



PLANNING COMMISSION AGENDA

February 22, 2024 at 1:30 PM

Commissioners Meeting Room - 401 Main Street, Suite 309, Walsenburg, CO 81089

Office: 719-738-3000 ex 200 | Fax: 719-738-3996

Join via Google Meet: | Meeting ID: jtn-scsu-ecp

1. **ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **READING OF MINUTES**
 - a. Minutes from 01/25/2024
4. **ACTION ITEMS**
5. **LGD UPDATES**
6. **OLD BUSINESS**
 - a. Dos Sueños- LU-23-040- Plat Amendment
7. **NEW BUSINESS**
 - a. Rodriguez- 20-027- Vacation
8. **DISCUSSIONS**
 - a. Section 7 Regulations
 - b. Request for Joint Workshop with BOCC on Comprehensive Plan - March 19 at 1PM
9. **ADJOURNMENT**
10. **UPCOMING MEETINGS**



PLANNING COMMISSION MINUTES

January 25, 2024 at 1:30 PM

Commissioners Meeting Room - 401 Main Street, Suite 309, Walsenburg, CO 81089

Office: 719-738-3000 ex 200 | Fax: 719-738-3996

1. ROLL CALL

Meeting called to order at 1:32PM

PRESENT

Beaver Edmundson

Dale Lyons

Lonnie Brown

Sandy White

3. READING OF MINUTES

a. Minutes from October 26, 2023

Motion to approve the minutes as presented.

Motion made by Brown, Seconded by Lyons.

Voting Yea: Edmundson, Lyons, Brown

Motion Passes

b. Minutes from January 11, 2024 Meeting

Motion to approve with a correction. Dale Lyons was present for the meeting.

Motion made by Brown, Seconded by Lyons.

Voting Yea: Edmundson, Lyons, Brown

Motion passes

4. ACTION ITEMS

a. 23-040 Plat Amendment and Easement Vacation - BH2

Motion to table this application until the next meeting and investigate whether there is an existing plat amendment. If there is not the Planning Commission will proceed with this application substantially as a plat amendment and procedurally as a subdivision. If there is a plat the Planning Commission will proceed with this application as a plat amendment.

Motion made by Brown, Seconded by Lyons.

Voting Yea: Edmundson, Lyons, Brown, White

Motion passes

5. LGD UPDATES

6. OLD BUSINESS

- a. Update on Section 7 Regulations

Discussion: Carl gave an update that the Board of County Commissioners will hold a workshop on the Section 7 Regulations on January 30th at 9am.

7. NEW BUSINESS

- a. 23-047 Vacate Taylexcal

Motion to confirm that application 23-047 should proceed under the revised regulations

Motion made by Brown, Seconded by White.

Voting Yea: Edmundson, Lyons, Brown, White

Motion passes.

8. DISCUSSIONS

- a. Planning Request for Proposals

Discussion: Carl gave an update that the RFP for the on-call planning services will be released today. The Planning Commission will interview the applicants.

9. ADJOURNMENT

Adjourned at 2:33PM

10. UPCOMING MEETINGS

Huerfano County Land Use Department

401 Main Street, Suite 304
Walsenburg, Colorado 81089
719-738-1220, Ext. 506



Item 6a.

Huerfano County Planning Commission Staff Report – Permit #23-040 Plat Amendment and Easement Vacation BH2 Meeting Type –Advisory, Tracts M1 and 6A Panadero Filing No. 3

Meeting Date: October 26, 2023

Request

With this Application BH2 (the Applicant), on behalf of Dos Suenos Properties, LLC requests the following:

Plat Amendment pursuant to LUR Section §2.14 to create a total of eight parcels out of tracts M1 and Parcel 6A in Panadero Filing #3. The site is located on the north side of Panadero Ave and west of Panadero Loop. Tract M1 contains approximately 4.94 acres and Parcel A contains 6.5 acres. Applicant intends to develop or sell parcels. (Parcel Numbers 1218703 and 347050).

Vacation of utility easement along property line between M1 and 6A.

The subject property is zoned Urbanizing Residential. Minimum lot size in this zone is 1/2 acre. Zoning standards for this district are set forth in LUR Section §1.03.

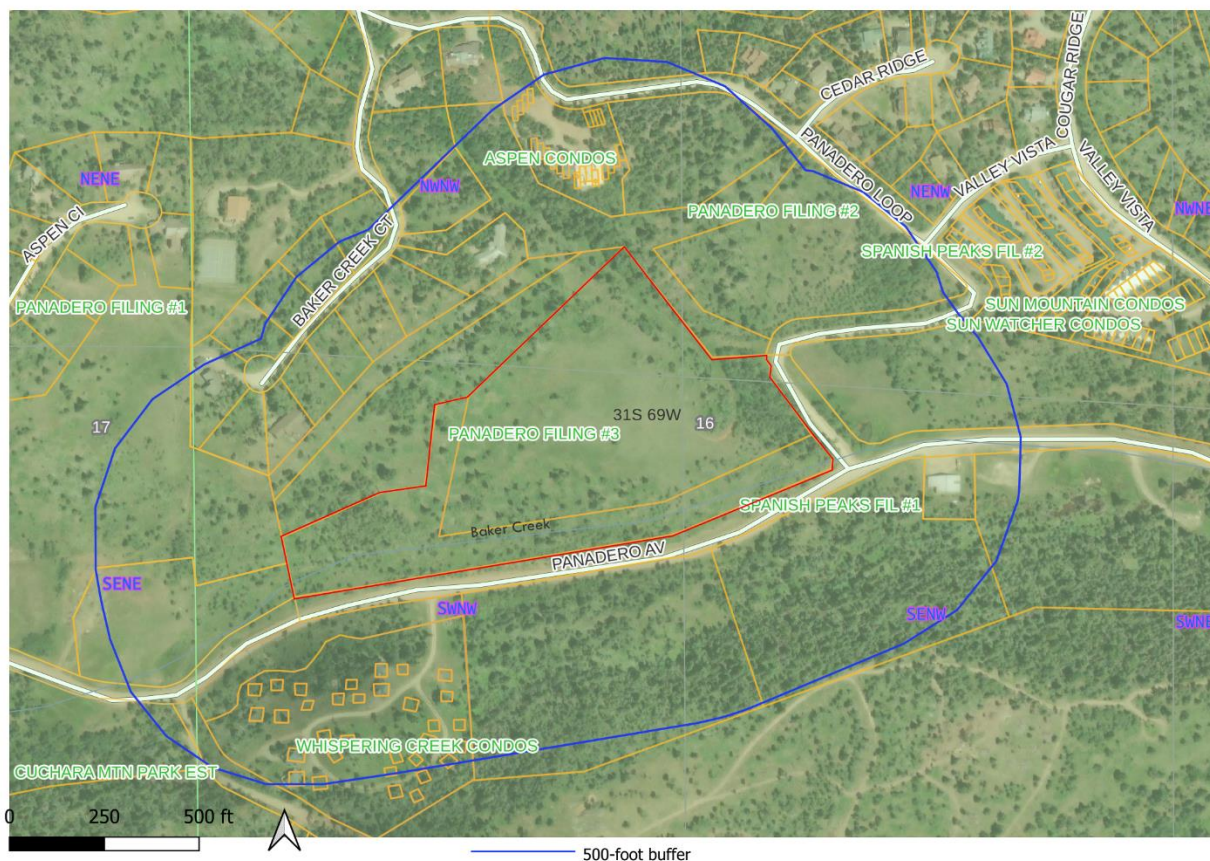
The subject property contains numerous exceptions to title in exhibit B of the deed. Outline of significance of select items:

- Map 264 [states a reception # of 298846, which is not indexed]. Depicts underground cables along Panadero Avenue adjacent to M1.
- 389209 Service Plan for the Cuchara Valley Recreational Metropolitan District. The preliminary engineer survey map in Exhibit C shows sewer and water lines along Panadero Ave and on the northeast boundary of Tract A.
- 373-318 declares an easement in Filing no 3, the plat of which was filed with the clerk and recorder on March 16, 1983 under Reception # 289993 [no such reception number in records].
 - a) all streets and easements for public utilities as shown on said plat;
 - b) strips of land in Tract A extending ten feet on either side of water distribution and sewage-collection pipelines in said tracts, as such pipelines exist on the date of this deed;
- Easement quitclaimed to Cucharas Sanitation and Water District
- 379-485 references a land patent pertaining to part of Cuchara Mountain Park Estates, and does not affect these properties.
- 336085 (also filed under 362860) Settlement Agreement
 - 2. Tract M and Tract 6 shall be restricted to single family lots as configured in exhibit A, which are not less than 1/3 acre in size and all houses constructed thereon shall contain at least 2000 square feet with a rear yard setback of at least 60 ft.

- 3. No subsequent changes will be made to the configuration of Exhibit A as it pertains to Tract M and Tract 6 without the written approval of Concannon.
- 368026 Amendment to Settlement Agreement (not same settlement agreement as 336085) Pertains to reconveyance of water storage tank and water line easement which was moved in order not to interfere with buried electrical lines. Exhibits A and B were not recorded with the agreement.
- 337888 – agreement with SIEA pertains to Tract 8
- 334227 Grants limited use to mining claims south of Panadero. Does not directly impact these properties.

Vicinity Map

Plat Amendment and Vacation of Easement
Vicinity Map



Process for Plat Amendment

(2.14.01): PC meeting: recommendation → BOCC public meeting → Record amended plat with County Clerk and Recorder within 5 days at applicant's expense.

Noticing: BOCC may require notification of review agencies or other interested parties.

Process for vacation of easements

PC review → Notify school districts, utility companies and municipalities and other referral agencies identified by Planning Commission (21 day review) → Joint PC/BOCC public hearing → PC recommendation → BOCC decision

Code References

The following Code Sections are pertinent to the evaluation of this request:

§ 2.14 – Plat Amendment

The re-subdivision of land or substantial changes to a recorded plat shall be considered a subdivision or the subdivision of land and shall be subject to the subdivision and other applicable provisions of these regulations. Minor changes to an approved and recorded plat shall not be considered a subdivision of land within the intent and definitions of these regulations, so long as the minor changes are not undertaken for the purposes of circumventing these subdivision regulations and so long as the minor changes do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, dedicated land or encompass more than twenty-five (25) percent of the land included within an overall site within an approved and recorded subdivision. Specifically included within the scope of minor changes are the following actions: the adjustment and revision of lot lines, the re-platting of lots, the reconfiguration of dedicated streets and easements and reserved sites, along with similar minor changes to an approved and recorded plat, so long as the minor changes create no nonconforming lots, nor significantly alter street and road locations, drainage easements or violate the subdivision design standards contained herein.

§2.03 Waivers

Following a recommendation from the Planning Commission, the Board of County Commissioners may authorize waivers or modifications of the provisions contained within these subdivision regulations in cases where an applicant clearly demonstrates in writing that on the basis of the conditions peculiar to a site, an unnecessary and undue hardship would be placed upon that applicant by the literal enforcement of one or more provisions of these subdivision regulations. Such waivers or modifications shall not be granted if, in the opinion of the board of County Commissioners, they would prove detrimental to the public health, safety or welfare, or impair or be contrary to the purpose, intent or specific provisions of these regulations. Such waivers and modifications may specifically be granted to facilitate the design characteristics of a Planned Unit Development (PUD). The conditions of any waiver or modification authorized by the Board of County Commissioners shall be stated in writing in the minutes of the Board along with the justification for the granting or the denial of such waiver or modification.

CRS 30-28-136 requires review by the following agencies for subdivision applications:

- Colorado Geological Survey required for all proposed subdivisions creating lots under 35-acres
- Conservation District Board (if all or part of subdivision is in conservation district) – re: soil suitability, floodwater problems, watershed protection.
- Counties or municipalities within a 2-mile radius
- State Engineer
- School districts
- State Forest Service (when applicable)

§2.15 Vacation of Easements

Application Materials Required for a Plat Amendment and vacation: Proof of ownership; approved and recorded final plat along with proposed amendments; narrative statement explaining why proposed changes should be approved by the Planning Commission and BOCC, and a list of land owners and their addresses within 500 ft. of the property.

Application Materials:

Applicant letter states that existing facilities include Cuchara Sanitation and Water District and San Isabel Electric. It is not clear what is meant by this.

For vacation, description of area of land to be vacated is required, but not mentioned.

Background

This application, along with all required attachments were received on October 20, 2023. Staff has determined the plat maps submitted need amendments. The parcel adjacent the water plant needs a signature block for the Planning Commission. The parcel currently owned by the City of Walsenburg is lacking signature blocks, existing and amended parcel maps, and since a non-conforming parcel cannot be created, the 8-acre parcel will have to be consolidated with the adjacent Snowy River Ranch parcel (398526).

Property History:

The Settlement Agreement mentioned in the exceptions to title attached to the deed states that no subsequent changes will be made in the configuration of Exhibit A as it pertains to Tract M and Tract 6, without the written approval of [Patricia J.] Concannon. Exhibit A, shown below, depicts a configuration of parcels different from that proposed in this application. Concannon was not a previous owner of this parcel.

In the Cuchara Mountain Resort Panadero Subdivision Land Use Plan from 1997 Tract 6 adjacent this tract was platted for 12 home sites with another 17 platted on Tract M1 that runs along Panadero Ave (See Map 405)

These two properties are not part of the Panadero POA, which describes its membership in Exhibit A of the declaration of covenants (Book 365 Page 152) as Lots 75 through 114 inclusive of Panadero Development Filing No. 2.

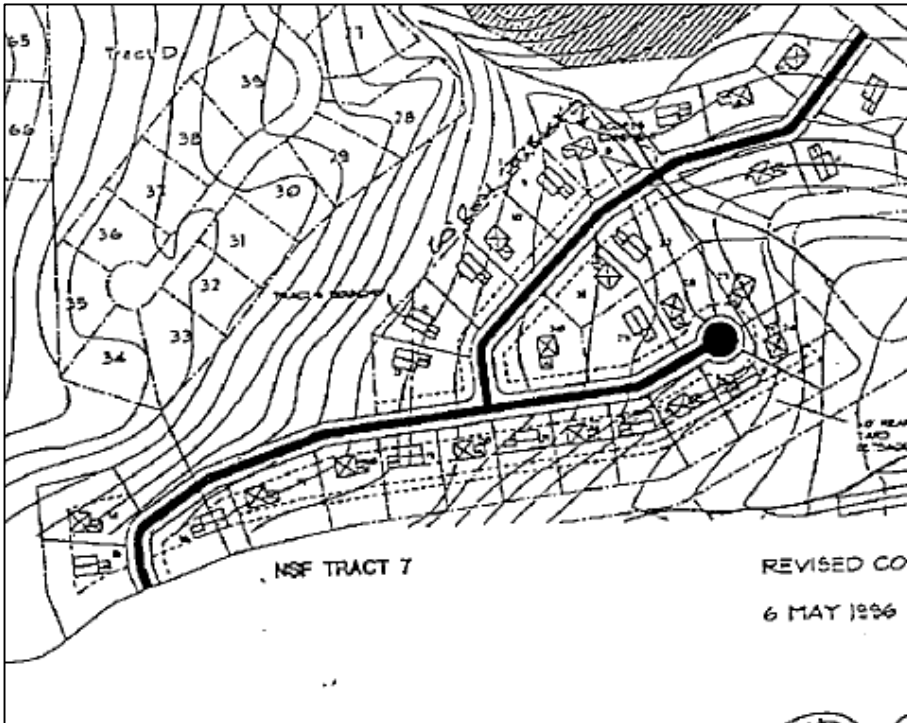


Figure 1 Exhibit A of the Settlement Agreement

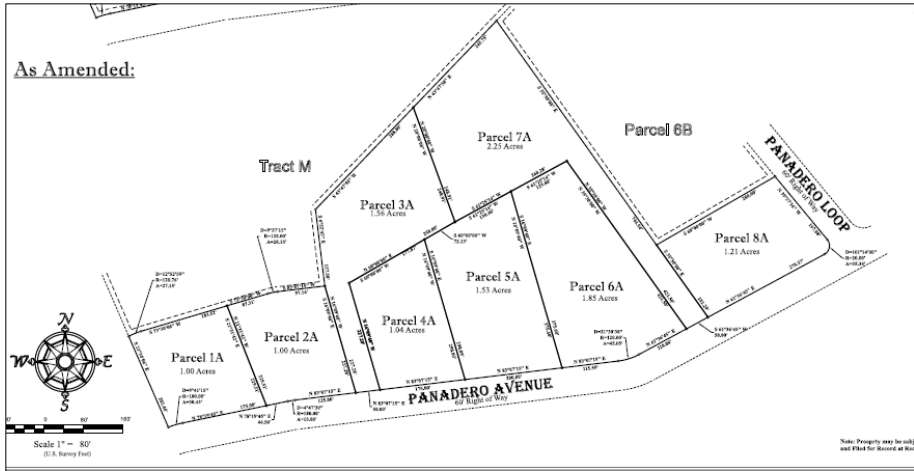


Figure 2 Proposed new configuration of lots.

The proposed easement vacation contains plans for a road and water and sewer lines depicted in Map 405.

Tract M1 first appears in a deed issued August 3, 1996 in a sale from Panadero Property Owners Association to Ski Cuchara LP. In the previous transfer of ownership, Ski Cuchara LP sold the property to Panadero Property Owners Association on July 30, 1996, and the property was described only as Tract M. These two deeds can be found at Book 416 Page 690 and 688, respectively.

Eligibility for a Plat Amendment: (2.14) Minor changes that do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, drainage easements, dedicated land or encompass more than 25% of land included within a recorded subdivision. Scope can include adjustment of lot lines, replatting of lots, reconfiguration of dedicated streets and easements and reserved sites.

2.14.03 Criteria for Action on a Plat Amendment Application

All actions by the Planning Commission in reviewing and making recommendations on an application to amend an approved and recorded plat and by the Board of County Commissioners in approving or disapproving such applications shall be based in general upon the provisions of these regulations and specifically on the following criteria:

- 1 That the proposed amendment meets the qualifications stated herein for a minor change to the approved and recorded plat.
- 2 That the proposed amendment would be consistent with all other provisions of these regulations and would not cause significant hardship or inconvenience for adjacent or neighboring land owners or tenants.
- 3 That the proposed amendment would be beneficial to the public health, safety or welfare of County residents.

2.15.03 Criteria for Action on a Vacating Application

All actions by the Planning Commission in reviewing and making recommendations on an application to vacate an approved and recorded plat or easement and by the Board of County Commissioners in approving or disapproving such applications, shall be based in general upon the provisions of these regulations and specifically upon the following criteria:

- 1. That the proposed vacating would not interfere with development of nor deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility services or other improvements, nor deny access to structures, facilities or sites located beyond the plat or easement to be vacated.

2. That the proposed vacating would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant.
3. That the proposed vacating would not be likely to prove detrimental to the public health, safety or welfare of County residents.
4. That the proposed vacating would be consistent with all other provisions in these regulations.
5. That the proposed vacating would not cause undue financial hardship to Huerfano County nor deprive it of needed tax base.

Analysis

The Planning Commission shall decide whether the proposed changes qualify for a Plat Amendment or if the Applicant should be required to apply for a Subdivision (see eligibility above).

One of the provisions of the settlement agreement was that “no subsequent changes will be made in the configuration of Exhibit A as it pertains to Tract M and Tract 6, without the written approval of [Patricia J.] Concannon. Exhibit A, shown below, depicts a configuration of parcels different from that proposed in this application.” The configuration of Exhibit A depicts a road bisecting Tracts M1 and 6A and the creation of 25 parcels (the Panadero master land use plan – Map 405 -- depicts 29 parcels on these two tracts), compared with the current proposal of eight parcels with no additional right of way. Concannon was the previous owner of these tracts – would her approval to create new lots not according to the configuration referenced be required per the settlement agreement?

Because the easement on the plat amendment application is depicted as simply a utility easement, but as an access easement on other maps, it may be worth asking BH2 to verify the nature of the easement to be vacated.

Referral Comments

LIST ANY ISSUES FROM REFERRALS HERE.

Staff Comment

Note: If the Planning Commission chooses to consider this a plat amendment, plat amendments do not require a public hearing. Planning Commission should make a recommendation to BOCC for an upcoming BOCC public meeting.

The vacation of easements, however, does require a joint public hearing.

BOCC may require notification of review agencies or other interested parties.

Planning Commission Action:

At their meeting on October 26, the Planning Commission tabled the application and requested more information, namely:

1. History of creation of Tract M1. Was this created with approval from BOCC?
2. Deed restriction on altering layout without permission from Concannon. What was Concannon’s position relative to these parcels at the time?
3. Whether easement for water line mentioned in deed restrictions impacts these properties.
4. Argument as to why this should be considered a plat amendment rather than a subdivision.

At their meeting on January 25, the Planning Commission tabled the application again, requesting staff to investigate whether there is an existing plat amendment. If there is not, then the Planning Commission

will proceed with this application substantially as a plat amendment and procedurally as a subdivision. If there is a plat amendment the Planning Commission will proceed with this application as a plat amendment.

Recommend one of the following to the BOCC:

1. **Approval** without any special conditions.
2. **Conditional** Approval with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action with reference to the criteria set forth in the Land Use Code.
4. **Continuation** until a future date to gather more information or obtain clarification or for any other relevant cause.

Enclosures

- Application Materials

Huerfano County Land Use Department
401 Main Street, Suite 340
Walsenburg, Colorado 81089
(719) 738-3000 ext. 108



GENERAL LAND USE APPLICATION

Application File No.: _____

1. ACTION(S) REQUESTED:

- Conditional Use Permit Application
 - Conditional Use Application / Marijuana
 - Conditional Use Application / Oil, Gas or Uranium Exploration and/or Development
 - Rezoning
 - Variance
 - Subdivision Exemption
 - Plat Amendment
 - Plat Correction
 - Road Right-of-Way or Easement Vacation
 - Lot Consolidation
 - Other Actions (specify): _____
- Sign Permit
 - Temporary Use Permit
 - H.B. 1041 Text Amendment
 - H.B. 1041 Development Permit
 - H.B. 1041 Flood Plain Exemption
 - Comprehensive Plan Text of Map Amendment
- PUD or non-PUD Subdivision Approval:
- Sketch Plan
 - Preliminary Plan
 - Final Plat / Subdivision Improvement Agreement
 - Re-hearing of Denied Application

2. APPLICATION STATUS (for County use only):

Date Application Received: _____ Application Fees Required: _____

Received By: _____ Date Application Fees Paid: _____

3. APPLICATION AND OWNER INFORMATION:

Name of Applicant: BH2 Land Surveying, LLC

Applicant's Mailing Address: PO Box 20399, Colorado City, CO 81019

Applicant's Telephone and/or FAX: 719-676-2072

Applicant's E-Mail Address: bh2@cnvalley.net

Name of Land Owner: Dos Sueños Properties, C/O Mark Lancaster

Land Owner's Mailing Address: 4517 Old Sherman Road, Whitesboro, TX 76273

Land Owner's Telephone and/or FAX: 940-390-1234

4. SUMMARY OF APPLICATION:

Land Area included within the scope of this Application: 11.4 Square Feet or Acres

Legal description of land on which action is proposed (please attach the legal description to this Application): _____

Existing Zoning District(s): UR

Proposed New District(s): UR

Number of Existing Lots: 2

Number of Proposed Lots: 8

Number of Proposed Dwelling Units: N/A

Huerfano County Land Use Department
401 Main Street, Suite 340
Walsenburg, Colorado 81089
(719) 738-3000 ext. 108



GENERAL LAND USE APPLICATION

Proposed Average Lot Size: 1 Acre up to 2.25 Acres

If a Variance Request, please state the reason for the Variance(s): _____

Is all or a portion of the subject land located in a potential flood plain area, or are there areas with slopes in excess of twenty percent (20%)? YES NO

If YES, which of these conditions exist? _____

Value of proposed new development: _____

Will the proposed project require any State or Federal permits? YES NO

If YES, please list all permits or approvals required: _____

If a H.B. 1041 permit is required, for what matters of local concern and state interest? _____

Please list any additional pertinent information: Clients wish to accomplish this project as a map-amendment and to not go through a subdivision.

5. CERTIFICATION BY THE APPLICANT:

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all land use permits are non-transferrable, unless specifically approved by the Huerfano County Board of County Commissioners. The Board of County Commissioners may impose permit transfer fees as it deems appropriate. I also understand that issuance of a permit does not relieve me of the requirement to comply with all federal, state, and local laws as well as all relevant subdivision regulations, declarations, and covenants. All documents submitted may be subject to internet publishing.

Signature of Applicant: Kaylee Beverly Date: 10/19/23

Printed Name: Kaylee Beverly

6. ACTION (by the authorized permitting authority):

- Final Approval Conditional Approval Denial

Name _____ Signature _____

Title _____ Date _____



BH² LAND SURVEYING, LLC

P.O. Box 20399
Colorado City, CO 81019
Phone: 719-676-2072
Email: bh2@ghvalley.net

LETTER OF REQUEST

Map Amendment and Easement Vacation

Tract 6A and Tract M1, Panadero Development Filing No. 3

October 20, 2023

Owner/Owners: Dos Suenos Properties, LLC

Owners Representative: BH2 Land Surveying, LLC.,
P.O. Box 20399, Colorado City, CO,
719-676-2072
Bh2@ghvalley.net

Current Zoning: Urban Residential

Proposed Zoning: No Change.

Request and reason for the Plat Amendment: The owners want to split to total acreage of 11.4 of both Tract 6A and Tract M1 in eight (8) separate parcels. Which they plan to sell or develop, keeping in mind that these parcels are subject to single family homes only and over 2000 sqft per Reception No. 326860

Legal Description: Tract 6A and Tract M1, Panadero Development Filing No. 3, County of Huerfano, State of Colorado
Parcel No. 347050 and 1218703

Existing Facilities: Cuchara Sanitation and Water District, and San Isabel Electric

Existing Structures: None.

Sincerely,

Kaylee Byerly
BH2 Land Surveying, LLC

Dos Sueños Properties, LLC

August 22nd, 2023

4517 Old Sherman Rd
Whitesboro, TX 76273

Dear Kaylee:

Good morning to you. Per our email correspondence, and the attached conceptual plat, we would like BH2 Land Surveying to represent Dos Sueños Properties, LLC in our quest for this map amendment in Huerfano County Colorado. We prefer the map amendment over the more extensive subdivision approval and would ask you to represent our interest accordingly. If the county rejects the proposed plat for a simple map amendment, please request feedback as to why and whether there is an alternative concept they will accept. Please also keep in mind that this property is NOT governed by the Panadero Property owner's association according to the communications you obtained from their president previously, nor is it governed by any other association. Also, it should be noted that this property is restricted to single family homes at least 2,000 sq. ft. in size by a previous agreement reordered in the Huerfano County. This fact should ease neighbor concerns regarding use. Please keep Kyle and me posted regarding your progress in this matter.

Thank you very much.

Sincerely,

DocuSigned by:



J. Mark Lancaster

State Documentary Fee
\$20.70 03-20-2023

429575
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Erica Vigil, Clerk & Recorder
Huerfano County, CO
03-20-2023 02:03 PM Recording Fee \$23.00

WARRANTY DEED

THIS DEED, is dated the 17th day of MARCH, 2023, and is made between **TODD D HOUSEMAN and SANDRA R HOUSEMAN** (whether one, or more than one), the "Grantor" of the State of Colorado and **DOS SUENOS PROPERTIES, LLC** (whether one, or more than one), the "Grantee," whose legal address is: 4517 OLD SHERMAN ROAD, WHITESBORO, TX 76273 of the State of Texas

State Doc Fee:
Recording Fee:

WITNESS, that the Grantor, for and in consideration of the sum of Two Hundred Seven Thousand Dollars and No Cents (\$207,000.00), the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, conveys and confirms unto the Grantee and the Grantee's heirs and assigns forever, all the real property, together with any improvements thereon, located in the County of Huerfano and State of Colorado described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

also known by street and number as: TBD PANADERO Avenue, CUCHARA, CO 81055

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee and the Grantee's heirs and assigns forever.

The Grantor, for the Grantor and the Grantor's heirs and assigns, does covenant, grant, bargain, and agree to and with the Grantee, and the Grantee's heirs and assigns: that at the time of the enrolling and delivery of these presents, the Grantor is well seized of the premises above described; has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, and in fee simple; and has good right, full power and lawful authority to grant, bargain, sell and convey in the same in manner and form as aforesaid; and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature soever, except and subject to:

SEE EXHIBIT "B" ATTACHED HERETO

And the Grantor shall and will WARRANT AND FOREVER DEFEND the above described premises, but not any adjoining vacated street or alley, if any, in the quiet and peaceable possession of the Grantee, and the heirs and assigns of the Grantee, against all and every person or persons lawfully claiming the whole or any part thereof.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

Todd D Houseman
TODD D HOUSEMAN

Sandra R Houseman
SANDRA R HOUSEMAN

State of Kansas
County of Ford

The foregoing instrument was acknowledged before me this 17th day of March, 2023 by TODD D HOUSEMAN and SANDRA R HOUSEMAN.

Witness my hand and official seal.

Ashley Ledford
Notary Public Ashley Ledford
My Commission Expires: 8/23/2023

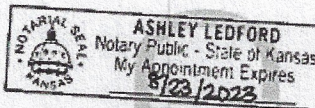


EXHIBIT "A" LEGAL DESCRIPTION

Parcel A: Tract M 1, Panadero Filing No.3, more particularly described as follows: Township 31 South, Range 69 West of the 6th P.M.;

A parcel of land located in Sections 16 and 17; Beginning at the Southerly most Corner of Tract M; the True Point of Beginning; Thence on the arc of a curve to the right, through a central angle of 09-41-15, whose radius is 180.00 feet, a distance of 30.43 feet; Thence N 78-19-45 E a distance of 219.65 feet; Thence on the arc of a curve to the right, through a central angle of 09-37-15, whose radius is 120.00 feet, a distance of 12.05 feet; Thence N 83-07-15 E a distance of 665.59 feet; Thence on the arc of a curve to the left, through a central angle of 21-30-30, whose radius is 120.00 feet, a distance of 45.05 feet; Thence N 61-36-45 E a distance of 430.45 feet; Thence on the arc of a curve to the left, through a central angle of 101-14-00, whose radius is 20 feet, a distance of 35.34 feet; Thence N 39-37-14 W, a distance of 77.59 feet; Thence S 61-36-45 W, a distance of 438.75 feet; Thence S 83-43-33 W, a distance of 527.20 feet; Thence N 02-37-17 E, a distance of 376.52 feet; Thence S 43-47-58 W a distance of 149.98 feet; Thence S 06-52-45 E, a distance of 157.58 feet; Thence S 83-07-15 W a distance of 97.16 feet; Thence on the arc of a curve to the left, through a central angle of 09-37-15, whose radius is 120.00 feet, a distance of 20.15 feet; Thence S 73-30-00 W a distance of 270.83 feet; Thence on the arc of a curve to the left, through a central angle of 12-52-59, whose radius is 120.76 feet, a distance of 26.22 feet; to the true point of beginning. County of Huerfano, State of Colorado

Parcel B: Parcel 6A

A parcel of land located in a portion of Tract 6, Panadero Development Filing No.3, County of Huerfano, State of Colorado, being more particularly described as follows: Beginning at the Southeast corner of Tract 6, Thence S 61-36-45 W along the South line of said Tract 6, a distance of 438.75 feet; Thence S 83-43-33 W along South line of said Tract 6, for a distance of 527.20 feet; Thence N 2-37-17 E along the East line of said Tract 6, for a distance of 376.52 feet; Thence N 43-47-58 E along the Northerly line of said Tract 6, for a distance of 384.57 feet; Thence S 35-30-00 E, for a distance of 563.25 feet; Thence N 60-00-00 E, for a distance of 280.00 feet to the Westerly right of way line of Panadero Loop; Thence S 39-37-15 E along the Westerly right of way line of Panadero Loop, for a distance of 89.49 feet to the Point of Beginning. Being 6.50 Acres more or less.

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**EXHIBIT "B"
EXCEPTIONS TO TITLE**

1. Taxes for the year 2022, a lien not yet due and payable.
2. Distribution of Utility Easements (including cable tv)
3. Those specifically described rights of third parties not shown by the public records of which Buyer has actual Knowledge and which were accepted by Buyer in accordance with § 8.3 (off record Title) and § 9 (New ILC or New Survey)
4. Inclusion of the Property within any special taxing district
5. Any special Assessment if the improvements were not installed as the date of Buyers' Signature hereon, whether assessed prior to or after closing.
6. Underground Line Map for San Isabel Electric Association, recorded at Map No. 264, February 13, 1985 at Reception No. 298846
7. Declaration of Covenants for Panadero Subdivision Filing No. 1, recorded October 3, 1973 at Book 333, Page 842, and recorded November 2, 1981 at Book 367, Page 1111, and Amended and Restated January 28, 2008 at Reception No. 379076, and Amendment recorded April 22, 2010 at Reception No. 368092, Amendment recorded January 5, 2015 at Reception No. 402111
8. Declaration for Sun Mountain Condominiums, recorded August 6, 1982 at Book 364, Page 380
9. Service Plan for Cuchara Valley Recreational Metropolitan District, recorded September 10, 2010 at Reception No. 389209
10. By-laws for Panadero Property Owners Association recorded October 9, 2013 at Reception No. 398757
11. Easements as recorded on Quit Claim Deed recorded February 14, 1985 at Book 373, Page 316 and at Book 373, Page 318
12. Right of Way for Ditches and Canals, recorded November 7, 1986 at Book 379, Page 465
13. Master Land Plan for Panadero Subdivision, recorded December 17, 1997 at Reception No. 331940
14. Settlement Agreement between Patricia Concannon and Panadero Property Owners Association, recorded October 5, 1998 at Reception No. 336085
15. Line Extension Contract between San Isabel Electric and Rio Costilla Development recorded February 16, 1999 at Reception No. 337888
16. Limited Use Agreement between Dick E. Davis and JNC Properties, recorded June 9, 1998 at Reception No. 334227
17. Amendment to Settlement Agreement recorded June 6, 2005 at Reception No. 368026

As Platted:

Note: All Lot Lines 10 feet each side to serve as Utility and Drainage Easements, Except as noted.

MAP AMENDMENT PLAT AND EASEMENT VACATION FOR DOS SUENOS PROPERTIES, LLC TRACTS M1 AND 6A, PANADERO FILING No.3 COUNTY OF HUERFANO, STATE OF COLORADO

KNOW ALL MEN BY THESE PRESENTS: That Dos Suenos Properties, LLC being the sole owner of the following described property:

Tract M-1 and Parcel 6A, Panadero Filing No. 3, filed at Map No. 207, According to the Records of the Clerk and Recorder for Huerfano County, Colorado

That Dos Suenos Properties, LLC, is the sole owners of that real property situated in Huerfano County, Colorado, has caused said real property to be laid out and surveyed as Parcel 1A, 2A, 3A, 4A, 5A, 6A, 7A and 8A of Map Amendment and Easement Vacation, Huerfano County, State of Colorado, and does hereby accept the responsibility for the completion of required improvements and does hereby dedicate and set apart all of the roads and other public improvements and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements for the purpose shown hereon, and does hereby grant the right to install and maintain necessary structures to the entity responsible for providing the services for which the easements are established

J. Mark Lancaster
(Owner, Dos Suenos Properties, LLC) Date: _____

Kyle Cunningham
(Owner, Dos Suenos Properties, LLC) Date: _____

STATE OF COLORADO)
) ss
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____ 2023, A.D. by J. Mark Lancaster and Kyle Cunningham

WITNESS MY HAND AND OFFICIAL SEAL:

My Commission Expires: _____
Notary Public

This is to Certify that this Map Amendment Plat, is hereby approved this _____ day of _____ 2023, by the Board of County Commissioners, County of Huerfano, State of Colorado.

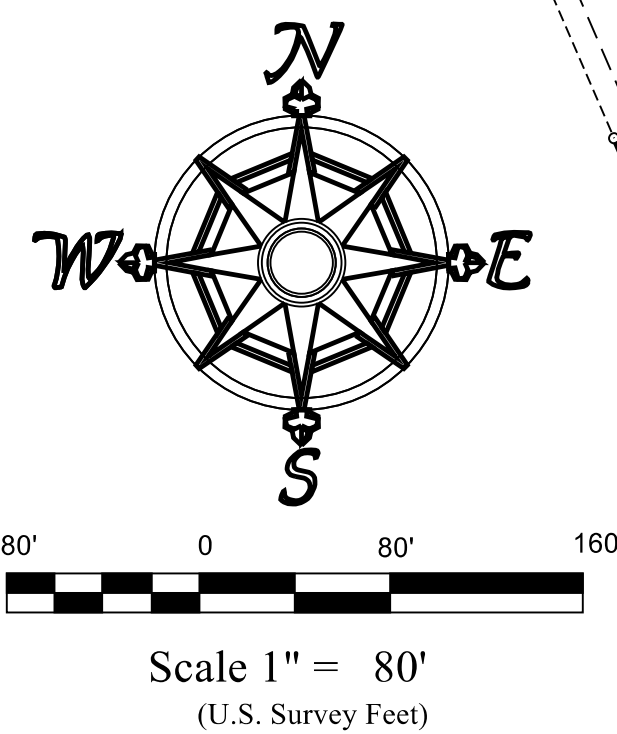
By: _____ Date: _____
Chairperson of the Board

By: _____ Date: _____
Attest: Clerk of the Board

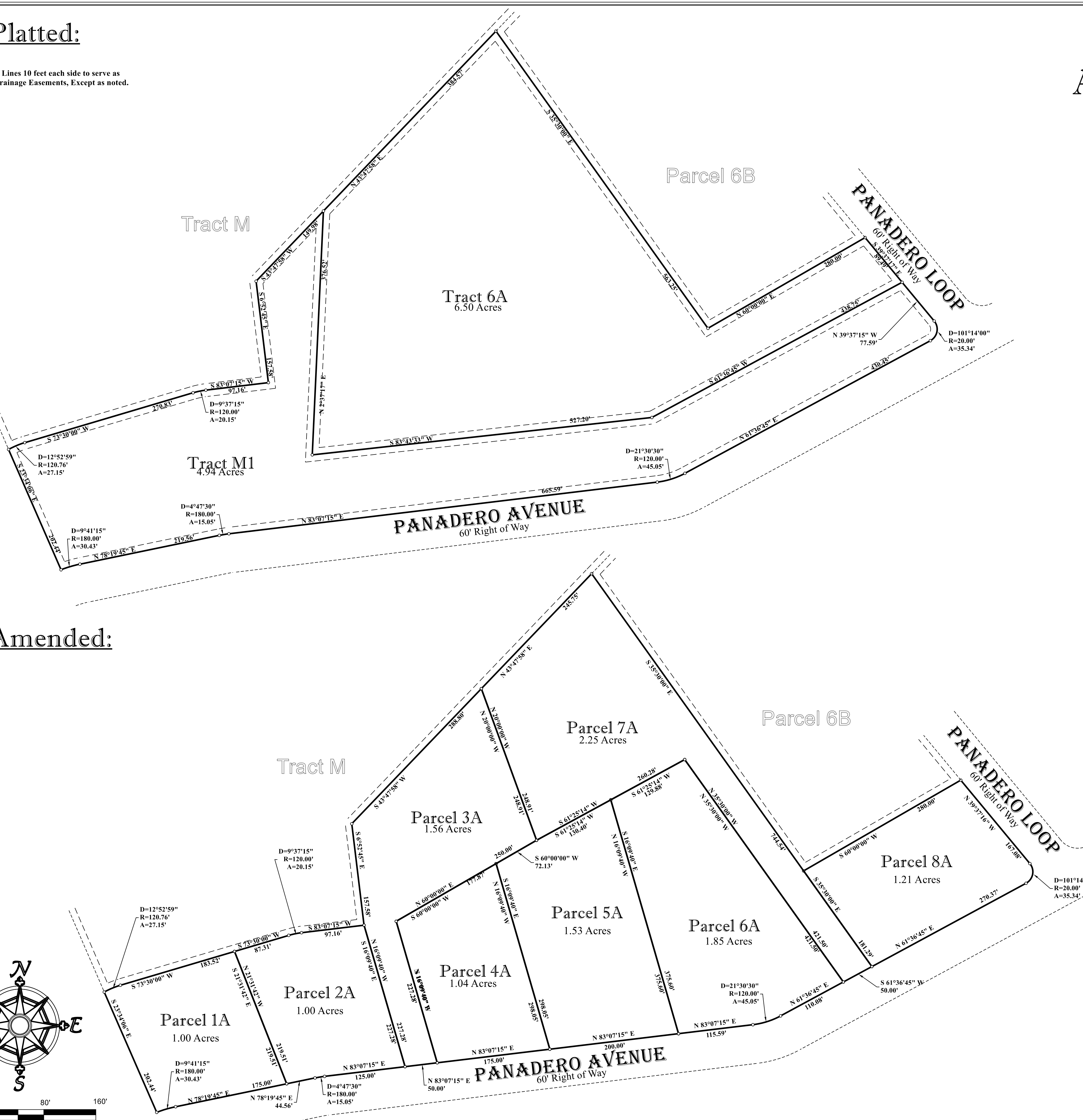
SURVEYORS CERTIFICATION: I, William S. Bechaver, a Professional Land Surveyor registered in the State of Colorado, hereby certify to Tom Powis, that this Map Amendment is not based upon an actual field survey conducted by me or under my responsible charge, but was prepared using information shown on the Plat of Panadero Development Filing No. 3, filed for record at the Huerfano County Clerk and Recorder. The property within this Map Amendment may or may not be presently monumented and if it is monumented I have not confirmed that the property pins are accurately located.

By: _____
William S. Bechaver, PLS. 38103
BH² Land Surveying, LLC
Colorado City, Colorado

As Amended:



Scale 1" = 80'
(U.S. Survey Feet)



Note: Property may be subject to Settlement Agreement entered into on July 26, 1996 and Filed for Record at Reception No. 326860

 P.O. Box 20399, Colorado City, CO 81019 Phone: 719-676-2072 Email: bh2@ghvalley.net		
	Sheet 1/1	Job No. 2023-181

DISTRICT COURT, HUERFANO COUNTY, STATE OF COLORADO
Case No. 96 CV 46

SETTLEMENT AGREEMENT

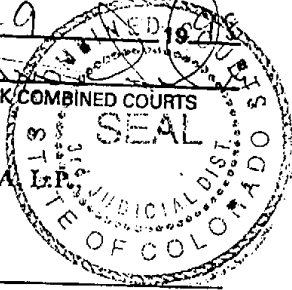
CERTIFIED TO BE A FULL,
TRUE AND CORRECT COPY OF
ORIGINAL IN MY CUSTODY

PATRICIA J. CONCANNON,
Plaintiff,

DATED 7-9
DEPUTY CLERK COMBINED COURTS

vs.

PANADERO PROPERTY OWNERS ASSOCIATION, SKI CUCHARA
and CUCHARA, L.C.,
Defendants.



This Settlement Agreement ("Agreement") is entered into as of 7/26, 1996, by and between Patricia J. Concannon ("Plaintiff") and Ski Cuchara, L.P. ("SCLP"), and Cuchara, L.C. ("CLC") (SCLP and CLC are collectively referred to as Defendants) to evidence the agreement reached by such parties.

WHEREAS, SCLP is the owner and developer of certain real property located in Huerfano County, Colorado, and CLC is the general partner of SCLP; and

WHEREAS, Panadero Property Owners Association ("PPOA") is an organization of property owners owning real property in Huerfano County, Colorado, which property is located in the vicinity of the Ski Cuchara ski resort owned and operated by SCLP; and

WHEREAS, Plaintiff owns certain real property in Huerfano County, Colorado, in the vicinity of such ski resort and are members of PPOA; and

WHEREAS, a dispute has arisen with respect to the obligations of SCLP and CLC concerning the conveyance of certain real property located in Huerfano County, Colorado, and the future development of certain real property located in Huerfano County, Colorado; and

WHEREAS, Plaintiff filed an action in the District Court of Huerfano County, Colorado, under cause no. 96 CV 46, which action is styled *Patricia J. Concannon vs. Panadero Property Owners Association, Ski Cuchara, L.P., and Cuchara, L.C.* (The "Action") and seeks a declaratory judgment with respect to the matters in dispute; and

WHEREAS, Plaintiff, PPOA, SCLP and CLC met at a PPOA special meeting held on May 4, 1996, and reached an agreement to compromise and resolve the matters in dispute and to bring the Action to an end; and

SETTLEMENT AGREEMENT-Page 1

336085 10/05/1998 03:00P AGR
1 of 5 R 25.00 D 0.00 N 0.00 Huerfano Co. J Benine

In consideration of the foregoing, the mutual promises and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Plaintiff, SCLP and CLC agree as follows:

1.

On May 4, 1996, the parties agreed to a modification of Tract 6 and Tract M, which modification is attached hereto, marked Exhibit A, initialed by all parties and by this reference made a part hereof.

2.

Concannon, by execution of this agreement, does hereby agree that she will not object to the filing nor the approval of such Exhibit A, as a part of SCLP and CLC request for modification of Panadero filing No. 3, filed of record on March 16, 1983, under recording map no. 206-207, pocket no.4, folder no.2, pursuant to which Tract M and Tract 6 shall be restricted to single family lots as configured in said Exhibit which are not less than one-third acre in size and all houses constructed thereon shall contain at least 2000 square feet with a rear yard set back of at least sixty (60) feet.

3.

No subsequent changes will be made in the configuration of Exhibit A, as it pertains to Tract M and Tract 6, without the written approval of Concannon.

4.

Upon the execution of this agreement by all parties, Concannon will cause to be filed a Journal Entry of Dismissal, without prejudice, in Case No. 96CV46, Patricia J. Concannon vs. Panadero Property Owners Association, Ski Cuchara L.P. and Cuchara L.C.

5.

The parties agree that although Exhibit A is a part of the Master Plan to be filed by SCLP and CLC, this agreement is limited to that portion thereof which modifies Tract 6 and Tract M, as designated in the original Master Plan previously approved by Huerfano County, Colorado.

6.

This agreement shall be filed in the property records of Huerfano County, Colorado and shall attach to and run with the land, upon the approval by the necessary governing body of said county.

7.

This agreement encompasses the entire agreement between the parties and shall not be changed without the consent of all parties in writing.

SETTLEMENT AGREEMENT-Page 2



336085 10/05/1998 03:00P AGR
2 of 5 R 26.00 D 0.00 N 0.00 Huerfano Co.J Benine

8.

This agreement shall be binding upon the parties hereto their respective successors, heirs, executors, administrators and assigns.

9.

This agreement may be executed in one or more counterparts, each of which shall be deemed an original, when fully executed by all, of which together, shall constitute one and the same agreement.

Executed and Agreed:

Date: JULY, 1996

Patricia J. Concannon
PATRICIA J. CONCANNON

Date: JULY 26, 1996

SKI CUCHARA, L.P., a Texas limited partnership

By: L.C.
Cuchara, ~~L.P.~~, its general partner

By: Donald B. Huffines
Donald B. Huffines
President

Date: JULY 26, 1996

CUCHARA, L.C.

By: Donald B. Huffines
Donald B. Huffines
President

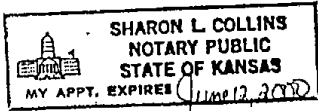
336085 10/05/1998 03:00P AGR
3 of 5 R 26.00 D 0.00 N 0.00 Huerfano Co. J Benine

The State of KANSAS :

County of STEVENS :

August

This instrument was acknowledged before me on this 2nd day of ~~July~~ Aug, 1996, by Patricia J. Concannon.



Sharon L. Collins
Notary Public, State of Kansas

Printed or Stamped Name of Notary:

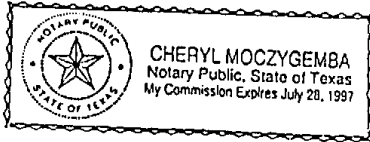
SHARON L. COLLINS

My Commission Expires: June 12, 2000

The State of Texas:

County of Dallas:

This instrument was acknowledged before me on this 26th day of July, 1996, by Donald B. Huffines, President of Cuchara, L.C., general partner of Ski Cuchara, L.P., a Texas limited partnership, on behalf of said limited partnership.



Cheryl Moczygemba
Notary Public, State of Texas

Printed or Stamped Name of Notary:

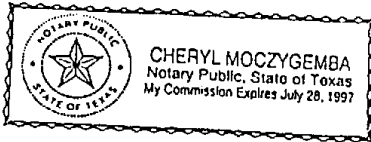
Cheryl Moczygemba

My Commission Expires: 7/28/97

The State of Texas:

County of Dallas:

This instrument was acknowledged before me on this 26th day of July, 1996, by Donald B. Huffines, President of Cuchara, L.C., a Texas limited liability company, on behalf of said limited liability company.



Cheryl Moczygemba
Notary Public, State of Texas

Printed or Stamped Name of Notary:

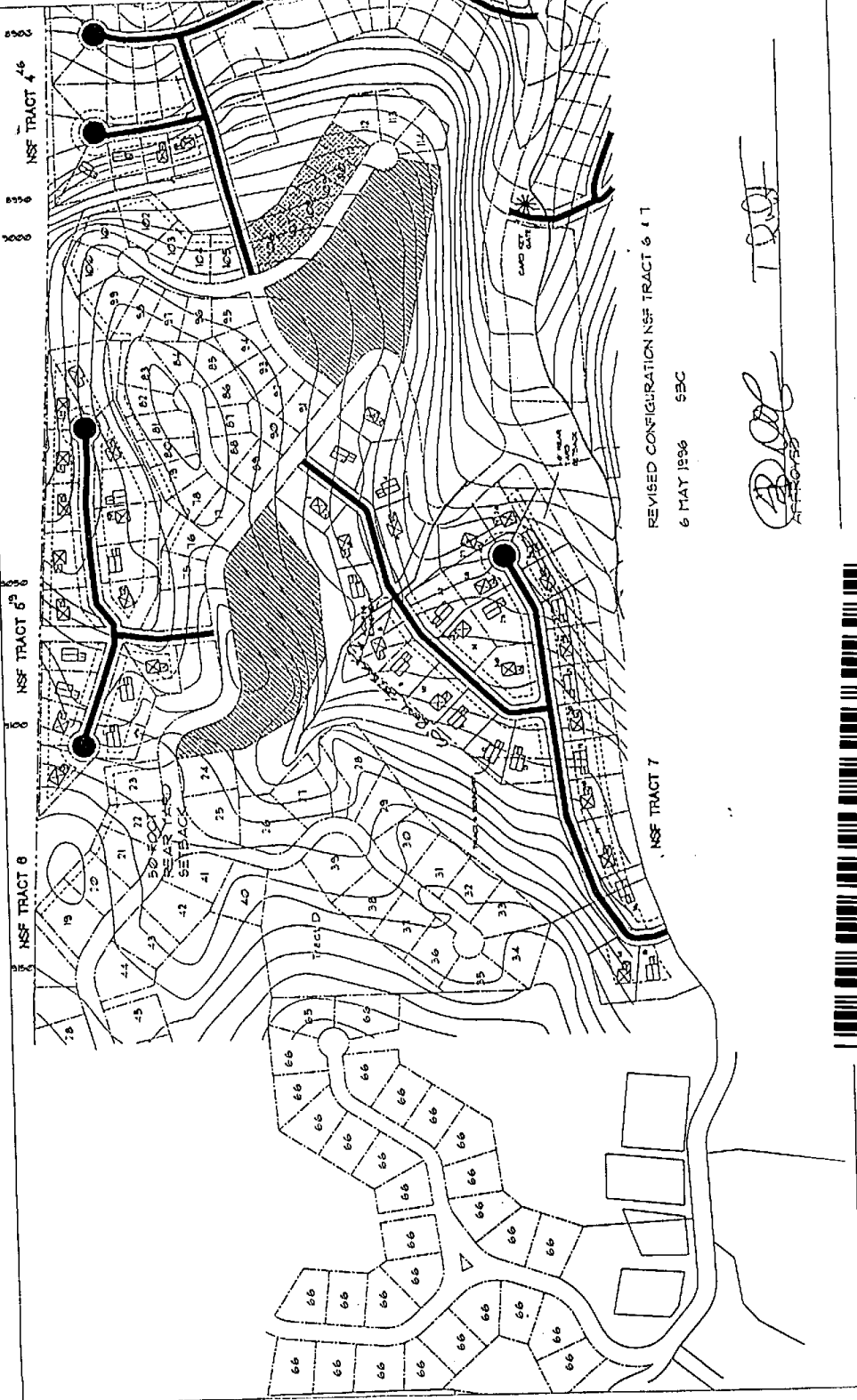
Cheryl Moczygemba

My Commission Expires: 7/28/97



336085 10/05/1998 03:00P AGR
4 of 5 R 26.00 D 0.00 N 0.00 Huerfano Co. J Benine

EXHIBIT A



336085 10/05/1998 03:00P AGR
 5 of 5 R 26.00 D 0.00 N 0.00 Huerfano Co., J Benine

387456
Page 1 of 1
Judy Benine, Clerk & Recorder
Huerfano County, CO RP: \$0.00
02-08-2010 12:17 PM Recording Fee \$0.00

RESOLUTION

**A RESOLUTION APPROVING AN AMENDMENT TO THE PANADERO
SUBDIVISION MASTER LAND USE PLAN - PLANNED UNIT DEVELOPMENT (PUD)**

No. 97 - 35

WHEREAS, Cuchara Management Company L.L.C, 946 Panadero Avenue, Cuchara, Colorado 81055 has submitted an application to amend and modify the Panadero Subdivision Master Land Use Plan - Planned Unit Development (PUD), Application File No. 97-51.

WHEREAS, a duly noticed public hearing was held by the Huerfano County Planning Commission and the Huerfano County Board of County Commissioners on December 9, 1997.

WHEREAS, the Huerfano County Planning Commission has recommend its approval to the Huerfano County Board of County Commissioners of Application # 97-51; and,

WHEREAS, the said amendment to the Panadero Subdivision Master Land Use Plan is desirable and is in the best interest of the County of Huerfano and its inhabitants.

NOW, THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Huerfano County, Colorado, that the Panadero Subdivision Master Land Use Plan - Planned Unit Development as described in Application File No. 97-51 be, and hereby is amended.

INTRODUCED, READ, APPROVED AND ADOPTED this 17th day of December, 1997.

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY Xavier E. Sandoval
Xavier E. Sandoval, Chairman

Charles L. Montoya
Charles L. Montoya, Commissioner

Donald G. Andreatta
Donald G. Andreatta, Commissioner



Judy Benine
County Clerk and Recorder and
Ex-Officio Clerk to said Board

429575

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel A: Tract M 1, Panadero Filing No.3, more particularly described as follows: Township 31 South, Range 69 West of the 6th P.M.;

A parcel of land located in Sections 16 and 17; Beginning at the Southerly most Corner of Tract M; the True Point of Beginning; Thence on the arc of a curve to the right, through a central angle of 09-41-15, whose radius is 180.00 feet, a distance of 30.43 feet; Thence N 78-19-45 E a distance of 219.65 feet; Thence on the arc of a curve to the right, through a central angle of 09-37-15, whose radius is 120.00 feet, a distance of 12.05 feet; Thence N 83-07-15 E a distance of 665.59 feet; Thence on the arc of a curve to the left, through a central angle of 21-30-30, whose radius is 120.00 feet, a distance of 45.05 feet; Thence N 61-36-45 E a distance of 430.45 feet; Thence on the arc of a curve to the left, through a central angle of 101-14-00, whose radius is 20 feet, a distance of 35.34 feet; Thence N 39-37-14 W, a distance of 77.59 feet; Thence S 61-36-45 W, a distance of 438.75 feet; Thence S 83-43-33 W, a distance of 527.20 feet; Thence N 02-37-17 E, a distance of 376.52 feet; Thence S 43-47-58 W a distance of 149.98 feet; Thence S 06-52-45 E, a distance of 157.58 feet; Thence S 83-07-15 W a distance of 97.16 feet; Thence on the arc of a curve to the left, through a central angle of 09-37-15, whose radius is 120.00 feet, a distance of 20.15 feet; Thence S 73-30-00 W a distance of 270.83 feet; Thence on the arc of a curve to the left, through a central angle of 12-52-59, whose radius is 120.76 feet, a distance of 26.22 feet; to the true point of beginning. County of Huerfano, State of Colorado

Parcel B: Parcel 6A

A parcel of land located in a portion of Tract 6, Panadero Development Filing No.3, County of Huerfano, State of Colorado, being more particularly described as follows: Beginning at the Southeast corner of Tract 6, Thence S 61-36-45 W along the South line of said Tract 6, a distance of 438.75 feet; Thence S 83-43-33 W along South line of said Tract 6, for a distance of 527.20 feet; Thence N 2-37-17 E along the East line of said Tract 6, for a distance of 376.52 feet; Thence N 43-47-58 E along the Northerly line of said Tract 6, for a distance of 384.57 feet; Thence S 35-30-00 E, for a distance of 563.25 feet; Thence N 60-00-00 E, for a distance of 280.00 feet to the Westerly right of way line of Panadero Loop; Thence S 39-37-15 E along the Westerly right of way line of Panadero Loop, for a distance of 89.49 feet to the Point of Beginning. Being 6.50 Acres more or less.

MASTER LAND USE PLAN
FOR
PANADERO SUBDIVISION
HUERFANO COUNTY, COLORADO

MAP	405
Packet	9
Folder	1



PREPARED BY
BRISTLECONE PLANNING & SAM BROWN & COMPANY
1 OCTOBER 1997

PERPARED FOR
CUCHARA PARTNERS, LLC
2050 N. PLANO RD. SUITE 100 RICHARDSON, TX 75082 972-690-0028

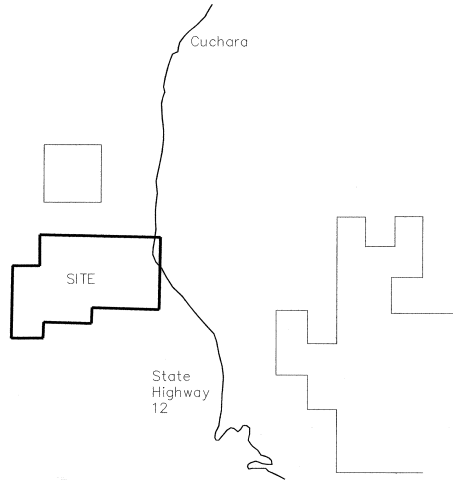
Development
Planner
Bristlecone Planning
La Garita Ranch HC 33
South Fork, CO 81154
719-658-2200

Architect
Planner
Sam Brown & Company
4536 N. 95th Street
Lafayette, CO 80026
303-666-6084

Surveyor
Engineer
Wachob & Wachob, Inc.
P.O. Box 376
Colorado City, CO 81019
719-676-3665

- INDEX TO DRAWINGS
- SHEET 1 TITLE PAGE
- SHEET 2 LAND USE PLAN
- SHEET 3 CURRENT TRACTS
- SHEET 3a PROPOSED TRACTS
- SHEET 4 TOPO - SLOPE - WATERCOURSES
- SHEET 5 SOILS
- SHEET 6 WATER DIAGRAM
- SHEET 7 SEWER DIAGRAM
- SHEET 8 PHASING

- Districts
- Cuchara Sanitation & Water District
- Spanish Peaks Volunteer Fire District
- Huerfano County Water Conservation District
- RE 2 School District
- Upper Huerfano Soil Conservation District



LOCATION MAP

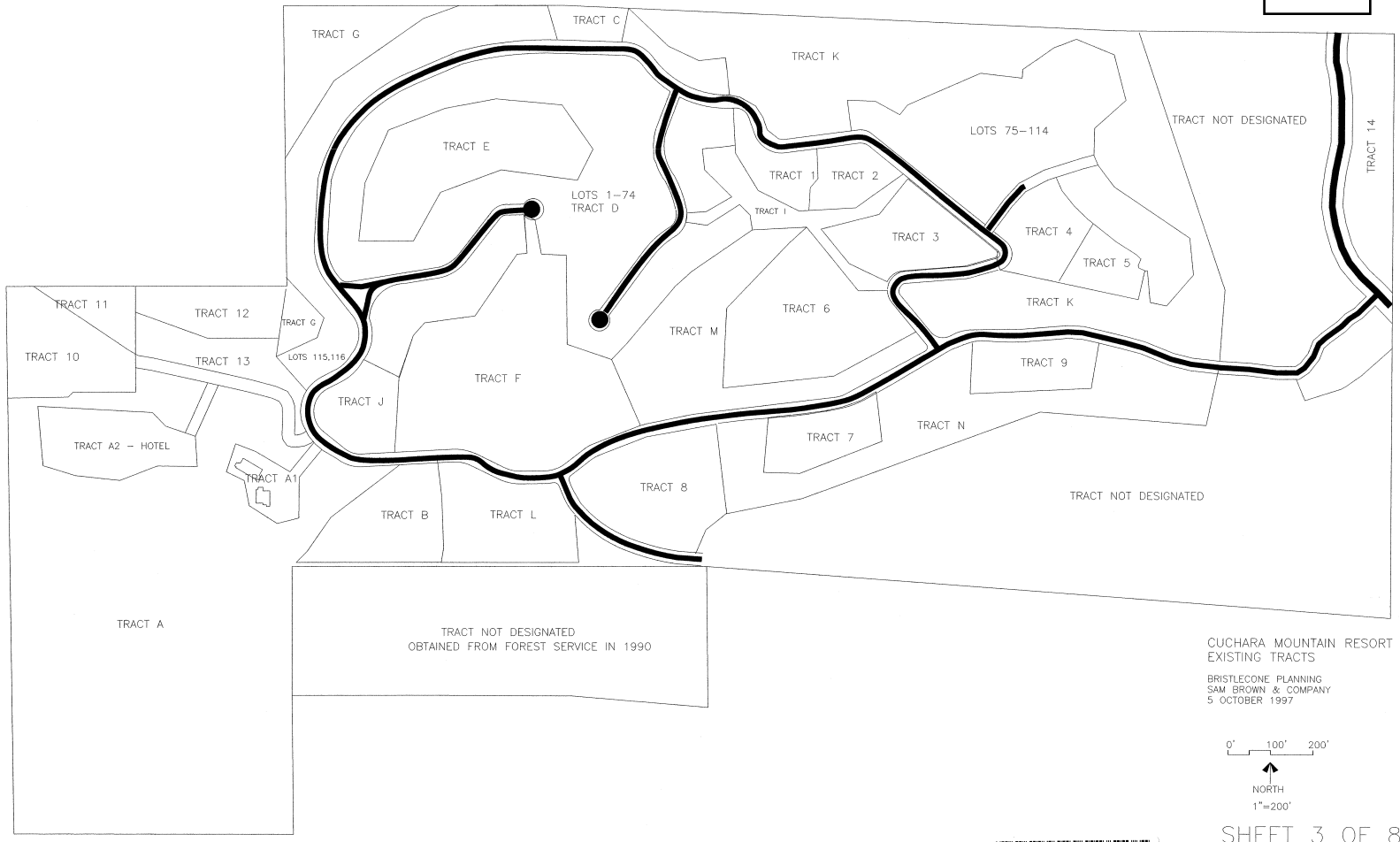
Legal Description
Beginning at the Section corner common to Sections 8,9,16 and 17, Township 31 South, Range 69 West, of the 6th P.M. Huerfano County, Colorado.
Thence S 87° 27' 30" E a distance of 2,603.54 feet,
Thence S 87° 37' 37" E a distance of 1,304.89 feet,
Thence S 00° 09' 12" W a distance of 2,754.29 feet,
Thence N 85° 49' 06" W a distance of 3,226.33 feet,
Thence S 00° 32' 26" E a distance of 660.30 feet,
Thence N 85° 14' 19" W a distance of 644.26 feet,
Thence N 89° 53' 31" W a distance of 1,318.82 feet,
Thence S 00° 35' 39" E a distance of 648.36 feet,
Thence N 89° 49' 52" W a distance of 1,319.20 feet,
Thence N 00° 31' 14" W a distance of 1,304.08 feet,
Thence N 00° 55' 24" W a distance of 1,320.30 feet,
Thence N 89° 59' 50" E a distance of 1,320.86 feet,
Thence N 00° 43' 58" W a distance of 1,320.69 feet,
Thence N 89° 57' 26" E a distance of 1,319.48 feet
to the Point of Beginning.

Hereon containing 423.31 acres more or less.

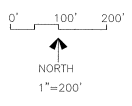
EXCLUSION "A"
A 268 acre more or less, tract of land in the E 1/2 of Section 16, Township 31 South, Range 69 West of the 6th P.M. described as follows:
Beginning at a point from which the N 1/16 corner bears
Northwesterly 1765.20 feet Thence northerly along said 1/16 line for a distance of 23328 feet;
Thence N 04° 58' 00" E a distance of 85.95 feet,
Thence N 64° 46' 30" W a distance of 72.83 feet,
Thence N 47° 47' 30" W a distance of 143.58 feet,
Thence S 42° 44' 30" W a distance of 124.12 feet,
Thence S 23° 15' 30" W a distance of 187.02 feet,
Thence S 96° 48' 30" E a distance of 188.00 feet,
Thence N 90° 00' 00" E a distance of 318.79 feet,
more or less to the Point of Beginning.

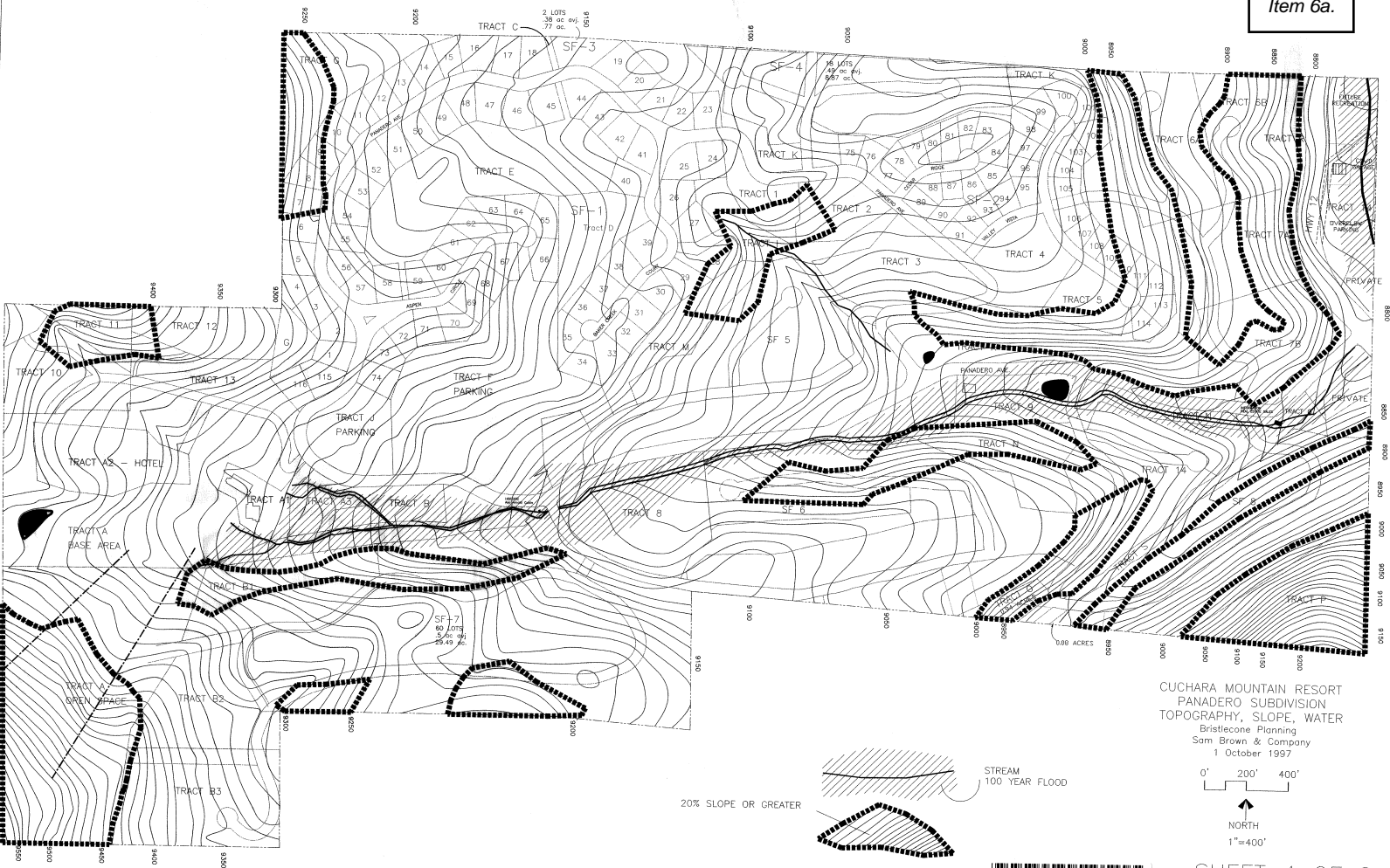
PLANNING COMMISSION CERTIFICATION
Reviewed and recommended to be approved
By the Huerfano County Planning Commission
On 10/10/97 day of October 1997
Donald M. West ACTING
By Chairman, Planning Commission

COMMISSIONERS CERTIFICATION
Approved 10/10/97 day of October 1997
Donald M. West
By Board of County Commissioners, Huerfano County, Colorado

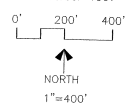


CUCHARA MOUNTAIN RESORT
EXISTING TRACTS
BRISTLECONE PLANNING
SAM BROWN & COMPANY
5 OCTOBER 1997

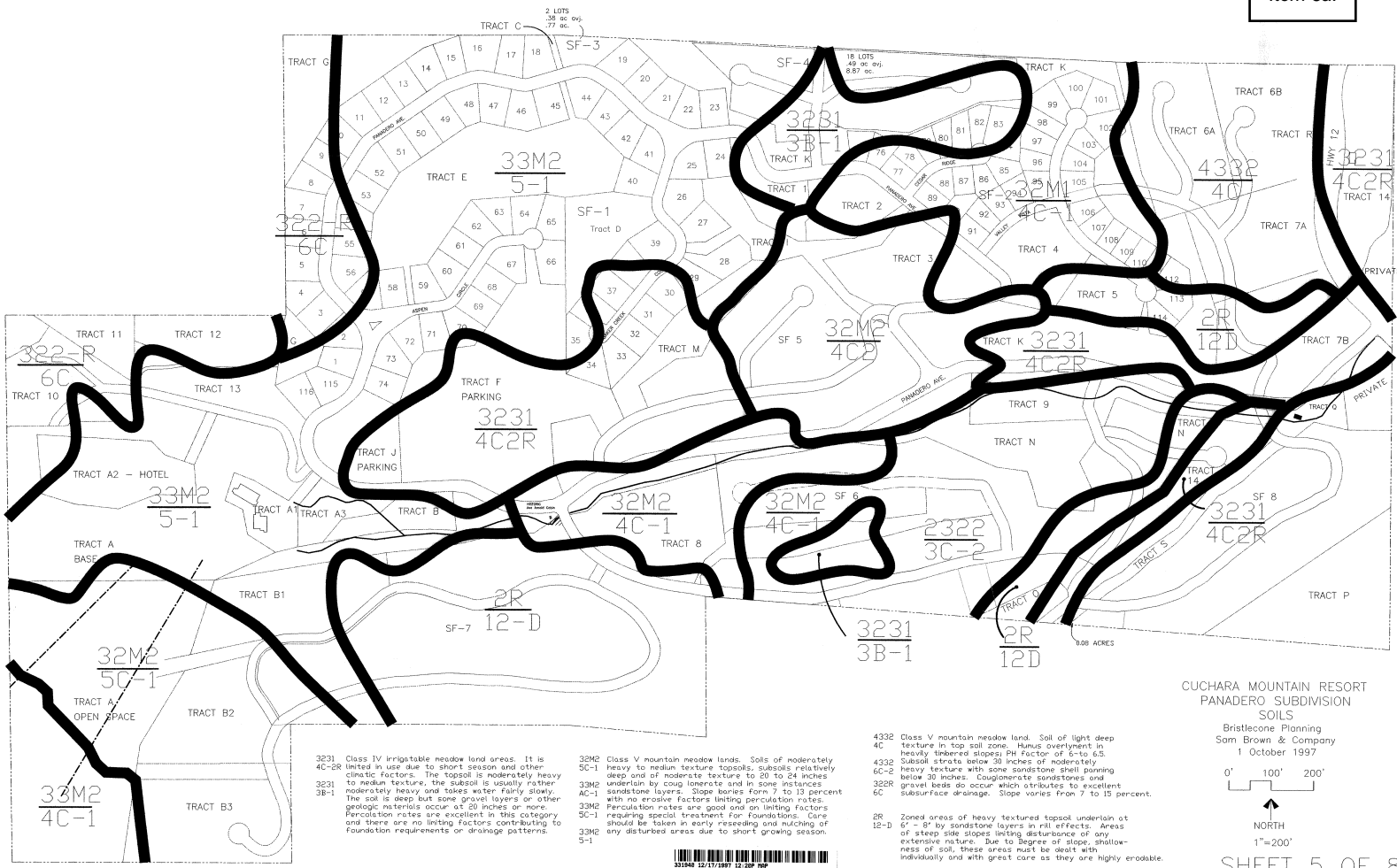




CUCHARA MOUNTAIN RESORT
 PANADERO SUBDIVISION
 TOPOGRAPHY, SLOPE, WATER
 Brislaccone Planning
 Sam Brown & Company
 1 October 1997



SHEET 4 OF 8



3231 Class IV irrigatable meadow land areas. It is limited in use due to short season and other climatic factors. The topsoil is moderately heavy to medium texture, the subsoil is usually rather moderately heavy and takes water fairly slowly. The soil is deep but some gravel layers or other geologic materials occur at 20 inches or more. Percolation rates are excellent in this category and there are no limiting factors contributing to foundation requirements or drainage patterns.

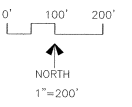
32M2 Class V mountain meadow lands. Soils of moderately heavy to medium texture topsoils, subsoils relatively deep and of moderate texture to 20 to 24 inches underlain by coal lenses and in some instances sandstone layers. Slope varies from 7 to 13 percent with no erosive factors limiting percolation rates. Percolation rates are good and on limiting factors. 32M2 4C-1 requiring special treatment for foundations. Care should be taken in early seeding and mulching of any disturbed areas due to short growing season.

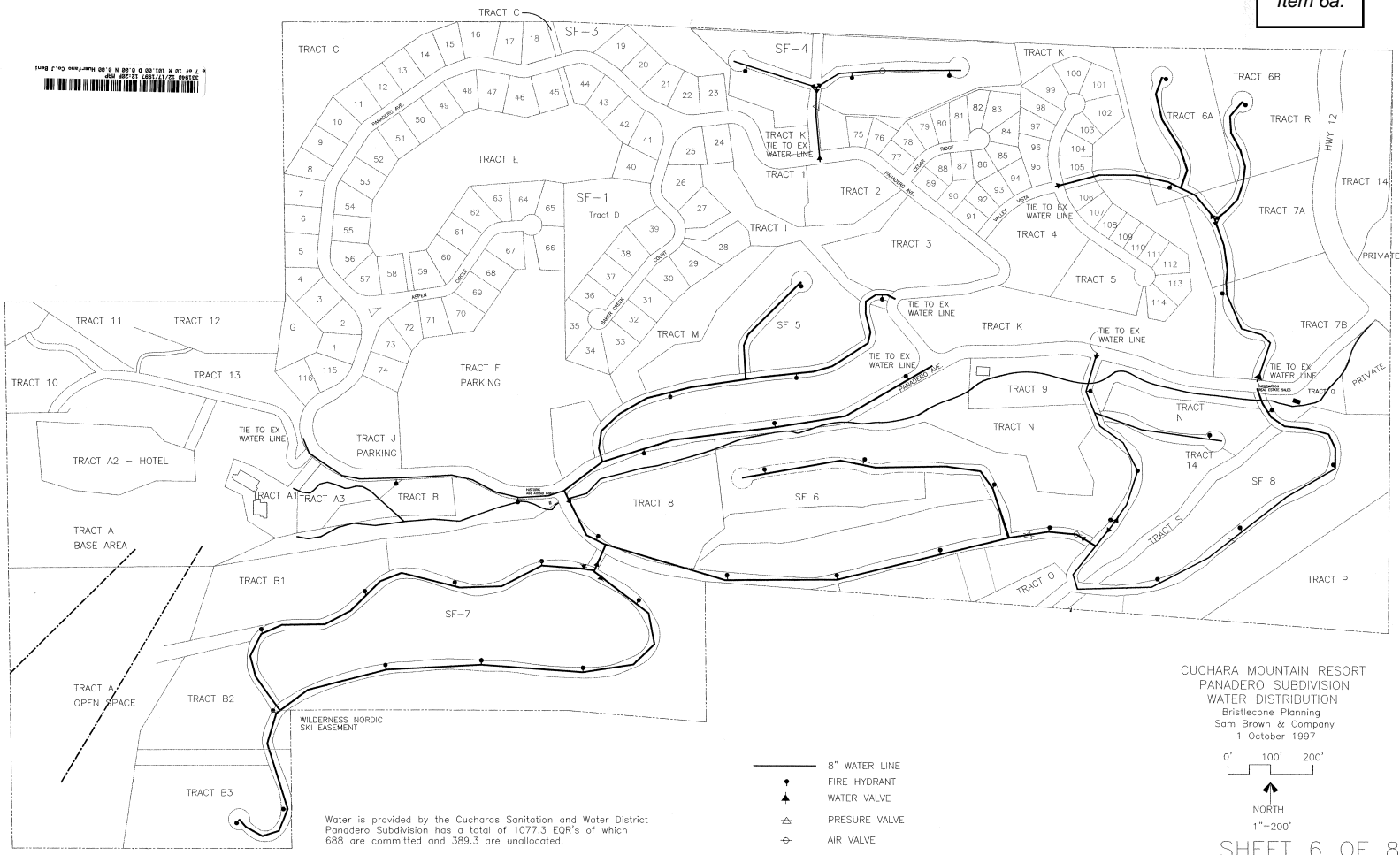
4332 Class V mountain meadow land. Soil of light deep texture in top soil zone. Humus overlying in heavily lined slopes. pH factor of 6 to 6.5. Subsoil strata below 30 inches of moderately heavy texture with some sandstone shell panning below 30 inches. Conglomerate sandstones and gravel beds do occur which attributes to excellent subsurface drainage. Slope varies from 7 to 13 percent.

2R 12-D Zoned areas of heavy textured topsoil underlain at 6" - 9" by sandstone layers in mill effects. Areas of steep side slopes limiting disturbance of any extensive nature. Due to degree of slope, shallowness of soil, these areas must be dealt with individually and with great care as they are highly erodible.

CUCHARA MOUNTAIN RESORT PANADERO SUBDIVISION SOILS

Bristlecone Planning
Sam Brown & Company
1 October 1997



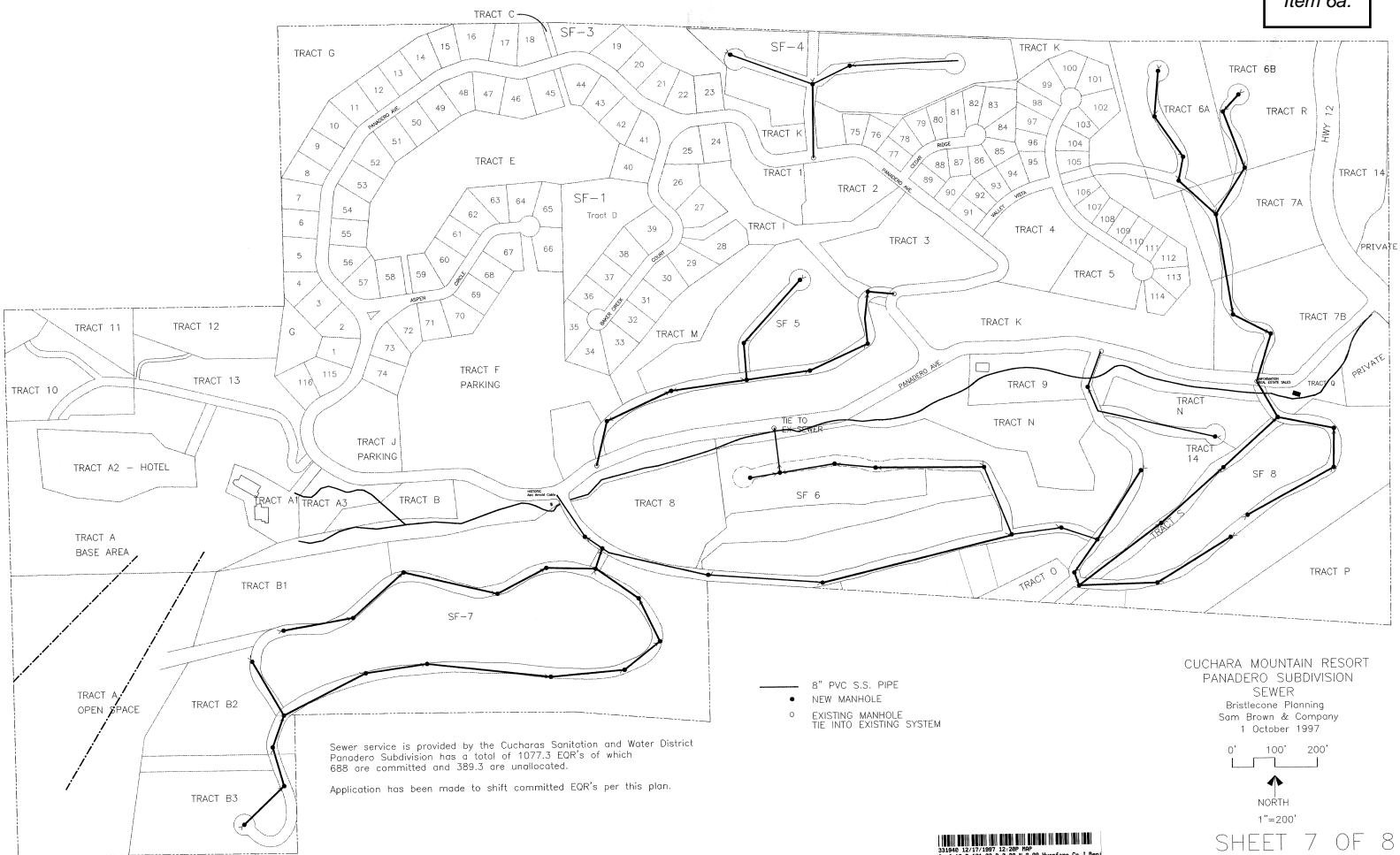


Water is provided by the Cucharas Sanitation and Water District
 Panadero Subdivision has a total of 1077.3 EQR's of which
 688 are committed and 389.3 are unallocated.

- 8" WATER LINE
- ◆ FIRE HYDRANT
- ▲ WATER VALVE
- △ PRESSURE VALVE
- AIR VALVE

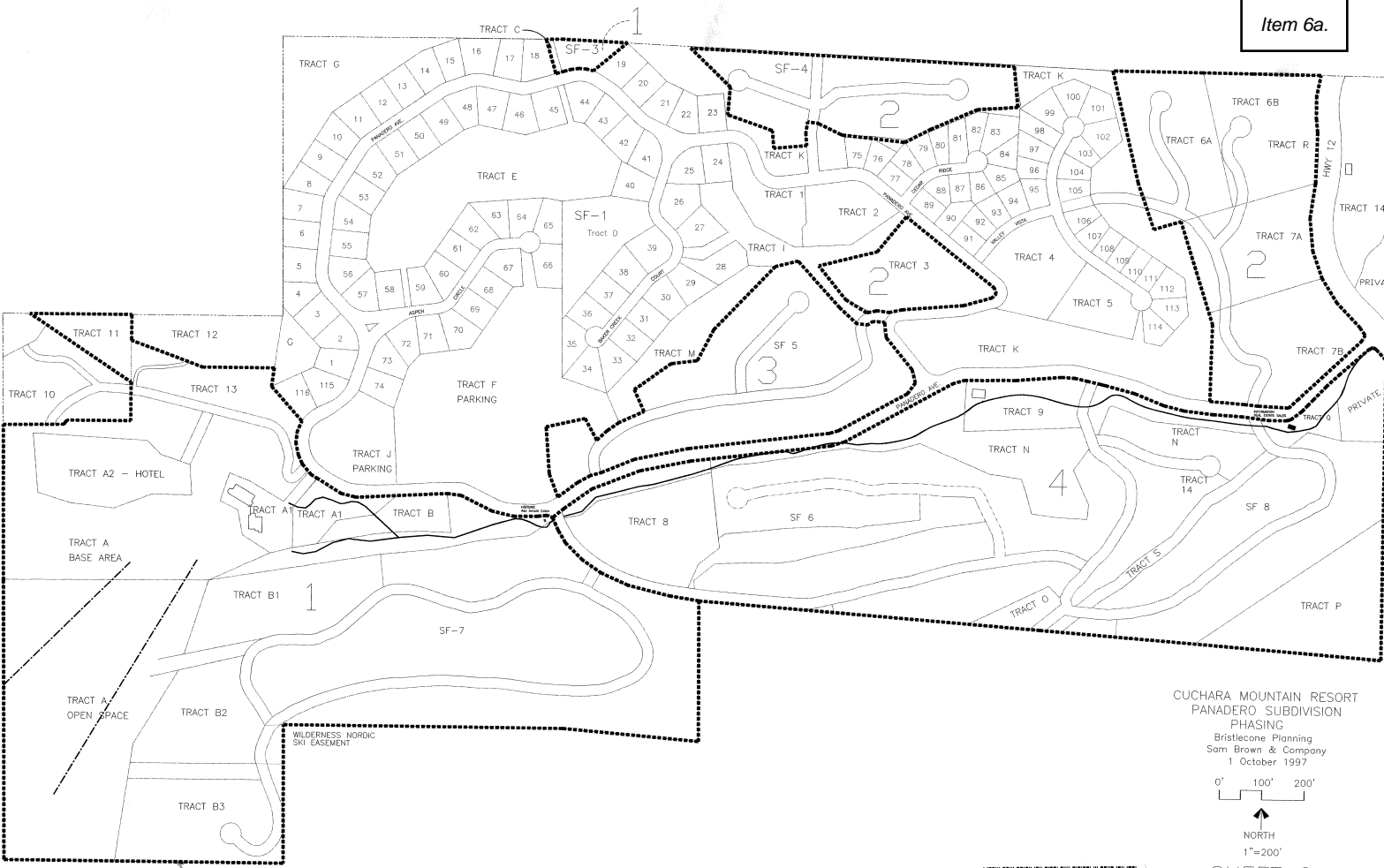
CUCHARA MOUNTAIN RESORT
 PANADERO SUBDIVISION
 WATER DISTRIBUTION
 Bristlecone Planning
 Sam Brown & Company
 1 October 1997

0' 100' 200'
 NORTH
 1"=200'

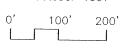


Sewer service is provided by the Cucharas Sanitation and Water District Panadero Subdivision has a total of 1077.3 EQR's of which 688 are committed and 389.3 are unallocated.
 Application has been made to shift committed EQR's per this plan.

Item 6a.



CUCHARA MOUNTAIN RESORT
 PANADERO SUBDIVISION
 PHASING
 Bristlecone Planning
 Sam Brown & Company
 1 October 1997



NORTH
 1"=200'

SHEET 8 OF 8



Land Use and Building Department
401 Main Street, Suite 304
Walsenburg, CO 80189
719-739-1220 Ext 506



Item 7a.

**HUERFANO COUNTY GOVERNMENT
STAFF REPORT**

Date: February 22, 2024
To: Huerfano County Planning Commission
From: Carl Young, County Administrator
Re: Permit #20-027 Vacate County Road 565

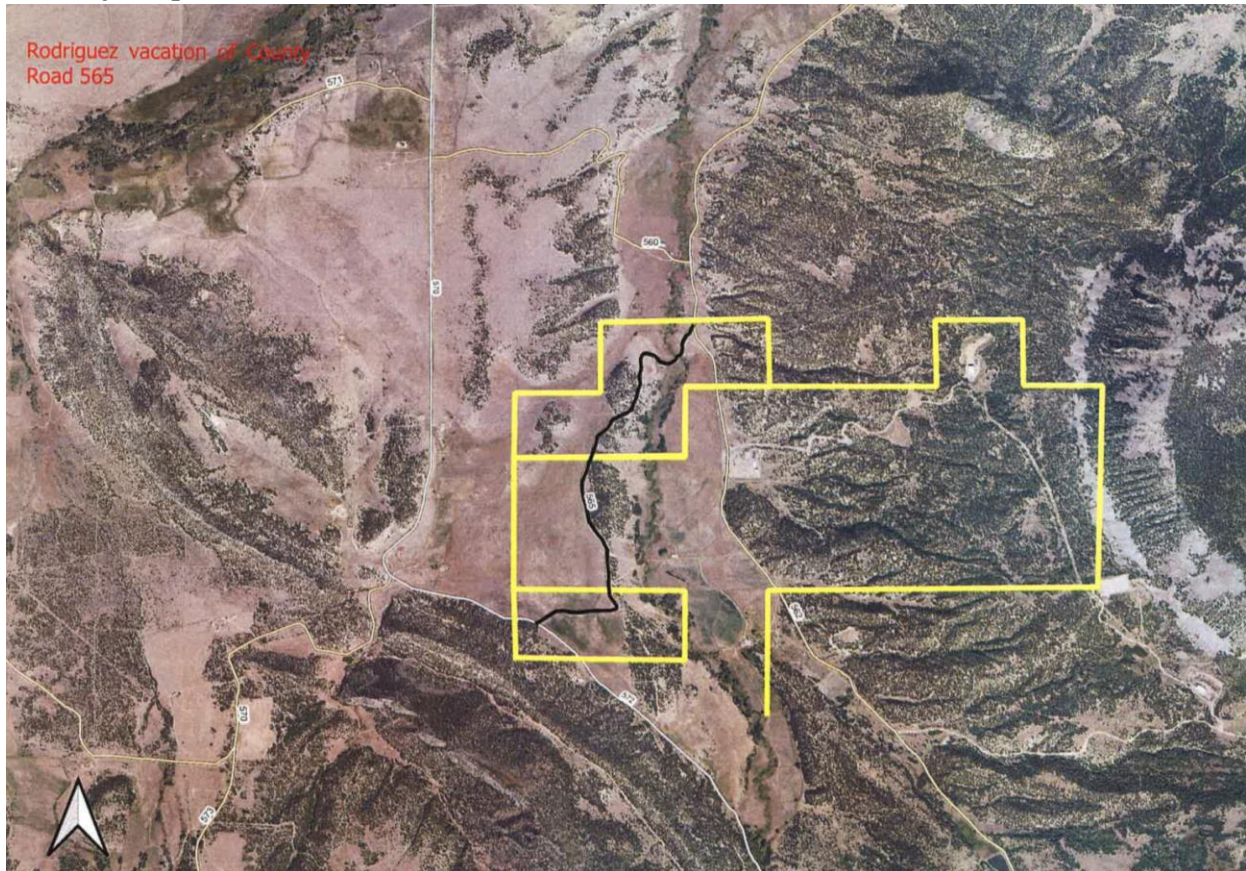
Request

With this application Fred Rodriguez (the Applicant), on behalf of the Rodriguez Family Trust, requests the following:

Vacation of County Road 565, which runs from County Road 572 to County Road 562, in the north west quarter of the County.

The road runs through three parcels, owned by the Rodriguez Family Trust, Kostgove Ranch LLC, and Soledad3LLC.

Vicinity Map



Process Summary

1. Staff determines completeness, routes to relevant referral agencies and schedules & posts notices for public meeting /public hearing with PC and prepares staff report
2. Public notices and notices to referral agencies
3. PC public hearing and recommendation
4. BOCC public meeting and decision.

Code References

§ 2.15 Vacating of Approved and Recorded Plats, Roads or Easements

Applicants may apply for the vacating of any plat, road, easement or portion thereof so long as the plat, road, easement or portion thereof has been filed and recorded in the office of the Huerfano County Clerk and Recorder.

§ 2.15.03 Criteria for Action on a Vacating Application

All actions by the Planning Commission in reviewing and making recommendations on an application to vacate an approved and recorded plat or easement and by the Board of County Commissioners in approving or disapproving such applications, shall be based in general upon the provisions of these regulations and specifically upon the following criteria:

1. That the proposed vacating would not interfere with development of nor deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility services or other improvements, nor deny access to structures, facilities or sites located beyond the plat or easement to be vacated.
2. That the proposed vacating would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant.
3. That the proposed vacating would not be likely to prove detrimental to the public health, safety or welfare of County residents.
4. That the proposed vacating would be consistent with all other provisions in these regulations.
5. That the proposed vacating would not cause undue financial hardship to Huerfano County nor deprive it of needed tax base.

§ 2.15.04 Vacating of Roads, Streets and Highways

Any conflicting provisions contained within these regulations, notwithstanding the procedures for vacating roads, streets and highways shall conform to the provisions contained in Section 43-2-301, et seq. Colorado Revised Statutes.

Application Materials Required

§ 2.15.02 Submittal Requirements

Submittal requirements for an application to vacate an approved and recorded plat or easement shall include a completed application, submittal requirements listed in Section 8.03, the appropriate filing fees and the following items:

1. A copy of the approved and recorded plat or easement and a vacated plat. Said plat shall be prepared as a final plat and shall be prepared by and have the seal of a registered land surveyor, duly registered to practice in the state of Colorado.
2. A legal description of the land to be vacated and the area, in acreage or square feet.

3. The Planning Commission may, at its discretion and upon written request by an applicant, waive any but not all of the submittal requirements listed above and the Planning Commission may also, at its discretion, add such submittal items as it deems necessary and appropriate to evaluate and recommend upon any application for the vacating of a plat, right-of-way or easement.

§ 8.03 Submittal Requirements

In addition to those requirements specific to each land use application type, the following are required with all land use applications:

1. Letter of Intent providing a detailed description of the project. Letter should provide an explanation of why the application should be approved by addressing how the project meets criteria for approval and is in alignment with the Comprehensive Plan and/or other adopted planning documents.
2. Proof of Ownership of all affected lots. If applicant is not the owner, provide written evidence of authority to act on behalf of the lawfully demonstrated owner of the property.
3. Legal description of property.
4. Site plan drawn to scale. Plan to include existing and proposed location of all structures, uses, zoning district boundaries and setbacks on the land involved in request.
5. If a public hearing is required, a list of names and mailing addresses of owners of record within the radius required for each permit type.
6. If a public hearing is required, pursuant to C.R.S. § 24-65.5-103 (2) (a) The applicant shall identify the mineral estate owners and lessees and easement holders entitled to notice pursuant to this section as shown in the records in the office of the County Tax Assessor and Clerk and Recorder. Provide with application a list of the owners of subsurface mineral interests and their lessees within the required radius for each permit type and on the proposed site, if any, as shown on the records of the Huerfano County Assessor, and their complete mailing addresses.
7. If a public hearing is required, applicant must pay for the cost of publication of the mailed and published public hearing notices.

Application Materials Received

1. Application
2. Authorization for Fred Rodriquez to Speak on behalf of Soledad3LLC
3. Warranty Deed with Legal Description [Proof of Ownership]
4. Power of Attorney for Virginia Rodriguez Trujillo [Evidence of Authority]
5. Management Agreement of the Rodriquez Family Trust [Evidence of Authority]
6. Request to Waive Plat Amendment Requirement
7. Letter of Intent
8. Area Maps

Referral Agencies

8.07 Referral Agencies

The Planning Commission shall determine which, if any, of the following referral agencies shall review the initial and /or preliminary submission:

- a) Huerfano RE-1 School District [School district(s) in which the land encompassed by the proposed subdivision is located.]

- ~~b) Each county, other than Huerfano County, and municipality within a three (3) mile radius of any portion of the proposed land use.~~
- c) San Isabel Electric Association [All applicable local and state improvement and special districts, ditch companies and utilities.]
- ~~d) Colorado State Forest Service, when applicable.~~
- e) Huerfano-Las Animas Area Council of Governments.
- f) Upper Huerfano Soil Conservation District.
- g) CDPHE and Las Animas Huerfano Counties District Health Department [Colorado Department of Public Health and the Environment and/or such county, district or regional health departments as may exist.]
- h) State Engineer/Colorado Division of Water Resources.
- i) Other referral agencies and potentially affected parties that the Planning Commission determines to be appropriate.**
- j) Huerfano County Water Conservancy District [Water Conservation Agency.]
- k) Upper Huerfano Fire Protection District [Fire Protection District.]
- l) Huerfano County Economic Development.
- m) Parks and Wildlife.
- n) Tourism Board.
- ~~o) HOA or POA if property is within its jurisdiction.~~

Huerfano County Land Use Department
400 Main Street, Suite B
Walsenburg, Colorado 81089
719-738-1220 ext. 103



Item 7a.

GENERAL LAND USE APPLICATION

Application File No.: 20-027

1. ACTION(S) REQUESTED:

- | | |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text of Map Amendment | <input type="checkbox"/> Rezoning |
| <input type="checkbox"/> PUD or non-PUD Subdivision Approval: | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Sketch Plan | <input type="checkbox"/> Conditional Use Application |
| <input type="checkbox"/> Preliminary Plan | <input type="checkbox"/> Conditional Use Application / Oil, Gas or Uranium
Exploration and/or Development |
| <input type="checkbox"/> Final Plat / Subdivision Improvement Agreement | <input type="checkbox"/> Sign Permit |
| <input type="checkbox"/> Subdivision Exemption | <input type="checkbox"/> Temporary Use Permit |
| <input type="checkbox"/> Plat Amendment | <input type="checkbox"/> H.B. 1041 Text Amendment |
| <input type="checkbox"/> Plat Correction | <input type="checkbox"/> H.B. 1041 Development Permit |
| <input checked="" type="checkbox"/> Road Right-of-Way or Easement Vacation | <input type="checkbox"/> H.B. 1041 Flood Plain Exemption |
| <input type="checkbox"/> Lot Consolidation | |
| <input type="checkbox"/> Re-hearings of Denied Application | |
| <input type="checkbox"/> Other Actions (specify): _____ | |

2. APPLICATION STATUS (for County use only):

Date Application Received: 12-21-2020 Application Fees Required: 200⁰⁰
Received By: J. Steve Charnel Date Application Fees Paid: 12-21-2020

3. APPLICATION AND OWNER INFORMATION:

Name of Applicant: Fred Rodriguez, representative for Rodriguez Family Trust
Applicant's Mailing Address: 508 East 5th Street Walsenburg Colorado 81089
Applicant's Telephone and/or FAX: (719) 738-2222 or (719) 250-2334
Applicant's E-Mail Address: fred.rodriguez.2222@gmail.com
Name of Land Owner: Rodriguez Family Trust
Land Owner's Mailing Address: c/o 508 East 5th Street Walsenburg Colorado 81089
Land Owner's Telephone and/or FAX: (719) 738-2222

4. SUMMARY OF APPLICATION:

Land Area included within the scope of this Application: N/A Square Feet or Acres
Legal description of land on which action is proposed (please attach the legal description to this Application):
Existing Zoning District(s): Agricultural
Proposed New District(s): N/A
Number of Existing Lots: 3 Tract

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GENERAL LAND USE APPLICATION

Number of Proposed Lots: 3

Number of Proposed Dwelling Units: N/A

Proposed Average Lot Size: N/A

If a Variance Request, please state the reason for the Variance(s): N/A

Is all or a portion of the subject land located in a potential flood plain area, or are there areas with slopes in excess of twenty percent (20%)? YES NO

If YES, which of these conditions exist? Flooding where County Road 562 and County Road 565 meet.

Value of proposed new development: N/A

Will the proposed project require any State or Federal permits? YES NO

If YES, please list all permits or approvals required: _____

If a H.B. 1041 permit is required, for what matters of local concern and state interest? N/A

Please list any additional pertinent information: _____

5. CERTIFICATION BY THE APPLICANT:

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all land use permits are non-transferrable, unless specifically approved by the Huerfano County Board of County Commissioners. The Board of County Commissioners may impose permit transfer fees as it deems appropriate. All documents submitted may be subject to internet publishing.

Signature of Applicant: Fred Rodriguez Date: 11-19-20

6. ACTION (by the authorized permitting authority):

Final Approval Conditional Approval Denial

Name _____ Signature _____

Title _____ Date _____

**Authorization for Fred Rodriguez to speak on behalf of Soledad3LLC
pertaining to our joint petition and request to
vacate County Road 565 in Huerfano County, Colorado**

Larry J. Rodriguez, Maria L. Rodriguez, and Salomé Ann Rodriguez-Thorson, equal owners of the Soledad3LLC, which holds our deeded property at 1398 County Road 565, Gardner, Colorado 81040; hereby authorize our cousin, Fred Rodriguez, who resides at 508 E. 5th Street in Walsenburg, Colorado, 81089, to speak on our behalf pertaining to our joint petition and request to vacate County Road 565 (7 miles SW of Gardner, Colorado).

Dated: 10-23-20

Salomé Ann R Thorson
Salomé Ann Rodriguez-Thorson
Soledad3LLC, Manager
33 Vista De Las Sandias
Placitas, NM. 87043
(925) 784-9937

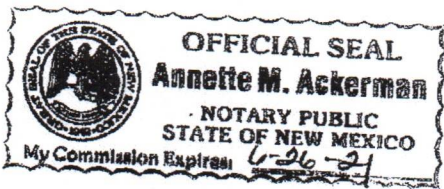
STATE OF: NEW MEXICO)
COUNTY OF SANDOVAL) ss.

The foregoing Authorization was acknowledged before me this 23rd day of October, 20 20 by Salomé Ann Rodriguez-Thorson.

Witness my hand and official seal.

My commission expires: 6-26-21

Annette M. Ackerman
Notary Public



WARRANTY DEED
(Gift Deed)

Virginia Rodriguez for the consideration of Ten Dollars,(\$10.00) in hand paid, hereby sells and conveys to **John M. Rodriguez, Fred Rodriguez, Frank Rodriguez, Max Rodriguez, Kent Campbell, and John Allen Campbell, as Trustees for the Rodriguez Family Trust dated March 19, 2009**, whose address is P.O. Box 1186, Walsenburg, CO 81089, and its assigns, the following real property in the County of Huerfano, State of Colorado to-wit:

Township 27 South, Range 70 West of the 6th P.M.

Section 17: NE1/4NW1/4, NW1/4NE1/4, together with all mineral rights and water rights owned by Grantor

with all its appurtenances and warrants title to the same, subject to 2009 general real estate taxes due and payable January 1, 2010, together with all reservations, easements, covenants and restrictions of record.

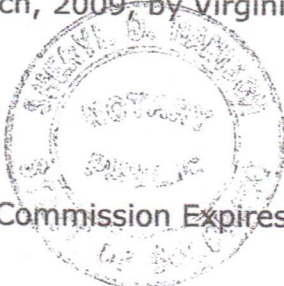
SIGNED this 19 day of March, 2009.

Virginia Rodriguez

Virginia Rodriguez

STATE OF COLORADO)
) ss.
COUNTY OF HUERFANO)

The foregoing Warranty Deed was acknowledged before me this 19th day of March, 2009, by Virginia Rodriguez.



WITNESS MY HAND AND OFFICIAL SEAL.

Sheri W. Hanson

Notary Public

My Commission Expires: 8-22-2012

*Section 2.15.02
#1 Proof of Ownership*

MANAGEMENT AGREEMENT OF THE RODRIGUEZ FAMILY TRUST

This Agreement entered into between the Rodriguez Family Trust (Trust) and John M. Rodriguez, (Manager) setting forth the duties and obligations of the Manager and agree as follows:

1. The Manager shall oversee all operations and expenditures related to the real estate held by the Trust.
2. The Manager shall have authority to negotiate water, land and mineral issues with interested individuals or corporations and shall conduct such negotiations in the best interests of the Trust.
3. The Manager shall have authority in matters involving livestock grazing, hazardous waste, and dumping or storage issues.
4. The Manager shall maintain records of all transactions pertaining to the operation of the Trust and will provide a copy of such documentation, concerning such operations as would allow a professional to determine accurately the nature of the expenditure and the amount thereof, upon request from the Board of Trustees.
5. The Manager shall have authority to assign to individual trustees, specific duties related to the ongoing maintenance and care of the Trust property and may further designate whether such contribution shall be by labor, material, or financial contribution or any combination thereof.
6. The Manager shall also promptly inform the Board of Trustees of any anticipated change in the operation of the Trust property or of any regulation, statute or rule asserted by any governmental entity that may require a change in the agricultural practices applied to the Trust property.
7. That the Manager herein shall serve with no compensation.
8. That the Manager shall be subject to the authority of the Board of Trustees.
9. That this Agreement may be cancelled by proper action by the Board of Trustees as set forth in the Trust Agreement.

Executed in Huerfano County, Colorado this ____ day of March, 2009.

John M. Rodriguez
John M. Rodriguez, Manager

Frank Rodriguez
Frank Rodriguez, Trustee

Kent Campbell
Kent Campbell, Trustee

Fred Rodriguez
Fred Rodriguez, Trustee

Max P. Rodriguez
Max Rodriguez, Trustee

John Allen Campbell
John Allen Campbell, Trustee

John M. Rodriguez
John M. Rodriguez, Trustee

*Section 2.15.02
#1 Evidence of Authority*

Application for the Vacation of County Road 565

2.15.02 Submittal Requirements

2. "A copy of the approved and recorded plat or easement and a vacated plat. Said plat shall be prepared as a final plat and shall be prepared by and have the seal of a registered land surveyor, duly registered to practice in the state of Colorado."

I am hereby requesting that this requirement be waived.

Fred Rodriguez 11-19-20
Fred Rodriguez, Authorized Representative

Section 2.15.02
#2 Request for Waiver
in accordance with #4

To: Huerfano County Commissioners
Planning Commission

From: Fred Rodriguez, representative
Rodriguez Family Trust
c/o 508 East 5th Street
Walsenburg, Colorado 80189

Re: Application to Vacate County Road 565

November 19, 2020

I am submitting this application requesting the vacation of County Road 565 located in the Pass Creek area. The road is 20 feet wide and 1.62 miles in length. This road is located in a flood zone and has been washed out three times. The vacation of this road would relieve the County of the continued burden to repair and maintain it.

County Road 565 is not access to any public lands therefore the vacation would not deprive access to the hunters and visitors that come to our County. The road is surrounded on all sides by privately owned lands.

County Road 565 runs through our family ranch that my grandparents established. The road passes within 20 feet of the ranch house. Unfortunately, the road has provided easy access to those who would seek to steal, trespass and destroy our family ranch. The Rodriguez Family Trust has had many items stolen including, rear tractor tires, radiators from our 4-wheel drive pickups and parts off the haying equipment. The family ranch house has been ransacked numerous times. Examples of damage include, copper wires stripped out of the walls, copper pipes coming from the propane tank cut, and a hole cut in the kitchen floor. The garage has also been ransacked.

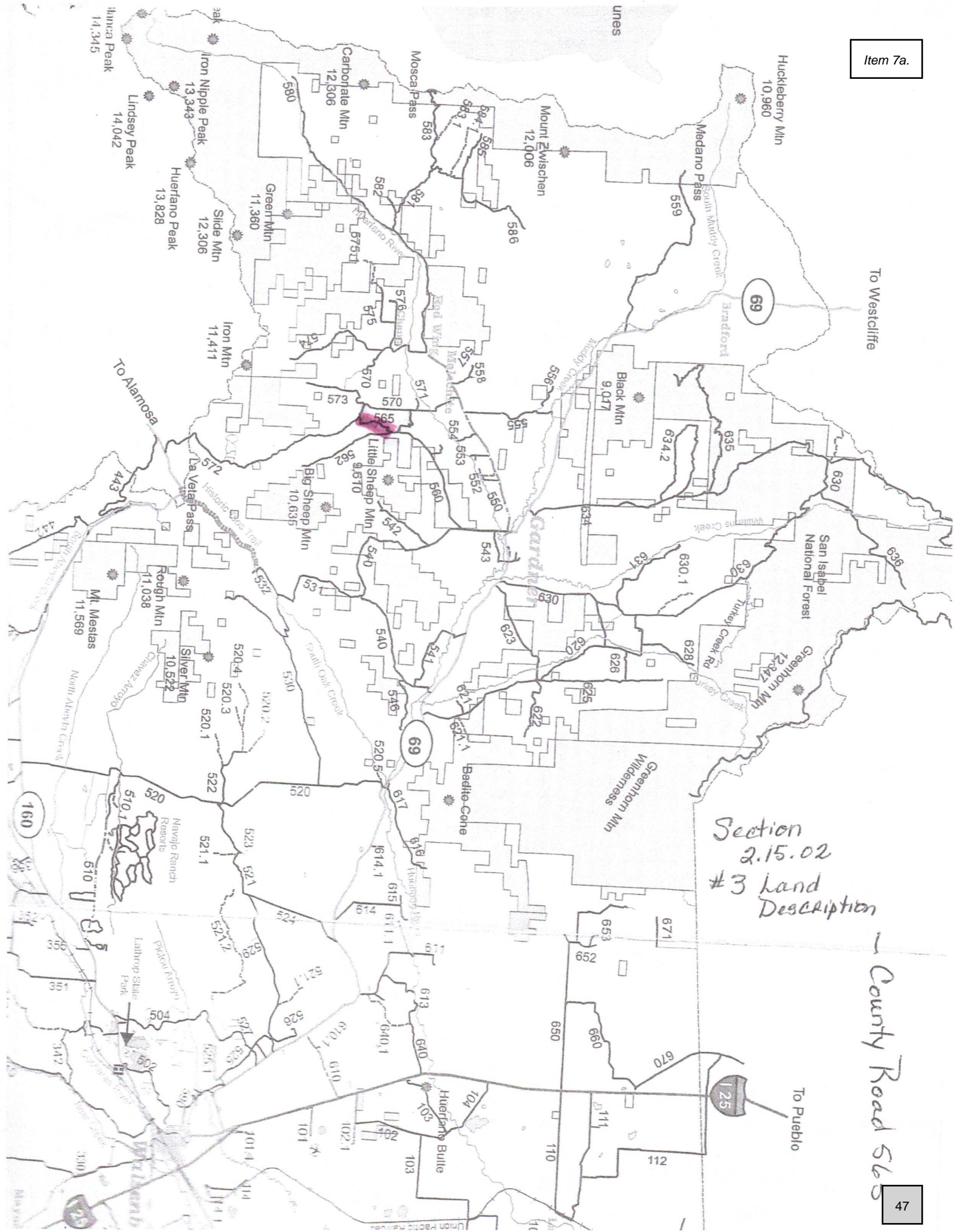
The Rodriguez Family Trust would like to save our family home, but with this road open to the public it's hard to get excited about spending time and money to rebuild. My family would accept the task of maintaining the road after vacation. All private property owners along the road would continue to have access to their lands, but criminal activity would be deterred. On behalf of the Rodriguez Family Trust, I urge you to vacate County Road 565 so that we can preserve of our ranch for our future generations.

Thank you for your consideration,

Fred Rodriguez 11-19-20

Fred Rodriguez, representative

*Section 2.15.02
#3 Narrative*

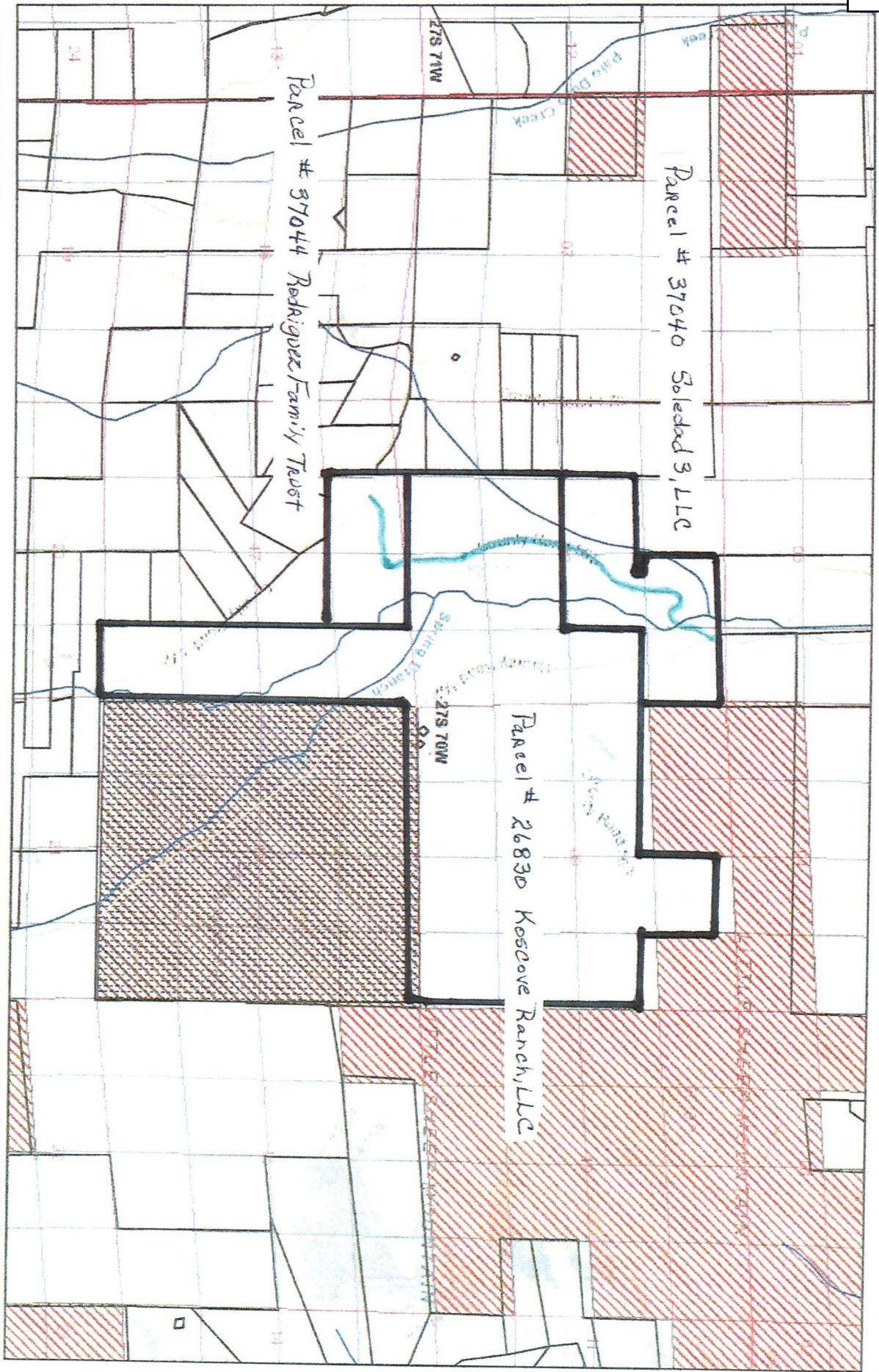


Section
2.15.02
#3 Land
Description

County Road 560

Section 2.15.02
#2 Request for Waiver

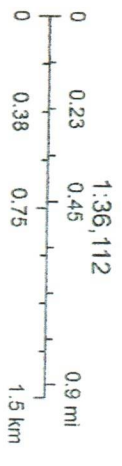
Huerfano County



12/7/2020, 10:02:46 PM

- Parcels
- Streams
- State School Sections
- BLM
- PLSS Intersected
- PLSS Section
- State School Sections
- PLSS Township
- Roadways

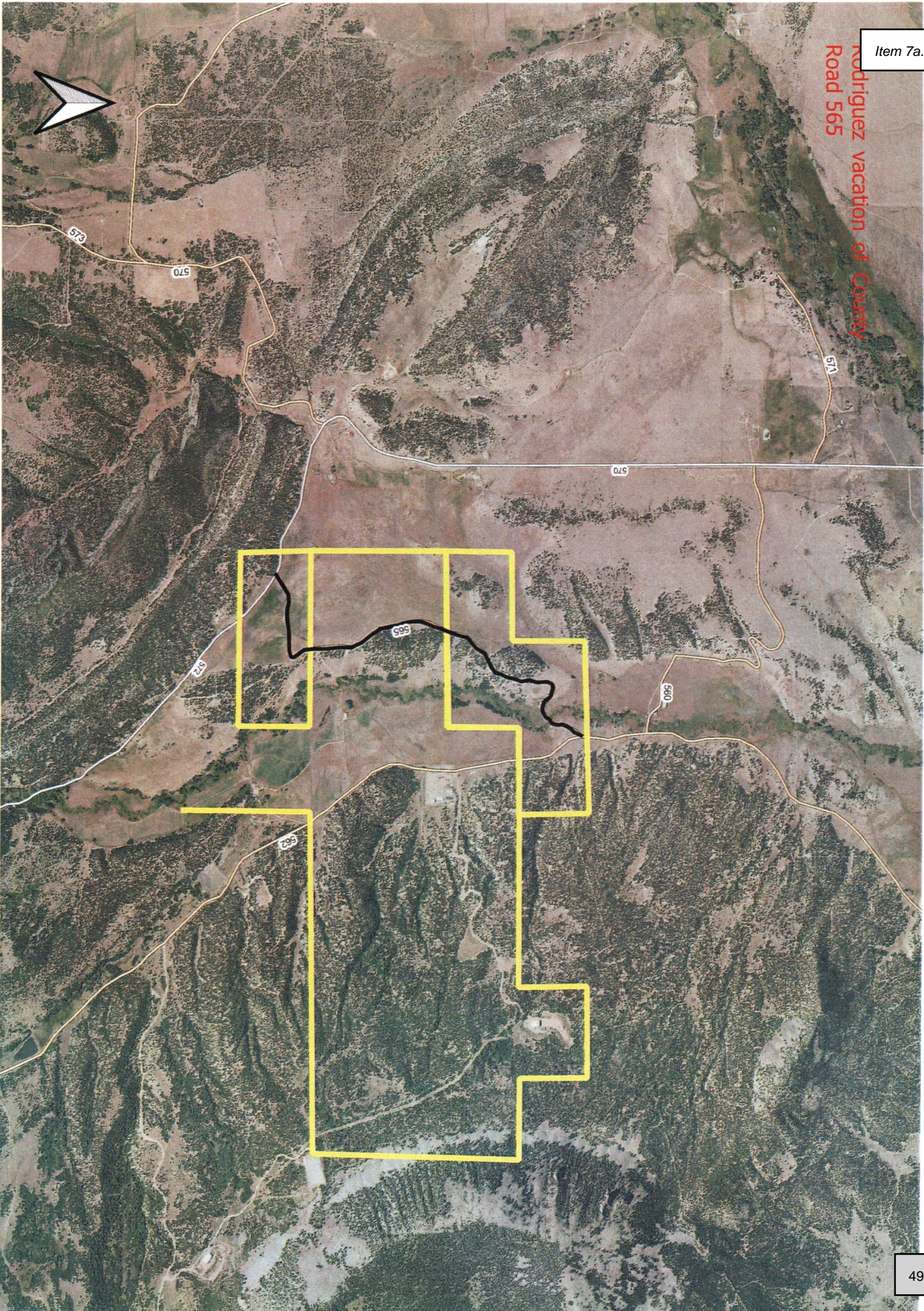
C.R. 565



Sources: Esri, HERE, Garmin, Intermap, increment P Corp, GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri

The information on this map was derived from digital databases created by Huerfano County GIS. Care
Public Viewer

Rodriguez vacation of County
Road 565



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HUERFANO COUNTY
AREAS AND ACTIVITIES OF STATE
INTEREST REGULATIONS
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[7-1 PC Recommendation](#)

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HUERFANO COUNTY
AREAS AND ACTIVITIES OF STATE
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7.01 INTRODUCTION

7.01.01 Short Title

These regulations may be cited as the "Huerfano County Regulations for Areas and Activities of State Interest" or the "Huerfano County 1041 Regulations" or "these Regulations."

7.01.02 Purposes and Intent

- A) The general purpose of these regulations is to facilitate the identification, designation, and regulation of areas or activities of state interest consistent with applicable statutory requirements and criteria set forth in Section 24-65.1-101 et seq, C.R.S.
- B) The specific purposes and intent are as follows:
 - 1) To encourage planned and orderly, efficient, economical land use development;
 - 2) Provide for the preservation of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
 - 3) Encourage uses of land and natural resources per their character and adaptability;
 - 4) Conserve soil, water and forest resources;
 - 5) Protect the beauty of the landscape;
 - 6) Promote efficient and economical use of public resources;
 - 7) Regulate projects that would otherwise cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the County.
 - 8) Ensure that new community domestic water and sewagewastewater treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewagewastewater treatment systems of adjacent communities.
 - 9) Ensure that major extensions of domestic water and sewagewastewater treatment systems shall be permitted only in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
 - 10) Require that water development and use projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water, and preservation of associated resources impacted by such projects.

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[7-3 PC Recommendation](#)

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- 11) Ensure that urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
- 12) Ensure that major facilities of public utilities are located to avoid direct conflict with adopted County land use plans, and otherwise serve the stated purposes of these regulations.
- 13) Provide that areas containing, or having a significant impact on, historical, natural, or archaeological resources of statewide importance are developed so as to be compatible with and not destructive to the historical, natural, and archaeological value of such resources.
- ~~13) Ensure that the site selection and development of new communities will not overload the facilities or services of existing communities of the region and will conform to the Huerfano County Comprehensive Plan and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.~~
- 14) Ensure that the development of new communities will not negatively impact existing communities. Negative impact is generally considered economic loss.
- 15) Ensure that development in natural hazard areas minimizes significant hazards to public health or safety or to property or the environment.
- 16) Provide protection of lands within the County from activities which would cause immediate or foreseeable material impacts -to significant wildlife habitat or endanger wildlife species, both flora and fauna, or adverse socio-economic impacts;
- 17) Provide preservation of areas of historical and archeological importance;
- 18) Regulate the use of land on the basis of the impact thereof on the community or surrounding areas;
- 19) Ensure that development involving all areas and activities designated hereunder is consistent with these regulations, the Huerfano County Comprehensive Plan, and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.
- 20) Protect the public health, safety, welfare and the ~~environment~~environmental integrity of the County.

7.01.03 Findings

The Board of County Commissioners finds that:

- A) All applicable notice and public hearing requirements have been followed;

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7-4 PC Recommendation

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- B) Based on duly noticed public hearings the Board has considered the current and foreseeable development pressures, and the applicable guidelines for designation issued by applicable state agencies; and
- C) These regulations are necessary because of the current and foreseeable development pressures on and within the County; and
- D) These regulations are necessary to fulfill the purposes and intentions specified in Section 7.01.02, above.

7.01.04 Authority

These regulations are authorized by C.R.S. 24-65.1-101, et seq., and C.R.S. 29-20-101, et seq., These regulations are necessary for the preservation of the public health, safety and welfare.

7.01.05 Applicability

These regulations shall apply to all proceedings concerning the identification and designation of areas and activities of state interest, and the control of development in any area of state interest or the conduct of any activity of state interest, and regulation of the associated use of land pursuant to the authorities cited herein, which has been or may hereafter be designated by the Board of County Commissioners in the unincorporated areas of Huerfano County, whether on public or private land.

7.01.06 Relationship with Other Requirements

- A) Where these regulations overlap with the County's requirements for zoning ~~special~~ conditional use approval, Subdivision Regulations or subdivision exemption or exemption plat review, or for Comprehensive Plan location and extent review pursuant to C.R.S. 30-28-110(1) these regulations shall control, and a separate review process under conditional use review, zoning, subdivision regulations or subdivision exemption, or location and extent review shall not be required, unless expressly stated to the contrary in these regulations. Where these regulations overlap with other applicable County requirements, including but not necessarily limited floodplain regulations, all applicable regulations shall be followed and all required County permits or approvals shall be obtained.
- B) Review or approval of a project by a federal or state agency or other authority does not preclude, and will not substitute for, the need to obtain a permit for that project under these regulations for impacts ancillary to such federal or state agency or other authority approvals, and subject to these regulations. However, where in the opinion of the Board of County Commissioners, federal or state review and approval processes adequately address the impacts that these regulations are designed to address, the

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[7-5 PC Recommendation](#)

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County may agree to rely on that review and approval, and issue the applicable permit on that basis, in the Board of County Commissioners sole and reasonable discretion.

- C) In the event these Guidelines and Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.
- D) In the event these Guidelines and Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202 and 24-65.1-240, C.R.S., these regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.
- E) These Guidelines and Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the County of Huerfano.

7.01.07 Maps

The following maps are hereby incorporated into this Article by this reference, for the purpose of specifying or aiding in the identification of the boundaries of the adopted area of state interest with which each map is associated. To the extent any map identified below has not otherwise been officially adopted, it shall be considered to be officially adopted for purposes of administering these regulations by virtue of its inclusion in this Section 7.01.07.

- A) The ~~most recent official~~ flood hazard area map for unincorporated Huerfano County, Colorado: ~~Approved as approved and adopted on July 26, 2011, by the Board of County Commissioners- (most recently adopted on July 26, 2011).~~ [Approved as approved](#) and adopted ~~on July 26, 2011,~~ by the Board of County Commissioners- ~~(most recently adopted on July 26, 2011).~~ All areas of Unincorporated Huerfano County not designated on this map must meet the requirement of the Flood Damage Prevention Resolution No: 88-13 adopted by the Board of County Commissioners on 31, August 1988.
 - B) A map of areas of Huerfano County presently under irrigation ~~(map not, as available at time from Colorado Division of adoption)-~~ [Water Resources or adopted by the Board of County Commissioners.](#)
 - C) ~~Significant wildlife habitat areas (map not, as available at time of adoption) from Colorado Parks and Wildlife or adopted by the Board of County Commissioners~~
- ⇒ [These maps will be generally available through the Huerfano County Website.](#)

7.01.08 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions pertaining to matters of state interest or otherwise pertaining to the regulation of the use of land as set forth in these regulations. The Board shall also be generally empowered to hear appeals

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[7-6 PC Recommendation](#)

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from any person aggrieved by any decision of the County Staff made in the course of administering these regulations.

7.01.09 Severability

If any section, clause, provision, or portion of these regulations should be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby and are hereby declared to be necessary for the public health, safety, and welfare.

7.01.10 Definitions

- A) ~~“Applicant”~~ means any person or entity applying for a permit under these regulations.
- B) “Aquifer Recharge Area” means any area where surface waters may infiltrate to a water-bearing stratum of permeable rock, sand, or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.
- C) ~~“Area around a Key Facility”~~ means an area immediately and directly affected by a key facility.
- D) “Area of Special Flood Hazard⁴⁵⁷” means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.
- E) “Aspect” means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.
- F) “Board of County Commissioners” or “the Board” or “BOCC” means the Board of County Commissioners of the County of Huerfano, State of Colorado.
- G) “Change of Water Rights” means the activity of seeking administrative or judicial approval for the temporary or permanent use of water and water rights historically utilized in Huerfano County for uses or for use in other places than such water rights have been vested and decreed, as part of a municipal or industrial water project.
- H) “Corrosive soil” means soil that contains soluble salts that may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.
- I) “Debris-fan floodplain” means a floodplain that is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.
- J) “Desiccated water rights” mean those irrigation water rights for which the historic consumptive use has dramatically declined over the years to very little or none.
- ~~J~~K “Designation” means that legal procedure for designating areas or activities of state interest specified by 24-65.1-101, et seq., C.R.S., to be carried out by the Board of County Commissioners.

Commented [CY1]: Is this the DWR definition for desiccated water rights?

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- ~~K~~L) "Developer" means any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.
- ~~L~~M) "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs but excludes any construction, activity, or use exempted from the County's permit process pursuant to this Article or under State Law.
- ~~M~~N) "Domestic water or ~~sewagewastewater~~ treatment system" or "system" means a major domestic water or ~~sewagewastewater~~ treatment system, and includes wastewater treatment plants, water supply systems, and water treatment plants, more specifically defined as follows:
- 1) "Wastewater treatment plant" is the facility or group of units used for the treatment of industrial or domestic wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.
 - 2) "Water supply system" means the system of pipes, structures, ~~other constructed conveyances~~, and facilities through which a water supply is obtained, treated, and sold or distributed for human consumption or household use, if such system has at least fifteen ~~service connections or regularly serves at least twenty five individuals~~ (15) service connections or regularly serves at least twenty-five (25) individuals. A water supply system can either be a community water system or a non-community water system as defined by the Colorado Primary Drinking Water Regulations (5 CCR 1002-11). Such term includes: (a) Any collection, treatment, storage, and distribution facilities under control of the supplier of such a system and used primarily in connection with such system; or (b) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such a system.
 - 3) "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.
- ~~N~~O) "Dry Up" means that activity which removes historically irrigated acreage from irrigation and results in a cessation of application of irrigation water and a subsequent "dry-up" of said historically irrigated acreage for purposes of placing water and water rights historically utilized for irrigation to other uses, or to similar uses in other places.
- ~~O~~P) "Dry wash channel and dry wash floodplain" means ~~a small watershed an intermittent stream or arroyo with a very high percentage of runoff~~ the potential for flooding after torrential heavy rainfall.

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~~P)Q)~~ P- "Efficient use of water" means the employment of methods, procedures, controls, and techniques to ensure the amount of water and the purpose for which water is used in the County will yield the greatest benefit to the greatest number of ~~people.~~ County residents. Such benefits will include but are not limited to economic, social, aesthetic, agricultural, environmental, and recreational applications in keeping with maximum utilization of the waters of the County.

~~Q)R)~~ Q)R) "Enclave" means an unincorporated area of land mostly or entirely contained within ~~surrounded by~~ the ~~outer~~ boundaries of a municipality, provided that not more than 30 percent of the enclave or is surrounded solely by only accessible via annexed right-of-way.

~~R)S)~~ R)S) "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

~~S)T)~~ S)T) "Extension" means a major extension and is an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size, or a replacement of an existing facility in a new or altered location.

~~T)U)~~ T)U) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of water from channels and reservoir spillways;
- 2) the unusual and rapid accumulation of runoff or surface waters from any source; or
- 3) mudslides (i.e. mudflows) which are proximately caused by flooding as defined in Subsection (2) of this definition and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current, such as on alluvial fans such as in Paradise Acres in 2019.

~~U)V)~~ U)V) "Flood hazard area" means an area containing or directly affected by a flood.

~~V)W)~~ V)W) "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

- 1) Mainstream floodplains;
- 2) Debris-fan floodplains; and
- 3) Dry wash channels and dry wash floodplains.

~~W)X)~~ W)X) "Geologic hazard" means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

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- 1) Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;
- 2) Seismic effects;
- 3) Radioactivity; and
- 4) Ground subsidence.

~~X)Y~~ "Geologic hazard area" means an area containing or directly affected by a geologic hazard.

~~Y)Z~~ "Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining, but not limited to, underground mining or carbon sequestration. Any man-made carbon sequestration process requires declaration of said process to bind to the affected lot(s) legal description.

~~Z)AA~~ "Historical or archaeological resources of statewide importance" means those resources which may have been officially included in the national register of historic places, designated by statute or included in an established list of places compiled by the state or county historical society and adopted by the Planning Commission, or as may be identified by the Board regardless of whether or not such inclusion has occurred, including but not limited to those designated by the Board in accordance with C.R.S. 30-11-107(1)(bb) as amended.

~~AA)BB~~ "Industrial Water Project" means all activities, or any activity, whether phased or otherwise staged in development, related to projects involving manufacturing, mineral extraction or processing, coal and oil and gas development, commercial agricultural operations (including marijuana cultivation), commercial recreational services and facilities, and similar activities in which the use of water is an integral component.

~~BB)CC~~ "Key Facility" means a building, plant, development or other structure or facility which is integral to the area or activity for which a County permit under these regulations is sought.

~~CC)DD~~ "Layman's description" means a general, non-legal description and the popular name, if any, of the tract of land on which the activity or development is to be conducted. The term "general description" means "layman's description."

~~DD)EE~~ "Legal Description" means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

~~EE)FF~~ "Mainstream floodplain" means an area adjacent to a perennial stream, which area is subject to periodic flooding.

~~FF)GG~~ "Major facility of a public utility" means:

- 1) Central office buildings of telephone utilities;

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- 2) Transmission lines, power generation facilities, and substations of electrical utilities; and
- 3) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives and includes extensions to those facilities.

~~GG)HH~~ "Major publicly owned reservoir" means any body of water formed by an embankment or structure 10 feet in vertical height or having a surface area at high water line, in excess of 5 acres, or collection of smaller water storage structures cumulatively totaling 5 acres of surface area and utilized in concert, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. ~~The ownership of stock in a mutual ditch or reservoir company does not constitute ownership or administration. Furthermore, any loan of funds for construction, operation, maintenance, repair, or replacement of all or any part of a dam does not constitute the use of public funds.~~

~~HH)II~~ "Matter of state interest" means an area of state interest or an activity of state interest or both as defined under 24-65.1-101, et seq., C.R.S.

~~II)JJ~~ "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

~~JJ)KK~~ "Municipal Water Project" means all activities, or any activity, whether phased or otherwise staged in development, related to or associated with a system, development, or project, and all related components thereof, intended to provide water supply or service to persons, not necessarily part of a municipality, for uses typically associated with "municipal" use, including but not limited to, domestic, irrigation, landscape, commercial, stockwater and augmentation uses, whether such water supply is derived from surface or subsurface sources, and whether or not such provision of supply involves a temporary or permanent change of water rights.

~~KK)LL~~ "Municipality" means a home rule or statutory city, town, or a city and county or a territorial charter city.

~~LL)MM~~ "Natural hazard" means a geologic hazard or a flood.

~~MM)NN~~ "Natural hazard area" means an area containing or directly affected by a natural hazard.

~~NN)OO~~ "Natural resources of statewide importance and/or local concern" means any material source such as timber, fresh water, or mineral deposit that occurs in a natural state and has economic value.

~~OO)PP~~ "Net Effect" means the impact of an action or activity after mitigation.

~~PP)QQ~~ "New communities" means the ~~major revitalization of existing municipalities or the~~ establishment of urbanized growth centers in unincorporated areas ~~that are the least of either 25 dwelling units, 100 residents, or one percent (1%) of the County's most recent U.S. Census population numbers.~~ New

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communities shall not include those established through the municipal annexation of unincorporated territory.

~~QQ~~RR "Person" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation any political subdivision, district, agency, instrumentality, or corporation of the State or the United States government.

~~RR~~SS "Planning Commission" means the Huerfano County Planning Commission.

~~SS~~TT "Proposed Project" means the contemplation, construction and operation of a ~~proposed special development projects, including Municipal Water Project or Industrial Water Project throughout its lifecycle~~project regulated by this section, including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County.

~~TT~~UU "Public Utility" means a public utility as defined by state law, with the exception of utilities owned and operated by a municipality located within Huerfano County.

~~UU~~VV "Radioactivity" means a condition related to various types of radiation emitted by natural or man-made radioactive minerals that occur in deposits of rock, soil, and water.

~~VV~~WW "Regulations" means these regulations as finally enacted and approved, and as may be amended and supplemented in the future.

~~WW~~XX "Reservoir" (except in the context of the separately defined term "major publicly owned reservoir") means an area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part as part of a Municipal Water Project, Commercial Water Project, or Industrial Water Project or storage of water which is part of a domestic water treatment system.

~~XX~~YY "Re-vegetation" means permanent re-establishment of native plant growth necessary for erosion control, soil conservation and environmental stability upon land from which historically applied irrigation water has been removed, such land being "dried up" from irrigation, as defined herein. Re-vegetation requirements may be either temporary or permanent, depending on the nature of the dry up and change of water rights applicable.

~~YY~~ZZ "Seismic effects" means direct and indirect effects caused by an earthquake or an underground ~~nuclear~~ detonation.

~~ZZ~~AAA "Siltation" means a process that results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

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~~BBB)~~ "Site Selection" means ~~consideration~~ evaluation of all possible ~~environmental and social~~ impacts of a project on a proposed site.

~~AAA)CCC)~~ "Shorelands" means all lands extending a minimum of 200 feet shoreward of the high water line, and all wetlands associated with a reservoir.

~~BBB)DDD)~~ "Slope" means the gradient of the ground surface that is definable by degree or percent.

~~CCC)EEE)~~ "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

~~FFF)~~ "Urbanized growth center" means ~~at the~~ establishment of ~~a metro district, any commercial or mixed-use requiring urban services district exceeding 5,000 square feet, or residential district that meets any of the criteria outlined in definition QQ "New communities".~~

~~GGG)~~ "Water related activities" include:

- 1) ~~-a Municipal Water Project, an Industrial Water Project or a domestic water or sewagewastewater system using five (5) or more acre feet per year; and~~

~~DDD)2)~~ ~~not otherwise allowed under the Huerfano~~ any project that causes depletions of more than one acre foot to the water basin of origin within the ~~County Land Use Code, the Huerfano County Comprehensive Plan, or associated intergovernmental planning agreements.~~

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7.02 Designation of Matters of State Interest

7.02.01 Board of County Commissioners to Make Designations

Designations and amendments of designations may be initiated in the following ways:

- A) The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- B) The Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest following public hearing before the Planning Commission. The Board of County Commissioners shall decide, in its sole discretion, and pursuant to the requirements of 24-65.1-101, et seq., C.R.S., whether or not to designate any or all of the requested matters of state interest so recommended.

7.02.02 Moratorium

- A) Whenever the Board of County Commissioners designates a matter of state interest, pursuant to 24-65.1-404, C.R.S., no person shall engage in any development in such area, and no activity shall be

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conducted, until the designation and guidelines or regulations for such an area or activity are finally determined and a permit has been issued thereunder.

7.02.03 Public Hearing Required

- A) The Board of County Commissioners shall hold a public hearing before designating any matter of state interest ~~and/or~~ adopting regulations for the administration thereof. Said hearing shall be noticed and held pursuant to 24-65.1 -404 through -407, C.R.S. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.
- B) The Board in its discretion may request that the Planning Commission hold a hearing and provide a recommendation to the Board on the proposed designation prior to the Board's hearing. Notice of any hearing before the Planning Commission shall be published no less than seven days before the Planning Commission hearing date in a newspaper of general circulation in the County.
- C) The Board of County Commissioners shall prepare a notice of any designation hearing which shall include:
 - 1) The time and place of the hearing;
 - 2) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;
 - 3) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property and/or activities which would be included;
 - ~~2) The County Planner shall maintain a mailing list of those persons requesting they be placed on the list and paying to the Clerk an annual fee of twenty (\$20) dollars to cover the costs of production, handling and mailing of notices of all hearings pursuant to Sections 24-65.1-402(2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have their name and address maintained and retained on the list, the person shall resubmit their name and address and pay said annual fee before January 31 of each year.~~

~~7.02.05~~ 7.02.04 ~~7.02.04~~ Factors to be considered at Designation Hearings

At the public hearing, the Planning Commission and Board of County Commissioners shall consider such evidence as they deem appropriate, including, but not necessarily limited to testimony and documents addressing the following considerations:

- A) The intensity of current and foreseeable development pressures;
- B) The matters and considerations set forth in any applicable guidelines for identification and designation issued by any applicable state agency;

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- C) The boundaries of any area proposed for designation;
- D) Reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner;
- E) The extent to which other governmental entities regulate the area or activity proposed to be designated;
- F) The applicable criteria for administration of the proposed area or activity as set forth in these regulations and 24-65.1-201, et seq., C.R.S.;
- G) The legislative declarations stated in 24-65-102, 24-65.1-101, and 29-20-102, C.R.S.; and
- H) The Huerfano County Comprehensive Plan or any duly adopted intergovernmental agreements or comprehensive development plans adopted as part of, pertaining to, or affected by the area or activity under consideration.

~~7.02.06~~ **7.02.05** Record of Designation Hearing

The Board will collect and preserve the following record of the designation process, at minimum:

- A) Notice of the hearing;
- B) Certificate of publication of the notice;
- C) Written testimony presented by any persons at the public hearing;
- D) An audio recording of the hearing; and
- E) The written resolution or order making appropriate findings supporting any designation and adopting the accompanying guidelines or regulations pursuant to Section 7.03.06, below.

~~7.02.07~~ **7.02.06** Adoption of Designation and Regulation

- A) At the conclusion of the hearing, or within 30 days thereafter, the Board of County Commissioners may, by resolution, adopt, adopt with modification, or reject the proposed designation and accompanying guidelines or regulations.
- B) Each designation order adopted by the Board shall, at a minimum:
 - 1) Specify the boundaries of the designated area of state interest;
 - 2) State reasons why the designation is appropriate in light of the factors considered at the public hearings pursuant to Section 7.03.04, below; and
 - 3) Specify the regulations applicable to the designated matter of state interest.

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~~7.02.09~~ 7.02.07 Combined Designation and Permit Hearing

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated by the County's currently-offered conditional use permits, and for which regulations have not been adopted, the Board of County Commissioners may hold one hearing for determination of designation and regulations as well as for granting or denying the permit, provided all applicable notice requirements are ~~adhered to~~ followed.

~~7.02.09~~ 7.02.08 Specific Designations

- A) Activities of State Interest. The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set forth in Section 7.03.04, below, at duly noticed public hearings held in accordance with Part 4 of Article 65.1, C.R.S., does hereby find and declare the following activities to be matters of state interest and does hereby adopt the accompanying regulations requiring permits for these designated activities as further set forth herein:
 - 1) Site selection and construction of ~~major~~ new domestic water and ~~sewagewastewater~~ treatment systems meeting the criteria established in 7.01.10(M);
 - 2) Major extensions of existing domestic water and ~~sewagewastewater~~ treatment systems;
 - 3) Efficient utilization of municipal and industrial water projects;
 - 4) Site selection and construction of major facilities of a public utility;
 - 5) Site selection and development of new communities; meeting the criteria established in 7.01.10(M);
 - ~~2) Activities concerning changes of water rights or the use of water or land resources which may affect the agricultural nature and culture of Huerfano County, and the socio-economic stability thereof, and which may further effect the retention and quality of soil and other agricultural resources, including but not limited to dry up and re-vegetation requirements.~~
 - ~~2) Activities which concern changes in reservoir operations for decreed water rights located within Huerfano County, and the socio-economic stability thereof, the result of which could be changes in the agricultural nature and culture of Huerfano County, and/or effects upon the retention and quality of soil and other agricultural resources, including but not limited to dry up and re-vegetation requirements.~~

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~~2) Activities which may effect the quantity and/or quality of water bearing aquifers underlying lands in Huerfano County, including but not limited to, alluvial, confined and unconfined aquifers, both tributary and non tributary.~~

~~9)6) Site selection of Key Facilities.~~

The conduct of any of these activities within the boundaries of unincorporated Huerfano County shall be subject to the foregoing designations, as further set forth in these Regulations and/or regulations to be developed pursuant to the designations herein or matters of state interest which may hereinafter be designated by the board and subject of supplemental regulations hereto.

~~B. Areas of State Interest:~~

~~B) Areas of State Interest: The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set forth in Section 7.03.04, below, at duly noticed public hearings held in accordance with Part 4 of Article 65.1, C.R.S., does hereby find and declare the following areas to be matters of state interest and does hereby adopt the accompanying regulations requiring permits regarding these designated areas as further set forth herein:~~

- ~~1) Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community;~~
- ~~2) Areas containing or having significant impact upon historical or archaeological resources.~~
- ~~3) Areas containing or having significant impact upon natural resources of statewide importance; and~~
- ~~4) Natural Hazard areas, which are flood hazard areas and geologic hazard areas.~~
- ~~5) Areas historically and presently irrigated, the dry-up of which or cessation of irrigation would have significant impact upon soil, air and/or water quality;~~
- ~~6) Areas historically and presently in agricultural production, the cessation of which would have significant economic and/or socio-economic impacts upon the citizens of Huerfano County.~~

~~Development in any of these areas within the boundaries of unincorporated Huerfano County shall be subject to the foregoing designations, and shall be protected and administered as further set forth in these Regulations.~~

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7.03 Permits Required for Various Designated Areas and Activities involving water related matters

7.03.01 Water ~~and Sewage Wastewater Treatment Activities~~ Related Projects Requiring Permits

A permit shall be required for any proposed project utilizing three (3) or more acre feet, including but not limited to ~~major~~ new domestic water or ~~sewage wastewater~~ treatment ~~system, major systems~~, extension to existing ~~major~~ domestic water or ~~sewage wastewater~~ treatment system, or Municipal or Industrial Water Project, which is proposed to be located in whole or in part in the unincorporated portions of Huerfano County, and which will divert or store raw, augmentation or treated water and meets any of the following criteria:

- A) New water supply systems (excluding reservoirs which are separately covered under (C), below), or new water treatment plants, or extensions of those systems or plants (excluding line extensions which are separately covered under (E), below), that serve more than 25 year round residents meet or exceed the criteria established in 7.01.10(M) or provide the equivalent amount three (3) or more acre-feet of annual water service and are not located entirely within an approved service area approved by the Board of County Commissioners.
- B) New wastewater treatment plants, or extensions to existing plants (excluding line extensions which are separately covered under (E), below).
- C) Construction of any new reservoir where:
 - 1) 30 percent or more of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system; or
 - 2) less than 30 percent but more than one percent of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system, and the reservoir has not been permitted pursuant ~~to~~ the special use review provisions of the Huerfano County Land Use Code; or
 - 3) the reservoir is lined.
- D) Expansion of any existing reservoir for a Municipal or Industrial Water Project or domestic treated water use.
- E) Extensions to water supply and wastewater systems where:
 - ~~3) Use 12" or larger of distribution or transmission lines; or~~
 - 2) 1) use two or with the design capacity to serve ~~no~~ more lines of any size which are parallel to and

Commented [CY4]: Why 3 acre feet?

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~~located within 100 than 12 dwellings or to provide no more than three (3) acre-feet of one another, and have a total cross section equal to or greater than 120 square inches; and per year; or~~

~~3) are not located entirely within an approved service area approved by the Board of County Commissioners.~~

- F) Systems, extensions, or projects located partly or entirely on land which is owned or managed for open space, recreation, environmental protection, or other land preservation purposes, except land which is owned by the entity proposing the system, extension, or project.
- G) Systems, extensions, or projects located partly or entirely on land that has been designated as an area of state interest.
- H) Systems, extensions, or projects partly or entirely on land which is designated in accordance with the Huerfano County Comprehensive Plan or otherwise as any one of the following: a historic site, archaeologically sensitive area, natural hazard area, critical wildlife habitat, critical plant association, or wetland.
- I) Any system, extension, or proposed project which relies upon or uses water decreed to agricultural land in the unincorporated County, and which:
 - 1) is proposed to be converted to any different type or place of use, including but not limited to industrial use, municipal use, or domestic treated water use as part of a Municipal Water Project or Industrial Water Project;
OR
 - 2) requires total or partial dry up of the ~~above referenced~~below-described agricultural land;
OR
 - 3) serves primarily a municipality or other group of users located in a county other than Huerfano County;

~~This provision shall not apply to any agricultural water conversion which occurs as part of a use allowed under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 7.01 of this Code).~~

~~7.03.02~~ OR

- 4) Proposes to increase the historic use of desiccated water rights, at the expense of the land use supported by junior water rights, for the purpose of increasing the value of one or more senior desiccated water right.

OR

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5) Proposes to affect areas within Huerfano County historically and presently irrigated, the dry-up of which or cessation of irrigation would have detrimental impact upon agricultural potential, soil, air and/or water quality.

OR

6) Proposes to adversely affect areas within Huerfano County historically and presently in agricultural production, the cessation of which would have significant economic and/or socio-economic impacts upon the citizens of the County.

J) Any of the above which may:

1) ~~A~~Negatively affect the agricultural nature and culture of Huerfano County, and the socio-economic stability thereof, and which may further affect the retention and quality of soil and other agricultural resources.

OR

2) Cause changes in reservoir operations within Huerfano County, the result of which could ~~cause~~ changes in the agricultural nature, culture and economic stability of the County.

OR

3) May affect the quantity and/or quality of aquifers underlying lands in Huerfano County, including but not limited to, alluvial, confined and unconfined aquifers, both tributary and non-tributary.

7.03.02 Specific Water and ~~Sewage~~Wastewater Treatment Activities Exempted from the Permit Process.

A 1041 permit shall not be required for any major new domestic water or ~~sewage~~wastewater treatment system, major extensions to existing major domestic water or ~~sewage~~wastewater treatment system, or municipal and industrial water project, which is proposed to be located in whole ~~or in part~~ in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

~~C. Any system, extension, or project not covered under Section 7.03.01, above.~~

~~B)A)~~ Systems, extensions, or projects which are located on unincorporated land that is an enclave within the municipality proposing the activity.

~~C)B)~~ Upgrades to existing facilities that are required for maintenance or otherwise required by federal, state, or county regulations, ~~including repairing and/or replacing old or outdated equipment, or installing new equipment,~~ provided the improvements do not: (1) -expand levels of service beyond design capacity; (2) -, and ~~provided further that the upgrade does not~~ alter the location of the existing facility; or (3) expand the territory served by the facility.

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~~C) Any system, extension, or project proposed as part of a County exemption plat application (i.e., a re-plat upgrade of an existing platted subdivision water or wastewater project where no new density is proposed) where the primary purpose of the system is proposed.~~

~~E) Any system, extension, or project necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 7.01 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations existing development.~~

~~C) 7.03.03 Construction or replacement of irrigation facilities used for agricultural purposes.~~

7.03.03 Specific Public Utility Activities Requiring Permits

A permit shall be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

- A) New natural gas or other petroleum derivative transmission lines that serve more than 25 year-round residents and are not located entirely within an approved service area.
- B) Extensions to natural gas or other petroleum derivative transmission lines which:
 - 1) use 12" or larger distribution or transmission lines; or
 - 2) use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches.
- C) Natural gas or other petroleum derivative storage areas.
- D) New electric transmission lines or extensions that are 115,000 volts or greater.
- E) ~~Power plants generating~~ Projects with a ~~G~~ generation capacity of 50 megawatts or more.
- F) Substations of electrical utilities which control electricity in amounts of 115,000 volts or more.
- G) Central office buildings of telephone utilities.

~~7.03.04 7.03.04~~ Specific Public Utility Activities Exempted from the Permit Process

A permit shall not be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Huerfano County, and which meets any of the following criteria:

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~~C.~~ Any facility not covered under Section 7.03.03, above.

- ~~B)A)~~ Facilities which are located on unincorporated land that is an enclave within the municipality proposing the activity.
- ~~C)B)~~ Any facility proposed as part of a County exemption plat application (i.e., a re-plat of an existing platted subdivision where no new density is proposed).
- ~~D)C)~~ Any facility necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S.), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

7.03.05 ~~7.03.05~~ Other Designated Areas and Activities Requiring a Permit

- A) Site selection and development of new communities.
- B) Development located in areas containing or having a significant impact upon historical, archaeological or natural resources of statewide importance, and/or socio-economic impacts within the County, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the areas regulated hereunder shall be the area which physically contains the designated historical, archaeological or natural resource, or in the specific case of significant wildlife habitats the areas shown on the maps identified in Section 7.01.07 (C) of this Article, and an area within a radius of 1,500 feet from the area containing the resource. However, the County Staff may determine that development within a larger area (up to one mile in radius) may be regulated, provided that the County Staff identifies specific land use impacts by which the larger area will be immediately and directly affected within the stated purposes of this Article.
- C) Development located in flood hazard areas and geologic hazard areas. To determine if a site is in a geologic hazard area, the applicant/developer may be required to have the intended site reviewed by Colorado Geologic Survey.
- D) If any proposed development is located partly within and partly out of the boundary of an area of state interest as designated in these regulations, the impacts of the entire development will be subject to review under these regulations. All construction or uses which compose or are directly associated with the development shall be considered to be part of the development, including but not necessarily limited to buildings, other associated structures, access roads or drives, utility lines, and parking areas.

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- 7.03.06 ~~7.03.06~~ Determination of whether a Proposed Activity or Development must go through the Permit Process
- A) The County Staff shall determine the applicability of Section 7.04 to the conduct of any proposed activity or development. The County Staff shall make this determination within ~~49~~30 calendar days after the ~~Planner~~Department receives a written request from the applicant stating the reasons why the proposed activity or development is or is not subject to Section 7.04. This timeline may be extended to 60 days if external agency review is required to make a determination.
 - B) If any person is aggrieved by the decision of the County Staff to include an activity within or exempt it from these regulations, that person may file an appeal to the ~~Board with the County Staff, Planning Commission, postmarked~~ no later than ~~ten~~twenty days after the date of the County Staff's written decision ~~(with three days added for mailing if the decision is mailed)~~. The appeal shall be accompanied by a statement why the County Staff's decision is incorrect.
 - C) The Board shall schedule a public hearing on the appeal to be held no more than 30 days after the appeal is filed.
 - D) For the purpose of deciding the appeal, the Board may require the developer to provide a description and declaration of the scope of the activity or development, including, but not necessarily limited to;
 - 1) The site of the proposed activity or development.
 - 2) The size, if proposed, of any transmission lines, storage tanks, dams and or reservoirs.
 - 3) The number of residents to be served by the activity at full buildout if multiple phases are involved, or in the case of wastewater treatment plants, the average flow, in gallons, of wastewater a day.
 - 4) The ~~increase~~change in ~~the County~~population and traffic patterns that is projected as a result of the activity.
 - 5) The water rights on which the activity relies.
 - 6) Any geologic hazards areas or flood hazard areas mapped within one mile of the site.
 - ~~3) Potential socio-economic impacts of the proposed activity or development.~~
 - 7) Analysis of potential socio-economic impacts of the proposed activity or development including life-cycle infrastructure costs to be incurred by the County, projected cost of providing public services, projected annual tax revenues to be generated upon completion of the project. Analysis should also include impact to labor market, including long-term jobs created, average wages, distance between housing and jobs, impact on existing businesses and populations.
 - 8) Timeline and detailed description of any phases.

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9) Capacity analysis of unplanned potential for expansion.

- E) At the appeal hearing, the appellant will have the burden of proving that the County Staff erred in the decision to include or exclude the activity or development from these regulations.

7.03.07 ~~7.03.07~~ Specific Uses Exempted from the Permit Process in Areas of State Interest

- ~~A) Operation, maintenance, repair and replacement of existing water and sewage/wastewater collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility.~~
- ~~A)B) Reservoir improvement or replacement projects shall provide an analysis of potential impact on junior water rights holders, and the Planning Commission may determine whether to exempt such projects.~~
- ~~B)C) A building site within the boundaries of the Flood Hazard Area as set forth in Section 7.01.07 (a) that evidence demonstrates to the satisfaction of the Board is not within an area of special flood hazard.~~

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~~7.05~~7.04 ~~7.04~~ Application Procedures

~~7.05.01~~7.04.01 ~~7.04.01~~ Permits Required after Designation; Receipt of Application Form

- A) Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest in whole or in part within the unincorporated area of Huerfano County must first obtain a permit pursuant to these regulations.
- B) An application shall not be accepted unless the County Staff determines that it is complete pursuant to the application submittal requirements of this Section and of Section 7.04.07, below. If the application is considered incomplete by the County Staff, the County Staff shall specify what additional information is required. When a submitted application is considered to be complete by the County Staff, the County Staff shall note upon the application the date and hour of its receipt.
- C) When an applicant seeks a permit to engage in development involving more than one area or activity of state interest regulated hereunder, the County Staff shall require that a single application be completed including all affected areas and activities.
- D) For any application to be considered complete under these Regulations, in addition to meeting the requirements of Section 7.04.07, below, the application shall include the entire development as

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contemplated or reasonably foreseeable for the subject property in question for at least a ten-year period. Said ten-year forecast shall in no way act as a limitation on the scope of the project or subject property which is the subject of the Application. The County shall have and maintain the absolute right to review all elements and components of the project or activity, and shall expressly be entitled to re-review all such elements and components at a later date should a component be added to the project or activity. There shall be no piece-mealing of projects for permit approval. For purposes of this Subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under this Article. At a minimum, the application shall include all development which has been planned for the subject property as shown in any capital improvements plan, facilities master plan, or other acceptable master planning document which the applicant has approved as of the time of application or anticipates approving at ~~anytime~~ any time while the application is in process, including all proposed project phases. If the Applicant has not approved such a master plan covering at least a ten-year period, it shall approve such a plan before the application will be accepted as complete. The purpose of these requirements is to assure that development for a subject property is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications, and to allow for a comprehensive consideration of the cumulative impacts of development under these Regulations.

- E) For any application submitted after the effective date of these regulations ~~by the Board~~, the following requirements shall apply to any amendment to that approval which is submitted within a ten-year period after the date of the approval. Any such amendment shall be presumed to constitute piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 411 of this Article, unless the Applicant demonstrates one of the following circumstances:
- 1) The Board approved less than the complete development pursuant to Section 7.04.11 (B) (15) of this Article, and the subject amendment includes development reflected in the applicable master plan but not previously approved.
 - 2) The additional application addresses or corrects a matter of health or safety presented by the approved development.
 - 1) The amendment clearly equals or reduces the impact or scope of the approved development, in the context of the applicable criteria under Section 7.04.11 of this Article.
 - 2) The amendment implements an amendment to the Huerfano County Comprehensive Plan or a land use intergovernmental agreement to which the County is a party, and which was adopted after the County's approval of the development.

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Any amendment for which the Applicant cannot demonstrate that one of the foregoing circumstances exists, shall not be approved, unless the Applicant clearly overcomes the presumption that the amendment constitutes piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 7.04.11 of this Article, or unless the County instead elects to re-review all elements and components of the entire project as a new application, with the costs associated therewith to be borne by the Applicant.

- F) The County Staff's determination regarding whether a permit application is complete under Subsections 7.04.01 (B) and 7.04.01 (D) and Section 7.04.07 may be appealed to the Board by any person aggrieved by the determination, provided that an appeal is filed with the Board no later than 30 days after the date of the County Staff's written determination (with three days added for mailing if the determination is mailed). The appeal shall be accompanied by a statement describing the specific reasons why the appellant alleges the determination was in error, based on the criteria listed in Subsections 7.04.01 (B) and 7.04.01 (D) and Section 7.04.07. The Board shall convene a duly noticed public hearing on the appeal, at which hearing the appellant shall have the burden of proving that the County Staff erred in the determination regarding the completeness of the application.
- G) Applicants shall be bound by and subject to reliance upon all statements and representations made by Applicant in an Application for a permit pursuant to these regulations, or subsequent regulations enacted pursuant to designations made herein or future designations of matters of state interest. Applicants shall be similarly bound to the contents of all reports, testimony and other evidence submitted in support of such an application, and the Board of County Commissioners may, in its sole discretion, require Applicants' strict compliance with such statements, reports, testimony, and other evidence.

~~7.05.02~~ 7.04.02 — ~~7.04.02~~ — Application Fee

For all applicants, (1) a ~~non-refundable~~ non-refundable fee of ~~\$300.00~~ \$500 shall be required with each application; (2) before the application is deemed complete by the County Staff, certified funds in the amount estimated by the County to be sufficient for complete review by the County and its consultants shall be deposited with the County, and any amounts in excess of actual costs incurred in the review and processing of the permit application including all hearings conducted therefore, shall be refunded; (3) should the initial deposit prove inadequate to cover the costs for application review by the County, the Applicant shall make additional deposits to cover estimate future review costs. These components in total shall constitute the Application Fee. The fee shall be set by the Board of County Commissioners in its reasonable discretion.

Commented [CY5]: Evaluate vs Staff Costs

~~7.05.03~~ 7.04.03 — ~~7.04.03~~ — Waiver of Submission Requirements

The County Staff may waive any part of the submission requirements which are not relevant to a decision on the application. The County Staff may not waive any requirements which are otherwise required by

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law, such as by Article 65.5 of Title 24, C.R.S. Any waiver by County Staff is subject to reconsideration by the Board of County Commissioners.

~~7.05.04~~7.04.04 ~~7.04.04~~ Intergovernmental Agreements

Upon request of the State of Colorado or a political subdivision of the state as defined by 29-1 -202(1), C.R.S., proposing to develop in an area of state interest or to engage in an activity of state interest, the requirements of these regulations may be met by the approval of an intergovernmental agreement in lieu of a permit application and review as provided by these regulations. In the event such an agreement is approved by the Board, no permit application to develop in the area or to conduct the activity of state interest may be required, in the discretion of the parties to such IGA, provided that all of the following conditions are met:

- A) The state or political subdivision/developer and the County must both be authorized to enter into the intergovernmental agreement.
- B) The purpose and intent of these regulations must be satisfied by the terms of the intergovernmental agreement.
- C) A public hearing must be conducted by the Board to publicly review and approve of the proposed intergovernmental agreement. Notice of the public hearing shall be published once at least 30 and not more than 60 days prior to the hearing in a newspaper of general circulation in the County.
- D) Both the Board and the governing body of the state or political subdivision/developer must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.
- E) Exercise of the provisions of this section by the state or political subdivision/ developer will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity which has previously proceeded under the permit provisions of these regulations may at ~~anytime~~any time elect to proceed instead under this Section.

~~7.05.05~~7.04.05 ~~7.04.05~~ General Process Outline

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this section.

- A) Pre-application conference
- B) Application
- C) Referral to adjacent and/or nearby property owners and affected agencies
- D) Staff review

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- E) Public review before the Planning Commission and Board of County Commissioners
- F) Post-approval requirements

~~7.05.06~~7.04.06 ~~7.04.06~~ Pre-application Conference

- A) A pre-application conference is required of all applicants.
 - 1) The pre-application conference shall be held between the applicant the ~~Land Use Department~~County Staff.
 - a. This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the application and the geographical area affected by the application.
 - b. The staff will explain the application procedures and the materials required for submittal.
 - c. The applicant shall bring a conceptual site plan to the conference.
 - 2) If the staff feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate County department to discuss the proposal.
 - a. For road, access, traffic concerns, and all vehicular movement patterns and volumes, the applicant will meet with a member of the Huerfano County Road & Bridge staff.
 - b. For water supply, sanitation, water quality or other public health concerns, the applicant will meet with members of the Environmental Health Section of the Huerfano County Health Department.
 - c. For open space or environmental concerns, the applicant will meet with a member or members of the Planning Commission to discuss any potential effects of the application on open space and environmental resources in the County.
- B) Any comments or commitments made by any member of the County's Staff during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.
- C) Pre-application conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.
- D) County staff will make available to the applicant any public information regarding the application which is in the County's possession.

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~~7.05.07~~ 7.04.07 Application Submittal Requirements

A) Application

- 1) Before any request for County approval under these regulations may be processed, a complete application, meeting the requirements of this Section must be filed with the Land Use Department.
 - a. The application must include a General Land Use Application Form designating all agents for the applicant and exhibiting the applicant's or agent's signature, and has all necessary information completed. The form shall be accompanied by all fees, maps, plans, and reports required by these regulations.
 - b. The signature on an application form will be assumed to indicate the applicant's concurrence with all submissions and commitments made by their designated agent.
 - c. A written description of the proposal.
 - d. Any application which requires compliance with Article 65.5 of Title 24, C.R.S. shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Huerfano County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.
 - e. In addition, for purposes of the County convening its initial public hearing on any application involving property for which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

B) Professional Qualifications

- 1) A professional consultant may not be necessary for all applications. Applicants shall determine in what instances professional consultation may be necessary for purposes of preparation of an Application, and ~~the Board~~ Staff shall determine in its reasonable discretion whether the absence or adequacy of such professional consultation materially affects the completeness or acceptability of such application.
- 2) All data and plans submitted for review must show the qualifications of the individual in charge of the work.

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C) Consultants

- 1) If the County does not have qualified staff to review certain elements of an application or referral agencies are not able to adequately advise the County regarding certain elements of an application, the Board of County Commissioners may authorize the review be performed by a consultant engaged or approved by the County Staff. Unless specifically resolved by the Board of County Commissioners to the contrary, the applicant shall pay all consultants' fees, based upon the nature and extent of consulting expertise required, and a deposit for the estimated costs thereof shall be included in the application fee, as discussed herein at Section 7.04.02.
- 2) A referral agency may impose a fee for the review of the application. No hearings will be held if any such referral agency's fee has not been paid.

D) Application requirements – All topics discussed in this paragraph are for purposes of providing examples of issues generally addressed in an application of this nature and the likely minimum contents of such application. The contents of any particular application are at the discretion of the applicant, and to the extent that such application may be deemed complete, the County will provide a review and consideration of such application pursuant to these regulations and any subsequent regulations enacted pursuant to designations contained herein, or subsequent designations of matters of state interest.

- 1) The following are general requirements for any map or plan required as part of the application for a County approval. Minimum requirements include:
 - a. The name of the proposed development or use and total number of acres under consideration.
 - b. Since all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.
 - c. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant.
 - d. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.
 - e. A copy of the capital improvements plan, facilities master plan, or other applicable master planning document covering the subject development and property, as required in Subsection 7.04.01(D) above.
- 2) The following requirements shall apply only to applications for ~~the water and sewage treatment activities~~ designated ~~in Section 7.02.08(A)(1-3) above~~ water-related matters.
 - a. Detailed plans for the activity or development including the proposed system capacity and

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- service area plans and maps.
- b. A description of all existing or approved proposed domestic water or sewagewastewater treatment systems within the jurisdiction of the applicant as well as adjacent communities (incorporated and unincorporated).
 - c. The design capacity of each domestic water or sewagewastewater treatment system and the distribution or collection network identified in (3) below.
 - d. A detailed inventory of total commitments already made for current water or sewagewastewater services in terms of taps or other appropriate measurement.
 - e. The source of the existing or new water supply for the proposed activity including applicable decreed water rights or plans, and information on any agricultural water rights decreed to land in unincorporated Huerfano County and converted or to be converted to provide the supply.
- 3) The following requirements shall apply only to applications for major facilities of a public utility.
- a. Detailed plans for the facility including, but not limited to, the associated system capacity and proposed service area plans and maps.
 - b. A description of existing and proposed service in the area to be served.
 - c. A description of the distribution network for the area proposed to be served.
- 4) The following requirements apply only to development located in Historical and Archeological Resource Areas of statewide importance.
- a. A state historical site survey form completed by a qualified professional, as may be acceptable to the State Historic Preservation Officer for all resources affected by the development, in the discretion of the Board of County Commissioners.
 - b. A description of the mitigating efforts to be taken to preserve the designated resource.
 - c. Plans and procedures for notification to the State Historical Society and State Archaeologist upon discovery of historical or archaeological resources, as may be required in the discretion of the Board of County Commissioners.
 - d. A report from the Huerfano County Historical Society regarding its understanding of the historical or archaeological resources at that site.
- 5) The following requirements apply only to development located in Natural Resource Areas of statewide importance.
- a. A survey of habitat of applicable species, both fauna and flora, by a qualified professional.

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- b. A plan of construction and operations, which shall contain an analysis of the effects of the proposed development upon wildlife species within the designated wildlife habitat, both fauna and flora.
- 6) The following requirements apply only to development located in Natural Hazard Areas.
- a. For development in a natural hazard area as set forth in Section 7.02.08 (B)(4):
 - i. A flood hazard impact report that addresses the criteria for developing in a flood hazard area, certified by a registered Colorado Professional Engineer.
 - ii. Maps or reports addressing flood hazard areas must be prepared by a registered Colorado Professional Engineer, a hydrologist or other professional with appropriate expertise in the issues addressed in the map or report as determined by the ~~Land Use~~ County Staff.
 - b. For developments located within a natural hazard area which is a geologic hazard area:
 - i. A geology report documenting and assessing the nature and extent of the applicable geologic hazard, its impact on the proposed development, and proposed mitigation measures if any, prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.
 - c. [Noticing requirements for referral agencies in 7.04.08\(C\)\(1\)\(a\) do not apply to applications for development in Natural Hazard Areas.](#)
- 7) Requirements applicable to all applications
- a. Detailed description of the scope and need for the proposed development or activity, including but not limited to:
 - i. The present population of the area to be served and the [projected](#) population to be served.
 - ii. The predominant types of users or communities to be served by the proposal, over the lifecycle of the project.
 - iii. The percentage of the design capacity at which the current system is now operating.
 - iv. If the proposal is a new water or wastewater treatment system or public utility facility and that system exceeds a ten year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
 - v. The relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the [County](#) master plan.
- 8) Environmental Impact Analysis, applicable to all applications [for site selection of key facilities.](#)

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[water related projects, new communities, and public utilities.](#)

- a. Land use:
 - i. Specify whether the proposal conforms to local governments planning policies and master plans.
 - ii. Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).
 - iii. Specify how the proposed development will utilize existing easements or rights-of-way for any associated transmission, distribution, or collector networks.
 - iv. Specify any additional right-of-way or easements for new or expanded transportation facilities.
- b. Water resources:
 - i. On an appropriate map, indicate any flood hazard areas associated with the proposal. Documentation of historical flooding activity on- the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included. Detail potential, adverse impacts related to the associated flood hazard area.
 - ii. Map and describe all [surface waters of natural streams](#), including applicable state water quality standards, which may be affected by the project.
 - iii. Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst case conditions.
 - iv. Map and describe all groundwater, including any aquifers and aquifer recharge areas. Describe the potential impacts and net effect of the activity on groundwater, both quantity and quality. At a minimum, the description should include:
 - 1. Seasonal water levels in each platted subdivision of the aquifer affected by the activity.
 - 2. Artesian pressure in aquifers.
 - 3. Groundwater flow directions and levels.
 - 4. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.

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5. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
 6. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
 7. Existing groundwater quality and classification.
 8. Location of all water wells and their uses.
 9. Location of all aquifer recharge areas.
- v. Describe the impacts and net effect of the activity on wetlands and riparian areas.
1. Map and describe wetlands, and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition, and biomass, both fauna and flora.
 2. Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
 3. Describe impacts and the net effect that the project would have on the wetlands and riparian areas.
 4. Describe impacts on quantity and quality of water in Aquifer Recharge Areas.
- c. Terrestrial and Aquatic Animals and Habitat, as applicable:
- i. Map and describe terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
 - ii. Map and describe critical wildlife habitat and livestock range to be affected by the activity including migration routes, calving areas, summer and winter range, and spawning beds.
 - iii. Describe the impacts and net effect that the activity would have on terrestrial and aquatic animals, habitat, and food chain.
- d. Terrestrial and Aquatic Plant Life, as applicable:
- i. Map and describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.

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- ii. Describe the impacts and net effect that the activity would have on terrestrial and aquatic plant life, including plant life resulting from agricultural irrigation, dry up of the same, and revegetation efforts to mitigate the same.
- e. Air quality, as applicable:
 - i. Detail how many average daily trips will be generated by the proposal.
 - ii. Explain any other adverse impacts on air quality anticipated from the proposal.
 - iii. Describe how any state or federal air quality standards will be impacted and if the proposed transportation facility has been included in the region's air quality models to verify conformity with the air quality plan.
 - iv. Describe the air sheds to be affected by the activity, including the seasonal pattern of air circulation and microclimates.
 - v. Describe the impacts and net effect that the activity would have on air quality during both construction and operation under both average and worst case conditions.
- f. Significant environmentally sensitive factors, as applicable:
 - i. Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature:
 1. Potential natural hazards
 2. Public outdoor recreation and open space areas.
 3. Unique areas of geologic, historic, and archaeological importance.
- g. Visual aesthetics and nuisance factors, as applicable:
 - i. Identify view sheds, scenic vistas, unique landscapes, or land formations.
 - ii. Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution, or obnoxious odors which may stem from the proposal.
 - iii. Identify and describe any structures, excavations, and embankments that will be visible as a result of this project.
- h. Transportation impacts, as applicable:

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- i. Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:
- ii. Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.
- iii. Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
- ~~v. Provide the existing and future Level of Service (LOS) before and after the proposed project is completed.~~
- ~~iv.~~ All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.
- ~~vi.~~ Submittal of a benefit/cost analysis of the proposed transportation improvements and identify the distribution of the burden of the cost for the proposed improvements to the project as well as the adjacent state or local road system.
- i. Potential Socio-Economic impacts of the proposal, including but not limited to impacts related to the historical rural-agricultural culture of the County, employment impacts/opportunities and other related socio-economic factors.
- j. Less damaging alternatives, applicable to all applications:
 - i. If the County Staff or Planning Commission determines that the nature or extent of the proposal involves the potential for significant environmental and/or socio-economic damage and warrants examination of specific, less damaging alternatives, the County Staff or Planning Commission may request that the Board require that the applicant evaluate and present information on such alternatives and mitigation as part of the application.
 - ii. Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented, as well as mitigation alternative which might lessen such impacts.
- k. For any application requiring compliance with Article 65.5 of Title 24, C.R.S., certification of compliance with Article 65.5 of Title 24, C.R.S., signed by the applicant confirming that the applicant or its agent has examined the records of the Huerfano County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the

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property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.

- 1. ~~7.04.08~~ Any application involving a water-related matter shall describe its impact on:
 - i. Water rights.
 - 1. In addition to the impact analysis, the application shall contain copies of decrees of the District Court or of the Water Court relating to the water rights involved.
 - ii. Water structures, including headgates, ditches, wells, dams/reservoirs, etc.
 - 1. In addition to the impact analysis, the application shall contain copies of any orders of the appropriate Water Commissioner(s), the Division Engineer or the State Engineer regarding any of the water structures related to the water rights or irrigated lands involved.
 - 2. All engineering, hydrological, or hydrogeological analysis related to the water rights involved.
 - iii. Legal description and map of all ditches and irrigated acreage impacted or proposed to be dried up.

~~7.05.08~~ 7.04.08 Referral Requirements

- A) Referral of Applications – nothing herein is to be deemed to define the potential impact area of any project, but rather to define only where specific referrals are to be required.
 - 1) ~~When an application meeting the requirements of Section 7.04.07 is filed with the Land Use Department, and deemed complete by County Staff, the application materials shall be referred made available to the general public and notice of the application must be provided by certified mail to to interest holders in any property proposed to be physically disturbed occupied by the activity or development, property owners within 1,500 feet one mile of any property proposed to be physically disturbed and appropriate referral agencies. County Staff will ensure that notice is posted on the subject property along any public road, in the paper of record, and on the County website.~~
 - 2) Based on the specifics of the application, the County Staff may waive referral requirements or modify notification radius if those requirements are unnecessary.
 - e. ~~The applicant is responsible for preparing the referral packets in the manner prescribed by the County Staff. An error made either intentionally or unintentionally by the applicant in the~~

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~~preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.~~

~~e. All mailings shall be by U. S. Mail, first class postage prepaid, with the exception of referrals to offices and agencies in the Huerfano County interoffice mail delivery route. Referral Packets~~

3) ~~The Land Use Department will electronically send relevant application materials to referral agencies.~~

B) Referral Packets

1) Each referral packet shall contain one copy of the site plan ~~(full size or reduced to letter size)~~ and application, and other materials as deemed appropriate by the Land Use County Staff. ~~The number of referral packets required shall be determined by the County Staff.~~

2) Referral notices shall be ~~mailed sent~~ to agencies specified in this Section 7.04.08 and to each owner of an interest in any property proposed to be physically disturbed by the proposal, and to property owners within ~~1,500 feet one mile~~ of any property proposed to be physically disturbed, unless otherwise specified by County staff. Referral notifications may be distributed electronically.

3) Referral notices shall also include the name of the proposal, name of owners of the affected property, permit number, general location, and number of acres, proposed use, and any other information deemed appropriate by the County Staff. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review ~~in hard copy form at on~~ the County Land Use Department ~~during business hours web page.~~

C) Review of Applications by Agencies and Individuals – while this section provides for referral of applications to specific agencies and individuals for comment, such comments are advisory only, and no referral comments shall be binding upon the Board of County Commissioners.

1) Referral responses from agencies and individuals.

a. Referral responses must be received by the County Staff within ~~30~~75 days of transmittal in order to ~~insure~~ ensure that recommendations and findings are considered.

b. Failure of any office, agency district, or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the County Staff, will be regarded as a response with no conflict.

2) The State Engineer may review the application to insure conformity with all applicable

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regulations of the Colorado Division of Water Resources and for comment on applicable water rights administration and determination concerns.

- 3) The Colorado and County Health Departments may review the application for conformity with all applicable State and County health related regulations.
 - 4) The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.
 - 5) The Colorado Public Utilities Commission may review all applications for major facilities of a public utility, and provide information on any decisions, orders, or findings which the Commission has made or proposes to make with respect to the facility, and any other pertinent information.
 - 6) Colorado Department of Transportation may review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.
 - 7) The Colorado Division of Wildlife may review all applications in areas affecting natural resources.
 - 8) The County Land Use Department shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning, and comments from the referral agencies and individuals.
 - 9) The Colorado Water Conservation Board may review the application for flood hazard impacts.
 - 10) The City of Walsenburg, Town of La Veta, or any other governmental jurisdictions or Special District may review the application for conformance and possible impact of their future land-use plans.
 - 11) [The Huerfano County Historical Society may review the application for any impacts on identified historical or archeological sites or features within the County.](#)
 - 12) [The Huerfano County Water Conservancy District may review the application for the proposal's impact on the County's water resources.](#)
- D) Post referral action if there are referral comments received by the Land Use Department which require a response from the applicant, the following actions shall occur:
- 1) The ~~Land Use staff~~[County Staff](#) will transmit by first class mail, electronic mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.
 - 2) Within 30 days after transmittal of those comments, or by a later date specified by the County

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Staff, the applicant shall respond in writing to all issues raised during the referral process.

- a. Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Planning Commission and Staff recommendation.
 - b. If the County Staff or the Planning Commission finds that this new information results in a substantial change in the proposal, the County Staff may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 7.04.08, above. The processing schedule will be amended accordingly.
 - c. If the applicant is unable to supply responses within the 30 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 90 days.
 - d. If the applicant fails to supply satisfactory responses within the specified time, the County Staff may either base the [Land Use County](#) Staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the County Staff shall inform the applicant in writing.
- 3) The [Land Use County](#) Staff shall make a recommendation based on its analysis of the record on the application, the referral comments, and the applicant's responses to the referral comments.

~~7.05.09~~7.04.09 ~~7.04.09~~ Notice of Permit Hearing

- A) Not later than 30 days after receipt of a completed application for a permit, the County Staff shall set and publish notice of a date, time, and place for a ~~joint~~ public hearing before the Board of County Commissioners and the Planning Commission. The notice shall be published once in a newspaper of general circulation in Huerfano County, not less than 30 nor more than 60 days before the date set for the hearing. Notice shall also be mailed to the applicant, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published. Inadvertent failure to notify every such property owner, person, or agency shall not affect the validity of any hearing or any determination of the Board.
- B) Not less than thirty days before the date scheduled for the ~~joint~~ public hearing the applicant will send notice by, certified mail, return receipt requested, or by a nationally recognized overnight courier, to all property owners ~~identified~~identified in Section 7.04.08 (B) (2), and all mineral estate owner pursuant to CRS 24-65.5-103. Inadvertent failure to notify every such property owner, person, or agency shall not affect the validity of any hearing or and determination of the Board.
- C) The application shall be considered complete and therefore received by the Land Use Department for purposes of this Section 7.04.09, once the applicant supplies satisfactory responses to the referral comments as required by Section 7.04.08(D)(2), above, or, if no responses are required, within 60

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days after the County Staff transmits information on the application to the referral agencies and individuals pursuant to Section 7.04.08(C), or at such later date as the County Staff may have approved under Section 7.04.08(C), above. Completeness of the application shall also be determined based upon the applicant's compliance with any applicable requirements of Article 65.5 of Title 24, C.R.S., as set forth in Section 7.04.07(A) (1)(D), above.

- D) Notwithstanding any other provision of this Article the Applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S. Therefore, if the application is one which requires compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the County's initial public hearing on the application (before the Planning Commission or the Board, as applicable) shall not be held unless the applicant provides a further signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, CR.S.
- E) In any case where information becomes known to the Planning Commission, Board, or County Staff that an applicant has failed to provide notice of an initial public hearing on an application as required Article 65.5 of Title 24, C.R.S. at least 30 days prior to the initial County public hearing on the application, as required by Article 65.5 of Title 24, C.R.S., the Planning Commission, the Board, or the County Staff on behalf of the Planning Commission or Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

~~7.05.10~~7.04.10 — ~~7.04.10~~ — Conduct of the Permit Hearings

- A) The Board shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.
 - 1) The Board and Planning Commission shall hear testimony and receive evidence and documents presented at the public hearing.
 - 2) The County Staff shall conduct and preserve the following record of the public hearing:
 - a. The permit application.
 - b. Any written statements or documents presented in support of or in opposition to the permit application.
 - c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.

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- d. Any ~~tape~~ recording of the hearing.
- e. The Planning Commission's recommendation.
- f. The resolution of the Board granting or denying the permit application.
- g. A copy of the permit, if issued.

B) Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a Major Facility of a Public Utility as contemplated by Section 29-20-108, C.R.S., as amended, and which is presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. Any such application for a major electrical or natural gas facility which is presented to only the Board, shall be considered to be a "final application" under Section 29-20-108, on which final County action shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection C., "submission" shall be considered to be the submission of a complete application as required by this Regulation, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

~~7.05.11~~ 7.04.11 ——— ~~7.04.11~~ ——— Standards for Approval of a Permit Application

1041 Permit Approval Criteria

The board of county commissioners shall approve or approve with conditions a 1041 permit if it finds that it complies with the basic criteria in subsection A below and also complies with the additional criteria applicable to the type of area or activity of state interest applied for as listed in subsections B through M below. Collectively, these criteria implement the requirements for County development of guidelines and regulations for each of these areas contained in C.R.S. 24-65.1-202, 204, and 402. This determination shall be made based on the cumulative impacts of all phases or elements of the project. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or elements of the development must be considered together when determining whether the project satisfies the applicable approval criteria.

A) General Approval Requirements

- 1) A permit application for development of a matter of state interest ~~may not be approved unless the applicant satisfactorily demonstrates~~ must demonstrate that ~~the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in this Article.~~ relevant environmental impacts have been considered and mitigated. If the proposal does not ~~comply with~~ mitigate all of the applicable ~~criteria~~ impacts, the permit shall be denied, unless the Board determines that reasonable conditions can be imposed on the permit which will enable

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the ~~permit to comply with the criteria~~ activity to mitigate impacts.

- 2) A permit application for development of a matter of state interest must demonstrate benefit to Huerfano County and the residents, business and communities thereof. If the Board finds that an otherwise satisfactory proposal does not deliver sufficient benefit versus the anticipated impact, then the Board may negotiate, as a condition of approval, an agreement that either mitigates potential risks or advances a stated County priority. Examples of situations that may merit such an agreement include, but are not limited to, the following:
 - a. Projects due to state or federal initiative that result in a reduction of value to the County or its residents, whether through lost revenue or other economic impacts;
 - b. Projects that result in a disproportionate, negative impact to existing communities or the County at large, such as loss of view shed or other difficult-to-quantify impact;
 - c. For the purpose of reclamation or restoration of land or natural resources impacted by said project.

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~~2)3)~~ If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received. The Board shall adopt a written decision on a permit application as soon as practicable after the completion of the permit hearing.

B) Standards for approval of all permit applications.
Notwithstanding this Section 7.04.11.B.,- applicable standards may be waived pursuant to Section 7.04.03 of these Regulations.

- 1) ~~The~~ Prior to site disturbance associated with the project, the applicant has obtained or can and will obtain all property rights, permits, and approvals necessary for the proposal, including surface, mineral, and water rights. The Board may, in its discretion, and any additional permits and approvals from local, regional, state, and federal governmental departments and agencies necessary to engage in the proposed activity; the board of county commissioners may defer making a final decision on the application until necessary outstanding property rights, permits and approvals for the proposal are obtained, or may condition the approval of a permit on receipt;
- 2) The applicant ~~has the necessary expertise and demonstrates~~ financial capability to develop and operate the proposal consistent with all requirements and conditions.
- ~~5)~~ Adequate water supplies, as determined by the Board of County Commissioners, with referral comments from the State Engineer’s Office, the Division Engineer’s Office, ~~and~~ the Colorado

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~~Department~~Department of Health, ~~and~~ the Huerfano County Water Conservancy District are available for the proposal if applicable.

~~5) The proposal will not cause unreasonable a loss of significant irrigated agricultural lands, without an equal or greater gain in economic value as identified in the Comprehensive Plan, or identifiable on or near the site.~~

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3) . The proposal shall not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. The project design, construction, and operation minimize the likelihood of the release of any hazardous material into the environment, as evidenced by its plans for compliance with federal and state handling, storage, disposal, discharge, and transportation requirements, its use of waste minimization techniques, and the adequacy of spill prevention and response plans; For purposes of this section, the following aspects of the environment shall be considered:

- a. Air quality: The proposal shall not significantly deteriorate air quality. In determining impacts to air quality, these considerations shall apply.
 - i. Changes to seasonal ambient air quality
 - ii. Changes in visibility and microclimates
 - iii. Applicable air quality standards and impacts on odors
- b. Visual quality: The proposal shall not significantly degrade visual quality. In determining impacts to visual quality, these considerations shall apply.
 - i. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
 - ii. Interference with view sheds and scenic vistas.
 - iii. Changes in appearances of forest canopies.
 - iv. Changes in landscape character types or unique land formations.
 - v. Compatibility of building and structure design and materials with surrounding land uses.
- c. Surface water quality. The proposal shall not significantly degrade surface water quality. In determining impacts to surface water quality, these considerations shall apply:

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- i. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent, and persistence of suspended particulates and clarity, odor, color or taste of water.
 - ii. ~~Applicable narrative~~Narrative and numeric water quality standards adopted by the Colorado Department of Public Health & Environment Water Quality Control Commission deemed relevant to an application and/or necessary to maintain native species.
 - iii. Increases in point and non-point source pollution loads.
 - iv. Increase in erosion.
 - v. Increases in sediment loading to water bodies.
 - vi. Changes in stream channel ~~or shoreline~~ stability.
 - vii. Changes in Mitigation of storm water runoff flows.
 - viii. ~~Changes~~Discharges of nutrients likely to cause changes in trophic status or in eutrophication rates in lakes and reservoirs.
 - ix. Changes in the capacity or functioning of streams, lakes, or reservoirs.
 - x. Changes in flushing flows.
 - xi. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
- d. Groundwater quality. The proposal shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, these considerations shall apply:
- i. Changes in aquifer recharge rates, groundwater levels, and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
 - ii. Changes in capacity and function of wells within the impact area.
 - iii. Changes in quality of well water within the impact area.
- e. Wetlands and riparian areas. The proposal shall not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, these considerations shall apply:
- i. Changes in the structure and function of wetlands.
 - ii. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
 - iii. Changes to aerial extent of wetlands.

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- iv. Changes in species' characteristics and diversity.
- v. Transition from wetland to upland species.
- vi. Changes in function and aerial extent of floodplains.
- f. Terrestrial and aquatic animal life. The proposal shall not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply:
 - i. Changes that result in loss of oxygen for aquatic life.
 - ii. ~~Changes~~Reduction in ~~flushing~~surface flows.
 - iii. Changes in species composition or density.
 - iv. ~~Changes~~Reduction in number of threatened or endangered species.
 - v. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any ~~terrestrial animals~~native species.
 - vi. Changes to habitat and critical habitat, including streambed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
 - vii. Changes to the aquatic and terrestrial food webs.
- g. Terrestrial and aquatic plant life. The proposal shall not significantly degrade the quality of terrestrial and aquatic plant life, including plant life resulting from agricultural irrigation, dry up of the same, and revegetation efforts to mitigate the same. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply:
 - i. Changes to habitat of threatened or endangered plant species.
 - ii. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - iii. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - iv. Changes in threatened or endangered species.
- h. Soils and geologic conditions. The proposal shall not significantly degrade soils and geologic conditions, including soil impacts resulting from agricultural irrigation, dry up of the same,

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and revegetation efforts to mitigate the same. -In determining impacts on soils and geologic conditions, these considerations shall apply.

- i. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and flood hazard areas.
- ii. Changes to stream sedimentation, geomorphology, and channel stability.
- iii. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- iv. Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
- v. Exacerbation of seismic concerns and subsidence.
- i. The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
- j. The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical structures or sites and archaeological artifacts or sites, as identified in the Comprehensive Plan or identifiable on or near the site.
- k. The proposal or its associated transmission collector or distribution system will not create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
- l. The proposal will not be subject to significant risk from floods, fires, earthquakes, [subsidence](#) or other disasters or natural hazards.
- m. The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the County.
- n. The proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
- o. The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.
- p. For those applications for which the County has required information on the environmental and socio-economic impacts and costs of alternatives under Section 7.04.07(D)(8-15) above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.
- q. The proposal is in accordance with the Huerfano County Comprehensive Plan and any applicable intergovernmental agreement affecting land use and development, including but

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not limited to any applicable land use designations. In cases where a person who is not a service provider with a County-approved service plan or service area, proposes a development within an approved service area, the Board shall not be compelled to consider the development to be in compliance with the applicable adopted comprehensive plan or intergovernmental planning agreement simply by virtue of the fact that the development is located within, or is proposed to serve, an approved service area.

- r. The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 7.04.01(D), above, ~~except that the~~. The Board may approve development ~~constituting less than the complete development provided that the Applicant clearly demonstrates that a lesser proposal constitutes a discrete phase in phases if the review required under this section included impacts~~ of the complete development as supported by the applicable master planning document required under Subsection 7.04.01(D), ~~which can be logically and adequately reviewed as a separate project~~ under the applicable criteria of these Regulations, and documents the relationship of such phase to future phases of the same project. Amendments to approvals of applications submitted after the effective date of February 22, 2011 shall be subject to the further requirements of Subsection 7.04.01(E), above.

C) Additional standards for approval of ~~municipal and industrial~~ water-related projects.

- 1) The proposal shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water ~~as well as water conservation best practices~~. Urban development, ~~population densities, and site layout~~ landscaping or irrigation, and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
- 2) To promote the efficient utilization of ~~municipal and industrial~~ water-related projects, ~~proposals that would export water from the County by change of water right, by the pumping of desiccated water rights, or otherwise, shall require that applicant share its proposal with and obtain an advisory recommendation from relevant stakeholder groups, to include such as local the Huerfano Basin Stockgrowers Association, Farm Bureau, water providers in the same basin and the Chambers of Commerce. The BOCC may identify additional stakeholder groups from which an advisory opinion shall be sought.~~ Utilization of the following water sources shall be ~~avored~~ prioritized:
 - a. ~~Utilization of existing~~ municipal and industrial water supplies, for example, by lease, exchange, sale, or other disposition between persons or entities within Huerfano County, ~~or between persons or entities within Huerfano County~~ and those outside Huerfano County.

Commented [CY7]: Pumping?

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- b. Water supplies from sources which do not involve the removal of water from irrigated agriculture or open space or preserved lands in Huerfano County, or which do not involve increased use of native flows of water in the streams of Huerfano County.
- D) Additional standards for approval of site selection and construction of major new domestic water and sewagewastewater treatment systems and major extensions of existing domestic water and sewagewastewater treatment systems.
- 1) New domestic water and sewagewastewater treatment systems and major extensions of existing domestic water and sewagewastewater treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants within the County and will ensure the orderly development of domestic water and sewagewastewater treatment systems of adjacent communities within the County.
 - 2) Major extensions of domestic water and sewagewastewater treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
 - 3) ~~Existing~~Proposed development would place existing water and sewagewastewater treatment systems servicing the area ~~must be~~ at or near operational capacity.
 - 4) The scope and nature of the proposal will not compete with existing water and sewagewastewater services or create duplicate services.
 - 5) The age of existing domestic water and sewagewastewater treatment systems, operational efficiency, state of repair or level of service is such that replacement is warranted.
 - 6) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Control Division.
- E) Additional standards for major facilities of a public utility.
- 1) Facilities shall be sited and constructed in areas which will result in the proper utilization of existing facilities and associated systems within or serving the County.
 - 2) Facilities shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such facility can be accommodated within the financial and environmental capacity of the area to sustain such growth and development and are in accordance with the applicable County land use plans.
 - 3) Existing facilities and associated systems servicing the area must be at or near operational capacity.

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- 4) If a facility extension or replacement is proposed, the age of existing facilities and associated systems, their operational efficiency, and their state of repair or level of service are such that extension or replacement is warranted.
 - 5) If a new facility is proposed, existing facilities cannot be feasibly upgraded or expanded.
- F) Additional standards for site selection of new communities.
- 1) ~~The design shall, at a minimum, provide for~~Each application for creation of a new community pursuant to 7.01.10(PP) or non-residential, non-agricultural commercial or mixed-use development of more than 5,000 square feet on land currently used for agricultural purposes, or taxed as agricultural land shall ensure adequate provision of transportation, waste disposal, schools, emergency services and other governmental services in a manner that will not overload facilities of existing communities of the region.
- G) Additional standards for development in natural resource areas of statewide importance.
- 1) Development shall be designed to preserve the integrity of the resource.
 - 2) Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.
 - 3) The proposed development will not adversely affect ~~either surface or subsurface~~ water rights.
 - 4) The proposed development will not significantly deteriorate significant wildlife habitat.
 - 5) The proposed development will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
- H) Additional standards for development in flood hazard areas.
- 1) Development shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment).
 - 2) Development which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered, along with recent flood level & velocity analyses accepted by Staff as pertinent:
 - a. creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding;
 - b. use of flood protection devices or flood proofing methods;

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- c. nature or intensity of the proposed development;
- d. increases in impervious surface area caused by the proposed development;
- e. increases in surface runoff flow rate and amount caused by the proposed development;
- f. increases in flood water flow rate and amount caused by the proposed development;
- g. proximity and nature of adjacent or nearby land uses;
- h. impacts to downstream properties or communities;
- i. impacts on shallow wells, waste disposal sites, water supply systems, and ~~sewage~~wastewater disposal or on-site wastewater systems.

j. Impacts of debris flows on the development or caused by development.

- 3) Areas of Unincorporated Huerfano County not designated on the Flood Hazard Area Map must meet the requirement of the Flood Damage Prevention Resolution No: 88-13 adopted by the Board on 31, August 1988 and incorporated in the Land Use Code as Section 4.00.
- 4) Open space activities such as agriculture, passive recreation (recreation not requiring the development of playing fields, spectator stands or other significant structures), and mineral extraction, shall be presumed to be the favored form of development in the flood hazard area and shall be encouraged. Applications proposing other forms of development, which make a more intensive use of the land such as by increasing the structural coverage or impervious surface on the land, shall be presumed to generate adverse impacts on the flood hazard area and shall not be approved unless the applicant clearly demonstrates that the criteria of this Section 7.04.11(H) and of Section 7.04.11(B) have been met.

~~E.~~ Additional standards for development in geologic hazard areas.

D)

Hazardous geologic conditions include avalanches, landslides, rock fall, alluvial fans, mudflow areas, undermined areas, or development over faults. Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.

- 1) ~~Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can~~Development shall be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
- 2) Any approved development shall be designed in a manner that mitigates any significant risk posed by the geologic hazard, as confirmed by a registered professional engineer or other

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qualified expert in the field.

- 3) Shallow wells, solid waste disposal sites, water supply systems, and on-site wastewater systems and ~~sewage~~wastewater disposal systems shall be protected.
- 4) Development shall comply with all applicable County Building Code and Health Department regulations.

~~7.05.12~~7.04.12 — ~~7.04.12~~ Issuance of Permits

- A) The permit shall be issued on the form adopted by the Board of County Commissioners, which may be the Board's written resolution of decision on the application.
- B) The permit may be issued for an indefinite term or a specified number of years.

~~7.05.13~~7.04.13 — ~~7.04.13~~ Financial Security

- A) Before any permit is issued, the Board may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by and made payable to the Board.
- B) The purpose of this financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit.
- C) Any requirement for a financial guarantee shall be specified in the written decision of the Board on the permit application.

~~7.07.05~~ 7.05 — Post Approval Requirements

~~7.07.01~~7.05.01 — ~~7.05.01~~ Enforcement of Permit Requirements

- A) When it comes to the attention of the Board that the provisions of any permit have been violated by the permittee, the Board, if it determines that enforcement action is appropriate, shall give the permittee written notice of the specific violation and of a hearing on the proposed violation which the Board shall schedule no sooner than 30 days after the date of the written notice. If the Board determines that an emergency situation exists the Board may schedule the hearing sooner than 30 days, provided that the permittee receives at least five working days' prior notice of the hearing.
- B) If the permittee fails to correct the violation by the public hearing date, and the Board determines at the public hearing that the violation exists, the Board, in its discretion, may impose an appropriate sanction, including but not necessarily limited to temporary suspension of the permit for a reasonable

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time certain; an order to correct the violation within a reasonable time certain; the requirement for additional financial guarantees; or revocation of the permit.

- C) The Board shall have the authority to seek an injunction or other appropriate relief in the appropriate state or federal district court if the permittee fails to correct the violation or to comply with any sanction imposed at the public hearing.
- D) Any permit issued under these regulations shall be deemed to include the granting of the permittee's consent to entry and inspections by the Board and its authorized representatives as may be necessary at any time during regular County business hours, without prior notice to the permittee, to determine compliance with the terms of the permit.
- E) Any person engaging in a development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these regulations may be enjoined by the Board [or any other person](#) from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.
- F) To the extent the Board [or any other person](#) may be forced to seek injunctive relief as provided in this Section 7.05.01, any permittee, applicant or other person subject of such injunctive relief as may be awarded by a court of proper jurisdiction shall be liable to the County for costs and fees incurred in securing such injunctive relief, including reasonable attorney fees.