

RESOLUTION No. 2007-064

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO APPROVE THE FINAL DEVELOPMENT PLAN / FINAL PUD
FOR THE ESTATES AT DIVIDE RANCH**

WHEREAS, Heritage Inn and Suites of Kansas City, Inc. and HT Heritage Inn of Erie, LLC and Jeffrey Harold Dryer and Patsy Lee Dryer (“Applicant”) have filed a request for approval of the Final Development Plan and Final PUD for the Estates at Divide Ranch and Club; and

WHEREAS, the Board previously granted approval for the Preliminary Development Plan, with conditions, on June 3, 2003 and a PUD Agreement was executed by all parties on or about December 6, 2004; and

WHEREAS, the Board has reviewed the condition set forth in Paragraph 8.1 of the December 6, 2004 PUD Agreement that states that “Cottontail Lane which shall be paved to a width of twenty-four feet (24’) and shall be extended through the cul-de-sac to the adjoining property to the north of the Development,” and the Board finds that such conditions did not require paving of the cul-de-sac, rather, that the dedication of the cul-de-sac would extend through the cul-de-sac; and

WHEREAS, the Board has reviewed the prior approvals and the PUD Agreement and the Staff Report and the supporting materials supplied to the Board at its regularly scheduled meeting on September 24, 2007 and finds that Applicant has complied with the various conditions set forth in prior resolutions and the PUD Agreement, with the exception of those included as conditions of approval below;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Final Development Plan/Final PUD for the Estates at Divide Ranch and Club is approved, subject to the following conditions:
 - a. Prior to recording the final plat, the Applicant shall either ensure that all repairs required by the Fairway Pines Sanitation District (“District”), as detailed in the Letter dated February 20, 2006 and attached hereto as Exhibit “A” shall be completed and a final certification by the District supplied to the Board that such repairs have been satisfactorily completed to allow the Applicant to utilize the District system for the lots within the Estates at Divide Ranch and Club; in the alternative, the Applicant shall supply a good and sufficient surety, in a form and amount to be approved by the Board and a majority of the District’s Board shall be supplied to the Board, with all such repairs to be completed on or before October 31, 2007. Until the District has accepted the Estates at the Divide Ranch and Club into the District’s system for use of the system, no lot owner within the Estates may apply for a building permit with Ouray County and no building permits will be issued by Ouray County and the Applicant shall so notify all prospective purchasers of any such lots.
 - b. Prior to final plat recording, the Applicant shall pay the appropriate fee in lieu of dedication for the use of the Ridgway School District

and the Superintendent of the Ridgway School District shall certify that such payment has been made.

- c. At the time of final plat recording, all necessary documents to include the Estates at Divide Ranch and Club under the existing covenants for Fairway Pines shall be properly signed and recorded with the Ouray County Clerk and Recorder.
- d. Prior to final plat recording, the final plat shall be reviewed and approved by the Ouray County Attorney.

APPROVED AND ADOPTED THIS ____ DAY OF OCTOBER, 2007 RATIFYING ACTION TAKEN ON SEPTEMBER 24, 2007.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Don Batchelder, Chair

Heidi M. Albritton, Vice Chair

Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

K. Keith Meinert, Commissioner Member

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FAIRWAY PINES SANITATION DISTRICT
2233 East Main Street
Montrose, CO 81401

RECEIVED
FFR 2 1 2006
CDP - WEST
ACQUISITIONS

To: Jim Willey
From: Fairway Pines Sanitation District
Date: February 20, 2006
cc: Ouray County Commissioners
 Grey Moberg
 Doug Canright

Dear Jim:

This letter is in response to your January 31, 2006 request to the District which we received from John Overholser February 14, 2006.

In a phone conversation with John on February 14, 2006, he provided clarification on two points. First, he asked that we exclude Lots # 313 and # 328 from your "Blankets the Service Plan Properties" request. We have done that but, as you know, these properties are included in the Service Plan and have no lines serving them. Secondly, John stated that following discussion with you, it was decided to add the Estates at Fairway Pines to your request. We have also included that in our response.

To paraphrase your request, you have asked for a "Will Serve" letter that includes all Fairway Pines Estates Service Plan properties (excluding Lots # 313 and # 328) and the Estates at Fairway Pines or a delineation of the conditions for issuance of a "Will Serve" for those properties. Further, if there are "Will Serve" conditions, you asked that the District provide (a) a detailed description of the remedial actions, (b) the "Outer Limit" of the cost of remedial actions, and (c) the time required to complete the remedial actions.

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We have attempted to meet your request in the text that follows. As you know, to meet the request for "Outer Limit" cost estimates, the District must focus on worst-case scenarios which we have done. However, each of the conditions for "Will Serve"/remedial actions in our response is consistent with bringing the developer into compliance with the Service Plan (again excluding Lots # 313 and # 328) and the Construction Specifications provided by McLaughlin Water Engineers, the designer of the system, to Mesa Civil January, 1998 (5A) and the District "Organizational Board" (Messrs. Willey, Frank and Jennings) February, 1999 (Phase 2).

FAIRWAY PINES ESTATES
CONDITIONS FOR "WILL SERVE" ISSUANCE

Lot CV 101:

The 6" line servicing CV 101 runs approximately 75 feet under the road and island from the main line that runs along CV 102 from manhole A-9 to A-10. When the developer was pressure testing the A-9 to A-10 section it failed. The 6" line to CV 101 was out and capped and the A-9 to A-10 section was pressure tested again and passed. As a result, the service line to CV 101 has been abandoned and is presumed to be faulty and the reason the original A-9 to A-10 section failed testing.

We believe the most likely scenario, and unfortunately the most expensive, is that the faulty service line to CV 101 must be replaced. This will require a 75 foot bore under the road and island and installation of a HDPE 6" line, a service connection and testing at an estimated "Outer Limit" cost of \$16,000.00.

Lot CV 102:

The District is not certain the 4" service line to CV 102 is in place. If it is, it is likely viable as the final pressure test between manholes A-9 and A-10 passed. Confirmation of the service lines existence will cost approximately \$500.00. If the line is found not to be

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in place, it will require installation of a 4" service line and service connection plus testing at an additional cost of (\$1,000.00) resulting in an estimated "Outer Limit" cost of \$1,500.00.

Lot CV 103:

There is no service connection for Lot CV 103. The placement of the proposed temporary limited use pro-shop on the lot will require a 4" line with service connection at an estimated cost of (\$1,000.00) to be paid by the Golf Partners. Installation of a service line and connection for the major clubhouse planned for this lot would require a 6"-8" line at an "Outer Limit" cost of \$1,250.00.

Lots V 609-614:

Service lines and connections have not been installed for these multi-unit (3 units per lot) properties. The original system design calls for three (3) 4" lines per lot. This would require an estimated expenditure of \$3,000.00 per lot for installation and testing or a total "Outer Limit" cost of \$18,000.00.

Manhole Testing and Repair Overview:

There is no record of the Developer having tested the collection system manholes. Construction Specifications provided by the system's designer (McLaughlin Water Engineers) to Mesa Civil in 1998 (filing 58) and again for Phase 2 in 1999 to the District "Organizational Board" (Messrs. Willey, Frank and Jennings) clearly delineate the requirement and protocol for testing the system's manholes.

The absence of manhole integrity is believed by the District to have been a major source of a serious infiltration event during the spring run-off in April, 2004. The magnitude of the infiltration adversely impacted plant operations to the degree that the State threatened imposing a \$10K per day fine if discharge results were not quickly brought into

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compliance. The manholes are viewed as the most probable source of that infiltration, because all but a small portion of the lines had been tested and repaired before the event. Fortunately, the infiltration abated and the threatened fine was avoided.

Since the Developer, for a variety of stated reasons, has refused to accept responsibility for testing and repairing the manholes, the District recently passed a resolution to proceed on its own to the extent possible before the 2006 run-off. We recognize the District's budget and timing will significantly limit what can be accomplished this year, but the effort must be initiated.

It should be noted that the bidding let out by the District calls for testing of thirty (30) manholes. This excludes the manhole in the 15th Fairway, which is of particular concern, because the cover is below ground level and floating turf conditions often occur in this area. However, the District has chosen to delay any work in this area until after the thaw and until the Course Superintendent (John Gurule) judges damage to the Fairway can be minimized. Therefore, because of the difference in timing, we present below the testing and repair of the 15th Fairway separately.

The protocol for manhole testing prepared by the District Engineer (Rick Weaver) is consistent with the testing specifications provided by McLaughlin. However, it is also designed in two stages to enable determining if any problems are in the barrel sections or in the rings. The protocol is attached for your information.

Manhole Testing and Repair -- 30 Manholes:

The District expects the bids for testing the manholes to be inflated by seasonal conditions... snow removal, frost, low temperatures and the fact that a number of manholes are adjacent to golf fairways and require special care. We are expecting testing bids with an "Outer Limit" cost of \$11,000.00.

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We have no basis for estimating the number of barrel sections that may fail and must be replaced. However, we would doubt more than three (3) would fail and the replacement cost and re-testing would not exceed an "Outer Limit" cost of \$22,500.

The District Operator has visually inspected the thirty (30) manholes to be tested and believes there is a very high probability that all of the grade ring assemblies will fail initial testing thus requiring repair and re-testing. If this is the case, we estimate excavation equipment and labor will be required for fifteen (15) days (\$22,800.00), an average of three grade ring replacements per manhole (\$1,800.00) and materials (asphalt, ramneck, grout etc.) \$750.00. Additionally, the District Engineer (Delmont), at a cost of (\$8,700.00) for time and travel, would be retained to observe, record and certify the test and re-test results. The total, then, for the grade ring repairs of the thirty (30) manholes is estimated at an "Outer Limit" cost of (\$34,050.00).

Manhole Testing and Repair – 15th Fairway:

As noted, this element of the manhole testing is treated separately because we assume it will be done on a different timeline and will require special care to avoid damage to the Fairway.

For testing, we estimate backhoe and operator time (\$300.00), Golf Course Superintendent oversight (\$200.00) and two laborers (\$200.00) for a total "Outer Limit" cost of \$700.00.

If the manhole is found to have a barrel section problem we are considering it as one of the three budgeted for above under the thirty manhole repair estimate.

If the grade rings fail testing, we estimate repairs and re-testing will require additional backhoe and operator time (\$375.00), labor (\$150.00) and materials (\$75.00) for a cost of \$600.00. The combined testing, repair and re-testing "Outer Limit" cost would be \$1,300.00.

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Discharge Line to Ponds Testing and Repair:

The District and Developer have not previously come to agreement as to whether the discharge line to the ponds was installed by the Developer pursuant to the Service Plan or by the District at the time of the plant construction. Recent events have served to clarify this issue.

Specifically, several weeks ago the Golf Course Superintendent inadvertently revealed the discharge line while working to elevate a manhole cover at the site of the proposed temporary, limited use Pro-Shop on CV 103. The discharge line ran directly adjacent to the collection line suggesting they were installed at the same time in the same trench by the Developer. In a subsequent discussion with the former Mesa Civil Supervisor, this was confirmed.

The District has not received any reporting of the results of testing this line and its location does not appear on any as-builts received from the Developer. Further, we know this line is likely without integrity as following discharge from the plant the line rapidly loses pressure and continues to lose pressure for a day or more before becoming static.

We estimate the discharge line is approximately 3,000 feet long at depths up to at least eight (8) feet. The first testing effort would be a camera test to confirm location and possibly identify damage. This would be followed by a pressure test. We estimate the "Outer Limit" cost for this testing at \$2,500.00.

It is extremely difficult to advance a knowledgeable estimate of the potential cost for repairing the discharge line. If problems are identified in the camera test, the location of the problem can be identified and repaired. Then, if the pressure test is successful, the cost of repairs will be minimized. However, if there are still problems indicated by the pressure test, the repair process will require half cutting and testing to locate the

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problems. This is both expensive and potentially damaging to the 15th Fairway in which a significant portion of this line is installed.

In order to provide an "Outer Limit" cost estimate, we suggest the testing/repair experience on Hummingbird Trail as a base reference. The Hummingbird line is approximately 2,000 feet long and it included six failures that required repair. We would hope for fewer failures on the discharge line because there are no residential connections. However, a prudent view suggests the possible existence of six failures might be found and "Outer Limit" cost for repairs and repeated testing that would total as high as \$15,000.00.

THE ESTATES AT FAIRWAY PINES
CONDITIONS FOR "WILL SERVE" ISSUANCE

The District has maintained over time that a Service Agreement with the Estates was conditioned on establishing the integrity of the existing system manholes. Additionally, the District and The Estates Developer, at times, have taken the view that the other unresolved collection system Service Plan and Construction Specification issues discussed previously would be a part of the negotiations of an Estates Service Agreement. Therefore, the following presentation of remedial actions for the Estates is conditioned on the absolute or negotiated resolution of the existing collection system issues.

As a first step in assuring the Estates installation, the District would first have its engineer review the plans, as-builts and available field and testing reports (\$600.00). Bedding should be tested requiring two days (\$4,500.00) and a pressure test conducted (\$1,000.00). Additionally, a one year warranty on the lines would be required (cost unknown) as well as an additional pressure test at the end of the warranty period (\$1,000.00). The "Outer Limit" testing cost would then be estimated at (\$7,100.00).

As the District has no knowledge of what is in the ground at the Estates (quality of design, materials or installation) an estimate by us of repair costs is, at best, a reach.

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However, in an attempt to fulfill your request, we will again use the Hummingbird Trail analogy; i.e. the same installer (Mesa Civil) and approximate length of the installation (2,000 + feet). The "Outer Limit" estimate would then be six (6) repairs at a cost, including repeated testing, of \$15,000.00. It should be much less and we would hope the number of required repairs would be zero.

Summary of Estimated "Outer Limit" Costs for Fairway Pines Estates and Estates at Fairway Pines "Will Serve" Remedial Actions:

The following provides a summary of items presented in this document. Additionally, it includes an estimated cost for the District's Operator as he will be responsible for oversight of all remedial activities from bidding to completion.

Total "Outer Limit" Cost Estimates:

Lot CV 101	\$16,000.00
Lot CV 102	1,500.00
Lot CV 103	1,250.00
Lots V 609-614	18,000.00
Manhole Testing (30)	11,000.00
Manhole Repairs (30)	34,050.00
Manhole Testing & Repairs (15 th Fairway)	1,300.00
Discharge Line Testing	2,500.00
Discharge Line Repair	15,000.00
Estates Testing	7,100.00
Estates Repairs	15,000.00
District Operator Oversight	<u>3,750.00</u>
TOTAL	\$126,450.00

Due to the uncertainty of these estimates, we agree to not exceed the total. However, we reserve the right for the cost of a single item to exceed the estimate for that item.

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Timing Required for Remedial Action:

We conservatively estimate the described testing and remedial actions, from bid to completion, would require ten (10) weeks. Dependent on the date of the bond issuance, this timing would also embrace the seasonal requirements of the manhole and discharge line work that impacts the 15th Fairway.

The District is hopeful this information fully addresses your 1/31/06 request. The District would, of course, be available to discuss with you and your prospective buyer any creative ideas that might positively influence the timing and cost of the required conditions and remedial options and facilitate a purchaser acquisition.

Respectfully,
Carl V. Conti - Chairman
John D. Moss - Secretary