

1. Meeting Materials

Documents:

[BOARD_OF_TRUSTEES_MEETING_MINUTES-10.04.2021.PDF.PDF](#)
[PACKET \(3\).PDF](#)
[BOARD_OF_TRUSTEES_MEETING_AGENDA-10.04.2021.PDF.PDF](#)

**MINUTES OF A REGULAR MEETING OF THE
FAIRPLAY BOARD OF TRUSTEES
October 4, 2021**

CALL TO ORDER

A regular meeting of the Board of Trustees for the Town of Fairplay was called to order by Mayor Frank Just on Monday, October 4, 2021 at 6:04 p.m. in the Council Chambers located in the Fairplay Town Hall, 901 Main Street, having previously been posted in accordance with Colorado Open Records law. Mayor Just proceeded with the pledge of allegiance, followed by the roll call which was answered by Trustees Eve Stapp, Scott Dodge, Josh Voorhis, and Peter Lynn and Mayor Frank Just.

Staff in attendance were Public Works Director Donovan Graham, Town Planner Scot Hunn, Police Chief Bo Schlunsen and Town Administrator/Clerk Janell Sciacca.

AGENDA ADOPTION

Motion #1 by Trustee Stapp, seconded by Trustee Voorhis, that the agenda be adopted and written. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

CONSENT AGENDA

- A. APPROVAL OF MINUTES** – September 20, 2021
- B. APPROVAL OF EXPENDITURES**—Approval of bills of various Town funds in the amount of **\$87,545.01.**

Motion #2 by Trustee Dodge, seconded by Trustee Lynn, that the Consent Agenda be approved as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

CITIZEN COMMENTS

No comments were offered.

NEW BUSINESS

- A. Should the Board Approve Adoption of Resolution No. 21, Series of 2021, entitled “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A LEGAL SERVICES AGREEMENT WITH WILSON WILLIAMS LLP FOR MUNICIPAL ATTORNEY SERVICES FOR THE TOWN OF FAIRPLAY.**”?**

Sciacca presented providing a brief history, overview of the Staff Report and then recommended the Board approved Resolution No. 21 authorizing a legal services agreement with Wilson Williams, LLC. Williams provided a brief introduction along with a synopsis of her and Wilson’s resumes and qualifications. She stated that she and Wilson were passionate about mentorship and leadership and representing governments that were close to the people utilizing their diverse representation of communities as a resource for shared perspectives. Trustee Voorhis inquired about fees and how they compared to those of previous counsel. Sciacca replied the hourly rate was \$15.00 higher while the reimbursable was \$5.00 higher than those of previous counsel’s 2018 agreement.

Motion #3 by Trustee Dodge, seconded by Trustee Voorhis, to approve Resolution No. 21, Series 2021 as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously. Sciacca administered an Oath of Office to Williams.

PUBLIC HEARING(S)

- A. CONTINUED FROM SEPTEMBER 20, 2021:** Should the Board Approve a Rezoning Request to Multi-Family for a Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian "Stone River Phase I" Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12), formerly Stone River PUD, as applied for by Circle Back Development, LLC? (ORDINANCE NO. 2021-4)

Mayor Just opened the Public Hearing and provided an opening statement regarding the Board's jurisdiction, required notification incorporated as part of the record, procedure to be followed and then requested any member of the Board of Trustees to disclose any ex parte communication regarding the matter since the last meeting. Each Trustee replied there had been no ex parte communication.

Mayor Just turned the floor over the Staff. Town Planner Scott Hunn presented stating that in his updated memo he attempted to summarize concerns of the Board and public regarding density. He noted the previous zoning granted under the PUD was a range of low, medium and high density and with the concerns presented at the last meeting the applicant amended the application requesting the majority of the lots be zoned single family with the exception of the 2 largest lots which were requested to be multi-family. In order for the applicant to build duplexes on any single-family lot, the applicant would have to request a Special Use Permit (SUP), either individually, or as a blanket request with another public hearing. Hunn stated that Staff felt this was a good solution and the applicant did what the Board requested them to do and therefore Staff's recommendation remained the same.

Mayor Just requested the applicant present its case. Circle Back Development managing member Nick Petkovich clarified their application was for rezoning all of the remaining lots in Phase 1 to be single family with the exception of the single large lot in Section 13 and Lot 1 in Section 14. Mayor Just inquired what the ultimate density or total units was. Petkovich advised all lots would be single family with the exception of the 2 lots previously stated or 17 single family lots and 2 multifamily and them applying via a Special Use Permit to allow for duplexes.

Mayor Just opened the floor to public comment in favor of the application. There were none.

Mayor Just then opened the floor to public comments opposed to the application. Sheila Skaggs, 662 Tristan Loop, stated she was concerned about the overall density, parking and control of Short Tern Rental units without an HOA. Michael Petkovich clarified they never proposed an HOA nor was there one as part of the previous PUD. He clarified the PUD buildout was 350 homes and they were not seeking to expand that number and that some of the single family lots could remain single-family but they had not yet decided for certain. Joyce Robinson, 352 Stone Creek Drive, inquired about design of the homes and Mayor Just advised the public hearing was only regarding zoning and density. Rebecca Salverson, 664 Tristan Loop, stated she and her husband moved to Fairplay for the small town and felt zoning would help keep locals in Town and the properties from being sold as short-term rentals. Kathy Buter, 9 Branch Rd in Alma and owner of 662 Tristan Loop, stated her concerned was about putting duplexes on the smaller lots. She agreed with single family lots and felt that they had already indicated they would request a special use they were going to do what they wanted to there. Michael Petkovich replied that the UDC and Comprehensive Plan, both adopted by the Town, encouraged these uses on lots much smaller than the lots in Stone River, Phase 1. Mayor Just agreed and reminded that there were a large number of public hearings held when the UDC was adopted and he appreciated concerns, but this is what was approved to allow people to build on their property. Trustee Voorhis clarified that any change from single family to allow for duplexes via a Special Use application did not guarantee approval and required a separate hearing. Planner Hunn agreed with Trustee statements and clarifications on density and added the Town's minimum requirement for a single-family lot is 2, 500 s.f. but someone could apply for a Special Use and

build a duplex. In this application, all lots are 6,000 s.f. or more and therefore consistent character wise and density wise with the Town overall and that neighborhood. There being no one else wanting to speak, the Mayor closed the floor to public comment.

Mayor Just then stated he felt the Board worked with developer to obtain something more acceptable to the community that the developer had a use by right for the property they purchased. He felt the applicant was hearing the community's concerns. He reminded the Town had a significant need for housing. Trustee Voorhis felt a mix of housing was sometimes nice, that most didn't want to see the size of Fairplay go to 3,000+ people, and the Board was doing what it could at this point. Trustee Lynn reiterated comments of Voorhis regarding future meetings required on any SUP applications. Just reminded that the Board previously amended the code to require SUPs be brought before the Trustees and not be left as a Staff decision. He felt the Board and the applicants were trying to make best of this on behalf of the Town and citizens. Trustee Lynn thanked applicant for listening and going through the process and asked them to take into consideration what the existing Town is, more single-family units than duplexes and multi-family units. Mayor Just closed the Public Hearing.

The Trustees deliberated reiterating many of their previous comments. Voorhis felt duplexes might be essential for the rental population and critical for affordable housing but added that maybe not every lot should be one. Trustee Dodge inquired if the Board could condition zoning. Attorney Williams replied no, and that was part of a next step, but the developer previously agreed to a subdivision development agreement but beyond that use and develop conditions would be a future step. Dodge felt development that is consistent with the density in that area should be considered by the developer along with parking and potential individual use of the properties.

Mayor Just requested Attorney Williams advise the Board on its options for approval or rejection. Williams referred to the ordinance in the packet specifying the rezoning and advised the Board to consider the UDC section 16-5-60 and whether they agreed with what was in the ordinance. Following clarifying discussion on the ordinance presented and the specific lot zoning designations, it was discovered that the ordinance needed to be revised to

Motion #4: by Trustee Voorhis to approve as amended with correction to Section 2, being Lots 2-12, Section 14.

Following additional clarifying discussion and comment, Town Attorney Williams provided direction on a corrected motion that Ordinance 2021 No. 4 as in the packet be approved with the one amendment in the second line on the second page to read Lots 1-12 instead of Lots 2-12. Trustee Voorhis withdrew his original motion.

Motion #5: by Trustee Voorhis, seconded by Trustee Stapp, to approve Ordinance No. 4, Series 2021, with the one amendment as stated on record by the Town Attorney. A roll call vote was taken: Stapp – aye, Dodge – aye, Voorhis – aye, Lynn – aye, Just – aye. Motion carried unanimously.

- B. Should the Board Approve Rezoning Lots 1-8, Block 15, Stone River Filing No. 1, formerly Stone River PUD, and more commonly known as 650-664 Tristan Loop, from Vacant Land to Single Family Residential, as initiated by the Town of Fairplay, Colorado? (ORDINANCE NO. 2021-5)

Mayor Just announced opened the Public Hearing. Planner Hunn advised the ordinance was the Town initiating action to reestablish zoning for the lots on Tristan Loop. When the Stone River PUD expired,

even the lots that already had uses on them, reverted to vacant land. Zoning was required for the existing homes and future development/uses to happen. Town Administrator Sciacca advised she became aware of this matter upon arriving at the Town and previous Administrator Darrah along with previous Town Attorney Weiser whereby Weiser advised the Town to initiate the zoning since the properties were individually owned, many with existing homes. She reminded, that this was part of the Stone River PUD that expired and under law when a PUD expires property reverts to the former zoning, which for the subject property, was vacant land. Additionally, because there is no developer, the Town had authority to zone the property according to the use(s) existing on the individually owned parcels, which is this case is single family. Mayor Just added this was one of those instances where the Board had to go back and fix the mistakes of the past.

Mayor Just opened the floor to public comment. Josh Salverson, 664 Tristan Loop, inquired what would happen if the lots were left vacant land. Planner Hunn advised that in other PUDs he had seen that expired there were no zoning controls and no ability to obtain building permits or clearing title. Trustee Dodge added they would be non-conforming lots with homes on them. There being no further comments, Mayor Just closed the Public Hearing.

Motion #6: by Trustee Voorhis, seconded by Trustee Dodge to approve Ordinance No. 5, Series 2021 as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Voorhis – aye, Lynn – aye, Just – aye. Motion carried unanimously.

Mayor Just thanked the citizens for attending and for their comments and respect for the applicant and process.

UNFINISHED BUSINESS

- A. Should the Board Approve a Notice of Termination of Lease and Management Agreement between Vivian and Keith Pershing and the Town of Fairplay concerning the Fairplay Community Garden? Dodge recused announcing a conflict and left the dais and room. Trustee Voorhis asked for information on how the Board arrived at this decision. Trustee Lynne provided a history beginning with the cleanup day and Mayor Just advised nothing seemed to resolve itself.

Trustee Dodge announced that he was recusing himself due to a conflict and he left the dais and the Board Room. Sciacca presented reviewing the Staff Report and recommended approval of the Notice as presented in the packet.

Motion #7: by Trustee Lynn, seconded by Trustee Voorhis to approve the Notice of Termination of Lease and Management Agreement for the Community as presented. A roll call vote was taken: Stapp – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

Trustee Dodge resumed his seat at the dais.

DISCUSSION ITEMS

- A. Board discussion regarding Short Term Rental units in the Town of Fairplay.

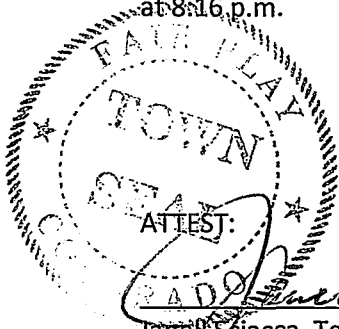
Town Administrator Sciacca introduced. Mayor Just stated he would like to get a handle on the matter right away. Following discussion, and the Town Attorney providing examples of what other communities were doing from bans to very little restrictions to no restrictions at all, the Board generally agreed to move forward with further discussing a ban with a cap of 10 units in order to protect Fairplay residents and requested Staff bring a proposal to the Board.

BOARD OF TRUSTEE AND STAFF REPORTS

Chief Bo Schlunsen provided an update on hiring a new Officer stating everything was going well. He also stated the PD was working on junk matters as well as hitting and obtaining body/dash cams. Mayor Just advised he spoke to the Chief about vehicle related noise complaints. Weight limits were also discussed for Platte and the Chief said he made multiple contacts and would continue to monitor the area.

ADJOURNMENT

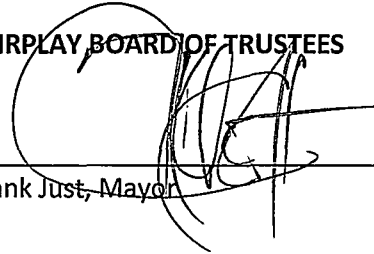
There being no further business before the Board, Mayor Just declared that the regular meeting adjourned at 8:16 p.m.



ATTEST:


Janell Sciacca, Town Clerk

FAIRPLAY BOARD OF TRUSTEES



Frank Just, Mayor

**AGENDA for a Regular Meeting
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, October 4, 2021, at 6:00 p.m. at the Fairplay Town Hall Meeting Room
901 Main Street, Fairplay Colorado**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. APPROVAL OF AGENDA

V. CONSENT AGENDA *(The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)*

A. APPROVAL OF MINUTES – September 20, 2021

B. APPROVAL OF EXPENDITURES—Approval of bills of various Town funds in the amount of **\$87,545.01.**

VI. CITIZEN COMMENTS

VII. NEW BUSINESS

- A.** Should the Board Approve Adoption of Resolution No. 21, Series of 2021, entitled **“A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A LEGAL SERVICES AGREEMENT WITH WILSON WILLIAMS LLP FOR MUNICIPAL ATTORNEY SERVICES FOR THE TOWN OF FAIRPLAY.”?**

VIII. PUBLIC HEARING(S)

- A. CONTINUED FROM SEPTEMBER 20, 2021:** Should the Board Approve a Rezoning Request to Multi-Family for a Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian “Stone River Phase I” Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12), formerly Stone River PUD, as applied for by Circle Back Development, LLC? **(ORDINANCE NO. 2021-4)**
- B.** Should the Board Approve Rezoning Lots 1-8, Block 15, Stone River Filing No. 1, formerly Stone River PUD, and more commonly known as 650-664 Tristan Loop, from Vacant Land to Single Family Residential, as initiated by the Town of Fairplay, Colorado? **(ORDINANCE NO. 2021-5)**

IX. UNFINISHED BUSINESS

- A.** Should the Board Approve a Notice of Termination of Lease and Management Agreement between Vivian and Keith Pershing and the Town of Fairplay concerning the Fairplay Community Garden?

X. DISCUSSION ITEMS

- A.** Board discussion regarding Short Term Rental units in the Town of Fairplay.

XI. BOARD OF TRUSTEE AND STAFF REPORTS

XII. ADJOURNMENT

Upcoming Meetings/Important Dates

Presentation of Proposed FY2022 Budget to Board	On or Before October 15, 2021
Regular Board Meeting	October 18, 2021
CDOT US 285 & Hwy 9 Public Information Outreach Meeting (County Bldg)	October Date TBD
Regular Board Meeting	November 1, 2021

**MINUTES OF A REGULAR MEETING OF THE
FAIRPLAY BOARD OF TRUSTEES
September 20, 2021**

CALL TO ORDER

A regular meeting of the Board of Trustees for the Town of Fairplay was called to order by Mayor Frank Just on September 20, 2021 at 6:04 p.m. in the Council Chambers located in the Fairplay Town Hall, 901 Main Street, having previously been posted in accordance with Colorado Open Records law. Mayor Just proceeded with the pledge of allegiance, followed by the roll call which was answered by Trustees Scott Dodge, Mayor Frank Just, and Trustee Josh Voorhis (via telephone). Trustee Eve Stapp was absent due to illness.

Staff in attendance were Town Treasurer Kim Wittbrodt, Town Attorney Paul Wisor (via Zoom), Public Works Director Donovan Graham, Town Planner Scot Hunn and Town Administrator/Clerk Janell Sciacca.

AGENDA ADOPTION

Motion #1 by Trustee Dodge, seconded by Trustee Voorhis, that the agenda be amended to move New Business item C, Appointment to fill Vacant Seat on the Fairplay Board of Trustees, up on the agenda prior following the Consent Agenda. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

Motion #2 by Trustee Dodge, seconded by Trustee Voorhis, that the amended agenda be adopted as stated. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

CONSENT AGENDA *(The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)*

A. APPROVAL OF MINUTES – August 2, 2021 and August 16, 2021

B. APPROVAL OF EXPENDITURES—Approval of bills of various Town funds in the amount of **\$95,865.31.**

Motion #2 by Trustee Dodge, seconded by Trustee Voorhis, that the consent agenda be adopted as presented. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

NEW BUSINESS

Appointment to Fill Vacant Seat on the Fairplay Board of Trustees; Administration of Oath.

Mayor Just invited sole applicant Peter Lynn to speak. Lynn stated he was a Fairplay resident since 2005 and applied to join the Board in order to start helping maintain liberties and freedom for his generation as well as to be involved and help the community grow balanced and freely. Town Administrator/Clerk Sciacca administered Lynn's Oath and he took his seat at the dais.

Trustee Voorhis excused himself from the meeting citing the need to attend a Fire Planning Meeting for the incident he was on in California for the USFS. Mayor Just thanked Voorhis for his participation.

CITIZEN COMMENTS

Kevin Sellars, 1111 Teton Trail, Como. Sellars, South Park High School and Middle School Principal, stated the School wanted to do more community outreach and advised he spoke to Public Works Assistant and Special Events Coordinator Julie Bullock regarding the Town's sponsorship and installation of 4 new banners at Main and 7th in order to allow the community to recognize South Park as home of the Burros. He thanked the Board for agreeing to consider this. Treasurer Wittbrodt advised

that there was available money in the budget and the Board agreed to allow Staff to move forward with the project.

PUBLIC HEARING(S)

Should the Board approve a rezoning request to Multi-Family for A Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian "Stone River Phase I" Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12), formerly Stone River PUD, as applied for by Circle Back Development, LLC.

Mayor Just provided an opening statement and inquired if any member of the Board of Trustees had any ex parte communication with the applicant and each trustee replied there had been none.

Just continued with his opening statement announcing the jurisdiction of the Board and form of proceedings and then inquired if there were any objections to the either. Hearing none, the Just opened the Public Hearing. Town Planner Scott Hunn presented the Staff Report including an overview of the history of the property and expired Stone River PUD, details of the Circle Back Development LLC zoning application and Staff's recommendation for approval subject to the one condition regarding a Subdivision Improvement/Development Improvement Agreement for collateralization of infrastructure.

Nick and Michael Petkovich, Managing Partners of Circle Back Development, Denver, CO provided a history of why they purchased the property and stated that Town's Comprehensive Plan matched their vision for building. They hired Peter Ewers, a nationally renowned architect, who builds energy efficient and environmentally consistent. There will be approximately 6 different contemporary log home look designs that are economically diverse that belong in a Colorado mining town. The plan is to build a single-family home on one of the lots and duplexes on the others.

Mayor Just reminded everyone present of the purpose of the evening's meeting regarding zoning and density. Nick Petkovich advised they also hoped to help address the Town's housing shortage with their project which included a good amount of density which would bring people to town.

Mayor Just opened the floor to comments in favor of the application. There being none, the Mayor opened the floor to comments against the application:

-Tom Coolidge, 439 Fuller Drive, questioned the phasing and total number of units.

-Sheila Skaggs, 666 Tristan Loop, was concerned about the density and traffic congestion that already existed in area and requested they work with CDOT on access to US 285. Michael Petkovich stated they were not seeking to expand on the 350 homes approved in the previous PUD. The lots were in the previous PUD designated as duplex lots and multi-family. The Mayor asked the developer to restate the proposed zoning. Petkovich replied Lot 13, Section 11, would be a multifamily lot but there had been no decision on what exactly was to be built there. Lots 8 & 9, Section 11 would be single family and the rest of the lots would be duplexes, all of which were consistent with the previous PUD.

-Norwood Price, 652 Tristan Loop, stated he was totally against the project and he thought nothing would be built there since the PUD expired. Michael Petkovich stated his appreciation of Price's concern but felt the Town's Comprehensive Plan and UDC supported their application and he hoped to work with the Town on solutions to address any traffic impacts.

-Kerry Lynne, 850 Hathaway, was concerned with who would buy the homes and felt they would be purchased by short-term rental owners. Petkovich stated he would not rebut her concerns because they were legitimate, but he hoped a large portion of the people buying them would be living and working in the community. Town Planner Hunn inquired about the potential of HOA restrictions. The applicant replied there would be no HOA with individual property owners.

-Rebecca Salverson, 664 Tristan Loop, echoed the concerns of the others who spoke before her citing her personal experience as a teacher and seeing the School District hire teachers just to have them quit because they could not find or afford a house. She was also concerned about the road being able to handle the additional traffic volume. The applicant responded that more people would help businesses and in turn provide additional money to the Town to help care for Platte Drive. Mayor Just

advised that Platte Drive is dual ownership with the County, and the Town restricts mining traffic so he encouraged the residents to call the Town with issues.

-Josh Salverson, 664 Tristan Loop, inquired what housing prices would start at. The applicant replied their realtor felt the high \$300s to \$500's with some higher, but none over \$800k and they would try to build as many as possible in the lower ranges. Salverson stated those prices were not affordable for anyone working or living in Fairplay.

-Julie Beitscher, 872 Trout Creek Drive, inquired about the adjacent mine and its proximity to the development. Mayor Just reminded of the purpose of the meeting regarding the zoning application and advised the mine is out of the City's jurisdiction.

-Kathy Butler, 9 Branch Road in Alma and owner of and owner of 662 Tristan Loop, questioned the development timeframe and phases. The applicant stated the current application is Phase 1 of the 8 phases that were previously approved in the PUD. These lots already have infrastructure, and they are ready to submit architectural drawings and get a building permit to put in the foundations before the winter freeze, but construction would be dictated by market demand. 15 lots will have duplexes and 2 lots will have single family homes but use of the 2 biggest lots had not been decided yet. The foundations will be put in and those lots marketed with architectural drawings. He felt the Town's Uniform Development Code supported the development in that area.

Mayor Just stated his concern about the potential density that could result and encouraged the Board to think about how much they would allow on the land and what they could reasonably do to negotiate with the developer. He inquired about further comments

-Rebecca Salverson, 664 Tristan Loop, felt the exact density and timing questions were not answered. Mayor Just felt these concerns were paralleled by the Board. The applicant read from the narrative under Tab 5 of the application packet which detailed the exact plans and stated on the record they would only build duplexes and not fourplexes or larger. The Mayor stated the biggest consternation was that under the Town's code, and build by right rules and regulations, the applicant could increase the density beyond what was stated. The applicant felt the regulations would prohibit this due to the s.f. lot requirements.

Town Attorney Paul Wisor clarified the Comprehensive Plan identifies that both single family and multi-family zoning designations only apply "if" compatible with the neighborhood. He stated the multifamily designation may not be compatible with the neighborhood as it currently exists and there is evidence in the record for moving forward with a single-family recommendation which could also still achieve the developer's goals. Michael Petkovich stated the concerns were valid and he would be happy to alleviate them if the Town could designate the two largest lots at multifamily, the two as single family and the others as duplex lots. Wisor then suggested the Town continue the matter and Staff could work with the applicant to amend the application to identify those properties that better fit as single family and multifamily or all be zoned single family. The applicant volunteered to put his statements in writing but did not want to see a delay and he felt the terms of the PUD were not changing in terms of what was being built, it was only the zoning. Wisor felt site-specific zoning was difficult and a 2 week delay was appropriate in order to protect the Town. Mayor Just felt the easiest solution was to designate single-family zoning with the applicant having the right to come back to the Town and request a Special Use Permit. This would permit the Board to have more control. The Mayor also reminded of the applicants rights for use of the property. The applicant generally agreed but requested a collective Special Use application and hearing. Wisor felt that could be accomplished. Mayor Just requested a continuance to the October 4, 2021 meeting with the applicant to get with the Town Planner to submit an equitable solution. Planner Hunn requested clarification on the process and Wisor advised the Board to continue the matter, and after discussion with Staff, the applicant could withdraw and submit a new application if desired.

- Julie Beitscher, 872 Trout Creek Drive, questioned the zoning for Lots 1 and 13 to multifamily and whether that was in the public's best interests.

Mayor Just opened the floor to questions from the Trustees. Trustee Dodge inquired if Lots 8 & 9 were those the applicant was going to come out of the ground with foundations on. The applicant replied Yes. Dodge also questioned why the applicant was not including all lots in the PUD. The applicant replied it was because the lots in the other Phases were not developed with infrastructure. Dodge asked what the homes on Tristan Loop were zoned. Hunn replied they were unzoned and considered vacant land. Town Administrator Sciacca advised that Staff would be bringing forth action at the next meeting for Board initiated zoning for single family for those properties at the next meeting. Trustee Lynne felt there needed to be an agreement as the homes were needed and he respected and appreciated everyone sharing.

Motion #3 by Trustee Dodge, seconded by Trustee Lynne, to continue the public hearing to the Board's October 4, 2021 regular meeting. A roll call vote was taken: Dodge – yes, Just – yes, Lynne – yes. Motion carried unanimously. (Trustees Stapp and Voorhis absent)

The applicant requested the ability to appear by phone or zoom due to a family wedding and the Board felt that would be appropriate.

UNFINISHED BUSINESS

A. Other Discussion Items. None offered.

NEW BUSINESS

Board discussion regarding Community Garden Lease and Management Agreement for 600 Front Street.

Town Administrator / Clerk Sciacca provided a brief history and overview on the subject. Mayor Just advised of his personal experience and understanding that the Pershings would sell the property to the Town. He also stated he had knowledge of statements made by the Pershings that there were ulterior motives. Trustee Lynn provided his position and questioned some of the funding potentially going to the Pershings. He did not have confidence in the Pershings and did not personally want to continue on that property. He felt it would be best to go where the project succeeding was most probable. Trustee Dodge felt the intent was there to enhance and beautify the property but felt no more time and effort should be wasted on this property and they find a property that would belong to the community. Following additional discussion regarding use of taxpayer monies, the Board generally agreed termination of the lease was appropriate and requested a letter be drafted and brought back to the Board for approval. Town Attorney Wisor advised he had that letter and would forward it to Sciacca.

Board discussion regarding Municipal Attorney Services and Legal Representation for the Town.

Town Attorney Wisor announced he had been appointed Town Manager for Mountain Village and advised his firm was willing to represent the Town as long as the Board so chose. However, he would also provide the Town a list of firms that might be better able to serve the Town of Fairplay. The Board directed Staff to work with Paul Wisor to come back to the Board with recommendations for them to consider.

BOARD OF TRUSTEE AND STAFF REPORTS

Public Works Director Donovan Graham provided an update stating they were closing out summer projects, were on hold for potholes until a new plate compactor could be obtained, were working with Engineer Bill Hahn to complete the infiltration gallery test using gravity feed only to see what kind of flow is received and that the gallery recharges, and the new pickup was being built and should be received in November.

Graham also provided a Special Events update for Coordinator Bullock who was closing out summer events, working on budget detail for each event, working on the December 4 Christmas celebration and holiday lighting contest, confirmed a Holiday Bazaar at the school, scheduled the Mountain Mardi Gras for February 26, adjusted the layout for events to allow for more vendors, get trained on the Burro Days website, and booking 2022 bands. For Marketing and Public Works she is starting to update documents but wants to focus on digital marketing, wants to get a new website, is working on the Fall newsletter and is getting a handle on Public Works organization, helping to get Donovan in to his office and working on getting rid of old Water & Sewer documents as necessary.

Town Administrator Sciacca reviewed a written report. For personnel, she reported Graham was offered and accepted the Public Works Director position and Alex Wagner was promoted to Crew Chief and she met all Staff with exception of the two female officers. She toured facilities with Graham's help and was reading a lot of documents. She advised that for projects she had received the 501 Main architectural drawings for preparation of bids, located the River Park Phase 2 bid documents and would get that back out for bid in October, and she toured Cohen Park while Graham was obtaining new quotes for the Basketball Court. She also noted several possible upcoming development and land use applications and reviewed upcoming meetings and important dates.

Trustee Dodge thanked all the Staff that helped to put on the service for former Mayor Gabby Lane and making it so special for the community. He also thanked Trustee Lynn for stepping up to be a voice for the community.

Mayor Just suggested a DOLA Elected Official training session be scheduled at some point in the future for the Board.

Trustee Lynn stated his appreciation for the opportunity to serve.

Mayor Just thanked Lynne for joining the Board and echoed Trustee Dodge's comments regarding the Staff's work on Gabby Lane's service. He felt Gabby would have been proud!

ADJOURNMENT

There being no further business before the Board, Mayor Just declared that the regular meeting adjourned at 8:12 p.m.

FAIRPLAY BOARD OF TRUSTEES

Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk



MEMORANDUM

TO: Mayor and Board of Trustees

FROM: Kim Wittbrodt, Treasurer

RE: Paid Bills

DATE: October 1, 2021

Agenda Item: Bills

Attached is the list of invoices paid from September 17, 2021 through October 1, 2021.

Total Expenditures: \$87,545.01

Upon motion to approve the consent agenda, the expenditures will be approved.

Please contact me with any questions.

Report Criteria:

Detail report type printed

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
10/01/2021	17543	Caselle, Inc	Software Support	1	09/01/2021	439.50	517206
10/01/2021	17543		Software Support	2	09/01/2021	439.50	105060
Total 334:						879.00	
09/17/2021	17493	Cash	change for raffle	1	09/17/2021	500.00	101002
Total 340:						500.00	
09/21/2021	17498	CDPHE	permit CO0040088	1	07/16/2021	2,733.00	517650
09/21/2021	17498		permit CO0040088	1	07/16/2021	92.00	517650
Total 358:						2,825.00	
09/21/2021	17499	Dana Kepner Company, In	water meter parts	1	08/19/2021	872.68	517485
Total 682:						872.68	
09/29/2021	17538	The Flume	subscription	1	09/20/2021	41.00	105140
Total 868:						41.00	
09/21/2021	17501	Main Street Garage	Tahoe repair	1	07/29/2021	322.48	105420
09/21/2021	17501		tire patch	1	09/03/2021	28.80	105420
Total 1336:						351.28	
10/01/2021	17545	Newman Traffic Signs	Traffic Signs	1	09/17/2021	342.11	105670
Total 1492:						342.11	
09/29/2021	17540	United States Postal Servic	newsletter mailing	1	09/29/2021	153.55	105130
Total 2158:						153.55	
10/01/2021	17547	Verizon Wireless	jet pack	1	10/01/2021	40.01	105130
10/01/2021	17547		cell Phone - public works	2	10/01/2021	42.09	105645
10/01/2021	17547		Phones and air cards	3	10/01/2021	290.91	105455
Total 2212:						373.01	
09/21/2021	17507	Xcel Energy	945 quarry road	1	09/14/2021	13.32	517490
10/01/2021	17549		901 main	1	09/20/2021	246.56	105023
10/01/2021	17549		747 bogue	1	09/20/2021	15.48	105841
10/01/2021	17549		sign#1	1	09/20/2021	11.83	105640
10/01/2021	17549		1800 beaver creek road	1	09/20/2021	1,398.99	517495
10/01/2021	17549		chlorinator	1	09/20/2021	26.34	517470
10/01/2021	17549		117 silverheels road	1	09/20/2021	10.87	105841
10/01/2021	17549		monument sign	1	09/20/2021	32.98	105640
10/01/2021	17549		501 main	1	09/20/2021	258.18	105195
10/01/2021	17549		san plant	1	09/22/2021	4,101.38	517680
10/01/2021	17549		1190 castello	1	09/23/2021	87.02	105650
10/01/2021	17549		200 2nd street	2	09/23/2021	114.76	517470
10/01/2021	17549		157 6th street	3	09/23/2021	88.82	105640

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
10/01/2021	17549		156 5th street	4	09/23/2021	10.87	105640
10/01/2021	17549		589 platte drive	5	09/23/2021	10.87	105841
10/01/2021	17549		419 front	6	09/23/2021	13.94	105640
10/01/2021	17549		850 hathaway	1	09/20/2021	174.41	105186
Total 2296:						6,616.62	
09/21/2021	17497	CARD SERVICES	Supplies	1	09/01/2021	397.45	105070
09/21/2021	17497		Supplies	2	09/01/2021	77.94	105150
09/21/2021	17497		Postage	3	09/01/2021	165.00	517450
09/21/2021	17497		Supplies	4	09/01/2021	399.00	517625
09/21/2021	17497		Supplies	5	09/01/2021	399.00	517415
09/21/2021	17497		Supplies	6	09/01/2021	240.00	105110
09/21/2021	17497		Supplies	7	09/01/2021	44.40	105120
09/21/2021	17497		Supplies	8	09/01/2021	193.80	105120
09/21/2021	17497		Supplies	9	09/01/2021	55.53	105030
09/21/2021	17497		Supplies	10	09/01/2021	55.53	517214
09/21/2021	17497		Postage	11	09/01/2021	17.60	105162
09/21/2021	17497		Postage	12	09/01/2021	55.00	517218
09/21/2021	17497		Supplies	13	09/01/2021	40.24	105027
09/21/2021	17497		Supplies	14	09/01/2021	128.04	105070
09/21/2021	17497		Postage	15	09/01/2021	65.00	105035
09/21/2021	17497		Supplies	16	09/01/2021	133.95	105030
09/21/2021	17497		Postage	17	09/01/2021	7.38	105445
09/21/2021	17497		Supplies	18	09/01/2021	18.63	105105
09/21/2021	17497		Postage	19	09/01/2021	58.00	105340
09/21/2021	17497		Supplies	20	09/01/2021	49.90	105150
09/21/2021	17497		Supplies	21	09/01/2021	129.98	105426
09/21/2021	17497		Supplies	22	09/01/2021	45.36	517214
09/21/2021	17497		Supplies	23	09/01/2021	45.98	105170
09/21/2021	17497		Supplies	24	09/01/2021	226.41	105070
09/21/2021	17497		car wash	25	09/01/2021	9.25	517242
09/21/2021	17497		Supplies	26	09/01/2021	798.66	105830
09/21/2021	17497		Supplies	27	09/01/2021	59.87	105150
09/21/2021	17497		Supplies	28	09/01/2021	122.00	105445
09/21/2021	17497		Dues	29	09/01/2021	187.50	105460
09/21/2021	17497		Supplies	30	09/01/2021	21.99	105426
09/21/2021	17497		car wash	31	09/01/2021	15.00	105630
09/21/2021	17497		Supplies	32	09/01/2021	12.81	105630
09/21/2021	17497		Supplies	33	09/01/2021	16.66	105070
09/21/2021	17497		car wash	34	09/01/2021	10.25	105420
Total 2503:						4,303.11	
09/29/2021	17531	American Legion	payment to legion - gabby l	1	09/29/2021	500.00	104700
Total 2526:						500.00	
09/21/2021	17506	Wittbrodt, Kim	supplies	1	09/21/2021	62.08	105027
09/23/2021	17519		cell phone reimb	1	09/23/2021	50.00	105065
Total 2655:						112.08	
Multiple	17502	Mobile Record Shredders	record shredding	1	03/10/2021	.00	105030
			record shredding	2	03/10/2021		105030
Multiple	17502		record shredding	1	06/30/2021	.00	105030
			record shredding	2	06/30/2021		105030

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
09/29/2021	17535		record shredding	1	09/22/2021	12.00	105030
Total 2793:						12.00	
10/01/2021	17544	Chaffee County Waste	burro days roll offs	1	07/01/2021	1,600.00	105162
Total 2801:						1,600.00	
09/23/2021	17509	Bullock, Julie	cell phone reimburse	1	09/23/2021	25.00	517226
09/23/2021	17509		cell phone reimburse	2	09/23/2021	25.00	105645
Total 2812:						50.00	
09/29/2021	17534	Good Samaritan Fund	jake tetreault - g lane donat	1	09/29/2021	100.00	104700
Total 2839:						100.00	
09/23/2021	17510	Colorado Analytical Lab	waste water testing	1	09/22/2021	380.00	517665
09/23/2021	17510		water testing	1	09/21/2021	83.00	517475
Total 2864:						463.00	
09/21/2021	17503	Promark Industries, LLC	tahoe repair	1	09/20/2021	1,838.68	105420
Total 2887:						1,838.68	
10/01/2021	17546	Shirley Septic Pumping, In	Rock & Gem port a pots	1	07/23/2021	640.00	105170
10/01/2021	17546		burro days port a pots	1	07/23/2021	3,860.00	105162
09/21/2021	17505		port a pots	1	09/03/2021	106.09	105842
Total 2893:						4,606.09	
09/23/2021	17511	DHM Design	phase 2 riverpark	1	08/31/2021	9,000.00	105886
09/29/2021	17532		phase 2 riverpark	1	09/23/2021	1,080.80	105886
Total 3254:						10,080.80	
09/29/2021	17536	Soup Pot	staff appreciation party	1	09/26/2021	1,296.00	105070
Total 3256:						1,296.00	
09/29/2021	17533	Garfield & Hecht, P.C.	legal	1	08/31/2021	1,527.00	105057
Total 3270:						1,527.00	
09/21/2021	17504	SGM	engineering	1	09/14/2021	156.00	105105
Total 3272:						156.00	
09/23/2021	17512	Ernst, Sarah	cell phone reimburse	1	09/23/2021	50.00	105065
Total 3313:						50.00	
09/23/2021	17517	The Faricy Boys Ford	2022 F250	1	09/22/2021	37,763.00	325830
Total 3377:						37,763.00	

Check Issue Date	Check Number	Name	Description	Seq	Invoice Date	Check Amount	GL Account
09/23/2021	17508	Bannister, Chris	cell phone reimburse	1	09/23/2021	25.00	105645
09/23/2021	17508		cell phone reimburse	2	09/23/2021	25.00	517226
Total 3464:						50.00	
09/29/2021	17537	Teller Park Conservation Di	weed spraying	1	09/27/2021	1,200.00	105830
Total 3490:						1,200.00	
09/21/2021	17500	Equilibrium Architecture Inc	501 main	1	09/13/2021	3,900.00	105187
Total 3504:						3,900.00	
09/23/2021	17518	Wagner, Alex	cell phone reimburse	1	09/23/2021	50.00	105645
Total 3506:						50.00	
09/23/2021	17513	Graham, Donovan	cell phone reimburse	1	09/23/2021	25.00	105645
09/23/2021	17513		cell phone reimburse	2	09/23/2021	25.00	517226
Total 3519:						50.00	
10/01/2021	17548	Vivian Pershing	rent-600 front	1	10/01/2021	500.00	105187
Total 3547:						500.00	
09/23/2021	17515	Kenosha Pest Specialist	pest control	1	09/18/2021	30.00	517260
09/23/2021	17515		pest control	1	09/18/2021	30.00	105025
Total 3564:						60.00	
09/23/2021	17514	Inland Potable Services, In	tank divers	1	09/21/2021	2,750.00	517490
Total 3582:						2,750.00	
09/23/2021	17516	Sciacca, Janell	cell phone reimburse	1	09/23/2021	50.00	105065
Total 3583:						50.00	
09/29/2021	17539	Treetop Properties	piip 520 front street	1	09/29/2021	1,523.00	105185
Total 3584:						1,523.00	
Grand Totals:						87,545.01	

Report Criteria:

Detail report type printed



MEMORANDUM

TO: Mayor and Board of Trustees
FROM: Janell Sciacca, Town Administrator/Clerk
RE: New Business Item A – Municipal Attorney Services
DATE: October 4, 2021

Background: Town Attorney Paul Wisor notified the Board of Trustees that he accepted the position of Town Manager in Mountain Village and thereby would be stepping down as counsel for the Town and Board of Trustees.

Wisor provided the Town with a recommendation of three (3) other firms that he felt could represent the Town effectively. I reviewed each's credentials and held conversations with several firm partners relative to their ability and willingness to represent Fairplay and narrowed the field to one firm that is very well suited to provide the Town legal representation. That firm is Williams Wilson LLP and their bios are attached to this memorandum for the Board's review. Additionally, it is important to note that this firm was previously interviewed by the Board in 2018 when Wisor and his firm was selected.

Recommendation:

Following any questions of the Board for Staff or Wilson Williams LLP, Staff recommends a motion be made to approve Resolution No. 2021-21 authorizing the execution of a legal services agreement with Wilson Williams LLP for Municipal Attorney Services for the Town of Fairplay.

Attachments:

- Bios for Goeff Wilson and Nina Williams
- Resolution No. 2021-21
- Legal Services Agreement.

Nina P. Williams

[Home](#) » [Nina P. Williams](#)

Nina P. Williams serves as a general municipal attorney for various Colorado towns and Cities, and enjoys representing boards of adjustments, zoning boards of appeals and planning commissions as special counsel. Nina began her legal career representing applicants and developers in all phases of the planning and development process, as well as numerous municipalities in Long Island, New York. Nina served as principal law clerk for the New York State Supreme Court, where she specialized in election law, open records, real estate and Article 78 appeals (New York's equivalent to Rule 106 proceedings).

She previously served as Special Counsel at the municipal law firm Murray Dahl Beery & Renaud LLP. For the last fifteen years, Nina has practiced in local government and zoning law, dealing with all aspects of land use, development, legislation, personnel and government operations.

Nina teaches an annual graduate course at the University of Colorado Denver, for the New Directions in Politics and Public Policy program, entitled "Planning and Development: Zoning, Local Government and Affordable Housing." She is also a proud co-founder of the Rising Municipal Attorneys, a networking group of over 125 lawyers throughout the state.

Nina is a frequent speaker on land use and local government issues, including at the Department of Labor planning commissioners training, the Municipal Clerk's Institute, the Colorado Bar Association Government Counsel section and the Colorado Municipal League conference. She also regularly conducts tailored trainings to towns and cities, including planning commissions, boards of adjustment, historic preservation commissions and governing boards. She authored "A Conversation on Quasi-Judicial and Ex-Parte Issues" in *Colorado Municipalities*.

For more information about Nina and her professional contacts, search for "Nina P. Williams" on LinkedIn.

Geoff Wilson

[Home](#) » [Geoff Wilson](#)

Geoff Wilson has spent virtually his entire career in municipal law, representing Colorado municipalities.

He presently serves as City Attorney for the City of Fort Morgan, Deputy City Attorney for the City of Salida, and Interim City Attorney for the City of Woodland Park. Geoff also regularly serves as special counsel to other Colorado municipalities on particular legal matters.

Prior to forming Wilson Williams LLP, Geoff represented municipalities as an attorney with Murray, Dahl, Beery & Renaud LLP for four years. Before that, Geoff served as the General Counsel for the Colorado Municipal League (CML) for 27 years, where he represented Colorado municipalities before the General Assembly, in Colorado's appellate courts and in rulemaking at the State level. He authored CML's publications on open meetings, open records, municipal taxes and elections, and helped write the League's TABOR publication. During this time Geoff provided training to thousands of local officials on their ethical, open meetings and other legal obligations. He has spoken publicly on such issues as local regulation of oil and gas, TABOR, initiative, referendum, recall and elections generally, municipal sales and use taxation, open meetings, the Colorado Open Records Act, and conflicts of interest.





WILSON WILLIAMS LLP

Business Values

WE ARE OUR GREATEST RESOURCES

- We work together as a team, and support one another
- We collaborate with each other, and grow together
- We continuously learn, listen, teach and connect

WE WORK HOW WE LIVE

- We approach our work the same way we approach our lives
- We are authentic and creative problem solvers who bring our passion to everything we do and are
- We work alongside you, every step of the way
- Your problems become our challenge, and goal, to solve
- We don't use a cookie-cutter approach, or force a "one size fits all" mold onto our clients

WE ARE OF SERVICE

- We strive to make an impact
- We serve with a comprehensive approach beyond the law
- We commit to deliver for "governments closest to the people" and their dedicated elected officials and management, in daily operations and with long-term goals

WE GROW OUR COMMUNITY

- We naturally connect our clients, our resources, and our professional network
- We expand our community everyday
- When you hire us or join our team, you join our entire community

•

**TOWN OF FAIRPLAY, COLORADO
RESOLUTION NO. 21
(Series of 2021)**

A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A LEGAL SERVICES AGREEMENT WITH WILSON WILLIAMS LLP FOR MUNICIPAL ATTORNEY SERVICES FOR THE TOWN OF FAIRPLAY.

WHEREAS, Wilson Williams LLP, has submitted a proposal for legal services for the Town of Fairplay and wishes to enter into an agreement with the Town to provide these services; and,

WHEREAS, the Board of Trustees has reviewed the legal services agreement, including compensation, expenses and schedule of costs, and desires to enter into an agreement with Wilson Williams LLP for the services specified in the Legal Services Agreement; and,

WHEREAS, Sec. 2-3-10 of the Municipal Code authorizes and directs the Board of Trustees to appoint town officers, including the Town Attorney, by a majority vote of all members of the Board.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, that Wilson Williams LLP is hereby appointed as Town Attorney and that the Mayor and/or Town Administrator is authorized to enter into this agreement between the Town of Fairplay and Wilson Williams LLP as described in the Legal Services Agreement, attached hereto as "Exhibit A", and to execute the same on behalf of the Town.

RESOLVED, APPROVED, and ADOPTED this 4th day of October, 2021.

TOWN OF FAIRPLAY, COLORADO

(Seal)

By: _____
Frank Just, Mayor

ATTEST:

Janell Sciacca, Town Clerk



WILSON WILLIAMS LLP

LEGAL SERVICES AGREEMENT

THIS AGREEMENT is between the **TOWN OF FAIRPLAY**, a Colorado statutory municipality ("Town"), and **WILSON WILLIAMS LLP** ("Law Firm") under which the Law Firm shall perform legal services for the Town.

WHEREAS, the Mayor and Board of Trustees wish to appoint the Law Firm as its Town Attorney, pursuant to Chapter 2, Article III of the Town of Fairplay Municipal Code; and

WHEREAS, by formal action at their regular meeting on October 4, 2021, the Mayor and Board of Trustees approved said appointment of the Law Firm as Town Attorney.

NOW THEREFORE, the Town and the Law Firm agree as follows:

1. Scope of Legal Services. The Law Firm will provide any and all legal services requested of it by the Mayor, Board of Trustees, Town Administrator, and any boards or employees of the Town authorized by the Mayor, Board of Trustees or Town Administrator to request legal services of the Law Firm. Such services shall include, but are not limited to the following:

- a. Attend regular and special meetings of the Board of Trustees; attend work sessions or other meetings of the Board of Trustees as requested.
- b. Attend meetings and conferences with Board of Trustees, Town staff and officers as directed by the Mayor, Board of Trustees or the Town Administrator.
- c. Prepare and/or review ordinances and resolutions.
- d. Prepare and/or review contracts for services, materials and real estate involving the Town.
- e. Respond to all inquiries and communications of a general legal nature from the Mayor, members of the Board of Trustees, Town Administrator, and Town staff.
- f. Represent the Town in its dealings and negotiations with federal, state and local governmental entities and agencies, special improvement districts and utilities, affecting the Town.
- g. Represent the Town in litigation matters involving the Town.
- h. Enter an appearance in and/or monitor litigation matters that are being actively handled by outside counsel.
- i. Perform such other duties as may be prescribed by the Mayor, Board of Trustees, or Town Manager.

The Law Firm agrees to exert its best efforts on behalf of the Town and to handle the matters for which representation has been requested of it faithfully and with due diligence. The Law Firm cannot and does not guarantee or agree that a result favorable to or satisfactory to the Town will be achieved. No settlement or compromise will be made without the Town's consent.



WILSON WILLIAMS LLP

2. Identification of Client. It is understood that the Law Firm's client for purposes of its representation is the Town of Fairplay and not any of its individual members or constituents, or any other entities whose interests are being represented by those individuals.

3. Term. It is understood that the Town Attorney serves at the pleasure of the Mayor and Board of Trustees, and this Agreement shall therefore be for an indefinite term.

4. Performance Review. The parties agree that the performance of the Town Attorney shall be reviewed by the Board of Trustees and Town Administrator annually.

5. Designated Town Attorney. Subject to other direction from the Town, Nina P. Williams will serve will serve as the designated Town Attorney, with Geoff Wilson as the principal deputy. The Town Attorney may delegate certain research or drafting projects or other matters to other attorneys in the Law Firm who have expertise in the area of the legal services requested; however, any such delegated work will be performed directly under their supervision and responsibility.

6. Management. At least quarterly, the Town Attorney will confer with the Town Administrator to identify legal service priorities, and to plan for the management of the legal services budget.

7. Compensation and Expenses. The Town will compensate Law Firm for professional legal services as indicated below. Expenses such as photo copying will be charged at the rates set forth on the attached **Schedule of Costs**.

<u>Attorney</u>	<u>Hourly Municipal Rate</u>	<u>Developer Reimbursable Rate</u>
Nina P. Williams	\$ 200.00	\$230
Geoff Wilson	\$ 200.00	\$230
Associates	\$ 175.00	\$195
Paralegals/Support staff	\$ 95.00	\$95

a. *Other Expenses.* In addition to the foregoing hourly rates for legal services fee, The Law Firm shall charge and the Town shall pay all costs incurred by the Law Firm in providing legal services to the Town. Examples of such costs include charges for filing fees, depositions, expert witnesses, consultants, mileage, long distance telephone, computer research, photocopies, scanning, color printer, messenger service, etc. The Town shall, upon request of the Law Firm, advance to the Law Firm the payment of any single item of cost that exceeds Five Hundred Dollars (\$500.00). A copy of the Schedule of Costs is attached hereto as Exhibit A. The Firm will not charge for travel time to attend Town Board meetings, but will charge for mileage at the IRS-approved rate.

b. *Monthly Billings.* The Law Firm will bill the Town on a regular basis, normally each month, for both fees and disbursements. All bills will reflect services already performed and disbursements already made and are due upon receipt. Any amounts not paid within 60 days of the date of the bill shall be subject to a late payment charge of 1-1/2% per month (18% per year). If the Town fails to pay any charges within 60 days of the date of the bill the Law Firm may elect to stop all work for the Town. The Town obligation to make prompt payment of all



WILSON WILLIAMS LLP

charges does not depend upon achievement of any specific result. Payments will be applied first to the oldest amounts outstanding.

8. Billing Statement. The Law Firm will provide a computer generated billing statement each month setting forth the following information in a readable, detailed format:

- a. The date services are provided.
- b. The description of those services.
- c. The legal professional performing those services.
- d. The applicable hourly rate.
- e. The amount of time expended.
- f. A total of the cost of those services.

g. With respect to disbursements and other expenses, the billing statement will indicate the date, the item of expense and the cost of that expense in a cumulative total of all expenses that month.

9. Miscellaneous. The Town may terminate this Agreement at any time. If the Town discharges the Law Firm, the Town shall pay all fees and costs incurred to the date of termination. Subject to the Colorado Rules of Professional Conduct and any applicable court rules, the Law Firm may, after reasonable advance written notice to the Town, terminate this Agreement. If the Law Firm terminates this Agreement, the Town shall pay all fees and costs incurred to the date of termination.

10. Arbitration. Although we do not expect that any dispute between us will arise, in the unlikely event of any dispute under this Agreement, including a dispute regarding the amount of legal fees or costs owed to the Law Firm or the quality of the Law Firm's services, including any claim of malpractice, such dispute shall be subject to binding arbitration. The Town and Law Firm acknowledge that they are waiving their right to seek remedies in court, including the right to a jury trial. (This clause does not prevent the Town and the Law Firm from trying to resolve any dispute through voluntary mediation, but there is no requirement to do so.)

Any dispute concerning fees or costs shall be submitted to the Legal Fee Arbitration Committee of the Denver Bar Association and the decision of the Committee shall be final and binding on both parties. Any dispute concerning the quality of the Law Firm's services, including malpractice claims, shall be submitted to a single arbitrator and the decision of the arbitrator shall be final and binding on both parties. A final judgment can be entered on the arbitration award by a court of competent jurisdiction. The arbitrator shall be selected from the Judicial Arbiter Group, Denver, Colorado unless the parties agree otherwise. If the parties do not agree on the selection of a single arbitrator within ten days after a demand for arbitration is made, then the arbitrator shall be selected by the Judicial Arbiter Group from among its available professionals.

All arbitrations shall be held in Denver, Colorado unless the parties mutually agree on some other location. All arbitrations shall proceed under the Commercial Arbitration Rules of the American Arbitration Association, except as modified in this Agreement, unless otherwise agreed



WILSON WILLIAMS LLP

by the parties. The arbitrator shall have the discretion to order that the costs of arbitration, fees (including expert witness and reasonable attorney fees), and other costs shall be borne by the losing party. Any filing fees or other administrative costs of arbitration shall be divided equally between the Town and the Law Firm. Arbitration of all disputes, and the outcome of the arbitration, shall remain confidential between the parties.

11. Document Retention. The Town acknowledges that the files the Law Firm creates and compiles for work on the Town's matters, including notes, correspondence, pleadings, research, and documents which we prepare, will not be kept indefinitely. It is the Law Firm's policy to destroy all files (including all documents and materials therein), seven (7) years after we send such files to remote storage upon completion of each matter. However, if some legal restriction on destruction is imposed or some new development occurs, the retention period may be modified. This file destruction process is automatic and the Town will not receive further notice prior to the destruction of these files. Accordingly, if the Town wishes to maintain a record of any matter beyond our retention period, the Town should consider maintaining its own files relating to the matters that we are handling.

12. Governing Law. This Agreement shall be construed in accordance with, and governed by the laws of the State of Colorado.

13. Amendment. This Agreement may be amended only by a written instrument signed by both of the parties hereto.

14. Prior Agreements. This Agreement shall supercede all prior agreements between the parties concerning the provision of legal services.

15. Signature. THE LAW FIRM AND THE TOWN HAVE READ THIS DOCUMENT, UNDERSTAND IT, AND AGREE TO IT.

EXECUTED on this 4th day of October, 2021, to be effective as of October 1, 2021.

WILSON WILLIAMS LLP

Nina P. Williams, Partner

TOWN OF FAIRPLAY, COLORADO

By: Frank Just

Title: Mayor



WILSON WILLIAMS LLP

EXHIBIT A

Schedule of Costs

1. **Long Distance Telephone Charges:** There is no charge for long distance calls.
2. **Faxes:** There is no charge for faxes received or for faxes sent within the local calling area. For faxes sent outside of the local calling area, the Client is charged for the long distance telephone connection.
3. **Copying and Scanning:** Document scanning and copying charges are \$.10 per page for black and white copies, and \$.50 per page for color copies made within the Firm. Copying, collating, binding, and scanning performed outside the Firm shall be charged at actual cost. The decision to use outside scanning, copying, collating and binding services shall be made on a case-by-case basis as the circumstances require.
4. **Deliveries:** Items delivered by commercial messenger service are billed at the actual rate charged by the service.
5. **Legal Research:** The charge to the Client includes the usage amount billed directly to the Firm from its on-line legal research provider in relation to the Client's case.
6. **Mileage:** Mileage is charged at a rate consistent with the guidelines published by the IRS.
7. **Lodging:** Costs of lodging, when authorized by the Town, are passed along at the actual amount paid.
8. **Other Costs:** Other third party costs will be billed to Clients at the same rate the Firm is billed for the third party services.



WILSON WILLIAMS LLP

WILSON WILLIAMS LLP

PRIVACY POLICY NOTICE

Attorneys, like other professionals, who advise on certain personal matters, are required by federal law to inform their Clients of their policies regarding privacy of Client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by this privacy policy. Therefore, please understand that your privacy is important to us and we will always protect your right to privacy. Maintaining your trust and confidence is a high priority to this law firm. The purpose of this notice is to comply with the law by explaining our privacy policy with respect to your personal information.

NONPUBLIC PERSONAL INFORMATION WE COLLECT:

In the course of providing our Clients with legal services, we collect personal and financial information about our Clients that is not available to the public and which is provided to us by our Clients or obtained by us with their authorization or consent.

PRIVACY POLICY:

As a Client of Wilson Williams LLP, rest assured that all nonpublic personal information that we receive from you is held in confidence, and is not released to people outside the firm, except as agreed to by you, or as is permitted or required by law and applicable ethics rules.

CONFIDENTIALITY AND SECURITY:

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. We restrict access to nonpublic, personal information about you to those people in the firm who need to know that information to provide services to you (and their support personnel). In order to guard your nonpublic personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards as well as federal regulations.

Please call the attorney you work with if you have any questions. Your privacy, our professional ethics, and the ability to provide you with quality service are very important to us.

Fairplay Planning Department
Fairplay Town Hall
901 Main Street
Fairplay, Colorado 80440



Fairplay Board of Trustees
Mayor – Frank Just
Mayor Pro Tem - Scott Dodge
Peter Lynn
Eve Stapp
Josh Voorhis

MEMORANDUM

To: Town Board of Trustees

From: Scot Hunn, Town Planner

Date: September 30, 2021

Re: Amendments to Circle Back Development LLC Rezoning Application

On Monday, September 20, 2021, the Town of Fairplay held a public hearing to consider a rezoning request by Circle Back Development, LLC., (the “Applicant”) for certain property located within the former (now expired) “Stone River” Planned Unit Development (PUD).

The Applicant submitted an application for rezoning portions of their property within “Phase I” of the former PUD in response to the recent lapse or expiration of zoning and vesting for the PUD; in essence, there are no current allowed uses within the land area included in the former PUD. The Applicant wishes to commence development activities again in areas previously approved as part of Phase I which are served by public infrastructure.

The original application specified two lots within Phase I that would be zoned “Single-Family,” with the remainder of lots intended for development (in Phase I) being proposed as “Multi-Family” zoning under the Town’s Unified Development Code. Staff’s review found the MF zoning designation was consistent with the former PUD and would permit the types of development (single-family, duplex and multi-family) that the Applicant desired while also generally furthering the housing goals of the Town.

During the course of the September 20th public hearing, the Town Board as well as members of the public expressed concern regarding the potential for development of higher density residential unit types or buildings that would be permitted ‘by right’ or by limited or special use review next to existing single-family residential uses located in the Tristan Loop area of the former PUD.

As a result, the Applicant agreed during the public hearing to revise its application to identify all lots, which the exception of the two larger lots (formally zoned and slated for multi-family development), as “Single-Family.” Additionally, it was discussed during the hearing on

September 20th that in order for the Applicant to develop duplex structures on single-family lots, a Special Use Permit will be required either on a lot-by-lot basis, or as a blanket SUP covering all “Single-Family” zoned parcels in Phase I.

Staff has received and reviewed an amended application narrative outlining and clarifying the Applicant’s intended zoning pursuant to the Town Board’s direction at the September 20th hearing. Staff is of the understanding that the Applicant will be filing a subsequent application for a Special Use Permit that would apply to *all* Single-Family zoned parcels within Phase I to allow for duplex structures and, importantly, to allow the Town to review any potential impacts or additional public infrastructure needed to facilitate development of duplex units.

Staff believes the Applicant has provided the revisions requested by the Board. Staff’s original review of the application lead to the conclusion that the proposed rezoning would comply with the Town’s Comprehensive Plan and land use regulations. Therefore, Staff’s original position is unchanged: the revised application is in conformance with the Town’s policy and regulatory goals, policies and standards and should provide the Town Board and the general public more predictability and oversight in the future with regard to future use of the subject property.

**Statement of Purpose
Amended Application To Rezone Lots**

Circle Back Development LLC (“CBD”) is submitting this Amended Application to address the Fairplay Board of Trustee’s concerns voiced during the September 20, 2021 Public Hearing on CBD’s initial Application to rezone lots in the Stone River development. We hereby incorporate all content of our initial Application to Rezone as if restated in this Amended Application—excluding any content that conflicts with the content below.

In our initial Application to Rezone, we applied to have lots 8 and 9 of Section 11 zoned Single Family and all the rest of the lots we own in Phase 1 zoned Multi-Family Residential (“MF-Res”). As we advised the Board of Trustees during the September 20, 2021 Public Hearing, we intend to build multi-family units on lot 1 in Section 14 and on the lot in Section 13. We also advised the Board that we intend to exclusively build duplex units on all the remaining lots (“Duplex Lots”).

In response, the Board voiced a reasonable concern that CBD or a successor owner of the Duplex Lots would have the right to build multiple unit buildings of any size on the Duplex Lots if the Board zoned these lots MF-Res. The Board suggested that CBD file this Amended Application to have the Duplex Lots zoned Single Family and then file applications for “special use” permits to have duplex units built on the Duplex Lots.

To demonstrate our goal to work with the Town of Fairplay, CBD is filing this Amended Application seeking to have the following lots we own in Phase 1 zoned single family:

Single Family Residential:

- Section 11 - Lot 8 is 5,047 SF
- Section 11 - Lot 9 is 5,696 SF
- Section 11 - Lot 10 - 6,000 SF
- Section 11 - Lot 11 - 6,000 SF
- Section 11 - Lot 12 - 6,017 SF
- Section 11 - Lot 13 - 7,622 SF
- Section 14 - Lot 2 - 6,000 SF
- Section 14 - Lot 3 - 6,000 SF
- Section 14 - Lot 4 - 6,000 SF
- Section 14 - Lot 5 - 6,000 SF
- Section 14 - Lot 6 - 6,368 SF
- Section 14 - Lot 7 - 8,432 SF
- Section 14 - Lot 8 - 9,981 SF
- Section 14 - Lot 9 - 7,619 SF
- Section 14 - Lot 10 - 7,067 SF

Section 14 - Lot 11 - 6,000 SF
Section 14 - Lot 12 - 6,000 SF

Multi-Family Residential

CBD is filing this Amended Application seeking to have the following lots we own in Phase 1 zoned MF-Res:

Section 13 N/A - 15,236 SF
Section 14 - Lot 1 - 26,698 SF

Under the terms of the expired PUD and the expired Final Site Plat, Section 13 (15,236 SF) was zoned multi-family residential. ("MF-Res"). (See Tab 5 - Phase 1 Site Plat; See also Tab 9 - Final Site Plan pages 5, 10 and 11). Lot 1 in Section 14 is almost twice as large as the lot in Section 13. This lot has been developed to support a multi-family unit.

CBD's Amended Application seeking to have these two lots zoned MF-Res is consistent with the Board's prior zoning approval for the following reasons:

1. The Town Previously Approved Slightly Higher Density In The PUD

In the expired PUD, the Town of Fairplay approved the former developers' rights to build multi-family units on Phase I lots. As detailed in Section 7 of the expired PUD, the lots in Phase 1 were zoned as Medium Density. In his recommendations to the Board of Trustees in preparation for the September 20, 2021 Public Hearing, Scot Hunn observed:

"The Medium Density zoning designation in the previous PUD – which applied to a majority of the lots that the Applicant now wishes to develop - allowed for single-family, duplex, tri-plex and four-plex structures at a slightly higher density than what is proposed by the Applicant."

Accordingly, CBD's request to have these two lots zoned MF-Res is consistent with the Town's prior density approval.

2. CBD's Request Complied With The Town's Comp Plan, the UDC And Goals And Policies

Scot Hunn further confirmed that CBD's initial Application to Rezone all the Duplex Lots as MF-Res complied with the Town of Fairplay's Comprehensive Plan and the Uniform Development Code ("UDC"), noting:

“The 2013 Comprehensive Plan – particularly the economy, community character, and housing policies - generally supports this proposal; the proposal is in substantial conformance with the Town of Fairplay’s goals, policies and plans.

* * *

The proposed Multi-Family zoning will permit the Applicant to pursue beneficial, compatible use of the subject property in conformance with the criteria and standards of the Town of Fairplay Unified Development Code, Section 16-5-60. . . .” (Emphasis Supplied).

CBD’s request to have these two lots zoned MF-Res conforms with the Comp. Plan and the UDC.

3. The Staff Recommended The Town Approve CBD’s Initial Request

Scot Hunn recommended that the Board approve CBD’s initial Application to Rezone the lots MF-Res because it was consistent with the zoning density the Board previously approved, noting:

“Staff believes that the proposed MF zoning for the subject property is appropriate given that the previously approved PUD zoning permitted single-family and duplex development; effectively, the impacts and resulting density will be the same or similar to what the Town previously approved for the same area within the PUD in 2006. More specifically, each of the developed lots (those with single-family homes built) in the Tristen Loop area could have originally developed duplexes, for comparison.” (Emphasis Supplied).

For these reasons, CBD requests that the Board approve CBD’s request to have lot 1 in Section 14 and the lot in Section 13 be zoned MF-Res.

Conclusion

For the reasons, CBD respectfully requests that the Board approve this Amended Application to Rezone the lots we own in Phase 1 as follows:

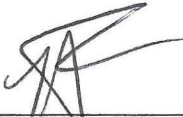
Single Family Residential:

Section 11 - Lot 8 is 5,047 SF
Section 11 - Lot 9 is 5,696 SF
Section 11 - Lot 10 - 6,000 SF
Section 11 - Lot 11 - 6,000 SF

Section 11 - Lot 12 - 6,017 SF
Section 11 - Lot 13 - 7,622 SF
Section 14 - Lot 2 - 6,000 SF
Section 14 - Lot 3 - 6,000 SF
Section 14 - Lot 4 - 6,000 SF
Section 14 - Lot 5 - 6,000 SF
Section 14 - Lot 6 - 6,368 SF
Section 14 - Lot 7 - 8,432 SF
Section 14 - Lot 8 - 9,981 SF
Section 14 - Lot 9 - 7,619 SF
Section 14 - Lot 10 - 7,067 SF
Section 14 - Lot 11 - 6,000 SF
Section 14 - Lot 12 - 6,000 SF

Multi-Family Residential

Section 13 N/A - 15,236 SF
Section 14 - Lot 1 - 26,698 SF



P. Nicholas Petkovich
Managing Partner
Circle Back Development LLC

Fairplay Planning Department
Fairplay Town Hall
901 Main Street
Fairplay, Colorado 80440



Fairplay Board of Trustees
Mayor – Frank Just
Mayor Pro Tem - Scott Dodge
Eve Stapp
Josh Voorhis

Town Board of Trustees Hearing

Circle Back Development, LLC. Stone River Phase I – Zone District Amendment

Hearing Date:	September 20, 2021
File Name and Process:	Stone River Phase I – Zone District Amendment
Owner/Applicant:	Circle Back Development, LLC.
Representative:	Nick Petkovich, Michael Petkovich
Legal Description:	A Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian “Stone River Phase I” Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12)
Existing Zoning:	Expired/Vacant Land (Formerly “Stone River PUD”)
Proposed Zoning:	Multi-Family (MF)
Staff Member:	Scot Hunn, Town Planner

Staff Report

I. Summary of Request:

The Applicant, Circle Back Development, LLC., represented by Nick and Michael Petkovich, is requesting approval of a Zone District Amendment (rezoning) to re-establish zoning on several lots within Phase I of the former Stone River Planned Unit Development (PUD) following the lapse or extinguishment of the PUD vesting in early August, 2021.

Background:

The Stone River PUD was originally approved in 2006. The PUD Development Agreement was approved and signed on August 7, 2006 and a final plat for the subdivision was approved in September of that same year. The residential PUD was approved to allow up to 350 dwelling units consisting of single-family, duplex, tri-plex, four-plex structures and other multi-family structures within seven phases. The PUD included zoning for low density (3-5 dwelling units/acre), medium density (5-8 dwelling units/acre), multi-family (6-13 dwelling units/acre) and mixed (up to 20 dwelling units/acre) uses along with several open space tracks of land.

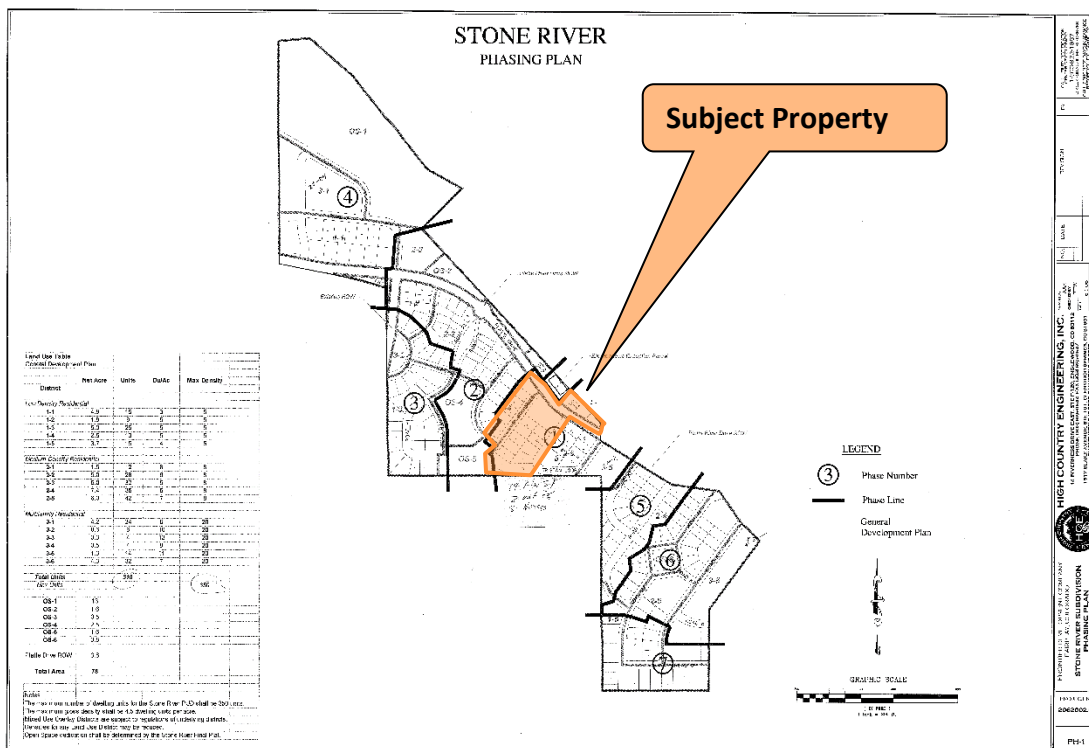


Figure 1: 2006 Stone River Phasing Plan

Circle Back Development (CBD) purchased a majority of the PUD land area in 2019 and approached the Town in the summer of 2021 with plans to develop duplex homes on several lots within the formally platted “Phase I” area of the PUD which is the only phase where infrastructure has been completed, inspected and accepted by the Town. This is also the area where a small number of single-family homes have been constructed in the Tristen Loop area of the subdivision.

However, PUD vesting expired on August 7th, 2021 before the Applicant could submit any development plans. As a result, the property, including lots within Phase I currently served by infrastructure, is now zoned “Vacant Land” and has no designated uses, dimensional limitations (setbacks, height restrictions, lot coverage maximums) or other development standards or controls.

In order to permit the Applicant to submit building permits for this area of the Town already served by infrastructure, and to allow the Town to properly regulate development in this area, Town staff has advised the Applicant that a rezoning request would need to be considered and acted upon by the Board of Trustees at a public hearing.

Per the application, the Applicant requests approval for the following:

“Our goal is to build single-family homes on two of the developed lots within Section 11, and build duplex homes on the remaining lots in Phase I.”

The Applicant further intends to work with the Town to develop a new PUD plan for the remainder of their property, but to rezoning Phase I now in order to start building:

“We anticipate that it will take significant time to reach agreement over the complicated terms of a new PUD for the entire Stone River property. Our goal is to have one foundation laid before the ground freezes in late October and then build one model home over the winter months. After doing so, we plan to use the model to sell additional homes on the developed, vacant lots in Phase I.”

Staff is **recommending approval** of the rezoning request, with conditions.

II. Summary of Process and Code Requirements:

The following section of Article IV – *Public Notice*, Town of Fairplay Unified Development Code (UDC) is applicable to the rezoning request:

Public Notice			
Type of Application	Minimum Notice	Property Owner Notice	Additional Requirements
Zoning • Variance • Zoning Amendment	10 days prior to hearing	Notice shall be mailed/hand delivered to all adjoining property owners including those directly across adjoining street or alley	• Publication of Notice in Newspaper • Posting of Notice on subject property • Copy of Application available at Town Hall

Staff Response:

Staff mailed notices to all adjoining property owners on Thursday, September 9, 2021; a notice appeared in the September 10, 2021 edition of The Flume; a minimum size twenty-two (22) inches wide by twenty-six (26) inches tall sign with print at least one (1) inch high was installed on the subject property in a conspicuous place facing Platte Drive and Tristan Loop on September 8, 2021; and one (1) complete copy of the application including all supporting documentation was available for public inspection at Town Hall during regular business hours at least ten (10) days prior to the noticed public hearing.

The following sections of Article V – *Zoning Districts and Map*, Town of Fairplay Unified Development Code (UDC) are applicable to the rezoning request:

Section 16-5-10 – *Zone Districts Established*

“In order to regulate the location, height, bulk and size of buildings and other structures; the percentage of lot which may be occupied; the size of lots, courts and other open spaces;

the density and distribution of population and the location and uses of land, buildings and structures for trade, industry, residence, recreation, public activities or other purposes, the incorporated area of the Town is hereby divided into the following districts: Single Family Residential; Multi-family Residential; Transitional; Town Center; Commercial; Multi-use; Light Industrial; Civic Center; Parks-Open Space-Trails.”

Staff Response:

Staff suggests that rezoning of the subject property will bring the property further into compliance with the stated goals and policies of the Town by establishing a viable zone district which, in turn, will allow the Town to regulate development, densities, distribution of population in an area already served by infrastructure and to permit the beneficial residential use of the land.

Section 16-5-20 – Description of Zone Districts (Multi-Family Residential)

“Multi-family residential permits a variety of residential uses which includes single-family, duplex and multi-family buildings. Other more intensive uses such as churches, community facilities and schools must be carefully planned to avoid adverse impacts to the residential character.”

Staff Response:

Staff suggests the multi-family zoning designation requested by the Applicant is generally appropriate to allow for single-family and duplex development (what the Applicant is proposing). However, this zoning designation will also permit (by right) the development of multi-family structures (greater than two units).

Staff believes that single-family and duplex development will be compatible with the surrounding area. The previously approved Stone River PUD designated the Phase I lots in question as “Low Density,” “Medium Density,” and “Multi-family” in 2006.

As a reminder, the Low-Density zoning designation in the previous PUD allowed for single-family *and* duplex development at a similar density to what the Applicant proposes now. The Medium Density zoning designation in the previous PUD – which applied to a majority of the lots that the Applicant now wishes to develop - allowed for single-family, duplex, tri-plex and four-plex structures at a slightly higher density than what is proposed by the Applicant.

Section 16-5-60 – Amendments and rezoning

(A) This Chapter, including the official Zoning Map and ay zone district boundaries, may be amended from time to time.

(B) The Board of Trustees may amend this Chapter, the Official Zoning Map and/or any zone district boundary; including, the number of districts, shape of district boundaries and/or the zoning designation of property. The Trustees may solicit the recommendations of the Town Planner on amendments. No amendment shall be effective unless voted upon by the Board of Trustees after a public hearing thereon at

which citizens and parties in interest shall have a had an opportunity to be heard. Notice of a public hearing shall be made in compliance with the requirements of Article IV. A zoning amendment or rezoning may be granted where the following findings are made:

- 1. That the rezoning is consistent with the Town's goals, policies and plans; and*
- 2. That the rezoning is substantially compliant with the Fairplay Comprehensive Plan; and*
- 3. That the land to be rezoned was previously zoned in error and the existing zoning is inconsistent with the Town's goals, policies and plans; and*
- 4. That the area for which rezoning is requested has changed substantially such that the proposed rezoning better meets the needs of the community; and*
- 5. That the rezoning is incidental to a comprehensive revision of the Town's zoning map which recognizes a change in conditions and is consistent with the Town's goals, policies and plans.*

Staff Response:

Staff suggests that the rezoning is appropriate and is consistent with the goals, policies and plans of the Town, specifically the 2013 Town of Fairplay Comprehensive Plan.

Although the land to be rezoned was not previously zoned in error, the PUD zoning has expired and the existing zoning – “Vacant Land” – is inconsistent with the Town's goals, policies and plans. Effectively, the Applicant and other properties within the former Stone River PUD have no zoning and, therefore, no approved uses or, importantly, land use or development standards. Further, since the time that the Stone River PUD was approved (and later failed to be developed during and after the Great Recession), the Fairplay area and market conditions have changed substantially such that the proposed rezoning and subsequent build out of those portions of “Phase I” that are currently served by infrastructure will better meet the needs of the community.

III. Zoning Analysis:

Previous Zoning

The subject property – a portion of “Phase I” - was previously zoned “Low Density,” “Medium Density,” and “Multi-family” within the Stone River PUD.

Proposed Zoning

The proposed Multi-Family (MF) zoning will permit similar zoning as existed prior to the extinguishment of the Stone River PUD. From a practical standpoint, when reviewing the “Table of Uses” within the Town of Fairplay Unified Development Code (UDC), the MF zone district permits the exact same uses as are allowed within the “Single-Family” (SF) zone district, with the exception that multi-family (>2 units) are permitted by right within the MF zone district (and not permitted in the SF zone district), and duplex units are only permitted with the SF zone district via the special use permit process.

Staff believes that the proposed MF zoning for the subject property is appropriate given that the previously approved PUD zoning permitted single-family and duplex development; effectively, the impacts and resulting density will be the same or similar to what the Town previously approved for the same area within the PUD in 2006. More specifically, each of the developed lots (those with single-family homes built) in the Tristen Loop area could have originally developed duplexes, for comparison.

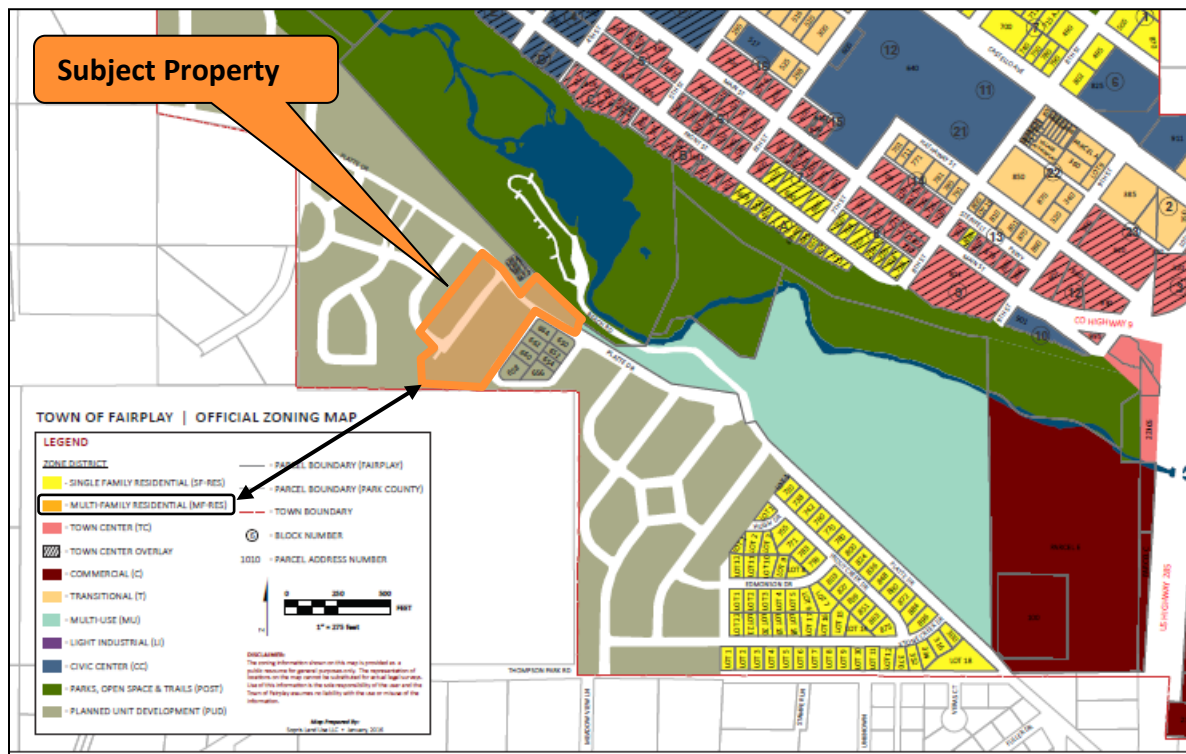


Figure 2: Town of Fairplay Zoning Map

IV. Staff Findings:

The following summarizes staff's findings:

- The 2013 Comprehensive Plan – particularly the economy, community character, and housing policies - generally supports this proposal; the proposal is in substantial conformance with the Town of Fairplay's goals, policies and plans.
- The site is served by adequate vehicular access, water and sewer infrastructure that has been inspected and accepted by the Town.
- The proposed Multi-Family zoning will permit the Applicant to pursue beneficial, compatible use of the subject property in conformance with the criteria and standards of the Town of Fairplay Unified Development Code, Section 16-5-60 – *Amendments and rezoning*, until such time that the Applicant successfully completes a new PUD for the entirety of the Stone River property.

V. Staff Recommendation and Suggested Condition(s):

Staff suggests that the proposed rezoning for Circle Back Development, LLC., generally meets a preponderance of the Town's Zone District Amendment criteria and standards as well as the Town's comprehensive plan goals.

Staff is **recommending approval** with condition(s).

In the event the Town Board of Trustees votes to approve the rezoning request for Circle Back Development, LLC., staff respectfully suggests the following condition(s) of approval:

1. Prior to any development of new infrastructure such as alleyways, sidewalks or other public improvements within "Phase I" as previously platted per the "Stone River Filing No. 1 Final Plat" recorded on September 19, 2006, the Applicant shall submit detailed engineering plans and cost estimates for infrastructure and other public improvements and shall execute a new Development/Subdivision Improvements Agreement with the Town of Fairplay.

Attachments:

- Development Application
- Development Narrative
- Stone River Filing No. 1 Final Plat
- Conceptual Designs



DEVELOPMENT APPLICATION

TOWN OF FAIRPLAY

PO Box 267
FAIRPLAY, CO 80440
719-836-2622

APPLICATION TYPE

- | | |
|---|---|
| ☐ Planned Unit Development | ☐ Special Use Permit |
| ☐ Subdivision | ☐ Architectural Review |
| ☒ Zoning Map Amendment (Rezoning) | ☐ Site Plan Review |
| ☐ Variance | |

APPLICANT INFORMATION

Applicant: CIRCLE BACK DEVELOPMENT, LLC Date: 8/31/2021
Applicant's Address: 2148 S Lafayette St, Denver CO 80210

Applicant's Phone: 703-475-5893 Fax: _____
Email Address: PETKOVIP33@GMAIL.COM & JEFEPETKOVICH@GMAIL.COM

OWNER INFORMATION

Applicant's Relationship to Owner: SELF
Owner: CIRCLE BACK DEVELOPMENT, LLC
Owner's Address: 2148 S Lafayette St, Denver CO 80210

Owner's Phone: 703-475-5893 Fax: _____
Email Address: PETKOVIP33@GMAIL.COM & JEFEPETKOVICH@GMAIL.COM

PROPERTY INFORMATION

Address: _____
Parcel #: SEE TAB 1 - SPECIFIC LEGAL DESCRIPTION PAGE 1 AND 2 OF THE PUD
Subdivision: _____
Lot: _____ Block: _____
Existing Zoning: _____
Number of Acres: _____

PROJECT PROPOSAL

General Description of Project:

SEE STATEMENT OF PURPOSE

SIGNATURES

I declare under the penalty of perjury that the above information is true and correct to the best of my knowledge.



Owner

8/31/2021

Date

The owner and/or applicant must be present at all meetings and hearings. All public hearings must be properly noticed according to the Fairplay Municipal Code. All submittal requirements must be met and signatures of all owners of the property must appear before the application will be accepted by the Town of Fairplay. Partnerships or corporations may have the authorized general partner or corporate officer sign the application. (Attach additional pages if necessary.)

NOTE: No application will be accepted or processed unless it is complete and all fees are paid. In the event the town must retain outside professional services to process or evaluate an application, the applicant shall bear the cost of same, inclusive of engineering and legal fees, in addition to the base application fee. A deposit to cover the reasonable anticipated costs for outside professional services may be required at the time of application. All applications shall be evaluated under the standards and requirements set forth in Section 15 of the Zoning Code and must be accompanied by seven (7) copies of a proposed site plan/plat prepared by a professional engineer or surveyor.

I hereby certify that I am the applicant named above and that the information contained herein and on any attachments hereto is in all respects true and accurate to the best of my knowledge and belief. I also understand that a building permit may not be issued for the property subject to this application until the application receives final approval by the Board of Trustees.



CIRCLE BACK DEVELOPMENT, LLC

Applicant

FOR TOWN USE ONLY

Application Checklists

- ☐ Complete Application.
- ☐ Proof of Ownership (deed) for project property
- ☐ Written authorization from property owner(s) for agent (if applicable)
- ☐ Existing PUD plat/recording information
- ☐ Proposed site development plan/plat (7 copies). If there are structures on property, they must be on plat with all dimensions
- ☐ List of persons entitled to notice (by name and mailing address)
- ☐ Mailing envelopes (stamped and addressed) for persons entitled to notice
- ☐ Proposed development improvements agreement (if applicable). (3 copies)
- ☐ Fees and/or deposit
- ☐ Other See last page of Statement of Purpose

Statement of Purpose

Application To Rezone Lots

Executive Summary

On August 7, 2021, the Planned Unit Development and Improvements Agreement (“PUD”) for the Stone River property expired. On behalf of the current owner of this property, Circle Back Development LLC, we would like to start building homes on our 19 developed lots located in Phase 1. (As noted below, we recently sold two of the lots in Phase 1). However, when the PUD expired, the Final Site Plat also expired. Therefore, the Stone River property is no longer zoned as a “planned unit development” and the lots defined in the expired Final Site Plat no longer ‘exist’. All the lots in Phase 1, and the infrastructure, have been inspected and approved by the Town of Fairplay. Nonetheless, we cannot start construction until the property is rezoned.

We intend to work with the Town of Fairplay to reach agreement over the terms of a new PUD. However, we also recognize that it will take significant time to reach a mutually acceptable PUD covering a host of complicated issues. Based on the recommendations of Scot Hunn, Planning Director, we are applying to have two of the developed lots in Phase 1 zoned single family, and the remaining lots in Phase 1 rezoned as multi-family residential (“MF - Res”).

Background

On August 7, 2006, the Town of Fairplay entered into the PUD with Frontier Development Company, LLC. The PUD set the terms and conditions for the development of the Stone River property. Hart Mountain, Inc. purchased the Stone River property from Frontier Development and built eight homes.

On August 19, 2019, Circle Back Development LLC (“CBD”) purchased the vacant lots on the Stone River property from Hart Mountain, Inc. CBD is the sole owner of the lots at issue. (See Tab 2 - Warranty Deed). Last month, CBD sold lots 3 and 4 in Section 15 of Phase 1. Those lots are not part of this application to rezone. Any reference in this application to “Phase 1” excludes those two lots. The undersigned, Nick Petkovich, has authority to sign and file this application. (See Statement of Authority - Tab 3).

On August 7, 2021, the vested property rights set forth in the former PUD and the Stone River Filing No. 1 Final Plat (“Final Site Plat”) covering the Stone River property both expired. (See Tab 4 - PUD Section 19.1). Accordingly, all the property located in Stone River is no longer zoned as a “Planned Unit Development” and none of the lots are recognized or zoned as anything other than vacant land.

The legal description of the entire Stone River property is stated in the expired PUD. (See Tab 1 - Specific Legal Description page 1 and 2 of the PUD). The legal description for the former

Phase 1 lots at issue is set forth in the former Site Plat for Phase 1. (See Tab 5 - specific legal description for Phase 1).

Statement of Purpose

We anticipate that it will take significant time to reach agreement over the complicated terms of a new PUD for the entire Stone River property. Our goal is to have one foundation laid before the ground freezes in late October and then build one model home over the winter months. After doing so, we plan to use the model to sell additional homes on the developed, vacant lots in Phase 1.

However, given the fact that the PUD and the Final Site Plat have both expired, we cannot initiate construction until zoning has been reestablished for the remaining lots in Phase 1. We intend to work with the Town to reach mutually acceptable terms for a new PUD, but recognize that process will take considerable time. In the interim, however, we would like to initiate construction. There is a demand for housing in the general geographical area. It is in the Town's and CBD's mutual interest to have the housing built in Fairplay rather than in adjoining towns.

Recently, we met with Scot Hunn, Planning Director, to seek his counsel on the best path forward to accomplish our goals noted above. We advised Scot that we wanted to rezone the lots in Phase 1 so we could lay a foundation before the ground freezes in October this year.

In response, by email dated August 16, 2021, Scot recommended that CBD could expedite construction by filing an application to have these lots zoned as Multi-Family Residential (MF-Res). (See Tab 6 - Scot's email).

By email dated August 30, 2021, Scot recommended that we limit the scope of our application to rezone the lots exclusively in Phase 1, because the Town has approved and platted those lots. In doing so, Scot noted:

"My understanding based on our previous meetings and specifically regarding Paul Wisor's letter is that the only portion of the previously approved PUD that you can potentially move forward on are the lots within previously approved/platted "Phase I" so long as those lots are rezoned to establish your desired zone district (MF)." (See Tab 11 - Scot's August 30 email).

In his August 30th email, Scot further noted that the Town has inspected and approved the infrastructure on the lots in Phase 1:

"Phase I was originally platted along with a Subdivision Improvements/Development Agreement, infrastructure was installed, and then inspected and accepted by the Town. Other than the fact that the lots no longer have zoning, they could otherwise be developed with homes." (See Tab 11)

Accordingly, we are filing this application to rezone the remaining lots in Phase 1 as defined in the expired Final Site Plan. (See Tab 9 - Expired Site Plan pages 10 and 11; See also Tab 5 - Phase 1 lots at issue).

Specific Rezoning Request

Under the terms of the expired PUD and the expired Final Site Plat, Section 13 (15,236 SF) was zoned multi-family residential. ("MF-Res"). (See Tab 5 - Phase 1 Site Plat; See also Tab 9 - Final Site Plan pages 5, 10 and 11). We are asking that Section 13 be rezoned under the same zoning density designation—MF-Res.

Under the terms of the expired PUD and the expired Final Site Plat, the rest of the lots at issue in Phase 1 were zoned medium density, consisting of single family homes and duplex homes. (See Tab 9 - Final Site Plat pages 10 and 11; See also expired PUD Section 7). Our goal is to build single family homes on two of the developed lots in Section 11, and build duplex homes on the remaining lots in Phase 1. We are seeking Board approval to have the following two lots zoned "single family" because these lots are 5,047 square feet and 5,696 square feet:

Section 11 - Lot 8 is 5,047 SF

Section 11 - Lot 9 is 5,696 SF

All of the lots listed above are at least 25' by 100'. (See Tab 5; See also Tab 9 pp. 10 and 11).

In addition, our goal is to build duplexes on the remaining lots in Phase 1. Accordingly, we are seeking Board approval to have the following lots in Phase 1 as MF-Res:

Section 11 - Lot 10 - 6,000 SF

Section 11 - Lot 11 - 6,000 SF

Section 11 - Lot 12 - 6,017 SF

Section 11 - Lot 13 - 7,622 SF

Section 13 N/A - 15,236 SF

Section 14 - Lot 1 - 26,698 SF

Section 14 - Lot 2 - 6,000 SF

Section 14 - Lot 3 - 6,000 SF

Section 14 - Lot 4 - 6,000 SF

Section 14 - Lot 5 - 6,000 SF

Section 14 - Lot 6 - 6,368 SF

Section 14 - Lot 7 - 8,432 SF

Section 14 - Lot 8 - 9,981 SF

Section 14 - Lot 9 - 7,619 SF

Section 14 - Lot 10 - 7,067 SF

Section 14 - Lot 11 - 6,000 SF

Section 14 - Lot 12 - 6,000 SF

All of the lots listed above are at least 60' by 100'. (See Tab 5 and Tab 9 pp. 10 and 11).

Our Application Complies With UDC Section 6-5-60(B)(1-5)

Section 16-5-60 (B)(1)

As Scot noted in his August 30th email, the Town has approved and platted all the lots at issue in Phase 1. The Town also inspected and approved all the infrastructure on these lots.

The Town's goals and policies are also reflected in the Town of Fairplay UDC. As required under Section 16-5-40 of the UDC, both single home lots in our proposed subdivision are over 5,000 square feet. The remaining MF-Res/duplex lots in our proposed subdivision are all 6,000 square feet or larger. (See Tab 5 - Lots sizes in proposed subdivision).

The Town's former approvals indicates our request to have the remaining developed lots in Phase 1 rezoned complies with the Town's goals, policies and plans.

Section 16-5-60 (B)(2)

Our application for rezoning is "substantially compliant with the Fairplay Comprehensive Plan." As expressly stated in the Comprehensive Plan, the Town of Fairplay "encourages small lots" that are consistent with the "original Fairplay lot grid of 25 feet by 100 feet. - totaling 5,000 square feet per lot. (See page 28, Goal H-2 of the Comp. Plan).

Also, in keeping with the goals of the Comprehensive Plan, we intend to build homes that reflect the historic mountain/mining community character of Fairplay. (See draft duplex home designs - Tab 10).

Finally, we also intend to comply with the goals of the Comprehensive plan by building "energy sustainable" homes to the extent reasonably possible. (See page 29 of the Comp. Plan). We hired Ewers Architects in Golden, Colorado to design a broad scope of homes. Peter Ewers is a nationally recognized architect focusing primarily on energy sustainable designs and construction.

Section 16-5-60 (B)(3, 4 and 5)

As detailed above, we are seeking Board approval to have the land rezoned because the former zoning approved by the Board has expired. Accordingly, this "change in conditions" requires rezoning. Our application also meets the needs of the community as reflected in the Comprehensive Plan and the Town's expressly stated goals to have homes built in Fairplay on smaller lots to reflect the history of the Town.

Our Application Complies With UDC Section 16-5-70

16-5-70 (A)(1)

As detailed above, CBD owns the Stone River Property and Nick Petkovich has authority to sign this Application. (See Tabs 2 and 3).

16-5-70 (A)(2)

See description of proposed zoning change detailed above. (See also Tab 5).

16-5-70 (A)(3)

Our application to have these lots rezoned is justified by the fact that the Town approved zoning for the remaining lots in Phase 1 has expired. As further detailed above, this request complies with the Town's goals stated in Town of Fairplay's UDC and the goals stated in the Town's Comprehensive Plan. The surrounding properties are all zoned residential.

16-5-70 (A)(4)

As detailed above, the Town has approved the lots in Phase 1. The Town also inspected and approved the infrastructure on the developed lots at issue. The density levels of the lots subject to this application substantially comply with the Town's goals expressly stated in the UDC and the Comprehensive Plan. As stated in Section 7 of the expired PUD, the Town approved single family homes and duplex homes to be built on the lots in Phase 1.

These factors indicate the Town viewed the zoning of these lots as being in substantial compliance with the Town's goals.

16-5-70 (A)(5)

As defined in the expired PUD and the Final Site Plat, all the property to the North and South of Phase 1 had been zoned residential and to a limited degree open space. (See Tab 9 - Final Site Plat). Under the terms of the expired PUD, the residential zoning varied among low density, medium density and multi-family density. The property to the South of the Stone River property is all zoned single family residential.

The land to the East of Stone River is zoned "parks, open space & trails". The land to the West of Stone River is undeveloped property and not incorporated within the Town of Fairplay. (See zoning map set forth in the Comprehensive Plan).

For these reasons, our application to have the remaining developed lots in Phase 1 rezoned as detailed above offers a consistent, logical and seamless transition from the surrounding zone districts and land uses.

16-5-70 (A)(6)

We propose the zoning amendment state:

“The Town approves the Application to Rezone the lots in Phase 1 as follows:

Single Family Density

Section 11 - Lot 8 is 5,047 SF

Section 11 - Lot 9 is 5,696 SF

Multi-Family Residential Density

Section 11 - Lot 10 - 6,000 SF

Section 11 - Lot 11 - 6,000 SF

Section 11 - Lot 12 - 6,017 SF

Section 11 - Lot 13 - 7,622 SF

Section 13 - N/A - 15,236 SF

Section 14 - Lot 1 - 26,698 SF

Section 14 - Lot 2 - 6,000 SF

Section 14 - Lot 3 - 6,000 SF

Section 14 - Lot 4 - 6,000 SF

Section 14 - Lot 5 - 6,000 SF

Section 14 - Lot 6 - 6,368 SF

Section 14 - Lot 7 - 8,432 SF

Section 14 - Lot 8 - 9,981 SF

Section 14 - Lot 9 - 7,619 SF

Section 14 - Lot 10 - 7,067 SF

Section 14 - Lot 11 - 6,000 SF

Section 14 - Lot 12 - 6,000 SF”

Conclusion

Accordingly, we respectfully request that the Board approve our application to rezone the remaining developed lots in Phase 1 as detailed above.

Our \$150.00 check for this Application fee is enclosed. Circle Back Development further agrees to pay the costs incurred by the Town of Fairplay to hire consultants to review this Application.

Application Checklist

In support of this Application, we are specifically incorporating the following required documents attached to our Application for subdivision:

1. Complete Application - Satisfied;
2. Proof of Ownership (See Tabs 2 and 3);
3. Written authorization from property owners for agent - Not applicable;
4. Existing PUD/recording information - Not applicable
5. Proposed site development plan/plat (See Tab - 5);
6. List of persons entitled to notice by name and address (See Tab 7);

7. Proposed development improvements agreement - Not applicable;
8. Fees and /or deposit (See \$150 Application fee enclosed;
9. Other:

Section 16-3-20 Common Submittal Requirements

1. Town Clerk's Application Form (Satisfied);
2. Legal Description (See Tab 1);
3. Proof of Legal Ownership (See Tabs 2 and 3);
4. Owners/Lessees of mineral rights (See Tab 8 - Fidelity Title Report Schedule B Part 11 - Exceptions Item 8);
5. Names and addresses of adjacent property owners (See Tab 7);
6. Statement of Purpose and Description of Proposal - See above;
7. Vicinity Map (See Tab 9);
8. Agreement to pay - See above; and
9. Application fee - See enclosed.

Section 16-3-30 Drawing and Report Requirements

See Tab 9 - fully executed "Stone River Filing No. 1 Final Plat.

Section 16-3-40 Site Plans

See Tab 5 - Proposed Subdivision Site Plan

Section 16-5-60

See above.

Section 16-5-70

See above



Nick Petkovich
Managing Partner
Circle Back Development LLC

STONE RIVER
Filing 1 Final Plat
33-9S-77W
Town of Fairplay

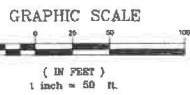
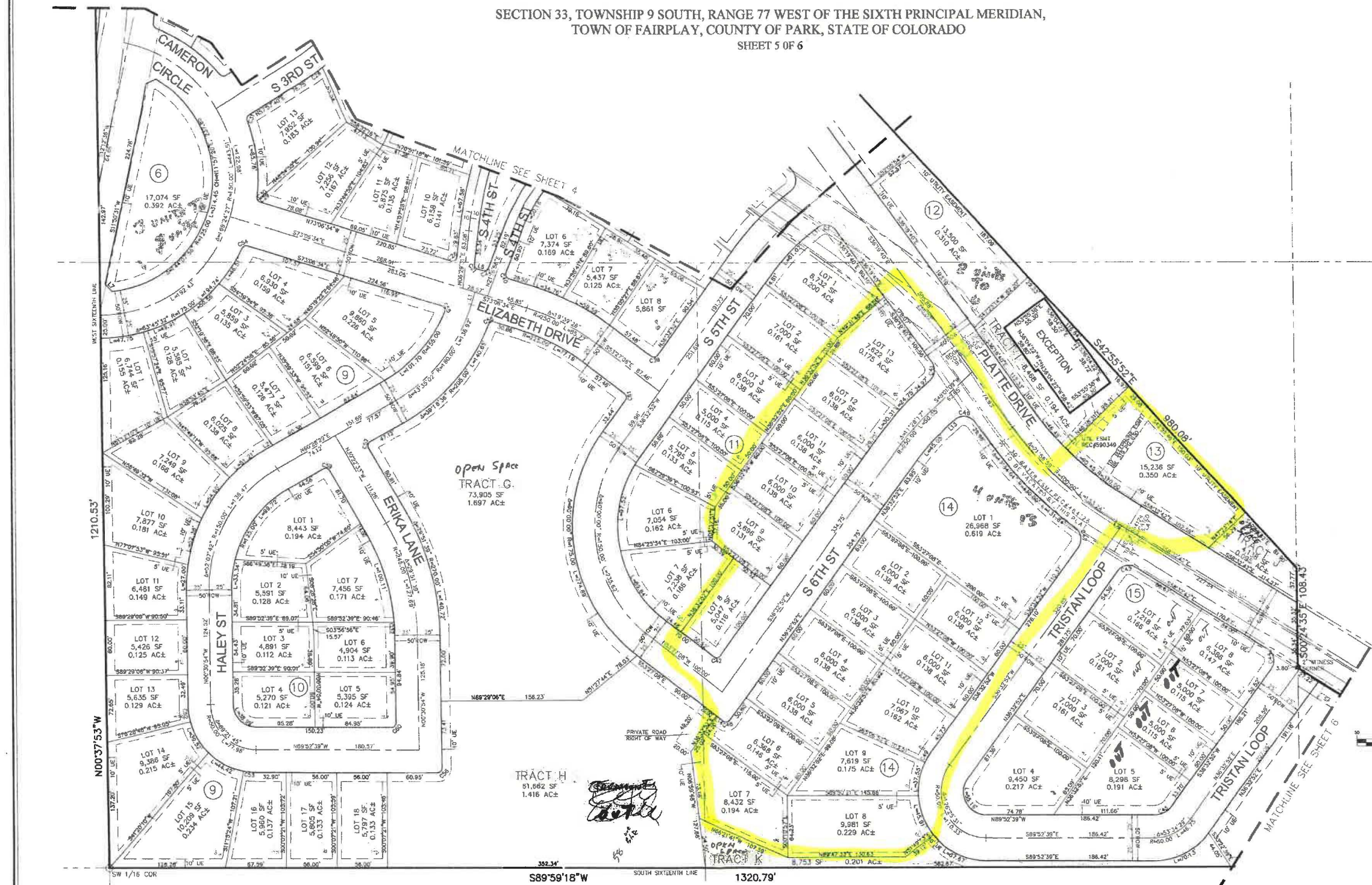
DRAWING NUMBER

DRAWING NUMBER

DRAWING NUMBER

STONE RIVER FILING NO. 1 FINAL PLAT

SECTION 33, TOWNSHIP 9 SOUTH, RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FAIRPLAY, COUNTY OF PARK, STATE OF COLORADO
SHEET 5 OF 6



LEGEND

- ▲ FOUND 1-1/2" ALUMINUM CAP
STAMPED BURNETT PLS 11944
- FOUND 2" ALUMINUM CAP
STAMPED CROW HILL
PLS 25980
- SET #5 REBAR WITH PLASTIC CAP
STAMPED HICE PLS 24669
- UE UTILITY EASEMENT

NOTE:
1. FOR LINE AND CURVE TABLES SEE SHEET 7.



HIGH COUNTRY ENGINEERING, INC.

14 INVERNESS DRIVE EAST, STE F-120, ENGLEWOOD, CO 80112
PHONE (303) 925-0544 FAX (303) 925-0547

1817 BLAKE AVENUE, STE 101, GLENWOOD SPRINGS, CO 81601
PHONE (970) 945-6678 FAX (970) 945-2555
WWW.HCENG.COM

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS PLAT WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS PLAT BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION HEREON.

AFFIDAVIT

Regarding the Required Posting of Property:

HEARING ON: Stone River, Phase 1 Zoning

Property Address: Platte Drive & Tristan Loop, Fairplay, CO 80440

I, Donovan Graham, hereby certify that I have posted the property located as stated above, with the proper notice for:

Public Hearing before the Board of Trustees on September 8, 2021.

Date of Posting: 9-8-21

Date of Affidavit: 9-8-21


Town of Fairplay Staff

NOTICE PUBLIC HEARING

PURPOSE: TO CONSIDER AN
APPLICATION FOR ZONING
FOR THE UNDEVELOPED
PORTION OF DUNSTON STRONG
DUNSTON SUBDIVISION
SUNBELT FAMILY RESIDENTIAL
DUNSTON AND SUNBELT FAMILY
RESIDENTIAL (ONE-ACRE)

HEARING ON APPLICATION TO BE HELD AT:
TIME: 10:00 P.M.
DATE: MONDAY, SEPTEMBER 22, 1992
ADDRESS: TOWN HALL, 101 E. MAIN ST.
PO BOX 100, 100
CITY OF DUNSTON
BOARD OF TRUSTEES

**NOTICE OF PUBLIC HEARING
BEFORE THE FAIRPLAY BOARD OF TRUSTEES
CONCERNING A ZONING APPLICATION**

A public hearing will be held before the Fairplay Board of Trustees at the Fairplay Town Hall, 901 Main Street, Fairplay, Colorado, on September 20, 2021 at 6:00 p.m. concerning a Request for Zoning for the undeveloped portion of Phase I, Stone River Subdivision located at the Northwest corner of Tristan Loop and Platte Drive, Fairplay, CO. Specifically the property, which is currently un-zoned, will be under consideration for Single Family Residential (SF-RES) Zoning for Lots 8 & 9, Section 11 and Multi-Family-Residential (MF-RES) Zoning for Lots 10-13, Section 11; one 15,236 s.f. parcel, Section 13; and Lots 1-12, Section 14. The applicant for the zoning designations is Circle Back Development, LLC. All interested parties are encouraged to attend. Additional information may be obtained from the Town Clerk's office at 901 Main Street or by calling (719) 836-2622.

Published ONCE in the FAIRPLAY FLUME on SEPTEMBER 10, 2021.

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING
BEFORE THE FAIRPLAY BOARD OF
TRUSTEES**

CONCERNING A ZONING APPLICATION

A public hearing will be held before the Fairplay Board of Trustees at the Fairplay Town Hall, 901 Main Street, Fairplay, Colorado, on Monday, September 20, 2021 at 6:00 p.m. concerning a Request for Zoning for the undeveloped portion of Phase I, Stone River Subdivision located at the Northwest Corner of Tristan Loop and Platte Drive, Fairplay, CO. Specifically, the property, which is currently un-zoned, will be under consideration for Single Family Residential (SF-RES) Zoning for Lots 8 & 9, Section 11 and Multi-Family-Residential (MF-RES) Zoning for Lots 10-13, Section 11; one 15,236 s.f. parcel, Section 13; and Lots 1-12, Section 14. The applicant for the zoning designations is Circle Back Development, LLC. All interested parties are encouraged to attend. Additional information may be obtained from the Town Clerk's office at 901 Main Street or by calling (719) 836-2622.

As published in the Park County Republican and Fairplay Flume on September 10, 2021



Town of Fairplay

901 Main Street • P.O. Box 267

Fairplay, Colorado 80440

(719) 836-2622 phone

(719) 836-3279 fax

www.fairplayco.us

September 9, 2021

**Notice of Public Hearing
Regarding the following land use application for
Phase 1, Stone River, located at the Northwest
Corner of Tristan Loop and Platte Drive, Town of Fairplay:**

- 1) A Zoning Request to Single Family Residential (SF-RES) and Multi-family Residential (MF- RES) for vacant land**

This is to advise you that on Monday, September 20, 2021 at 6:00 p.m. the Board of Trustees for the Town of Fairplay will conduct a Public Hearing at the Fairplay Town Hall, 901 Main Street, Fairplay, Colorado, concerning:

- 1) A request to zone the property, which is currently unzoned, vacant land as SF-RES and MF-RES.

The owner and applicant is Circle Back Development, LLC.

As an adjacent property owner, you may approve or object to the requested land use application. You may appear at the Fairplay Board of Trustees meeting as noted above, or you may address your concerns to the Town of Fairplay, PO Box 267, Fairplay, CO 80440. Please call (719) 836-2622 with any questions.

Attachment: Certificate of Mailing

CERTIFICATE OF MAILING (One Page)

I hereby certify that a true and correct copy of the foregoing Notice of Public Hearing for the following land use application for the Phase 1, Stone River, located at the Northwest Corner of Tristan Loop and Platte Drive in the Town of Fairplay: 1) a Zoning Request to SF-RES Single Family Residential and MF-RES Multi-Family Residential Zone District from unzoned, vacant land, was placed in the United States mail, postage prepaid, first class, this 9th day of September, 2021, addressed to:

Schedule No. R0046903
Laura & Glenn Batts
PO Box 2143
Fairplay, CO 80440

Schedule No. R0046896
Joshua & Rebecca Salverson
PO Box 1870
Fairplay, CO 8044

Schedule No. R0045751, R0045943, R004594 & R0045945
Collegiate Funding, LLC
2350 Lassen Lane
Castle Rock, CO 80109

Schedule No. R0046897
Butler Family Trust
PO Box 417
Alma, CO 80420

Schedule No. R0046900
Johnathan Jones
PO Box 9161
Breckenridge, CO 80424

Schedule No. R0046901
Charissa Mantal
PO Box 815
Breckenridge, CO 80424

Schedule No. R0046902
Norwood Price
PO Box 1837
Fairplay, CO 80440

Schedule No. 0046898 & 0046899
John Kamm
20012 E Hatchet Ranch Pl
Parker, CO 80134

Schedule No. 0064984
Jason Lord
PO Box 23
Fairplay, CO 80440


Janell Sciacca
Town Administrator / Town Clerk

**TOWN OF FAIRPLAY, COLORADO
ORDINANCE NO. 4
(SERIES 2021)**

**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF
FAIRPLAY, COLORADO, REZONING OF A PORTION OF STONE
RIVER PHASE 1**

WHEREAS, ON August 7, 2006, the Town of Fairplay entered into a Planned Unit Development Agreement with Frontier Development Company, LLC (the “PUD”) for the development of that certain property now known as Stone River; and

WHEREAS, whereas the PUD set forth the terms and conditions for the development of Stone River; and

WHEREAS, Stone River was zoned vacant land at the time the Town and Frontier Development entered into the PUD; and

WHEREAS, on August 19, 2019, Circle Back Development LLC (“CBD”) purchased vacant lots located within Stone River; and

WHEREAS, the vested rights associated with the PUD expired on August 7, 2021; and

WHEREAS, pursuant to Section 16-9-20 of the Fairplay Municipal Code, in the event a PUD is not completed, the underlying zone district shall apply to a govern land uses and development in the subject area; and

WHEREAS, CDB has submitted an application to the Town of Fairplay and intends to develop single-family and multi-family development within certain portions of Stone River; and

WHEREAS, the requested zone is consistent with the Town's goals and policies including the Town's Master Plan.

WHEREAS, the requested zone meets the approval criteria of Section 16-5-60 and 16-5-70 of the Fairplay Municipal Code that must be considered for an Amendment to the official Zoning Map; and

WHEREAS, a properly noticed public hearing was held on October 4, 2021 to consider the rezoning of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town of Fairplay Board of Trustees.
2. Rezoning. The official Zoning Map is hereby amended and that the property shown

and described on the attached Exhibit A is hereby rezoned as a single- family for Lots 8-13 in Section 11 and Lots 1-12 in Section 14 and multi-family for Lot 1 in Section 14 and a 15,236 SF lot in Section 13 as further set forth in Exhibit A.

3. Effective Date. This Ordinance shall take effect upon recording in the records of the Clerk and Recorder for Park County, Colorado.

**INTRODUCED ON [____], 2021, PUBLISHED TWICE IN FULL ON _____, 2021 AND _____, 2021, A PUBLIC HEARING
HEREUPON HELD AND ADOPTED ON SECOND READING AT A REGULAR
MEETING OF THE TOWN BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY,
COLORADO THE [____] DAY OF [____] 2021.**

FAIRPLAY BOARD OF TRUSTEES

Frank Just, Mayor

Janell Sciacca, Town Clerk

EXHIBIT A

Lots 8-13 in Section 11, a 15,236 SF Lot in Section 13 and Lots 1-12 in Section 14
Stone River Filing No. 1, Town of Fairplay, Colorado
(Highlighted in Yellow Below)

STONE RIVER FILING NO. 1 FINAL PLAT

SECTION 33, TOWNSHIP 9 SOUTH, RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FAIRPLAY, COUNTY OF PARK, STATE OF COLORADO
SHEET 5 OF 6



**TOWN OF FAIRPLAY, COLORADO
ORDINANCE NO. 5
(SERIES 2021)**

**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF
FAIRPLAY, COLORADO, REZONING OF LOTS 1-8, BLOCK 15 OF
STONE RIVER FILING NO. 1**

WHEREAS, on August 7, 2006, the Town of Fairplay (“Town”) entered into a Planned Unit Development Agreement with Frontier Development Company, LLC (the “PUD”) for the development of that certain property now known as Stone River; and

WHEREAS, whereas the PUD set forth the terms and conditions for the development of Stone River; and

WHEREAS, Stone River was zoned vacant land at the time the Town and Frontier Development entered into the PUD; and

WHEREAS, the vested rights associated with the PUD expired on August 7, 2021; and

WHEREAS, Lots 1-8 of Block 15 of Stone River Filing No. 1, located west of Platte Drive on Tristan Loop within the Town has been sold to private owners, with six lots being improved with single family residences and two lots still undeveloped; and

WHEREAS, pursuant to Section 16-9-20 of the Fairplay Municipal Code, in the event a PUD is not completed, the underlying zone district shall apply to a govern land uses and development in the subject area; and

WHEREAS, the Town of Fairplay has submitted an application for a Town initiated zoning map amendment for Single Family Residential (SF-RES) zoning within Lots 1-8, Block 15 of Stone River Filing No. 1; and

WHEREAS, the requested zone is consistent with the Town's goals and policies including the Town's Comprehensive Plan.

WHEREAS, the requested zone meets the approval criteria of Section 16-5-60 of the Fairplay Municipal Code that must be considered for an Amendment to the official Zoning Map; and

WHEREAS, a properly noticed public hearing was held on October 4, 2021 to consider the rezoning of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town of Fairplay Board of Trustees.

2. Rezoning. The official Zoning Map is hereby amended and that the property shown and described on the attached Exhibit A is hereby rezoned as a Single Family Residential (SF-RES) as further set forth in Exhibit A.

3. Effective Date. This Ordinance shall take effect upon recording in the records of the Clerk and Recorder for Park County, Colorado.

**INTRODUCED ON [_____] , 2021, PUBLISHED TWICE IN FULL ON _____, 2021 AND _____, 2021, A PUBLIC HEARING
HEREUPON HELD AND ADOPTED ON SECOND READING AT A REGULAR
MEETING OF THE TOWN BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY,
COLORADO THE [_____] DAY OF [_____] 2021.**

Frank Just, Mayor

Janell Sciacca, Town Clerk

**LOTS 1-8, BLOCK 15 OF STONE RIVER FILING NO. 1,
FAIRPLAY, COLORADO
(HIGHLIGHTED IN YELLOW)**

SECTION 33, TOWNSHIP 9 SOUTH, RANGE 77 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF FAIRPLAY, COUNTY OF PARK, STATE OF COLORADO
SHEET 5 OF 6



AFFIDAVIT

Regarding the Required Posting of Property for Zoning

HEARING ON:

Town Initiated Single Family Zoning for Lots 1-8, Block 15, Stone River, Phase 1

Property Address if applicable:

650-664 Tristan Loop, Fairplay, CO 80440

Public Hearing before the Board of Trustees scheduled for October 4, 2021.

I, Alex Wagner, hereby certify that I have posted the property located as stated above, with the proper notice for:

Date of Posting: 9/22/2021

Alex Wagner Building inspector 9/22/21
Signature, Title Date

Attachment: Photo of Posted Hearing Sign

NOTICE PUBLIC HEARING

PURPOSE: SINGLE FAMILY
ZONING INITIATED BY
TOWN OF FAIRPLAY FOR
150' WIDE TRISTAN
RIVER PLATS 1 & 2 STONE
RIVER PLATS 2, 3 & 4
FAIRPLAY, COLORADO

HEARING ON APPLICATION TO BE HELD AT:
TIME 6:00 PM
DATE MONDAY, OCTOBER 20, 2003
ADDRESS TOWN HALL, 901 MAIN ST.
FAIRPLAY, COLORADO
BY ORDER OF: FAIRPLAY
BOARD OF TRUSTEES
JANUARY 14, 2004

NOTICE PUBLIC HEARING

PURPOSE: TO CONSIDER AN
APPLICATION FOR ZONING
FOR THE UNDEVELOPED
PORTION OF PHASE 2, STONE
RIVER SUBDIVISION:
SINGLE FAMILY RESIDENTIAL
(SF-RES) AND MULTI-FAMILY
RESIDENTIAL (MF-RES)

HEARING ON APPLICATION TO BE HELD AT:
TIME 6:00 PM
DATE MONDAY, SEPTEMBER 20, 2003
ADDRESS TOWN HALL, 901 MAIN ST.
FAIRPLAY, CO. 80490
BY ORDER OF: FAIRPLAY
BOARD OF TRUSTEES

**NOTICE OF PUBLIC HEARING
BEFORE THE FAIRPLAY BOARD OF TRUSTEES
CONCERNING A TOWN INITIATED ZONING MAP AMENDMENT**

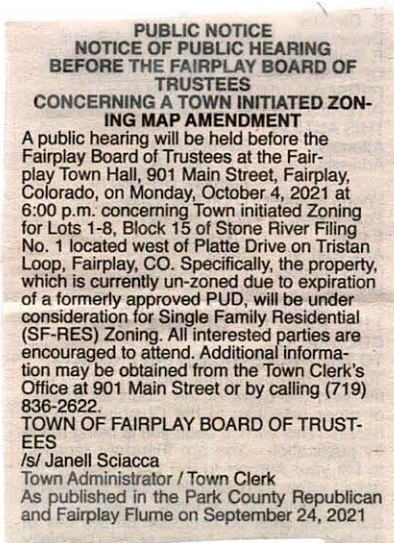
A public hearing will be held before the Fairplay Board of Trustees at the Fairplay Town Hall, 901 Main Street, Fairplay, Colorado, on Monday, October 4, 2021 at 6:00 p.m. concerning Town initiated Zoning for Lots 1-8, Block 15 of Stone River Filing No. 1 located west of Platte Drive on Tristan Loop, Fairplay, CO. Specifically, the property, which is currently un-zoned due to expiration of a formerly approved PUD, will be under consideration for Single Family Residential (SF-RES) Zoning. All interested parties are encouraged to attend. Additional information may be obtained from the Town Clerk's Office at 901 Main Street or by calling (719) 836-2622.

TOWN OF FAIRPLAY BOARD OF TRUSTEES

/s/ Janell Sciacca

Town Administrator / Town Clerk

Published ONCE in the FAIRPLAY FLUME on SEPTEMBER 24, 2021.





Town of Fairplay

901 Main Street • P.O. Box 267
Fairplay, Colorado 80440
(719) 836-2622 phone
(719) 836-3279 fax
www.fairplayco.us

September 22, 2021

Stone River Phase 1 Home/Property Owners:

In August of 2006, the Town of Fairplay Board of Trustees approved the Stone River Planned Unit Development Agreement, which facilitated the development of a portion of Stone River. A Planned Unit Development ("PUD") is a zoning designation that permits the Town and the developer to negotiate a wide variety of uses and requirements that may not otherwise be permitted or addressed under the Town's development code.

On August 7, 2021, the Stone River PUD Agreement expired with much of the development having not been developed as contemplated under the PUD Agreement. Due to expiration of the PUD Agreement, all of Stone River reverted back to its original zoning, which in this case is vacant land, including your individual lots.

As such, the Town Board will consider taking action to rezone the developed properties and/or privately owned lots on Tristan Loop as Single Family Residential. The Trustees will meet on October 4, 2021 at 6:00 p.m. at Town Hall regarding this matter

Comment is welcomed at the Public Meeting and you may also reach out to me directly at Town Hall at 719-836-2622 x-102 for additional information.

Sincerely,

Janell Sciacca
Town Administrator / Clerk

"Where History Meets the High Country"

CERTIFICATE OF MAILING (One Page)

I hereby certify that a true and correct copy of the foregoing Notice of Public Meeting was placed in the United States mail, postage prepaid, first class, this 22nd day of September, 2021, addressed to:

Schedule No. R0046903
Laura & Glenn Batts
PO Box 2143
Fairplay, CO 80440

Schedule No. R0046896
Joshua & Rebecca Salverson
PO Box 1870
Fairplay, CO 8044

Schedule No. R0045751, R0045943, R004594 & R0045945
Collegiate Funding, LLC
2350 Lassen Lane
Castle Rock, CO 80109

Schedule No. R0046897
Butler Family Trust
PO Box 417
Alma, CO 80420

Schedule No. R0046900
Johnathan Jones
PO Box 9161
Breckenridge, CO 80424

Schedule No. R0046901
Charissa Mantal
PO Box 815
Breckenridge, CO 80424

Schedule No. R0046902
Norwood Price
PO Box 1837
Fairplay, CO 80440

Schedule No. 0046898 & 0046899
John Kamm
20012 E Hatchet Ranch Pl
Parker, CO 80134

Schedule No. 0064984
Jason Lord
PO Box 23
Fairplay, CO 80440



Janell Sciacca
Town Administrator / Clerk



Town of Fairplay

901 Main Street • P.O. Box 267

Fairplay, Colorado 80440

(719) 836-2622 phone

(719) 836-3279 fax

www.fairplayco.us

September 22, 2021

**Notice of Public Hearing
Regarding Town Initiated Zoning for
Lots 1-8, Block 15, Stone River Filing No. 1
and more commonly known as 650-664 Tristan Loop,
Town of Fairplay, Colorado:**

1) Zoning of Single Family Residential (SF-RES) for vacant land

This is to advise you that on Monday, October 4, 2021 at 6:00 p.m. the Board of Trustees for the Town of Fairplay will conduct a Public Hearing at the Fairplay Town Hall, 901 Main Street, Fairplay, Colorado, concerning:

- 1) Town initiated zoning for the property, which is currently unzoned, as SF-RES (Single Family)

The subject lots are privately and individually owned.

As an adjacent property owner, you may approve or object to the zoning. You may appear at the Fairplay Board of Trustees meeting as noted above, or you may address your concerns to the Town of Fairplay, PO Box 267, Fairplay, CO 80440. Please call (719) 836-2622 X-102 with any questions.

Attachment: Certificate of Mailing

CERTIFICATE OF MAILING (One Page)

I hereby certify that a true and correct copy of the foregoing Notice of Public Hearing for Town initiated Single Family Zoning for Lots 1-8, Block 15, Stone River Filing No. 1 and more commonly known as 650-664 Tristan Loop, Fairplay, CO, was placed in the United States mail, postage prepaid, first class, this 22nd day of September, 2021, addressed to:

Schedule No. R0045751, R0045943, R004594 & R0045945
Collegiate Funding, LLC
2350 Lassen Lane
Castle Rock, CO 80109

Schedule No. R0015223
Town of Fairplay, Colorado
PO Box 267
Fairplay, CO 80440

Circle Back Development, LLC
Stone River Owner/Developer
2148 S. Lafayette St
Denver, CO 80210



Janell Sciacca
Town Administrator / Clerk



MEMORANDUM

TO: Mayor and Board of Trustees

FROM: Janell Sciacca, Town Administrator/Clerk

RE: Unfinished Business Item A – Community Garden Lease Termination

DATE: October 4, 2021

As per direction from the Board at its Regular Meeting on September 20, 2021, the Town Attorney prepared a written Notice of Termination for the Community Garden as required per Section X. of the Lease and Management Agreement.

Recommendation:

Following discussion or questions, Staff recommends a motion be made to approve the 30 day written Notice of Termination of the Community Garden Lease and Management Agreement between Vivian and Keith Pershing and the Town of Fairplay.

AVON OFFICE
0070 Benchmark Road, Unit 104
P.O. Box 5450
Avon, Colorado 81620
Telephone (970) 949-0707
Facsimile (970) 949-1810

GARFIELD & HECHT, P.C.

ATTORNEYS AT LAW

Since 1975

www.garfieldhecht.com

October 4, 2021

Paul Wisor
pwisor@garfieldhecht.com

VIA ELECTRONIC MAIL

Keith & Vivian Pershing

RE: Notice of Termination of Community Garden Lease and Management Agreement, dated June 7, 2021 (the “Lease”) between Vivian and Keith Pershing (“Owners”) and the Town of Fairplay (“Town”), concerning the Fairplay Community Garden

Dear Keith & Vivian Pershing,

We represent the Town of Fairplay. This letter shall serve as 30-days’ written notice of the Town’s termination of the Lease. This notice is given pursuant to Section X of the Lease, duly executed on June 7, 2021. The Lease will terminate on November 3, 2021.

Sincerely,

GARFIELD & HECHT, P.C.

/s/ Paul Wisor
Paul Wisor

**AGENDA for a Regular Meeting
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, October 4, 2021, at 6:00 p.m. at the Fairplay Town Hall Meeting Room
901 Main Street, Fairplay Colorado**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. APPROVAL OF AGENDA

V. CONSENT AGENDA *(The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)*

A. APPROVAL OF MINUTES – September 20, 2021

B. APPROVAL OF EXPENDITURES—Approval of bills of various Town funds in the amount of **\$87,545.01.**

VI. CITIZEN COMMENTS

VII. NEW BUSINESS

- A.** Should the Board Approve Adoption of Resolution No. 21, Series of 2021, entitled **“A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A LEGAL SERVICES AGREEMENT WITH WILSON WILLIAMS LLP FOR MUNICIPAL ATTORNEY SERVICES FOR THE TOWN OF FAIRPLAY.”?**

VIII. PUBLIC HEARING(S)

- A. CONTINUED FROM SEPTEMBER 20, 2021:** Should the Board Approve a Rezoning Request to Multi-Family for a Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian “Stone River Phase I” Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12), formerly Stone River PUD, as applied for by Circle Back Development, LLC? **(ORDINANCE NO. 2021-4)**
- B.** Should the Board Approve Rezoning Lots 1-8, Block 15, Stone River Filing No. 1, formerly Stone River PUD, and more commonly known as 650-664 Tristan Loop, from Vacant Land to Single Family Residential, as initiated by the Town of Fairplay, Colorado? **(ORDINANCE NO. 2021-5)**

IX. UNFINISHED BUSINESS

- A.** Should the Board Approve a Notice of Termination of Lease and Management Agreement between Vivian and Keith Pershing and the Town of Fairplay concerning the Fairplay Community Garden?

X. DISCUSSION ITEMS

- A.** Board discussion regarding Short Term Rental units in the Town of Fairplay.

XI. BOARD OF TRUSTEE AND STAFF REPORTS

XII. ADJOURNMENT

Upcoming Meetings/Important Dates

Presentation of Proposed FY2022 Budget to Board	On or Before October 15, 2021
Regular Board Meeting	October 18, 2021
CDOT US 285 & Hwy 9 Public Information Outreach Meeting (County Bldg)	October Date TBD
Regular Board Meeting	November 1, 2021