

Land Use Report – ROCC Annual Members Meeting December 5, 2020

1. High Alpine / Long Term Camping Ordinance.

The BOCC has been considering changes to the Long Term Camping Ordinance for years. Numerous workshops have been held, and the most recent drafts would have allowed “camping structures” like yurts, tents, RVs and the like to remain in place indefinitely without a building permit. This would undermine the 35-acre requirement of the High Alpine Zone because it’s triggered only if a building permit is required.

Commissioner Batchelder invited public input, so ROCC’s Land Use Committee drafted proposed compromise changes and submitted them to the County this Spring. The changes would recognize that “camping” is a temporary activity and would allow camping structures to remain for 90 days per year without a building permit. Anything more would require a building permit and thus trigger compliance with the 35-acre High Alpine Zone.

ROCC’s proposal was met with a deafening silence, and there have been no further BOCC workshops on this issue. This is probably a good thing, as the two new members of the BOCC are likely to be more protective of the High Alpine Zone. The issue will likely be on the back burner until the COVID-19 crisis is over.

2. County Road 5

This has been a painful controversy for years. The last three miles of the road became a popular recreational resource because it had not been maintained in the winter. But, in the early 2000s a landowner subdivided into 35-acre parcels without County regulation. As a result, improvements to the road that would allow adequate access and continued recreation use were not required. This set the stage for 10 years of wrangling over winter plowing among the new owners, recreationists, San Juan Huts, and the County.

In 2019 the owners didn’t get everything they wanted from the County and filed litigation. They claimed they had a constitutional right to year-round wheeled vehicular access and that recreation use of the road was illegal. The trial court summarily ruled against the owners, but also said that the County could restrict winter vehicular access and exclude the general public.

In mid-2020 the owners and the County arrived at a proposed settlement. The good part was that the owners would build a parallel recreation trail at their expense and donate easements in some locations. However, the County would have to maintain the trail with no dedicated funding source. Also, the owners would have a perpetual right to plow the entire width of the road, which would force snowmobilers and motorized snow bikes onto the trail. The owners would further have the right to install a private gate at the bottom to exclude public use of the plowed road. There were numerous other problems with the proposed settlement.

ROCC got the word out to the community about the proposed settlement and mobilized public input by well over 100 residents. ROCC also hired an attorney for advice and representation. As a result, the final settlement was revised, and while still imperfect, addressed many of the issues which ROCC and the community identified.

The good news is that the trail has just now been completed and the initial reviews are favorable. Everyone involved deserves credit for this! The BOCC will consider formal acceptance of the trail on December 8, 2020.

However, the future promises more controversy – conflicts between motorized and human-powered recreation on the trail, ensuring adequate maintenance, and the exclusion of the general public from winter road access, to name a few. Also, the settlement did not resolve San Juan Huts' legal claim, and that part of the litigation continues.

The CR 5 saga also dramatizes the need for the County to adopt policies to avoid future disasters like this. A Recreation section should be added to the Master Plan and the Winter Maintenance Policy should be strengthened, for example. ROCC should consider taking a lead role in working with the County to get this done.