

AGENDA
WESTCLIFFE PLANNING COMMISSION
TOWN OF WESTCLIFFE
WEDNESDAY OCTOBER 5th, 2022
PATTERSON HALL-1000 MAIN
REGULAR MEETING
3:00 p.m.

Join by [Zoom](#)

Meeting ID: 838 6126 8868 **Passcode:** 696667

By phone: 669 900 6833

1. Call to Order
 2. Pledge of Allegiance
 3. Roll Call
 4. Recognition of Visitors
 5. Approval of Minutes
 6. Old Business
 - a. Discuss and consider recommending approval of a Minor Subdivision on Lot 34 in Columbine Business Park. Trinity Huffman.
 7. New Business
 - a. Discuss a proposed action listed in the 2017 Hazard Mitigation Plan and recommendation for the 2022 Hazard Mitigation Plan Revision.
 8. Public Comment
- Adjourn

NOTE: The Mayor and another Trustee may vote on matters before the Planning Commission and the Board of Trustees.

**WESTCLIFFE PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 7th, 2022
REGULAR MEETING**

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CALL TO ORDER

Chairman Patterson called the meeting to order at 3:00 pm.

ROLL CALL

The following members were present: Chairman Patterson, Mr. Wenke, Ms. Snow, Mr. Fulton (Zoom), Mr. Lund.

ABSENT: NONE

PLEDGE OF ALLEGIANCE

Chairman Patterson led the pledge of allegiance.

OTHERS PRESENT: Trinity Huffman, Kathy Reis, and Deputy Clerk Wanda Jennings

APPROVAL OF MINUTES

ACTION: Ms. Snow moved, and Mr. Wenke seconded to approve the August 3rd, 2022 Planning Commission Minutes. Motion carried.

OLD BUSINESS

a. Continue review of Title 10.

Chairman Patterson requested Title 10 be in a workshop to review and discuss adding Chapter 6 Annexation Procedures.

NEW BUSINESS

a. Discuss and consider recommending approval of a Minor Subdivision on Lot 34 in Columbine Business Park. Trinity Huffman.

Let the record reflect that Mr. Wenke, one of the owners of the Columbine Business Park, has stepped down from the board to discuss this issue.

Mr. Huffman told the board that he would like to subdivide lot 34 (which he owns) into two (2) lots for a Minor Subdivision. Mr. Wenke said he couldn't divide the lot because the owners of Columbine Business Park disagreed.

It was suggested by a board member for Mr. Huffman to go to the owners of the Columbine Business Park and discuss this issue to get it resolved.

**WESTCLIFFE PLANNING COMMISSION
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NEW BUSINESS CONTINUED

Another board member asked if the Covenants had been recorded with the town and Town Clerk Reis said yes, they were.

Chairman Patterson requested that Mr. Huffman be reimbursed the \$450.00 dollars for the Subdivision Application; it was an oversight. The board agreed.

Let the record reflect that Mr. Wenke stepped back on the board to continue with the meeting.

No motion was needed.

Adjourn

Ms. Snow moved, and **Mr. Wenke** seconded to adjourn the meeting. Motion carried.

Recorded by
Wanda Jennings
Deputy Clerk

TOWN OF WESTCLIFFE
REQUEST TO BE PLACED ON AGENDA

Office of the Town Clerk
P.O. Box 406
Westcliffe, CO. 81252
townclerk@townofwestcliffe.com
719-783-2282

_____ Westcliffe Town Board _____ Westcliffe Planning Commission

Here are things you need to know:

- You must contact the Town staff prior to coming to the Board. Quite often the Issue can be resolved by staff action.
- Please plan on attending the meeting. The Board of Trustees will be unable to take action without a representative in attendance.

Please complete the following information and return this form no later than ten days prior to the Board meeting to the above address or bring it to the Town Hall at 1000 Main Street our office hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. (Regular Board meetings are scheduled for the first Monday of each month.)

Name of person making presentation: TRINITY HUFFMAN

Organization, if speaking on behalf of a group: N/A

Is this a request for Board action? Yes No

Please provide a summary of your comments:
Planning Commission Review

What staff member have you spoken to about this? Please summarize your discussion:
ALL

Contact information:

Name: TRINITY HUFFMAN
Mailing Address: PO BOX 1405
WESTCLIFFE,
email: huffman911@gmail.com
Daytime Phone: (719)-276-4163

SUBDIVISION APPLICATION

TOWN OF WESTCLIFFE
PO BOX 406
1000 MAIN ST
WESTCLIFFE, CO 81252

Building & Zoning Official
(719) 783-2282 Ext. 12

APPLICATION

X MINOR SUBDIVISION
(FOUR (4) or less resulting lots)

MAJOR SUBDIVISION

MAILING ADDRESS

PROPERTY ADDRESS

Applicant Name TRINITY HUFFMAN

15 ENTERPRISE DR

Address: PO BOX 1405

City/State/Zip WESTCLIFFE, CO 81252

DESCRIBE THE REQUESTED CHANGE

REQUESTING A MINOR SUBDIVISION OF LOT 34 COLUMBINE BUSINESS PARK. CURRENTLY THE LOT IS 3.61 ACRES. APPROVED SUB DIVISION WOULD BE LOT 34 BE REDUCED TO 2.61 ACRES LEAVING 1 ACRE FOR PROPOSED LOT 36. SEE PROPOSED PLAT

Property Owners Signature

Date

TIT CONSTRUCTION, LLC

4/18/22

Building/Zoning Officials Signature

Date

[Signature]

4-19-22

08012022

As the applicant, you are responsible for researching and understanding any covenants and/or restrictions attached to the subject property. By submitting this application, you are attesting that the proposed use is not in violation of any covenants or restrictions on the property, or that the proposed use has been otherwise approved by the HOA, POA, or other organization that enforces covenants and restrictions attached to the subject property. The Town of Westcliffe is not responsible for enforcing private land use covenants and/or restrictions. Approval of this application does not relieve the property or the applicant from the private enforcement of any covenants and restrictions attached to the subject property.

OFFICE USE

8139

Filing Fee Paid \$450.00

Public Hearing Date

Hearing Notice Published

Property Posted

Approved X Denied

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/ _____ Westcliffe Planning Commission

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Name of person making presentation: Trinity Huffman

Organization, if speaking on behalf of a group: _____

Is this a request for Board action? Yes No

Please provide a summary of your comments:

_____ Review subdivision request-15 Enterprise Dr

What staff member have you spoken to about this? Please summarize your discussion:

_____ Gabriel & Wanda
_____ Requirements & Schedule for Planning
_____ Meeting

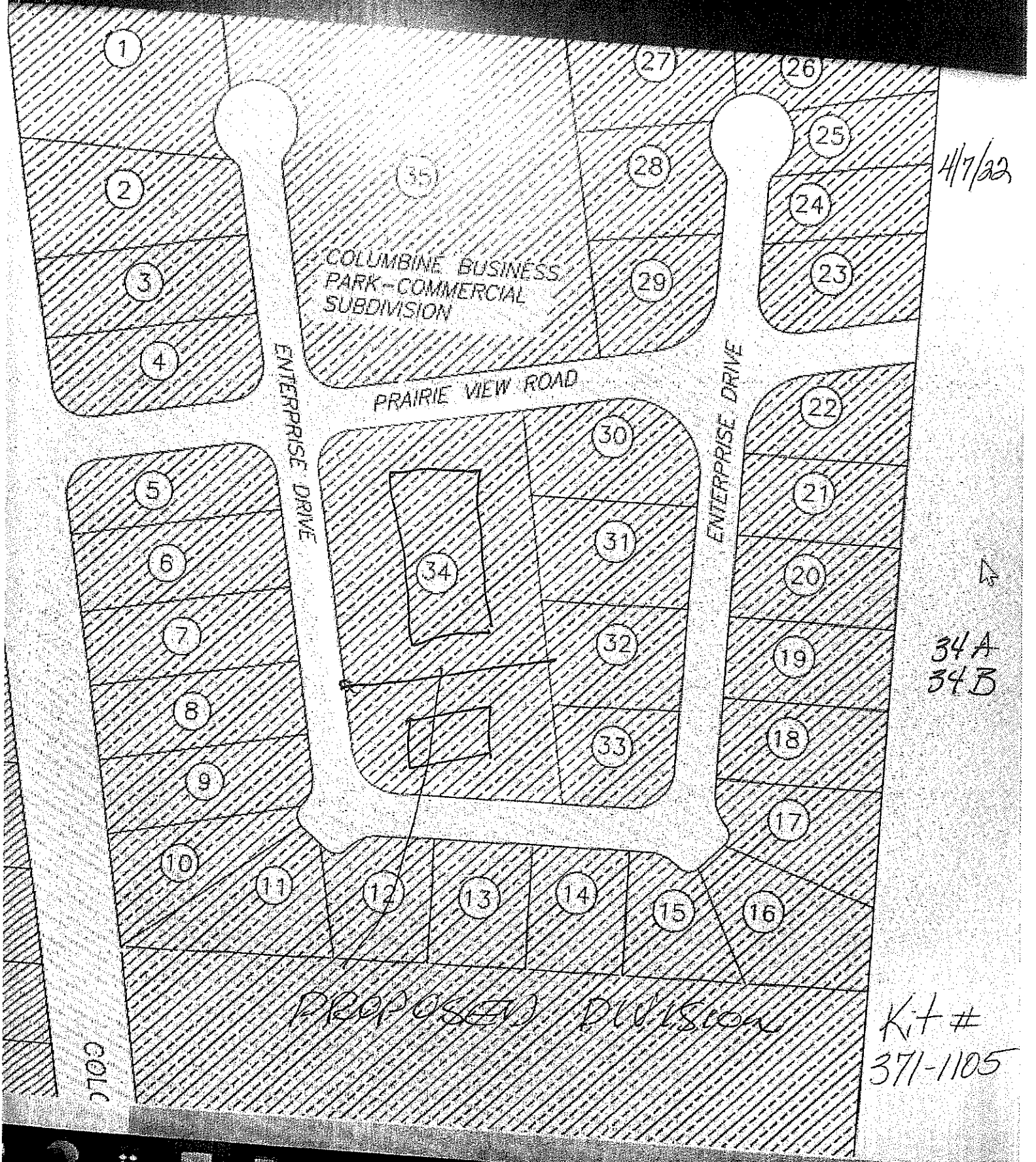
Contact information:

Name: Trinity Huffman

Mailing Address: PO Box 1405, Westcliffe

email: Huffman911@gmail.com

Daytime Phone: 719-276-4163



4/7/22

34A
34B

Kit #
371-1105

10-3-4: Minor Subdivision Procedure¹

- A.² Imposing a condominium form of ownership upon existing built structures, and subdivisions which meet all of the following criteria, may be processed in accordance with the procedures outlined in this paragraph: (Ord. 2-2007, eff. 9/6/2007)
1. The subdivision results in no more than four (4) lots or interests in land all structures must have the same use and zoning. (Ord. 2-2007, eff. 9/6/2007, Ord. 13-2016, eff. 10/6/2016)
 2. All lots are adjacent to a dedicated and accepted public street. (Ord. 2-2007, eff. 9/6/2007)
 3. All required improvements, including drainage requirements determined by the Zoning Enforcement Officer, as set forth in Section 10-3-8 are already in existence and available to serve each Lot. (Ord. 2-2007, eff. 9/6/2007, Ord. 13-2016, eff. 10/6/2016)
 4. Each lot will meet requirements of this Title. (Ord. 2-2007, eff. 9/6/2007)
- B. Upon receipt of an application for approval of a minor subdivision, the Zoning Enforcement Officer shall review the application to determine whether the conditions of ¶ A have been met and that the application is properly one for a minor subdivision. (Ord. 2-2007, eff. 9/6/2007)
- C.³ Upon a determination by the Zoning Enforcement Officer that the above conditions have been met, the applicant shall submit two reproducible originals and five copies of a subdivision plat in accordance with Section 10-3-6.C. The applicant shall submit a certificate by a registered engineer that all required improvements are already installed, available and adequate to serve each lot of the subdivision. The applicant shall submit a fee of four hundred fifty dollars (\$450.00) as provided in Section 10-1-15. Unless the plat is called up for review by the Planning Commission or Board of Trustees pursuant to ¶ D below, the plat shall be recorded following the Zoning Enforcement Officer's approval. (Ord. 2-2007, eff. 9/6/2007, Ord. 13-2016, eff. 10/6/2016, Ord. 2-2021, eff. 6/1/2021)
- D. The Zoning Enforcement Officer shall notify the Planning Commission and Board of Trustees, in writing, of the approval of a minor subdivision. Within five (5) business days of the date of such notice, the Planning Commission or Board of Trustees may call the application up for review or the Zoning Enforcement Officer may do so. In such event, the applicant shall be notified and the Planning Commission and/or Board of Trustees shall review the application and render the final decision. (Ord. 2-2007, eff. 9/6/2007)

¹ Title 10, Chapter 3, Section 4 is amended by the repeal and reenactment of subparagraph "A", subsection "3". (Ord. 2-2007, eff. 9/6/2007)

² Title 10, Chapter 3 "Subdivision Regulations", Section 4 "Minor Subdivision Procedure" Subsection A Paragraph 1 and 3 are repealed and reenacted. (Ord. 2-2007, eff. 9/6/2007, Ord. 13-2016, eff. 10/6/2016)

³ Title 10, Chapter 3 "Subdivision Regulations" Subsection C is repealed and reenacted. (Ord. 13-2016, eff. 10/6/2016, Ord 2-2021, eff. 6/2/2021)



CLAYTON M. BUCHNER
Town Attorney
Westcliffe, CO
970-507-0227

MEMORANDUM FOR: Westcliffe Board of Trustees ("BOT")

SUBJECT: HOA Enforcement and Local Government

1. This memorandum is regarding the enforcement of Homeowner Associations' ("HOA") Covenants, Conditions, and Restrictions ("CCRs").
2. Local governments do not enforce CCRs, guidelines, declarations, by-laws, or any private contracts between HOAs and their members. This is true of any third-party, private contract as well. Local government does not have standing to enforce a contract to which it is not a party and interfering with private contracts may open the local government to liability unnecessarily. For example, in the case of an applicant for a building permit, the Town must only apply its municipal code and ordinances. Whether the applicant's proposed building plans may be in violation of HOA CCRs is not a factor to consider. It is the local HOA's responsibility and duty to enforce its CCRs, see paragraph 3. below
3. Enforcement of CCRs is solely the responsibility of the HOA. HOA's have a duty to their members to enforce covenants and the standard of care to which the association will be held in Colorado HOA-controlled communities. See Ltd. v. Loerch-Wilson, 43 P.3d 718 (2001). HOA's through case law and the Colorado Common Interest Ownership Act assert that a contract between HOAs and the lot owners exist that obligate the HOA to enforce the restrictive covenants, subject to certain defenses. CCIOA is a set of laws that govern the formation, management, powers, and operation of common interest communities (HOAs) in Colorado.
4. The Town may require an affidavit or similar document forcing the applicant to acknowledge that HOA CCRs exist, and the Town's building permit does not allow the applicant to circumvent said CCRs. However, further involvement in interpreting or enforcing CCRs must be avoided.
5. Please feel free to contact me with any questions/concerns or to clarify if any facts or assumptions in this memorandum is in error.

Very Respectfully,

Clayton M. Buchner, J.D.
Town Attorney
Town of Westcliffe, CO

Recd: 9/23

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Office of the Town Clerk
P.O. Box 406
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_____ Westcliffe Town Board X _____ Westcliffe Planning Commission

10/5/2022

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Name of person making presentation: ADRIAN WASHINGTON

Organization, if speaking on behalf of a group: CUSTER COUNTY OFFICE OF EM

Is this a request for Board action? Yes No

Please provide a summary of your comments:

DISCUSS THE TOWN OF WESTCLIFFE PROPOSED ACTION AS LISTED
IN THE 2017 HAZARD MITIGATION PLAN AND RECOMMENDATION FOR
THE 2022 HMP REVISION:
(AMB)

What staff member have you spoken to about this? Please summarize your discussion:

Kathy Reis - Town Clerk
Gabriel Shank - Town Manager

Contact information:

Name: ADRIAN WASHINGTON
Mailing Address: PO Box 1351
Westcliffe, CO 81252

email: ADRIAN@CUSTERCOUNTYGOV.COM
Daytime Phone: 719-269-7952