

**PARK COUNTY BOARD OF COUNTY COMMISSIONERS  
PLANNING DEPARTMENT STAFF REPORT**

Board Hearing Date: September 24, 2020

To: Board of County Commissioners

Date: September 16, 2020

Prepared by: John Deagan, AICP; Planner

Case #: 20CUP-06

Subject: Douglas Conditional Use Permit

Request: A Conditional Use Permit for a Guest House in the Residential Zone District

---

**Application Summary:**

Applicant/Owner:	Robert and Kathleen Douglas
Location:	Douglas Heights Lot 5A, addressed as 1720 Kootchie Kootchie Road, Alma
Current Zone District:	Residential
Surrounding Zoning:	Residential in all directions
Lot Size:	10.95 acres
Existing Use:	Residential
Proposed Use:	Same, with an additional dwelling unit

**Background:**

The subject lot is on the northeast side of Bald Hill, halfway between County Road (C.R.) 12 and C.R. 1. A vicinity map is included as Attachment 1. The applicant wishes to convert an existing garage into a Guest House. The lot's well is domestic and capable of supplying water to two dwelling units. The lot's septic system is at capacity, and the applicant intends to construct a new one for the Guest House.

The primary use of the existing house on the lot is as a short-term rental. The definition of a Guest House requires that its occupants are either a property caretaker, or visitors and guests of the occupants of the primary residence. The occupants of the Guest House could not be considered visitors or guests of the occupants of the primary residence if the occupants of the primary residence are themselves short-term renters. Additionally, the applicant stated at the Planning Commission hearing that the Guest

House might itself be used for short-term rentals. Having two such uses on a lot raises concerns about compatibility with neighboring long-term residents.

### **Land Use Regulations and Strategic Master Plan:**

Each of the standards for approval of a Conditional Use Permit (LUR Section 5-503) is addressed, as summarized below.

**A. The use proposed is an authorized Conditional Use for the zone district in which the property described in the application is located.**

Guest Houses are a conditional use in the Residential zone district. However, as described above, the proposed use only meets the definition of a Guest House if the renovated garage were occupied by a property caretaker, or if the primary residence were not being used for short-term rentals.

**B. The property described in the application for Conditional Use Permit possesses geological, physical, and other environmental conditions that are compatible with the proposed conditional use.**

The lot does not contain known geologic hazards or other environmental constraints that would prevent the proposed use.

**C. The Conditional Use will conform to all applicable requirements of the zone district and these Land Use Regulations and does not create a substantial safety concern for anticipated visitors to the property.**

Development permits will be required prior to construction.

**D. The property has a reasonably certain right of permanent legal access permitting vehicular access from the property to the public thoroughfare.**

The property has frontage along Kootchie Kootchie Road, a public right-of-way.

**E. Access to the property from the public thoroughfare reasonably meets County street, road, or driveway standards or, if the property is undeveloped, such access will be established prior to issuance of a building permit.**

The existing driveway meets relevant requirements.

**F. The proposed Conditional Use is compatible with the uses and zoning for other properties within the neighborhood or immediately surrounding area.**

Given a permitted septic system, a Guest House would be compatible with adjacent residential uses. However, as described above, the proposed use may not meet the definition of a Guest House.

**G. In making this determination, conflicts with any enforceable covenants, conditions and restrictions of record will be considered.**

There are no covenants, conditions, or restrictions on record for this lot.

**Impact Analysis:**

Having two residences used for short-term rentals on a lot may have substantial impacts on the neighborhood. However, the applicant states that the converted garage would be used as a Guest House occupied by a property caretaker. Please see Attachment 2.

**Planning Commission:**

The Planning Commission reviewed this application at their September 8, 2020 meeting and by a four-to-one vote recommended denial of the application due to their determination that it does not meet standards of approval A and F above.

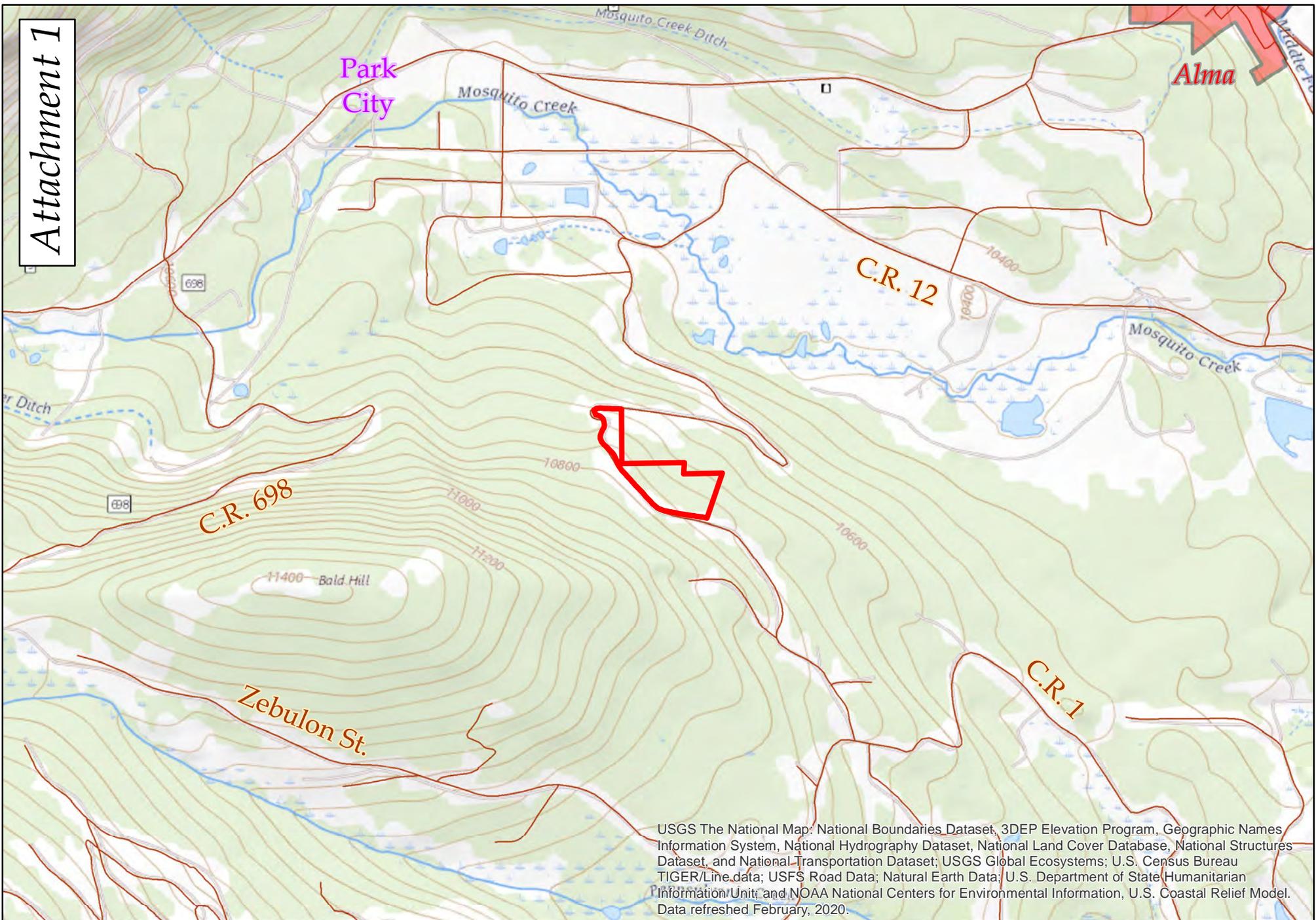
**Recommendation:**

Staff recommends that the application be denied. The BOCC's options are to authorize staff to prepare a resolution to:

- Deny the application;
- Approve the application with no conditions; or
- Approve the application with conditions.

Alternatively, the hearing can be continued so that the applicant or staff can provide additional information.

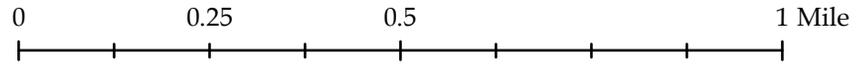
Attachment 1



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit; and NOAA National Centers for Environmental Information, U.S. Coastal Relief Model. Data refreshed February, 2020.



# 20CUP-06 Vicinity Map



To The Park County Board:

The Douglas Conditional Use Permit for conversion of an existing garage on Lot 5A of the Douglas Heights Subdivision was not approved by the Planning Board.

The purpose of this communication is to provide additional information which did not come out during the hearing but, is considered relevant. We respectfully request that this information be taken into account during the Board's decision making process.

Unfortunately, during my presentation to the Planning Board, I failed to mention that the occupant of the guest house for the foreseeable future would be my daughter Pam. She will be staying there for a prolonged period – evidence of this plan is provided in the extracts provided below. I did mention at the hearing that Pam is a professor at two universities: UCLA and University of Central Florida. She teaches remotely which is permitted as a matter of university policy. She loves Colorado and has chosen to teach from the Fairplay area. She will act as our caretaker for the property in general.

This conversion of the garage to guest house and use by Pam has been planned for some time as reflected in emails dating back to June. Excerpts follow:

On June 20<sup>th</sup> I wrote to Pam the following:

2. Option 2: We create a guest house out of the current garage. We have drawn up some plans that we like. If you choose this option, we are well aware that along the way you are going to meet Mr. Right and you will see the guest home in your rear view mirror. However, it would be available to you whenever and for as long as you want. We are in the process of getting ideas about costs, schedules, etc. Attached are the general sketches and some notes. We would pay the construction costs – you would be responsible for furnishings (possibly use some of your LA furniture). Under this option, when the certificate of occupancy is received, you could move in. Cost to rent very cheap – under \$500/ month but, we would want you to be an ambassador to the guests in the main home. Not sure when this could be ready but, much, much faster than going with Option 1. And, you could preserve your cash nest egg.

- If you choose Option 3, all of this rental patchwork is moot. If you choose Option 2, the guest house should be at a stage in mid December where you could use the bathroom and stay in the sun room. The whole guest house might be available before that, we just don't know at this juncture.

On June 23<sup>rd</sup> Pam wrote:

Option #2 - living in the garage apartment and renting that from you and Mom - while being an ambassador to the guests sounds fantastic. I think having this as an option until either I find Mr Right or until I build a home of my own would be great.

On August 22<sup>nd</sup> I wrote to Pam:

WE ARE CONTINUING WITH THE GUEST HOUSE, given we get approval - which I think we will get. The County person who is the Planner is John Degan. I talked to him a few days ago and he said our application is all set.. It will be a bit of a crunch with the septic system but, we are going to bet on the come and pay to have the plans drawn up prior to the County meeting so we will be ready to submit application for septic permit when building approval is announced.

With respect issues raised during the closed portion of the hearing, I would like to provide the following the Park County Board's consideration.

1. At the time of the hearing, I was unaware there was a definition of "guest house" for Park County. John Deagan was kind enough to send it and now I am fully aware of it and its implications. I would like to take an oath before the Board that I will never take any rental actions in contravention to that definition. I am prepared to take that oath during the course of the hearing if the Board deems it appropriate.
2. One person asked "what will we do without a garage". I do not know if an additional structure is permitted. If it is, we would eventually like to build one when we can afford it.
3. One person asked about "storage". We have a locked storage room in the current home.
4. Mark brought up the issue about bears scattering trash. We had purchased bear proof garbage cans from Mountain Waste. These proved to be unsuccessful. We now have two very large containers which are stored in the home and we pay to have them transported to the city dump and pay the fees there. This system works and scattering of our trash has not reoccurred since adopting this system.
5. Mark also brought up the noise level. We are entering period where it is cold outside and noise should be less of a problem. When COVID subsides, I plan to travel to our home and work with Mark to find what decibel level at our home causes annoyance at his home. In the meantime, I will have purchased a decibel meter and will have it installed. Picture of system is shown below. We will have a notice inserted into the Homeowners Welcome Instructions for Guests to not have loud music (e.g., over 90db). I did point out at the hearing there are many trees between Mark's home and ours which do muffle the sound.



Sponsored  
TestHelper Sound Level Meter  
Tester 30-130db, Large Screen  
LCD Display Wall Hanging Type  
Decibel Noise Measuring with...

6. One person brought up his well. I discussed at the hearing that our well is deeper than his probably water drawn from our well will have no impact on his. Also, since only one person, Pam, will occupy the guest house, this should further allay his concerns.
7. I request that the Board consider some positive economic aspects for people and businesses within Park County.
  - a. First, the county will have a new permanent resident a well-paid college professor – Dr. Pam Douglas.
  - b. Greg and Joan Hunter of Alma will be our contractors
  - c. They will be purchasing lumber from Moore Lumber and Ace in Bailey
  - d. We will have electrical (from Hartsel) and plumbing subcontractors (TBD but, from Park County).
  - e. We will have an expanded septic system installed (also TBD but, from Park County).

8. We estimate that items 7 b-e above will bring in approximately \$100,000 during the course of the construction. And, this will, accordingly, increase out property taxes.

We respectfully request that you, the Park County Board, reflect on the above and grant the Conditional Use Permit.

Thank you for your time.