

**WESTCLIFFE PLANNING COMMISSION
TOWN OF WESTCLIFFE
WEDNESDAY, AUGUST 7, 2024
REGULAR MEETING**

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CALL TO ORDER

Chairman Lund called the meeting to order at 3:00 P.M.

PLEDGE OF ALLEGIANCE

Chairman Lund led the Pledge of Allegiance.

ROLL CALL

The following members were present: Chairman Lund, Paul Wenke, John Van Doren, and Bob Fulton.

OTHERS PRESENT

Carol and Alan Prudic, Hal Shepherd and Agatha Shepherd, Leslie Parks, Val and Clay Myhre, Don Cook, Gia McNerney, Eva and Mark Middendorf, Jack and Connie Thompson, Pat and John Jeffress, Stephanie Cryer, sign language interpreter, Sharon Ploeger, sign language interpreter, RCAS, Travis Oshman, Charlene and John Potts, Marlys Hartbauer, Robert and Pamela Wolf, David Vining, Joan Broadston, Becky Poisson, Amanda Cesar, Jeff Weyand, George Mowry, Karen and Barton Byrge, Alice Henderson, John and Betty Bohling, Elizabeth and Ronald K. Frobel, Donna Wilkes, Jerry Peters, Mary and Paul Zawacki, Kat Johnson, Charles Jagow, Caleb Patterson, Melane Rella, Kathy Reis.

APPROVAL OF MINUTES

ACTION: Mr. Wenke moved, and Mr. Fulton seconded to approve the minutes. Motion carried.

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OLD BUSINESS

- a. **Consideration of a request to recommend approving installing one or more community mailboxes on the south side of Mineral Road in Shadow Ridge in the Town right of way. Leslie Parkes**

After a short presentation by Leslie Parkes, the Commission moved to recommend to the Board of Trustees that one or more community mailboxes be installed in Shadow Ridge.

ACTION: Mr. Fulton moved and Mr. Wenke seconded to recommend to the Board that one or more community mailboxes be installed in Shadow Ridge. Motion carried.

- b. **PUBLIC HEARING: Possible rezoning of BLK 12 and 13 of Shadow Ridge.**

Chairman Lund opened the PUBLIC HEARING

VERBATIM TRANSCRIPT

CHAIRMAN LUND: Next item on the old business agenda is public hearings. Possible rezoning of block 12 and 13 of shadow Ridge.

And inspiration of recommending to the board of trustees to rezone block 12 and 13 of Shadow Ridge to a multifamily housing. Is that correct?

It just says here to rezone it, but it doesn't say what to. So if I remember right, multi house. Multifamily. Okay.

Okay. Moving forward with that. Just to remind everybody that the planning commission doesn't actually make the final decision. We make a recommendation to the board of trustees. And our job is to not be in favor of individuals.

It's in favor of the Town as a whole. That being said, we understand that the -- area residents collectively have a pretty good singular mindset.

For the most part, it's not entirely the case, but we do want to recognize everybody has rights. We're here to make a judgment again for the benefit of the Town as a whole. That is our mandate.

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That's not just our choice. So, and we are -- it's known as a quasi-judicial.

This is a quasi-judicial matter. The BOT is not acting as a legislative body. And we are here to make a decision based on evidence as presented. Again, we're not here to benefit any single entity or individual. That would be against our mandate.

And that strictly applies to the land use development code. If it looks like I'm reading off of something, I am.

So we will only considered evidence in the record of hearing, including the public comment by interested parties. Now there are some topics that were brought up last time that really just don't apply. The water and waste issues.

Those were covered by Round Mountain Water District. So to bring those up, kind of moot.

They say they can handle it. They can handle it. We're going to trust them for that.

They provided their evidence. As far as like issues of having a -- I don't know if it's true, but I was told. And you guys don't have a formal HOA. If I'm wrong by all means., if you have it, please prevent somebody prevent or present evidence. That would be very helpful in making a decision.

LESLIE PARKS: I am a representative. Registered with the state. Representative of the subdivision. Okay. Okay.

Yeah, I'm sorry. Again. Hang on.

CHAIRMAN LUND: And you guys collect dues and --

LESLIE PARKS: No, I'm simply the representative. If the HOA would like to be formed. That's what that is.

CHAIRMAN LUND: If you would like to be formed.

LESLIE PARKS: We have no HOA. We have no HOA.

What we have are covenants and -- how would you put that?

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FEMALE: CCNRs.

LESLIE PARKS: Right.

CHAIRMAN LUND: The question is, are they binding? Without. Yeah.

LESLIE PARKS: We don't have a board.

CHAIRMAN LUND: Okay. And so then those arguments are kind of irrelevant. I'm not saying that you guys don't have a fair opinions. But, they're they're not –

WENKE: this is just a matter of rezoning.

LESLIE PARKS: Right.

CHAIRMAN LUND: So. Okay. But thank you for that.

All right. I think I got ahead of myself here, though. This is a public hearing regarding block 12, block 13 of Shadow Ridge governed by the land use development code.

Do we have a section of that? I don't have that information.

TOWN MANAGER PATTERSON: It is chapter or excuse me, Title 10.

CHAIRMAN LUND: Title 10, okay, thank you. And, it says the date, is that today's date or the date that the section was -- of the code was put in.

(OFF MIC)

CHAIRMAN LUND: Okay. Specifically, this is for the applicant of Travis Oshman, of -- and I'm sorry. It's PACCT investments LLC.

(TRAVIS OSHMAN SPEAKING THROUGH INTERPRETER)

TRAVIS OSHMAN: Yes, that's correct.

CHAIRMAN LUND: Okay. Thank you.

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And I am going to turn this over for 15 minutes to Caleb, to have him present information. Okay.

TOWN MANAGER PATTERSON: Thank you, sir. Is it better if I just stand up?

Last time, we discussed a few different things. One, I was directed by the planning commission to go to the county, to see if we had matching documents, to that we did. The county has the same documents as the Town showing that these residents are in fact, single family.

I know there is a question of through the old minutes, if they were required to get letters from the property owners to which I could not furnish right away, but in fact, they were staring right staring at me right in the face. I do have the letters from the old owners of the -- of those lots to where they didn't rezone, that they needed approval from those owners. So we do have those on file with the Town.

VAN DOREN: When was that?

CHAIRMAN LUND: You're actually supposed to refrain from our questions until the end.

So write your question down.

TOWN MANAGER PATTERSON: 2000. All right, and again, that was reaffirmed as well, back into the agreements between the Town and Shadow Ridge. So I would see these as a Planning and Zoning Official as residential single-family lots.

WENKE: When was that, Caleb? Was that rezoned then?

TOWN MANAGER PATTERSON: This agreement entered into the second day of July, 2013, between the Town of Westcliffe and Colorado on and so forth, in Shadow Ridge. On that, it is under E, the Shadow Ridge Approach to Town and the Public here in Town on June 6, 2006, and it requested that the development agreement be amended, one, to allow lots seven through nine, through 13, to be developed as single-family residences, and two, to remain in the requirements for sidewalks within the community. So that's all I have.

WENKE: I have some questions.

CHAIRMAN LUND: We are, according to my rules, we're supposed to wait until the end. But everybody's saying they're pleased, so now.

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WENKE: I just want to get more information.

CHAIRMAN LUND: Well, yeah, well, we can profit for that later. So if you want to write that down.

All right, so then we'll move on to the applicant, Travis Oshman of PACCT Investments.

TRAVIS OSHMAN: Okay. Are there any questions regarding that comment that he made? Can I answer any of those questions?

CHAIRMAN LUND: We need him to address his name and his –

MALE: Could the person speaking stand up, please?

TRAVIS OSHMAN: Okay, so my name is Travis Oshman, and my address is 509 Roadway Avenue, Pueblo, Colorado.

CHAIRMAN LUND: Gentleman just asked me to stand, if you could.

TRAVIS OSHMAN: It's harder for us to communicate that way. We need to be at eye level for me to be able to see. Can you hear my, can you hear me at this point?

It's better for fluent communication if we're eye level than if I'm standing up.

CHAIRMAN LUND: He's nodding, yes.

TRAVIS OSHMAN: Are you able to hear in the back, whoever?

CHAIRMAN LUND: Yes. Thank you. Yes, address your, this is your time, present as you need.

TRAVIS OSHMAN: Okay, so this experience has been very humbling for me. You know, this is a very layered process. I thought it was just as simple as get my blueprints on and get started to develop.

I understand the community's concern, I do, and I empathize with that. But Caleb's comment, I understand what he's saying regarding this from 2006 in June. It seems though a developer came into the meeting and made this request to amend the agreement, and there was no rezoning required prior to that. You know, it was heard by the planning commission first with

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public notice that happened there. I don't know that there's actually evidence that of a public notice for rezoning that occurred during that time. I haven't seen that evidence.

Is there any?

TOWN MANAGER PATTERSON: Yes, I mean, I think the, in general, in multiple public hearings, in abiding by state law at the time, I cannot, I mean, I might have to look up the newspaper, which would take some time, but I would imagine just like every meeting now and before that they follow state laws and Colorado state statutes.

TRAVIS OSHMAN: It is important information that needs to be verified. You know, you said you had a letter of, some sort of a letter of evidence?

TOWN MANAGER PATTERSON: Multiple. At the time it was decided that, oh gosh, -- Manager Fieldman at the time with the Town of Westcliffe said that if Jerry could get letters from the owners stating that it's okay, that it would be good, meaning that they would be good enough to rezone them from multifamily to single family.

Those letters I have here. I would be more than welcome to share those letters with you and make copies for you.

TRAVIS OSHMAN: That would be great if you could, Caleb, thank you.

TOWN MANAGER PATTERSON: If you would like, as long as I get all these copies back, I can hand them for him to read while the questions are made.

TRAVIS OSHMAN: Yeah, we could do that.

TOWN MANAGER PATTERSON: Just make sure to get these back well before the meeting.

TRAVIS OSHMAN: Can you explain the process of the rezoning? Thank you. I'm just curious.

So, you know, you have the first developer agreement and that went fluidly. It was legally binding agreement between the city and the developer. So explain to me the legal process of transitioning for a rezoning.

Can you tell me that?

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TOWN MANAGER PATTERSON: That's a very broad question. I can tell you what the Westcliffe Municipal Code says as of date right now, if that does help.

TRAVIS OSHMAN: Yeah, the law that was applied in 2006 is not the same that's applying now?

TOWN MANAGER PATTERSON: I am unsure of that at the moment.

TRAVIS OSHMAN: That's an issue that I'm confused by too.

WENKE: There should be a title 10, when there was zoning documents you're looking at, the date was when it was applied.

TOWN MANAGER PATTERSON: Correct, so it just depends at the time. I don't have all the old copies of the municipal handbook on me, of the municipal code book on me. But throughout the years, the Town has updated its municipal codes.

So whatever they probably went with before, I cannot tell you at this moment if it currently matches what we have now. I'd have to go back in the vault to look and see.

CHAIRMAN LUND: Now, in the minutes though, they did indicate that it was legal at the time or that was reasonable at the time, correct?

TOWN MANAGER PATTERSON: I would be under the impression of that correct, that it was done legally and correctly. I mean, I don't even know if they had a planning commission back then. I primarily see the board of trustees, but I see that there was letters approved or the Town board asked for letters from the property owners. The developer, who is also the majority shareholder, I'll speak slowly because I forgot, who is also the majority shareholder of the time, got those letters.

On top of that, there was also an agreement between the Town of Westcliffe and the Shadow Ridge subdivision to rezone those, recorded in the Town of Westcliffe and in Custer County.

WENKE: Caleb, we have a plat, do we not?

TOWN MANAGER PATTERSON: Of Shadow Ridge? Yes, we do.

WENKE: What's the date on that plat?

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TOWN MANAGER PATTERSON: I have to look this up on my computer.

TRAVIS OSHMAN: I'm not sure that these hold weight, these letters hold weight, because there's no formality of what the agreement was. And I think that that's here. You know, you're talking about, this was the first agreement.

It was between a developer and the city. And I think that that's really important. And I'm happy to walk through all of it and go through all the process, but these don't necessarily hold weight.

TOWN MANAGER PATTERSON: Own opinion?

(INAUDIBLE)

CHAIRMAN LUND: But it was rezoned, correct? The diagram was rezoned. It does have weight.

TOWN MANAGER PATTERSON: Correct. And I just want to remind the planning commission that I, as a building and zoning official, do see these as residential single family properties.

TRAVIS OSHMAN: Between the paper and them talking and you talking.

TOWN MANAGER PATTERSON: I'm just reminding the planning commission that I do see these, as a building and zoning official, as residential single family properties.

TRAVIS OSHMAN: And is there a rezone application packet that has been filed by these? Like, what I had to fill out was something like this filled out in 2006 to change the zoning?

TOWN MANAGER PATTERSON: You'd have to give me a second to look through my papers. If this rezoning application is in the papers.

TRAVIS OSHMAN: Sure.

TOWN MANAGER PATTERSON: In this packet.

TRAVIS OSHMAN: Sure, the process should be the same because it's really important, again, that what was original agreement was done and how it was done in the original agreement can't change.

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I believe that it's null and void if it wasn't done in the same process that was necessary to show proof of everything that was done. Is the city attorney here? Because maybe the way that there's a clause that was put into the initial agreement because it should be legally binding and effective following the process that I've done.

TOWN MANAGER PATTERSON: Should be, and should be, is hearsay.

TRAVIS OSHMAN: What do you mean by that? Could you explain that again?

TOWN MANAGER PATTERSON: That's his personal opinion is basically what I'm saying.

TRAVIS OSHMAN: Not necessarily. I mean, I'm here following all of the rules that were given to me.

So does that mean that you are, are you declining my rights to make a proposal with my evidence that I had done from the first agreement made on November 22nd?

CHAIRMAN LUND: If I may, we have you here and we're hearing you.

TRAVIS OSHMAN: Okay, great. So given that, I want to refer to the Custer County Clerk's document 200450. And do you have that copy?

TOWN MANAGER PATTERSON: Maybe somewhere in all this paperwork, but if you could furnish that to me.

TRAVIS OSHMAN: It should be, it was the first agreement made between the developer and Westcliffe to become the Town of Westcliffe. Resolution 204, or Ordinance 204.

TOWN MANAGER PATTERSON: Is he talking about Westcliffe declaring itself as a political subdivision? Is that the creation of the Town? Is that what he's saying?

CHAIRMAN LUND: Or annexation of the-

TRAVIS OSHMAN: I'm referring to the Clerk's records document 200405. I can show you, I have a copy of it if you want me to show it to you. Thanks.

TOWN MANAGER PATTERSON: Okay. Okay. Would you like me to look at the highlighted boxes?

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TRAVIS OSHMAN: Yeah, I mean, sure, you can do that. Maybe if, do you have a copy of this that you can refer to? Do you want to make a copy that you have so that way you can refer to it and read it?

Because this is the original agreement with the developer and the Town. And I assume something like this would come in handy for you guys.

TOWN MANAGER PATTERSON: Yeah, so I'm sure I have that original agreement in the building, no doubt. I will say agreements can be amended and the agreement was amended in the Town of Westcliffe.

TRAVIS OSHMAN: Okay, but that's not the argument that I'm making. It's null and void, the amendment, and that's what I'm trying to show you.

CHAIRMAN LUND: Why would it be null and void if the amendment is made after this was made?

TRAVIS OSHMAN: Because it doesn't follow the formalities as stated in the original agreement.

CHAIRMAN LUND: The original agreement?

TRAVIS OSHMAN: And the original agreement is a final, it's been signed, it's a final agreement.

CHAIRMAN LUND: No, things can be amended.

TOWN MANAGER PATTERSON: I can make copies of the original agreement.

CHAIRMAN LUND: It was.

TRAVIS OSHMAN: If you follow the original agreement, then you can make an amendment to it. An amendment doesn't necessarily proceed what's required from the -- I can go through all of this.

CHAIRMAN LUND: I'll go through all of this. You've got two minutes and then we're moving on. Go ahead.

WENKE: I want to know when –

TRAVIS OSHMAN: I mean, I can save my time and let everybody have their comments and then I can come back and close with my two minutes.

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CHAIRMAN LUND: We will have 15 minutes towards the end again.

TOWN MANAGER PATTERSON: Yes, Mr. Chair, can I please make copies of that while people are taking public comments so I can have that ready?

CHAIRMAN LUND: Is it okay if he makes copies of your documents?

TRAVIS OSHMAN: You should have that information.

CHAIRMAN LUND: Okay, that's not the point. He probably does. We'll take that as a refusal to allow you to have the documents.

TRAVIS OSHMAN: I'm not refusing. I just want to make sure because I needed to look at and refer and if I give it to you, then I don't have anything to look at, to refer to as we're talking. That's my problem.

TOWN MANAGER PATTERSON: What was the number reported?

TRAVIS OSHMAN: 2-0-0-4-5. 2-0-0-4-5-0.

TOWN MANAGER PATTERSON: I have here with me the amendment, in the vault is going to be the original agreement. I might be able to find it on the computer in order to not go into the vault, but I would like copies for expedience.

TRAVIS OSHMAN: Sure, no problem.

TOWN MANAGER PATTERSON: And I also want to state, in order for it to be reported by the county, it had to be recorded from the Town first and then sent over to the county.

WENKE: So, no question.

TRAVIS OSHMAN: Okay, go ahead.

WENKE: When did you purchase your lot or lots?

TRAVIS OSHMAN: What date? I think that was asked last meeting.

WENKE: I'm asking, you know.

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TRAVIS OSHMAN: The first one that I purchased was late 2022. I don't remember the exact date. And the most recent one, that was, the most recent was seventh lot was in the fall of 2023.

No, I'm sorry. Yes, interpretive clarification. Fall of 2023 was the most recent lots purchased.

WENKE: The plat that I'm looking at here was signed on October the 10th, 2006 by Jerry Seifert, who was the developer and registered here on October the 10th, 2006 at Custer County. So, when you purchased the lot, it was clearly residential. Same family

TRAVIS OSHMAN: It's in there. This is the plot? Can I come over and look at the plot?

Oops. Excuse me, interpreter error. Plat.

CHAIRMAN LUND: We've got 15 minute time to make this up.

TRAVIS OSHMAN: I don't see where this is stamped and signed and filed.

TOWN MANAGER PATTERSON: It's in there.

WENKE: Signed on all of this.

TRAVIS OSHMAN: So, when I went to the county records office and asked for the most up-to-date plat map, they gave me, and I have what they gave me here. This is what they gave to me. It's not the same as that.

And I can show you that this is different information. And so, this is the only knowledge that I had prior to purchasing. I collected my information, and what I was given by the county is not what you're showing right there.

And so, that's where my argument is. The original agreement was not very clear, and that's what we're discussing, is what was the preparations there to understand where we're discussing and where my information is different than your information.

CHAIRMAN LUND: Is Clay on yet?

TOWN MANAGER PATTERSON: He's not. It's really not a conversation of what the county has versus what the Town has.

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If the county has inaccurate information, that's on the county, not with the Town. If you want information on lots of the Town, you must have come before the Town. Again, seeing that he is out of time.

TRAVIS OSHMAN: Yes, but the Town is bound by and following what the agreement is that is signed by the county that is done, because you are a party to that agreement.

CHAIRMAN LUND: Which was amended.

TOWN MANAGER PATTERSON: I would caution the commission to get into back and forth on legalities. I would just take my recommendation.

CHAIRMAN LUND: We're going to move on to the public comment section. We do have about 30 minutes, and we are going to limit it to three minutes each. Again, we do have some topics that are just not really relevant to what we have to consider here.

So, anybody want to speak first? I'm sorry.

MALE: Where's the Town lawyer? This now has become a legal issue for you guys. Where's the Town lawyer with that notice?

TOWN MANAGER PATTERSON: Again, I apologize, Mr. Chair. The legal issue can be fought out in court. If there is anything that's binding, or right now, it's all hearsay.

So, unless it is taken to court, then legalities, unfortunately, will have to stay there. We just have to go off with the information that we have.

CHAIRMAN LUND: I do not know where he is, so he should be here.

MALE: The Town lawyer should be here.

CHAIRMAN LUND: I understand that. I'm not in control of him, so.

FEMALE: Did you call him?

CHAIRMAN LUND: He was called before we were told he was coming.

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MALE: You had two months. Two months to plan for this. This guy planned for it. You know it. He's consulted his lawyer.

CHAIRMAN LUND: We were expecting him to be here. We do not know why he's not.

WENKE: He telecommunicates, okay, so I don't know it.

CHAIRMAN LUND: Regardless, do we have any public comment? Kit Shy, please come to the podium. State your name and --

KIT SHY: Kit Shye, 65 East Calcite Courte, Westcliffe, Colorado, Greater Metropolitan, Westcliffe --

TRAVIS OSHMAN: Could you speak a little bit louder, please?

KIT SHY: Yes, I will. I'm sorry. I've been asked by my neighbors, several of them who are here, to speak on their behalf, but I also understand that you're going to allow everybody to speak, so...

I am this time, yes, sir. I don't know if I can cram more than three minutes, so maybe I'll get some of the answers here, but...

FEMALE: You can have my three minutes.

FEMALE: You can have mine.

FEMALE: Kit, can you talk louder, please?

KIT SHY: I will.

FEMALE: Okay, thanks.

KIT SHY: I wish there was some kind of microphone. We didn't have a microphone up there? The issue is a requested zone change for two lots, and as I understand it, the applicant has applied for that zone change, paid the fee, and agreed to the process, so I'm not going to go outside of that in any way.

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I'm not going to discuss the merits of multifamily at all, just the application for a zone change on two lots in Shadow Ridge that are presently zoned single-family, and the request is for them to go to multifamily. Shadow Ridge was originally plotted in 109 lots, six of them limited to commercial use that is enumerated on the plat, both the '04 version and the '06 version. 103 of them are single-family.

Presently, the area is developed with 45 homes that exist that are being, 39 of them occupied, four of them in progress, and two of them are for sale. One is a limited-use commercial, but they anticipate a living borders within, so there will be residents there as well. All of the homes were built under the Shadow Ridge PUD, and the zoning applied to that PUD by virtue of the plat and the improvements agreement, which (INAUDIBLE).

All of the buildings, all of the houses have been built based on the Westcliffe Town Codes.

They meet the building code requirements, the fencing requirements, and they've all mowed their

weeds this season, for the most part. There's only one dwelling that I know of that has not mowed their weeds, and the only other ones, there are a lot of people who are absentee owners of vacant lots, and they've also mowed their weeds.

The only people who haven't and are declaring they haven't are the two largest landowners within the subdivision. One is the applicant, and the other one is the Town of Westcliffe, and they're open space. That has not been in progress at all there.

TRAVIS OSHMAN: I think that's off the point.

KIT SHY: Well, it might be a little bit off the point, but I'm just --

CHAIRMAN LUND: Yeah, he is allowed his time to speak. It is up to us to say if he's off-topic.

KIT SHY: I'm trying to define the nature of our existing neighborhood, the one that we live in. Our large half-acre average lots preserve our quiet, our beautiful corridors, and our dark skies. The impact of a higher density on traffic, water, views, and infrastructure will affect our quality of life and the value of our investments in our homes and in our real estate.

I speak for myself and many of my neighbors when I emphatically request that you deny this application.

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CHAIRMAN LUND: Other people said that he can have their time, at least two others.

FEMALE: You want my name?

(INAUDIBLE)

FEMALE: Also, he should get a little extra time, because- Yeah, I interrupted him.

CHAIRMAN LUND: Yeah.

KIT SHY: I'm almost done.

CHAIRMAN LUND: I'm going to count 12 minutes then.

KIT SHY: That's all. Well, I won't use it, I promise. One of the conditions on which I agreed to speak on this was that we wouldn't get into the weeds like we did last time.

CHAIRMAN LUND: Right.

KIT SHY: I was very concerned about the fact that we were questioning the validity of title companies and realtors and public officials and somehow mixing the record keeping of the Town with the county. The county is the official legal repository for all public records.

We all go record things there. Our deeds, our driver's licenses, our marriage licenses, our death certificates, all the documents that matter to us, our contracts, all those things are recorded at the county. The county seems to have two different documents that apply to this.

One is the original '04 plat. And at the time, the county attorney, who I consulted with at the time that we did that plat, wanted everything on the plat that had to do with zoning. Setbacks, public improvements, and the zoning designations.

So all the lots were very specifically designated as to what zone. And the codes used for those zoning designations are the same as are in your regulations now for the ones that had some commercial use. The single family residence was the bulk of the subdivision.

The open space was to take care of drainage, walking spaces, multiple mailboxes. Thank you very much. And any other uses that the Town might want to put them to.

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Parks, whatever. So it's a way to get trails just to run through the Town. Adams has the same thing.

Trails so that we could connect things that are connected. So the idea that we created a PUD that went along with planning goals at the time, the developers' wishes, and has been one of the fastest growing communities in the entire area because of the qualities that I'm talking about, we are here to jealously guard those qualities. And that means that we speak as one, and at least most of us here, in terms of what we want to see happen.

And since this is a request to change what's already there, we don't feel that that's reasonable. We bought with the understanding of what our zoning would be and what our neighbor's zoning would be. So we would know what would go in next door to us.

I was concerned about what was going on north of me. I bought five acres of land that butts me on the north. It's outside of the subdivision and in the county, not even part of the Town.

But because I had nothing to say about what went on in the county, not owning anything there, I bought myself a buffer zone. And we find that a lot of people have bought more than one lot in order to protect what they have. But these are half acre lots, and half acre lots in the city environment is a large lot.

And we would like to keep it that way. So there's two ways to disturb a large lot as far as population goes. You either allow more people on that larger lot, or you reduce the size of it so that the density increases.

And we are concerned about density. Multifamily is not the issue here. It is what we bought and what we want to protect.

So on behalf of the people that I'm speaking for, there's more room in here than I thought. Well, they're all looking at my back and want me to talk louder. I hope I have covered the things that are important to them, but I appreciate the fact that you're giving them an opportunity to speak as well.

Don't rely just on what I had to say. Thank you very much. Thank you.

Nice to be a part of it.

CHAIRMAN LUND: Melane, how much time do we have left? 15 minutes?

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RELLA: Yeah, about 15 minutes.

CHAIRMAN LUND: Anybody else like to speak up? Just give up the floor. Yeah, well, we're allowing it.

So if you have something additional to say, we can accept it.

DON COOK: Can I talk to them over here or do I need to come up there?

CHAIRMAN LUND: Please come up to the podium.

We've got a microphone that records and aids for the minutes.

DON COOK: Hi, my name is Don Cook. I'm at 325 East Main in Silver Cliff. And I'm here on behalf of a neighbor I had.

He lives in Texas now, but he knows what 14 and I heard Caleb talk about letters that you had. Did you get one from, his name is Manny Santellan. Did you get a letter from Manny about this?

He's on 14 right next to the lots of questions.

TOWN MANAGER PATTERSON: It's all in cursive.

DON COOK: And he would like to know, and I probably missed it.

What's intended to go on box 12 and 13?

CHAIRMAN LUND: Go ahead, sir.

DON COOK: That's pretty much what I'm saying. His name is Manny. I'll call him Manny.

He's against it because he was under the impression it's going to be a multi-level apartment in that area. I don't know.

CHAIRMAN LUND: That is a proposal, yes, sir.

DON COOK: Okay, it is. He's against it. I'm just letting you know Manny Santellan is against it.

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And he's in lot 14, currently resides in Texas. And he has a home in Westcliffe here. And he's in the process of moving here within the next few months.

But he, I'm not sure he wants to do it that lot, but if he wants to sell it, it's going to be a little hard to do that with a big old building right next to it. So that's my question of what was going to go in there. And that's all I want to know.

Yes, sir. Thank you.

CHAIRMAN LUND: I've got images of at least concepts. Is this correct, your concepts?

TRAVIS OSHMAN: It's not exact, but it's close enough with some minor changes.

CHAIRMAN LUND: Well, there's two different styles. I think there's one lot would have one and the other would have the other, is what I understand it as.

MALE: Can we all see it?

MALE: Six units per lot.

MALE: Could you put it on the screen?

CHAIRMAN LUND: No, I can't.

I'm not connected to the screen. So this is what.

MALE: So two units per lot.

CHAIRMAN LUND: No, is that correct? One style would be on one lot and the other style would be on the other?

TRAVIS OSHMAN: That is correct.

CHAIRMAN LUND: That's what I understood from the paperwork. Yes, sir.

AL PRUDIC: My name is Al Prudic. I live at 25 Quartz Court, Westcliffe, Colorado, and I'm representing myself. I bought this lot five years ago.

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And as part of the title work that I received, all of the documentation about how the property was zoned and everything that involved in the legalities of it came in that package. The property is not zoned single family residence. It's not zoned multi-family residence.

It is zoned PUD, planned unit development. So I have a hard time understanding how somebody can try and change the zoning when it's PUD. We're not talking single family, multi-family.

So the Town's agreement with the developer is what controls the use of those lots. So the Town and the developer got together and said, these are what these lots are going to be used for. They're not zoned that.

They're just saying, this is what the use is. To change that, the agreement between the Town and the developer was that 67% of the lot owners needed to approve any changes. I doubt that we have 67% of the lot owners in this room that would want to see that.

CHAIRMAN LUND: If I may, it was 67% at the time of that 2006 agreement. Is that correct?

TOWN MANAGER PATTERSON: Right.

CHAIRMAN LUND: Thank you, sir. Okay. Anybody else?

Town manager, you have 15 minutes.

TOWN MANAGER PATTERSON: Okay. All right. I am going to read off a few things. Yes, I can speak up. Okay.

This in particular goes –

WENKE: Can you stand up, please, to the gentleman?

TOWN MANAGER PATTERSON: Yes, sir. This particularly goes to Mr. Oshman. This is from the Westcliffe Municipal Code book. Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because one of the more following reasons.

One, the land to be rezoned was zoned in error and presently zoned and inconsistent with the policies and the goals of the master plan. Two, the area for which rezoning is requested has

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changed or is changing to such a degree that is in the public interest to encourage redevelopment of the area and a new approach to development. Three, the proposed rezoning is necessary in order to provide land for community-related use to which was not anticipated at the time of the adoption of the Town's master plan and that such rezoning will be consistent with the policies and the goals of the master plan.

Hopefully you caught on to those three. Those three would be, so I know we want to go into different conversations, you know, like what was said before about the title work and whatnot. But again, as far as the Town is concerned, it needs to be one of those three reasons in order for rezoning to be allowed.

That's what I have for now.

CHAIRMAN LUND: Okay, thank you. And Mr. Oshman, 15 minutes.

TRAVIS OSHMAN: The important reason for the rezoning here was again, the information that I received from the Town and I started to proceed with it. And so the rezoning that you're stating happened actually never really happened. And so therefore the primary reason is to provide housing.

I have heard from so many people, restaurants, business owners, that people are wanting to come here to live in this town, but they can't find a place to live. And there's not allowed enough space. And so there's not available housing.

And so this is providing for more people to come to this town and to live here and for it to grow. You know, in the state of Colorado, there are a lot of people that are moving here because they see the potential. But the problem is they're not considering this town because there isn't any housing for them.

Younger families want to move here, but there's no housing. And so there's a lot of discrepancies about what you all have to offer to the community, but then not allowing more community members to be here. So supporting the growth is really what's sensible and a sensible way to do that is to have a multifamily project that allows for the growth of Westcliffe.

You know, and you can then have a neighbor that could be a like-minded person. You know, I'm making comments that somebody made a comment about not wanting low housing, low-income housing to be here. You want working families.

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You want individuals. You want people that are like-minded, but can afford to live here and having a house there. And that's something that Westcliffe needs to support is the growth of the Town.

I do think that it is significant for us to go through what was the original process that I have gone through and making sure that using what is already stated and what is in the nature of the law to understand the utilitarianism, the concept of it is, you know, I understand that you're saying this is affecting 60 residents and I'm one person, but you know what? It's my property and the property that I was given or that I had purchased was given certain rights to it. And that is now being trying to take away from me as well.

So that's really our issue.

CHAIRMAN LUND: Okay, folks, folks, he does have his right to his time. Just like --

MALE: Except when he interrupts others.

TRAVIS OSHMAN: So from my understanding from the last meeting, Caleb had a big binder with all of the information regarding the development. I don't see that binder with Caleb anymore. And as you look through that binder, it seemed as though the discussion was happening where it was a moot discussion because there wasn't any official action that had been signed off on.

And so really where's the truth in all of the documents of what had happened and based on where I was buying under the premise that I was buying. And so where is the connection between seeing what were things happening from a micro perspective, as well as from that macro perspective to help everybody make a well-informed decision of what was the once upon a time decision to what's happening now. I feel as though I've not been able to do that.

I know it takes time to do all of that. I wish that the city had come prepared, the lawyer's here to talk about what you guys have as documentation and what I was given as documentation to see how these are evidence, and that we're able to refer back to all of that so that you can refer to this information that Caleb's have compared to the information that I have just to make sure that there is the, that the references that we have are working together and having a better understanding of where my perspective is coming from as well as where your perspective is coming from.

INTERPRETER: Hang on one second for the interpreter.

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MALE: You've had time to do that.

TRAVIS OSHMAN: Nevermind, the interpretation was correct.

CHAIRMAN LUND: When he's done, we'll do that. That is the next step. He's honest asking questions.

TRAVIS OSHMAN: So that's just it. I just want to go through this information fact-finding which, because the information I was given is what led me to buy these pieces of land, and I was not given the right information according to you all. So, you know, if there's an agreement with the Town, you know, instead of, you know, I don't want to be wasteful of my time or yours, but this is the information that I purchased land with this being told to me.

And I have all of that documentation. And Caleb, you have the two, you have the document 200450, right? Which was the original agreement.

You have that in front of you now.

TOWN MANAGER PATTERSON: In the vault.

TRAVIS OSHMAN: Okay, well, then this meeting is insignificant in the sense that it's not being, nothing's being able to be verified because you guys didn't have all the information with you to prepare for the meeting.

CHAIRMAN LUND: Is he done?

TRAVIS OSHMAN: I mean, I think I've stated where my issue is. I have nothing further to say otherwise.

CHAIRMAN LUND: Okay.

TRAVIS OSHMAN: I mean, I, you know, my property rights are being taken away from me because I purchased this property with this information. Paul.

WENKE: Yes. Sir. You said you had a plat that you got from a county that said this was zoned multifamily.

TRAVIS OSHMAN: Correct.

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WENKE: Do you have that plat?

TRAVIS OSHMAN: I have it with me, yes.

WENKE: May I see it?

TRAVIS OSHMAN: Sure.

WENKE: Lots 12 and 13?

TRAVIS OSHMAN: Yes. Yes.

FEMALE: Five. That's a five, it's written in.

WENKE: Plus seven, eight, nine, 12, and 13 are zoned multifamily. And this plat, this is dated February 7th, 2005. And you purchased when?

TRAVIS OSHMAN: 2022.

WENKE: So 17 years later, you purchased the lot, land, and yet you got this from a county. Do you recall when you got this map, this plat?

TRAVIS OSHMAN: How is that relevant?

WENKE: Well, I'm asking the question.

TRAVIS OSHMAN: I just got that recently.

And that's the same information that I got this prior to me purchasing my plot of land. This is what they were giving me.

This is what they gave to me.

MALE: Seriously.

TRAVIS OSHMAN: I got this from multiple different parties.

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I got this from the CCR. I got the plat. I got also the amendment to the CCR with the architecture, with the architect, excuse me.

And all of the information that I received, this agreement from the developer with the city, this is what I got prior to purchasing my land.

CHAIRMAN LUND: You got this map from the CCR. I'm not sure that makes much sense.

TRAVIS OSHMAN: No, no, I got the map from the county, the county records. And then I also got it from the title company and from the realtor. This is what I got prior to purchasing my land.

And so honestly, I feel like I overpaid for land but I was fine with that because I knew that it was an ability to have a multifamily purpose on it, which means I would be able to make my land, make up for it by having a multipurpose, which is why I bought it. And it didn't matter that I felt that it might've been overpriced because it was zoned multifamily. So this doesn't all add up.

I feel like the Town is now telling me one thing and the Town is putting a burden on me and saying that it's, you know, I did my due diligence for the Town. I got what I was needed and this is what I was given. That said it was multifamily.

FEMALE: And 60 residents bought as a single family.

CHAIRMAN LUND: This section we're going to reserve for the planning commission to ask questions of the applicant, of the town manager and of the individuals as well. It was, may I?

FEMALE: All right.

CHAIRMAN LUND: Now this isn't really formally set up as a public comment. So I'm going to limit it pretty strongly, okay?

CONNIE THOMPSON: Connie Thompson, 570 Mineral. We own four lots in the subdivision. My simple one sentence is if Caleb says those three conditions must exist for it to be converted to a multifamily, I don't think those three conditions were met just because he wants to change it.

He gave the conditions for one, two and three how it could be considered.

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MARK MIDDENDORF: My name is Mark Middendorf, I live at 160 Pyrite Circle. I have a question for the commission members. I sat through the last meeting and I understood that the lawyer, the Town lawyer was either there or had called in.

So he was listening to that meeting. When I came out of that meeting, it became clear to me that the Town lawyer should be involved. Did any of you, including you, Caleb, consult with the Town lawyer about this issue?

Consult with him and ask him his opinion?

CHAIRMAN LUND: Yes.

MARK MIDDENDORF: And what is his opinion?

TOWN MANAGER PATTERSON: I'm definitely not going to be stating the lawyer's opinion out of my mouth because I could say something wrong that I don't think that, his opinion should be coming from his mouth.

MARK MIDDENDORF: Yeah, I mean, it seems to me that Will is wasting a lot of time here.

CHAIRMAN LUND: He's not a voting member of the planning commission.

MARK MIDDENDORF: No, but this is going to quickly become a legal issue.

CHAIRMAN LUND: While you are correct that-

MARK MIDDENDORF: And it was at that point a legal issue. Clearly. Two months.

TRAVIS OSHMAN: Yeah, and he knew that, you knew that.

MARK MIDDENDORF: You know that. I have a question. If he understood that his lots were multifamily, why did he put in an application to rezone them?

TRAVIS OSHMAN: Well, you know- He went, what did you do?

CHAIRMAN LUND: Stop. I'm not going to let this become a zoo, okay?

MARK MIDDENDORF: It's a valid question. It's a valid question.

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CHAIRMAN LUND: Sir, please, I understand your question.

MARK MIDDENDORF: No, you don't.

TOWN MANAGER PATTERSON: I can answer it.

CHAIRMAN LUND: You gave your time up.

I gave the allotted time, okay? Then we moved on. We used our allotted time.

Do you have a record of that?

RELLA: He didn't use his allotted time either. He has five minutes. He only went 10 minutes, and he had 15.

CHAIRMAN LUND: Regardless, this is not going to become a zoo. Caleb, can you answer that question, please?

TOWN MANAGER PATTERSON: Yeah, a few things. Again, I don't think it's wise. Right now, he's stuck in court, okay?

So if you're wondering why he's late, he's stuck in court, he apologizes. I would like to go back to Mr. Oshman's, and kind of, if I may get back to you.

CHAIRMAN LUND: Actually, if I may, since it's a section where we're asking questions, I would like to understand the order of, did he come in requesting a change of zoning, or did he just come in asking for a permit, and then told of the zoning?

TOWN MANAGER PATTERSON: Yes. That was the question, was it not?

MALE: That was the question.

CHAIRMAN LUND: Okay, so I did understand your question.

TOWN MANAGER PATTERSON: Yes, so I looked up the zoning, right on that map there, but it wasn't here at the time. And I notified him that it's a residential single family, and that he would need to apply for a rezoning application.

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CHAIRMAN LUND: Okay, so he didn't come in with the intent to rezone.

TOWN MANAGER PATTERSON: That is correct. He came in with, from my best understanding for right now, you might have objections, but that is my understanding, correct.

CHAIRMAN LUND: Thank you.

TRAVIS OSHMAN: I can, can I clarify, or are we okay?

CHAIRMAN LUND: I think I got my answer. Anybody else?

TRAVIS OSHMAN: I can just, if I could just add something.

CHAIRMAN LUND: Yes, sir.

TRAVIS OSHMAN: Like I said, I had always thought that this was multi-family.

What do I need to, you know, I didn't know I had the engineers sign off on everything. I was ready to get started and break ground. And I was told I needed to get the permit, I came, and Caleb told me that it was a single residence.

And so I was challenging Caleb about that. And I had consulting, he said he consulted with the Town lawyer, and he said, no, it's single family residence. Therefore, there was a disagreement between what he was saying and what I was sold.

And so I do think you all should be proud of him trying to stand up for what he believed was happening. But basically in that process, my rights were taken while he was trying to protect you all. I had paperwork that said this was multi-family and I could go on with it.

And I was just getting my permit. I paid the \$300 to have the inspection done for the rezoning and all of that. And I followed all of your requirements to do the rezoning, but in, you know, local government got into all of this and said I had to do certain things. But I did all of my research showing that there was inconsistencies of what I had and what was being told to me. And therefore, I was trying to follow what Caleb told me that I had to do.

CHAIRMAN LUND: We understand his position, that he thinks that there's a disagreement. Our public comment is, I'm shutting down our public comment. We're just, we allowed it, we're moving on.

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WENKE: I think I know the answer, but you got this plat from the county when you purchased the property, or in that, in 22, 2022, is that correct?

TRAVIS OSHMAN: Yes, I couldn't tell you the exact date.

WENKE: But that's fine. Okay. That's just my question.

CHAIRMAN LUND: Okay, does anyone else have questions? Caleb?

TOWN MANAGER PATTERSON: Thank you, sir. A few points on this, and then I would also like to get back onto something else.

He made some pretty good points about a couple of different things. And Madam, you asked the question, the land to be zoned was zoned in error, or, and as presently zoned, is inconsistent with the policies and the goals of the master plan. The planning commission did recently update the master plan.

It did speak about growth, finding more multi-family areas in the Town. But on the other hand, we do want to shy away from spot zoning if we can. All right, that's, I wanted to say that.

CHAIRMAN LUND: We're mandated not to spot zone.

CHAIRMAN LUND: Oh, 100%.

CHAIRMAN LUND: So this isn't, this does come down to the question is, we have record that the zoning was changed within the PUD.

PUDs have zoning within them. Is that correct?

TOWN MANAGER PATTERSON: That is correct.

CHAIRMAN LUND: Okay. And that fact on the plat that Mr. Oshman showed, within that PUD, that did have individual lots zoned. So that does indicate it's not just a blank PUD.

There is zoning within it. Now we are, we're not allowed to spot zone. So it really goes back to there being some kind of evidence to the contrary of what we have.

What we have is—

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WENKE: We just judged it looking at the document that the applicant has. It says it's zoned one multi-family. And looking at this document here, what says all single family or residential.

Clearly there is a breakdown in communication between him and the county. I don't know.

MALE: Maybe it was the seller.

WENKE: Excuse me?

MALE: Maybe the seller is the real estate. I don't see any official document.

WENKE: I think the seller was Jerry Seifer, who was the developer. But regardless, he made a decision. He made an economic decision based on a document he got from the county.

Okay. Has there been any agreement to that?

AUDIENCE: No.

No? No.

MALE: Yes, the realtor gave it to him. Maybe it's not the right document. You should have given him this document.

Not that one.

WENKE: I'm sorry, sir, but he's got a document from the county that he got in 2022, which said it was zoned multi-family.

MALE: The date of the document is 2022?

WENKE: No, he got the document in 2022.

MALE: It was the wrong document? Was it the updated document?

WENKE: No, sir, you're not listening to me. The problem here is not with the Town of Westcliffe. It is with the county.

I think that's where your issue is, sir. Not with us.

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CHAIRMAN LUND: Or the title company.

WENKE: Or the title company, or whomever. But he has clearly, in my view –

TRAVIS OSHMAN: The title company has nothing to do with it.

WENKE: I don't think so either. But in my view, sitting here as a panelist, is that, I think he is, he is --

TRAVIS OSHMAN: The Town is completely, it's basically the formality.

WENKE: I'm speaking, I'm speaking, I'm speaking, I'm speaking.

I think he is genuine in his pursuit of this, number one. And it's not like, well, he made a decision on faulty information. Not faulty information provided to us, because when he came to get an application, we said it's not zoned that way.

MALE: It's outdated information.

WENKE: Well, yes, but still, my point is, he didn't get it from us. His original decision to buy the property came from a document he got from Custer County.

MALE: That was outdated.

WENKE: And it's not, yeah, he did not know that. How would he know that?

MALE: How do we know he got it from the county?

CHAIRMAN LUND: Well, we don't need to get involved in the speculation. We have information in front of us.

We're going to base it on the information. So let's keep this relevant.

WENKE: So anyway, to complete my thought --

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CHAIRMAN LUND: Would we, for the time being, since we don't have the lawyer here to speak, should we put this off again for a little bit? Hey, do you want to be decided against, or do you want a reasonable chance?

MALE: That's a threat.

CHAIRMAN LUND: That's not a threat. If it's a question, I don't have an ultimatum.

MALE: Do the job.

(INAUDIBLE)

CHAIRMAN LUND: Caleb is at the floor. Please..

TOWN MANAGER PATTERSON: It is just going to be a recommendation. Again, I did confirm with the county that we have the same documents stating that they are residential single family. I did confirm that. So it is just a recommendation to the board.

So whatever recommendation you have, regardless of it, can still go to the board. So even if the lawyer is not here, which especially since the decision is not going to be made right now or to be resumed, I don't think it necessary to have the lawyer right now. But if the Planning Commission has a difference of opinion, then by all means.

WENKE: Well, let me finish my thought. And that is, have you engaged legal advice?

TRAVIS OSHMAN: Again, I mean, that's a personal question and confidential whether or not I have an attorney. I'm not at liberty to ask you. I mean, the question I would have for you is, what kind of documents are you using as the official city records that you're using?

Can you show me what is that information that is the city documents that says it's single family? Because I haven't seen anything for anything on my record from the city that says it's single family. It's just been what Caleb's told me.

TOWN MANAGER PATTERSON: I've shared it in person. Yeah, you've showed it. And I have.

Please, sir. And I have it in the home. If we can Mr. Chair.

TRAVIS OSHMAN: I haven't seen just that. Well, how convenient that you have that now.

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WENKE: We've always had all this information.

TRAVIS OSHMAN: Again, I'm trying to, I'm trying to start with square one, starting from where this starts. I'm starting from the bottom and moving my way up just to make sure that everybody has done their due diligence. I have done my due diligence, but I'm not sure that the city has done theirs.

And I don't want any one side to take, to be disadvantaged or advantaged.

WENKE: I was just advised to the applicant to engage this in terms of attorney, and tell him that you've got bad information from Custer County, Colorado.

TOWN MANAGER PATTERSON: Oh, I'm sorry. I apologize, but I've advised just to stop. I apologize. It's just probably best to delay that, sir. I apologize.

TRAVIS OSHMAN: I mean, at this point, you know what's real. This is an opportunity. You know, it invalidates the meeting by you saying anything.

So fine, let's, you know, if you want to dance, we can dance, but this isn't going anywhere.

CHAIRMAN LUND: So, this concludes the hearing of Block 12, Block 13 of Shadow Ridge. Thank you.

(END VERBATIM TRANSCRIPT)

Chairman Lund closed the PUBLIC HEARING

- c. **Consideration of recommending to the Board of Trustees to rezone BLK 12 and 13 of Shadow Ridge.**

ACTION: Mr. Van Doren moved and Mr. Wenke seconded recommending to the Board that Item B, rezoning of Block 12 and 13 of Shadow Ridge to multi-family be denied. Motion carried.

**WESTCLIFFE PLANNING COMMISSION
TOWN OF WESTCLIFFE
WEDNESDAY, AUGUST 7, 2024
REGULAR MEETING
- Page 35 -**

NEW BUSINESS

- a. **PUBLIC HEARING: Possible rezoning of 106 South 7th Street from Residential Single Family to Traditional Neighborhood.
Tabled**

- b. **Consideration of recommending to the Board of Trustees to rezone 106 South 7th Street from Residential Single Family to Traditional Neighborhood.
Tabled**

Items a and b of new business were tabled after Town Manager Patterson let the Planning Commission know proper notice was not given to owners affected by the proposed rezoning.

PUBLIC COMMENT

A citizen requested the definition of Traditional Zoned.

Mr. Wenke moved, and Mr. Fulton seconded to adjourn. Motion carried.

ADJOURN

Recorded by:
Melane Rella
Deputy Clerk