

Hay Creek Valley
Public Statement for BoCC Hearing
Thurs, 9 May @ 0900

To begin with, we assume that you are aware of and have read the Public Statement we provided at the 18 April Planning Commission Hearing. If not, we are prepared to present once again for the benefit of this hearing as the contents of that statement constitutes the basis of our opposition.

In that document we **very specifically** identified that the Applicant does NOT have a Waiver for **LDC Section 8.4.4.D, Dead-End Road Standards**.

During that Planning Commission Hearing, when confronted with this revelation, the County Planner claimed that it was already approved during the Preliminary Plan hearings by both the Planning Commission and the BoCC.

For additional clarity, we will now provide a more thorough synopsis of the more salient statements made during the hearing that clearly indicates the palpable level of confusion, misinformation and deflection that transpired:

Mr. Whitney: “Is the assertion in the document that those in opposition handed us that there is no waiver for more than 25 properties on a dead-end road...Is that correct?”

Planner: “So, the waiver was approved with the preliminary plan by the BoCC. So that waiver has already been approved and would be applied to this final plat.

Vice Chair Carlson: “So there is a waiver?”

Planner: “Yes.”

Mr. Whitney: “So for the record, there is a waiver for the dead-end-road? That’s what I heard the applicant say, but that is not consistent with the piece of paper we have. The question is “What’s right?””

Planner: “Since it was already approved by the Preliminary Plan, I didn’t want to create any confusion that it needed to be approved again.”

Vice Chair Carlson: “Just to be clear, this private road doesn’t need approval because it’s less than 25 lots on a dead-end road?”

Planner: “Correct. This waiver has already been approved for the subdivision.”

Vice Chair Carlson: “It’s a concerning issue for sure, but since they already approved the waiver...”

Mr. Whitney: “I’m now confused. While there may already be greater than 25 homes on a dead-end road, with respect to this application which isn’t adding more than 25 houses, so they got a waiver? **It’s already out of compliance, how the heck did they get a waiver? The whole picture is that we’re way out of compliance.**”

Planner: “When the Preliminary Plan did go through, which has been approved and which that waiver is approved, Staff did look at the site as a whole. We looked at Hay Creek Road. Your commission and the BoCC did approve that waiver.”

Mr. Whitney: “Well, if that’s the answer, I can’t say I agree with it.”

Ms. Fuller: “ It just patently seems unfair to me when I look at this. I believe you when you say that this board recommended approval for this waiver. If this waiver was approved, then the neighbors are probably not going to win. I realize there’s that tipping point where you’re just over, and then there’s that point where we’re not even to like 10% over, we are materially over! Can even more development get approved with waivers and have more lots where they have one-way out on Hay Creek Road?”

Planner: “Like moving forward, is that what you’re asking?”

Ms. Fuller: “Yeah! Could this recommending body and the approving body, the BoCC...Could they approve even more lots going on to Hay Creek Road? What would protect the neighbors”

Mr. Trowbridge: “How can we show per the Criteria for Approval that the subdivision provides evidence to show that the proposed methods or fire protection comply with Chapter 6 of this Code? **That is obviously the big concern here...**in terms of the traffic load egressing Hay Creek, not just from the subdivision, but from the entire valley. Perhaps the applicant could speak to that because the only waiver you have is just the one in Chapter 6 and **I find it hard to believe that that’s sufficient.**”

Applicant: “Could you repeat that question?”

Mr. Trowbridge: “The big question here is about egress, not only from your neighborhood, but the impacts offsite which is an adjacent evaluation criteria. How can we show that the egress from this neighborhood and the adjacent neighborhood aren’t overwhelming the ability to get people out of the valley?”

Applicant: “First and foremost, this is the Final Plat. We did have discussions and hearings back in Sep/Oct when we went through the preliminary Plat process, so **we’re just here enacting what was already approved.**”

Vice Chair Carlson: “Can you address any of the evacuation criteria in Chapter 6 of the Code as it relates to Hay Creek?”

Applicant: “With specifics to evacuation?”

Vice Chair Carlson: “Yes.”

Applicant: “I guess I don’t have the details of that Code Section in front of me, **and I don’t recall any direct conversations with evacuation concerns coming up.**”

Vice Chair Carlson: Is there anything in Chapter 6 about evacuation?

Planner: “It just says emergency access **should** be provided for evacuation.”

Ms. Fuller: “And I think this goes into ‘Review Criteria for offsite impacts were evaluated and related offsite improvement are proportional.’” **Has that been specifically addressed? Having 14 additional lots, there is clearly an impact to an already overburdened road. Has this been specifically addressed in the application?”**

Vice Chair Carlson: (personally answers the question) **“Well, they were given a variance...er...or a waiver.”**

Make no mistake, there was no mention of a waiver for the **LDC 8.4.4.D Dead-End Road Standards** in either of the Preliminary Plan Hearings or any of the supporting documentation. Conversely, the Applicant did identify an erroneous source reference (ECM 2.2.4.A.6) for a private road waiver request during both Preliminary Plan Hearings. That source reference was never challenged.

The planned road for this development is a cul-de-sac that greatly exceeds the ECM **maximum length criteria of 1600 feet**. It is **more than a mile long, nearly three and a half times over the established safety limit**, and per LDC 6.3.3.2.C, SHALL have a secondary access per the Code. A waiver was approved, **but ONLY applies to the road inside the development**.

The Dead-End Road mandate, although similar, is **entirely separate and distinct**. Again, Hay Creek Road is a dead-end road, does NOT have a second means of access, and therefore is limited to no more than 25 lots. **That includes the entire valley!**

With respect to the already approved cul-de-sac waiver, there is limited documentation supporting such a risky decision. One is a letter from the Monument Fire Department with two parenthetical statements that simply **recommends** “No second point of access or mid-way-turn-around is required.” and “a second cistern is not required.” The other is a two-page Fire Protection Report that simply identifies which fire department will serve the subdivision, references the 33,000-gal cistern, and points to the Wildfire Hazard and Mitigation Report for further information.

However, the Wildfire Hazard report contradicts the final **recommendations**. It clearly identifies the entire plat contained within a designated **“Red = Severe Hazard”** wildfire area. It also highlights that quote, “dead end roads (which a cul-de-sac is also considered) **should not exceed 600’ in length** when the area is classified as having an extreme wildfire hazard.” That now makes the cul-de-sac nearly **nine times over the prescribed safety limit!**

It is important to note that the Fire Department only provides a **recommendation** and uses the International Fire Code (IFC) to assess a proposed property's fire safety provisions. Per the **IFC Appendix D**, "Special Approval is Required" for any cul-de-sac over **750 ft!** Furthermore, they do not evaluate against the local LDC and ECM requirements. As such, the Hay Creek Dead-End Road mandate was not considered in their recommendation, but per BoCC Resolution 20-164, must be factored in before this board can approve such a waiver.

The conundrum you face is that the cul-de-sac 2nd access required waiver constitutes compounding risk factors, or in effect a waiver within a waiver. If this safety related cul-de-sac waiver were not approved, the Applicant would need to provide a very problematic separate access to the only available option, Hay Creek Road. Unfortunately, Hay Creek Road is already in violation of the LDC Dead-End Road standards and also needs a separate access, creating in essence a double safety jeopardy.

Exacerbating the risk level are two safety related **deviation** approvals: #1 for the cul-de-sac length being greater than 1,600 ft with **no mid-way turnaround**, and #2 for not adhering to the minimum centerline radius of 300 ft. Additionally, per **LDC 8.4.4.D.3, Maximum Length of a Dead-End Road**, the maximum length is governed by the ECM and **may be further limited in those areas subject to wildfire hazard in accordance with this Code.**

The proposed risk mitigation efforts by the Applicant certainly helps alleviate some of the safety concerns; however, this cul-de-sac without a 2nd access is **grotesquely** over the limit by any standard. There are a far greater number of warning signs and excessive violations that are being overlooked that far outweigh any imprudent waiver approval.

Finally, per **LDC 8.4.4.E.2, Private Roads Require Waiver**, in granting a waiver to allow private roads, the BoCC "SHALL" **make written findings supporting the use of private roads.** Where are the substantiating decision findings other than the final votes?

With respect to the process, we were admonished by Planning Commissioner Carlson in a statement urging us to “Pay attention to the notifications that come out because the time to really press this problem was in the Preliminary Plat timeframe.” For the record, during the inception of this development effort in 2022, notifications were isolated to only the properties touching the development. In subsequent notifications, the distribution was expanded to properties within 500 ft of the development. In an area zoned RR-5, that expansion has next to zero effect on increasing the notification distribution. Nobody within the upper section of this valley, which constitutes the brunt of the residences, received any notifications. When we tried to point this out, Commissioner Carlson promptly shut us down.

And for the record, we did have a member of our neighborhood, Mrs. Kaylie Drew speak in opposition at the Planning Commission Preliminary Plan. Mrs. Drew voiced her concerns over several issues: lack of notifications, water, traffic, wildlife and most importantly the wildfire evacuation problem. She specifically asked for a “postponement of consent so we can have better information communicated to everyone else who lives out there.” After her comments, the Applicant came up and addressed all her concerns, **EXCEPT** the wildfire evacuation issue. There ensued a very short discussion between commission members on the notification and water topics, ZERO discussion on the wildfire topic, and after non-acknowledgement of Mrs. Drew’s main concern, promptly moved on to the never unexpected unanimous decision of approval.

As for the BoCC Preliminary Plan hearing, it was acknowledged that there were public comments in opposition during the Planning Hearing; however, they only pointed out two of Mrs. Drew’s concerns, wildlife and traffic, of which there was no further questioning. There was no mention of the wildfire evacuation issue she raised. Commissioner VanderWerf spent the better part of the hearing questioning a discrepancy over conflicting numbers of conditions, notations and requirements within the Project File and then later realized he was looking at the wrong file. The end of the hearing focused primarily on the board **trying to figure out if there were or were not any deviations or waivers, and this after the applicant had just discussed them!** Once it was finally determined that there were deviations and waivers, ZERO MORE questioning ensued. And as usual after the ceremonial formalities, the board quickly moved to motion and unanimous approval.

If you walk into a hearing and aren't already intimately familiar with the deviations and waivers, you are not doing your job. These are the most critical elements of any application and demand increased scrutiny and solid justification for approval. Simply counting them and moving on is not what we expect from our elected officials.

Fortunately, amidst all this confusion and misinformation, five of the Planning Commissioners were able to separate the wheat from the chaff and acknowledge the conflicting issue and dire consequences faced by the current occupants of Hay Creek valley. Furthermore, even the three Planning Commissioners that voted in support of the development acknowledged that there is a serious safety problem presented by additional development.

Conversely, in the face of so much confusion and doubt about such a critical waiver safety issue, Planning Commissioner Carlson in his closing vote justification statement said simply, "The Applicant DID get a waiver for that issue and that's why I voted yes on it." The Applicant clearly stated, "**I don't recall any direct conversations with evacuation concerns coming up.**"

We find it hard to believe that the fate of our safety and welfare could be adjudicated on such a whimsical, casual, and thoughtless decision. Furthermore, we also question the judgement of the other two Planning Commissioners Jack and Schuettpelz for simply overlooking such a blindingly open-ended safety related question. These are glaring examples of precisely why the public has a waning trust in the decisions of these administrative and legislative bodies.

On the other hand, after receiving our statement, Planning Commissioners Whitney, Fuller and Trowbridge dug deep and posed the critical, invasive and withering questioning in an effort to find the truth, and finding little, voted against the Applicant. They are clearly the benchmark for which all commissioners should strive, and for that, we are eternally grateful.

All said, we reject the assertion that this process took a holistic approach that included the offsite impacts to the entirety of the valley. None of the existing approvals were rendered with any acknowledgement or consideration for LDC 8.4.4.D. And as was also stated, we too believe that it is not the Applicant's responsibility to fix the issue for the entire valley.

That responsibility today is yours alone. The issue before you pretty much boils down to a single-topic decision. If you vote to approve this application, know that you will be effectively waiving the LDC Dead-End Road mandate, thereby nullifying the intent and purpose of the LDC, and further jeopardizing the safety, welfare, and lives of the current occupants of the valley as well as the future occupants of the development.

Before you render that decision, please consider that as mentioned previously, this development will put us 400% over the mandated maximum limit. Approving this development will revoke your ability to say no to the inescapable next-in-line developer, as one is already in the queue.

We do not plan to sit idly by as you wave through developer after developer, endanger our lives, and turn this valley into the nightmare that is now Woodman Valley.

What you need to ask yourself is how many more lives are you personally willing to risk. The LDC has codified the acceptable limit as 25 lots. Is 400% over the codified limit too many? Is unrestricted development the solution? We of course implore you to do as your staff has suggested and "don't repeat the mistakes of the past." **This issue can no longer be ignored!**