE ANY BUILDING, STRUCTURE, OR LAND AS A SHORT TERM RENTAL WITHOUT A SHORT TERM RENTAL PERMIT. (3) It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of these regulations, or any amendment thereto, enacted or adopted by the Board of County Commissioners of Grand County. 19.2 PENALTIES Any person, firm, or corporation violating any provisions of these regulations, or any amendment thereof, is subject to the penalty provisions of the Colorado Revised Statutes 30-28-124 as amended. guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or by imprisonment in the County jail for not more than ten (10) days, or both such fine and imprisonment. Each day during which such illegal erection, construction, reconstruction, alteration, or use of any building, or land continues shall be deemed a separate offense.

Maxine LaBarre-Krostue, County Attorney, states they do not want people in jail for non-violent offences so it will be a civil offence.

Commissioner Lynn Adams asks when the state changed this.

Maxine LaBarre-Krostue, County Attorney, states March 1, 2022.

Commissioner Marcus Davis states that our regulations have no teeth. I would like to see changes to give more reason to encourage change.

Commissioner Ryan McNertney asks what the penalty provision is.

Maxine LaBarre-Krostue, County Attorney, it is both criminal and civil. We have zoning and ordinance. It is all about money.

Commissioner Ryan McNertney confirms that each individual day is a separate offence.

Maxine LaBarre-Krostue, County Attorney, confirms.

Commissioner Marcus Davis states there is a path in our regulations. At the end of the day it comes down to penalties. We need to go through and check the previous amendments.

Commissioner Will MacDonald states that he knows someone who was fined \$14,000.00 by an HOA without warning. I feel like this language could lead to the same thing.

Maxine LaBarre-Krostue, County Attorney, HOA rules are different than the law. The law is the law, every day is a different offense.

Robert Davis Community Development, states that we had an attorney represent a client for a blight hearing at the BOCC. She criticized the county saying that we should give (20) days then go to court. The response was that the county doesn't do that. We work to resolve before we take action. We will not take someone to court without proper notification.

Commissioner Marcus Davis states that 18.1 outlines this. Max if you look at section 18.1 Enforcement. Was there ever a proper change to these regulations?

Maxine LaBarre-Krostue, County Attorney, states that I can't tell you at this time.

Commissioner Marcus Davis requests to add the condition to amend 18.1 Enforcement to help comply with C.R.S and be presented to the BOCC.

Maxine LaBarre-Krostue, County Attorney, it is twenty days. That is correct.

Lonie Ragsdale, Community Development, states that staff are working with the county legal team very closely. We are aware of issues in the county, and we working diligently to address these issues. We are keeping a close eye on all of our violations.

Motion to recommend approval by Kim Shepton for the Zoning Regulation Amendments – Changes to Penalties Section 19.4, Seconded by Shaun Mullahey. No further discussion. All in favor "aye", none opposed. Motion of approval carries.

Meeting Close 08:26 pm

Motion to adjourn Shaun Mullahey moves. Seconded by Kim Shepton. No further discussion. All in favor "aye", none opposed. Motion of approval carries.