

Town of Marble  
Minutes of the Meeting of the Board of Trustees  
August 3 2017  
7:00 P.M.  
Marble Community Church, 121 W. State St. Marble, Colorado

A. Call to order & roll call for the Meeting of the Town of Marble Planning Commission – The meeting was called to order at 7:02 p.m. Present: Will Handville, Judy Morande, Tim Hunter, Mike Yellico, Larry Good. Also present: Ron Leach, Town Clerk and Terry Langley, minutes. Attending by phone: Kendall Burgemeister.

a. Public Hearing re: Gallo Hill housing proposal, Will – Will stated that the meeting is to be conducted with respect. He asked that the public raise their hands to make a comment.

The floor was turned over to Ryan Vinciguerra and Andrea Korber, architect with Land and Shelter. Andrea gave a history of her involvement with the project explaining that this is a request for a use by review, not for a variance. She said that these are proposed as rental units. The application is for five cabins, two bedrooms each, 1000 sq ft each. Septic design and hazard review has been done by firms who work with Marble. The septic engineer and Paul Rutledge, septic consultant for Marble, have reviewed the proposal of putting the five homes on one septic and have approved the design. A restriction against subdividing can be put in place to address concerns about future ownership or use. Multi family dwelling units, including multiple structures, can be reviewed under use by review. The proposed structures only cover 5% of total square footage allowed under current codes. Items of concern brought to them by the board have been addressed. Restrictions, including length of rentals, can be added. Road improvements can be part of bringing water to the project.

Ryan explained that he is trying to help the rental market in Marble to help with housing his employees, but also school employees and quarry employees. By building smaller structures he hopes to have the project fit into Marble. He is not requesting variances and research has found no deed restrictions, it is not commercial and there is no one acre/one building requirement. The public hearing is held because it is a multi-family project. For young professionals who need housing. They will walk to work, limiting car trips. He is trying to help Marble grow responsibly. Professionally addressed questions.

Comments from the commission followed. Judy Morande stated that there is nothing wrong with proposed project, but it is the site that is the problem. Current covenants and deed restriction prohibit the project as submitted. Larry Good stated that estimates of up to 20 tenants have been made and that 10-12 is more realistic. He feels that Ryan has bent over backwards to address requests regarding rules and zoning. They haven't discussed possible restrictions and what the town can expect. This is relatively low impact - apartment buildings or duplexes would be higher impact. He discussed the difference in the Planning Commission and the Town Council and that items such as improving the road and long term leases would be decided by the council. Hearing and addressing community concerns happens in the planning phase. Ryan has been open to addressing concerns. This town needs rental properties. The disagreement has to do with the location. Tim Hunter stated that he applauds Ryan on many of his efforts, but not this. Ryan's presentation has not

convinced him to change the rules. Mike Yellico asked those attending to indicate if they live in town and are registered voters or live in the valley and are registered voters in Gunnison County. Mike feels Ryan's proposal has covered everything and has been transparent. There is a need for rental housing. He feels the town is growing and that no one has the right to stop that, although there is an anti-growth faction. He stated that Ryan could build three 5,000 sq. ft. houses on the property but he is trying to keep the project within the scope of the community. He is for the project. He would encourage Ryan to look locally for employees to alleviate some of the housing issue. He feels that this project has divided the community and there is false information concerning current codes being spread. Will Handville stated that he is 100% behind the idea of affordable or low income housing. It would be nice if we could go back in time to get approval for the project before buying the property. The people who moved up there did so with the understanding that there would be one building per acre. Kendall Burgemeister stated that they should be careful when using terms like zoning and deed restriction. It was zoned for low density at the time of annexation. However, the town changed the zoning and it is now zoned residential and can be reviewed under Use by Review. There is no legal prohibition as it relates to zoning that would prohibit the project.

Ryan stated that there is no definition of low density. They are not requesting that anything be changed and that there needs to be a reason to prohibit the project. Tim Hunter stated that he does not want to set precedence with a shared septic system. Resulting in allowing anyone to buy property and build such things as duplexes. Andrea responded that each request for special reviews have to be reviewed on their own merits. Larry Good stated that the purpose of zoning code is threefold. 1. protect public health and safety – Ryan has obtained verification regarding the alluvial plane on Slate Creek. 2. Provide for efficient land use– it couldn't be more efficient in Larry's opinion. Even the septic seems efficient. 3. Encourage aesthetically pleasing development which is somewhat subjective. These are the purposes of the zoning code. Does the project meet these purposes? Does the town need the project? Is it supported by the community? Mike agrees with Larry and wants to point out that it doesn't make sense to go with 3 large rather than 5 small. This project is not in the red zone. Septic engineering has evolved and the septic engineer has approved it. There is not a low density designation on the property.

Public comments followed. Steven Warner, 101 W. 1<sup>st</sup> Street asked about Kendall's profession (town attorney). He said that many people, including the mayor, have said that there is a one acre/one building requirement but that Kendall said that there is not. Another council member mentioned 1998 ordinances. But that Kendall said there are no ordinances which would prohibit the project. He would like to know which is true. Kendall explained that there is nothing from a zoning standpoint that would prohibit the project. It is zoned as residential and a multi-family project is a use by review within the residential zone. There may be a variance needed for the OWTS system. He is not sure the code says there can be only one structure within a building envelope. Square footage does not exceed the building envelope requirements. Will asks again about the 1 acre/1 building that they have always understood. Kendall said that it is not spelled out that specifically. The requirement is for one acre to build. Ryan stated that there is a residential one acre minimum lot size but there are no restrictions to number of structures. Will said that they have always been told one

acre one bldg. Ryan read the current code. Will said that, regardless of the way it is written, the intent is one acre/one building. Steve went on to say that, in regard to road improvements, they want what is best for the town.

Robin Richmond, 25 W Village Dr., asked, if this is a problem with the town, is there such a thing as a special election or vote that property owners can vote on? Kendall explained that this is quasi-judicial decision and cannot be submitted for a referendum.

Christi Seidlinger stated that the Master Plan, exhibit 9 shows property is in the pink as low density on the master plan because it is all one big area with underground water. There is not adequate water for high density housing. It was changed from PUD large development to residential. Ordinance 6, 1998, clearly states that this should be R-1 low density. Does this meet those requirements? Over 4 units is considered commercial property according to assessor. Too many septic systems will contaminate the wells and the Crystal river. Larry asked if Ryan has the right to build 3? Christi stated that this is one lot, not three lots – this would need to be subdivided. Will asked Kendall if, in the annexation, those regulations inherited? Kendall – initial zoning of low density was superseded when zoning codes were changed. Master plan should be given some weight, it shows this as low density but low density is not defined. If land owner gets site specific studies done, does that meet the requirements of the board? Need to consult the experts concerning water and septic.

Larry asked if anyone has built in pink? Todd said that it took 2 months to do the due diligence, and 8 more months to build. He went through the county and through and was told that he could build one structure. He wanted to split the lot but could not. Ryan should have found this out before buying the lot. Kendall stated that there is no inherit right to just build three 5,000 square foot structures, this would require a division into separate lots.

Steve Lucht, 290 W Marble, read from page 10 & 11 supplemental regulations all zones. He interprets this to say that Ryan might be able to build 2 with the setbacks and creek and each structure must meet all the requirements. The lots were subdivided with the intent of avoiding high density. Kendall agrees that requirements of the title should be met. Steve stated that each additional house must meet the requirements. He stated that Use district noise levels – page 18, d, residential allows 55 decibels day during the day, 50 at night. Has sound engineering study been done for a higher density to make sure this requirement is met? Will said that this was not part of what they required. Andrea commented regarding 11 D that the is on a legal lot and that parking also meets the requirement.

Hank Van Schaack stated that he previously owned the property and annexed it into the town. He stated that the entire parcel is one lot and was designated for one house on one lot. To subdivide there is a formal, legal subdivision process. The planning commission can decide whether to allow multiple structures on the lot.

Lisa Leach stated that she is 100% behind Ryan and project.

Kevin Webber, 380 Meadow Lane, asked if he gets 3 one acre parcels and has a home on each – how big can they be? Can he rent these? What is the Impact of one versus the other? Andrea answered that, by right without having to ask, he can build 5000 square feet plus accessory bldg..

Charlie Manus, 645 W Main, said it took 3 years for his building because he did not have one acre and he eventually bought 3 lots. He is totally opposed to what is being proposed right now. It is not fair to the other homeowners.

Amanda Streetback, 263 CR 132, Glenwood Springs, would love to be a full time resident. She is in support of what Ryan is trying to do. She feels that previous council that was responsible for allowing folks to build did not do their jobs. We need to work with what is legally applicable today. It sounds like all boundaries have been met.

Josh, Redstone,, life isn't fair and we should be thankful for Ryan creating jobs, life, energy. He is with Ryan.

Tim Hunter said that in his 37 years of living in Marble he has seen promises made and broken. The area has been a bone of contention due to geological hazards in the Gallo Hill area. Streets will be fixed, but a big issue for him is shared systems that have been a problem for the town. It sets a precedent. In a small town OWTS rules. As it stands now, he is not in favor.

Annamae Glenn, 1625 Village Drive, asked if there was a way to compromise and find an alternative way to address the septic issue? Tim responded that the system is good, But his problem with future property owners. Will stated that tonight the commission decides whether to accept the proposal as designed. If not, there may be several reasons (# of units, septic, traffic) Then they go back to see if there a way to work it out .

Kay Williams – 323 West 3<sup>rd</sup>. understands that Gunnison County rules state one structure per acre for a safety. Zoning volunteers should err on the side of safety because if a mistake is made it is hard to correct. How can it be presumed that town supports this unless there is a voe.

Charlie Speer, 300 W State , wonders what thought was given to the opening of the campground and the impact on the increase of traffic and septic. There is a benefit to the development of a project of community members vs temporary campers. Ryan part of what makes Marble special.

Neil asked if the town could make regulations concerning shared septic systems? Steve Warner said that the paperwork should be omplete and filed and followed.

Will asked if the commission was ready to make a recommendation to council? Mike Yellico repeated that he is for the project

Kendall stated that they needled to let others make comments.

Peter Wertz stated that the attorney has established it is legal. He stated that he is anti-growth but he supports the project. The town needs the element that Ryan brings. The property can be deed restricted and violators can be sued.

Maria , 101 State Street, said that she is moving for eighth time since moving here. It is stressful and hard to live here and there is a need for housing. She works at the school and she wants to contribute. She feels that everyone deserves an affordable roof over their heads and she wants him to do it right. Housing is valuable due to the community, the school, the church – the things that connect us as a community.

Glenn Smith is conceptually all for it. He could have better employees if there was housing, but wonders if a 10 bedroom development is going to benefit other businesses.

Cary Shanks, 43 CR 3, stated that he feels that the hub of the town is Slow Groovin' and that it is a real community asset and we are in jeopardy of losing our hub. There is a liability in misinterpreting legal issues. The attorney says nothing is keeping him from building. There are benefits to the community in providing housing

Michael Lane, West Village Drive, said that the assets here are the people. Instinct is to be anti-growth but this attitude feeds most of the conflicts in this town. Look into the future, fight the proprietary instincts, figure out how to solve the problem. We can't stop growth. Septic concerns go farther than Ryan. Balance.

Susan Blue, 4314 CR 3, believes that affordable housing would help with traffic so people don't have to commute up and down the valley.

Daniel Lucht is concerned with 5 houses on one septic system. This would mean five times more chance of something breaking and causing a problem

Connie Hendrix stated that she loves Marble, likes everyone. All agree on beauty and environment. We need to control where we are going with thoughtful progress and following the law. We need to be legal and solve the issue together. We need to educate ourselves on the Upper Crystal River Plan and the Marble Master Plan and to coordinate with Gunnison Co.

Linda Adams said that she has five cabins on ibe septic at Chair Mountain. She rents them in winter after hunters go but folks need the housing now.

Christi – ordinance 6 and annexation restrictions are not being followed and everyone says that they no longer exist, so what keeps new ones from being followed.

Linda Menard stated that the church would not be here if there wasn't growth, the school wouldn't be here. She has people living with her because they have no place to go. We have to find a way to help more. Growth is going to happen and it needs to be smart.

Steve Fowler – thanks for road!!

Peter Wertz – thanks for serving the community and thank you for all who commented. Good people need support.

Tim Hunter said that he will not patronize restaurant because of his opposition to project. Gut feeling is that it is not a good fit in its present form. He is willing to look at other options. Affordable housing needs a housing board to set rent, screen applicants.

Mike Yellico would like to clarify that Ryan is calling it market rate rental, not affordable. He is for the project.

Larry Good said that he has also had others living with him. New ideas mean thinking and forming an opinion. Free market rental units are needed in Marble. Ryan has stated that it will not be exclusive to his employees. He has agreed to help improve the road and these will not be short term rentals. He supports it as long as it is done legally and addresses concerns.

Judy Morande said that she thinks idea is wonderful, but the problem is the piece of land. She would like to see him come back with the same project on a different piece of land.

Will said that this is frustrating for him because he recognizes the need, the project has moved forward and many people are for it but the people affected the most are against it and have brought documentation supporting their position. Will said he agrees that this is needed in the community but this is not the piece of property for it.

Ryan said that he thanks everyone for their input. He is disappointed that lawyers, architects, septic specialists are being ignored. He feels that he has overwhelming support from the town and has consulted with specialists as to the legality and the design of the project. The title work has been scrutinized by lawyers and there is no zoning that prohibits this plan. There is only two neighbors on the road itself, one being the Mayor. Ryan will be asking the Mayor to recuse himself. Marble's past should not be held against Ryan. He has been honest about the plan from the beginning. Ryan said he has a proven track record in Marble for the past 7 years running. Ryan asked the board to leave it to the specialists and not vote on their gut.

Will said that concerns brought to Ryan previously included the shared septic and the number of units. He said that Ryan did not want to make changes that would address these concerns. He does not feel a need to recuse himself. Will expressed his concerns as septic, noise, traffic, and what the project does to his property value. Will stated that he bought his property knowing that it was in an area that required larger lots than other properties in town and that he paid a lot of money for it. Will said he bought his property for a retirement investment. Will stated that yes he does have an interest in this. Regardless of how the vote goes tonight, it is only a recommendation to the Town Council. As it stands now, he does not support.

Mike Yellico stated that, if Will did not vote, it would be a tie vote and they would continue to work on it.

Mike made the motion to recommend approval to the council. Larry seconded. The vote was Mike Yellico – yes, Tim Hunter - no, Larry Good - yes, Judy Morande - no, Will Handville - no. The motion did not pass. Recommendation to the town council is to deny the project in its current form .

- A. Adjourn Town of Marble Planning Commission Judy Morande made a motion to close, Tim Hunter seconded and the motion passed. The meeting was Adjourned at 9:30 p.m.
- B. Call to order & roll call of the Meeting of Board of Trustees – The meeting was called to order at 9:33 p.m. Present: Will Handville, Judy Morande, Tim Hunter, Mike Yellico, Larry Good. Also present: Ron Leach, Town Clerk and Terry Langley, minutes
- C. Approve previous minutes – Motion to approve the minutes was made by Mike Yellico and seconded by Judy Morande. The motion passed.
- D. Mayor's Comments
  - a. Marble Water Company annual meeting report, Will – Will said that they are working well together. Tom Williams reported that the second test of the monitoring wells will be done soon. Plan B is to be worked out in case of any positive test.
- E. F. Clerk Report
  - a. Current bills payable 8/3/17, Ron –Bills to be approved tonight total \$21,822.40 including 8,000 to MWC for the wells. Mike Yellico moved to approve the bills. Larry Good seconded and the motion passed.
- F. Current Land Use Issues
  - a. Aspen Valley Land Trust, Thompson Park acquisition, Suzanne Stephens – Suzanne reported that Pam Heppala proposed to donate the park to AVL. They would hold title and the land would remain a park available for use by the town and the school. It would be called Marble Children's Park. AVL would like the town to continue to partner by providing porta potties and dog waste facilities . Will asked what latitude they would have to develop such things as a ball diamond, bleachers, parking. There is latitude to build anything other than things like residential buildings. Parking would be limited to outside the park. Mike Yellico said that the jailhouse is being restored and part of that is park beautification. There will be a meeting on Aug 7 and he encouraged Suzanne to attend. Suzanne stated that land would be held in trust,

but they work closely with the town. Tim asked if it could be swapped. Suzanne said that it could be sold or traded, but the intent is to preserve it as a park. Deed restrictions or

conversation easements can be put in place to insure that. Tim stated that the town is paying maintenance on property they do not own. Would AVLТ help with those expenses? Suzanne said that AVLТ will be paying insurance, and costs of anything above and beyond what the town is doing now. They would ask the town to continue to provide the maintenance they do now. She said the Charter School would be contributing as well. Tim asked about help with such things as a sprinkler system, putting in improvements like a ball diamond. Mike Yellico said that – history of CO is going to expect some upgrades in conjunction with the restoration of the jail. Tim asked about beautification as part of that grant. Mike said that Emma could provide more information on this. Larry asked about AVLТ’s history with historically significant parks. She said that the city of Aspen provides maintenance and they work together on infrastructure development. Will thinks that a partnership with the town, school and AVLТ would be excellent. Amy Rusby stated that grant funds are possible. Tim suggested that fund raisers are also a possibility. Will expressed the town’s willingness to work with AVLТ. Suzanne said they are going through due diligence. Mike said the horseshoe pits may be moved due to their current proximity to the jail. Hank – would the land trust be amenable to considering a conservation easement to address concerns of the town. Suzanne said that there is expense involved with this and their preference is for deed restrictions. Hank Van Schaack said that this would need to be done by the current owner at the time of transfer so if the town wants restrictions they need to communicate those.

b. Lead King Loop Fundraiser, Amy Rusby – Amy explained that this will be the 14<sup>th</sup> LKL fundraiser for the school and will be held on Sunday Sept 17. They will request the permit needed by the town and will pay the necessary fee. Richard Wells will be in charge of parking. They will do a clean up sweep after the race. Tim asked about forest service insurance requirements. Amy said they get a forest service permit and a certificate of liability insurance.

#### G. Old Business

a, Report regarding fuel leak status, Mike –Mike said that the mitigation plan has been accepted and it will be done by Duane Piffer in mid Sept.

b. Discussion of illegal camping, Will – tabled

c. Other

#### H. New Business

a.Other

#### I. Public Comment

a. Steve Lucht, excessive disruptiveness and unnecessary noise – Steve is requesting a sign and enforcement concerning the noise ordinance. He is also requesting that the town buy a decibal meter. There are several businesses – Beaver Lake Retreat, Beaver Lake Lodge, Duane Piffer, Slow Groovin, Marble Symposium that need to follow noise ordinances. Steve has three decibal apps on his phone. He takes the readings and takes a picture. Page 18 on the code lists 65 decibals on commercial to 10 pm., 55 after that. Residential limits are 55 and



50. He is asking that commercial be reduced to 60 daytime and 55 at night after 7 p.m. Slow Groovin' picks up around 4 pm and goes up to around 75 and falls off at 10 p.m. Anything over is noise pollution/noise nuisance. Steve said that there is too much noise and disruption in Marble and it needs to stop. We need to quiet the town down at 7 p.m. It is non-negotiable because Colorado statutes state that these are the numbers. Anyone can file a complaint. This would then go to district court and would result in a perpetual injunction and would be punished as contempt of court. Marble does not have enforcement. Citizens are forced to spend their own money to get relief Will agrees and says that this can be mitigated if the town is willing to raise taxes to provide compliance.

b. Other

J. Adjourn – Larry Good moved to adjourn, Judy Morande seconded and the motion passed. The meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Terry Langley