

**BOARD OF COUNTY COMMISSIONERS**  
**February 11, 2020**  
**PLANNING CASE #PLN18-037: TIGER RUN RESORT MAJOR PUD MODIFICATION**  
**PUBLIC HEARING**

**PROJECT INFORMATION:**

**Location:** Tiger Run RV Resort, Northeast corner of the Revett Drive and Highway 9 intersection.  
**Request:** The purpose of the Tiger Run RV Resort Major PUD Amendment is to clarify requirements of the PUD and incorporate recent lawsuit settlement agreements related to the Whitt property.

**ISSUES:**

None

**PLANNING COMMISSION RECOMMENDATION:**

The Upper Blue Planning Commission heard PLN18-037, a Major Modification to the Tiger Run RV Resort PUD on December 5, 2019, and by a unanimous vote recommended that the BOCC approve the subject request.

**RESOLUTION STATUS:**

Draft Resolution is attached.

**STAFF RECOMMENDATION:**

Approval with ten (10) findings and one (1) condition.

**ATTACHMENTS:**

Attachment A – Application, Narrative, and Supplemental Information  
Attachment B – Proposed PUD Text Modifications & Exhibits A-F



**STAFF REPORT**

**TO:** Board of County Commissioners (“BOCC”)  
**FROM:** Dan Osborn, Senior Planner  
**FOR:** Meeting of February 11, 2020  
**SUBJECT:** Planning Case PLN18-037, Tiger Run RV Resort Major PUD Modification  
**APPLICANT:** Tiger Run Owners Association, Represented by Maris Davies, Altitude Law  
**OWNER:** Various Private Owners, Represented by the Tiger Run Owners Association.  
**REQUEST:** The purpose of the Tiger Run RV Resort Major PUD Modification is to clarify requirements of the PUD and incorporate recent lawsuit settlement agreements related to the Whitt property.

**PROJECT DESCRIPTION:**

**Location:** Tiger Run RV Resort, Northeast corner of the Revett Drive and Highway 9 intersection.  
**Legal Description:** Tiger Run Resort Park Subdivision, Summit County, Colorado  
**Existing Zoning:** Tiger Run Recreational Vehicle Resort PUD  
**Proposed Zoning:** No change.  
**Total site area:** ~45.5 Acres  
**Adjacent land uses:**  
**East:** Vacant USFS land – Natural Resources (NR-2) district  
**West:** State Highway 9 and Agricultural (A-1) district  
**North:** Vacant land – Agricultural (A-1) district  
**South:** Swan’s Nest PUD.

**BACKGROUND:**

This application for a Major PUD Modification to the Tiger Run Recreational Vehicle Resort PUD will clarify and update the current PUD language to address issues related to the Settlement Stipulation Agreements between Summit County, the Whitt Parties, and Tiger Run Owners Association (TROA), Wi Fi antennas, and incorporate Parcel A-1, Swans Nest Subdivision and updated exhibits and maps into the PUD.

In December of 1995, the Board of County Commissioners (BOCC) approved a new Planned Unit Development (PUD) designation for the Tiger Run RV Resort. Then as now, the allowed land uses include recreational vehicle sites, employee-housing units, storage related to maintenance and upkeep of the property, common and recreational areas/facilities owned by Tiger Run and private open space. The original, and current, PUD limits occupancy to 8 months per year based on access, water, wastewater, and density. “Permanent” structures are very restricted in the PUD, as the property has always been intended as transient RV Park.

Generally, units within the PUD are required to be manufactured offsite, be readily portable and able to be removed in a short period. Since its original approval, the PUD has evolved to allow park model chalets and other offsite built features like “Colorado Rooms”, which are required to be pre-constructed and limited in size to no more than twelve (12) feet by thirty-two (32) feet. Colorado rooms are also required to be mobile or readily portable.

Staff has also identified issues related to on-site construction, and staff has received complaints about occupancy exceeding the allowances set by the PUD, in addition to modifications of a required landscape berm between the park and the Blue River on the west side of the property. It was the original intent of this PUD modification to address each of those issues with this application. However, due to the size of the ownership group that is being represented by TROA, the applicant is not able to fully address the issues related to the occupancy, construction of Colorado Rooms, and enforcing violations on individual lot owners who exceed the occupancy limits. Because of this, County staff have informed TROA that individual owners and TROA are subject to strict enforcement of the PUD as necessary. That said, County staff remains open to working with TROA to resolve all other issues and incorporate needed changes into the PUD. As set forth further below, this PUD amendment is limited in scope to address the settlements of two different lawsuits, both of which the County is a party to. Staff, in consultation with the Attorney’s Office, determined that it was necessary and more efficient to resolve the settlements first and address the individual violations separately, or through a future PUD amendment if necessary. It should be noted, that by approving this narrowly tailored PUD amendment application, Summit County in no way waives its rights to enforce the PUD now, or in the future.

In 2014, legal action was filed between the Whitt Family Partners and the Tiger Run Owner’s Association with Summit County, et al. named as third party defendants. The lawsuit was resolved in 2017 with the District Court approved *Settlement Stipulation Agreement, Case No. 2014CV030238*, between the named parties. The stipulation agreement primarily addressed the ownership of Tract B, on-site employee housing and workforce housing restrictive covenants, and PUD enforcement. The pertinent provisions of the settlement stipulation have been incorporated, in part by reference, into the PUD. In addition, an outstanding issue from the settlement of a prior case, 2012CV534, requires that the PUD be amended to include a small well parcel adjacent to the property. The well parcel is included and shown as Tract W.

Therefore, the primary focus of this application is to resolve the lawsuit requirements noted above and incorporate Tract W, the well parcel, into the PUD. Other minor agreed upon items contained in the amendment includes language allowing Wi-Fi antennas (non-commercial communications towers) under thirty-five (35) feet in height as a permitted use within the PUD. Non-commercial and commercial communication towers over thirty-five (35) feet in height would be subject to the requirements of the Summit County Land Use and Development Code. The other issue addressed by this amendment is related to the Highway 9 Landscape Buffer. Like other items within the PUD, over time changes have occurred that should have had additional review by the Planning Department. In the case of the buffer, both the applicant and County recognize a need to update the landscaping along State Highway 9. This will be accomplished via a provision within the PUD requiring the TROA to submit a revised landscape plan for review and approval by the County. The approved plan is required to be implemented as soon as practical. As it will be a requirement in the PUD, failure by TROA to comply with will result in a PUD enforcement action, including the withholding of all permits if necessary.

After consideration of the application at the public hearing, the Upper Blue Planning Commission recommended that the BOCC approve the request as presented by a unanimous 7-0 vote. There was no negative public comment.

**CRITERIA FOR DISCUSSION:**

Section 12202.05 Code states that the BOCC may approve a major PUD modification zoning amendment only if the application meets all relevant County regulations and standards and makes the following findings:

- A. The modification is consistent with the efficient development and preservation of the entire PUD.
- B. The modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.
- C. The modification is not granted solely to confer a special benefit upon any person.
- D. The proposed PUD modification is in general conformance with the goals, polices/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.
- E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.
- F. The proposed PUD modification is consistent with the County's Rezoning Policies.
- G. The proposal furthers the policies constituting the purpose and intent allowing for the establishment of Planned Unit Development, as set forth in §12200.01 of this Code, as well as the policies supporting the purpose and intent of allowing a Major PUD Modification Zoning Amendment, per §12202.01 of this Code.
- H. Adequate access and infrastructure are available to serve the proposal, in light of the both the existing and reasonably anticipated demands on such access and infrastructure.
- I. In light of the purpose and intent of PUD designations and modifications, the proposal furthers the public health, safety integrity and general welfare, as well as efficiency and economy in the use of land and its resources.
- J. The applicant has provided final evidence of adequate water, sewer, access, utilities, and other required infrastructure.
- K. The Review Authority has reviewed and approved the PUD text and any revised exhibits, and, for the BOCC's review, the PUD is suitable for the Chairman's signature and recordation.

**CRITERIA FOR DECISION DISCUSSION**

The Planning Commission may recommend approval of a Major PUD Modification, and the BOCC may approve a Major PUD Modification zoning amendment, only if the application meets all relevant County regulations and standards and provided the Review Authority make the following findings:

**A. The modification is consistent with the efficient development and preservation of the entire PUD.**

The PUD Modification proposal maintains the existing density with only minor changes to the allowed uses related to the court-mandated employee housing covenant and inclusion of Tract W. The addition of non-commercial communication towers and clarification of the landscape plan requirements preserve the overall intent of the original PUD. Other uses within the PUD remain unchanged.

**B. The modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.**

Due to the limited nature of the proposed changes, the PUD modification will not adversely affect the use of any lot within the PUD or any adjacent lots in the area. Therefore, it can be found that the proposed changes will not be an adverse impact to adjacent properties or public interest.

**C. The modification is not granted solely to confer a special benefit upon any person.**

The purpose of the PUD modification is to satisfy the District Court orders and clarify the other noted issues within the PUD. The modifications as proposed are not intended to confer a benefit specifically upon any person. Therefore, it can be found that the PUD modification would not confer a special benefit to the applicant, and the criterion could be found to be met.

**D. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans.**

Upon original adoption 1995 and subsequent amendment in 2005, the PUD has been found to comply with the intent of the Summit County Countywide Comprehensive Plan and the Upper Blue Master Plan. This modification does not alter the approved density of the PUD nor does it change the character of the area or intent of the PUD. Therefore, it can be found that the modification is in general conformance with the goals, policies/actions and provisions of the applicable master plans.

**E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.**

The intent of the request is to satisfy the District Court orders as well as facilitate the efficient development and management of the parcels within the PUD. The proposed modification is not changing the intensity of use or the development plan for the PUD, so the proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.

**F. The proposed PUD modification is consistent with the County's Rezoning Policies.**

Section 3202 of the Land Use and Development Code establishes policies that apply to zoning amendments. These policies are intended to ensure that land with development constraints are avoided and sites are designed consistent with the terrain and natural features and are compatible with existing development. The policies also ensure that adequate infrastructure is available to accommodate the proposed amendment.

Any potential development constraints on the property can be mitigated and/or avoided when development occurs; subsequent development applications will address specific issues noted by the referral agencies.

**G. The proposal is consistent with the policies constituting the purpose and intent allowing for the establishment of Planned Unit Development, as set forth in §12200.01 of this Code, as well as the policies supporting the purpose and intent of allowing a Major PUD Modification Zoning Amendment, per §12202.01 of this Code.**

This Code section includes a statement that PUDs be utilized to encourage innovations in residential, commercial, industrial, recreational and resort development by allowing for mixed land uses, variations in development densities and variety in the type, design, and layout of buildings. The proposed modification to the Tiger Run RV Resort PUD does not seek to change

or alter purpose or intent of the original PUD designation which, when approved, complied with the Planned Unit Development regulations.

**H. In light of the purpose and intent of PUD designations and modifications, the proposal furthers the public health, safety integrity and general welfare, as well as efficiency and economy in the use of land and its resources.**

The proposed PUD modification recognizes requirements of Court approved and adopted settlement agreements between the County and various other parties, including TROA. The efficient and economical use of land, as noted, have been found to be met with previous approvals in the PUD. The modification furthers this intent and purpose by resolving requirements of the lawsuits and updating the PUD.

**I. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure to serve present demands, and adequate access and infrastructure is also available to serve reasonably anticipated future demands.**

The applicant has provided final evidence, which has been reviewed by the County water attorney and referral agencies, that adequate water, sewer, access, utilities and required infrastructure to serve present and future demands have been provided.

**J. The Review Authority has reviewed and approved the PUD text and any revised exhibits, and, for the BOCC's review, the PUD is suitable for the Chairman's signature and recordation.**

With compliance with the stipulated conditions of approval, the amended PUD has been written in accordance with the applicable portions of the Code, and will be suitable for recordation.

**STAFF RECOMMENDATION:**

Staff recommends that the BOCC approve of PLN18-037, a Major Modification to the Tiger Run Recreational Vehicle Resort PUD, with the following findings and one (1) no conditions.

Findings:

- A. The modification is consistent with the efficient development and preservation of the entire PUD since the modifications further aid in the functioning of the Tiger Run RV Resort. Specifically, the proposed amendment is consistent in that it will allow the applicant to fulfill the District Court Settlement Stipulation Agreement and other minor PUD issues.
- B. The modification does not affect, in a substantially adverse manner, either the enjoyment of land abutting upon or across a street from the PUD or the public interest.
- C. The modification is not granted solely to confer a special benefit upon any person.
- D. The proposed PUD modification is in general conformance with the goals, polices/actions and provisions of the Summit County Countywide Comprehensive Plan and any applicable basin or subbasin master plans as stipulated in the staff report.
- E. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.
- F. The proposed PUD modification is consistent with the County's Rezoning Policies.
- G. The proposal is consistent with the policies constituting the purpose and intent allowing for the establishment of Planned Unit Development, as set forth in §12200.01 of this Code, as well as the policies supporting the purpose and intent of allowing a Major PUD Modification Zoning Amendment, per §12202.01 of this Code.
- H. In light of the purpose and intent of PUD designations and modifications, the proposal furthers the public health, safety integrity and general welfare, as well as efficiency and economy in the use of land and its resources.



- I. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure to serve present demands, and adequate access and infrastructure is also available to serve reasonably anticipated future demands.
- J. The Review Authority has reviewed the PUD text and the revised exhibits and pending the BOCC's review, the PUD is suitable for the Chairman's signature and recordation, upon incorporation of the stated condition.

Condition:

1. The County Attorney's Office shall review and approve the final PUD language prior to recordation of the PUD Designation.

**ATTACHMENTS:**

Attachment A – Application, Narrative, and Supplemental Information

Attachment B – Proposed PUD Text Modifications & Exhibits A-F