



PLANNING COMMISSION AGENDA

February 09, 2023 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 Zoom: <https://us02web.zoom.us/j/82550511219> | **Meeting ID:** 825-5051-1219

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. READING OF MINUTES**
 - [a.](#) Minutes from 1-26-23
- 4. ACTION ITEMS**
 - [a.](#) 22-54 Vacation and Plat Amendment - Recommendation
- 5. LGD UPDATES**
 - [a.](#) Bonding
- 6. DISCUSSIONS**
 - [a.](#) Seismic Regulations
- 7. ADJOURNMENT**
- 8. UPCOMING MEETINGS**



Huerfano County Planning Commission
semi-monthly Regular Meeting
Thursday, January 26, 2023; 1:30 P.M.

Minutes

Meeting started at 1:31 pm

- 1. Roll Call:** Edmundson, White, Lyons, Tesitor, and Falk
- 2. Pledge of Allegiance**
- 3. Reading of Minutes from 01/12/2023:** Motion made by White to approve the minutes as date amended second by Tesitor
- 4. Action Items:**

Atlas Tower 1 CUP- Applicant presented maps to the Planning Commission to answer questions raised at the Public Hearing about coverage and siting. One map showed radio coverage and the other showed the search radius for this tower and the location of other nearby towers.

Recommendation made by White to send to the BOCC for approval without conditions, second by Tesitor. Roll call vote, Falk abstain White, Lyons, Tesitor Edmundson voted yes.

5. LGD Updates:

Seismic Regulations: Lyons presented seismic exploration regulations from other counties and asked for draft language to be prepared for Huerfano County.

6. Old Business

22-50 Wood Burial project update: Mr. Tallman had a call with CDPHE and the applicant. In previous meeting, Planning Commission advised applicant that Phase I of the project would be treated as a plat amendment in order to keep 500-foot radius within the property. The applicant later clarified that the 500-foot buffer indicated on original materials submitted for review was due to a misunderstanding of zoning rules. In previous meeting, the Commission agreed that Phase I, which involved only the burial of wood from on-site would be considered a use by right.

White commented that Given that the applicant's parcel is over 35-acres, the County should not regulate what goes on the plat.

Discussion of the role of Planning Commission in giving advisory opinions and interpreting the land use code: Lyons asked for clarification from County Attorney on the role of the Planning Commission in interpreting the Land Use Code.

White commented that he is opposed to the Planning Commission giving advisory opinions, and that once an application is formally made, they will consider it.

Richard Goodwin, a resident in the neighborhood and expressed opposition to the project.

Tom Weber, the president of the POA, spoke to the Commissioners expressing opposition to later phases of the wood burial project, but not to Phase I.

7. New Business:

8. Discussions:

9. Commissioner Updates: None

10. Upcoming Meetings: A joint public hearing will be held for 22-59 on February 28.

11. Adjourn at 3:12pm

Signed _____ Date _____



Huerfano County
Planning Commission and Board of County Commissioners
Staff Report – Permit #22-54 Map Amendment and Vacation of Right-of
Way in Cuchara Mountain Park, Filing 4
Meeting Type – Joint Public Hearing

January 17, 2022

Requests

With this Application BH2 Land Surveying, LLC (the Applicant) requests the following:

1. **Plat Amendment rearranging lot configuration in Cuchara Mountain Park, Filing 4:** pursuant to LUR Section §2.14 to rearrange the lot lines of a part of Cuchara Mountain Park Estates, Filing #4 and to establish a private, gated road as well as a non-motorized access easement heading north/south between Parcels E and F – This pathway would provide access to the ski lift located just south of the property. The site is known as Tracts B1, B2, B3, L2 and L3 (Parcel Numbers 122419, 122420, 122421, 122424 and 122425).
The threshold between a Plat Amendment and a Subdivision is not precisely defined in the code and it is up to the Planning Commission to determine whether a proposal should be treated as a Plat Amendment or a Subdivision. The applicant would like to know if creating one or two more lots than are described in this application would still be considered a plat amendment.
2. **Request for a property tax exemption for lots E and D** as long as they remain undeveloped in exchange for public use of lots E and D so long as they remain undeveloped and a perpetual access easement along the east side of Lot E.
3. **Request that Huerfano County pay 25% of the total survey costs** (\$6,000 – \$12,000) in exchange for the dedication of a 50-foot public access easement and public use of lots E and D so long as they remain undeveloped.
4. **Vacation of a part of Yosemite Ln and Teton Ridge Dr:** Yosemite Ln. previously served to give access to the recreational easement on Tract L3 and to Tract B3. With the elimination of Tract L3 and the reconfiguration of Tract B3 into Parcel D, Parcel D can now be accessed by the non-motorized access easement between Parcel E and Parcels F and D, and a portion of Parcel D abuts the new proposed terminus of Yosemite Ln. The 50' wide segment of Parcel D that extends along the border with the National Forest is not marked as an easement, and it includes a gate. The purpose of this segment is to create a buffer between Forest Service land and Parcels C and F to reduce insurance costs for improvements on those parcels.
County Ownership: The County came to own these roads as part of a tax sale; they were not deeded to the County as ROW with the original filing. On Map 425 – Panadero Development

Filing No. 4 from 1999, Note 7 states: “Yosemite Lane, Teton Ridge Drive and Denali Ridge Road are private ownership access roads to be maintained by Cuchara Mountain Park Estates Homeowners Association. A 50-foot easement is granted for any underground utility in the private access road, for the purpose of installing and maintaining any and all underground utilities within the road right-of-way. A 50-foot easement is granted on all private access roads for emergency access.”

Zoning

The subject property is zoned Urbanizing Residential. Zoning standards for this district are set forth in LUR Section §1.03. The zone permits by right the building of a single family residence on each lot, which is in accordance with the applicant’s stated intent to build off-grid single family residences and garages on lots B, C and F. Lots B1, B2 and B3 are zoned Multi-Family, and combined were originally planned to support up to 268 units on 28.51 acres (an average of 9.4 units/acre, though intended densities varied by tract); the proposed maximum number of units would be 240, a 10.4% reduction. Developing to this level of intensity is not the applicant’s intent at this time.

Amendment to Scope:

In the Panadero Filing #4, Tract C1 allowed for 8 units on 7.96 acres (1 unit/acre); Tract B1 allowed 150 units on 10.23 acres (14.7 units/acre); Tract B2 allowed for 80 units on 7.86 acres (10.2 units/acre); and Tract B3 allowed for 30 units on 2.46 acres (12.2 units/acre). Tracts L2 and L3 were dedicated as open space.

The current proposal proposes the following maximum units per lot:

Lot	Units
A - 3.67 acres	35
B - 2.78 acres	26
C - 2.23 acres	21
D - 2.25 acres	21
E - 6.06 acres	57
F - 8.5 acres	80
Total	240

If the Commissioners are inclined to consider the creation of seven or eight lots on this site a Plat Amendment, the applicant has submitted two options as part of this proposal describing how those alternative arrangements would be created, each adding up to the same total development potential.

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.

Eligibility: (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.

Eligibility Note: Cuchara Mountain Park Estates Filing 4 consists of approximately 61 acres. The parcels being reconfigured amount to approximately 27.4 acres, or about 45% of the land included within the recorded subdivision.

Process for Vacation

(2.15.01) 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 applicable to this application and may be referenced by the Planning Commission in their evaluation of the request:

§ 2.14 – Plat Amendment

§ 2.15 Vacation

§ 2.02.11 Dedication of Land for Open Space

- The Board of County Commissioners may require the dedication, reservation or conveyance of areas or sites suitable for open space, flood control, scenic areas and related uses. The location of such sites shall be agreed upon by the applicant and the County, and in an amount of at least ten (10) percent of the total area of the subdivision. The proposed open space(s) shall be reasonably adopted for use for park land and recreational or other purposes, taking into consideration such factors as size, topography, geology, access and location of the proposed subdivision and the land earmarked for dedication.

Staff Comment: Filing 4 contains 59.26 acres; L1 contains 7 acres, L2 2.67 acres and L3 1.85 acres. L1, which is owned by the County, represents more than 10% of the area of Filing 4.

Legal Questions

- Do the deed restrictions on lots L2 and L3 still exist?
- Did the Cuchara Mountain Park Master Homeowners Association have the authority to remove the deed restrictions?
- With the dissolution of the Cuchara Mountain Park Master Homeowners Association, did the easements created in the deed restrictions become moot?
- The type of dedication, reservation or conveyance required in a given case shall be determined by the Board of County Commissioners in consultation with the Planning Commission, depending on the proposed size, use(s) and other characteristics of the subdivision. A reservation or dedication of areas for the use of owners or users of lots within the subdivision may be acceptable. Such areas shall be restricted to their intended use by plats, deed restrictions and/or recorded covenants which run with the land in favor of the future owners of property within the subdivision and **which cannot be defeated or eliminated without the consent of the Board of County Commissioners.** In the event of a reservation or dedication for the use of owners of lots within a subdivision, the applicant shall provide for the creation of a homeowners' association or similar organization with powers of assessment for maintenance, improvements and upkeep of such areas and the provisions contained within the homeowners' association bylaws or similar governing document shall receive approval from the Board of County Commissioners prior to acceptance of a final plat.

Staff Comment: The deed restrictions on L2 and L3 were eliminated by a notarized declaration from the HOA as part of their dissolution. The Board of County Commissioners has not, to our knowledge, taken action to eliminate the deed restrictions. The HOA's existence is required to create the deed restrictions, but its dissolution does not imply the elimination of such restrictions. This section of the code implies that BOCC action is required to eliminate deed restrictions.

The Planning Commission had decided that this application can be treated as a plat amendment. A Plat Amendment must be under 25% of the total area of a subdivision. This application constitutes about 45% of the subdivision filing in which it is located, however, if the Cuchara Mountain Resort Panadero Subdivision, which includes Filing #4, is considered the subdivision, then this would satisfy that criterion.

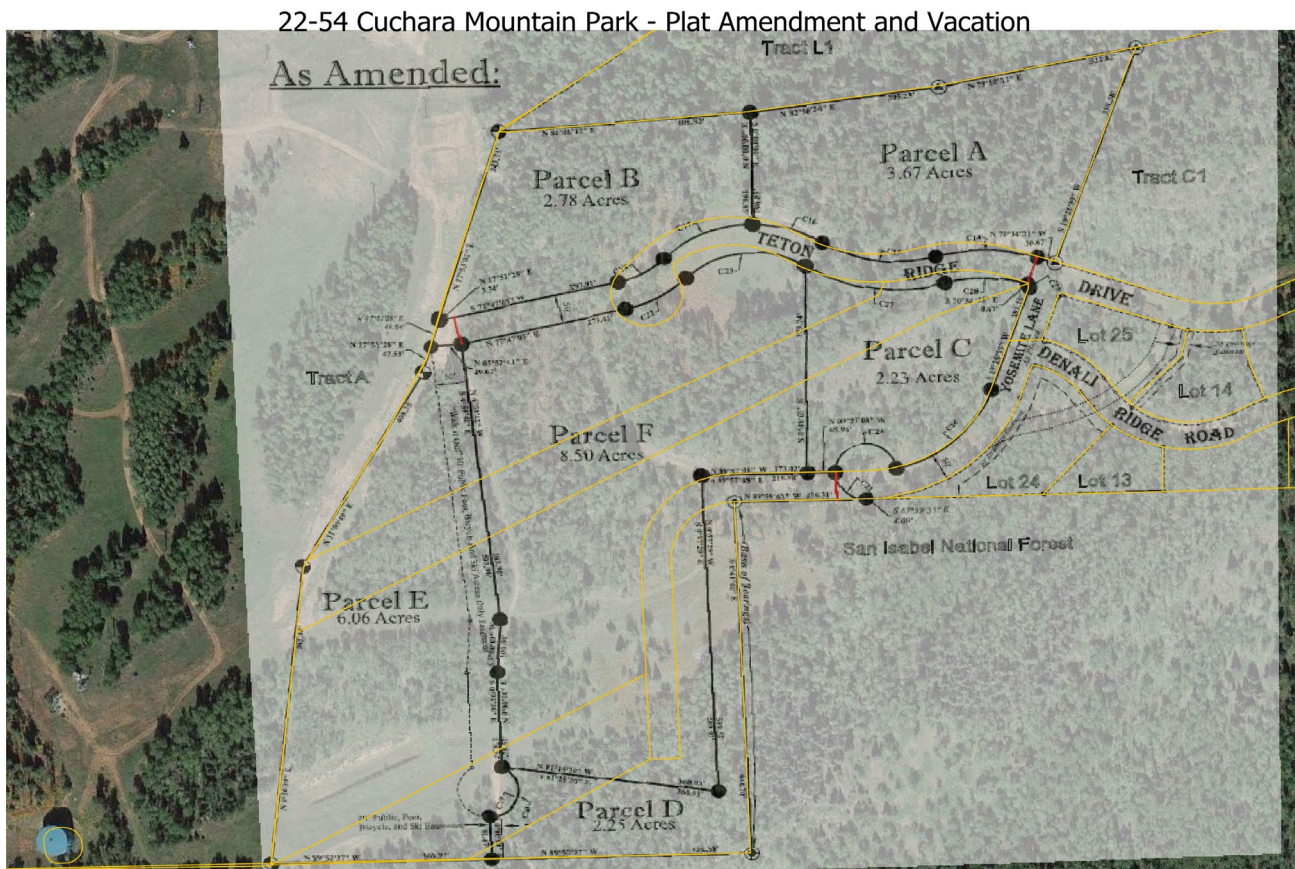
The deed restrictions on Tracts L2 and L3 read, in part:

"...the land described herein shall remain recreational open space in perpetuity, and left in its natural state 'as is' without alteration or modification by structures or buildings. That the Grantee and its successors shall maintain this property in such state forever. That the Grantee and its successors or assigns agrees not to transfer, sell or otherwise dispose of the property except to a successor or related homeowners association or to a master homeowners association which may incorporate Grantee or its successors and assigns within it."

Further down, it reads: *"That only owners, tenants, and guests of grantee or Cuchara Mountain Resort may have access to the property for the use described herein and in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates..."*

It is not clear how to treat the perpetuity described in the first paragraph. The term, Cuchara Mountain Resort refers to the whole Panadero subdivision, including the Cuchara Mountain Park filing – this is the name on the 1997 master plan for the whole area (see Map 405). The former deed conveyed these tracts to Cuchara Mountain Park Estates Master Homeowner Association, which was dissolved in 2020. The covenants of Cuchara Mountain Park Estates Master Homeowner Association are no longer valid or binding, however owners, tenants and guests of Cuchara Mountain Resort may still have a claim to access these easements.

In the Declaration of Covenants for Cuchara Mountain Park Master Homeowners Association,



Background

On November 8, 2022, an Application for a Plat Amendment, Application Fees, and attachments were received by the County.

– Application eliminates two tracts that were deed restricted as open space and which acted as a non-motorized connection between Teton Dr and County land on the Ski Resort (L2) and from Yosemite Ln and the County land on the Ski Resort (L3); the open space tracts serve to give a more direct path of access to the Ski Resort to Lots 1-25 and Tract C-1 within the same subdivision. Furthermore, there is a deed restriction on these tracts to preserve them as open space(see attachment). These deed restrictions were declared removed as part of the dissolution of the Cuchara Mountain Park Estates Master Homeowners Association in 2020, however, it is not certain whether the Homeowners Association has the authority to terminate deed restrictions. Staff has requested a legal opinion from the Applicant's counsel on this question.

At the Planning Commission on December 8, 2022, the Commissioners asked for more information on proposed densities on each lot, given that the original tracts each permitted a specific number of units. In changing the shape and arrangement of lots, new proposed densities or maximum number of units were described for each lot. These numbers represent a slight reduction in total allowable units.

The Planning Commission asked if the original declarations to the Master Homeowners Association could be produced, as this was a missing attachment in the articles of dissolution. Those have been found and area attached.

Proposals:

Plat Amendment

The intent of the Applicant is to build single family homes on Parcels B, C and F with no immediate development plans for Parcels A, E and D. The Applicant has stated an intent to allow public use of parcels E and D until plans to develop those are made. This offer is made in conjunction with requests for the County to pay for 25% of the survey and for a property tax exemption for these lots so long as they remain undeveloped. It is not clear from the application if the intent to grant public access to parcels E and D and to dedicate a non-motorized access easement is conditional on the County's agreement to these requests.

Vacation of a portion of Yosemite Ln. and Teton Ridge Dr.

Yosemite Ln. is platted in one location, but there is a track cut through lots 25 and 24 which have been used and declared an access easement. The Applicant does not intend to cut Yosemite Rd in its platted location, and intends instead to use the access eaemetn through lots 24 and 25. Establishing the road and circle as platted, the Applicant claims, would be detrimental to the subdivision's appeal, operation, the forest, and drainage.

To this point, the owners of lots 24 and 25 have emailed objections. They would like to see the road cut as platted rather than perpetuating the use of the access easement through their parcels. The Applicant would prefer to vacate Yosemite Rd as platted and replat the road where the easement exists. The applicant states that owners of parcels in the subdivision, namely those down Denali Ridge Rd. have always used this easement, however none of those parcels have been developed to date.

The vacation of a portion of Teton Ridge Dr. is part of a realignment and extension of the roadway. Instead of ending in a cul-de-sac, it would extend to the property boundary and connect to the access easement proposed on the east side of Lot E, giving access to lots E and D, neither of which have plans for near-term development. The

applicant may not have plans to construct the extension of Teton Ridge Dr at this time, but wishes to plat it on the map.

Application Materials

Requirements for a Plat Amendment: 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.

Requirements for a Vacation of R.O.W:

Proof of ownership; copy of approved and recorded plat and vacated plat; narrative statement; legal description, area of land to be vacated.

Staff Comment: Acreage of proposed vacation of ROW is not included in letter.

Criteria/Findings

2.14 Amendments to Approved and Recorded Plats

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.

2.14.03 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.

Planning Commission Position

- The Planning Commission took the position that the proposal to create six lots would be considered a Plat Amendment, however the Planning Commission did not take a position on whether Option 2 (creating a total of 7 lots) and Option 3 (creating a total of 8 lots) would also constitute a Plat Amendment or if it would be considered a Subdivision. The Planning Commission heard discussed this at two meetings, and the Options 2 and 3 were submitted prior to the second meeting rather than with the original application.

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.

Analysis

The proposed vacation of a portion of Yosemite Ln as well as the vacation of Teton Ridge Dr. as a public road closed to public access in combination with the proposed elimination of the recreational easements on L2 and L3 reduces connectivity and changes how people can access the ski area. This could potentially be partially addressed by leaving the extension of Teton Ln open to public access. If it is determined that the HOA did not have the authority to eliminate the deed restrictions on L2 and L3 this may require action by a court and/or action by the BOCC.

The proposed use of this property, which includes 3 to 4 single-family homes is of lower intensity than what was described in Map 425 for the area in 1999, which planned 150 units for Tract B1, 80 units for Tract B2, and 30 units for Tract B3.

The shape of proposed Parcel D is unusual and has been designed as such to create a buffer between USFS land and property on which applicant intends to build to reduce insurance costs, which are higher when abutting Forest Service land. The 50'-wide strip heading north and east along the Forest Service border represents about 35% of the total area of the parcel and is unbuildable due to setbacks.

Referral Comments

Prior to submittal, two adjacent property owners wrote to object to a plan to re-route Yosemite Ln from its platted position to the path that exists on the ground and which passes through Lots 24 and 25. When the application was submitted, this was not part of the proposal, however, using the existing access easement instead of building Yosemite Ln as platted is proposed.

Staff Comment

None

Potential Conditions or Recommendations

1. Decide whether to interpret 2.02.11 of the LUC to require BOCC action to remove deed restrictions. Consider requiring a legal opinion or action on how to address the deed restrictions on L2 and L3, and whether the dissolution of the Cuchara Mountain Park Estates Master Homeowners Association effectively released restrictions on the property.
2. Address Applicant's request for property tax exemption on Lots E and D so long as they remain undeveloped and in exchange for the proposed perpetual easement on the east side of Lot E.
3. Address Applicant's request for the County to pay 25% of the total survey cost (\$6,000 – 12,000) in exchange for dedication of 50' public access easement and public use of lots E and D as public space until such time as the applicant chooses to develop those lots.
4. Whether the alternative proposals to create one or two more lots than are proposed herein would be considered a Plat Amendment or a Subdivision (see excerpt from Section 2.14 above).
5. Whether to accept new proposed densities for each lot.
6. Address the vacation of a portion of the road and the intent to indefinitely continue to use the access easement through lots 24 and 25 instead of the platted right-of-way.
7. Whether this application triggers action on the construction of Yosemite Ln. as platted.
8. Address proposed changes to Teton Ridge Drive, making it a private road, concerning its phased construction, and gated access.

After the Joint Public Hearing, the BOCC will send the application back to the Planning Commission for a recommendation. Upon receiving recommendation, the BOCC may take one of the following actions for the request for a Plat Amendment and one of the following actions for the request for a Vacation of Right-of-Way:

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.
4. **Continuation** until a future date to gather more information or obtain clarification or for any other relevant cause.

Planning Commission Recommendation on request for Plat Amendment:

Planning Commission Recommendation on request for Vacation of right-of-way:

Board of County Commissioners action on Plat Amendment:

Board of County Commissioners action on Vacation of right-of-way:

Attachments

- Application Materials
 - Letter of Request
 - Articles of Dissolution
 - Plat Amendment/Vacation Map
 - Amendment to Scope
- Map of Cuchara Mountain Estates Filing 4
- Email communications with lawyer representing applicant
- Deed for L2 and L3
- Emails from neighbors

Huerfano County Land Use Department

401 Main Street, Suite 340, Attn: Land Use

Walsenburg, Colorado 81089

719-738-1220 ext. 103

**GENERAL LAND USE APPLICATION****Application File No.:** 22-54**Date Received:** _____**Received by:** _____**Fees due:** _____ **Date Paid** _____**1. ACTION(S) REQUESTED:**

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

2. APPLICANT AND OWNER INFORMATION:

Applicant Name: BH² Land Surveying, LLC (William S. Bechaver)
 Applicant's Mailing Address: PO Box 20399, Colorado City, CO 81019
 Applicant's Telephone: 719-676-2072 Email: bh2@ghvalley.net
 Name of Land Owner: WH Property 3, LLC (Jonathon & Jennifer Hotaling)
 Land Owner's Mailing Address: _____
 Land Owner's Telephone: 303-725-7550 Email: jon@libertyservice.group

3. PERMIT DETAILS:

Detailed project description/Scope of Work: To rearrange lot lines to create more usable lots, possible dedication of easement and establish private gated road (walk-it-out).

Parcel Area: 25± Acres; Zoning District(s): UR
 Parcel/Schedule Number(s): 122419, 122424, 122420, 122425, 122421
 Parcel Address (optional): _____
 Current/Proposed Land use (see §1.05 of the Land Use Code): Future Residence

GENERAL LAND USE APPLICATION

If project is in an HOA, HOA name: N/A

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

Is all or a portion of the subject land located in a 100-year flood plain area (see FEMA floodplain map), or are there areas with slopes in excess of twenty percent (20%)? ☐ YES ☒ NO ☐ NOT SURE

If YES, describe existing conditions: _____

Value of proposed project: _____

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

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

Additional pertinent information: _____

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

4. 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 conditional 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: _____ Date: _____

Printed name: _____

5. ACTION (by the authorized permitting authority):

☐ Final Approval

☐ Conditional Approval

☐ Denial

Name _____ Signature _____

Title _____ Date _____

Comments _____

Huerfano County Land Use Department

401 Main Street, Suite 340, Attn: Land Use

Walsenburg, Colorado 81089

719-738-1220 ext. 103

**GENERAL LAND USE APPLICATION**Application File No.: 22-54

Date Received: _____

Received by: _____

Fees due: _____ Date Paid _____

1. ACTION(S) REQUESTED:

- | | |
|--|---|
| ☐ Conditional Use Permit
☐ Conditional Use Permit / Marijuana
☐ Conditional Use Permit/ Oil, Gas or Uranium Exploration and/or Development
☐ Rezoning
☐ Variance
☐ Subdivision Exemption
☐ Plat Amendment
☐ Lot Consolidation
☐ Plat Correction
☒ Right-of-Way or Easement Vacation
☐ Other Actions (specify): _____ | ☐ Sign Permit
☐ Temporary Use Permit
☐ H.B. 1041 Text Amendment
☐ H.B. 1041 Development Permit
☐ H.B. 1041 Flood Plain Exemption

PUD and Subdivisions:
☐ Sketch Plan
☐ Preliminary Plan
☐ Final Plat / Subdivision Improvement Agreement
☐ Appeal of Denied Application |
|--|---|

2. APPLICANT AND OWNER INFORMATION:

Applicant Name: BH2 Land Surveying LLC (William S. Bechaver)

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

Applicant's Telephone: 719-676-2072 Email: bh2@ghvalley.net

Name of Land Owner: JH Property 3, LLC (Jonathon & Jennifer Hotaling)

Land Owner's Mailing Address: _____

Land Owner's Telephone: 303-725-7550 Email: jon@libertyservice.group

3. PERMIT DETAILS:

Detailed project description/Scope of Work: To vacate a portion of Yosemite Lane and Teton Ridge.

Parcel Area: 25[±] Acres; Zoning District(s): UR

Parcel/Schedule Number(s): 122419, 122424, 122420, 122425, 122421

Parcel Address (optional): _____

Current/Proposed Land use (see §1.05 of the Land Use Code): private Road

GENERAL LAND USE APPLICATION

If project is in an HOA, HOA name: N/A

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

Is all or a portion of the subject land located in a 100-year flood plain area (see FEMA floodplain map), or are there areas with slopes in excess of twenty percent (20%)? ☐ YES ☒ NO ☐ NOT SURE

If YES, describe existing conditions: _____

Value of proposed project: _____

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

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

Additional pertinent information: _____

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

4. 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 conditional 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: _____ Date: _____

Printed name: _____

5. ACTION (by the authorized permitting authority):

☐ Final Approval

☐ Conditional Approval

☐ Denial

Name _____ Signature _____

Title _____ Date _____

Comments _____



BH² LAND SURVEYING, LLC

P.O. Box 20399
Colorado City, CO 81019
Phone: 719-250-5028
Email: bh2@ghvalley.net

Letter of Request for **Map Amendment and Road Vacation and Dedication** **Tracts B1, L2, B2, L3, B3, Cuchara Mountain Park Estates Filing #4***

Date: November 3, 2022

Owners: JJH Property 3, LLC, 3327 Springridge Cir, Colorado Springs, CO 80906, Jon & Jen Hotaling owners. 303-725-7550

Owners Representative: BH2 Land Surveyors, 4301 Valverde Way, #2, Colorado City, CO. 719-676-2072

Request and reason for the Map Amendment, Road Vacation and Dedication:

- Rearrangement of the common lines between Tracts B1, L2, B2, L3, and B3 to create more usable and buildable lots.
- Vacation and dedication of a portion of Teton Ridge Drive and Yosemite Lane for better use of the land.
- Dedication of a 50-foot, Public Access Easement (Walk it Out) for foot, bicycle, and ski access only (except for the use of landowners and maintenance vehicles) along east side of Lot E. Said Easement is for the benefit of Cuchara Mountain Park users to have access to San Isabel National Forest.
- A 20-foot Public Access easement along the west end of Lot D, from the South end (Walk it Out) to the North line of San Isabel National Forest for foot, bicycle, and ski access to the San Isabel National Forest, lying south of the above-described Tracts of land.
- Establishment of gates at the location shown on the attached plat to maintain landowner privacy.
- Dedication of Lot E and the easement portion of Lot D for public space/use for the benefit of Cuchara Mountain Park users.

Current Zoning: Urban residential

Legal Description: Tracts B1, L2, B2, L3, B3 Cuchara Mountain Park Estates Filing #4

Parcel Numbers: 122419, 122424, 122420, 122425, 122421

Existing Utilities that serve the parcels: None.

Existing Structures: None.

Additional Requests and Supporting Documentation, per JJH Property 3, LLC

- A Request for property tax exemption of Lots E and D, as long as they remain undeveloped. At which point said Lots are developed said tax exemption will become void. Also, in exchange for the perpetual easements, as long as E and D remain undeveloped and E and D's easement are accessible for Cuchara Mountain Park public space/use.



BH² LAND SURVEYING, LLC

P.O. Box 20399
 Colorado City, CO 81019
 Phone: 719-250-5028
 Email: bh2@ghvalley.net

- A request that Huerfano County pay up to 25% of total survey cost (\$6000 to \$12000) in exchange for the dedication of 50-foot Public Access Easement (Walk it Out) and the use of Lots E and D, as public space/use.
- Future construction of off-grid Single-Family residence and garage on Lots B, C and F, in the next (1 to 10 years).
- Proposed Rearrangement could reduce current multi-family residential density by up to 50%.
- *Supporting documentation and explanation provided by JJH Property 3, LLC. (See Attached Exhibit 1)

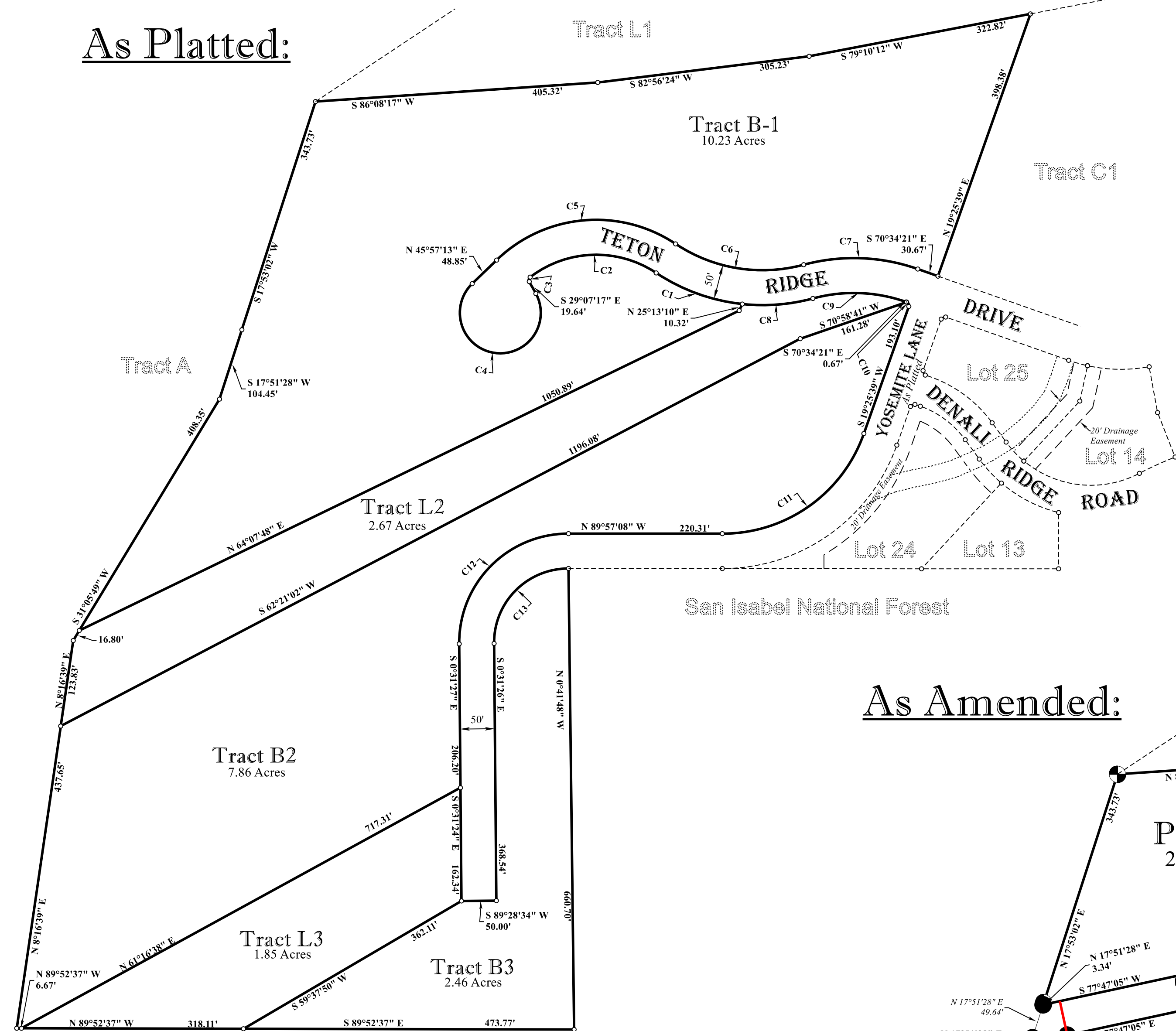
Please feel free to contact us if you have any questions of concerns.

Sincerely,

William S. Bechaver
 BH2 Land Surveying, LLC

JJH Property 3, LLC,
 3327 Springridge Cir, Colorado Springs, CO 80906,
 Jon & Jen Hotaling
 303-725-7550

As Platted:



San Isabel National Forest

LEGEND

- FOUND, BLM BRASS CAP
- FOUND, 1/2" REBAR WITH PLASTIC CAP, PLS 16163
- FOUND 1/2" REBAR WITH PLASTIC CAP, PLS 27265
- FOUND 3/4" REBAR, WITH 2" ALUMINUM CAP, PLS 16163
- SET, 1/2" REBAR WITH YELLOW CAP, PLS 38103
- PROPOSED PRIVATE GATE

"REFERENCES"

- 1) Plat Cuchara Mountain Park Estates, Reception No. 340387
- 2) Special Warranty Deed, Reception No. 425899
- 3) Special Warranty Deed, Reception No. 425898
- 4) Declaration of Access Easement, Reception No. 418879

BASIS OF BEARINGS: S 0°41'48" E, (per Plat of Cuchara Mountain Park Estates) along the East line of Parcel D, With a BLM Brass cap on the South End and a 3/4" rebar with an Aluminum Cap, PLS 38103 on the North End, monumented as shown hereon.

"NOTE:" This survey does not constitute a title search by BH² Land Surveying, LLC, to determine ownership or easements of record.

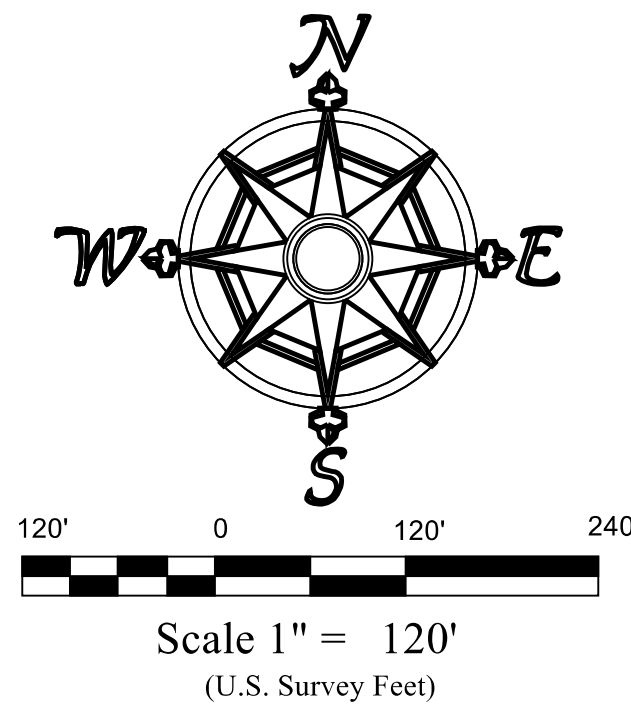
"NOTE" Client did not request a search for recorded Rights-of-Way and Easements.

"NOTICE": According to Colorado law you must commence any legal action based upon any defect in this survey with in three years after you first discover such a defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

Curve Table			
CURVE	DELTA	RADIUS	ARC
C1	27°36'35"	275.00'	132.52'
C2	71°16'49"	155.00'	192.83'
C3	81°31'23"	5.00'	7.11'
C4	254°21'23"	58.00'	257.48'
C5	77°44'39"	205.00'	278.16'
C6	48°52'06"	225.00'	191.91'
C7	34°35'53"	275.00'	166.06'
C8	21°15'31"	275.00'	102.03'
C9	34°35'53"	225.00'	135.87'
C10	89°53'41"	5.00'	7.84'
C11	70°37'13"	215.00'	265.00'
C12	90°34'18"	156.60'	247.55'
C13	90°34'18"	106.60'	168.51'
C14	34°35'53"	275.00'	166.06'
C15	48°52'06"	225.00'	191.91'
C16	33°02'49"	205.00'	118.24'
C17	44°41'50"	205.00'	159.92'
C18	31°49'52"	155.00'	86.11'
C19	150°00'00"	50.00'	130.90'
C20	150°00'00"	50.00'	130.90'
C21	89°51'51"	50.00'	78.42'
C22	31°49'52"	205.00'	113.89'
C23	77°44'39"	155.00'	210.32'
C24	68°16'32"	50.00'	373.74'
C25	58°20'22"	215.00'	218.92'
C26	174°43'15"	50.00'	152.47'
C27	48°52'06"	275.00'	234.55'
C28	34°35'53"	225.00'	135.87'
C29	89°53'41"	5.00'	7.84'

Map Amendment and Road Vacation FOR JJH PROPERTY 3, LLC.

Tracts B1, B2, B3, L2 and L3, Cuchara Mountain Park Estates
Panadero Development Filing No. 4
a Planned Unit Development
County of Huerfano, State of Colorado



KNOW ALL MEN BY THESE PRESENTS: That JJH Property 3, LLC being the sole owner of the following described property:

Tract B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates (Panadero Development, Filing No. 4), Recorded Map No. 425, Recorded August 2, 1999 at Reception No. 340387, According to the Records of the Clerk and Recorder for Huerfano County, Colorado

That JJH Property 3, 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 A, B, C, D, E, and F 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

Jonathan Hotaling (Owner, JJH, Property 3, LLC)

Date: _____

Jennifer Hotaling (Owner, JJH, Property 3, LLC)

Date: _____

STATE OF COLORADO)
COUNTY OF) ss

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, A.D. by Jonathan Hotaling and Jennifer Hotaling

WITNESS MY HAND AND OFFICIAL SEAL:

My Commission Expires: _____

Notary Public

I, William S. Bechaver, a Professional Land Surveyor, registered in the State of Colorado, hereby Certify to the Board of County Commissioners, of the County of Pueblo and to JJH Property 3, LLC, that a survey of the above described premises was conducted by me or under my direct responsible charge. That this plat of Map Amendment and Road Vacation complies with the minimum standards for Land Surveys and Plats as set forth in Section 38-51-106 et. Seq, C.R.S. 1995 (as amended).

William S. Bechaver PLS No. 38103
BH² Land Surveying, LLC

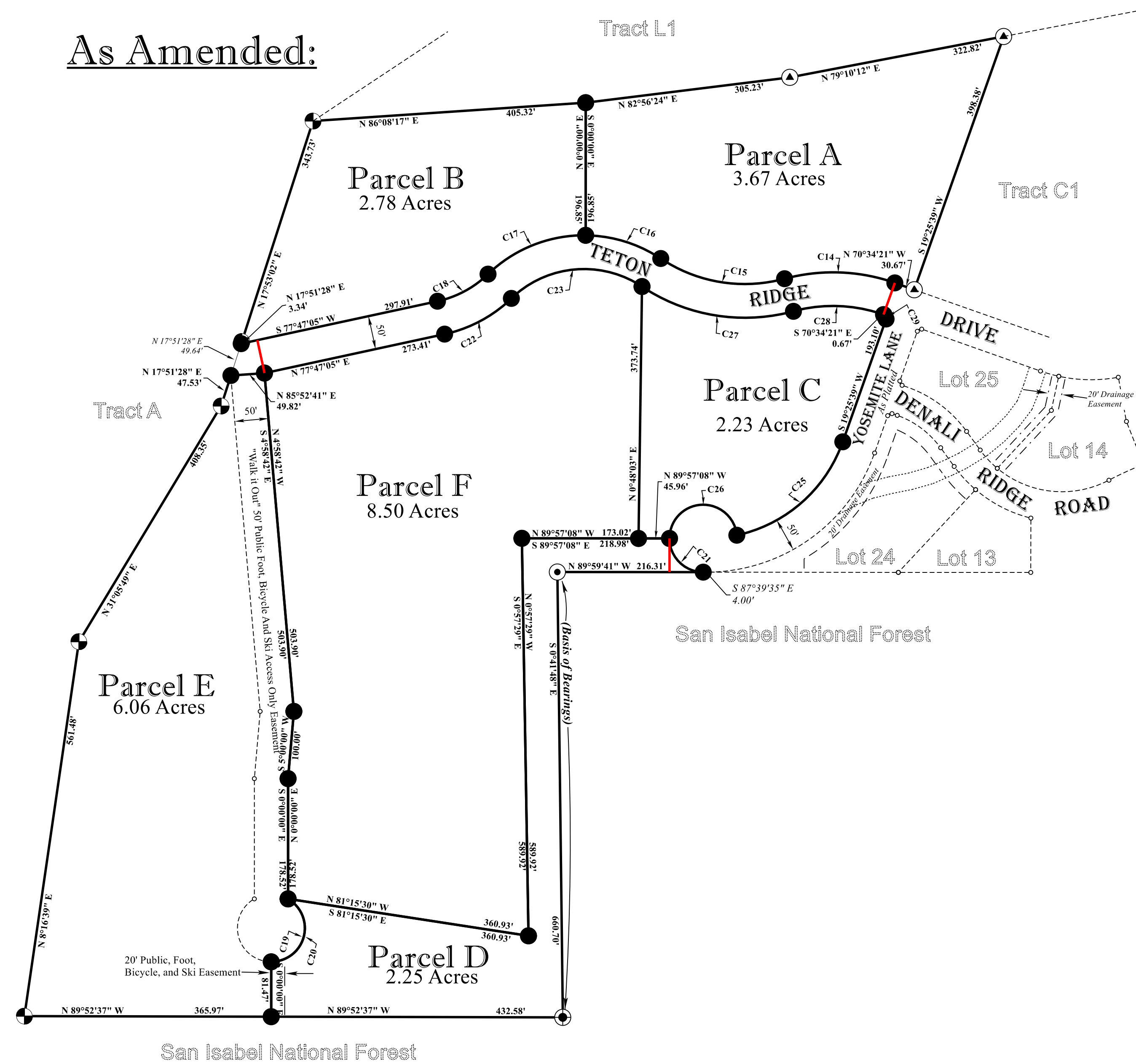
Date: _____

This is to Certify that this Map Amendment Plat and Road Vacation, is hereby approved this _____ day of _____, 2022, 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

As Amended:



San Isabel National Forest

 BH² LAND SURVEYING P.O. Box 20399, Colorado City, CO 81019 Phone: 719-676-2072 Email: bh2@ghvalley.net		
Scale 1" = 120'	Date: 11-4-2022	Drawn By: WSB
Sheet 1/1	Job No. 2022-057	

Supporting Documentation to
Letter of Request for
Plat Map Amendment Application
Tracts L2, L3, and west ends of Yosemite Lane and Teton Ridge Drive in Cuchara
Mountain Park Estates Filing #4

Additional Supporting Documentation and reason for the Map Amendment:

1. Regarding Tracts L2 and L3 labeled on Map 425 (see attached) as "HOA Controlled Open Space", please refer to the attached 3 documents:
 - A) Recorded Bargain and Sale Deed from the now terminated HOA to Grantees.
 - B) Recorded Termination of Declarations by the HOA. Note Recital B, and bullets 3 and 4 that remove any and all HOA restrictions and encumbrances on L2 and L3 including HOA/public access. Moreover, Tract L2 and L3 have never been used by nor utilized for HOA or public access or use.
 - C) Recorded Articles of Dissolution for the HOA.
2. Regarding vacation of western part of Yosemite Lane, please refer to the attached:
 - A) Recorded Declaration of Access Easement which details the terms and conditions of this "perpetual" public access easement across Lots 25 and 24 to "connect Yosemite Lane and Teton Ridge Drive". This easement is the existing road (Not the deeded and uncut Yosemite Lane) that is already cut in and is the only means of egress and ingress for all other landowners in Cuchara Mountain Park Estates Filing #4. JJH Property 3, LLC Does not want Huerfano County nor the owners of Lots 25 and 24 (so labeled on Map 425 as "Excessive Slope Lots") to cut in this remaining part Yosemite Lane or it's new circle at the new western end because the existence of the perpetual easement makes it unnecessary and doing so would be detrimental to the subdivision's appeal, operation, the forest, and drainage. Subdivision landowners and the public will still have National Forest Access off the southern end of the new Yosemite Lane traffic circle which is at the western end of the perpetual easement across Lots 24 and 25.

The Map Amendment is submitted this way because the new owners of Lots 24 and 25 have both indicated to Mr. Hotaling that they do not want to have their adjacent portions of Yosemite Lane vacated and instead intend to carve it in themselves in an attempt to do away with the existing road, now with a perpetual easement, that is being and always has been utilized by every landowner in the subdivision since the formation of the subdivision.

JJH Property 3, LLC would prefer to have all of Yosemite Lane vacated and the current road / easement made into the permanent road as outlined in section 5.9 of the recorded Declaration of Access Easement. However, the cooperation of the owners of Lots 24 and 25 will apparently be required to do so.

Current Zoning: Urban residential

Legal Description: Tracts L2 and L3 of Cuchara Mountain Park Estates Filing #4, and western ends of current Yosemite Lane and Teton Ridge Drive.

Parcel Numbers: 122424, 122425

Existing Utilities that serve the parcels: None.

Existing Structures: None.

Please feel free to contact us if you have any questions or concerns.

Sincerely,

JJH Property 3. LLC

3327 Springridge Cir, Colorado Springs, CO 80906

Jon & Jen Hotaling

303-725-7550

After Recording, Return to:
Jonathan Hotaling
3327 Springridge Cir
Colorado Springs, CO 80906

**TERMINATION
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION,
HUERFANO COUNTY, COLORADO**

THIS TERMINATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION, HUERFANO COUNTY, COLORADO ("Termination") is made by the undersigned Owners of Lots within the Cuchara Mountain Park Estates Master Homeowners Association, a Colorado nonprofit corporation ("Association").

RECITALS

A. The Declaration of Covenants, Conditions and Restrictions for Cuchara Mountain Park Estates Master Homeowners Association, Huerfano County, Colorado was recorded on August 2, 1999 at Reception No. 340388 in the real property records of Huerfano County, State of Colorado ("Declaration"). Capitalized terms used but not defined herein shall have the same meanings set forth in the Declaration.

B. The Declaration refers to Exhibits A through D which were to identify the real property subject to the Declaration, additional real property that could be annexed to the Declaration, the Association Properties and the Common Area. The Declaration was recorded without any of the Exhibits attached thereto and, except for general reference to Cuchara Mountain Park Estates, the Declaration did not otherwise identify or provide the legal description of the real property initially subject to the Declaration, the additional property that could be annexed to the Declaration or any Association Properties or Common Area. Therefore, there is uncertainty whether the Declaration encumbers any portion of Cuchara Mountain Park Estates or properly establishes a common interest community.

C. Pursuant to Article IX, Section 4 of the Declaration, the Class A Members may terminate and extinguish the Declaration by written instrument executed by at least three-fourths (3/4) of the Class A Members, and pursuant to C.R.S. 38-33.3-218 a common interest community may be terminated only by agreement of unit owners of units to which at least sixty-seven percent (67%) of the votes in the association are allocated or any larger percentage the declaration specifies.

D. The terms, conditions and restrictions of that certain Warranty Deed from Cuchara Partners, LTD. to Cuchara Mountain Park Estates Master Homeowners Association dated July 22, 1999 and recorded at Reception No. 340385, County of Huerfano, State of Colorado (the "Deed") was intended to supplement the Declaration and as such the parties hereto desire to relinquish any and all right under the Deed in conjunction with this Termination.

E. The undersigned owners desire to terminate and extinguish the Declaration and constitute the Owners of Lots to which at least three-fourths of votes in the Association are allocated. This Termination constitutes the agreement of such Owners to terminate the Declaration in its entirety.

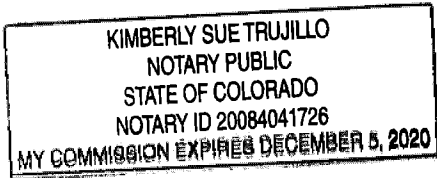
NOW, THEREFORE, the undersigned Owners hereby declare as follows:

1. The foregoing Recitals are incorporated herein by this reference.
2. Pursuant to C.R.S. 38-33.3-218 and Article IX, Section 4 of the Declaration, the Declaration and the common interest community created thereunder is hereby terminated and extinguished in its entirety. This Termination shall be effective upon the recording of this Termination in the real property records of Huerfano County, Colorado, and thereafter neither the Declaration nor the common interest community created thereunder shall have any further force or effect. This Termination shall be void unless it is executed and recorded on or before June 1, 2021.
3. The undersigned parties each hereby relinquish any and all rights of such parties to enforce the terms of the Deed, including, without limitation, any and all rights to enforce any restrictions on ownership or use of the property described in such deed and acknowledge such use restrictions shall be of no further force and effect.
4. Notwithstanding the termination of the Declaration as provided herein, all easements granted pursuant to the Declaration for roads, utilities and drainage, shall remain in full force and effect; provided, however that all easements and restrictions over L2 and L3 are hereby terminated by this Termination.

[signature pages follow]

[signature page]

IN WITNESS WHEREOF, the undersigned Owners have executed this Termination of Declaration of Covenants, Conditions and Restrictions for Cuchara Mountain Park Estates Master Homeowners Association, Huerfano County, Colorado.



Cuchara Mountain Resort Investors, LLC
a Colorado limited liability company

By: [Signature]
A. Bruce Cantrell, Manager

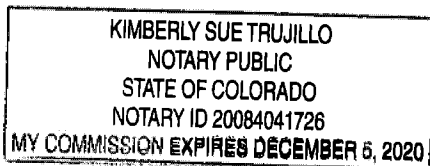
STATE OF COLORADO)
COUNTY OF Huerfano) ss.

The foregoing instrument was acknowledged before me this 23rd day of May, 2020, by A. Bruce Cantrell, as Manager of Cuchara Mountain Resort Investors, LLC, a Colorado limited liability company.

Witness my hand and official seal.

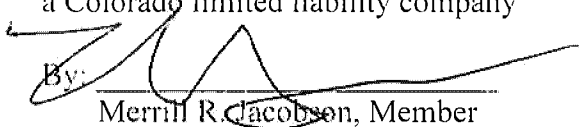
My commission expires: 12-5-2020

[Signature]
Notary Public



[signature page]

Purgatoire Properties, L.L.C.
a Colorado limited liability company

By: 

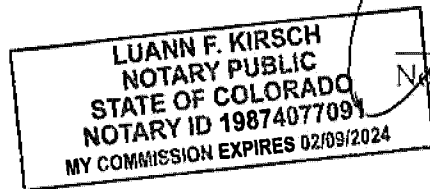
Merrill R. Jacobson, Member

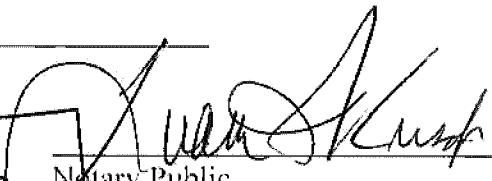
STATE OF COLORADO)
COUNTY OF Denver) ss.

The foregoing instrument was acknowledged before me this 28th day of May, 2020,
by Merrill R. Jacobson, as Member of Purgatoire Properties, L.L.C., a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____




Notary Public

[signature page]

Jean Okerman
 JEAN OKERMAN

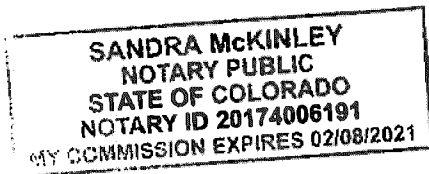
Date: 6/30/2020

STATE OF COLORADO)
) ss.
 COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 30 day of June, 2020, by Jean Okerman.

Witness my hand and official seal.

My commission expires: 02/08/2021



Sandra McKinley
 Notary Public

[signature page]


JONATHAN HOTALING


JENNIFER HOTALING

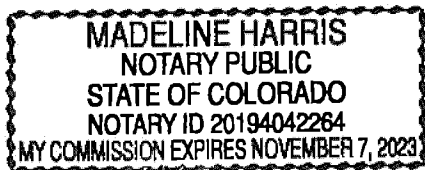
Date: July 7, 2020

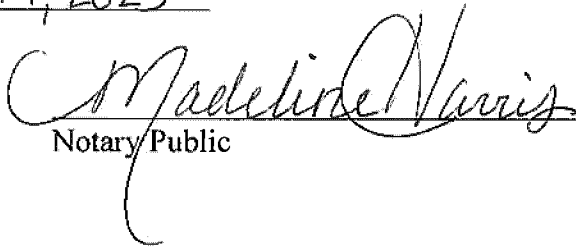
STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 7th day of July, 2020, by Jonathan Hotaling.

Witness my hand and official seal.

My commission expires: Nov. 7, 2023



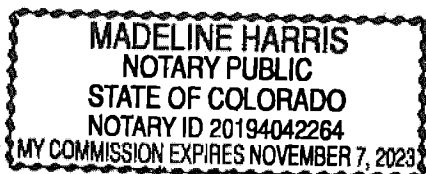

Notary Public

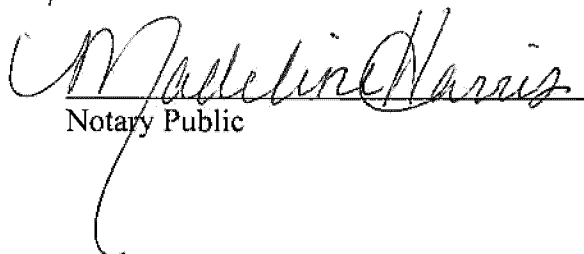
STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 7th day of July, 2020, by Jennifer Hotaling.

Witness my hand and official seal.

My commission expires: Nov. 7, 2023




Notary Public

WHEN RECORDED MAIL TO:Jonathan Hotaling
3327 Springridge Cir
Colorado Springs, CO 80906**DECLARATION OF ACCESS EASEMENT**

THIS DECLARATION OF ACCESS EASEMENT (this "Declaration") is made and entered into as of the 2nd day of May, 2020 (the "Effective Date"), by PURGATOIRE PROPERTIES, L.L.C., a Colorado limited liability company, whose address is 1918 Foxfield Drive, Castle Rock, Colorado 80104 ("Grantor").

RECITALS

A. Grantor is the fee owner of certain real property known as Lots 24 and 25, Cuchara Mountain Park Estates, Huerfano County, Colorado, as legally described on **Exhibit A** attached hereto ("Lot 24 and Lot 25").

B. The Grantor intends to establish certain access easements over, upon and across a portion of Lot 24 and Lot 25 referred to as the Access Area (as defined below) for the benefit of Grantor, Lot 24 and Lot 25, Cuchara Mountain Park Estates and the general public on the terms and conditions set forth herein. The "Access Area" is an area 25 foot in width being (i) the easterly 25 feet of Lot 25 along the easterly boundary of Lot 25, and (ii) the northerly and westerly 25 feet of Lot 24 along the northerly and westerly boundaries of Lot 24, from Teton Ridge Drive to Yosemite Lane.

D. Grantor intends that development of the land within Cuchara Mountain Park Estates be served by the Access Area and desires to subject and place upon Lot 24 and Lot 25 certain covenants, easements, and obligations for access easement purposes to protect the value and desirability of the such land, ensuring access thereto, and for the purpose of furthering a plan for the improvement, sale and ownership of such land, to the end that harmonious and complementary development of such land may be accomplished and the health, comfort, safety, convenience and general welfare of owners of the Land, or any portion thereof, may be promoted and safe-guarded.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenant, declares and states as follows as of the Effective Date:

1. Easement. The Grantor does hereby declare, establish, create, reserve and grant a non-exclusive, easement solely for vehicular and pedestrian roadway access, ingress and egress, but not for parking purposes (the "Easement"), over, upon and across the Access Area in order to permit vehicular and pedestrian access between Yosemite Lane and Teton Ridge Drive. The Easement is granted for the use and benefit of the owners of Lot 24, Lot 25, other land within

C7178843

Cuchara Mountain Park Estates and the general public to provide for the passage of motor vehicles and pedestrians.

2. Character of Easement.

2.1 Right to Relocate Access Area. There is hereby established for the benefit of Grantor the right to relocate within Lot 24 and Lot 25 all or a portion of the Access Area from time to time, if necessary for the beneficial use of Grantor's Property. In the event the Access Area or portion thereof is relocated, the easement rights granted by this Declaration will be applicable to the relocated Access Area or portion thereof.

2.3 Obstructions within Access Area. No person shall be permitted to erect within the Access Area any barriers, fences, curbs, walls, ditches, barricades or other structures or obstacles so as to unreasonably burden or interfere with, impede, divert or prevent vehicular and pedestrian traffic over the Access Area.

2.4 No Parking Easement. Nothing contained in this Declaration shall be deemed to establish, grant, convey or reserve any easement, license or right for parking purposes.

2.5 Lateral or Subjacent Support. Grantor shall not take any action which would impair the lateral or subjacent support necessary or convenient for the full use and enjoyment of the easement rights hereunder and any access improvements located within the Access Area.

3. Maintenance Obligations.

3.1 Except as otherwise expressly set forth herein, Grantor and the owner(s) of the neighboring parcels, known as Tracts B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates, shall have the right, but not the obligation, to maintain any and all roadway improvements located on the Access Area as necessary to permit the passage of pedestrians and vehicles, including snowplowing as deemed necessary or desirable, at such party's own cost and expense.

3.2 Taxes. Grantor shall pay or cause to be paid, prior to any penalty attaching thereto, all real estate taxes, assessments and personal property taxes, if any, imposed upon the land and improvements and equipment located on Lot 24 and Lot 25, including the Access Area.

4. Miscellaneous.

4.1 No Merger of Interests.

(i) The rights and interests of the Grantor under this Declaration as the owner of any individual lot or tract are separate and distinct from its rights and interests under this Declaration as the owner of any other lot or tract. Any vesting of all interests in multiple lots or tracts in a single party will not cause a merger of those interests or any extinguishment of this Declaration or the rights and interests created by this Declaration. It is intended that no such merger occur and this Declaration remain in full force and effect from and after the Effective Date.

(ii) It is the intent of Grantor that the Easement granted and declared by this Declaration shall be perpetual in duration.

5.3 Limited to the Easement. Nothing contained herein shall be deemed or construed to grant any rights in or to any property other than the Access Area.

5.4 Appurtenant Easement. The benefits and burdens created by this Declaration are appurtenant to and shall run with Lots 24 and 25 and shall inure to the benefit of and be binding upon the Grantor, its successors and assigns, and any party using the Access Area.

5.5 No Implied Easement. Nothing contained in this Declaration shall be deemed to create any implied easements not otherwise expressly established herein.

5.6 Descriptive Headings. The descriptive headings of the sections hereof are inserted for convenience only and shall not control or affect the meanings or construction of any provisions hereof.

5.7 Modification. The terms and conditions of this Declaration may be abrogated, modified, rescinded or amended in whole or in part only by written instrument executed by the Grantor and the owners of Tracts B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates and recorded in the real property records of the County of Huerfano, Colorado ("Records"). No waiver shall be deemed a continuing waiver with respect to any breach or default, whether of similar or different nature, unless expressly stated in writing.

5.8 Partial Invalidity. In case any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Declaration shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

5.9 Dedication. The Grantor shall have the right, at any time, to dedicate, transfer or convey the Access Area or other public right of way over and across Lot 24 and Lot 25 to the Huerfano County, Colorado for public use as a connector road for vehicular and pedestrian access between Yosemite Lane and Teton Ridge Drive, in which case this Easement shall terminate.

5.10 Mortgagee Protection. Neither the breach of any of the covenants and restrictions contained in this Declaration, nor the enforcement of any remedy provisions contained in this Declaration, shall render invalid the lien of any mortgage, deed of trust, or other lien against any Lot 24 and Land 25 made in good faith and for value. All of the covenants and restrictions herein contained shall be binding upon and effective against any successor whose title is derived through foreclosure, trustee sale, or deed in lieu thereof or otherwise.

5.11 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Colorado.

5.12 Exhibits. All exhibits referred to in this Declaration and attached hereto, as listed below, are incorporated herein by this reference:

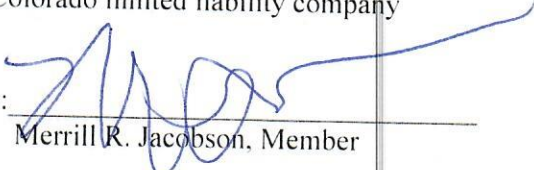
Exhibit A: Legal Description for Lot 24 and Lot 25

5.13 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given on the same day if delivered personally, or on the date receipt is confirmed if mailed by registered or certified mail or by commercial overnight courier (e.g., FedEx, DHL, etc.), return receipt or confirmation of delivery requested, to Grantor at the address set forth above, and to each subsequent owner of Lot 24 and Lot 25 at the address for such owner or at such other address as shall be specified by like notice.

[Signature pages follow.]

IN WITNESS WHEREOF, the Grantor has granted this Declaration as of the Effective Date.

PURGATOIRE PROPERTIES, L.L.C.,
a Colorado limited liability company

By: 

Merrill R. Jacobson, Member

STATE OF COLORADO)

COUNTY OF Denver) ss.

The foregoing instrument was acknowledged before me this 29th day of May 2020, by Merrill R. Jacobson, as Member of Purgatoire Properties, L.L.C., a Colorado limited liability company.

Witness my hand and seal.

My commission expires _____

Notary Public


LUANN F. KIRSCH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19874077091
MY COMMISSION EXPIRES 02/09/2024

EXHIBIT A**LEGAL DESCRIPTION OF LOT 24 AND LOT 25**

LOT 24 AND LOT 25, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

425899

Page 1 of 3

Nancy C. Cruz, Clerk & Recorder

Huerfano County, CO

03-10-2022 01:55 PM Recording Fee \$23.00

After recording, please return to:

MASON LAW AND PLANNING GROUP, LLC
16055 Old Forest Point, Suite #301
Monument, Colorado 80132

Reserved for recording information

Special Warranty Deed

THIS DEED is made this 24th day of February 2022 between **JONATHAN HOTALING AND JENNIFER HOTALING**,

Grantor,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906, and

JJH PROPERTY 3, LLC,

Grantee,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906,

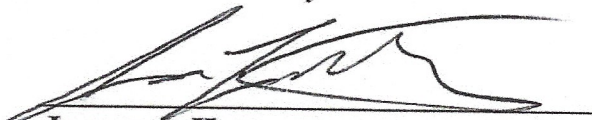
for and in consideration of Ten and no/100 Dollars (\$10.00), in hand paid, the receipt and sufficiency of which is hereby acknowledged, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantee(s) heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Huerfano, State of Colorado, described as follows:

TRACT B-1 AND B-2, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

SEE EXHIBIT A ATTACHED

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), 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(s) heirs and assigns forever. And the grantor(s), for sell heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantee(s), heirs and assigns, that at the time of the ensealing and delivery of these presents, well seized of the premises above conveyed, good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and good right, full power and authority to grant, bargain, sell and convey 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.


JONATHAN HOTALING


JENNIFER HOTALING

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 24th day of February 2022, by Jonathan Hotaling and Jennifer Hotaling.

WITNESS my hand and official seal.

My commission expires: 04/16/2022

AMANDA FREITAG
Notary Public
State of Colorado
Notary ID # 20184016578
My Commission Expires 04-16-2022

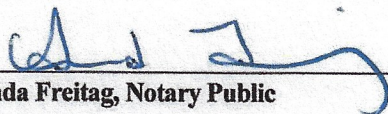

Amanda Freitag, Notary Public

EXHIBIT A / EXCEPTIONS**FILING NUMBER: CT 178843**

- 1. EASEMENTS, NOTES, TERMS, CONDITIONS, PROVISION, RESTRICTIONS, COVENANTS, AGREEMENTS AND OBLIGATIONS, IF ANY, AS CONTAINED ON THE PLAT OF SAID SUBDIVISION RECORDED AUGUST 22, 1999 AT RECEPTION No. 340387.**
- 2. COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, RESERVATIONS AND LIEN RIGHTS, IF ANY, WHICH DO NOT INCLUDE A FORFEITURE OR REVERTER CLAUSE, DELETING RESTRICTIONS, IF ANY, BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILY STATUS OR NATIONAL ORIGIN SET FORTH IN THE DECLARATION RECORDED AUGUST 2, 1999 AT RECEPTION No. 340388, AND ANY AND ALL AMENDMENTS, SUPPLEMENTS, AND ANNEXATIONS THERETO.**
- 3. TERMS, AGREEMENTS, PROVISIONS, CONDITIONS AND OBLIGATIONS OF TREASURER'S DEED RECORDED AUGUST 16, 2017 AT RECEPTION No. 409771.**

425898

Page 1 of 4

Nancy C. Cruz, Clerk & Recorder
Huerfano County, CO

03-10-2022 01:55 PM Recordings Fee \$28.00

After recording, please return to:

MASON LAW AND PLANNING GROUP, LLC
16055 Old Forest Point, Suite #301
Monument, Colorado 80132

Reserved for recording information

Special Warranty Deed

THIS DEED is made this 24th day of February 2022 between **JONATHAN HOTALING AND JENNIFER HOTALING**,

Grantors,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906, and

JJH PROPERTY 3, LLC,

Grantee,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906,

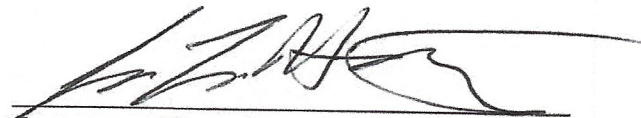
for and in consideration of Ten and no/100 Dollars (\$10.00), in hand paid, the receipt and sufficiency of which is hereby acknowledged, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantee(s) heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Huerfano, State of Colorado, described as follows:

TRACT B-3, L-2 AND L-3, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

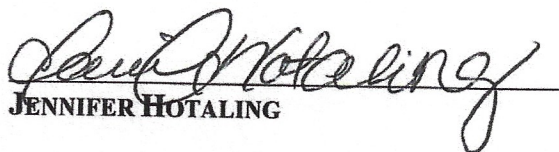
SEE EXHIBIT A ATTACHED BELOW

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), 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(s) heirs and assigns forever. And the grantor(s), for sell heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantee(s), heirs and assigns, that at the time of the ensealing and delivery of these presents, well seized of the premises above conveyed, good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and good right, full power and authority to grant, bargain, sell and convey 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.



JONATHAN HOTALING



JENNIFER HOTALING

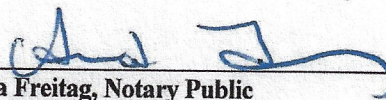
STATE OF COLORADO)
) ss.
 COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 24th day of February 2022, by Jonathan Hotaling and Jennifer Hotaling.

WITNESS my hand and official seal.

My commission expires: 04/16/2022

AMANDA FREITAG
 Notary Public
 State of Colorado
 Notary ID # 20184016578
 My Commission Expires 04-16-2022



Amanda Freitag, Notary Public

EXHIBIT A
EXCEPTIONS TO TITLE

DECLARATION OF COVENANTS FOR CUCHARA MOUNTAIN PARK ESTATES, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340388

9. TREASURES DEED FOR THE ROADS AT CUCHARA MOUNTAIN PARK ESTATES PANADERO DEVELOPMENT FILING NO. 4, RECORDED AUGUST 16, 2017 AT RECEPTION NO. 409771.

10. RESOLUTION NO. 99-18 FOR CUCHARA MOUNTAIN PARK ESTATES – PANADERO DEVELOPMENT FILING NO. 4, RECORDED AUGUST 4, 1999 AT RECEPTION NO. 340418 AND RESOLUTION NO. 99-19A, RECORDED AUGUST 4, 1999 AT RECEPTION NO. 340420.

11. TITLE TO ALL MINERALS WITHIN AND UNDERLYING THE PREMISES, TOGETHER WITH ALL MINING AND DRILLING RIGHTS AND OTHER RIGHTS, PRIVILEGES AND OTHER IMMUNITIES RELATING THERETO.

12. ANY AND ALL EXISTING ROADS, HIGHWAYS, DITCHES, CANALS, RESERVOIRS, WELLS, RAILROAD TRACKS, PIPELINES, WATER LINES, POWER LINES, TELEPHONE LINES, AND ANY AND ALL RIGHT OF WAY EASEMENTS THEREFORE.

13. EASEMENTS GRANTED TO THE CUCHARAS SANITATION AND WATER DISTRICT BY DEEDS RECORDED FEBRUARY 15, 1985 IN BOOK 373 PAGE 319.

14. EASEMENT GRANTED TO CUCHARAS SANITATION AND EATER DISTRICT BY INSTRUMENT RECORDED FEBRUARY 14, 1985 IN BOOK 373 PAGE 318.

15. TERMS, CONDITIONS AND AGREEMENTS IN THE AGREEMENT REGARDING CUCHARA VALLEY RESORT WATER AND SEWER SYSTEMS RECORDED MARCH 22, 1990 IN BOOK 8M PAGE 568.

16. SPECIAL WARRANTY DEED REGARDING CUCHARA VALLEY RESORT WATER AND SEWER SYSTEMS RECORDED MARCH 22, 1990 IN BOOK 8M PAGES 565, 566 AND 567.

17. UNRECORDED LEASE TO THE LA VETA FIRE PROTECTION DISTRICT DATED JUNE 1, 1987 AFFECTING A PARCEL OF LAND 120 FEET BY 240 FEET IN THE NW1/4 OF SECTION 16, TOWNSHIP 31 SOUTH, RANGE 69 WEST OF THE 6TH P.M.

18. EXCEPTING AND RESERVING TO THE UNITED STATES A RIGHT OF WAY FOR DITCHES AND CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES ACT OF AUGUST 30, 1890 (26 STAT, 39; 43 U.S.C. 945) AS RESERVED IN PATENT RECORDED IN BOOK 379 PAGE 485.

19. EASEMENT TO U.S. WEST COMMUNICATIONS, INC. RECORDED JULY 26, 1994 IN BOOK 26M PAGE 16.

20. MASTER LAND USE ON MAP FILED DECEMBER 17, 1997 AS MAP NO. 405.

21. RESOLUTION 99-19-A, A RESOLUTION APPROVING THE PLAT OF CUCHARA MOUNTAIN PARK

- ESTATES, PANADERO SUBDIVISION FILING No. 4, FILED AUGUST 4, 1999 AT RECEPTION No. 340420.**
- 22. NOTES, RESTRICTIONS AND EASEMENTS AS SHOWN ON PLAT OF CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT FILING No. 4) AND PANADERO DEVELOPMENT FILING 4A AS FILED AUGUST 2, 1999 AT RECEPTION No. 340387, MAP No. 425.**
- 23. PERPETUAL EASEMENT FOR UTILITIES CUCHARA PARTNERS, LTD ETAL FILED JANUARY 9, 2002 AT RECEPTION No. 352165 FOR PANADERO FILING No. 3.**
- 24. EASEMENT TO THE CUCHARAS SANITATION AND WATER DISTRICT RECORDED SEPTEMBER 13, 2004 AT RECEPTION No. 364883.**
- 25. TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT WITH THE CUCHARAS SANITATION AND WATER DISTRICT RECORDED SEPTEMBER 14, 2004 AT RECEPTION No. 364899.**
- 26. RECEPTION OF USE OF PROPERTY FOR RECREATIONAL PURPOSES ONLY AS SHOWN IN DEED RECORDED AUGUST 2, 1999 AT RECEPTION No. 340385 AS TO LOTS L-2 AND L-3.**
- 27. PERPETUAL EASEMENT RECORDED ON SPECIAL WARRANTY DEED FROM SKI CUCHARA, L.P., A TEXAS LIMITED PARTNERSHIP AND CUCHARA PARTNERS, LTD, RECORDED JULY 16, 1997 AT RECEPTION No. 329792.**



Sky Tallman <stallman@huerfano.us>

JJH Property 3 LLC, new density spreadsheet attached

Jon Hotaling <jon@libertyservice.group>

Thu, Dec 15, 2022 at 4:36 PM

To: Sky Tallman <stallman@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Hi Sky,

Thanks for talking to me today. FYI, I spoke to the assessor and she said she was not aware of the BOCC's new mill levy rate. Nevertheless, she answered all my questions about current and future property tax calculations. Thank you.

Per our previous Planning Commission meeting and in preparation of our next meeting on Dec 22, attached is the spreadsheet of our new requested densities which were derived based on acreage percent of the total and the new total density of 240 (down from current 260 multi family residential).

Our current proposed map has 6 proposed "Parcels" so as to satisfy the county's requirement for an amendment that does not "significantly" increase the total number of lots. If possible, we would prefer 8 total lots (derived from our 5 "Tracts" not lots, via MAP 425) and would ask that the 3 additional "Parcels" not be considered a significant increase.

To accomplish this we would split proposed parcels A and B into 3, 2.15 acre lots, and split proposed Parcel F roughly in half. Parcel E to be used as county park / ski area, would not change under any of the scenarios, fyi

Thank you for your help Sky and for letting us know if you need anything else before Dec 22.

Best,

Jon Hotaling

--
Liberty Service Group

C: (303) 725-7550

W: (202) 630-3629



Propossed new multi family residential densities for JJH Property 3, LLC map amendment.xlsx

19K

Current Proposed Option 1 - 6 Lots	New density 1	Option 2 - 7 Lots	New density 2	Option 3 - 8 lots	New Density 3
A -3.67 acres	35	A - 2.15 acres	20	A - 2.15 acres	20
B - 2.78 acres	26	B - 2.15 acres	20	B - 2.15 acres	20
C - 2.23 acres	21	C - 2.15 acres	20	C - 2.15 acres	20
D - 2.25 acres	21	D - 2.23 acres	22	D - 2.23 acres	22
E - 6.06 acres	57	E - 2.25 acres	21	E - 2.25 acres	21
F - 8.5 acres	80	F - 6.06 acres	57	F - 6.06 acres	57
		G - 8.5 acres	80	G - 4 acres	38
				H - 4.5 acres	42
25.49	240	25.49	240	25.49	240

Reducing multi family residential density from current 260 (on 25.08 acres) to 240 (on 25.49 acres)



Sky Tallman <stallman@huerfano.us>

Documents to be added to packet

jon@libertyservice.group <jon@libertyservice.group>

Fri, Jan 6, 2023 at 1:02 PM

To: Jon@libertyservice.group

Cc: Sky Tallman <stallman@huerfano.us>, BH2 Land Surveying <bh2@ghvalley.net>

One other thing Sky, can you please also make note in our subdivision amendment application the our land was originally set up in 5 tracts, not lots.

Presumably they were still going to divide those “tracts” into more lots but never got around to it.

Therefore our hope is that the bocc would recognize that our desired 8 lots is not a “significant” number of increased lot numbers since our 5 tracts would likely have been divided into even more than 8 lots.

Thanks Sky.

Jon

Sent from my iPhone

On Jan 6, 2023, at 1:35 PM, Jon@libertyservice.group wrote:

Thanks sky. See you on the 17th.

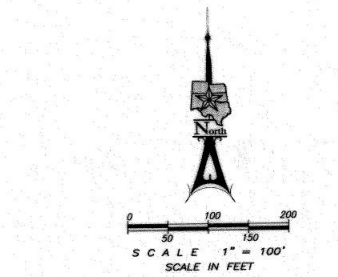
[Quoted text hidden]

CUCHARA MOUNTAIN PARK ESTATES

PANADERO DEVELOPMENT FILING NO. 4 A PLANNED UNIT DEVELOPMENT

BEING A REPLAT OF A PORTION OF PANADERO DEVELOPMENT FILING NO. 3 AND AN UNPLATTED PORTION OF THE N.W. 1/4 AND THE S.W. 1/4, SECTION 16, AND THE N.E. 1/4 AND THE S.E. 1/4 OF SECTION 17, HUERFANO COUNTY, COLORADO

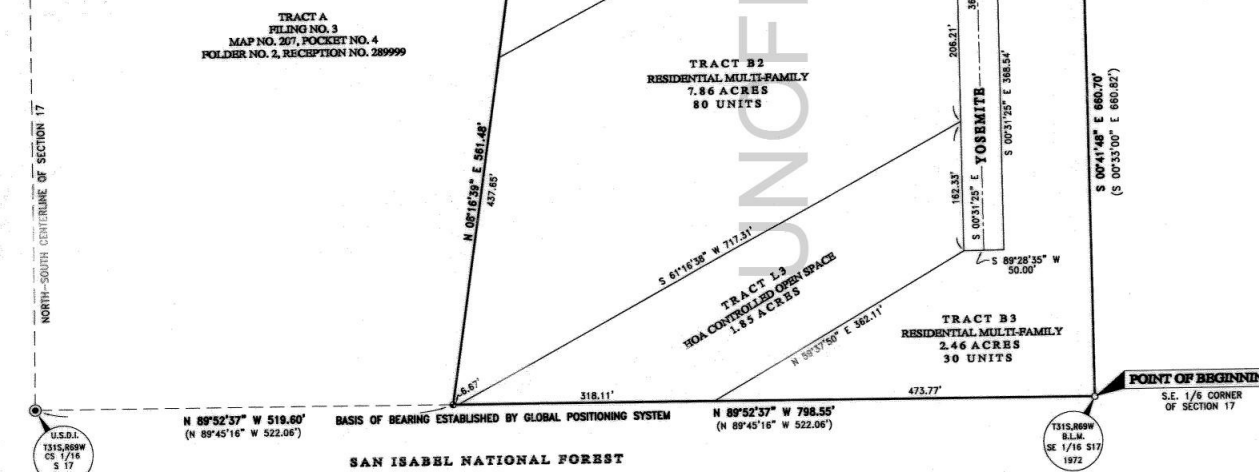
SHEET 2 OF 2



- LEGEND**
- AS NOTED
 - 1/2" IRON ROD FOUND
 - 1/2" IRON ROD FOUND W/ WAW CAP
 - 1/2" x 24" REBAR SET W/ 2" DIA ALUMINUM CAP STAMPED GAI PLS 27265
 - 2-1/2" IRON PIPE W/ 3" BRASS CAP FOUND

- NOTES**
1. () Indicates previously recorded information per Panadero Development Filing No. 3
 2. all interior corners are 1/2" x 24" rebar w/ plastic cap stamped "Gresham PLS 27265"
 3. Lots 1-25 are residential single family

NUMBER	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	29°00'00"	170.00	56.04	43.86	S 77°38'10" E	85.13
C2	28°37'48"	230.00	106.90	54.43	S 76°47'05" E	105.94
C3	11°07'02"	230.00	44.63	22.38	N 84°20'31" E	44.56
C4	44°59'21"	150.00	117.78	62.12	S 42°47'59" E	114.78
C5	04°59'45"	235.00	283.15	101.65	S 87°47'51" E	205.10
C6	43°38'16"	175.00	133.18	70.00	N 44°19'30" E	129.89
C7	43°18'02"	175.00	132.25	69.46	N 87°46'38" E	129.13
C8	34°33'53"	275.00	186.06	85.65	N 87°52'17" E	185.55
C9	48°52'08"	225.00	191.91	102.23	S 89°44'11" E	185.14
C10	77°44'38"	205.00	278.16	165.25	S 84°49'33" W	257.31
C11	25°21'23"	58.00	257.48	76.47	S 81°13'29" E	92.42
C12	81°32'23"	5.00	7.12	4.31	S 11°38'54" W	6.53
C13	71°16'48"	155.00	192.83	111.15	S 89°03'29" W	180.63
C14	48°52'08"	225.00	234.55	124.94	S 89°44'11" E	227.51
C15	34°33'53"	225.00	135.87	70.08	N 87°52'17" W	133.81
C16	90°00'00"	5.00	7.85	5.00	N 29°34'21" W	7.07
C17	90°00'00"	5.00	7.85	5.00	S 64°25'59" W	7.07
C18	07°09'50"	225.00	28.13	14.08	S 74°09'16" E	28.11
C19	22°38'51"	225.00	88.94	45.06	S 89°03'56" E	88.36
C20	13°29'21"	225.00	52.97	26.61	N 72°52'18" E	52.85
C21	19°39'58"	225.00	77.23	39.00	N 56°17'40" E	76.85
C22	23°56'20"	225.00	94.01	47.70	N 54°29'32" E	93.33
C23	92°28'23"	5.00	8.07	5.22	S 26°48'33" E	7.32
C24	37°03'48"	185.00	119.67	62.01	N 54°30'51" W	117.60
C25	14°15'51"	150.00	37.26	18.72	S 43°05'53" E	37.16
C26	67°23'54"	150.00	178.54	108.19	S 83°59'46" E	186.52
C27	66°08'06"	525.00	56.21	28.13	S 89°25'20" W	56.19
C28	14°58'38"	525.00	136.83	68.86	S 75°57'42" W	136.54
C29	06°40'28"	525.00	81.16	30.61	S 89°46'15" W	81.12
C30	28°53'30"	125.00	55.76	28.35	N 71°14'44" E	55.30
C31	89°39'01"	125.00	151.95	86.96	N 29°43'28" E	142.77
C32	121°40'53"	50.00	106.19	89.61	S 13°25'51" E	87.33
C33	63°22'52"	50.00	55.31	30.87	S 79°02'01" W	52.55
C34	59°12'41"	50.00	51.67	28.41	N 39°40'13" W	49.40
C35	33°03'42"	50.00	48.05	26.06	N 17°27'59" E	46.22
C36	19°58'07"	175.00	47.76	24.03	N 00°01'56" W	47.61
C37	28°13'46"	175.00	86.22	44.01	N 21°54'00" E	85.35
C38	28°52'05"	175.00	87.15	44.50	N 50°16'50" E	86.26
C39	25°13'30"	175.00	78.86	39.68	N 77°19'44" E	77.42
C40	19°02'43"	475.00	157.89	79.68	S 80°35'07" W	157.17
C41	08°42'29"	475.00	72.19	36.17	S 89°42'32" W	72.12
C42	41°53'55"	200.00	145.09	75.90	N 83°08'15" E	141.83
C43	28°40'06"	200.00	53.09	47.40	S 62°44'45" E	92.25
C44	19°25'44"	200.00	46.88	23.55	S 42°41'50" E	46.77
C45	34°35'23"	155.00	81.50	42.03	N 53°16'39" W	80.27
C46	90°00'00"	5.00	7.85	5.00	S 64°25'59" W	7.07
C47	70°37'13"	285.00	336.63	187.70	N 54°41'18" E	308.34
C48	90°34'18"	156.60	247.55	158.17	N 44°45'44" E	222.57
C49	90°34'18"	156.60	247.55	158.17	N 44°45'44" E	222.57
C50	70°37'13"	215.00	285.00	152.29	N 54°41'18" E	348.54
C51	43°38'16"	200.00	152.21	80.00	N 44°19'30" E	148.56
C52	43°18'02"	200.00	151.15	79.39	N 87°46'38" E	147.58
C53	34°33'53"	250.00	150.96	77.86	N 87°52'17" W	148.88
C54	48°52'08"	250.00	213.23	113.58	S 89°44'11" E	206.82
C55	71°16'48"	180.00	223.63	128.83	S 89°03'29" W	209.52
C56	29°25'11"	35.00	148.42	39.73	S 78°41'50" E	50.77
C57	80°55'00"	30.00	42.37	25.58	S 12°03'20" W	38.93
C58	11°32'23"	150.00	296.81	228.24	N 33°29'14" E	250.71
C59	27°45'12"	500.00	242.19	123.53	S 78°11'53" W	539.83
C60	81°38'46"	175.00	249.42	151.22	S 78°48'50" E	228.84
C61	34°35'23"	160.00	96.39	49.62	N 53°16'39" W	95.13
C62	70°37'13"	240.00	295.81	169.99	N 54°41'18" E	277.44
C63	90°34'18"	131.60	208.03	132.82	S 44°45'44" W	187.04



SAN ISABEL NATIONAL FOREST

NUMBER	DIRECTION	DISTANCE
L1	S 22°31'22" W	33.31'
L2	S 22°31'22" W	32.99'
L3	N 10°23'01" W	66.80'
L4	S 12°15'48" W	51.90'
L5	N 29°13'10" E	25.92'
L6	N 49°57'13" E	48.85'
L7	S 29°07'17" E	19.84'
L8	S 70°54'21" E	6.20'
L9	S 35°58'58" E	34.23'
L10	S 35°58'58" E	34.23'
L11	N 19°25'38" E	58.80'
L12	S 70°54'21" E	38.20'
L13	S 22°31'22" W	33.02'
L14	N 48°51'29" E	66.51'
L15	S 35°58'58" E	34.23'

GRESHAM & ASSOCIATES, INC.
SURVEYING & MAPPING
Registered Professional Land Surveyors
Colorado, Kansas, New Mexico, Oklahoma, Texas, UT

7342 S. Allen Way, Suite B Denver, Colorado 801
Phone: (303) 741-2283, 1-800-320-7744 Fax: (303) 741-2279

Project Description: Panadero Development Filing No. 4
Project No. Client: Huerfano County Drawn By: S. Gold
90-06-084P Cuchara Partnership LTD. Colorado

7-22-1999 9:31PM

FROM ROSENBAUM AND ASSOC. 719 634 0103

P. 4

WARRANTY DEED

CUCHARA PARTNERS, LTD., ("Grantor"), whose mailing address is 946 Panadero Avenue, Cuchara, Colorado 81055, for consideration of ten (\$10.00) Dollars and other good and valuable consideration, in hand paid, hereby sells and conveys to CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION, ("Grantee") whose address is 946 Panadero Ave., Cuchara, Colorado 81055, the following real property, to remain common area open space in perpetuity and this dedication shall run with the land, in the County of Huerfano, State of Colorado, to-wit:

Tracts L1, L2 and L3, Filing No. 4, Panadero Subdivision, Huerfano County, Colorado

with all its appurtenances, and warrants the title to the same, subject to any easements, restrictions, reservations, rights of way or covenants of record, if any, recorded in the records of the Huerfano County Clerk and Recorder.

The Grantor hereby stipulates the land described herein shall remain recreational open space in perpetuity, and left in its natural state "as is" without alteration or modification by structures or buildings. That the Grantee and its successors or assigns shall maintain this property in such state forever. That the Grantee and its successors or assigns agrees not to transfer, sell or otherwise dispose of the property except to a successor or related homeowners association or to a master homeowners association which may incorporate Grantee or its successors and assigns within it. That the property may be subject to easements for recreational use such as the building of trails for cross country skiing, hiking, biking or other park like uses of this property. The construction and operation of ski lift facilities shall be permitted. That no camping, motorized vehicles except for snow grooming and maintenance machinery be permitted on the property. That only owners, tenants, and guests of Grantee or Cuchara Mountain Resort may have access to the property for the use described herein and in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates, Huerfano County, Colorado. These listed restrictions and conditions shall run with the land and be perpetual in nature. Further Huerfano County shall have the unilateral right to take by any lawful means actions to enforce these perpetual conditions which run with the land.

Signed this 22 day of July, 1999.

GRANTOR:

CUCHARA PARTNERS, LTD.

By: Lawrence Smith

STATE OF New Mexico } ss.
COUNTY OF Bernalillo

The foregoing instrument was acknowledged before me this 22 day of July, 1999, by Lawrence Smith.

Witness my hand and official seal.

Notary Public

My commission expires: July 27, 2002



1

340385 08/02/1999 02:17P WD Judy Benine
1 of 1 R 5.00 D 0.00 Huerfano Co.

4



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <jon@libertyservice.group>
To: Sky Tallman <stallman@huerfano.us>, Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Mon, Nov 28, 2022 at 11:40 AM

Hi Sky and Lisa,

Below and attached, please see the title attorney's clarification. Please let me know if you need anything else.

Best,

Jon Hotaling
303-725-7550

----- Forwarded message -----
From: **Perlstein, Janet E.** <jperlstein@foxrothschild.com>
Date: Mon, Nov 28, 2022 at 10:38 AM
Subject: FW: [EXT] HOA papers for Cuchara Mountain Park Estates?
To: Jon Hotaling <jon@libertyservice.group>
Cc: Bohara, Stephen F. <SBohara@foxrothschild.com>

Jon,

The deed restrictions were granted to the Cuchara Mountain Park Estates Master Homeowners Association ("HOA"). The Declaration of Covenants Conditions and Restrictions for the HOA was terminated pursuant to the attached termination document, after such termination was voted on by the requisite percentage of owners at a duly called meeting of the owners association. At that same meeting, you were appointed as the president of the HOA and were delegated the authority to file all documents necessary to effect the resolutions adopted at the HOA meeting. As part of the termination, the owners agreed to relinquish any interest in the deed restrictions. In following the resolutions adopted by the owners at the meeting of the HOA, the HOA conveyed the deed restricted property to you and Jennifer pursuant to the attached Bargain and Sale Deed, relinquishing all rights title and interest of the HOA in and to the deed restrictions. Since the deed restrictions were relinquished by the HOA, which was the party holding the interest therein, the deed restrictions no longer exist and are of no further force or effect. Please let me know if you need any additional information.

Janet Perlstein
Partner
Fox Rothschild LLP
1225 17th St.
Suite 2200
Denver, CO 80202
(303) 383-7623 – direct

(720) 427-1924 - cell
(303) 292-1300 - fax
jperlstein@foxrothschild.com
www.foxrothschild.com

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any contents in this email. If you have received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

--
Liberty Service Group
C: (303) 725-7550
W: (202) 630-3629

2 attachments

-  112251363_1_TERMINATION OF CCRS FOR CUCHARA MOUNTAIN PARK ESTATES MASTER HOA RECORDED JULY 13, 2020, HUERFANO COUNTY, CO-C1-C.PDF
238K
-  112251440_1_BARGAIN AND SALE DEED - CUCHARA MOUNTAIN PARK ESTATES MASTER HOA TO JONATHAN AND JENNIFER HOTALING - RECORDED JULY 13, 2020, HUERFANO COUNTY, CO-C2-C-C.PDF
73K



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <jon@libertyservice.group> Mon, Nov 28, 2022 at 12:01 PM
To: Sky Tallman <stallman@huerfano.us>, Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Also, fyi, to your question about asking if the HOA had the right to relinquish the restrictions, Janet wrote:

No, the county does not have a point. All easements are granted in perpetuity, unless they specifically state that they are limited to a particular period of time. That does not prohibit the beneficiary of the easement from relinquishing its interest, and by doing so, extinguishing the easement, as occurred in this situation. The HOA is the beneficiary of the deed restriction. The HOA, as the beneficiary of the deed restriction, by vote of the requisite percentage of owners, resolved to relinquish any interest in the deed restriction (which relinquishment occurred both in the termination of Declaration of Covenants, Conditions and Restrictions and also in the Bargain and Sale deed, which conveyed any interest owned by the HOA in the deed restricted property to you and Jennifer) and to dissolve the HOA (which dissolution occurred on July 20, 2020). Let me know if you have any other questions.

Janet Perlstein
Partner
Fox Rothschild LLP
1225 17th St.
Suite 2200
Denver, CO 80202
(303) 383-7623 – direct

(720) 427-1924 - cell
(303) 292-1300 - fax
jperlstein@foxrothschild.com
www.foxrothschild.com

[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Sky Tallman <stallman@huerfano.us>

To: Jon Hotaling <jon@libertyservice.group>

Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Thu, Dec 1, 2022 at 1:30 PM

Jon,
I have discussed this with the County Attorney and have two outstanding concerns which do not appear to be addressed in the response above:

1. The deed restrictions grant use to owners, tenants, and guests of grantee or Cuchara Mountain Resort. Cuchara Mountain Resort refers to the Panadero subdivision, not just to the members of the Cuchara Mountain Park Master Homeowners Association, therefore the restrictions apply to more than just the grantee.
2. Section 2.02.11 of our Land Use Code requires BOCC action to remove deed restrictions. It reads: *The type of dedication, reservation or conveyance required in a given case shall be determined by the Board of County Commissioners in consultation with the Planning Commission, depending on the proposed size, use(s) and other characteristics of the subdivision. A reservation or dedication of areas for the use of owners or users of lots within the subdivision may be acceptable. Such areas shall be restricted to their intended use by plats, deed restrictions and/or recorded covenants which run with the land in favor of the future owners of property within the subdivision and which cannot be defeated or eliminated without the consent of the Board of County Commissioners. In the event of a reservation or dedication for the use of owners of lots within a subdivision, the applicant shall provide for the creation of a homeowners' association or similar organization with powers of assessment for maintenance, improvements and upkeep of such areas and the provisions contained within the homeowners' association bylaws or similar governing document shall receive approval from the Board of County Commissioners prior to acceptance of a final plat.*

Sincerely,
[Quoted text hidden]
[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <jon@libertyservice.group>

Mon, Dec 5, 2022 at 12:15 PM

To: Sky Tallman <stallman@huerfano.us>

Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Hi Sky and Lisa,

Below is our attorney's response to your previous inquiry. The language of the documents appear to be straightforward and clear. If you or the BOCC are still unsure, please let me know if you have any additional questions or concerns that I/we can address....

Via Scott Ross:

The deed restriction set forth in the July 22, 1999 Warranty Deed grants access to the property for use to only the owners, tenants and guests of Grantee or Cuchara Mountain Resort. However, the deed restriction further provides that these owners, tenants, and guests may have access in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates. The Declaration of Covenants for Cuchara Mountain Park Estates was terminated on July 13, 2020 by a Termination recorded at Reception No. 419220. Therefore, access for use of the property cannot occur in accordance with the Declaration of Covenants. Since the basis for having access has terminated, access is no longer available to such owners, tenants and guests, and their rights have effectively terminated.

Additionally, there are no owners, tenants or guests of Grantee or Cuchara Mountain Resort because neither Grantee or Cuchara Mountain Resort are entities that remain in existence. The Grantee under the Deed, the Cuchara Mountain Park Estates Master Homeowners Association, was dissolved in 2020. Further, in connection with the termination of the Declaration of Covenants and dissolution of the Master Homeowners Association, the members/owners of the Cuchara Mountain Park Estates Master Homeowners Association relinquished their rights under the Deed and that relinquishment is binding on the owners, tenants and guests of the Master Homeowners Association. Accordingly, the owners, tenants or guests of Cuchara Mountain Park Estates Master Homeowners Association have no rights under the Deed.

As for the owners, tenants, and guests of Cuchara Mountain Resort, the County asserts that Cuchara Mountain Resort refers to the Panadero subdivision but offers no explanation for this assertion. Cuchara Mountain Resort more likely appears to be a reference to a business entity, which business entity is now defunct. In that case, there would not be any owners, tenants or guests of the defunct entity. However, regardless of the status of the owners, tenants or guests of Grantee or Cuchara Mountain Resort, their rights for access for use of the property have terminated because the Declaration of Covenants which provided the basis for having access has been terminated.

As a practical matter, the rights have either been relinquished or terminated and to the extent that Section 2.02.11 of the County's Land Use Code requires BOCC action to remove deed restrictions, the removal of the 1999 deed restrictions by consent of the BOCC should be included as part of the land use application, review and approval.

Best regards,

Scott Ross

Partner

Fox Rothschild LLP

1225 17th St.

Suite 2200

Denver, CO 80202

(303) 383-7627 - direct

(303) 292-1300 - fax

[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <jon@libertyservice.group>
To: Sky Tallman <stallman@huerfano.us>
Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <BH2@ghvalley.net>

Mon, Dec 5, 2022 at 12:25 PM

From Janet, FYI....

"The county may be trying to argue that, based on its regulations, there is a public right of access that cannot be terminated without the board's consent. However, that is not what the documents say. Scott's explanation should be persuasive to cause the county board to agree to vacate the easements, but there is no guaranty that the board will agree. Please let us know if they raise any other arguments."

[Quoted text hidden]



Plat Amendment Deed Restrictions

Sky Tallman <stallman@huerfano.us>
To: BH2 Land Surveying <bh2@ghvalley.net>, Jon Hotaling <jon@libertyservice.group>
Cc: Lisa Powell-DeJong <lisa@huerfano.us>

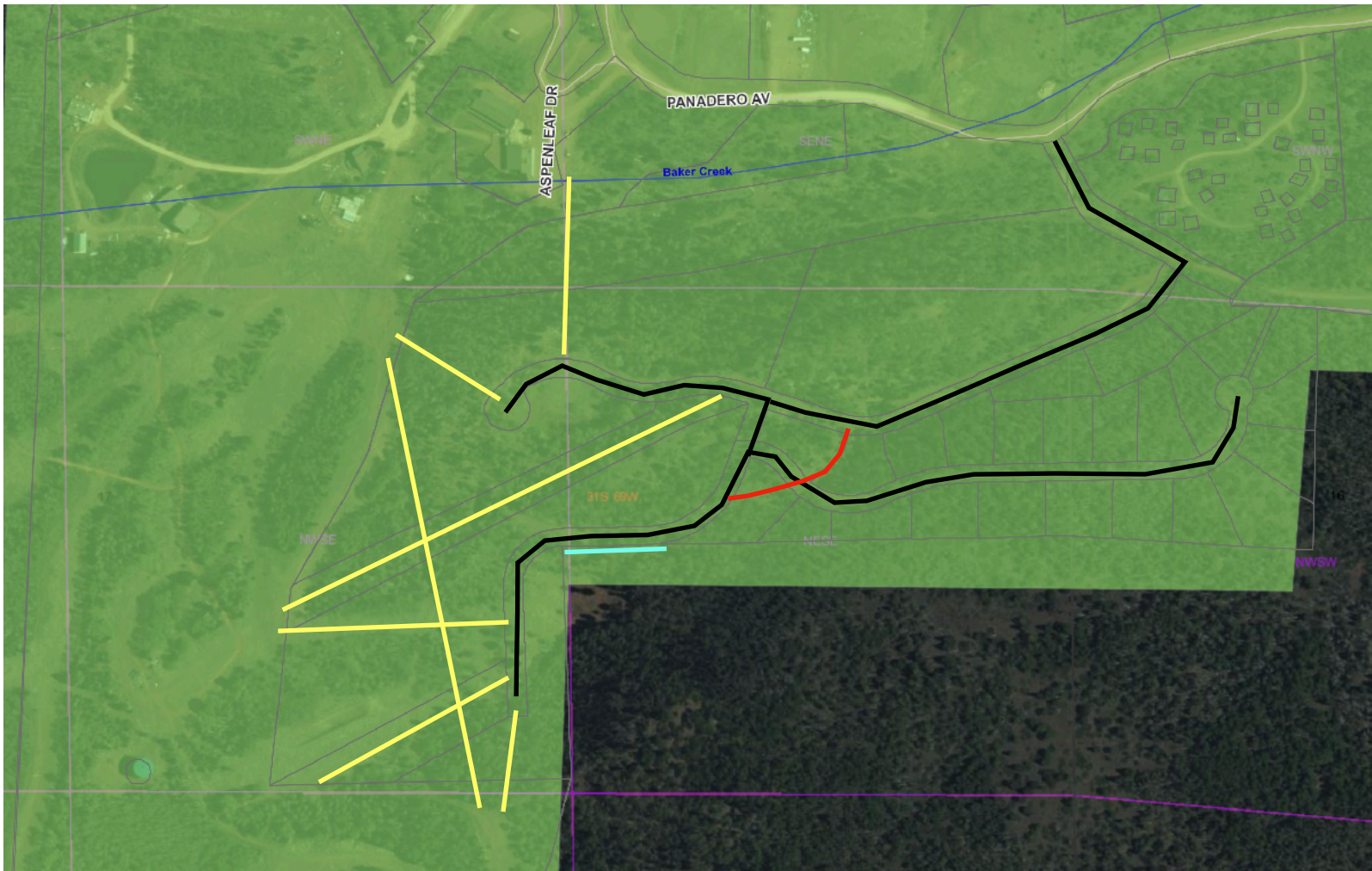
Tue, Nov 22, 2022 at 2:03 PM

Bill and Jonathan,

I would like to let you know that your application for vacation and plat amendment are on the Planning Commission agenda for Dec. 8 at 1:30. In reviewing the application for the plat amendment, I have found that there are deed restrictions on lots L2 and L3 that have not been addressed. You may want to seek legal counsel on how to address these restrictions. Please see the deed attached.

Sincerely,
--
Sky Tallman, AICP
Huerfano County Land Use Director
o: 719-738-1220 ext. 108
c: 719-890-0047

1999 Warranty Deed L1 L2 L3 open space.pdf
308K



Black Line - Roads as originally plated.

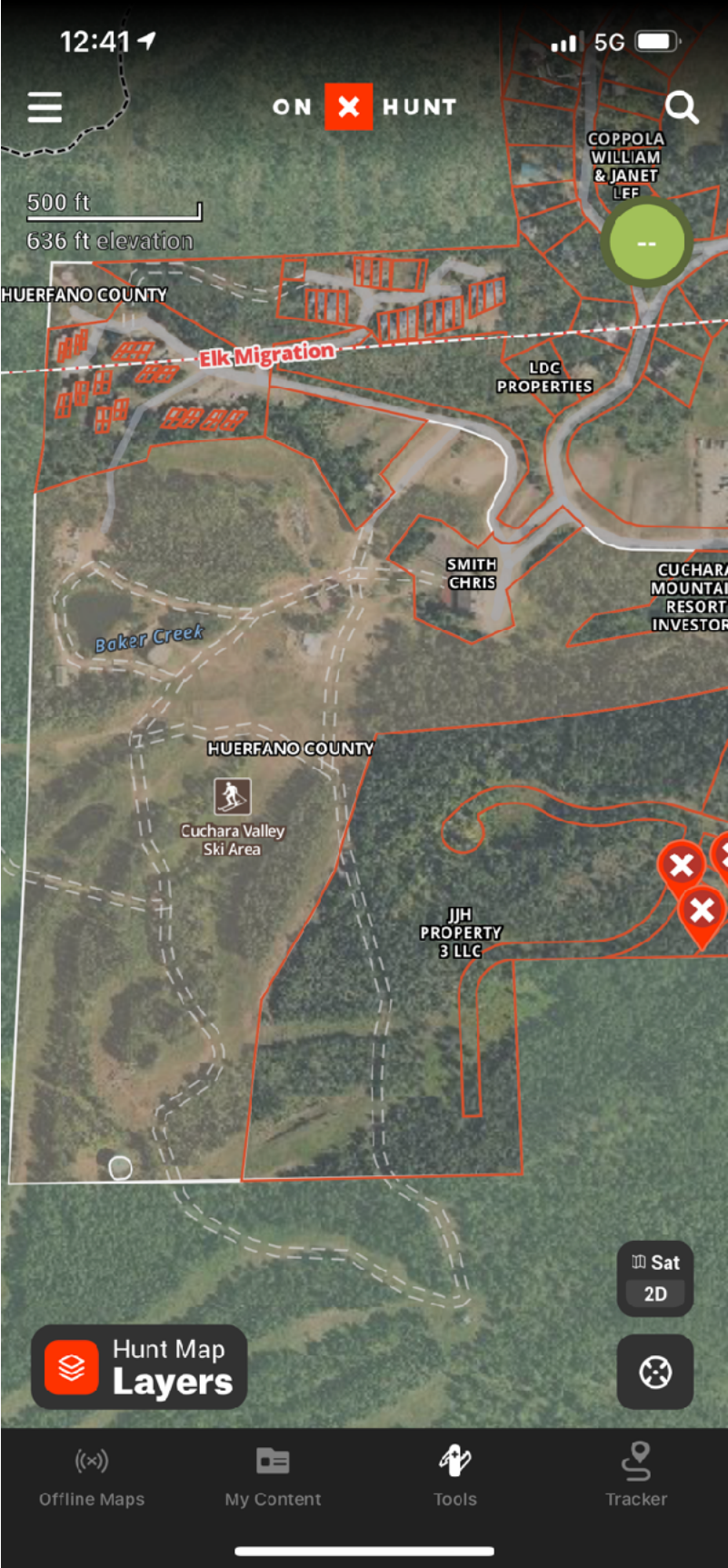
Red Line - Existing easement through lots 24 and 25 (the existing trail) We would like removed once the road are completed as plated.

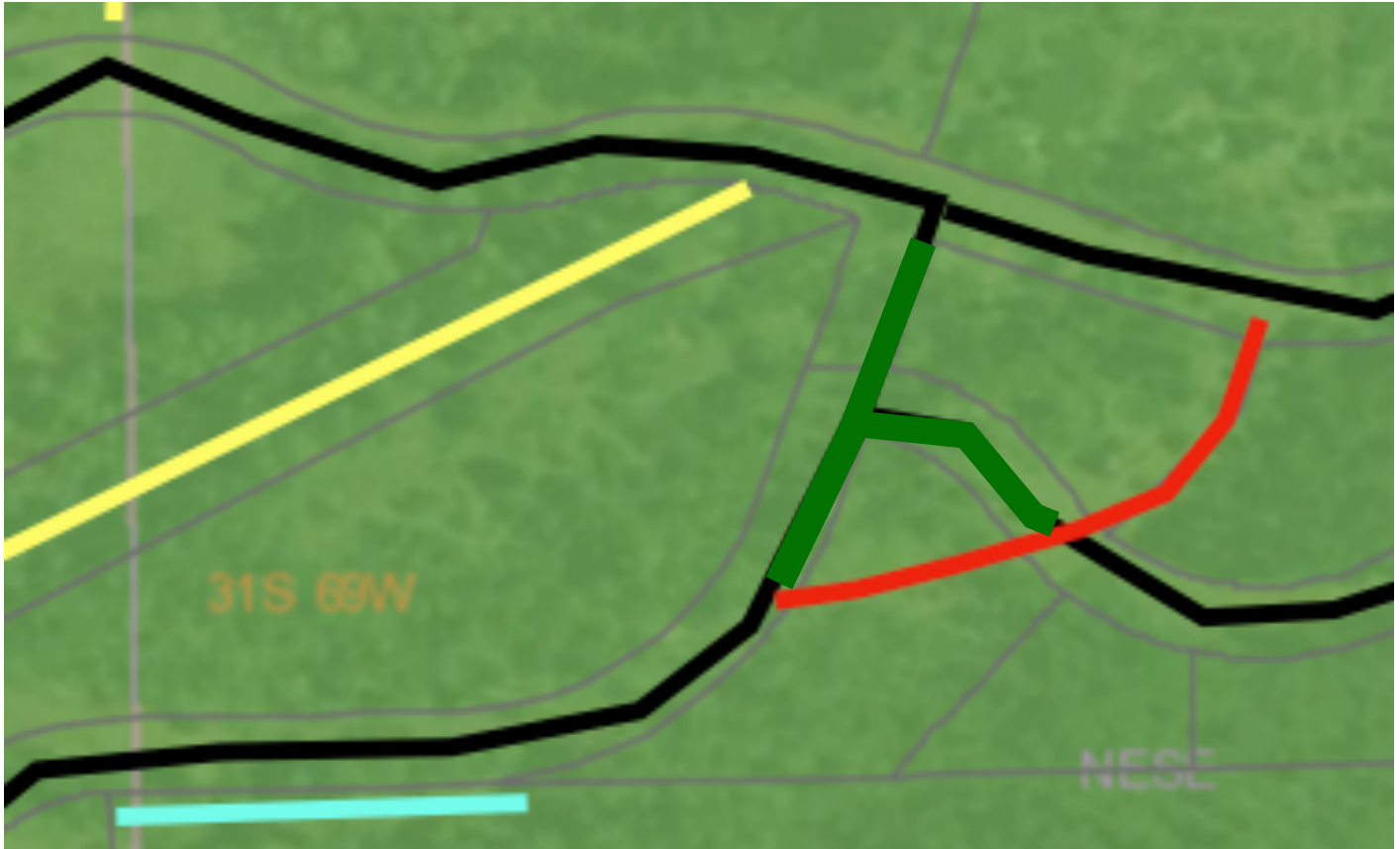
Blue Line - The original plated public access to the national forest. We would like kept in place.

Yellow Lines - Proposed easement options for access to Cuchara Mountain Park. The original plat shows 'HOA controlled open space'. We were told there is not longer an HOA. Not sure if this plated 'open space' or any existing utility easements could be used (negotiated for) for access.

If possible, we would like to see at least one avenue of access to Cuchara Mountain Park remain.

We believe The County should negotiate access to Cuchara Mountain Park for Cuchara Mountain Park Estates, in exchange for Jon taking the existing plated county roads and/or allowing him to alter the subdivision as plated.

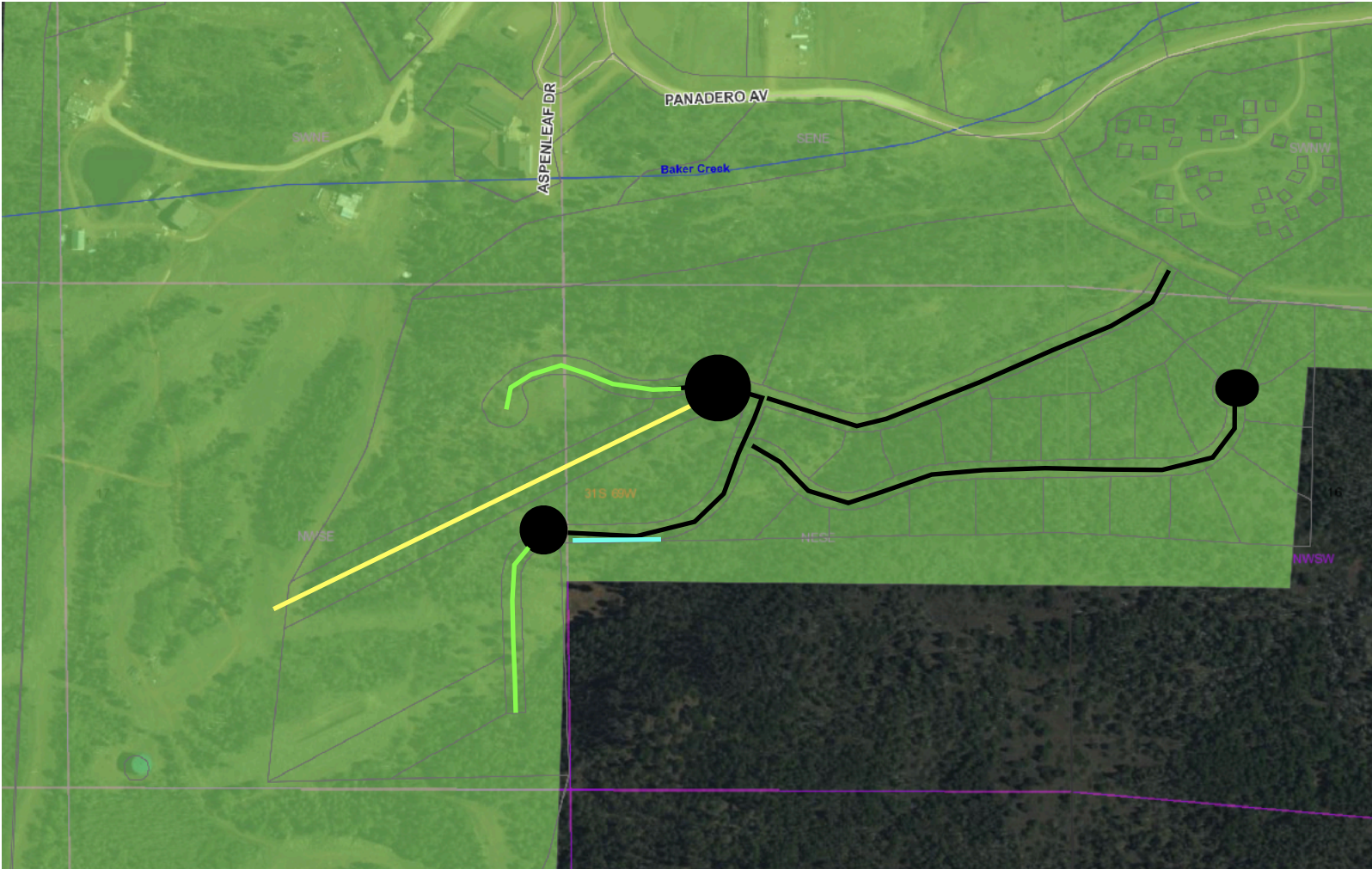




The portion of the plated road indicated in dark green is not completed. Thus the need for the access easement indicated in red.

Once the roads (dark green) are completed, we would like to have the easement through our properties removed, for it will not be necessary.

We suggest that if Jon wants to alter the original plat. At the very least, the county should negotiate for him to be responsible to complete the plated roads for his access as indicated by the dark green line.



We believe the county should negotiate access to Cuchara Mountain Park for Cuchara Mountain Park Estates, in exchange for the existing plated county roads (property) that Jon plans to take over ownership.

As indicated above: The county would give up the light green lines in exchange for the yellow line (or another agreed upon access for Cuchara Mountain Estates).

There are at least 25 other properties in this subdivision that would benefit from an easement through Jon's property to access Cuchara Mountain Park.

Subject: Cuchara Mountain Park Estates
From: Gary Place <gary@wstexas.com>
Date: 9/26/2022, 3:39 PM
To: stallman@huerfano.us

Sky -

I spoke with you last week in regards to my concerns about the plans of Jon Hoteling.

I own Lots 24 and 13.

I have attached a document with drawing to help explain the situation.

Please let me know if you have any questions or concerns.

Thanks,
Gary Place
214-876-7572

— Attachments: —

Cuchara MTN park.pdf

5.4 MB

Subject: Re: Cuchara Mountain Park Estates -

From: Seb Delson <dasein211@yahoo.com>

Date: 9/30/2022, 5:51 AM

To: Gary Place <gary@wstexas.com>, stallman@huerfano.us

I'm in agreement with bringing roads into original plat as well.
-Severo DeLeon IV

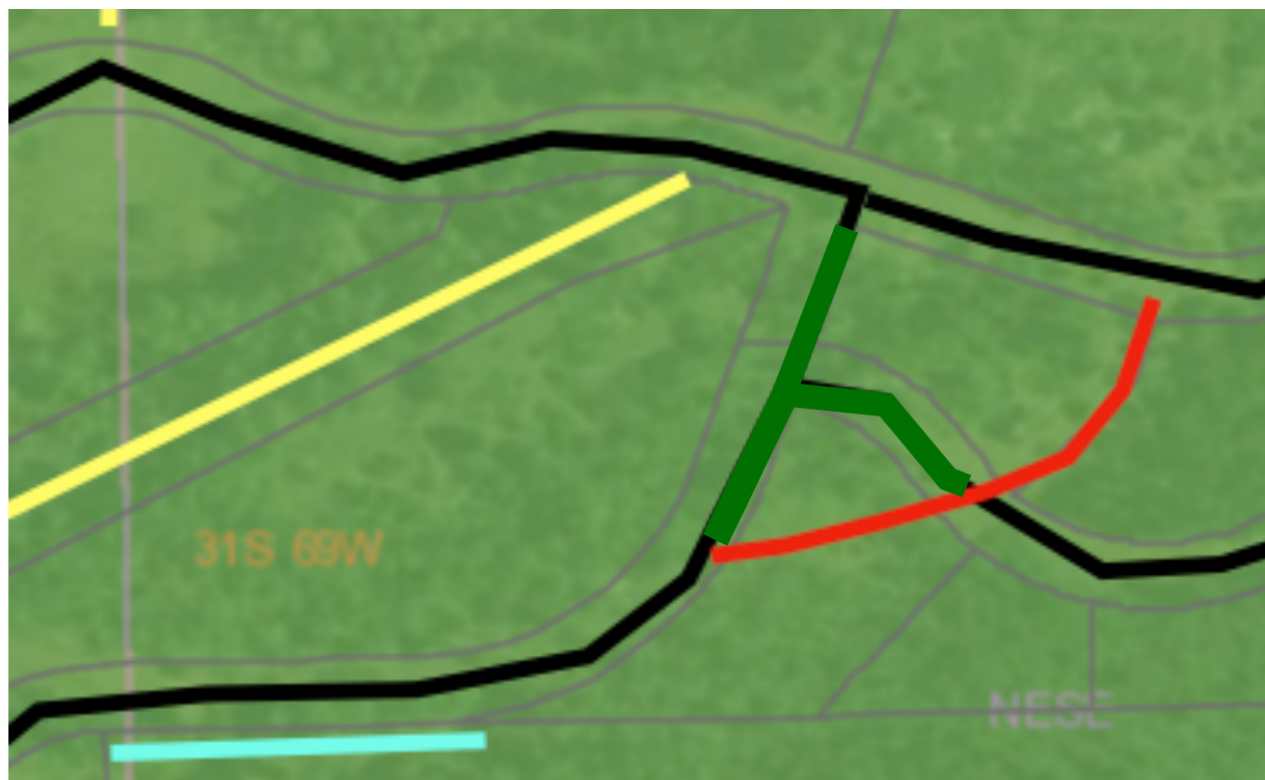
Sent from my iPhone

On Sep 27, 2022, at 1:56 PM, Gary Place <gary@wstexas.com> wrote:

— Screen Shot 2022-09-24 at 1.44.43 PM.png —



— Screen Shot 2022-09-27 at 2.46.24 PM.png —

Cuchara Mountain Park Estates

The portion of the plated road indicated in dark green is not completed. Thus the need for the access easement indicated in red.

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Attachments:

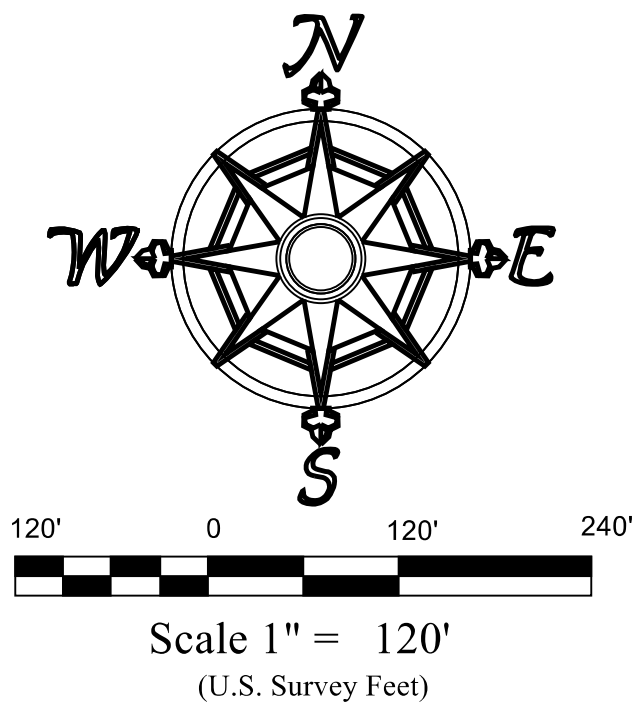
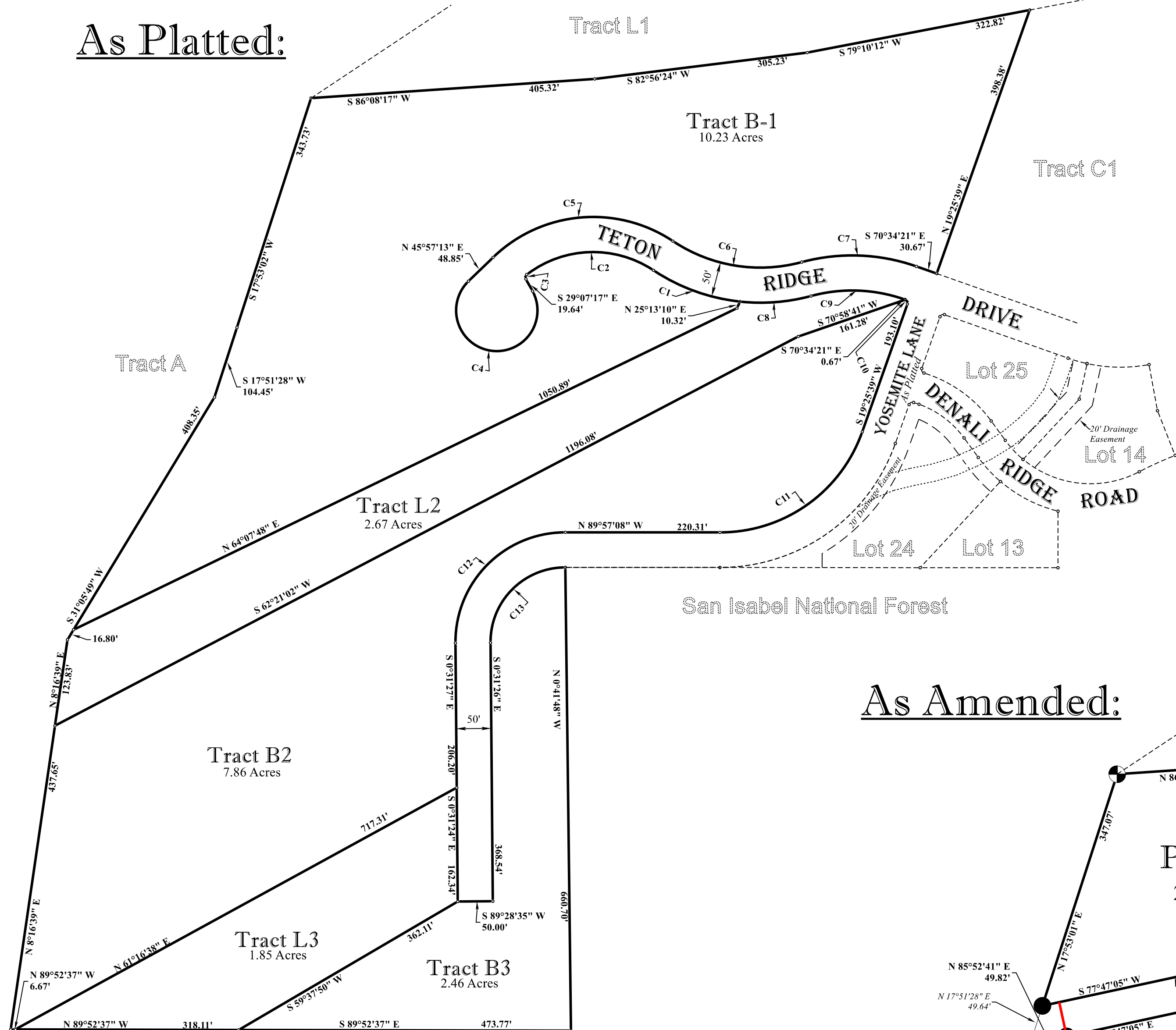
Screen Shot 2022-09-24 at 1.44.43 PM.png

137 KB

Screen Shot 2022-09-27 at 2.46.24 PM.png

1.2 MB

As Platted:



Map Amendment and Road Vacation
FOR JJH PROPERTY 3, LLC.
Tracts B1, B2, B3, L2 and L3, Cuchara Mountain Park Estates
Panadero Development Filing No. 4
a Planned Unit Development
County of Huerfano, State of Colorado

KNOW ALL MEN BY THESE PRESENTS: That JJH Property 3, LLC being the sole owner of the following described property:

Tract B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates (Panadero Development, Filing No. 4), Recorded Map No. 425, Recorded August 2, 1999 at Reception No. 340387, According to the Records of the Clerk and Recorder for Huerfano County, Colorado

That JJH Property 3, 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 A, B, C, D, E, and F 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

Jonathan Hotaling (Owner, JJH, Property 3, LLC) Date: _____

Jennifer Hotaling (Owner, JJH, Property 3, LLC) Date: _____

STATE OF COLORADO)
COUNTY OF) ss

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, A.D. by Jonathan Hotaling and Jennifer Hotaling

WITNESS MY HAND AND OFFICIAL SEAL:

My Commission Expires: _____ Notary Public

I, William S. Bechaver, a Professional Land Surveyor, registered in the State of Colorado, hereby Certify to the Board of County Commissioners, of the County of Pueblo and to JJH Property 3, LLC, that a survey of the above described premises was conducted by me or under my direct responsible charge. That this plat of Map Amendment and Road Vacation complies with the minimum standards for Land Surveys and Plats as set forth in Section 38-51-106 et. Seq, C.R.S. 1995 (as amended).

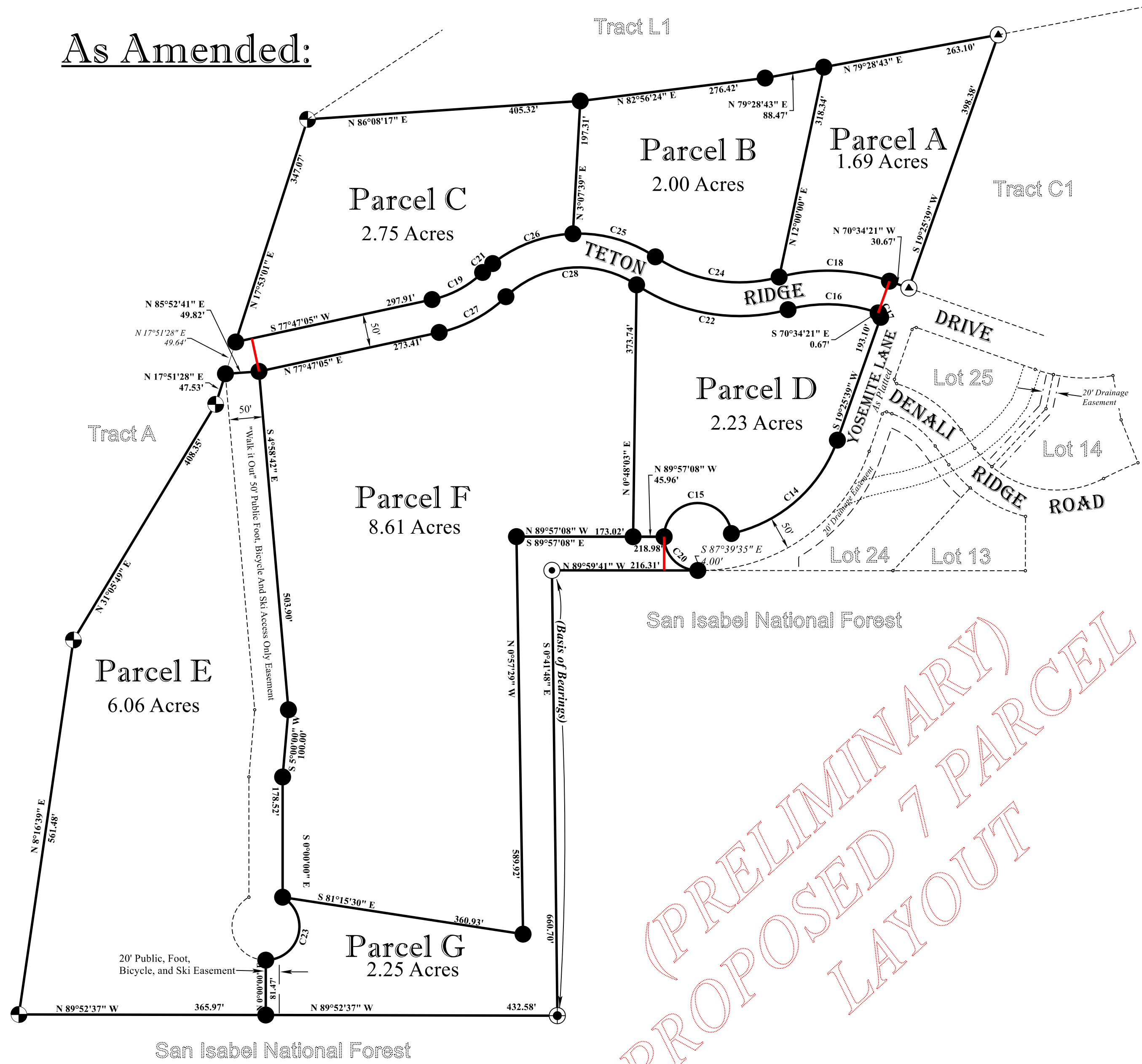
William S. Bechaver PLS No. 38103
BH2 Land Surveying, LLC Date: _____

This is to Certify that this Map Amendment Plat and Road Vacation, is hereby approved this _____ day of _____, 2022, 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

As Amended:



LEGEND

- FOUND, BLM BRASS CAP
- FOUND, 1/2" REBAR WITH PLASTIC CAP, PLS 16163
- FOUND 1/2" REBAR WITH PLASTIC CAP, PLS 27265
- FOUND 3/4" REBAR, WITH 2" ALUMINUM CAP, PLS 16163
- SET, 1/2" REBAR WITH YELLOW CAP, PLS 38103
- PROPOSED PRIVATE GATE

"REFERENCES"

- 1) Plat Cuchara Mountain Park Estates, Reception No. 340387
- 2) Special Warranty Deed, Reception No. 425899
- 3) Special Warranty Deed, Reception No. 425898
- 4) Declaration of Access Easement, Reception No. 418879

BASIS OF BEARINGS: S 0°41'48" E, (per Plat of Cuchara Mountain Park Estates) along the East line of Parcel D, With a BLM Brass cap on the South End and a 3/4" rebar with an Aluminum Cap, PLS 38103 on the North End, monumented as shown hereon.

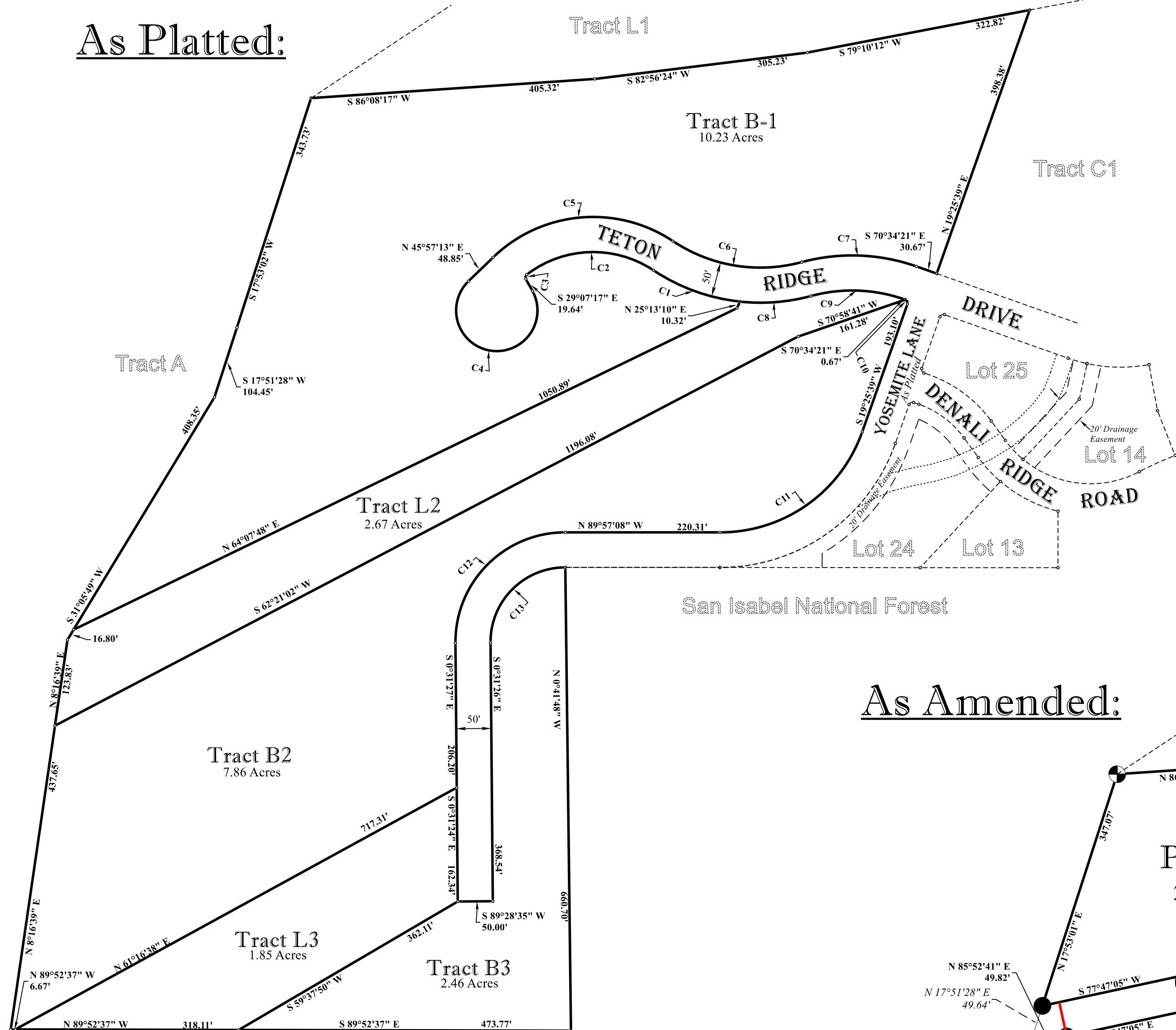
"NOTE:" This survey does not constitute a title search by BH2 Land Surveying, LLC, to determine ownership or easements of record.

"NOTE" Client did not request a search for recorded Rights-of-Way and Easements.

"NOTICE": According to Colorado law you must commence any legal action based upon any defect in this survey with in three years after you first discover such a defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

Curve Table			
CURVE	DELTA	RADIUS	ARC
C1	27°36'35"	275.00'	132.52'
C2	71°16'49"	155.00'	192.83'
C3	81°31'23"	5.00'	7.11'
C4	254°21'23"	58.00'	257.48'
C5	77°44'39"	205.00'	278.16'
C6	48°52'06"	225.00'	191.91'
C7	34°35'53"	275.00'	166.06'
C8	21°15'31"	275.00'	102.03'
C9	34°35'53"	225.00'	135.87'
C10	89°53'41"	5.00'	7.84'
C11	70°37'13"	215.00'	265.00'
C12	90°34'18"	156.60'	247.55'
C13	90°34'18"	106.60'	168.51'
C14	58°20'22"	215.00'	218.92'
C15	174°43'15"	50.00'	152.47'
C16	34°35'53"	225.00'	135.87'
C17	89°53'41"	5.00'	7.84'
C18	34°35'53"	275.00'	166.06'
C19	31°49'52"	155.00'	86.11'
C20	89°51'51"	50.00'	78.42'
C21	5°37'53"	205.00'	20.15'
C22	48°52'06"	275.00'	234.55'
C23	150°00'00"	50.00'	130.90'
C24	48°52'06"	225.00'	191.91'
C25	36°03'22"	205.00'	129.01'
C26	36°03'22"	205.00'	129.01'
C27	31°49'52"	205.00'	113.89'
C28	77°44'39"	155.00'	210.32'

As Platted:



San Isabel National Forest

LEGEND

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- FOUND, 1/2" REBAR WITH PLASTIC CAP, PLS 16163
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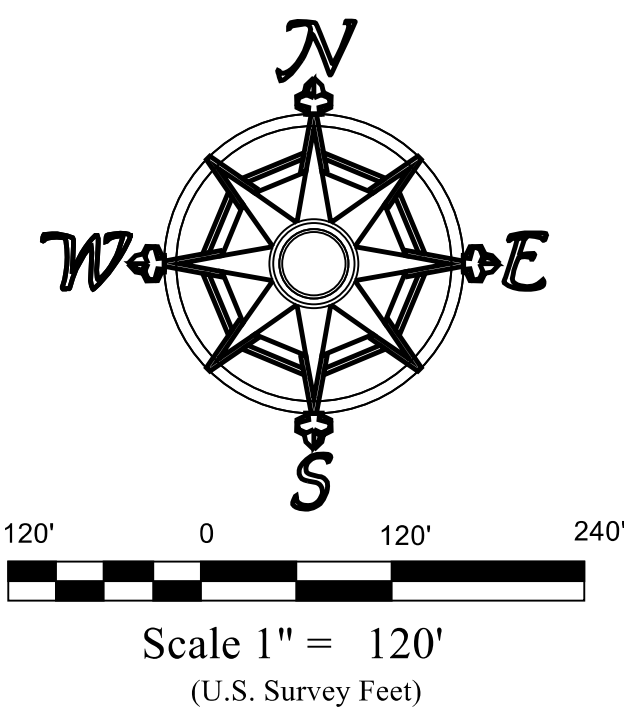
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C18	34°35'53"	275.00'	166.06'
C19	31°49'52"	155.00'	86.11'
C20	89°51'51"	50.00'	78.42'
C21	5°37'53"	205.00'	20.15'
C22	48°52'06"	275.00'	234.55'
C23	150°00'00"	50.00'	130.90'
C24	48°52'06"	225.00'	191.91'
C25	36°03'22"	205.00'	129.01'
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Map Amendment and Road Vacation FOR JJH PROPERTY 3, LLC.

Tracts B1, B2, B3, L2 and L3, Cuchara Mountain Park Estates
Panadero Development Filing No. 4
a Planned Unit Development
County of Huerfano, State of Colorado



KNOW ALL MEN BY THESE PRESENTS: That JJH Property 3, LLC being the sole owner of the following described property:

Tract B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates (Panadero Development, Filing No. 4), Recorded Map No. 425, Recorded August 2, 1999 at Reception No. 340387, According to the Records of the Clerk and Recorder for Huerfano County, Colorado

That JJH Property 3, 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 A, B, C, D, E, and F 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

Jonathan Hotaling (Owner, JJH, Property 3, LLC) Date: _____

Jennifer Hotaling (Owner, JJH, Property 3, LLC) Date: _____

STATE OF COLORADO)
COUNTY OF) ss

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, A.D. by Jonathan Hotaling and Jennifer Hotaling

WITNESS MY HAND AND OFFICIAL SEAL:

My Commission Expires: _____ Notary Public

I, William S. Bechaver, a Professional Land Surveyor, registered in the State of Colorado, hereby Certify to the Board of County Commissioners, of the County of Pueblo and to JJH Property 3, LLC, that a survey of the above described premises was conducted by me or under my direct responsible charge. That this plat of Map Amendment and Road Vacation complies with the minimum standards for Land Surveys and Plats as set forth in Section 38-51-106 et. Seq, C.R.S. 1995 (as amended).

William S. Bechaver PLS No. 38103
BH2 Land Surveying, LLC Date: _____

This is to Certify that this Map Amendment Plat and Road Vacation, is hereby approved this _____ day of _____, 2022, 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

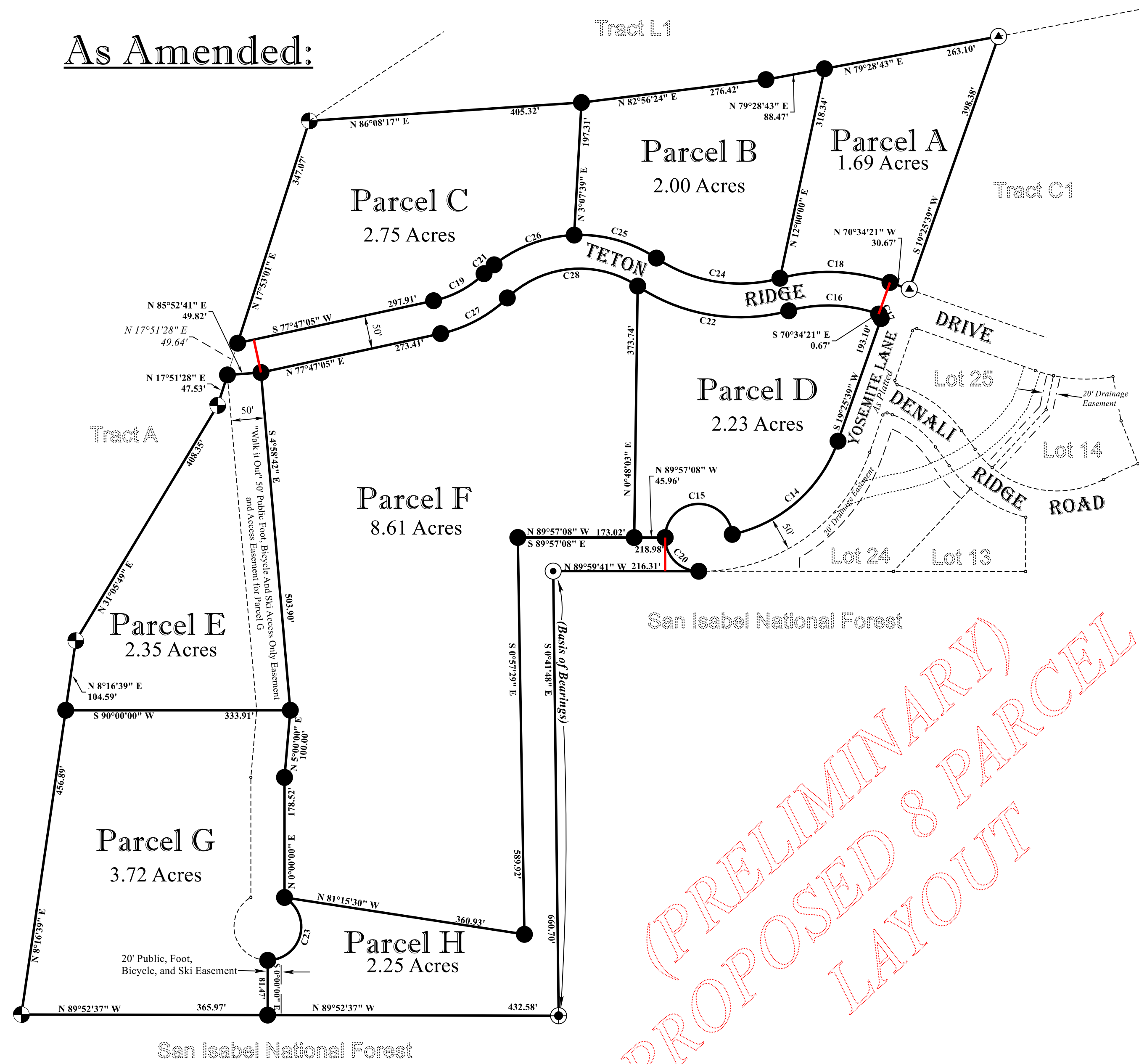


BH² LAND SURVEYING
P.O. Box 20399, Colorado City, CO 81019
Phone: 719-676-2072
Email: bh2@ghvalley.net

Scale 1" = 120'	Date: 1-6-2023	Drawn By: WSB
Sheet 1/1	Job No. 2022-057	

(PRELIMINARY)
PROPOSED 8 PARCEL
LAYOUT

As Amended:



San Isabel National Forest

Jan 31 2023

Current bonding requirements

Huerfano County Land Use Regulations already has the following on Bonding in Oil and Gas Regulations Section 6.16 --

6.16 PERFORMANCE SECURITY

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for minor and major facilities: **\$7,500 performance bond** (irrevocable letter of credit; or equivalent financial security acceptable to the county) for each minor facility up to 15 facilities subject to uncompleted conditions of approval (maximum \$105,000); or \$7,000 performance bond for operators with more than 15 minor facilities subject to uncompleted conditions of approval (maximum \$175,000);. Performance bond requirements for major facilities will be determined on a case by case basis.

Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the applicable performance standards contained in this section with regard to the county permit. Specific minor and major facilities will be released from the bonding requirement after the applicant demonstrates to the Board of County Commissioners that all conditions of approval have been met. Reclamation activities which fall under COGCC jurisdiction are exempted from this performance security coverage. This provision is not meant to replace the COGCC's financial assurance requirement.

Current state level COGCC Rules and Regulations also has language covering bonding requirements in the Series 700 (Financial Assurance for new drilling projects), and Series 100 (definitions of Single Well Financial Assurance for plugging and abandoning wells) Transfers of bonding obligations from one operator to another are covered in Series 200.

Specifically, in **COGCC Series 700 for new projects**, item 702.d.(2).B. states –

B. Financial Assurance Amount. The total amount of Financial Assurance the Operator will provide to the Commission as soon as practicable but no later than 90 days from the Commission's approval of the Financial Assurance Plan, which will be:

- i. Blanket Financial Assurance Amount (excludes Out of Service Wells).
 - aa. \$18,000 per Well if the Operator operates less than or equal to 50 Wells;
 - bb. \$15,000 per Well if the Operator operates more than 50 Wells and less than or equal to 150 Wells;

cc. \$12,000 per Well if the Operator operates more than 150 Wells and less than or equal to 1,500 Wells;

dd. \$10,000 per Well if the Operator operates more than 1500 Wells and less than or equal to 4,000 Wells; or

ee. \$8,000 per Well if the Operator operates more than 4,000 Wells.

Also in Series 700 are bonding amounts for other oil and gas facilities, including gas gathering, gas processing, and underground gas storage (703.d -- \$100,000 for large facilities or \$5,000 for facilities processing less than 5 million standard cubic feet per day); produced water (703.e -- \$50,000 per facility or \$5,000 for facilities processing less than 700 barrels per day); and underground disposal wells (703.f. -- \$100,000 per well).

Surface Owner protections are also covered in COGCC Series 700. For seismic exploration, the operator must provide \$25,000 at the state level (703.c.). For drilling and processing, if the operator does not have a lease or other agreement with the surface owner, the operator must provide as follows in 704.(a).1. --

- i. \$4,000 per Well for non-irrigated land;
- ii. \$10,000 per Well for irrigated land; or
- iii. \$100,000 as a statewide blanket bond.

Surface owners who feel their surface has been damaged by seismic operations can file a complaint (Form 18, Rule 524) with the COGCC. Surface owners who feel their surface has been damaged by oil and gas drilling and processing can file for a Financial Assurance hearing with the COGCC (Rule 503). The surface owner must prove damage to the COGCC, which determines if these complaints are valid and, if they are, the terms of settlement.

For plugging and abandonment, in COGCC Series 100 –

SINGLE WELL FINANCIAL ASSURANCE means either:

- a. The sum of an Operator's demonstrated costs of Plugging and Abandonment of the Well and the associated and apportioned Reclamation cost for the Well, which is calculated by dividing the demonstrated Reclamation costs by the number of Wells on the Oil and Gas Location or at the Oil and Gas Facility; or
- b. The sum of the Single Well Plugging and Abandonment Cost and the Single Well Location Reclamation Cost.
- c. For purposes of this definition, costs are calculated as follows:

(1) LOCATION RECLAMATION COST means the Commission's estimated costs of Reclamation at an Oil and Gas Location or an Oil and Gas Facility, which is set at \$100,000 per Location or Facility.

(2) SINGLE WELL LOCATION RECLAMATION COST means the cost of Reclamation attributable to a single Well on an Oil and Gas Location or at an Oil and Gas Facility, which is calculated by dividing the Location Reclamation Cost by the number of Wells on the Oil and Gas Location or at an Oil and Gas Facility.

(3) SINGLE WELL PLUGGING AND ABANDONMENT COST means the Commission's estimated costs of Plugging and Abandonment of the Well as follows:

A. For a Well drilled to a total vertical depth of 4,000 feet or less: \$10,000 of Financial Assurance.

B. For a Well drilled to a total vertical depth of more than 4,000 feet and less than or equal to 8,000 feet: \$30,000 of Financial Assurance.

C. For a Well drilled to a total vertical depth of more than 8,000 feet: \$40,000 of Financial Assurance.

d. Both the Operator's demonstrated costs and Commission's estimated costs are subject to adjustment for inflation pursuant to Rule 707.a.(1).A.

In 2019, SB-181 took effect, ushering in a broad change in the COGCC's mandate and increasing the power of local authorities. The mandate change emphasizes health, safety and the environment much more than in the past. Rule 201.a. states the rules are intended to "protect and minimize adverse impacts to public health, safety, welfare, the environment, and wildlife resources, and to protect against adverse environmental impacts on any air, water, soil, or biological resource resulting from Oil and Gas Operations." The rules also give local authorities the power to (1) participate up front in the permit process, (2) to require their own bonding and fees, (3) conduct their own inspections and monitoring of development, and (4) otherwise regulate the surface impacts of oil and gas activity in their jurisdictions. These changes challenge Huerfano County to use these powers and to consider updating its current regulations.

At the federal level, the Bureau of Land Management (BLM) controls bonding for all federal lands, and for the federal mineral rights underneath surfaces owned by others. BLM requires a \$10,000 bond per lease, regardless of how many wells are on the lease, \$25,000 for all leases in a state, or \$150,000 for all leases in all state. These amounts haven't been changed in decades, and are so low that developers routinely walk away from their responsibilities to plug and reclaim idle or depleted wells and facilities.

The federal Government Accounting Office (GAO) in 2011, and again in 2019, admonished BLM that these bonding levels are far too low to even begin to cover necessary reclamation of oil and gas wells and facilities. In November 2022, a formal petition to the federal Department of the Interior (DOI) and the Bureau of Land Management (BLM) was filed under the federal Administrative Procedures Act by the Western Organization of Resource Councils (WORC), Taxpayers for Common Sense, and the Natural Resources Defense Council urging BLM to establish adequate bonding requirements.

What could and should be changed at the county level?

As mentioned above, the passage and signing into law of SB-181 in 2019 gives Huerfano County power to regulate surface issues associated with oil and gas development within the county. Specifically, COGCC Rule 201.c. states that “Nothing in the Commission’s Rules constrains the legal authority conferred to Local Governments by §§ 29-20-104, 30-15-401, C.R.S., or any other statute. Local Government regulations may be more protective or stricter than state requirements.” In addition, Rule 302.a. states that “Nothing in the Commission’s Rules constrains the legal authority conferred to Local Governments by §§ 24-65.1-101 et seq., 29-20-104, 30-15-401, C.R.S., or any other statute, to regulate surface Oil and Gas Operations in a manner that is more protective or stricter than the Commission’s Rules.” Thus Huerfano County is at liberty to adjust and enforce its bonding requirements and fee structures -- and undertake additional surface-issue-related oil and gas regulations

it’s important to require developers to bond at a level high enough to ensure that (1) they operate their projects in ways that protect Huerfano County’s people, animals, vegetation, air, water and land; and (2) if they fail to do so there is enough money to repair any damage. On the other hand, bonds and fees that are set too high could signal that Huerfano County is not interested in the economic benefits that development can bring.

Well-funded developers with confidence in their processes and people will have no problem qualifying for surety bonds through third party providers, or arranging cash in lieu of a bond. Cash should be preferable on both sides, saving the developer the cost of the surety bond and giving the County direct access to the funds if necessary. Now that interest rates are rising, letting the money earn interest via a savings account or in a CD also benefits the developer. Cutting out the surety bond middleman makes sense, assuming the developer and the county operate in good faith.

The main question is, how much cash is enough? The current amounts are far too low, considering that the COGCC has put the average cost to plug and remediate the surface location of single well at \$82,000.

At the state level, the COGCC has plans and money to address the roughly 500 orphaned and abandoned wells in need of reclamation. A new COGCC program, the Orphaned Well Program (OWP) Enterprise Fund is expected to generate about \$10

million per year in new fees from developers, and another \$25 million is expected from Federal Infrastructure Investment & Jobs Act Initial Grant Budget through September, 2024. And the Colorado legislature has budgeted \$6,650,000.

Hopefully the OWP will work as planned, but what about the costs of other impacts from oil and gas development that Huerfano County might sustain? Our geology is very sensitive to shot holes and seismic testing, fluid injection and stimulation, and hydraulic fracturing (fracking). River Ridge Ranch residents remember all too well how their water wells were ruined by Petroglyph's coalbed methane project in the 2000s. What bonding levels are adequate to address these kinds of impacts? As well as damage sustained with seismic testing on sheep mountain.

What other Land Use regulations might Huerfano County establish to ensure that any oil and gas development pays its own way and doesn't damage us, our animals, our air, water and lands?

A substantial bond or escrow account, to be set aside by any oil and gas developer in Huerfano County before any site development or drilling, specifically for surface level remediation, reclamation and to cover expected costs to municipal, domestic and agricultural water sources and wells, costs to the County Shops, County Fire Protection Districts, County Sheriff and Municipal Police Departments, County Health Department, and costs to cure expected damages to citizen health. Our conservative estimate of the amount of this bond/escrow, just for health damages is \$6,117,000.00 (6117 people in the county, with 10 percent affected, at \$10,000 in health care costs per person.)

These safeguards are certainly "more protective or stricter than state requirements." Is the bonding requirement too high?

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HUERFANO COUNTY

OIL AND GAS REGULATIONS

SECTION 6.00



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6.01 RESERVED

OIL AND GAS* “GENERALLY”

* **State Law References:** Oil, gas, mineral rights, C.R.S. § 30-11-301 et seq.; oil and natural gas, C.R.S. § 34-60-101 et seq.

6.02 AUTHORITY OF ARTICLE

This article is authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq.

6.03 PURPOSE OF ARTICLE

This article is enacted to protect and promote the health, safety, values, convenience, order, prosperity or general welfare of the present and future residents of the county. It is the county's intent by enacting this article to facilitate the development of oil and gas resources within the unincorporated area of the county while mitigating potential land use conflicts between such development and existing, as well as planned, land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other. Owners of subsurface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their subsurface mineral interests, subject to compliance with the provisions of this article and any other applicable statutory and regulatory requirements. Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with this article. Should it be established by competent evidence that a proposed major or minor facility cannot be operated in compliance with this article, county land use approval for such a facility may be denied.

6.04 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Also, see Section 17.00 for additional definitions.

Abandonment means the permanent abandonment of a well and shall be based on the operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC).

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Presumption of permanent abandonment of a major facility shall be based upon nonuse or non-operation for one year without notification to the Board of County Commissioners (BOCC) of the intent to resume operations under specified conditions.

Agent means one authorized to make binding representations on behalf of the applicant.

Agricultural means currently in use for farm or ranch purposes, including pasture and assessed in the Huerfano County Assessor's records as agricultural land.

Applicant means that person, corporation or other legal entity possessing the legal right to develop the mineral resource or any other use proposed in connection thereof for the site in question.

Best Management Practices means proven techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health and the environment, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMP's are dynamic and intended to promote excellence in the conduct of operations.

Centralized Facility means a facility serving multiple well pads consisting of one or more compressors, generators and / or water, gas or oil treatment equipment.

Code means the Huerfano County Land Use Code.

CDOW means the Colorado Division of Wildlife.

COGCC means the Colorado Oil and Gas Conservation Commission.

Corridor means the tracts of land within which a pipeline right-of-way is located.

Critical use hours means that time of day when disturbance is most likely to increase stress to and negatively impact wildlife.

Critical use period means that portion of the year (weeks or months) when disturbance is most likely to increase stress to and negatively impact wildlife.

Designated agent means an agent designated by the applicant, owner or lessee.

Drainage plan means a written description and depiction on site the plan for the collection, transport, treatment and discharge of stormwater runoff.

Drilling Operation means any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well, or cathodic protection well, and by the actual operation of drilling in the ground.

Easement means authorization by a property owner for the use of a designated portion of his property by another, for a specified purpose.

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Equipment means machinery or structures located on well pads or right-of-ways including but not limited to wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors.

Facility means a site and equipment associated with a site used for the production, transportation, treatment, and/or storage of oil and gas and waste products.

Flowline means a pipeline connecting an individual well to production equipment or a pipeline connecting individual production equipment to a gathering line that transports gas, oil, or produced water. Pipelines over 10" requires an HB-1041 application, Section 7.03.03.

Gas well means a well capable of producing natural gas.

Gathering line means a pipeline receiving produced gas, oil, or produced water from more than one well pad and thereafter transporting gas, oil, or water to a transmission line or centralized facility.

Grading plan means a plan view and cross section of existing and proposed contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes.

Heavy equipment means drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding 5 tons.

Improvement means any new construction activity or addition of equipment or materials to a site.

Lessee means the entity entitled under an oil or gas lease to drill and operate wells. The lessee may also be the applicant for purposes of this article.

Major oil and gas facilities means:

- (1) Centralized facilities.
- (2) Water injection or centralized water transfer stations and associated facilities serving multiple well pads.
- (3) Storage yards and construction staging yards in place for longer than six months.
- (4) Any facility or structure related to the production of oil and/or gas which contains engines and/or motors with a cumulative horsepower, de-rated for elevation, of 200 BHP.
- (5) Pipelines for which the power of eminent domain is available.
- (6) Any oil and gas facility not meeting the definition of minor oil and gas facility.

Minor oil and gas facilities means:

- (1) An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production.

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- (2) Gathering lines and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes.
- (3) Temporary storage and construction staging yards in place for less than six months.
- (4) An individual well site built and operated to produce petroleum and/or natural gas and associated equipment (as defined above) which does not meet the minimum setback and other requirements specified in this article for minor facilities.
- (5) Any of the facilities specified under subsection (1) of this definition which do not comply with all applicable standards and requirements, as set forth in this article, and which are not classified as major facilities.
- (6) Continuous drilling and completion operations of wells or well legs on a well pad that are planned to continue for longer than six weeks.

NRCS means the Natural Resource Conservation Service.

Nuisance means a facility which is not being constructed, operated or installed in substantial compliance with the regulations of this article and any applicable conditions of approval and as to which the applicant has failed or refused to abate, correct or discontinue the violation of this article after being ordered to do so by the board of county commissioners.

Oil well means a well capable of producing crude petroleum oil.

Operating plan means a general description of a facility identifying purpose, use, typical staffing pattern, equipment description and location, access routes, seasonal or periodic considerations, routine hours of operating, source of services/infrastructure, and any other information related to regular functioning of that facility.

Operator means that individual or firm engaged in all or a portion of the extraction operations at a well or other facility; usually the lessee, although day-to-day operations may be contracted to another firm.

Permanent equipment means equipment located onsite for a duration of time greater than six months effective one year after the drilling and completion of a well.

Pit means subsurface earthen excavation (lined or unlined) or subsurface open top tank used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

Platted building envelope means an area of land within a buildable lot within which all site structures, buildings and other hardscape elements shall be contained, except driveways.

Platted subdivision lot means any lot created pursuant to state law, which has received subdivision approval by the board of county commissioners since September 1, 1972.

Residential means a property having an existing residence or platted subdivision lot within one-quarter mile of a site.

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Right-of-way means:

- (1) A person's legal right to pass through grounds or property owned by another, or
- (2) Land, property or interest therein usually in a strip, acquired for or devoted to transportation purposes.

Security fencing means a six-foot chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured.

Setback means the distance between the following, including but not limited to, a lot or property line, the closest projection of a building structure or permitted facility, wellhead, flow line, gathering line or a major facility boundary, Site means any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease.

Standard Operating Practices means criteria developed by the County and the Colorado Division of Wildlife for the protection of wildlife resources in the County during oil and gas development activities. Standard Operating Practices may be referred to herein as "SOPs".

Surface owner means the owner of the property on which the facility will be constructed.

Temporary equipment means equipment located onsite for a duration of time less than six months.

Temporary use area means disturbed lands immediately adjacent to the well pad or right of way used by an operator during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations.

Transmission line means a pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

Well head means the equipment attached to the casing of an oil, gas or injection well above the surface of the ground.

Well Pad means the area in which permanent operations for the well takes place and shall always include, at a minimum, that portion of the pad area occupied within the drilling rig anchors. Well pads may contain one or more wells and associated equipment.

All other words used in this article shall be given their usual, customary and accepted meaning in the oil and gas industry.

6.05 GENERAL PROCEDURES

- (a) Development of oil and gas facilities within the unincorporated areas of the county, as to which the county's legal jurisdiction has not been preempted by state or federal law, shall be subject to the provisions of this

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article and any other applicable regulations of the county, as well as any state or federal entities or agencies having jurisdiction over such development.

- (b) Construction, installation and operation of oil and gas facilities which are subject to this article shall not commence until approval has been granted by the Board of County Commissioners. The Planning and Zoning department shall serve as the authorized representative of the board of county commissioners for the purposes of this article.
- (c) Planning Commission review and recommendation together with board of county commissioners' review and approval shall be required for all activities and facilities.

6.06 RESERVED

“ADMINISTRATION IN GENERAL”

6.07 SUBMITTAL REQUIREMENTS

Submittal requirements are as found in the following table:

	Elements	Minor	Major	<u>Exploration</u>
1.	Application	X	X	X
	Elements	Minor	Major	Exploration
2.	Letter of Intent to include:	X	X	X
	Operating plan	May be required*	X	
	Estimated number of site visits by vehicles	X	X	X
	Other site specific information, identified and requested at a pre-application conference.	May be required*	X	X
	Provide engine manufacturer's verification of the site rated	X	X	

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	horsepower. Within 10 days of the installation of an engine, the operator will provide the serial number to the county staff.			
3.	Emergency response Plan	X	X	X
4.	Site plan (map prepared for survey and location purposed by the applicant's surveyor may be used as per state and federal requirements) including:	X	X	X
	North arrow, appropriate scale, over lain on aerial photography	X	X	X
	Existing improvements within map area	X	X	X
	Utility easements, right-of-way	X	X	X
	Irrigation ditches crossing or with 100 ft	X	X	X

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	Elements	Minor	Major	Exploration
	Drainage plan (onsite, offsite including proposed storm water best management practices for facility and access roads)	X	X	
	Proposed facilities including temporary use area, permanent well pad, flow lines, gathering lines, pits, equipment, etc.	X	X	
	Other site specific information identified and requested at a pre-application conference.	May be required*	X	X
	Proof of current surface ownership of facility site	X	X	X
	<u>Surface 3D seismic reflection survey (azimuthal) to evaluate the presence and orientation of natural vertical fractures that could flow fluids (hydrogen sulfide and other gasses, drilling fluids, fracking fluids, radioactives), so that drilling and production operations can avoid natural hazards.</u> <u>Surface geochemical ("sniffer") survey to identify and document existing hydrogen sulfide, methane gas seeps</u> <u>Surface radioactivity survey to identify known radioactives in the vicinity of proposed well sites</u>			<u>X</u>
5.	Vicinity maps (county GIS maps may be used as base map) including;	X	X	X

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	Township, range, and section	X	X	X
	Site boundary	X	X	X
	North arrow and scale	X	X	X
	Major geographic features, to include <u>permanent or intermittent bodies of water, roads utility corridors, water supplies for domestic, public or agricultural use, or springs within 800 ft of all source points in the testing area.</u>	X	X	X
	Current surface ownership within one-quarter mile of site, to include names of platted subdivisions and approximate location of residences	X	X	
	Current surface ownership of parcels adjacent to proposed site	X	X	
	Elements	Minor	Major	Exploration
	Existing and proposed access, <u>and proposed travel routes of all vibration-generating seismic testing equipment</u>	X	X	X
	Existing pipeline routes (gathering lines, transmission lines); <u>a traffic control plan for any operations that will occur on or impede a public right-of-way.</u>	X	X	X

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	Other site specific information identified and requested at a pre-application conference	X	X	X
6.	Weed and disturbance plan, <u>to include avoidance of areas of geologic hazards during times of snowmelt, spring runoff or heavy rainfall. Limit depth of indent from wheels on the surface to XX inches.</u>	X	X	X
7.	Visual mitigation plan refer to 8.2.38 (a) (b)	X	X	
8.	Wildlife mitigation procedures	X	X	
9.	Noise mitigation procedures	X	X	X
10.	Four color photos, each taken from the center of the site facing north, south, east and west, respectively, properly focused and exposed	X	X	
11.	Grading Plan	X	X	X
12.	Information regarding right of access and use of access roads and copies of any access agreements or road maintenance agreements if applicable	X	X	X

* Pursuant to discretion of Director of Planning.

6.07.01 OIL AND GAS EXPLORATION

No blasting will be permitted in any County right-of-way. Blasting shall be kept a safe distance from protected structures, water wells and springs.

• Methods involving explosive material ("shotholes") are prohibited.

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- Any undetonated charges shall be reported to the Sheriff's Department immediately.
- Shot-holes shall be plugged and compacted and any surface disturbance shall be regraded and seeded. Drilling and plugging shall meet or exceed COGCC requirements.
- Sinkholes or other subsidence created by seismic testing operations shall be immediately filled and graded. The permittee is responsible for sinkholes that may form for up to one (1) year after the operation has terminated.
- All explosives shall be legally and safely stored in magazines when not in use as per federal regulations. The permittee shall comply with all federal, state, and local regulations regarding the use of explosives.
- Helicopters shall be operated in compliance with applicable regulations.

A map of flight corridors shall be submitted to Planning Department. • Any residents and businesses within one (1) mile of any blasting shall be notified at least 24 hours in advance of blasting.

- Seismic vibroseis testing shall maintain distances of a minimum of 440 feet from homes and other buildings, wells, springs and underground mines, unless otherwise approved.
- Planning Department shall be notified of dates of commencement and termination of testing on each line.
- All flagging, pins, stakes and other debris shall be removed immediately after termination of the operation.
- Test lines shall not vary from those mapped by more than one-fourth (1/4) mile without review by Planning Department.

6.08 RESERVED

6.09 FEE SCHEDULE

The application fees to be imposed pursuant to this article are set forth in Appendix A and adopted by resolution of the board of county commissioners. Fees to be charged in association with the provisions of this article may be amended periodically by the board of county commissioners.

6.10 GENERAL STANDARDS FOR REVIEW

- (a) Oil and gas facilities shall meet the standards and policies set forth in the following documents:
- (1) These county oil and gas regulations;
 - (2) The county land use regulations;
 - (3) The county master plan;

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- (4) County road and drainage design specifications and standards;
 - (5) The International Building Code as amended and adopted by Huerfano County;
 - (6) Plans and regulations of municipalities in the county, if applicable;
 - (7) Other applicable local, county, state and federal plans, policies and regulations.
- (b) Where applications are scheduled for joint public hearing, the Board of County Commissioners and the Planning Commission shall conduct a joint public hearing, with notice of such hearing published in a newspaper of general circulation in Huerfano County at least (10) days prior to the scheduled hearing date. The applicant shall mail notification of the hearing date, and subject of the hearing to all listed owners of record of all adjacent properties, and properties owners within 1320 feet of the facility at least ten (10) days prior to the scheduled hearing date and provide at the public hearing proof of publication, proof of payment of publication and proof of notification of adjacent property owners. In addition, the applicant shall cause to have posted on the property in question, in a conspicuous location, a sign supplied by Huerfano County, stating the time, date, location and subject of the hearing. Such sign(s) shall be posted at least ten (10) days before the scheduled date of the hearing. The record of comments for this type of application consists of the record of project file plus the joint public hearing.
- (c) For minor facility applications, the record of comments shall consist of the contents of the project file plus the record of the Planning Commission meeting.

6.11 DURATION, MODIFICATIONS AND PREEXISTING USES

- (a) **Duration.** Approval granted for minor and major facilities shall expire and be considered revoked if construction of the facility is not commenced within one year of the date of approval. Approval granted for minor facilities that are individual well sites shall expire or be considered revoked if drilling operations are not commenced within one year of the date of approval.
- (b) **Modifications.** Where a minor or major facility has been approved and the applicant desires to modify the subject facility by changes to previously permanent approved equipment, addition of new permanent equipment, site layout, new grading activities, operating plan, etc., an amendment to the original application shall be required. Changes to permanent equipment include but are not limited to changes of existing equipment or operations that result in greater land use impacts. Applicant shall submit a narrative, site plan, visual mitigation plan, and appropriate fees per the specifications outlined in this chapter. In cases where the amendment would consist of the addition of a major facility, a joint public hearing shall be required as described in Section 6.28 of this section, Major Facilities. Modifications which the applicant determines in good faith must be done on an emergency basis may be commenced without prior notice or approval by the Board of County Commissioners. The applicant shall provide the Board of County Commissioners with

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notification of such emergency modifications by filing a written amendment to the application, along with the appropriate fees, specifying the modifications made, within two working days of their commencement.

- (c) Permit Extensions. Approved facilities may be granted one permit extension for up to one year duration provided that a request for extension is submitted to the Board of County Commissioners before the original permit expires. Requests for extensions shall not be submitted for board review earlier than 45 days prior to the original permit's expiration date. Permit extension requests will be processed without fee.
- (d) Effective date. This article shall become effective on the date specified in the adopting resolution of the board of county commissioners in accordance with state law.

6.12 CONSTRUCTION OR INSTALLATION OF UNAPPROVED OIL AND GAS FACILITIES

It is unlawful to construct, install, or cause to be constructed or installed, any oil and gas facility within the unincorporated areas of the county unless approval has been obtained pursuant to these regulations.

6.13 PENALTY

Subject to the provisions of C.R.S. § 30-28-124, any person, firm, corporation or legal entity which owns, leases or operates a minor or major oil and gas facility, and which constructs, installs or uses, or which causes to be constructed, installed or used, any minor or major oil and gas facility without first receiving approval from the board of county commissioners, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$100.00 per day of violation, per violation, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment. In addition, the County may also seek civil penalties and relief pursuant to the provisions of C.R.S. Section 30-28-124.5.

6.14 CIVIL ACTION

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered or used, or any land is or is proposed to be used, in violation of any provision of this article, the county attorney, or where the board of county commissioners deems it appropriate, the district attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration or use.

6.15 FALSE OR INACCURATE INFORMATION

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The board of county commissioners may revoke approval of a facility if it is determined at a public meeting, held on at least ten days' notice to the applicant, that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants and employees knew, or reasonably should have known, was false, misleading, deceptive or inaccurate. The applicant and the planning commission and staff shall be provided with an opportunity to be heard at the public meeting prior to the board of county commissioners rendering its decision.

6.16 PERFORMANCE SECURITY

The applicant shall provide one form of the following security to ensure compliance with mitigation requirements set forth in this article and specific conditions of approval for minor and major facilities: \$7,500 performance bond (irrevocable letter of credit; or equivalent financial security acceptable to the county) for each minor facility up to 15 facilities subject to uncompleted conditions of approval (maximum \$105,000); or \$7,000 performance bond for operators with more than 15 minor facilities subject to uncompleted conditions of approval (maximum \$175,000);. Performance bond requirements for major facilities will be determined on a case by case basis. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public and/or adjacent landowners by the applicable performance standards contained in this section with regard to the county permit. Specific minor and major facilities will be released from the bonding requirement after the applicant demonstrates to the Board of County Commissioners that all conditions of approval have been met. Reclamation activities which fall under COGCC jurisdiction are exempted from this performance security coverage. This provision is not meant to replace the COGCC's financial assurance requirement.

6.17 RIGHT TO ENTER

For the purpose of implementing and enforcing this article, the applicant shall provide notice to the surface owner that county personnel may need to enter onto subject property at any time during the review of a minor or major facility application and thereafter upon reasonable notification to the operator. If entry is denied, the County shall have the right to discontinue the processing of any pending permit application, to halt the effectiveness of an issued permit, or to obtain an order from a court of competent jurisdiction to obtain entry.

6.18 EMERGENCY RESPONSE PLAN REQUIRED

Each operator with facilities in the county is required to provide an emergency response plan to the county office of emergency management. No applications for a minor or major facility shall be considered complete until the operator has provided such plan to the county. The plan shall be filed with the county and updated on an annual

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basis or within 10 working days as conditions change (responsible field personnel change, ownership changes, etc.). The emergency response plan shall, at a minimum, consist of the following information:

- (1) Name, address and phone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
- (2) An as-built facilities map showing the name, location and description of all minor and major facilities, including the size, type and content of all pipelines, pits and tanks. The map shall be prepared digitally on the county geographic information system parcel maps. To the extent allowed by law, the as-built facilities map shall be held confidentially by the county's office of emergency management, and shall only be disclosed in the event of an emergency. To the extent allowed by law, the county's office of emergency management shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).
- (3) Provide two copies of a written response plan for any potential emergencies that may be associated with the construction, drilling, completion or operation of the facilities. This plan should include any or all of the following: explosions, fires, gas, chemical, or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
- (4) Project specific emergency response plans are required for any project (minor or major) that involves drilling or penetrating through known zones of hydrogen sulfide gas. This plan shall be coordinated with and approved by the county's office of emergency management prior to beginning field operations.
- (5) Hazard specific placards on building exteriors containing such substances.

6.19 RESERVED

“MINOR FACILITIES” and Oil and Gas Exploration Activities

6.20 GENERALLY

Applications for county land use approval for proposed minor facilities and oil and gas exploration activities shall be processed by county staff, provided the information in the application establishes that (a) the proposed use complies with the minimum requirements for such facilities as set forth in this article or (b) that the proposed facility's noncompliance with this article will be mitigated in accordance with the applicable standards and requirements for minor facilities.

6.21 APPLICATION SUBMITTAL PROCEDURE

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The application shall be in the form prescribed by Section 6.07 of this code and shall include information and/or documentation establishing that the proposed minor facility is in compliance with all applicable requirements of this article. If the applicant asserts that the proposed use complies with requirements, the application shall contain a certification from the applicant or its designated agent (accompanied by a written designation of agent in the form prescribed by the county) that the proposed facility complies with all applicable provisions of these regulations, and that the information in the application, as well as in any documentation submitted, is true and accurate. If the applicant asserts that the proposed facility's noncompliance with this article will be mitigated, the application shall set forth the specific measures which will be employed at the facility to mitigate the land use impacts associated with the facility. Such identified mitigation measures shall comply with the standards and requirements for such facilities as set forth in these regulations.

6.22 DETERMINATION OF COMPLETENESS

Should the county staff determine that the application, as submitted, is not complete, it shall provide the applicant with written notice of the specific deficiencies within fifteen (15) business days of the initial submittal. No further action shall be taken on an application determined to be incomplete, until the specified deficiencies have been corrected to the satisfaction of the county staff. If the application is found to be complete, containing all information and/or documentation required by this article, the county staff shall then review the application for compliance with applicable standards and requirements. This review may include a field inspection of the proposed site.

6.23 PLANNING COMMISSION ACTION

Review of a complete application and approval or denial will typically occur within twenty-one business days. More or less time may be required for review depending on the county staff's work load or requests for additional information made to the applicant. If a permit is not approved within twenty-one (21) business days, the county staff will contact the applicant with an estimate of when the application will be acted upon. Should the information in the application and any accompanying documentation establish that the proposed minor facility will be constructed and operated in compliance with all applicable standards and requirements of this article, then Planning Commission shall issue a recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the proposed minor facility will not or cannot be constructed and operated in compliance with all applicable standards and requirements of this article, then it shall issue a recommendation of denial of the application, stating with specificity the grounds for its decision. At the request of either the applicant, surface owner, or other landowner receiving notice pursuant to Section 6.26 of this Code, Planning Commission may, at its discretion conduct a public site visit with these parties to evaluate locations, compliance with county code, and mitigation that may be required under Section 6.38 of this code. When possible this site visit will be coordinated with site visits required by rules of other governmental agencies. Where a site visit is not deemed

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necessary, the Planning Commission may hold an informal dispute resolution meeting pursuant to the Land Development Guide at a convenient community building.

6.24 PLANNING COMMISSION DETERMINATION OF SATISFACTORY MITIGATION FOR MINOR FACILITIES

Measures.

Should the information in the application and any accompanying documentation establish that the proposed facility will be constructed and operated in such a manner that the land use impacts associated with the facility's noncompliance with this article are mitigated in accordance with the applicable standards and requirements, the Planning Commission shall issue recommendation of approval for the proposed minor facility. Should the Planning Commission determine that the mitigation plan for the facility does not meet the applicable standards and requirements, and the applicant fails or refuses to provide satisfactory evidence that such a mitigation plan is not possible under the facility's specific circumstances, it shall issue a recommendation of denial of the application, stating the specific grounds for its decision.

6.25 APPEAL OF DENIAL OR APPROVAL

Should the applicant request county land use approval by the filing of a written appeal with the board of county commissioners, he must follow the requirements of Section 1.17.

6.26 NOTICE TO ADJACENT PROPERTY OWNERS

- (1) Written notice shall be provided to surface owners for all minor facility applications. The applicant shall present proof of such notice by submitting a copy of the letter, a list of the land owners notified, and certified mail receipts. This notice shall be mailed no less than 10 days prior to the application being submitted to the Planning Commissions Administrative Staff. Notice of the application shall be made as follows:
 - a. To the current surface owners of the parcels of land within which the minor facility is proposed to be located, as well as the current surface owners of those parcels of land within 1/4 mile (1320 feet) of the well head, as such ownership is indicated for tax purposes in the current records of the county assessor's office. For the purposes of notice, the parcel owner shall receive notice if their property boundary is within a 1/4 mile (1320 feet) from the point indicated as the wellhead (the wellhead is indicated by feet from section lines).
 - b. The notice of the application for approval of a minor facility shall contain the following:

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1. A description of the proposed facility's site location, including a legal description, as well as a street address for the site, if available from the county's rural addressing system. The identification of the applicant and its designated agent for the application, if any; the current business address and telephone number for the applicant and its agent, if one has been designated, and a vicinity map per the specification of this chapter and brief description of the facilities and equipment proposed to be located at the site when operational.
2. The submittal date of the application to staff. A statement that comments on the application should be submitted to staff within ten working days of its submittal.
3. A statement informing the landowner that if they desire notice of the commencement of construction and drilling operations (if the application is approved) they should contact the applicant and county staff in writing. The applicant will provide written notice to the county staff and those landowners desiring notice no less than 10 days prior to the commencement of construction and drilling operations.
4. The current mailing address, website address, telephone number for the county staff and COGCC, as well as a statement that additional information on the application will be available from the county staff within ten working days.
5. A statement concerning the county's need to enter property which is the subject of a minor or major facility permit as follows: for the purpose of implementing and enforcing the county's oil and gas regulations, county personnel may, from time to time, need to enter onto the property which is the subject of a minor or major facility application.

6.27 RESERVED

“MAJOR FACILITIES”

6.28 REVIEW OF APPLICATIONS; ACTION BY BOARD OF COUNTY COMMISSIONERS

All applications for major facilities (as defined under Section 6.04 of this Article) shall be scheduled for joint public hearing before the commission and the board of county commissioners in accordance with the provisions of this subcategory. The commission shall review such applications at a scheduled public meeting, and forward a recommendation for approval, conditional approval, or denial with appropriate findings to the board of county commissioners for final action. The board of county commissioners' action on an application for a major facility shall be scheduled for the next regularly scheduled board of county commissioners hearing for planning agendas for which proper public notice has been given. Final actions of the board of county commissioners shall contain appropriate findings based upon competent evidence in the record before the board of county commissioners.

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6.29 APPLICATION SUBMITTAL PROCEDURE

The major facility application shall consist of all items identified in Section 6.07 of this article. Prior to formal submittal of the application, Planning and Zoning shall meet with the applicant to discuss and identify any additional information required to adequately review the proposed facility.

6.30 DETERMINATION OF COMPLETENESS

The staff will review the application for completeness. If the application is deemed complete, the staff will commence the planning commission review notification in accordance with Section 6.31. If the application is incomplete, the applicant will be notified of the deficiency and the application shall be withdrawn from the review process until the required information is submitted.

6.31 NOTICE OF A JOINT PUBLIC HEARING

Not less than 10 days, nor more than 30 days prior to the joint public hearing established to consider the major facility application, a legal notice of the joint public hearing before the board of county commissioners and the planning commission shall be published in a newspaper of general circulation within the county at the applicant's expense.

- (1) Written notice shall be given individually to the owners, as listed by the county assessors, of any land adjacent to or located within one-quarter of a mile (1,320 feet) of any portion of the subject site: such notice will be sent by the applicant at least ten (10) days prior to the scheduled hearing date. At the public hearing the applicant must provide proof of publication, proof of payment of publication and proof of notification of adjacent property owners.
- (2) The public notice of the public hearing shall take a form prescribed by Planning and Zoning and shall include the following:
 - a. A description of the location (including a legal and practical description) and a description of proposed activity under review.
 - b. Time and place of the public hearing.
 - c. The name, address and telephone number of the applicant and/or its designated agent.
 - d. A statement that additional information may be obtained from the county staff noting office location, phone number, and time when information is available from examination.

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6.32 NOTICE UPON REQUEST

Notice shall be sent to any person, agency or organization requesting their names and addresses be placed on a mailing list to receive notice of major facilities undergoing public review, and pay an annual fee, the amount of which shall be determined from time to time by the Board of County Commissioners. In order to have a name and address retained on said mailing list, the concerned shall resubmit their names and addresses and pay such fee before January 31st of each calendar year.

6.33 PLANNING COMMISSION REVIEW

The commission shall conduct a noticed public meeting for review of the proposed major facility. On the basis of competent evidence received at this meeting and the joint public hearing, the commission shall make its recommendation to the board of county commissioners regarding approval, conditional approval or denial of the application. Such commission actions shall contain appropriate findings or reasons in support of the recommendation concerning the facility's compliance with applicable standards and requirements, as well as the appropriateness of the facility in the location proposed in accordance with the review criteria set forth in Section 6.34.

The commission may table an application to a date certain in order to receive additional testimony or information. The applicant may request a continuation of the public meeting for good cause shown satisfactory to the commission. The commission shall render its verbal decision regarding a recommendation on the proposed facility forthwith after the evidentiary phase of the public meeting on the application has been closed.

6.34 BOARD OF COUNTY COMMISSIONERS' REVIEW CRITERIA

The board of county commissioners' decision to approve or deny an application for a major facility shall be made and determined based upon its compliance with all applicable performance standards and other requirements of this article and by applying the following evaluative criteria to the evidence in the record of proceedings before the board of county commissioners:

- (1) Need. The demonstrated need for the facility, in the location proposed, to serve the applicant's existing and projected oil and gas development, production and operational requirements.
- (2) Suitability. Suitability of the location of the proposed facility given its size, design and operational characteristics. Factors to be considered include noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts and public safety. These factors will be evaluated in accordance with applicable state, county and federal standards and criteria.

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- (3) Adequacy of existing roads and access to the site. Factors for consideration are existing and proposed road alignment, intersections, condition, structure and site distances; traffic volumes and types of equipment; dust control; and existing road uses.
- (4) Site characteristics. Factors to be considered are topography, natural hazards (landslides, flooding, wildfire), cultural and historical uses on the proposed site and in the notice area and current resource values (open space corridor, prime farmland as designated by Natural Resource Conservation Service (NRCS) and wildlife habitat).
- (5) Compatibility. Compatibility with existing uses and those which can be projected, based upon present subdivision and land use approvals and planning district plans for properties located within the surrounding affected area, as determined by the board of county commissioners, based upon competent evidence in the record. A facility's compatibility with land uses in the surrounding area, which the board of county commissioners finds will be affected by its operation, shall be determined by the facility's estimated or projected ability to mitigate the impacts which it generates, as set forth in the facility operational plan, and in accordance with applicable county, state and federal rules, regulations and standards.

6.35 RESERVED OIL AND GAS EXPLORATION

PURPOSE

Exploration for oil and gas in Huerfano County using techniques including seismic vibroseis, surface shooting, underground blasting, or other methods with the potential to impact surface property, water quality, or traffic or County roads shall be required to apply for a permit with the County for review by the Planning Commission and approval by the Board of County Commissioners. Application process shall follow guidelines for a minor facility. Exploration methods that involve explosive materials or "shootholes" are prohibited.

6.35.1 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

6.35.2 Insurance

A copy of the following insurance coverage, including the required Additional Insured

Language:

a. Commercial General Liability. This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate.

b. Automobile Liability. Bodily Injury and Property Damage for any owned, hired, and non- owned vehicles used in the performance of the Contract. Minimum limits \$1,000,000 Each Accident.

c. Workers' Compensation and Employer's Liability. Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee.

d. Umbrella/Excess Insurance. Umbrella/Excess Liability insurance in the amount \$25,000,000.00, following form.

e. Professional Liability (Errors and Omissions). Professional liability coverage with minimum limits of \$10,000,000 Per Loss and \$10,000,000 Aggregate. Professional Liability provisions indemnifying for loss and expense resulting from errors, omission, mistakes or malpractice is acceptable and may be written on a claims-made basis. The contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning at the time work under this Contract is completed.

f. Pollution Liability. Coverage pay for those sums the Contractor becomes legally obligated to pay as damages because of Bodily Injury, Property Damage or environmental Damage arising out of a pollution incident caused by the Contractor's work including Completed Operations. Coverage shall include emergency response expenses, pollution liability during transportation (if applicable) and at Non-Owned Waste Disposal Site (if

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applicable). The Minimum limits required are \$15,000,000 Per Occurrence/Loss and \$15,000,000 Policy Aggregate. If the coverage is written on a claims- made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 3 years beginning from the time that work under this contract is completed. County shall be named as an additional insured for ongoing operations and completed operations.

g. Additional Insured. Boulder County must be named as an additional insured for the General Liability, Umbrella/Excess Coverage and Pollution Liability policies listed above. Additional insured shall be endorsed to the policy. Additional Insured wording shall be as follows: County of Boulder, State of Colorado, a body corporate and politic, is named as an Additional Insured.

h. Contractors. Operator shall require adequate insurance of its contractors and subcontractors. Operators will be responsible for any and all damage or loss suffered by the county as a result of the work being performed by Operator or any subcontractor as described in this article Financial assurances in a form and amount satisfactory to the Director sufficient to guarantee Applicant's obligation to restore all property damaged by seismic testing to its pre-testing condition;

6.35.3 Surface disturbance

Oil and gas exploration activities shall not cause significant damage or impact to the surface and should consider factors such as weather and soil conditions before conducting activities. If damage is caused to the surface (such as deep tire tracks or ruts), surface owner may be entitled to compensation.

6.35.4 Appeals.

The Applicant may appeal the Director's decision to deny a permit or place particular conditions on the permit to the Board of County Commissioners within 30 days of the Director's decision.

“PERFORMANCE STANDARDS”

6.36 COMPLIANCE

All oil and gas facilities granted approval by the board of county commissioners must comply with the standards contained in this division. For major facilities, staff shall determine the level of detail required in a submittal based

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on the potential adverse impacts of the proposed facility on the unique characteristics of the proposed site and activity

6.37 LAND USE COORDINATION STANDARDS

- (a) Purpose. The purpose of this section's standards for land use coordination is to minimize conflicts between differing land uses.
- (b) Setbacks.
 - (1) A setback of at least 450 feet shall be required between the well head and the closest existing residential structure or platted building envelope, unless verified written consent is obtained from the affected surface property owner to a waiver of this standard.
 - (2) A setback of at least 150 feet shall be required between the well head of a minor facility and the closest property line, unless verified written consent is obtained from the affected property owner.
 - (3) Where site conditions or State or Federal regulations make it impractical for the applicant to meet the setbacks of this section, and a waiver is not obtained from the affected property owner, the applicant shall not be required to fully meet the above-described setbacks. The applicant shall, however, meet setbacks to the maximum extent possible and may be required to implement special mitigation measures as described in this article.
 - (4) Setbacks between a major facility and the closest existing residence or property lot line shall be determined on a site specific basis, based on the major facility review criteria identified in Sections 6.10, 6.34 and 6.36 as applicable, but not less than those required for a minor facility.
 - (5) Setback requirements for flow lines, gathering lines, and transmission lines from general residential, commercial, and industrial buildings shall be a minimum of 50 feet. The setback distance shall be measured from the nearest edge of the affected pipeline. County staff may require an applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or greater setbacks.
- (c) Platted subdivisions.
 - (1) In those instances where applicant accesses facilities through a private road or roads, applicant will use best efforts to negotiate a fair and reasonable road maintenance or road improvement agreement with the private entity or entities that access off the road for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s).

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An applicant that fails to reach an agreement shall document its actions to the county and the existence, or lack thereof, of such executed agreements shall be noted in the application.

(d) Sound emissions.

- (1) The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.
- (2) All minor facilities with engines or motors (excepting well head compressor engines) shall be electrified if located within 1320 feet of distribution voltage. Applicant may provide information demonstrating that such electrification is infeasible. Staff shall review this information and may provide a waiver of this requirement. If distribution voltage is not currently within 1320 feet of the proposed minor facility, applicant will contact and provide the surface owner an opportunity at the surface owner's cost to extend distribution voltage to within 1320 feet of the proposed facility. Gas powered artificial lift equipment may be used prior to the time that a site facility is electrified. All minor and major facilities which are not electrically operated shall be equipped with quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such equipment mufflers shall be properly installed and maintained in proper working order.
- (3) All mechanized equipment associated with minor and major facilities shall be anchored so as to minimize transmission of vibration through the ground.
- (4) Special mitigation measures:
 - a. Where a minor or major facility does not comply with the required setback or other portions of the performance standards, additional noise mitigation may be required. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 1. Nature and proximity of adjacent development (design, location, type).
 2. Prevailing weather patterns, including wind directions.
 3. Vegetative cover on or adjacent to the site.
 4. Topography.
 - b. Based upon the specific site characteristics set forth in this section, the nature of the proposed activity and its proximity to surrounding development, and the type and intensity of the noise emitted, additional noise abatement measures may be required. The level of required mitigation may increase with the proximity of the facility to existing residences and platted subdivision lots, and/or the level of noise emitted by the facility. One or more

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of the following additional noise abatement measures, including but not limited to the following, may be required:

1. Acoustically insulated housing or cover enclosing the motor or engine.
 2. Vegetative screen consisting of trees and shrubs which may be placed within a fenced enclosure.
 3. Solid wall or fence of acoustically insulating material surrounding all or part of the facility.
 4. Acoustically insulated building enclosing the installation.
 5. Noise management plan identifying hours of maximum noise emissions, type, frequency and level of noise to be emitted; and proposed mitigation measures.
- (5) Sound emissions shall at minimum be in accordance with the standards as adopted, and amended from time to time by COGCC. In all instances a major or minor facility must comply with sound emission standards designated for residential land uses unless a specific exemption is granted by the staff, the planning commission or the BOCC.
- (6) Other special mitigation measures. Construction of buildings or other enclosures may be required where facilities create noise and visual impacts nonmitigable because of proximity, density and/or intensity of adjacent land use.
- (e) Security and Safety.
- (1) Security fencing and a locked gate for minor and major facilities shall be required in the following locations:
 - a. Where there are four or more existing residences within 660 feet of the facility site perimeter;
 - b. Where there is a public or private school within 660 feet of the facility site perimeter;
 - c. Where there is any other existing structure with commercial occupancy as defined by the Building Code within 660 feet of the facility site perimeter; and
 - d. Where there is an existing recreational facility designated by an appropriate federal, state or local authority within 660 feet of the facility site perimeter.
 - (2) Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during drilling and production to minimize the danger to the general public.

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- (3) Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured and have blind flanges installed.
- (4) All land within 25 feet of any tank, pit or other structure containing flammable or combustible materials shall be kept free of dry weeds, grass or rubbish.
- (5) Where the applicant's visual mitigation plan specifies alternative security fencing, the alternative fencing shall apply pursuant to staff review.

6.38 ENVIRONMENTAL QUALITY STANDARDS

- (a) Location on private property. Recognizing the need to avoid operational conflicts, yet recognizing the rights of surface owners, the right of the county to determine land uses and the right of the mineral estate to extract minerals, the following criteria shall be used in siting oil and gas facilities on private property:
 - (1) The siting of a minor and major facility shall adhere to the standards outlined in this section to the maximum extent practical.
 - (2) The standards in this code shall not cause the operator to site the facility in: a geologic hazard area or an area with slopes exceeding 30 percent; an area of wetlands under the jurisdiction of the U.S. Army Corps of Engineers; in an area within a floodway of a stream or river as shown on the Flood Insurance Rate Maps (FIRM) or as determined by a state licensed professional engineer, or in an area designated as Restricted Surface Occupancy for wildlife resources by the Colorado Division of Wildlife (CDOW), unless specifically excepted through written consultation with CDOW.
 - (3) The County recognizes that in some instances, existing minor oil and gas facilities which initially met the requirements if this section would not meet the requirements of a current application where filed due to (i) the encroachment of other development into the setback area, (ii) because the regulation was not in effect when the original installation occurred, or (iii) because a waiver previously was obtained. In those instances, where the setback requirements of this section cannot be met currently, the use of the existing well pad site will be considered a legal nonconforming use not subject to the requirements of this section, provided that all land use performance standards are not in any way superseded by the placement of the new well on the existing or expanded well pad. The number of well pads shall not exceed four (4) within any single six hundred forty (640) acre governmental section of real property. To the extent reasonably practicable, operators shall share existing well pads and shall expand the well pads only as necessary to accommodate additional minor facilities. Notwithstanding the foregoing, nothing obtained in this section shall be construed so as to require the closure or abandonment of any existing oil or gas well. Special exceptions to this section may be granted when one or more of the following factors apply in a manner such that use of only four well pads per governmental section is rendered impractical:

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- a) Topographic characteristics of the site;
 - b) Natural resource constraints (e.g. wetlands);
 - c) The location of utilities or similar services;
 - d) Demonstratively insurmountable technical issues related to the development or management of the mineral resource;
 - e) Other site conditions beyond the control of the applicant; or
 - f) Demonstrable safety concerns.
- (4) The following criteria shall be used to site an oil and gas facility. Facilities that cannot comply with the following criteria may be denied according to Sections 6.23 or 6.24 or may be required to mitigate the site as outlined in 6.37 (d) (4) and 6.38 (c) (9). The mitigation requirements may be waived by the community development director if existing topography and vegetation mitigate the land use impacts of the site. The county shall determine the compliance of the proposal using the following standards. Standards are ranked according to importance. Where conflicts between standards occur the higher ranked standard will be used.
- a. Minor facilities shall be constructed using existing infrastructure. This includes, but is not limited to, the use of existing roads, pipeline routes, and well pads within the existing drilling windows.
 - b. Minor facilities shall adhere to the setback and location requirements found in Section 6.37 (b)(1-3), (c)(1), and (d)(1&2).
 - c. Minor and major facilities shall be sited to minimize the impact to existing residences, commercial structures, public buildings, and county approved platted building envelopes.
 - d. Minor and major facilities shall be sited to minimize the impact to agricultural operations.
 - e. Minor and major facilities shall be sited in order to minimize the amount of cut and fill needed to construct the facility.
 - f. Minor and major facilities shall be sited in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation to screen or background and the construction of the facility in canyons or behind ridges and natural rock formations.
 - g. Minor and major facilities shall be sited at the base of slopes to provide a background of topography and/or natural cover.
 - h. Minor and major facilities shall be sited to avoid crossing hills and ridges or silhouetting.

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- i. Minor and major facilities shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river crossings and other landmarks.
 - j. The provisions of any existing surface use agreement should be taken into consideration regarding the siting of a minor or major facility.
- (b) Visual mitigation plan.
- (1) A visual mitigation plan shall be required for all new minor and major facilities. The plan shall incorporate the appropriate design elements of subsections (c)(1) through (c)(10) of this section and include the design information in subsection (b)(2) of this section.
 - (2) The visual mitigation plan minimum requirements are as follows:
 - a. Compliance with the design elements of subsections (c)(1-10)
 - b. Scaled drawing.
 - c. Site boundary dimensions and descriptions.
 - d. Existing and proposed contours and pad elevations.
 - e. Existing conditions and site features that incorporate and surround such site to be developed.
 - f. Existing and proposed access.
 - g. Visual mitigation techniques to be employed at the facility.
 - h. Orientation and dimensions of facilities and equipment that will be used once the facility is operational.
 - i. Description of existing and proposed vegetation.
 - j. Location, height and extent of perimeter berms, if applicable.
 - k. Type, location and amount of mulch materials, if applicable.
 - l. Type, location and height of fencing, if applicable.
 - m. Delineate drainage and runoff patterns and mitigation.
 - n. Direction and type of lighting, if applicable.
 - o. Written maintenance and irrigation plan for at least one year after revegetation.
 - p. Title block:
 - 1. Name of development;

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2. Name of applicant or developers;
 3. Project number;
 4. Date of preparation; and
 5. Section, township and range.
- q. Performance security. For sites requiring a visual mitigation plan, performance security shall remain in place for at least two years after installation of the plant and landscape materials. The performance security shall be of an amount sufficient to cover the costs of the proposed improvements or the amount required by Section 6.16, whichever is greater.
- (c) Visual impacts.
- (1) To the maximum extent possible, the applicant shall use structures and surface equipment of minimal size to satisfy present and future functional requirements.
 - (2) When clearing trees and vegetation for construction of minor and major facilities, the applicant shall feather and thin edges of vegetation.
 - (3) The applicant shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
 - (4) To the maximum extent possible, the applicant shall align access roads to follow existing grades and minimize cuts and fills.
 - (5) Minor and major facilities shall be colored as follows:
 - a. Uniform or camouflaging, noncontrasting, nonreflective color tones, similar to BLM Standard Environmental and Supplemental Colors coding system.
 - b. Color matched to land, not sky, slightly darker than adjacent landscape.
 - (6) The applicant shall minimize damage to existing trees and vegetation.
 - (7) Pad dimensions for a minor facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance. This section may be waived by staff if well pad dimensions are related to a visual mitigation plan proposal to blend with the natural topographical conditions.
 - (8) Within six months after well completion, the pad area (except the main access road and the immediate areas within 25 feet of the aboveground facilities) shall be reseeded with native grasses or existing vegetation acceptable to the surface owner and the Natural Resource Conservation Service (NRCS). At all times Best Management Practices will be used to prevent storm water discharges from impacting surface water quality.

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- (9) One or more of the following landscape practices shall be applied, on a site specific basis as required:
 - a. Establishment of berms, ground covers, shrubs and trees..
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Cutting rock areas to create irregular forms.
 - d. Designing the facility to utilize natural screens.
 - e. Construction of fences such as woven wood or rock for use with or instead of landscaping.
 - (10) Exterior lighting, when required, shall comply with BOCC Resolution no: 06-20 and subsequent regulations.
- (d) Wildlife.
- (1) Referral to Division of Wildlife. Standard Operating Practices adopted by CDOW for protection of wildlife resources during oil and gas development activities are herein incorporated into the Huerfano County Land Use Code by reference, and shall become part of the performance standards for any minor or major facility approval. Applicant shall notify CDOW in the form described in Section 6.26 and shall identify in the notification the Standard Operating Practices adopted by CDOW that apply to applicant's proposed facility. If applicant is unable to comply with CDOW's Standard Operating Practices for wildlife protection due to conflicts with other provisions of the Huerfano County Land Use Code, applicant shall identify the conflict and propose alternate site-specific mitigation or best management practices for the protection of wildlife resources
 - (2) Site specific. Standard Operating Practices adopted by CDOW shall be included as appropriate in the site specific wildlife mitigation procedures required under subsection (d) (1) of this section. If applicant proposes alternate site-specific mitigation or best management practices to protect wildlife resources, the alternate site-specific mitigation or best management practices shall be approved by CDOW in writing prior to permit approval.
 - (3) Multiple site. In lieu of a site specific mitigation review for each facility, the applicant may submit to the staff a multi-site plan addressing cumulative impacts to wildlife from the estimated total number of facilities. The multi-site plan shall include, but not be limited to, all items under subsection (c) (2) of this section.
 - (4) Nonmitigable impacts. Impacts from oil and gas facilities which threaten endangered species (as defined by the state division of wildlife), shall be considered non mitigable and shall result in denial.
- (e) Water.

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- (1) If fresh or potable water is required for minor and/or major facility operation, the applicant shall identify the proposed source of such water.
- (2) Onsite containment and disposal of water associated with minor and major facilities shall be in accordance with any applicable federal, state or county requirements.
- (3) All applicants and operators shall make and keep a chemical inventory, by well or oil and gas facility. In addition to the inventory, the records shall include material safety data sheets, product information sheets, and other records necessary to describe the chemical constituents of each product listed in the inventory. Entities maintaining inventories under this section shall update these inventories bi-monthly throughout the life of the well or oil and gas facility. These records must be maintained in a readily retrievable and reviewable format. The Huerfano County Health Department may obtain information provided to county staff in a chemical inventory upon written request to the Planning department. Copies of said reports required by the Planning department shall be kept on file and available for inspection for the life of the applicable oil and gas facility. Upon the county administrator or planner's written request for information required to be maintained under this section, the record-keeping entity shall supply the requested information within three (3) business days in a format readily-reviewable by the county. Information provided to the planning department under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless required, permitted, or authorized by other state or federal law. The county code enforcement officer and the authorized deputies shall have access to all well records wherever located. All owners, drilling contractors, drillers, service companies, or other persons engaged in drilling or servicing wells, shall permit the county officer or authorized deputy, at the county's risk, in the absence of negligence on the part of the owner, to come upon any lease, property or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided, that information so obtained shall be kept confidential and shall be reported only to the BOCC or their authorized agents
- (4) All pits shall be fenced in order to prevent access by persons, stock or wildlife.
 - a. All pits shall be constructed in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:

All pits shall be fenced in order to prevent access by persons, stock or wildlife unless the applicant provides alternate mitigation measures satisfactory to the county which achieve the goal of protecting against entry into pits by unauthorized persons, stock or wildlife.

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- b. All pit liners and any materials not meeting the standards set forth in 2 CCR 404-1 Section 910 (inclusive of Table 910-1) shall be removed from the property upon completion of construction and disposed of at an approved facility.
 - (5) All pit liners shall be removed from the property upon completion of construction.
 - (f) Geologic hazard areas; floodplains.
 - (1) Major facilities shall not be located in geologic hazard areas
 - (2) Major facilities shall comply with the adopted county floodplain resolution no: 88-13 when they are located in a 100-year floodplain area, and/or the adopted HB1041 regulation when within 250 feet of a area of state and local concern.
- 6.39 SURFACE DISTURBANCE STANDARDS
- (a) Purpose of section. The purpose of this section is to encourage minimal damage to surface activities and surface conditions.
 - (b) Agricultural resources. Minor and major facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land. This standard may be waived if verified written consent is obtained from the surface owner.
 - (c) Roads and access. Installation of major facilities which are accessible by non-maintained roads included in the county road system, which the county road & bridge department determines are inadequate to safely accommodate the additional traffic associated with the operation of the facility, shall be permitted only if such roads are improved and maintained by the applicant to a level which the road and bridge supervisor determines is necessary to allow such traffic to use such roads in accordance with applicable state and county standards.
 - (1) Applicant will remove or require the removal of chains from its heavy equipment before entering a county road. All new roads shall have gravel access and well pads with a minimum of four inches (4") of Class 6 Aggregate Base Course as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction over a stabilized base, both of which shall be maintained throughout permanent operations of the well pad; and if mud and/or debris is tracked onto the county road by applicant's equipment, applicant shall remove same and restore the condition of the road as promptly as is reasonable under the circumstances.
 - (2) Applicant shall provide written documentation demonstrating that it has the right to use access roads located between the parcel on which a facility is to be located and the applicable county road or state highway.

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(d) Waste disposal.

- (1) When a minor or major facility becomes operational, all construction-related debris shall be removed from the site for proper disposal. The site shall be maintained free of debris and excess materials at all times during operation.
- (2) No burning of trash shall occur on the site without prior notice to dispatch and surface owner. All burning of trash shall be done within a container such as a wire cage or excavated pit covered with wire. All residual material from burning shall be removed from the site for proper disposal.

(e) Weed control.

- (1) The applicant shall be responsible for ongoing minor and major facility sites and access road weed control during construction and operation of the facility, until abandonment and final reclamation is completed per county or other applicable agency regulations.
- (2) The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the Huerfano County Extension Office.

(f) Minimization of disturbance.

- (1) Where minor and major facilities reduce or destroy existing vegetation, the applicant in consultation with the NRCS shall develop a revegetation plan for the remainder of the facility site, for approval by staff. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related activities.
- (2) Upon abandonment of a facility, reclamation shall be conducted in accordance with county or other applicable agency regulations.

6.40 SPECIAL EXCEPTION REQUESTS

- (a) Special exceptions to these performance standards may be requested by the applicant. All applications where a special exception is requested will be processed as a major facility. Requests for special exceptions for proposed facilities may include, but not be limited to, one or more of the following factors:
- (1) Topographic characteristics of the site;
 - (2) Duration of use of the facility;
 - (3) Proximity of occupied structures to the facility;
 - (4) Ownership status of adjacent and/or affected land;
 - (5) Construction of adequate infrastructure to serve the project; and

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- (6) Planned replacement and/or upgrading of facility equipment.
- (b) If the board of county commissioners finds, based upon competent evidence in the record, that compliance with these performance standards is impractical, a special exception may be granted by the board of county commissioners permanently or for a period of defined duration. Upon completion of the defined duration, the application shall receive additional review by the county in accordance with Sections 6.36 through 6.42 of this Code. The board of county commissioners, upon showing of good cause by the applicant, may:
 - (1) Further extend the special exception;
 - (2) Require that the facility be brought into compliance with the performance standards; or
 - (3) Revoke the special exception approval.

6.41 OPERATIONAL CONFLICTS SPECIAL EXCEPTION

- (a) Special exceptions to these performance standards may be granted where the requirements actually conflict in operation with the requirements of the Oil and Gas Conservation Act or implementing regulations. All applications where a special exception due to operational conflicts is requested shall be processed as a major facility and heard in a noticed public hearing by the board of county commissioners acting in a quasijudicial capacity, pursuant to C.R.S. §§ 30-28-117 and 30-28-118. The applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this division and those of the COGCC in the context of a specific application. For purposes of this section, an operational conflict exists where the county condition of approval or regulation actually conflicts in operation with the state statutory or regulatory scheme, and such conflict would materially impede or destroy the state's interest in the development, production, and utilization of oil and gas resources in the state, and the protection of the public health, safety and welfare. An operational conflict may occur where the county regulation prohibits an activity which the COGCC, or its valid regulations, has clearly authorized, or authorizes an activity which the COGCC, or its valid regulations, has clearly prohibited. Additional county requirements in areas regulated by the COGCC, which also fall within county land use powers and which are necessary to protect the public health, safety and welfare under the facts of the specific application presented, and which do not impose unreasonable burdens on the applicant, shall be presumed not to present an operational conflict. If the board of county commissioners finds, based upon competent evidence in the record, that compliance with the requirements of this division shall result in an operational conflict with the state statutory and regulatory scheme, a special exception to this division may be granted, in whole or in part, but only to that extent. The board of county commissioners may condition the approval of a special exception as necessary to protect the public health, safety and welfare by mitigating any adverse impacts arising from the grant of approval.

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- (b) If the applicant or any interested party wishes to seek judicial review of a final board of county commissioners' decision on the exception request, appeal to the district court shall be pursuant to Colorado Rules of Civil Procedure Rule 106(a) 4.

6.42 INFORMAL DISPUTE RESOLUTION

At the discretion of the code enforcement officer any complaint related to an alleged non-compliance with the provisions of this chapter by an applicant, operator, surface owner, or an adjacent landowner as identified in Section 6.26 may be referred to an informal dispute resolution process. The process shall be administered by Huerfano County Administrator in an attempt to reach a resolution of the complaint that is satisfactory to all interested parties. Where a resolution is reached, the resolution shall be reduced to writing and shall be binding on all participating parties.

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EXHIBIT A

CHEMICAL PRODUCTS

- (1) Onsite containment, disposal, and disclosure and retention of information related to Chemical Products associated with minor and major facilities shall be conducted in accordance with applicable state laws or regulation. If however, a state law or regulation does not exist, the Owner or Operator shall comply with the following:
- (2) All entities holding a permit issued under this section 90, shall make and keep appropriate records pertaining to chemical products covering their operations in the county, from which they may be able to make and substantiate the reports required by the COGCC, its director or, in the absence of state laws or regulations on this topic, as may be required by Huerfano County.
- (3) Beginning January 1, 2009 Owners or Operators shall maintain material safety data sheets for any Chemical Products brought to a wellsite for use downhole during drilling, completion, and workover operations including fracture stimulation.
- (4) Beginning June 1, 2009 Owners or Operators shall maintain a Chemical Inventory by wellsite for each Chemical Product used downhole or stored in an amount exceeding 500 pounds during any quarterly reporting period and the maximum capacity of fuel stored on the oil and gas location during drilling, completion, and workover operations including fracture stimulation. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the wellsite. These records must be maintained in a readily retrievable format. A County health department may obtain information provided to the Department or Director in a Chemical Inventory upon written request to the Director.
- (5) Where the composition of a Chemical Product is considered Trade Secret by the vendor or service provider, Owners or Operators shall only be required to maintain the identity of the Trade Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Department a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely impacted landowner regarding impacts to public health, safety, welfare or the environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the County planning engineer or his or her designee. The County planning engineer or designee may disclose information regarding those chemical constituents to additional County staff members to the extent that such disclosure is necessary to allow the staff member receiving the information to assist in responding to the spill, release or complaint, provided that such individuals shall not disseminate the information further. In addition, the County planning

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engineer may disclose information regarding those chemical constituents to a County public health department's director of environmental programs upon request by that individual. Any information so disclosed to the County planning engineer, a County staff member, or to a County public health department's director of environmental programs shall at all times be considered confidential and shall not become part of the Chemical Inventory nor shall it be construed as publicly available. The County public health department's director of environmental programs, or his or her designee, may disclose information regarding the chemical constituents contained in a Trade Secret Chemical Product to health department staff members under the same terms and conditions as apply to the county planning engineer.

- (6) The vendor or service provider shall also provide the chemical constituents of a Chemical Product to any health professional as may be provided under state law or regulation. In the event that no state law or regulation so provides, the vendor or service provider shall provide the chemical constituents of a Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and a written confidentiality agreement. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such proprietary Chemical Product will assist in such diagnosis or treatment. The confidentiality agreement shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement of need, and a confidentiality agreement from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.
- (7) Such books, records, inventories, and copies of said reports required by the Department or the Director shall be kept on file and available for inspection by the Department for a period of at least five years except for the Chemical Inventory, which shall be kept on file and available for inspection by the Department for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Director with the requested information within three (3) business days in a format readily-reviewable by the Director, except

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in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The Director shall notify the owner, holder, or beneficiary of any such protected information at least one business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.

- (8) In the event that the vendor or service provider does not provide the information required under subsections (6) and (7) directly to the Department, the owner or operator is responsible for providing the required information.