

WESTCLIFFE PLANNING COMMISSION  
TOWN OF WESTCLIFFE  
WEDNESDAY, MAY 7, 2025  
REGULAR MEETING  
**CALL TO ORDER**

Chairman John Van Doren called the meeting to order at 3:00pm on May 7, 2025.

**PLEDGE OF ALLEGIANCE**

Chairman Van Doren led the pledge of allegiance.

**ROLL CALL**

**The following members were present:** Bob Fulton, John Van Doren, Chris Lund, Leslie Parkes as alternate.

**OTHERS PRESENT**

Chuck Jagow, Nadine Petersen, Dave Vining, Amanda Cesar, Neal Marrs, Erin Christie, Melane Rella

**APPROVAL OF MINUTES**

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

**OLD BUSINESS**  
**NONE**

**NEW BUSINESS**

**a. Consideration of recommending to the Board of Trustees the possible rezoning of lots 3 and 6 in Shadow Ridge from highway commercial to Single Family Residence. PUBLIC HEARING**

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**PUBLIC HEARING VERBATIM TRANSCRIPT**

Note: Leslie Parkes recused herself during the hearing due to living in Shadow Ridge.

VAN DOREN: New business is actually is a change of zoning issue. So that requires a public hearing. So at this point, I'm going to open the public hearing, and it's for the consideration of recommending to the Board of Trustees -- the Commission doesn't approve anything. We just recommend the possible rezoning of Lot 6 in Shadow Ridge, from highway commercial to single family -- to a single family residence.

So I'm going to read some of the following things, we are a statutory town, and so that means that we are governed at least in part, by Colorado law. And so we're following the procedures that are set down in the Colorado Revised Statutes.

So a -- this is about hearing disclosure statement, the criteria which must be satisfied for approval for this action are listed in the Staff Town Staff report. Melane is going to cover those.

RELLA: You declared that the public hearing is open?

VAN DOREN: I did that.

RELLA: Did you?

VAN DOREN: But thank you.

RELLA: You're welcome.

VAN DOREN: Yeah, she's going to keep me out of trouble. Possibly. Public testimony must be directed at those criteria that Melane will state or other criteria in our land use regulation, but it's just going to be 3 criteria that is in our title. 10 regulations.

Failure to raise an issue accompanied by statements or evidence sufficient to afford the planning commission and the parties an opportunity to respond to

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the issue precludes an appeal based on that issue. And if you're an attorney, you understand that. But only if you're an attorney.

Prior to the conclusion of this hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony. The Commission will decide whether the hearing will be continued to another date, or whether the record will be left open for at least 7 days.

And we'll get to that a little bit later. We're going to follow this following order. There'll be a planning staff report by Melane. Applicants testimony, applicant is not here so that may not happen.

Then we're going to ask members of the audience to speak to the proposal. And then there's a potential of the applicant's rebuttal, but he's not in present here. At that point we'll close the public hearing and open it up for discussion amongst the commission members. So, Melane, would you like to start? What do we got?

RELLA: Sure, I'll start with the applicant. The application, it's from -- is that what you want me to do or do the zoning first?

VAN DOREN: Either way you do whatever you want to do.

RELLA: The application is from Bravo Property Management that owns that lot. Lot number 6, and the application states would beg to change lot number 6, Shadow Ridge PUD from highway business to single family residential and divide to two half acre lots. It is not on the highway and surrounded by residential. It has been advertised as commercial for years, with no demand. The lot does not border the highway. Please advise if more is needed.

Then, if we go to the amendment -- zoning -- map rezoning. A, this is title 10-1-11. Declaration of policy and standards for rezoning -- for the purposes of establishing and maintaining sound, stable, and desirable development within the town of Westcliffe, the rezoning of land is to be discouraged and allowed only under certain circumstances, as provided hereafter. This policy is based on the opinion of the board of trustees that the town's zoning map is the result of a detailed and comprehensive appraisal of the town's present and future needs regarding land use allocation, and as such should not be amended unless to correct a manifest error, or because of changed or changing conditions in a particular area of the town in general. Rezoning

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shall only be allowed if the applicant demonstrates, by clear and convincing evidence that rezoning is necessary because of one or more of the following reasons.

Number one. The land to be rezoned was zoned in error, and as presently zoned, is inconsistent with the policies and goals of the town's master plan.

2. The area for which rezoning is requested has changed, or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development.

3. The proposed rezoning is necessary in order to provide land for a community related use which was not anticipated at the time of the adoption of the town's master plan, and that such rezoning will be consistent with policies and goals of the master plan.

VAN DOREN: Thank you.

RELLA: Is that all? You want me to read the procedures for amendments in general?

The Board of trustees may, on its own motion, on application of any person or persons in interest and upon receiving recommendation of the planning Commission, amend, supplement, or repeal the regulations and provisions of this chapter, including the zoning map, provided that where land is sought to be rezoned on an application of any person or persons in interest, the applicant shall have a controlling record title ownership interest in the subject property, as demonstrated by an ownership and encumbrance report or title insurance commitment issued within 30 days of submission of the application.

Also, an intended purchaser may make application, if the purchase of the subject property is contingent on the amendment.

VAN DOREN: Think the important thing are the 3 reasons that that property might be rezoned.

So let's since we don't have an applicant here to speak for it.

FULTON: So did we hear anything from the applicant?

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VAN DOREN: Just that. So we're going to open it up to members of the audience to speak about what they think about this rezoning application.

Does anybody have anything to say?

And if so, come over to the podium and state your name and state your name? Thank you.

DAVE VINING: Good afternoon, Dave Vining. So I think it's evident the character of the neighborhood is single family residence. If you can drive through the neighborhood, you see it's a neighborhood single family residences.

There's plenty of commercial space just outside the neighborhood, and there's still commercial lots available. I believe the town needs housing. We're in a housing crisis in all of Colorado.

More housing will create, you know, it's basically a domino effect.

If you allow some of that kind of housing, you will allow other people to have other kinds of housing. So more housing the better; we're in a crisis. Whatever we can do in small measure to help. That, I think is a good idea.

VAN DOREN: So you're for it.

DAVE VINING: I'm for it. Yeah, absolutely 100%. Okay, that's all I have to say.

VAN DOREN: Thank you. And Melane, just stay here for a second. You were going to read the uses right?

RELLA: Sure, yes.

VAN DOREN: But I have a question, for today's discussion, we're just talking about rezoning. We're not talking about a lot split.

RELLA: Correct. You're not talking about a lot split, so this would have to be done first, and then ...

FULTON: They can't do both at same time.

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VAN DOREN: But we might want to discuss both at the same time. Okay?

FULTON: And that's what you're referring to.

DAVE VINING: Well, yeah, I'm referring to actually both. I think, like, I think we need more housing, and we need more housing for everybody.

People that want to live in that neighborhood. People that are moving up from other smaller housing situations into that neighborhood. It just relieves pressure all across the board, and I think to the extent that we can help people get homes up here across all income levels and all kind of wealth levels the better.

So I'm all for it.

VAN DOREN: Okay, thank you. Thanks.

AMANDA CESAR: Amanda Cesar, 55 Granite Court. I'm not saying I'm for or against, but I just wanted to bring up that Shadow Ridge does have CCNRs. So the covenants, conditions, and restrictions, and in there it does state that no lot will be re subdivide, no subdivisions of the lot. That is, article 2 2.2, and then it also says, if there's any changes to the CCNRs, it is required that 67% of the community vote for or against the change.

VAN DOREN: Is there a home owner's association?

AMANDA CESAR: No, there's not. So it's just up to the individual to go to the individual lot owners and get the 67%. And then, if he does not, then there is an individual homeowner that within Shawdow Ridge that can contest his result. So just wanted to bring that up.

VAN DOREN: I think, I think. And tell me if this is correct, the town doesn't get involved with enforcement of CCNRs.

How, however, in the original development agreement it does preclude any lot split. That was separate from the CCNRs.

FULTON: So I guess that would come up then, John, to the future means we're not going to do the split today, and that issue would come up at that point.

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And the way I read it is I'm assuming that we would have to rezone it first, and then- then, once that happens, then they can go and split it. If if it's if it's 67% of the homeowners say, listen, that's okay.

VAN DOREN: Yes. Any other public comment?

LUND: Actually, do you mind if I can get a clarification? You said that the CCNRs covers no zoning changing as well as lot splits.

AMANDA CESAR: Yeah. So it says, so the article 2 2.2 which is maximum number of lots on the project and uses 109 resubdivisions. No lot shall be resubdivided, and then in.

LUND: But specifically on the zoning part, I guess is where ...

AMANDA CESAR: In article 4 4.2 amendment, the declaration, or of any provision of it, may be amended at any time by owners owning not less than 67% of the lots. No amendment to these covenants shall change uses or boundaries authorized within the subdivision, unless first approved by the town. So the town has to approve, and then the community has to approve as well.

LUND: Okay.

LUND: So we're not going to get involved. But we have to make our decision before we cannot get involved with their decision.  
That's clear.

FULTON: Nadine?

NADINE PETERSEN: Nadine Petersen. 312 South 4<sup>th</sup>. I'm late to the party here, but the agenda says lots 3 and 6, but we're just talking about 6 right now.

VAN DOREN: Yes. The party who wanted to change Lot 6 withdrew ...

RELLA: Three.

VAN DOREN: ... her application.

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NADINE PETERSEN: : And how big is this lot? I mean, can it? Can it possibly be subdivided into more lots. So how big is it? And what's going to happen?

FULTON: It's one acre, according to what he said in his application.

VAN DOREN: Think it's more than one acre.

CHUCK JAGOW: Two 2 and a half acre lots.

NADINE PETERSEN: So it's a 2 and a half acres ...

CHUCK JAGOW: It says residential, and divide in divide to 2 or 2, 1 half acre lots.

(CROSSTALK)

RELLA: 1.09 acres.

LUND: How much? How much is that in acres? Space? Okay. So to her question. Then it could technically probably be divided up into more technically. But that's not what he's asking for.

NADINE PETERSEN: One house. Okay.

VAN DOREN: Any other public comment. Okay.

Now, I ask the best question here. If any member of the Commission has a personal bias or conflict of interest, they shall declare it. Now.

PARKES: That would be me. That would be I.

VAN DOREN: Okay, since I live there.

VAN DOREN: Okay, now, it's time for the Commission to have a discussion and ask any questions of staff.

LUND: Well, yeah, according to 1, 2 and 3.

Number 2, I guess, probably fits. I'm sorry I forgot your name, David, his argument the best is that it's changed to such a degree where it's really only gone to single family residential.



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VAN DOREN: Yes.

LUND: Best argument I've heard in that regard.

I still am concerned, though, that we would be run or bumped up against the spot zoning which we are not allowed to do.

Now, if that is a good enough argument for that, I'm cool with it, I guess.

My argument against what his other point was is, I think he's got a valid point. We do need more housing. Yes. But there are plenty of empty lots also that have -- the pressure is just not there.

Not to say it was an invalid point. It's just I disagree with the nuance of it. So. But I do agree with the other point.

VAN DOREN: Okay, that there's a community value to having more residential lots, we just went through a process here. We currently have 177 vacant residential lots in the in the town footprint, which is not to say that your argument is invalid. There's a community value.

I would say that not only number 2, but looking at that particular lot., it's surrounded on most of its perimeter by open space.

And then it has street frontage, and across the street are single family residential lots, actual homes at this point in time.

So at the very western end of that lot, it does but up against a highway fronting commercial property. And I think that's where your concern is.

LUND: But it is a valid point, though, that it itself isn't on the highway.

VAN DOREN: It is not on the highway.

LUND: So we could you could go under the argument that that was zoned in error.

VAN DOREN: Yes, I think you could -- you could say it was not the best decision to have that be a commercial.

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FULTON: I'll share with you. I talked to a neighbor. It was around, and I don't remember when that was done, but I don't remember all the details, because I was living in the county, but he said that at that point the town was wanting the commercial to move back to Deweese Road.

That's why the commercial stuff. That's why they got zoned, you know, commercial commercially. And then later on, then they said, well, let's move down here. I guess the chicken cross the road or something. So anyway. So that's how that came that way. And so -- and you as a resident, you know the you know. I guess they intended that maybe that would be your local restaurant or coffee shop, or whatever it may be. So I and I agree with what you're saying, John, is fact that it's totally surrounded by, you know, red residences. And so you know. So the only commercial state. Keep it on the highway because it's its own highway commercial.

LUND: Now, in the same regard, though, there is another commercial lot that is an oddity in that area -- is that below 5, 5,

FULTON: And one or 2 commercial lots on Deweese Road.

LUND: And 4 is what?  
(CROSSTALK)

LUND: And it's got a structure on it and it's commercial.

(CROSSTALK)

AMANDA CESAR: Nope, that's mine, so it's commercial.

RELLA: IT's 2 through 6.

AMANDA CESAR: So, 2, 3 4 and then you have 2 but you can't see 2 on this map.

(CROSSTALK)

FULTON: And that's what they had in the original covenants.

LUND: So we could use that as an argument against what we already have in place. So there's a precedence. I don't know how good of an argument that is

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FULTON: Yeah, so it was so, maybe that -- I have no idea number 3, which would have been if we change that to residential, then it would be totally surrounded by commercial

(CROSSTALK)

VAN DOREN: That would have really looked like spot zoning had that been on the table still.

LUND: I guess I don't know where that line of spot zoning set the line up somewhat, but with the other line, or would you be able to argue that if you did more than one lot at a time by different owners, could that get away from spot zoning as well? Because you're doing a swath as opposed to an individual spot. But since they withdrew, I guess that's not something we can apply, anyway.

VAN DOREN: It's off the table. We would have definitely been talking about spot zoning for that particular lot. The other. The other thought I had to just make it look really clean and separate from -- if we were to rezone that property is to and not going to vote on that until we vote on zoning, rezoning. But if you split that into 3 lots and had, and then just devoted one of the lots that's adjacent to the commercial lot to open space.

Which then gives you access --walking access from across the street into that open area. Then that would completely separate it. It would not touch a commercial property.

LUND: But you're basically asking the lot owner to give up property to the open space.

VAN DOREN: Then that might be. Maybe it's, you know, just a 20 foot strip, but that -- my understanding is, and that's why I asked about, was there a sales brochure from the beginning of this development.

There was going to be a clubhouse in that open area. There was going to be a trail system. In fact, there's an easement for a trail system. But there was going to be a trail system through the open space.

LUND: What is lot number 2?

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RELLA: 2 is the same as ...

LUND: It's commercial.

VAN DOREN: Yes, and there is. Then lot, was that 7 or 2? Yeah.

RELLA: 7 is not 7 is part of the next lots, 7 through 9, 12, and 13 shall be limited to the following uses, which is residential.

LUND: Residential, okay. And then above ...

VAN DOREN: Used to be multifamily got changed ...

LUND: Above 5 and 6. What do we have?

RELLA: So these are all residential.

LUND: All residential. Okay. So that would be consistent, then that between residential and commercial there is a public space from what I'm seeing here, anyway.

I don't know if that is that -- that's not a rule that's just a justification.

VAN DOREN: No, that's- that's just- just a random thought at this point.

Well, we do. We do have a commercial operation and building on lot 4 already there, which is pretty deep in the subdivision.

So there's -- I don't think there's any- any reason to make any changes there, right?

LUND: But it's but they're contiguous, though, and that's the justification in that.

That 1, 3 and 4 are all commercial, currently.

VAN DOREN: Yes.

LUND: It's deep forest deep in, but it's contiguous with the rest. So it's yes, and it's and it's already -- it's already actively a commercial property, right?

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LUND: Right.

FULTON: And it has that buffer zone between 4 and 74.

LUND: Right.

FULTON: Scroll up, please, along the fairgrounds. There? Aren't those all commercial, too?

VAN DOREN: No, not all of them. Can you zoom in, Melane?

LUND: So 2, 7, 8, 9.

VAN DOREN: 2 is commercial. 7 is a is residential.

And you can, you can see there's a there's an easement, right. See that? Yeah.

FULTON: I thought, when we were discussing about 12 and 13 about the multifamily thing, and when we look at it they were commercial down, all those ones right along ...

VAN DOREN: No. So 7, 8, 9, 12, and 13 originally were multifamily, and the developer changed them single family when he had ownership of 70% of the lots.

FULTON: That's right, okay. Because they already have homes on there.

VAN DOREN: Correct on some of them. Yes.

AMANDA CESAR: 7 and 10 have homes on them.

VAN DOREN: They do. Okay, thank you. Yeah. Okay.

So any ...

VAN DOREN: It ain't easy is it?

VAN DOREN: ...any further discussion.

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LUND: Well, I think we should consider changing title 10 to say they should have their 60, 67% before it even comes to us because they're spending \$600 for that application. They should have a good idea if the community would even let them before they spend that \$600.

RELLA: That should be on a different agenda.

LUND: I agree, I'm not saying, yeah, I'm not saying we're going to decide that I'm just bringing that up as a point that the order is a little ...

VAN DOREN: Yeah, don't want you the order. Yes.

This is my understanding for CCNRs. That they're only enforceable if you have a mandatory HOA. In other words, everybody's paying dues. If you don't have a mandatory HOA, then you have a voluntary HOA, and they're only enforceable for the homeowners that agree to be a member of the voluntary HOA.

LUND: according to the interwebs right now they are still valid. The trick is, they go to court as opposed to ...

VAN DOREN: Right.

LUND: You know it's not that it's immediately enforceable. It has to be fought out in court.

VAN DOREN: The town does not enforce. That's just something that we don't get involved in.

So you know, we have a couple of choices here. We can just table this for a later date.

Or we can vote to recommend to the trustees that the zoning be changed. Would anybody like to make a motion?

LUND: I guess the one thing as I'd like to see from Clay what he thinks about spot zoning under these conditions.

I, personally don't have a problem with it. Because I think 2 criteria, it fits.

VAN DOREN: Yeah.

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LUND: What? Yes.

RELLA: If you're thinking about making a motion, you should close the public hearing first.

VAN DOREN: Okay, thank you.

I'm officially closing the public hearing. And now it's a conversation amongst the planning commission.

Okay, thank you, Mel.

**John Van Doren** makes a motion to recommend to the Board of Trustees that Lot 6 in Shadow Ridge be rezoned from highway commercial to single-family residential. **Chris Lund** seconds the motion. Motion carries

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

**ADJOURN**

Recorded by:  
Melane Rella  
Deputy Clerk