

SHARP, SHERMAN & ENGLE LLC

Attorneys and Counselors at Law
401 Lincoln Avenue
P.O. Box 774608
Steamboat Springs, Colorado 80477
Telephone: (970) 879-7600 FAX: (866)-247-8614
bhinchman@steamboatlawfirm.com

MELINDA H. SHERMAN
GARY S. ENGLE
BRYCE K. HINCHMAN

Of Counsel
THOMAS R. SHARP

February 5, 2023

Via Email to sross@co.routt.co.us only

Routt County Planning Department
c/o Sally Ross
136 6th Street, Suite 200
Steamboat Springs, CO 80487

***Re: Comments Regarding Routt County Planning Project No. PL20220101
Quealy Property Access Minor Amendment***

Dear Ms. Ross,

This law office represents Ty Lockhart, a member of Remnant Investors, LLLP. Remnant Investors owns Lot 5, Lucky Camp Filing 3, a subdivision bordering the Steamboat Lake State Park P.U.D. Mr. Lockhart was recently notified as an adjacent landowner of a proposal to amend the Steamboat Lake State Park P.U.D. Specifically, the amendment proposal seeks to modify certain P.U.D. restrictions encumbering the “Quealy Parcel” and introduce a new staging area for commercial snowmobile operations to use in accessing nearby U.S. Forest Service lands (“P.U.D. Amendment”).

By this letter, we submit Mr. Lockhart’s concerns regarding certain aspects of the P.U.D. Amendment which would eliminate an important safeguard imposed by Routt County for the purpose of mitigating noise and promoting public safety. Perhaps of greater significance, the proposal would radically alter the status quo at the Quealy Parcel, which has historically been managed as passive open space with the Quealy Trail providing limited public access to the Medicine Bow-Routt National Forest.

If approved, the human footprint at the Quealy Parcel would be expanded to encompass a much larger area on the property beyond just the Quealy Trail. In place of open space, there would be a 1,200-square foot steel structure, approximately 30 snowmobiles and six trailers stored on-site, and an undefined number of passenger vehicles in a new parking lot. Groups of potentially 60 or more people would be concentrated into a staging area with insufficient facilities to suit basic sanitation needs, as they would have access to just a single portable toilet on-site. It is also foreseeable that the multi-use Quealy Trail would be converted into a high-speed drag strip of sorts for snowmobile users to test their equipment before venturing onto Forest Service lands. Lastly,

if refueling is to occur on the property, or repairs of any nature to the snowmobiles, then the use of hazardous materials with the potential for waterbody contamination must be considered as well. While this proposal is framed as a minor amendment, it in effect requests a major expansion of use that is neither contemplated in, nor expressly permitted by the current P.U.D. Mr. Lockhart's specific concerns with the proposal are set forth below. Separately, Mr. Lockhart may have received improper notice of the P.U.D. Amendment proposal as an adjacent landowner, and further objects on such a basis.

A. Quealy Parcel P.U.D. History

The existing P.U.D. for Steamboat Lake State Park was conditionally approved by County Commissioners in November of 2004, when the 168-acre Quealy Parcel was rezoned to Outdoor Recreation and incorporated into the Steamboat Lake P.U.D. by way of amendment ("2004 P.U.D. Approval"). In granting its conditional approval, Routt County required that the public remain on the Quealy Trail at all times, thereby limiting impacts to an area less than 30 feet wide through a narrow strip of the property. This condition reflects an intent to maintain the Quealy Parcel primarily as open space, with the trail used for ingress and egress to adjacent National Forest Lands. It does not contemplate high-intensity uses on other areas of the property outside of the Quealy Trail as is now proposed in the P.U.D. Amendment. At the time of the purchase, in County Commissioners' minutes dated November 23, 2004, the Steamboat Lake State Park manager emphasized that "... the property would provide many benefits to the SLSP besides the multiple-use trail, including providing a buffer between SLSP and surrounding private property, and protecting the view shed towards Hahn's Peak."

The 2004 P.U.D. Approval permitted public use of the Quealy Trail for both motorized and non-motorized recreation. As a multi-use connector trail, a speed limit of 25 miles per hour was required in accordance with posted signage. The imposition of a speed limit was a compromise position following significant public comment during the 2004 P.U.D. Approval process. At that time, area residents mobilized to voice their concerns about engine noise and public safety issues stemming from commercial snowmobile use of the nearby "Poverty Bar Trail" easement. The Planning Commission responded to these concerns – including concerns raised by Mr. Lockhart and other lot owners in the Lucky Camp subdivision – by crafting a set of commonsense rules to lessen the impacts of commercial snowmobile use upon neighboring privately-owned lands. Establishing a 25 mile per hour speed limit was one of such rules adopted by the Board of County Commissioners after careful review of the same during its review process.

B. Noise and Safety Concerns

In an effort to erode a material condition of approval in the existing P.U.D., the current proposal now seeks to eliminate the speed limit entirely for the Quealy Trail. The applicant states that modern snowmobiles must travel at speeds in excess of 25 miles per hour to prevent engine damage, and therefore, the applicant contends that a speed limit should not be required. It is important to consider the practical implications of such a request from both a noise and public safety perspective. Many modern snowmobiles are capable of sustained speeds of 70 to 120 miles per hour. This presents a scenario in which inexperienced snowmobile users would be

concentrated on the Quealy Trail with both foot traffic and other motorized users, traveling at speeds comparable to a passenger vehicle, and without posted signage to curb excessive speeds.

Beyond bona fide safety concerns, having a posted speed limit reduces noise and reminds snowmobile users that their behavior affects others around them. The Quealy Parcel is not a snowmobile park; it is public land upon which reasonable, site-specific restrictions have been imposed by Routt County, striking a balance that allows limited snowmobile operations to occur in a manner that does not materially interfere with the use and enjoyment of privately-owned lands adjacent to the P.U.D. boundary.

Eliminating a defined speed limit for the Quealy Trail would encourage reckless speeds and result in increased engine noise that is audible to nearby property owners, such as those in the Lucky Camp subdivision. According to a study conducted by the University of Northern Colorado, “Snowmobiles have been measured at 86 decibels (dB) at an idle, to 113 dB at full throttle using a sound level meter.” For purposes of comparison, car horns are in the range of 110 dB. The outfitter could in theory have as many as 30 snowmobiles in use at one time on the Quealy Parcel while mobilizing tour groups, each snowmobile capable of generating noise roughly equivalent to a car horn. In that regard, it is important for the County to consider potential cumulative noise impacts to the surrounding area.

Approving the P.U.D. Amendment in its present form would condone commercial activities that could be perceived as a private nuisance impacting nearby landowners. Mr. Lockhart’s lot line at Lucky Camp sits less than 300 feet from the snowmobile access route. He and other private landowners in the vicinity would be materially impacted by the noise and intensity of use now proposed on the Quealy Parcel. To the extent any activities proposed by the P.U.D. Amendment would entail summer access to the Quealy Parcel, those activities are opposed as well.

C. Impacts to Critical Wildlife Habitat

In addition to noise and public safety concerns, eliminating the speed limit through the Quealy easement has the potential to negatively impact unique winter habitats found at Steamboat Lake State Park. For example, the area surrounding Steamboat Lake State Park is mapped by Colorado Parks and Wildlife (“CPW”) as Bald Eagle Winter Range and Winter Forage Area. Bald Eagles are designated a Tier 2 “Species of Greatest Conservation Need” in CPW’s 2015 State Wildlife Action Plan. The presence of a large waterbody provides one of the only locations in the Elk River Valley north of Clark where Bald Eagle Winter Range is found. Increased engine noise from speeding snowmobiles threatens to degrade the quality of critical wildlife habitat for Bald Eagles and other threatened species in the area. In the updated Routt County Master Plan, Policy 11.6 requires that the County “[c]onsider impacts on wildlife before approving new recreational uses, residential developments, and other developments and permits.”

D. Failure to Comply with Zoning Regulations

The procedure governing minor amendments to a P.U.D. is set forth in Section 7 of the Routt County Zoning Regulations. Section 7.3 provides that “[a]ny new or amended PUD shall comply

with all of the following: (A) The PUD shall be consistent with the intent and policies of the Master Plan and any applicable sub-area plans. (B) The PUD shall comply with all applicable standards and mitigation techniques listed in Sections 5, 6, 7, and 9 of these regulations” (emphasis added).

The proposal does not comply with all of the above requirements as needed for a minor P.U.D. amendment. For example, Section 5.1.5 of the Zoning Regulations prohibits the outdoor storage of materials, including machinery, equipment, parts, and vehicles. Maintaining a fleet of over 30 snowmobiles and six trailers on-site does not comply with this requirement. Section 6 of the Zoning Regulations sets forth standards that apply to all P.U.D. Plans being considered by the Planning staff, under which 6.1.1 provides that “[t]he proposal shall be consistent with public health, safety and welfare” (emphasis added). Removing speed restrictions governing the use of high-speed recreational vehicles in a multi-use area that is open to motorized and non-motorized users would create inherently dangerous conditions on the ground, in a manner inconsistent with the requirements of Section 6.1.1 of the Zoning Regulations.

The uses contemplated through the P.U.D. Amendment are also inconsistent with the applicable sub-area plan, the Upper Elk River Valley Community Plan (“Community Plan”). The Recreational Uses and Public Lands chapter of the Community Plan expressly acknowledges the problems caused by the interface of motorized and non-motorized recreational users in the North Routt area. The Community Plan states: “Problems have surfaced, because of the increase of users, such as ... conflicts between motorized and non-motorized users ... noise and odor complaints from residential neighborhoods (incompatible uses) ... overcrowding at trailheads and trailhead proximity to residential neighborhoods ... sanitary issues at trailheads and at the amenities that serve tourists and locals.”

Specific provisions in the Community Plan that are in conflict with the P.U.D. Amendment include, but are not limited to:

Section 2.2.2 (Challenges and Opportunities): “Conflicts between snowmobiles and non-motorized uses such as cross-country skiing and snowshoeing have increased as the number of users grows.”

Section 2.2.4 (Policies): “(5) The cumulative impacts of additional uses should be considered when determining their appropriateness. (6) Guided tour routes should be located and operated to avoid negative impacts on residential areas. (7) The extent of new commercial recreational uses shall be determined by the constraints upon them, including, but not limited to, parcel size, topography and geologic stability, wildlife, wildlife, access and impacts to the County Road system, proximity to incompatible uses, and the cumulative impacts of all applicable uses in the area. (12) New permitted recreational uses shall be located away from or have their impacts buffered from defined residential neighborhoods. (14) Separate non-motorized from motorized uses to avoid conflicts.”

Section 2.3.4 (Policies): “(3) Direct winter recreation activities away from critical winter wildlife habitat and movement areas.”

In particular, Section 2.2.4, subsections (6) and (7) should receive due consideration in light of the proximity of the proposed winter staging area to the Lucky Camp subdivision.

The P.U.D. Amendment does not comply with all applicable standards in the Zoning Regulations, including the requirement that it comply with all sub-area plans (i.e., the Community Plan), and should be denied on such a basis.

E. Conclusion

For the above reasons, Mr. Lockhart respectfully requests that the Routt County Planning Commission deny the petition for a minor amendment to the Quealy P.U.D.

We thank you for your time and consideration of the foregoing.

Sincerely,

SHARP, SHERMAN & ENGLE, LLC

A handwritten signature in blue ink, appearing to read "Bryce K. Hinchman", with a stylized flourish at the end.

Bryce K. Hinchman, Esq.

cc: Melinda H. Sherman, Esq.
Ty Lockhart