



PLANNING COMMISSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
February 10, 2022 at 6:00 PM

AGENDA

Google Meet joining info
Video call link: <https://meet.google.com/wma-afjh-gbg>
Or dial: (US) +1 727-877-8458 PIN: 489 854 957#
More phone numbers: <https://tel.meet/wma-afjh-gbg?pin=5790317904712>

Welcome / Roll Call

Approval of Minutes

1. Approval of Minutes for January 13, 2022 PC Meeting

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

PUBLIC HEARING

2. Request for Rezone, Katherine Lemus, San Juan Estates Phase 3 lot 25

ADMINISTRATIVE ITEMS

3. Consideration and Approval of The Ranches at Elk Meadows, Amendment no. 2, Bryant Black, Monticello Development Company LLC
4. Consideration and Approval of Conditional Use Permit Application, Thomas Zimmer, Old Town LLC
5. Consideration and Approval of Pine View Subdivision, Gary Torres
6. Consideration and Approval of Mersereau Subdivision, Amendment 3, lots 1 and 2a, Daniel Wright

LEGISLATIVE ITEMS

7. Consideration of Request for Rezone, Katherine Lemus, San Juan Estates Phase 3 lot 25

BUILDING PERMIT(S) REVIEW

8. Building Permit List

ADJOURNMENT

****In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice****



PLANNING COMMISSION MEETING

117 South Main Street, Monticello, Utah 84535. Commission Chambers
January 13, 2022 at 6:00 PM

MINUTES

GENERAL BUSINESS

Welcome / Roll Call

Planning Commission Chair Trent Schafer called the meeting to order at 6:00 pm.

PRESENT

Chairman Trent Schafer
Commissioner Lloyd Wilson
Commissioner Cole Cloward
Commissioner William Johnston
Commissioner Melvin Nelson
Commissioner Cody Nielson

Approval of Minutes

1. Approval of Minutes from the December 9, 2021 San Juan County Planning Commission Meeting

Time Stamp 1:03 (audio)

Motion to approve the minutes was made by Commissioner Wilson, Seconded by Commissioner Nielson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson

PUBLIC COMMENT - *Time reserved for public comment on items or issues not listed on the agenda.*

Time Stamp 2:34 (audio)

PC Chair Trent Schafer welcomed the public in attendance to the meeting. Many attended from Elk Meadows. Commissioner Schafer asked those wishing to make public comment to state their name and where they live in the county. He also asked that comments not be repetitive.

PC Commissioner Shrenk Arrived during the Public Comment portion of the meeting

The following individuals made comments:

David Beiber, a resident of Elk Meadows, expressed concern about water and the decline of water as a result of drought. He also expressed his opinion that there is not enough water for more development.

Commission Chair Trent Schafer explained that we don't have control over water, and we are obligated to approve developments if they meet the county zoning requirements.

Joe Mellen a resident of Elk Meadows, expressed concern about Elk Meadows becoming an area of urban sprawl. He also expressed his opinion that the rezone is spot zoning.

Marka Brenner a resident of Elk Meadows expressed concern about lack of notification, and what the notice requirements are for subdivisions. She also asked if CC&R's were presented with the subdivision amendment. She also asked who considers water rights, sewer and other infrastructure requirements. She also asked questions about when the public hearing is going to be held.

Greg Culbreath a resident of Elk Meadows that has recently moved to the area, expressed the way planning and zoning is handled in Colorado where he moved from.

Lynn Martin a resident of Elk Meadows asked pointed questions to each P&Z Commissioners about the way they voted on the rezone request. Planning Commissioners did not engage in a debate about how they voted on an item.

Katherine Lemus a resident of Spanish Valley attended the meeting through Google Meet, and expressed questions about why her rezone request was not on the agenda. Planning and Zoning Administrator Scott Burton stated that at the time the agenda was completed, there were still questions as to what was being requested.

Kevin Walker a Grand County Commissioner expressed concerns about camping in Millcreek Canyon.

Carolynn Dailey a resident of Pack Creek, requested the PC Deny the CUP for camping in Millcreek Canyon. She expressed concern about access, water, septic, and fire.

PC Commissioner Cody Neilson, stated that the subdivision application came to Planning and Zoning and met the requirements. He also stated that the PC is obligated to approve these applications if they meet the requirements of zoning. He continued by saying that the PC is not responsible for water rights or septic systems, as long as they meet the requirements, they can move forward.

Robbie Filcorn, a resident of San Juan County expressed a desire for the Planning Commissioners to stop the rezone at the Ranches at Elk Meadows.

ADMINISTRATIVE ITEMS

2. Consideration and Approval of a Request for Extension, Shannon Brooks, Monticello College

Time Stamp 34:29 (audio)

Shannon Brooks was not online, the item was skipped.

Time Stamp 1:07:30 (audio)

PC Chair Trent Schafer returned to this item after Shannon Brooks logged into the meeting.

Shannon Brooks with Monticello College joined through Google Meet and explained his request to extend the requirement for his Lyceum building to be completed until the end of December 2022. Commission Chair Trent Schafer asked for a progress report to be attached with his extension. Commissioner Cody Nielson expressed that an additional extension would not have his support.

Motion to grant the extension was made by Commissioner Cloward, Seconded by Commissioner Nielson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

3. Consideration and Approval of Conditional Use Permit Application, Hal Feinberg, Copa Consulting, LLC

Time Stamp 34:56

Hal Feinberg presented his plan for a luxury hotel resort in Dry Valley. He outlined the plans for the development, and the requirements they plan to meet regarding water, fire protection requirements, septic, building codes, UDOT access, ADA, and dark skies. He stated that the facility will be open 9-1/2 months out of the year, but someone will be staffing the facility year round. Commissioner Cody Nielson asked about the water well on the property and whether the well has been proven. Mr. Feinberg explained that the water right will expire in 12 years, so they will need to prove up the well before the expiration. Commissioners also discussed the closest neighbors, and additional details regarding the property.

PC Chair Trent Schafer asked for public comment on the development and the following individuals made comments:

Eric and Keshia Joot, adjoining property owners who run a glamping camp ground across the street, expressed concern about the impact of the resort on dark skies, noise, dust, infrastructure, and water table.

Tracy Johnson, a nearby property owner expressed concern about the patrons of the resort trespassing, and also concerns about water.

Deputy County Attorney Alex Goble asked how many structures were within the Highway Commercial Zone and how many were in the A-1 zone.

PC Members discussed fire suppression water storage requirements, water demand, and dust control. They also discussed power requirements and what facilities would be required to supply power with solar panels.

Time Stamp 1:03:02 (audio)

The following conditions were placed on the approval of the CUP.

- *Developer must return with engineered plans for solar system if he decides to use solar generation to provide power to the site.*
- *Must comply with the public water system requirements for water storage and pressure for fire suppression standards. 3000 gallons of onsite water storage for fire suppression according to the San Juan County Fire Chief.*
- *Must comply with any state or federal fire restrictions*
- *Must comply with all building permit requirements*
- *Must comply with San Juan County Health Department requirements and Utah State water system requirements.*
- *Must comply with San Juan County business license requirements.*
- *Must comply with waste water system requirements.*
- *continue conversations the State Division of Water Rights on the water rights.*
- *Must provide dust suppression on site during operation.*

Motion to approve the conditional user permit was made by Commissioner Nielson, Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

4. Consideration and Approval of Conditional Use Permit Application, Thomas Zimmer, Old Town LLC

Time Stamp 1:10:45 (audio)

Thomas Zimmer with Old Town LLC. provided additional information about his plan for a primitive camp site on his property in Millcreek Canyon. They intend to follow leave no trace camping ethics and a max of 100 people split between three camp sites. They plan to haul in all the water and haul out all of their human waste in wag bags or groovers. Camping would be March through May, and some in the fall to provide a primitive back country experience.

A lengthy discussion was had about the intentions of the property owner, and who the people will be coming to camp.

Mr. Zimmer explained his desire to find a more convenient place to camp with their student groups. The camping would not be opened to the general public. He further explained that most of his group sizes are 12-15 people, and they would be following the same leave no trace ethics that they would be required to follow for any Park Service, BLM or Forest Service permit. He also explained that he does not charge the college for use of the property, and the groups clean up after them selves in a leave no trace manner. Thomas explained that if the groups did not take care of the property, they would no longer be able to use it.

PC Commissioner Johnston asked about the downstream impact and if they had been contacted about the potential impact. This resulted in a discussion about the current use of Millcreek and the impact that a few disrespectful people can make.

PC Commissioner Nielson expressed his opinion that this is a commercial venture and needs a permanent facility for waste, and also requested a clarification on the actual number of people that will be using the property.

Mr. Zimmer explained that the San Juan County Health Department is not requiring any permanent waste facilities, and the number of people was set as 100 in the application to be a max number of people, but most groups would be smaller and split between the three camp sites.

PC Commissioner Shrenk expressed her opinion that three permanent waste facilities would be needed. One for each campsite.

PC Commissioner Nielson asked about the access road and what type of vehicle can access the road.

PC Commissioner Wilson expressed a concern about fire access being his biggest concern.

Mr Zimmer explained that the previous owner was planning to build a house, which would be more of a fire risk. His groups are supervised and trained in back country camping in a respectful way that know what they are doing.

Deputy County Attorney Alex Goble asked if there is a fire pit at each campsite with defensible space. Thomas explained that each of the sites has a metal fire ring, and would be willing to clear up to 40 feet of defensible space around each fire pit.

PC Commissioner Nelson asked about the impact of the campground on the creek and the ground water. Mr. Zimmer explained that they are not taking water from the creek, and will be hauling all waste water out.

PC Commissioners discussed lowering the allowed number of people to 90 people and were split as to whether vault toilets would be needed.

Time Stamp 1:47:31

PC Chair Trent Schafer asked for public comment by stating that "we have received dozens of emails today, and have read all the emails." Commissioners Nielson and Cloward also stated that they have read all the emails they had received. Commissioner Schafer read a comment from Marlene Huckabee expressing concern about the campground

The following individuals made comment:

Andrew Austin: a resident of Spanish Valley, expressed concerns about it being a commercial enterprise, and also stated that the BLM does not allow camping in the surrounding area, and that this is a sensitive area. He also expressed interest in the actual group size numbers.

Jeff Madsen: made a comment about the access road, and whether improvements would be made for accessing the road.

Ann Austin: a resident of Spanish Valley thanked the PC for the effort they are making in asking questions of this property owners, and stated that the property owners could do more

research into local agencies and local stake holders to have more knowledge of the concerns of the local area.

Fey Bird: Expressed a desire to see a revised conditional use permit submitted because of contradictory numbers presented. She also expressed concern about the access road.

Dan Kent: Expressed appreciation for the work of the PC and the effort they are making in considering this CUP. He expressed desire for the property to be in a conservation easement. He also expressed concern about the road and the watershed.

John Weisheit: Stated that the property owner should contact the EPA and the Utah Department of Water Quality to investigate what it takes to protect the aquifer, so we can understand how sensitive the aquifer is.

Time Stamp 2:03:22

PC Chair Trent Schafer closed the public comment.

PC Commissioners discussed the status of the road as a county D road. Mr. Zimmer stated that the BLM has been contacted about the possibility of building a bridge over the creek.

PC Commissioner Wilson asked whether the property owner could improve the road. After more discussion about the road and possible improvements, additional information was requested about the road, defensible space around the fire pits.

Mr. Zimmer explained that he is not requesting any development, but is being as conservation minded as possible, and that what he is proposing would be much less environmental damaging than building a bathroom facility. He also reiterated that the groups will be led by individuals who have outdoor conservation experience, and the purpose of the trips are for a wilderness type experience and will follow the same rules they do for their BLM, Park Service and Forest Service permits.

PC Commissioners Wilson and Cloward asked to see the Agreement with the school that will use the property. They also wanted more information about the fire risk area and information about the road. They also discussed whether bathroom facilities would be needed. PC Commissioner Cole Cloward stated that people can camp in the back country and there are no requirements for bathroom facilities.

Marley Green: A graduate and instructor of the college planning to use the property commented about the caliber of the outdoor instructors and that they plan to practice a high level of conservation on the property.

Mr. Zimmer further explained that the purpose of his trips is for a wilderness education experience for college students to learn conservation and leave no trace ethics. He also expressed his desire to not build structures and keep the land just as it is.

Time stamp 2:43:42 (audio)

Motion to table the CUP was made by Commissioner Cloward, Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner

Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

5. Set 2022 San Juan County Planning Commission Meeting Schedule

Time Stamp 2:44:01 (audio)

PC Commissioners discussed the 2022 meeting schedule and opted to keep the meeting at 6:00 pm.

Motion to approve the 2022 meeting dates as presented was made by Commissioner Nielson, Seconded by Commissioner Nelson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

BUILDING PERMIT(S) REVIEW

6. Building Permit List

PC reviewed the building permit list.

ADJOURNMENT

Motion to adjourn was made by Commissioner Nielson, Seconded by Commissioner Wilson.

Voting Yea: Chairman Schafer, Commissioner Wilson, Commissioner Cloward, Commissioner Johnston, Commissioner Nelson, Commissioner Nielson, Commissioner Shrenk

*In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice**



STAFF REPORT

MEETING DATE: February 10, 2022

ITEM TITLE, PRESENTER: Consideration and Approval of The Ranches at Elk Meadows, Amendment no. 2, Bryant Black, Monticello Development Company LLC

RECOMMENDATION: Consideration

SUMMARY

In 2007 The Ranches at Elk Meadows Subdivision was created and subsequently amended. The original plat included 126 lots on 661.49 acres. The 2007 amendment plat reduced the number of lots to 67 but increased the acreage to 751.61 acres. (See the attached plats for both the original and amended plats from 2007). Since the creation of the subdivision, roads have been cleared, and some water infrastructure has also been installed.

The current application is for 8 lots ranging from .29 acres to .79 acres in size. The amended lots are located within the boundary of the current lot 67 and a portion of lot 66. See amendment no 2 plat.

HISTORY/PAST ACTION

Subdivision Amendment History (administrative process):

At the October 14, 2021 PC Meeting, the Ranches at Elk Meadows Subdivision Amendment no.2 was discussed. The Planning Commission asked the developer to request the property be rezoned to Rural Residential (RR-1).

At this time, the subdivision amendment was placed on hold until the rezone process could be completed. The rezone request requires legislative action which can only be done by the Board of County Commissioners as the legislative body for San Juan County. (see Rezone Request History below)

The Subdivision amendment was again on the agenda for the December 9 Planning Commission Meeting. At the December meeting, the Planning Commission conditionally approved the amendment plat. The plat was approved on the condition that the rezone request is approved.

Because the rezone request has been denied, the Subdivision Amendment is back on the Planning Commission Meeting Agenda for February 10, 2022 as an Administrative Item, and the Planning Commission has the following options:

1. Require the amendment to come back with lots sizes of at least one (1) acre.

2. Remove the rezone condition placed on the approval of the amendment and approve it in the Agriculture District in accordance with the 2019 Amendment. (this option would go against the stated intent of the Board of County Commissioners to remove the 2019 amendment)

Rezone Request History (legislative process):

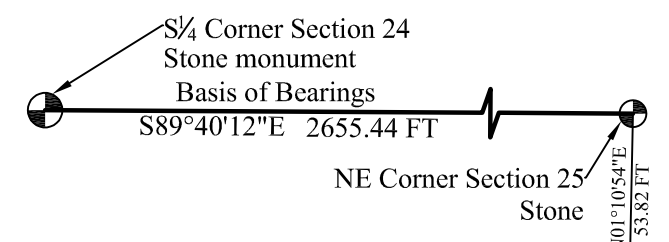
The rezone request was received in October 2021, and placed on the agenda for the November 18, 2021 Planning Commission Meeting. At the November meeting, the Planning Commission voted to recommend that the Board of County Commissioners approve the rezone request.

The rezone request was placed on the agenda for the January 18, Board of County Commissioners Agenda. At the January meeting, several public comments were made in opposition to the amendment. Commissioner Maryboy asked for the public comment period to remain open for two weeks. All comments received were against the rezone request

At the February 1, 2022 Board of County Commission Meeting, the County Commissioners voted to deny the rezone request, and asked staff to begin the process of eliminating the 2019 amendment allowing ¼ acre lots.



Final Plat The Ranches at Elk Meadows Amendment No. 2 Within Section 25, T32S, R23E, SLB&M San Juan County, Utah



Narrative

The purpose of this survey was to amend "The Ranches at Elk Meadows" Subdivision. Lot 66 and Lot 67 are the affected areas of this amendment.

The basis of bearings for this survey is S89°40'12"E between the 3/4 corner and southeast corner of Section 24, Township 32 South, Range 23 East, SLB&M. This is in accordance with the bearing for the same line per the original subdivision.

Legend

- Found government monument as labeled
- Set 5/8" rebar and plastic cap (LS 4769309)
- Found Rebar/Cap (LS 164659)
- ◆ Set 3/8" rebar and plastic cap (LS4769309) previous survey
- ★ Bearing break (not set)
- X— Fence
- - - Lot perimeter utility easement
- . - Protracted adjoining tracts
- - - Road centerline
- SJC San Juan County
- ROS Record of Survey
- AC Aluminum cap
- BC Brass cap
- ▭ New roads per this amendment

Notes

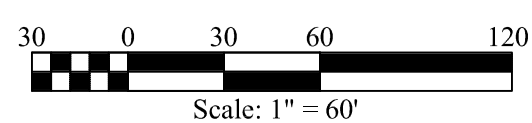
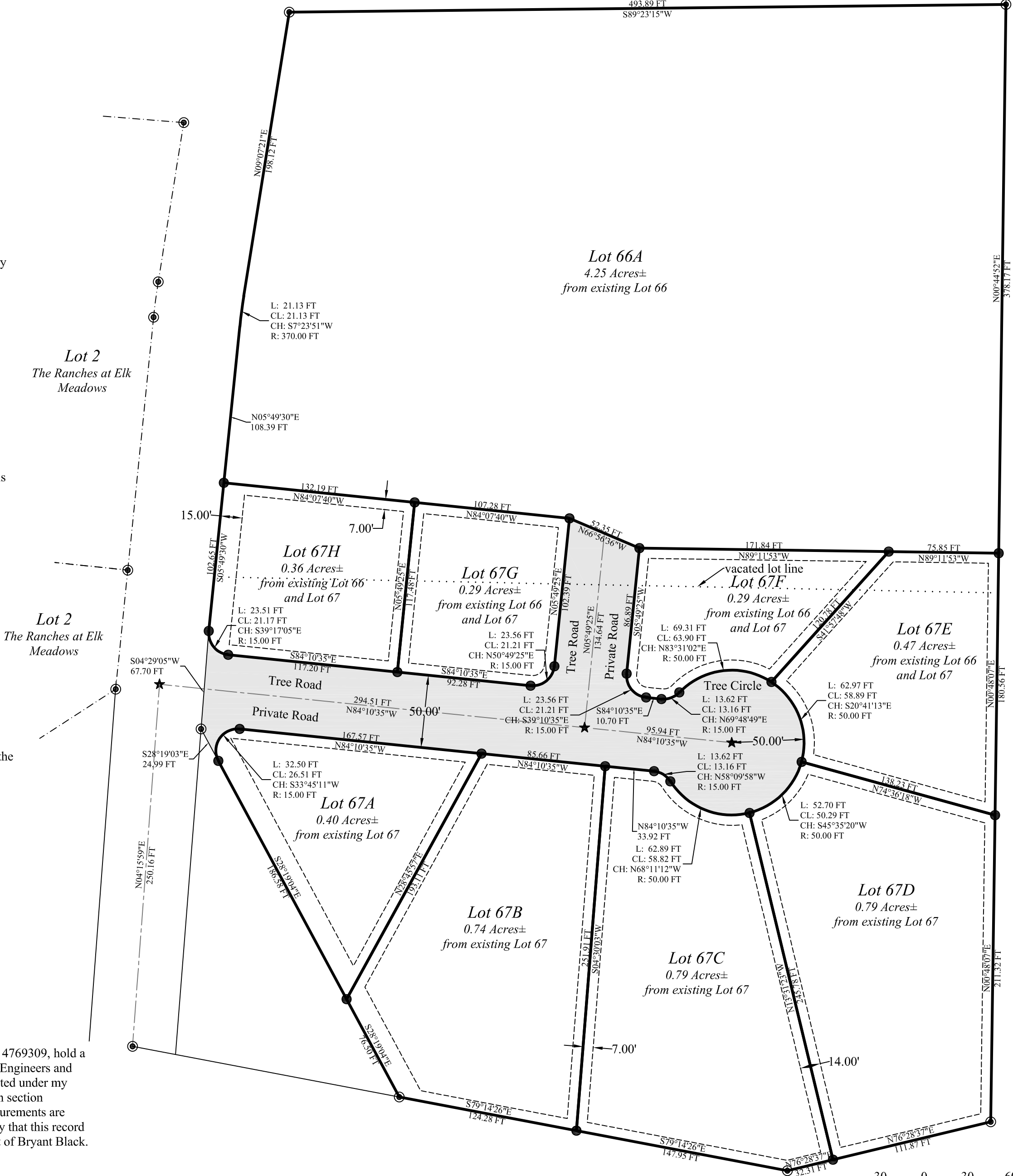
- All lots included within this Amendment No. 2 are currently zoned Agriculture (A-1). This includes Lots 67A - 67H.
- All new roads per this amendment are intended to be private roads until constructed to county standards, at which time they may be made public without approval by adjoining lot owners. Road right-of-way width is specified hereon. New roads per this amendment are intended for ingress, egress, and utilities.
- There is no official flood zone designation for any area within this proposed subdivision.
- The 15 foot wide easement which is specified as part of the original "The Ranches at Elk Meadows" Subdivision shall remain along Lots 66 and 67 which adjoin original roads. All other easements within original Lots 66 and 67 are amended as shown hereon. This amendment also includes a 7.00 foot utility easement inside the perimeter for Lots 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H as shown hereon.
- All lots shall comply with the requirements as set forth by the State of Utah for onsite wastewater systems. Plans for individual septic systems or one large septic system (under 5,000 gpd) shall be designed according to the rules and regulations of the Department of Environmental Quality, Division of Water Quality (DWQ) R317-4 for Onsite Wastewater Systems. Plans will be approved by the San Juan Public Health Department. Construction of the system(s) will follow approved plans with any deviation being approved by San Juan Public Health and include a final inspection by San Juan Public Health prior to operation.
- Application to the Utah State Engineer shall be made by lot owners for wells and water appropriation.
- If there are restrictive covenants which pertain to this subdivision San Juan County has no responsibility for enforcing said covenants.

Surveyor's Certificate

I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described hereon in accordance with section 17-23-17. I hereby certify all prepared descriptions and measurements are correct. Monuments will be set as noted hereon. I also certify that this record of survey has been prepared under my direction at the request of Bryant Black.



Brad D. Bunker Utah P.L.S. #4769309
Date 12/16/2021



Final Plat The Ranches at Elk Meadows Amendment No. 2 Within Section 25, T32S, R23E, SLB&M	County Recorder State of Utah, County of San Juan, Recorded at the request of _____ Filed: Date: _____ Time: _____ Book: _____ Page: _____ Fee: _____	County Surveyor Approval in accordance with information and records on file in this office. By: _____ Date: _____ Monticello Development Company, LLC	County Recorder State of Utah, County of San Juan, Recorded at the request of _____ Filed: Date: _____ Time: _____ Book: _____ Page: _____ Fee: _____
Health Department Approved this _____ Day of _____, 20____ Health Official _____	San Juan County Commission The subdivision hereon was presented to the San Juan County Commission this _____ day of _____, 20____, and was accepted and approved. Commissioner _____	Owners Dedication Know all men by these presents that (I) we, the undersigned owner(s) of the above described tract of land, having caused the same to be subdivided into lots and streets hereafter to be known as the "The Ranches at Elk Meadows, Amendment No. 2 Subdivision", and do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use. In witness whereof I have hereunto set my hand this _____ Day of _____, 20____.	San Juan County Planning Commission Approved by the San Juan County Planning Commission this _____ Day of _____, 20____. Chairman _____
Approval as to Form Approved this _____ Day of _____, 20____ Attorney _____		Acknowledgement State of Utah, County of San Juan, on the _____ Day of _____, 20____, personally appeared before me _____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein. My commission expires _____ 20____ Notary Public _____ Residing in _____ County _____	

Bunker Engineering
965 South Creek Road, Monticello, UT 84535
P.O. Box 432, Monticello, UT 84535 (435) 459-9152
Date: 12/16/2021 Drawn By: B.D. Bunker
Scale: 1" = 60'



STAFF REPORT

MEETING DATE: February 10, 2022

ITEM TITLE, PRESENTER: Consideration and Approval of Conditional Use Permit Application, Thomas Zimmer, Old Town LLC

RECOMMENDATION: Consideration and Approval

SUMMARY

Thomas Zimmer with Old Town LLC has applied for Conditional Use Permit, and has provided the additional information requested at the January 13 PC Meeting. The attached documents provide the clarification requested.

Much discussion was had at the January 13 PC Meeting, of those discussions, the San Juan County Fire Chief has approved the restrictions outlined in Exhibit A of the attached lease agreement between Old Town LLC and Wyoming Catholic College.

The road is a San Juan County D road, and is not improved, nor does the county require any improvements for fire access or for access to this private property.

Staff recommends the following conditions as well as any others the Planning Commissions feel are necessary to mitigate the impact of this proposal.

- *Must comply with the land use related restrictions outlined in EXHIBIT A of the lease agreement with Wyoming Catholic College*

HISTORY/PAST ACTION

This CUP application was tabled at the January 13, 2022 San Juan County PC Meeting.

San Juan County Conditional Use Permit Application

ADDITIONAL INFORMATION:

At the January 13 meeting it became clear that we did not provide enough information in our first submission of this application. I provided minimal information since we are simply planning to camp on the land, rather than utilize it for a building or development project. We hope the additional information provided here will be helpful in explaining what we are proposing on the property.

As you know, this CUP application requests to use the land for primitive tent camping with the express intent to keep the land as natural and wilderness-based as possible by not building any structures. Currently there is not a single structure or building on the property and we would like to keep it that way. Since there has been confusion on who would be using this land for camping and for what purpose, I want to start by introducing myself and the program that I and the other joint owners of the property would like to invite to camp on the land. My name is Tom Zimmer and my wife and I and two of our friends (another couple) have jointly purchased this property for two reasons. First, we see it as an investment property since we know that property in the Moab area is only becoming more expensive and more valuable and we are confident that this property will only increase in value. Second, we want to camp on this property with our own families and friends and to allow Wyoming Catholic College (WCC) to also camp on the property. I consider Moab a second home even though I have not previously owned land there. My wife and I have personally spent multiple weeks in Moab each year for the last 20 years, exploring the wilderness. I have climbed nearly all the crags in the area from Indian Creek to Castleton and Fischer Towers; I have run every river section on the Green River from Flaming Gorge Reservoir to Stillwater Canyon, the Colorado river from Loma through the Grand Canyon (including sea kayaking Lake Powell), and the entire Dolores River; I have explored hundreds of miles of backpacking in the area, gone canyoneering in most of the canyons, and have mountain biked hundreds of miles of trail including the Kokopelli trail. My ten-year-old son and three younger children spend every spring break in Moab hiking and biking and paddling the rivers. Needless to say, I am excited to finally have a property in the Moab area as a second "camping" home. Our goal as owners of this property is conservation and we do not want to build anything on the property or change its natural setting, improve roads, etc. We know the college well and the outdoor program intimately and know they will not change the character of the property which will not only preserve the ultimate purpose of the property (for it to be a wilderness environment for us and our families and for the student trips) but also retain the value of the property. All owners of the property love the college and what they are doing with its students in the outdoors and believe this property is perfect for their use and this is an amazing way to support the college's mission and improve their trips.

To better understand the relationship and intimacy between the landowners and the college it might be helpful to know that I, Tom Zimmer, am a professor at the college and run the college's outdoor program. However, to be clear, my wife and I have purchased this land with our friends and none of us are getting compensated by the college for any use of the land; we are gifting the use of the land to the college. I have been leading outdoor education trips in Moab since 1995 and I have seen the rapid growth of tourism and increased use on the trails, rock, river, and, more importantly, at the campsites. For the last 5 years I have been looking for

land in the area as an investment (knowing this is a great place to invest in real-estate) and as a place to take my family and friends camping and let the college use it for wilderness-oriented trips. I am passionate about the students' experiences and this land will provide significantly better wilderness trips for the students. Currently, the college runs over 20 week-long trips to the Moab area every year and the trips spend significant time in vehicles looking for campsites (when reservations don't work, which happens a lot since camping reservations are very limited and difficult to secure) and driving to various trailheads and recreation areas for hiking, climbing, rappelling, canyoneering, rafting, kayaking, and canoeing. This property provides not only an excellent place to camp away from the crowds but also excellent hiking, climbing, rappelling, and outdoor exploration opportunities that both avoid the crowds and reduce the college's use on public lands.

Regarding the college's expertise in running professional outdoor education trips, here is some helpful information. First, a bit about me as the program director/professor. I have been working in outdoor education year-round for the last twenty-plus years. I have an undergraduate degree in Outdoor Education, a master's degree in Experiential Education, and a Ph.D. in Parks, Recreation, and Tourism from the University of Utah with a specialization in Outdoor Education. I have taken the NOLS professional instructor course, have been an owner of three outdoor guiding services, and have worked for over fifteen different outdoor programs guiding a variety of outdoor activities (whitewater rafting and kayaking, rock climbing, backpacking, canyoneering, mountain biking, mountaineering, backcountry skiing, and ice climbing) in numerous places including Utah, Colorado, Wyoming, Oregon, California, Arizona, Washington State, West Virginia, Alaska, and Ecuador. I have been running the college outdoor program at WCC for 11 years and have established over 20 wilderness-based permits with various Forest Service, BLM, National Park, and State Park land agencies. Specifically in Moab/San Juan County, I have personally taught educational courses in the area since 1995 for various programs including WCC and three other colleges: Western State College in Gunnison, Colorado, University of Utah, and Utah Valley State College (now known as UVU). I established permits for WCC with the BLM in 3 Utah locations around the Moab area including the Price, Moab, and Monticello field offices and have a solid reputation and track history with them for guided trips in various areas for rafting and kayaking, canoeing, rock climbing, canyoneering, backpacking, and mountain biking. In the last 10 years, the college has run over 500 trips ranging from one to three weeks long in Wyoming, Colorado, Utah, and Oregon and WCC has an excellent track record following LNT principles on these trips and keeping the land as pristine as we found it. Our instructors go through rigorous training, including specific training in the Moab area. All instructors have a minimum of 10 weeks of backcountry experience and most of our lead instructors have over 50 weeks of backcountry experience. The college is accredited through the Association of Experiential Education (AEE), the accrediting body for backcountry programs such as NOLS and Outward Bound. As you can see, the college is highly experienced in outdoor education and keeping the private property a backcountry and primitive area while protecting the waterway and wilderness aspect of Mill Creek and the surrounding land will be simply a continuation of what these instructors already do in all of the areas where they run trips. Feel free to review my attached Vitae and Outdoor Experience Log for more information on my outdoor programming background.

SPECIFIC CONCERNS THAT I WAS ASKED TO ADDRESS AT THE JANUARY MEETING:

HUMAN WASTE REMOVAL: At the last meeting we discussed at length the idea of building a few pit toilets or using outhouses. Our goal from the beginning has been for this land to stay as primitive as possible and to keep it in a natural state without any buildings. We propose the use of Wag Bags (approved human waste bags used around the world) and Groovers (used for river trips everywhere including the Grand Canyon and every US river) for human waste removal. The college already uses Wag Bags for various backpacking trips in areas around Moab and San Juan County, including areas such as Grand Gulch and Hatch Canyon (in San Juan County through the BLM). We also use Wag Bags when we car camp in various areas, including when we climb at Indian Creek and Looking Glass Rock (both in San Juan County). Wag Bags and Groovers are extremely effective when used appropriately and, since all the college trips have instructors, these tools will be used effectively. We owners believe building pit toilets or driving an outhouse truck onto the property twice a month will cause more impact on the property than necessary, especially since Wag Bags and Groovers are used by hundreds of professional outdoor programs everywhere and are the standard tools used for desert backpacking and river trips in the National Parks, including Canyonlands, Zion, etc.

FIRE SAFETY: This is a major concern for the Moab community and the land adjacent to the property, but is also a major concern for us as landowners. A fire on the property would be devastating for our desired use of the land and obviously a major concern for our investment as it would significantly devalue the property. Our personal interest in avoiding a wildfire is as prominent, if not more prominent, as it is to the surrounding community.

I have met with David Gallegos, the San Juan County Chief Fire Representative in charge of fire safety and regulations. After discussing our desired use of the land and our plan he has approved the following fire safety measures. David said that it is not necessary for us to have a road adequate for fire trucks or emergency vehicles and that we do not need to make any road improvements. This list comes directly from the contract between the owners and the college.

1. Lessee will follow all local fire restrictions and will not have fires when they are not allowed in the county/area.
2. Campfires can only take place in the provided metal fire pits and fires should not exceed or ever be outside of the metal fire pits.
3. Lessee is required to provide 30 feet of non-combustible defensible space around each fire pit.
4. Lessee is required to have ten gallons of water in 5-gallon buckets making it easily deployable at the fireside anytime a fire exists. Anytime a fire is not attended it will be doused with water until it is dead out.
5. No large fires/bonfires or any burning wood outside of the firepit circle and no fires during high winds.
6. Fires can only be used in presence and under direct supervision of an instructor.
7. Firewood needs to be purchased in the Moab/San Juan County area or wood on the property that meets the LNT standards of the 5 D's (dead, down, detached, dinky, dry).
8. No Fireworks or Firecrackers.
9. Use of approved backcountry or camping gas stoves can only be used in the kitchen area with defensible space.

WATER USE AND RIVER CORRIDOR CONSERVATION: As previously mentioned at the January meeting, we are requiring the college to bring in their own drinking water rather than pulling water from Mill Creek. You will see this is also in the contract.

CONTRACT: See the attached contract. Since the lengthy legal contract exceeds 15 pages, I will provide some information here regarding a few things worthy of note.

1. In addition to us owners having our own insurance policy to protect us and the land, we are requiring the college to add our LLC as additionally insured for the use of the land.
2. We owners are requiring a security deposit which will be returned if the property is left the way they found it and we will only charge fees based on any expenses incurred for misuse of the land. This is also another way to ensure that they follow the rules lined out in the contract.
3. While we did not intend to charge any fee for the college's use of the property, as mentioned at the January meeting, we have been advised by our lawyer that we do need to charge a nominal fee in order to make the lease more legally binding. However, we are clearly not "making" money on the small fee of \$20 per day, regardless of the number of people or groups.
4. The contract lists various rules for the use of the land including acceptable activities, fire safety, use of the river water, use of the road and parking, number of people on the property at each location, and more.
5. The college is not allowed to sublease or allow other groups that are not affiliated with the college to use the property.
6. The college must provide the owners with prenotification and specific dates for each trip they are taking on the property.
7. The college can lose their right to use the land at any time for any reason if the owners decide to restrict the land for their use.
8. The owners and the San Juan County Environmental Health Department are allowed to inspect the land at any time without notice.

ROAD: Our goal is to keep the land as pristine as possible and to avoid any development. However, we have hired an engineer to look into options for improving the road if desired. We have met with the BLM in order to work through the required permits and the title 5 permit. Please see the attached document regarding building two river crossings on the San Juan County BLM road that accesses the property.

Currently we can drive four-wheel drive vehicles (e.g. a Chevy Suburban) into the property, so we have two ways to access the property with students.

1. Use four-wheel drive vehicles to transport students into the property.
2. Park 12- or 15-passenger vans that can't make it down the road on approved parking areas/pull-offs on the county road and have the students backpack into the property. I have met with Todd Murdock at the Moab BLM with a proposal to park overnight on the county road in the same locations where we currently have permits to park for day trips for hiking in Entrajo Canyon. He is looking into it and will get back to us. In addition, I have met with Todd Adare, the San Juan County representative in charge of county roads, about permission to park on the pull-offs. He has approved us to park on the pull-

offs that are approved by the BLM. Until we get such permission, we will stick to the use of four-wheel drive vehicles as noted in option 1.

GROUPS AND NUMBERS: The college currently has 22 week-long trips planned for the Moab/San Juan area from March through May this year. All groups will have a maximum of 15 people since the college uses 15-passenger vans and many of the BLM permitted routes have a maximum group size of 15, including the 2 professional instructors on every trip. Not all of these trips will necessarily use the property, as some of them will be doing other activities and camping on BLM public lands. In addition, most of these trips will only spend half of their trip on the property and the rest of the trip will use and camp on public lands under the college's BLM permit. Below is a schedule of the current trips planned in the Moab/San Juan area for this spring. While there are 22 weeks listed, it is estimated that only half of these 22 weeks will utilize the property for an estimated actual use of 11 weeks (each weeklong trip will typically spend half the week backpacking on BLM land and half the week on the property). After May, the college will not use the Moab area throughout the summer until September due to hot temperatures. Though the college doesn't have a schedule for the fall yet, they do not run as many trips in the fall and estimate only about 6-8 week-long trips in the fall for a total use of 3-4 weeks on the property (half of a weeklong trip will be on the property). The total user days on the property this spring is estimated to be 1000-1100 user days. User days is the way the BLM and Forest Service determine land use; 1 user day is 1 person per day, so a 5-day trip with 10 people is 50 user days. The total number of days the college intends to use the land this spring is around 60-70 total days and this fall is around 30-40 total days (90-110 total days per year). Finally, while the application is requesting a maximum capacity of 100 students at any one time, you can see below that this spring the college is not planning on having any days that exceed 50 people on the property at one time and the contract requires special permission to exceed 50 people with an absolute maximum of 100.

Here is a schedule of the current trips planned in the Moab/San Juan area this spring. It is important to note that these trips already exist and they will be taking place in the Moab area regardless of this property. This property is not increasing the college's use in the Moab area; in fact, it is simply reducing its use on public lands and shifting its use to the owners 240-acre piece of private property which is not open to other users. Having the college use this land is a win for the college, for the local Moab residents, and the other land users and visitors in Moab.

- 1st week of March: 3 groups of up to 15 people each; 45 people max
- 2nd week of March: 2 groups of up to 15 people each; 45 people max
- 4th week of March: 3 groups of up to 15 people each; 45 people max
- 1st week of April: 2-3 groups of up to 15 people each; 45 people max
- 2nd week of April: 1 group of up to 15 people; 15 people max
- 3rd week of April: 2 groups of up to 15 people; 30 people max
- 4th week of April: 3 groups of up to 15 people; 45 people max
- 1st week of May: 3 groups of up to 15 people; 45 people max
- 2nd week of May: 3 groups of up to 15 people; 45 people max

FINAL THOUGHTS:

I am disheartened by the concerns about our proposed use of this property. I truly believe this is a win for the San Juan and Moab community and for the Mill Creek River corridor. Instead of developing this property or subdividing it for financial gain, we owners want to keep it as primitive and pristine as possible and do not want to pursue any development. I understand that our minimal information in January scared a lot of people since they didn't know what we were truly doing, who would be using the land, would they take care of it, etc. With this additional information provided I hope the county and the San Juan residents and Moab residents understand what we would like to do with this private land. We are not making money on this land and are instead allowing a professional, outdoor program accredited, non-profit college to use the land for trips that are designed to put students in a wilderness setting and foster conservation and stewardship of the land. This is a huge opportunity for the college to avoid the busy campgrounds and high traffic of the various activities (hiking, canyoneering, climbing, rappelling) in Moab that currently require camping at busy campgrounds and driving through town from activity to activity. Given the college's positive track record in other locations, we know the college will take great care of the land, especially since they know they will lose their ability to use it if they do not. As previously mentioned, the college is already using the Moab BLM lands every year and utilizing this private land will decrease the pressure on the campgrounds and public lands that they would normally use if they weren't on our property. The notion that this use will be detrimental to the Mill Creek water corridor is simply false. Anyone who has hiked up Mill Creek Waterfall Trail from the Mill Creek North Fork Trailhead in Moab knows how much of an impact the river has with people swimming and bathing in the creek. Meanwhile, the use we will have just a mile upstream will be used by a professional outdoor program that already backpacks in multiple canyons such as Grand Gulch, Hatch Canyon, and other canyons where they leave the land and the creeks undisturbed.

Thank you for taking the time to read this lengthy document; we hope this information is helpful. If there are any additional questions you currently have, please let me know. I am happy to bring additional information to the February meeting as needed.

Respectfully,

Tom Zimmer

LEASE AGREEMENT

This **Lease Agreement** (“Agreement”), dated as of January 1, 2022, (the “Effective Date”), is entered into by and between Wyoming Catholic College, a Wyoming non-profit religious corporation (hereinafter referred to as “Lessee”), and Old Town, LLC, a Utah limited liability company (hereinafter referred to as “Lessor”).

Access to the Property requires the use of Right-of-Way UTU-75383 (the “ROW”) granted by the United States Department of the Interior, Bureau of Land Management, the terms and conditions of which are attached and incorporated hereto as Exhibit B.

1. PREMISES LEASED. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, certain real property commonly known as Flat Pass and located in San Juan County, State of Utah (the “Property” or the “Premises”), more particularly described in Exhibit B, attached hereto and incorporated herein by this reference. The Property includes a lease of any and all recreational amenities located within the Property, including without limitation, patios, bridges, rock climbing routes, other man-made structures, trails, campgrounds, and facilities together with all of such amenities’ appurtenant and associated equipment, and the areas in, under or around such Amenities.

2. TERM. The lease shall commence on January 1, 2022 and shall continue until July 1, 2022 (the “Lease Term”). Either party may terminate this Agreement at any time and for any reason, by providing at least thirty (30) days’ prior written notice to the other party. In addition, the Lessor may terminate the lease anytime if Lessee does not comply with the lease agreement and property rules and regulations.

3. RENT. Lessee shall pay to Lessor, as rent for the Premises during the Lease Term, the sum of \$20 per night during which Lessee occupies the Property. Lessee shall only be obligated to pay Rent for the time Lessee occupies the Property.

4. PAYMENT AND DEPOSIT. Rent, deposits, and other charges payable by Lessee shall be mailed to 5292 S College Drive, Suite 304, Murray, UT 84123 or paid by any alternative method approved by Lessor. All paper payments are to be made by check or money order and written to Old Town, LLC. In addition, Lessee shall pay a \$500 deposit prior to any use on the property. The deposit will be returned to Lessee at the end of the contract minus any fees associated with returning the property to the same basic condition as received, with the exception of ordinary and reasonable wear and tear.

5. MAINTENANCE AND REPAIRS; CONDITIONS UPON EXPIRATION OR TERMINATION OF LEASE TERM.

5.1. Maintenance and Repairs. Lessee shall, at its own cost and expense, be responsible for maintaining in good repair, and for all repairs, modifications and replacements to the Premises.

5.2. Condition upon Expiration of Lease Term. Upon expiration or earlier termination of this Agreement, Lessee shall surrender the Premises in the basic same condition as received, with the exception of ordinary and reasonable wear and tear and damage by wildfire (not caused by the lessee), earthquake, acts of God, or the elements, and shall within ten (10) days after any written request from Lessor remove or cause to be removed at Lessee’s expense from the Premises any signs, fixtures, notices, and displays placed on the Premises by Lessee. Lessee may

at any time during the Lease Term or within ten (10) days after the expiration, or earlier termination of this Agreement, remove any furniture, fixtures, equipment, or other personal property furnished by Lessee. However, Lessee shall repair any damage to the Premises caused by or in connection with the removal of any such furniture, fixtures, equipment, or other personal property furnished by Lessee. Any such furniture, fixture, equipment, or other personal property, which is not removed within ten (10) days after expiration, or earlier termination, of this Agreement, shall immediately become the property of Lessor.

6. IMPROVEMENTS. After receiving express permission, lessee shall have the right, at its own cost and expense, to make all improvements Lessee deems necessary to facilitate the use of the Premises, provided, however, that any such improvement shall (a) not diminish the value of the Premises, (b) comply with all applicable laws and ordinances, (c) be made only upon the prior consent of Lessor, and (d) be made only after Lessee has provided Lessor with such indemnification and/or bonds, in such a form and amount as is reasonably satisfactory to Lessor, to protect against claims and liens for labor performed and materials furnished. Lessee shall submit any request for Lessor’s consent to improvements in advance in writing, including a detailed description of any proposed improvement or alteration, including its location on the Property. Lessee is prohibited from cutting down trees or branches or altering the Property other than for approved improvements. If Lessee chooses to use any temporary structures, Lessee is responsible for paying rental fees, maintenance fees, and choosing a location that is accessible without damaging the Property. Lessee shall indemnify, defend, and hold harmless Lessor from and against any and all liens, claims, and liabilities, which may arise out of or be associated with any such improvements. Any improvements made pursuant to this Section 6 shall immediately become part of the Premises, and title thereto shall belong to Lessor and shall be subject to the maintenance and repair obligations set forth in Section 5 herein.

7. USE. Lessee shall use the Premises for any approved purposes permitted by Lessor and permitted under applicable law, specifically including the operating of rock climbing, rappelling, camping, and recreational business upon the Premises. Lessee shall not commit any waste upon the Premises and shall not conduct, nor allow to be conducted, any activity, which is or becomes unlawful, prohibited, or a nuisance. Lessee shall comply with and abide by all laws, ordinances, and regulations of all municipal, county, state and federal authorities, which are now in force or which may hereafter become effective with respect to the use and occupancy of the Premises. Lessee may use any of the equipment or furnishings on the Premises. Lessor makes no representation or warranty regarding the status or condition of any of the equipment or furnishings left on the Premises.

8. INSURANCE.

8.1. Lessee shall, at its sole cost and expense, maintain during the Lease Term all necessary insurance for the Premises including but not limited to (a) fire and extended coverage insurance for the personal property, fixtures, equipment, and improvements on the Premises in amounts equal to the insurable value thereof, (b) general public liability insurance written on a so-called “comprehensive” general liability form with respect to the Property with combined single-limit coverage (for personal injury, property damage or death arising out of any one occurrence) including excess liability coverage, of at least One Million Dollars (\$1,000,000.00), naming Lessor and Lessor’s designees as additional insured under the policy, (c) worker’s compensation insurance and (d) such other insurance as is customary in the outdoor tourism industry. So long as this Agreement remains in effect, the proceeds from any fire and extended coverage insurance shall be used to repair, restore, or replace the personal property, fixtures, equipment, and improvements so

insured. Lessee shall cause Lessor to be included as additional insureds in said policy or policies which shall contain provisions, if and to the extent available, that it or they will not be cancelled except upon at least thirty (30) days prior notice to all insureds. Lessee shall furnish to Lessor reasonably satisfactory evidence that such insurance is in effect at or before the Lease Term. The policy shall insure performance by Lessee of the indemnity provisions of Section 14 herein. The limits of said insurance shall not, however, limit the liability of Lessee hereunder. All insurance to be carried by Lessee shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

8.2. Insurance required hereunder shall be issued by companies holding a “General Policyholders Rating” of not less than “A,” as set forth in the most current issue of “Best’s Insurance Reports,” or any successor thereto (or if there be none, an organization having a national reputation). No policy carried by Lessee shall be cancelable or subject to reduction of coverage or other modification except after thirty (30) days’ prior written notice to Lessor. Not less than thirty (30) days prior to the expiration of such policies, Lessee shall furnish Lessor with renewals or “binders” thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee upon demand.

9. DAMAGE OR DESTRUCTION.

9.1. Minor Damage. If at any time during the Lease Term the Premises are damaged through no fault of Lessee, and such damage is not “substantial,” as that term is hereinafter defined, then Lessee shall promptly repair such damage at Lessee’s expense, or with the proceeds of applicable insurance, and this Agreement shall continue in full force and effect.

9.2. Major Damage. If at any time during the Lease Term the Premises are destroyed or damaged through no fault of Lessee, and such damage is “substantial,” as that term is hereinafter defined, then Lessor may at its option either (i) repair such damages as soon as reasonably possible at Lessor’s expense, or with the proceeds of applicable insurance, in which event this Agreement shall continue in full force and effect, or (ii) terminate this Agreement as of the date of the occurrence of such destruction or damage. In either event, Lessor shall give Lessee written notice of its intention within thirty (30) days after the date of the occurrence of such destruction or damage.

9.3. Abatement of Rent. If the Premises are destroyed or damaged and Lessor repairs or restores the Premises pursuant to the provisions of this Section 9, the Rent payable under this Agreement for the period during which such destruction, damage, repair or restoration continues shall be abated in proportion to the degree to which the Premises are rendered untenantable.

9.4. “Substantial” Damage. The term “substantial,” as is relates to damage to the Premises under this Section 9 shall mean the destruction of more than seventy-five percent (75%) of the improvements and useable space on the Premises.

10. CONDEMNATION.

10.1. Entire or Substantial Taking. If the entire Premises, or so much thereof as to make the balance not reasonably adequate for the conduct of Lessee’s business, shall be taken under the power of eminent domain, or voluntarily sold under a threat thereof, this Agreement shall automatically terminate as of the date on which the condemning authority takes title to, or possession of, the Premises, whichever occurs first.

10.2. Partial Taking. In the event of any taking under the power of eminent domain, or the voluntary sale under a threat thereof, of a portion of the Premises which does not result in a termination of this Agreement, the Rent payable under this Agreement shall be reduced, on an equitable basis, taking into account the relative value to Lessee of the portion of the Premises taken as compared to the portion thereof remaining. Lessor shall promptly, at its own cost and expense, restore the portion of the Premises not so taken to as near its former condition as is reasonably possible and this Agreement shall continue in full force and effect.

11. ENVIRONMENTAL MATTERS.

11.1. Lessee shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Premises in violation of any Environmental Law. Lessee shall not do, nor allow anyone else to do, anything affecting the Premises that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Premises of relatively small quantities of Hazardous Substances that are generally recognized to be appropriate to normal commercial uses of the Premises, so long as such use is in compliance with any Environmental Law.

11.2. Lessee shall be solely responsible for, shall indemnify, defend and hold harmless Lessor, its directors, officers, employees, attorneys, agents, and their respective successors and assigns, from and against any and all claims, demands, causes of action, loss, damage, cost (including actual attorneys’ fees and court costs and costs of any required or necessary repair, cleanup or detoxification of the Premises and the preparation and implementation of any closure, abatement, containment, remedial or other required plan), expenses and liability directly or indirectly arising out of or attributable to, following the effective date of this Lease Agreement, (a) the use, generation, storage, release, threatened release, discharge, disposal, abatement or presence of Hazardous Substances on, under or about the Premises, (b) the transport to or from the Premises of any Hazardous Substances, (c) the violation of any Hazardous Substances law, and (d) any Hazardous Substances claims.

11.3. As used in this Section 11, “Hazardous Substances” are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Section 11, “Environmental Law” means federal laws and laws of the jurisdiction where the Premises is located that relate to health, safety or environmental protection.

12. ASSIGNMENT AND SUBLEASE.

12.1. Lessee shall not, directly or indirectly, voluntarily or by operation of law, assign or in any manner transfer this Agreement or any estate or interest therein, or sublet the Property or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Property without the prior written consent of Lessor, which may be withheld in Lessor’s sole discretion. Consent by Lessor to one or more assignment or subletting shall not operate as a waiver of Lessor’s rights as to any subsequent assignment or subletting. Any such assignment without the consent of Lessor shall be null and void *ab initio* and shall constitute a non-curable breach of this Agreement. Lessee is allowed to charge fees above and beyond Lessor’s rental fee to pay for expenses incurred by Lessee to maintain improvements and other expenses related to the maintenance and administration of the Property.

12.2. In the event of the transfer and assignment by Landlord of its interest in this Agreement and in the Property to a person expressly assuming Lessor’s obligations under this Agreement, Lessor shall thereby be released from any further obligations hereunder, and Lessee agrees to look solely to such successor in interest of Lessor for performance of such obligations.

13. EXPRESS ASSUMPTION OF RISK. Lessee understands that the Property is not open to the public. Lessee acknowledges and understands that there may be hazardous conditions on the Property that are yet unknown or may be created at any time by natural events and environmental conditions outside of the Lessor’s control. Lessee agrees to use the Property at Lessee’s own risk and assumes all risk of injury, illness, damage, or loss that might result. Lessee warrants that all participants, employees, and invitees who enter the Property shall do so voluntarily, and shall expressly agree and promise to accept and assume all the risks that exist in using the Property and indemnify Lessor for any injury, illness, damage, or loss that might result from the use of the Property.

14. INDEMNIFICATION.

14.1. Lessee is responsible for the conduct of its directors, officers, employees, agents, contractors, servants, licensees, invitees, and participants (the “Lessee Parties”), and Lessor is responsible for the conduct of directors, officers, employees, agents, contractors, servants, licensees, invitees, and participants (the “Lessor Parties”).

14.2. Indemnification by Lessee. To the maximum extent permitted by law, Lessee shall and hereby does indemnify, defend and hold Lessor and the Lessor Parties harmless from and against any and all actions, claims, demands, damages, liabilities and expenses, including without limitation, reasonable legal fees and disbursements asserted against, imposed upon or incurred by Lessor by reason of: (a) any violation caused, suffered or permitted by Lessee, of any of the terms, covenants, conditions, provisions or agreements of this Agreement, (b) the use or occupancy of the Property by Lessee or any Lessee Party, (c) any acts, omissions, or negligence of Lessee or any Lessee Party, in or about the Property, either prior to or during the Term, (d) any damage or injury to persons or property occurring upon or in connection with the use or occupancy of the Property during the Lease Term as a result of the negligent or intentional act or omission of Lessee or any Lessee Party, (e) the use, conduct or maintenance of the Property or any business therein or any work or thing whatsoever done, or any condition created in or about the Property during the Lease Term (or any time prior to the Lease Term that Lessee or any Lessee Party may have been given access to the Property), (f) any negligent or otherwise wrongful act or omission of Lessee or any Lessee Party during the Lease Term or (g) any failure of Lessee to perform or comply with all of the provisions of this Agreement that are applicable to Lessee, it being understood that the provisions of this indemnity are intended to indemnify Lessor and its agents against the consequences of their own negligence or fault, even when Lessor or its agents are jointly, comparatively, contributively, or concurrently negligent with Lessee, and even though any such claim, cause of action or suit is based upon or alleged to be based upon the strict liability of Lessor or its agents. However, such indemnity shall not apply to the sole or gross negligence or willful misconduct of Lessor and its agents.

14.3. Indemnification by Lessor. To the maximum extent permitted by law, Lessor shall and hereby does indemnify, defend and hold Lessee and the Lessee Parties harmless from and against any and all actions, claims, demands, damages, liabilities and expenses, including without limitation, reasonable legal fees and disbursements asserted against, imposed upon or incurred by Lessor by reason of the gross negligence and willful misconduct of Lessor.

14.4. The indemnities set forth in this Agreement shall survive termination or expiration of this Agreement and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of Rent under any provision of this Agreement. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel satisfactory to the indemnified party.

15. **WAIVER OF LIABILITY.** Lessee warrants that it will use reasonable care to prevent property damage and injury to persons while on the Property. Lessee shall waive, and shall cause all Lessee parties to waive, any claims against Lessor relating to, arising out of, or in connection with use of the Property or improvements thereon, except to the extent caused by the willful misconduct or gross negligence of Lessor.

16. **HAZARDOUS CONDITIONS.** Lessee shall report to Lessor any hazardous conditions it discovers on the Property, and Lessee shall take reasonable steps to mitigate harm that may be caused to Lessee or any of Lessee Party, including posting caution signs and providing express warnings. Lessor is permitted to take any additional steps it deems necessary to mitigate risk associated with such a hazard. Lessor is further permitted to order the evacuation and exclusion from all or a portion of the Property if deemed necessary in Lessor’s sole discretion to avoid damage or injury created by a hazardous condition.

17. **PERFORMANCE OF LESSEE’S COVENANTS.** In the event, upon written demand by Lessor, Lessee fails, neglects, or refuses to perform within a reasonable time any covenant, promise, condition, or obligation in this Agreement provided by Lessee to be done, Lessor may perform such covenant, promise, condition, or obligation, and any money expended thereon, shall be charged to the account of Lessee and be payable forthwith on demand, as additional rent. The failure of Lessee to repay Lessor for any money so paid out and expended shall constitute a default under this Agreement.

18. **DEFAULT AND REMEDIES.**

18.1. **Default by Lessee.** The occurrence of any of the following shall constitute a material default and breach of this Agreement by Lessee:

- a. any failure by Lessee to pay the Rent or any other monetary sums required to be paid hereunder, where such failure continues for ten (10) days after written demand therefor by Lessor to Lessee; or
- b. the failure by Lessee to observe and perform any other provision, condition, or obligation of this Agreement to be observed or performed by Lessee hereunder, where such failure continues for thirty (30) days after written demand therefor by Lessor to Lessee; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Lessee shall not be deemed to be in default if Lessee shall within such period commence such cure and thereafter diligently pursue the same to completion.
- c. The failure to follow all property rules and regulations listed in Exhibit A below.

18.2. **Lessor’s Remedies.** In the event of a material default or breach by Lessee, Lessor may at any time thereafter, without limiting Lessor in the exercise of any right or remedy at law, by contract, or in equity which Lessor may have by reason of such default or breach:

- a. maintain this Agreement in full force and effect and recover the Rent and other monetary charges as they become due, without terminating Lessee's right to possession whether or not Lessee shall have abandoned or vacated the Premises; or
- b. terminate Lessee's right to possession by any lawful means, in which case this Agreement shall terminate and Lessee shall immediately surrender possession of the Premises to Lessor. The repossession of the demised Premises under the terms of this subsection shall not be deemed or held to be a waiver of any claim or claims of Lessor for damage on account of the default or breach of this Agreement, or any of the terms or conditions hereof, whether or not said claims for damages arise out of the failure to pay Rent or default or breach of other terms or conditions hereof.

18.3. Default by Lessor. Lessor shall be in material default and breach if Lessor fails to observe and perform any provision, condition, or obligation of this Agreement to be observed or performed by Lessor hereunder, where such failure continues for an unreasonable period of time, but in no event later than thirty (30) days after written demand therefor by Lessee to Lessor; provided, however, that if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Lessor shall not be deemed to be in default if Lessor shall within such period commence such cure and thereafter diligently pursue the same to completion.

18.4. Lessee's Remedies. In the event of any material default or breach by Lessor, Lessee may at any time thereafter, without limiting Lessee in the exercise of any other right or remedy at law, by contract, or in equity, which Lessee may have by reason of such default or breach:

- a. abandon the Premises immediately without any further liability to Lessor to pay Rent in the future; or
- b. cure Lessor's default or breach and deduct the cost thereof from any presently due or future Rent payments.

19. RIGHTS UPON EXPIRATION OR TERMINATION. All improvements and fixtures, other than Lessee's movable furniture, equipment, and other personal property, which have been made, installed, constructed or otherwise erected by Lessor and Lessee on the Premises shall become the property of Lessor and shall be surrendered with the Premises as a part thereof upon expiration or termination of this Agreement. Notwithstanding the expiration or termination of the Lease Term or this Agreement, Lessee shall be and remain liable to observe and perform all of its obligations hereunder relating to events occurring, circumstances existing, or obligations or claims arising or attributable to, the period of Lessee's use or occupancy prior to the date of expiration or termination.

20. GENERAL PROVISIONS.

20.1. Access to Premises. Lessor shall have the right to enter upon the Premises at all reasonable times for the purpose of inspecting the same and ascertaining compliance with the provisions, conditions, and obligations of this Agreement. Lessor may also show the Premises to prospective purchasers, lessees, or encumbrancers at all reasonable times.

20.2. Place of Payment by Lessee. All payments for Rent or other monetary charges due and payable from Lessee to Lessor shall be paid to Lessor at such place as shall be designated by Lessor in writing.

20.3. Notices. Any notice required or permitted hereunder to be given or transmitted between Lessor and Lessee shall be either personally delivered or mailed, postage prepaid, addressed as follows:

If to Lessee: Wyoming Catholic College
306 Main Street
Lander, WY 82520

If to Lessor: Old Town, LLC
5292 S College Drive
Suite 304
Murray, UT 84123

or such other address for notice purposes either Lessor or Lessee may hereafter designate in writing. Any notice, which is mailed, shall be effective on the second business day following its date of mailing.

20.4. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, representatives, administrators, successors and assigns of the respective parties hereto.

20.5. Waiver. No covenant, term, condition, obligation, or the default or breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed. Any waiver of any covenant, term, condition, obligation, or the default or breach thereof shall not be deemed to be a waiver of any other covenant, term, condition, or obligation nor of a any preceding or succeeding breach of the same or any other covenant, term, condition, or obligation.

20.6. Cumulative Remedies. All rights and remedies of the respective parties to this Agreement enumerated herein shall be cumulative and none shall exclude any other right or remedy allowed by law or in equity, and such rights may be exercised and enforced concurrently and whenever and as often as occasion therefore arises.

20.7. Severability. If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

20.8. Counterparts. This Agreement may be signed by facsimile or electronic delivery in .pdf format and may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

20.9. Entire Agreement and Amendments. Lessor and Lessee acknowledge and agree that this Agreement contains all of the agreements and understanding, oral or written, express or implied, existing on any of the subjects referred to herein, other than this written agreement itself. Lessor and Lessee also agree that every understanding and agreement on such subjects shall be merged into this Agreement, which is mutually understood to be and shall be conclusively accepted as the full agreement between Lessor and Lessee. No term or provision of this Agreement may be amended or added to except in a writing signed by all of the parties hereto or their respective successors in interest.

20.10. Governing Law. This Agreement, and any action arising out of or relating to this Agreement, its negotiation, validity, performance or breach, or the services contemplated hereby or the rights and obligations of the parties (whether sounding in contract, tort, statute or otherwise, and whether at law or in equity), shall be governed by and construed and enforced in accordance with the domestic substantive laws of the State of Utah, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction. The parties each irrevocably: (a) consent to the exclusive jurisdiction and venue of the state and federal courts sitting in Utah in any such action, (b) agree that such courts are convenient forums for that purpose, and shall not seek to dismiss, transfer or remove such action to any other forum on grounds of lack of personal jurisdiction, improper venue, *forum non conveniens* or any similar doctrine, (c) consent to service of process in any such action effected by delivery via nationally recognized overnight courier service, addressed either Party, as applicable, at such Party's address set forth above, in addition to any other method of service provided by applicable law, (d) agree that such service of process shall be valid and (e) agree that such action shall be commenced and determined only in such courts. Notwithstanding the foregoing, actions or proceedings may be commenced in any jurisdiction to enforce or satisfy orders or judgments of such courts.

20.11. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW THAT CANNOT BE WAIVED, THE PARTIES HEREBY WAIVE, AND AGREE THAT THEY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY ACTION DESCRIBED IN SECTION 20.10 HEREOF. THE PARTIES AGREE THAT EITHER OF THEM MAY FILE A COPY OF THIS PARAGRAPH WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY SUCH ACTION AND THAT ANY SUCH ACTION WILL INSTEAD BE TRIED BY A JUDGE SITTING WITHOUT A JURY.

20.12. Attorneys' Fees. In the event of a default or breach hereunder by either Lessor or Lessee, the non-breaching party shall have the right to enforce the terms and provisions of this Agreement and the costs and expenses of such enforcement including, but not limited to, reasonable attorneys' fees shall be borne by the breaching party and shall be payable upon demand, whether or not a lawsuit is commenced.

20.13. No Commissions. Lessor and Lessee represent and warrant that neither party has had any contact or dealings regarding the Property or any communication in connection with the subject matter of this Agreement through any licensed real estate broker, agent, or any

other person who can claim a right to commission or finder's fees as a result of the transaction contemplated herein. Each party shall indemnify and hold the other harmless against and from all claims for any real estate commissions and other fees with respect to the procurement and execution of this Agreement made by any person or entity with whom they have dealt or are alleged to have dealt.

20.14. Right of Way. Lessee and any Lessee Party shall abide by the terms and limitations of the ROW and shall be responsible for any damage to the ROW or surrounding BLM land caused by Lessee's use of the ROW.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Lessor and Lessee have hereto caused this Agreement to be effective as of the Effective Date.

WYOMING CATHOLIC COLLEGE,
a Wyoming non-profit religious corporation

By: _____
Name:
Title:

OLD TOWN, LLC,
a Utah limited liability company

By: _____
Name:
Title:

EXHIBIT A

(Camping Rules and Regulations)

1. **Campfires:** While the use of campfire risk can be managed well, campfires can also create devastating damage to the property and adjacent lands as well as personal injury, death and significant monetary cost if not managed well. Lessee is permitted to have campfires only when following the rules listed below. Any violation of these rules at anytime will result in immediate termination of this lease. In addition, any damage or expense caused by a fire will be the responsibility of Lessee including excessive fees and possible criminal consequences if the fire effects adjacent property and public land, personal injury and death, firefighting expenses, etc.
 - i. Lessee will follow all local fire restrictions and will not have fires when they are not allowed in the county/area.
 - ii. Campfires can only take place in the provided metal fire pits and fires should not exceed or ever be outside of the metal fire pits.
 - iii. Lessee is required to provide 30 feet of non-combustible defensible space around each fire pit.
 - iv. Lessee is required to have ten gallons of water in 5 gallon buckets making it easily deployable at the fireside anytime a fire exists. Anytime a fire is not attended it will be doused with water until it is dead out.
 - v. No large fires/bonfires or any burning wood outside of the firepit circle and no fires during high winds.
 - vi. Fires can only be used in the presence of and under the direct supervision of an instructor.
 - vii. Firewood needs to be purchased in the Moab /San Juan County area or wood on the property that meets the leave-no-trace (“LNT”) standards of the 5 D’s (dead, down, detached, dinky, dry).
 - viii. No fireworks or firecrackers.
 - ix. Use of approved backcountry or camping gas stoves can only be used in the kitchen area with defensible space.
2. **Water Use:** In order to protect Mill Creek, Lessee is required to bring in all drinking water rather than using the creek as a water source.
3. **Waste Removal:** Lessee is required to remove all trash and human waste from the campground anytime they leave the premises. No trash can be left on the property when the property is not being used.
4. **Human Waste Removal:** Lessee is required to use human waste methods/tools that are approved by the outdoor industry and the Lessor. The 2 approved methods are either environmentally approved Wag Bags or river Groovers/portable toilet containers. Used Wag Bags and Groovers must be removed at the end of each use of the property and must be disposed of legally (for example, Groovers need to be disposed of at an RV dump location). Cat Holes are not allowed under any circumstances. Instructors need to make sure the Wag Bags and/or Groovers are being used by all students by providing the

required supervision and adequate privacy for their locations which can include portable toilet tents/tarps.

5. **Campsite Locations:** Lessee is only allowed to camp at locations approved by Lessor.
6. **Group Size:** Lessee is approved to bring up to 3 groups per day with a total of fewer than 50 people per day. Lessee is required to get express approval when exceeding the 50 people limit and even with approval from the Lessor the group size can never exceed 100 people on any given day and no more than 30 people at any one campsite location.
7. **Property Access:** Lessee understands that the property does require four-wheel drive and high clearance vehicles to access the property for the last ¼ mile of the county road. Lessee needs to access the property with appropriate vehicles or hike into the property on the county road by parking at permitted overnight parking locations granted by the BLM.
8. **Approved Activities on the property:** Lessee is required to get express permission to use the property for any activities that can damage the wilderness nature of the property. Approved activities following all LNT principles include camping, hiking, rock climbing and rappelling at approved areas, and hiking Entrajo Canyon be using only the approved access permitted by the BLM. Lessee is strictly prohibited from driving any motorized vehicles off the road that currently exists on the property.
9. **Leave No Trace Principles:** Lessee is required to follow LNT principles on the property as if they are in the backcountry and follow the same environmental ethics the Lessee follows when utilizing public lands under a permit with the BLM, US Forest Service, National Park and State Parks.
10. **Emergency Protocols:** Lessee is required to follow the same emergency and evacuation protocols required for their backcountry permits with public land agencies including at least two medically trained instructors (WFR and CPR), always having emergency communication devices such as a global satellite beacon or satellite phone, having an emergency evacuation plan, having an extensive medical first-aid kit, etc.
11. **Administrative Requirements:** The Lessee is required to provide Lessor a calendar/schedule of all of its use at least 2 months prior to its use. Any last-minute use must be approved by Lessor prior to using the property. In addition, the Lessee is required to provide a post-use report at the end of each season (similar to the required post-use reports given to the BLM & Forest Service) in order for the Lessor to track the Lessee's use.
12. Lessor has the right to inspect the Lessee's use of the property without any warning.

EXHIBIT B

(Right of Way Easement & Legal Description of the Premises)

[Attached]



Michael Nielson, MD
Medical Director

Brittney Carlson, RN
Nursing Director

Grant Sunada, PHD, MPH
Executive Director

Ronnie Nieves, BS
Environmental Director

Katie Knight, RN
WIC Director

To whom it may concern,

After reviewing plans submitted by Thomas Zimmer, for the open land/general personal recreation the San Juan County health department has no issues or concerns. This company has agreed to haul off site all wastewater. There will be no composting toilets and camps should be at a minimum of 200 feet from any streams, rivers, lakes etc. There will be random inspections to verify that wastewater is not being dumped onto the ground and that campsites are cleaned up after each visit.

If you have any questions regarding this letter please call me at 435-587-3838 or Cell 435-979-4452

Sincerely,

Ronnie Nieves

Environmental Health Director

SAN JUAN COUNTY CONDITIONAL USE PERMIT APPLICATION

Type of Application (check all that apply):

- New Construction
- Land Use Change
- Addition
- Appeal

Subject Property Location or Address: 240 S. Flat Pass
Moab, Utah 84532

Parcel Identification

Number: 27S23E036000 (Parcel 1); 27S23E048400 (Parcel 2); and 27S23E090000 (Parcel 3).

Parcel Area: 240.21 Acres Current Use: Open Land / General Personal Recreation

Floor Area: _____ Zoning Classification: A-1

Applicant Name: Old Town, LLC - Represented by Member/Agent Thomas Zimmer



Mailing Address: 965 Timber Drive

City, State, ZIP: Lander, WY 82520

Daytime Phone #: 7196481574 Fax#: NA

Email Address: Zimmertomj@gmail.com

Business Name (If applicable): Old Town, LLC

Property Owner's Name (If different): _____

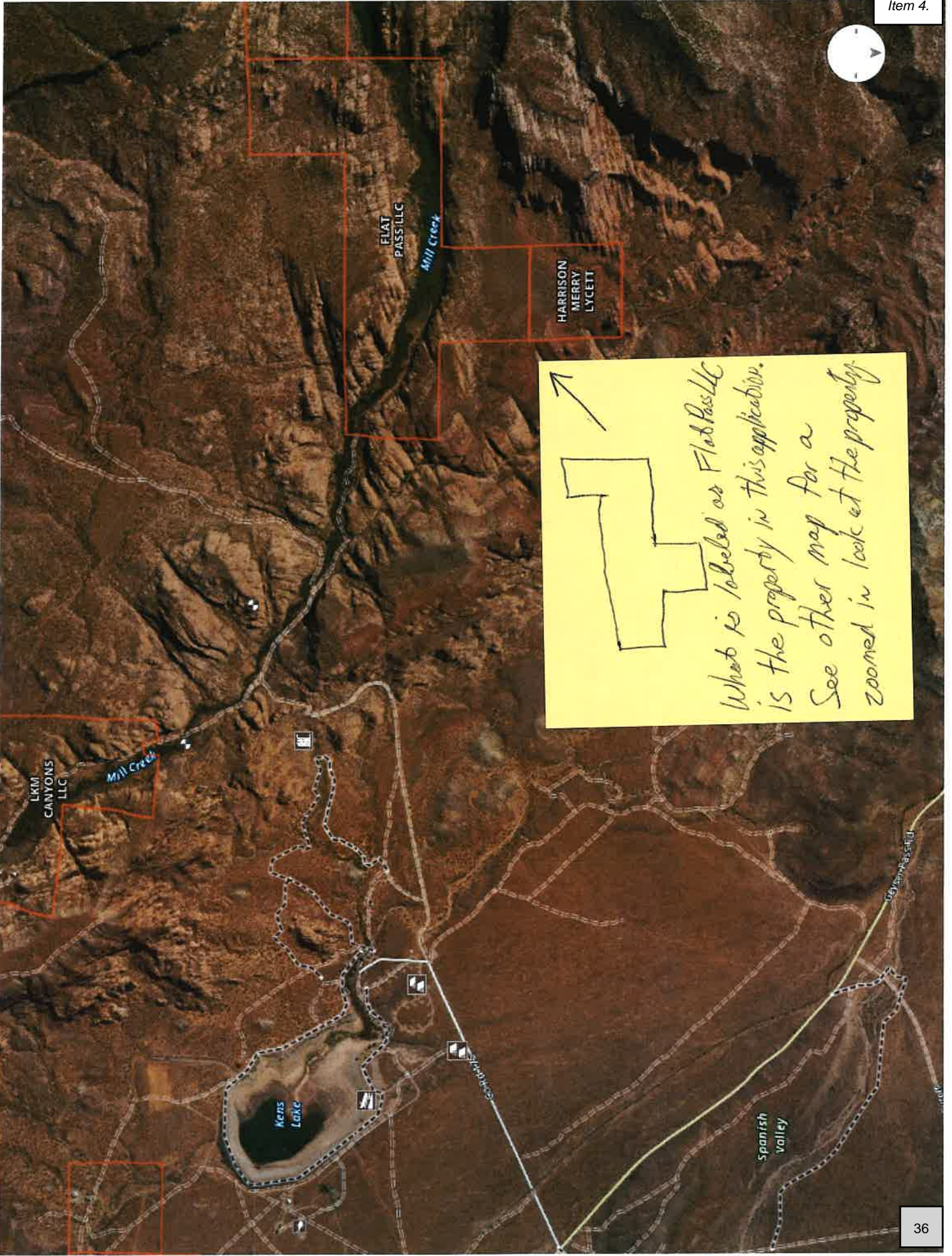
Property Owner's Mailing Address: 5292 S. College Drive, Suite 304

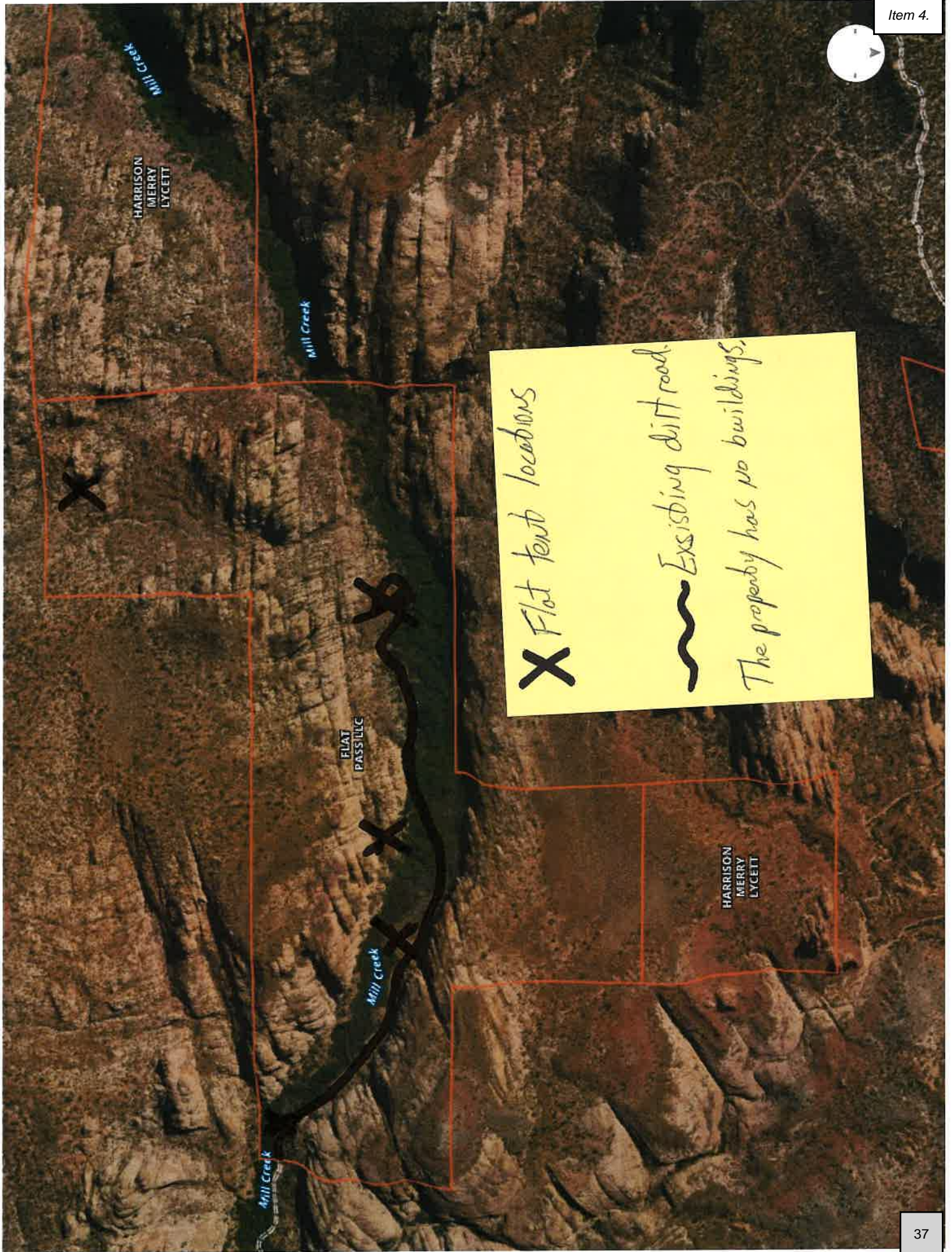
City, State, ZIP: Murray, Utah 84123

Daytime Phone #: 7196481574 Fax#: _____

Describe your request in detail (use additional page(s) if necessary): Conditional use request to use the land for tent camping. This would be primitive tent camping with temporary tent structures. The only structure that would not be temporary, would be a mobile shed for storage.

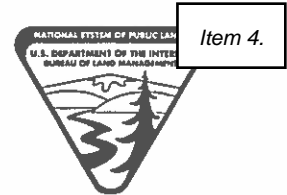
Authorized Signature: [Signature] Date: 12-9-2021







United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Moab Field Office
82 E. Dogwood Avenue
Moab, UT 84532

JAN 27 2022

In Reply Refer To:
2800 (LLUTY01200)
UTU-75383

CERTIFIED MAIL – RETURN RECEIPT
7018 0680 0001 3071 1997

DECISION

Assignee
Old Town LLC
240 S. Flat Pass
Moab, UT 84532

Right-of-Way UTU-75383

Assignor
Flat Pass LLC
PO Box 37
Middle Haddam, CT 06456

Assignment Approved
Processing Category Determined
Rental Determined

On May 3, 2005, the Bureau of Land Management (BLM) granted Right-of-Way (ROW) UTU-73287 for an access road to private property. The road ROW is 30 feet wide by 6,165 feet long. The ROW was issued pursuant to Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761). On December 2, 2021, Old Town LLC, the new owner of the private property, requested assignment of ROW UTU-75383.

Processing Fee Category

According to Federal regulations contained in 43 Code of Federal Regulations (CFR) 2804.14, the BLM is required to be reimbursed for the costs incurred in processing a ROW application. We have determined that the appropriate processing category for your application is Category 2. The nonrefundable processing fee for a Category 2 is **\$459.00**. The BLM received the processing fee.

The assignment of ROW UTU-75383 to Old Town LLC is hereby approved subject to the original terms and conditions of the grant. The grant expires December 31, 2033.

Rent for use of public lands must be paid in advance of such use and prior to issuance of the ROW grant. Rent for a linear ROW is based on a schedule that is adjusted annually based on the Implicit Price Deflator (IPD), an inflation index. You may obtain a copy of the rent schedule from this office or by accessing: <https://www.blm.gov/programs/lands-and-realty/right-of-way/obtaining-right-of-way>. Rental is currently paid through December 31, 2028. No rent is due at this time however a

INTERIOR REGION 7 • UPPER COLORADO BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING

rental bill will be mailed to Flat Pass LLC around November 2028 for rent due beginning January 1, 2029.

Please be aware that the assignment of UTU-75383 does not authorize any new surface disturbance or maintenance of the access road.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (request) pursuant to regulations 43 CFR 2801.10 or 2881.10 for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

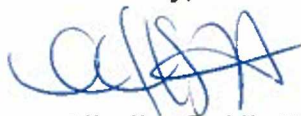
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If you have any questions regarding your ROW assignment or the fees connected with it, please contact Lisa Wilkolak, Realty Specialist, at (435) 259-2122 or lwilkolak@blm.gov.

Sincerely,



Nicollee Gaddis-Wyatt
Field Manager

Enclosures



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Moab Field Office
82 East Dogwood
Moab, Utah 84532



2800
UTU-75383
(UT-062)

CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Certification No. 7011 1150 0000 0282 0565

DEC 2 2 2011

DECISION

Flat Pass LLC	:	
P. O. Box 37	:	Right-of-Way UTU-75383
Middle Haddam, Connecticut 06456	:	

Right-of-Way Amendment Approved

On May 3, 2005, right-of-way (ROW) UTU-75383 was granted to L. C. Kejana for an access road to private land on the east side of Flat Pass under the authority of Title V of the Federal Land Policy and Management Act of October 21, 1976 (43 USC 1761).

On October 29, 2010, ROW UTU-75383 was assigned to Flat Pass, LLC, the new owners of the private property accessed by the road. On January 27, 2011, David Kahn, on behalf of Flat Pass, LLC, filed an application to amend ROW UTU-75383 to extend their current ROW from the west side of the Flat Pass, LLC private property over San Juan County Class D Road 0684 to where it meets San Juan County Class B Road 175.

The amendment of Right-of-Way UTU-75383 to include legal access to private property across San Juan County Class D Road 0684 is hereby approved subject to the original terms and conditions of the grant, the project description and exhibits set forth in the application for amendment, applicable regulations at 43 CFR 2800, and all valid existing rights.

Details of Amendment

Legal Description:

Salt Lake Meridian
T. 27 S., R. 23 E.,
sec. 4, S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$;
sec. 5, lots 6 and 7, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

A map, Exhibit A, is enclosed.

Dimensions:

The right-of-way amendment covers a road, 6,165 feet long and 30 feet wide (10 foot travel surface) containing 4.24 acres, more or less. The total area contained in this grant is 4.48 acres.

Purpose:

Use, maintenance and termination of an access road to Flat Pass, LLC private property.

Term:

The amendment expires on the same date as the original grant, December, 2033.

Stipulations:

The amendment is subject to the Terms and Conditions of the grant issued on May 3, 2005.

Rental:

The right-of-way amendment is subject to rental pursuant to the authority in 43 CFR 2806.10.

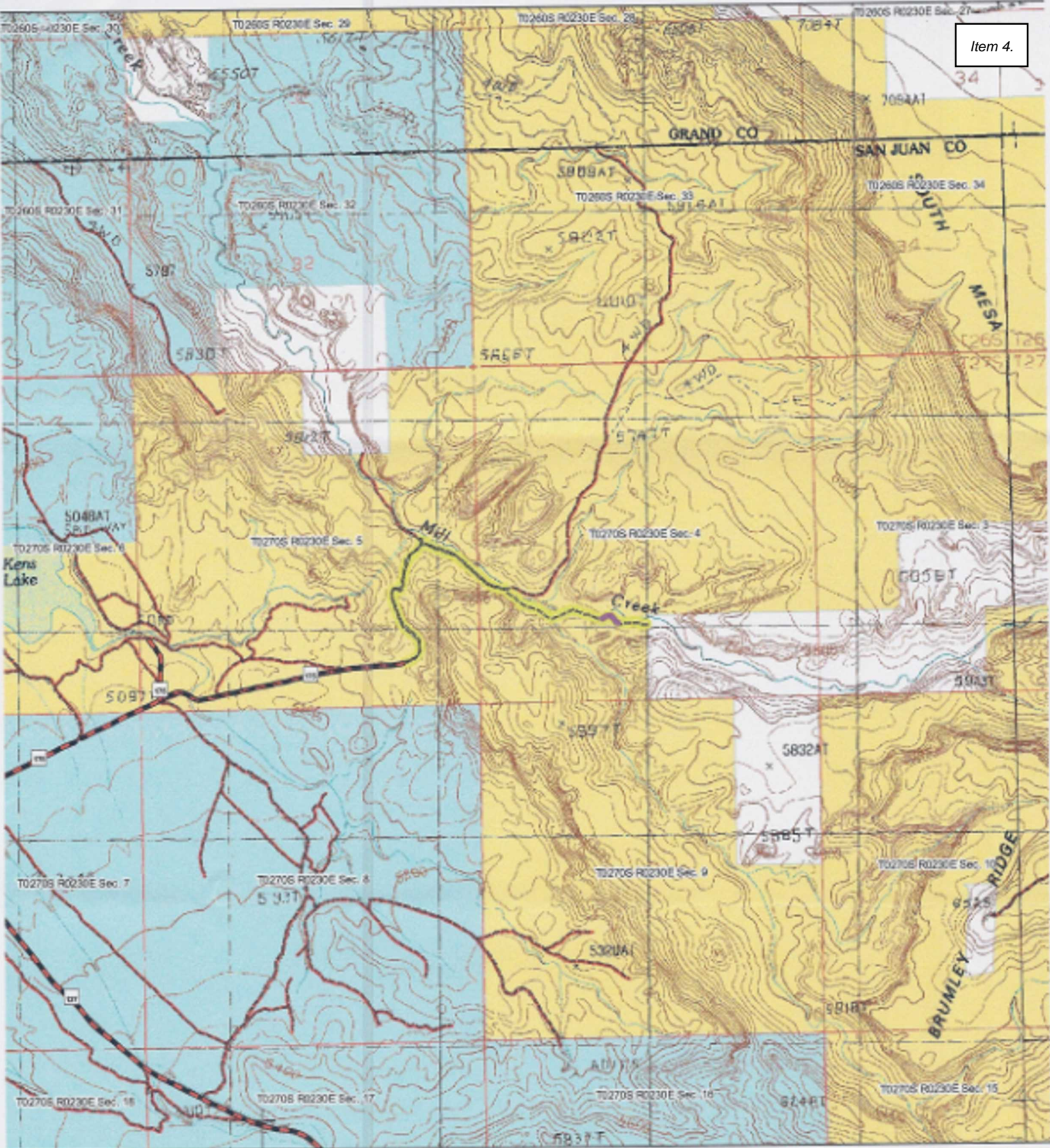


Field Manager

Enclosures

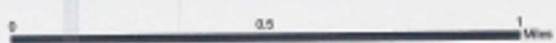
1. Exhibit A (Map)
2. Copy of Right-of-Way Grant (5 pages)

Item 4.



Legend

- ROW Amendment
- Right-of-way issued in 2005
- San_Juan_d_roads
- San_Juan_b_roads
- Bureau of Land Management (BLM)
- State
- Private



**Right-of-Way
 UTU-75383 - Amendment
 T. 27 S., R. 23 E.,
 within sections 4 & 5.**

Exhibit

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT
SERIAL NUMBER UTU-75383

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).
2. Nature of Interest:
 - a. By this instrument, the holder

Kejana, L. C.
2050 Pioneer Ct. # 200
San Mateo, CA 94403

receives a right to use, maintain, and terminate a(n) access road on public lands described as follows:

T. 27 S., R. 23 E., SLM.
sec. 4, E $\frac{1}{2}$ SW $\frac{1}{4}$.
 - b. The right-of-way granted herein is 30 feet wide (16' travel surface), 350 feet long and contains 0.24 acres, more or less.
 - c. This instrument shall terminate on December 31, 2033, unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
 - d. This instrument may be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
 - e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.


Based on the linear R/W rental schedule, the rental fee is \$9.25 for the period of December 2003 through December 31, 2008. Future rental payments will be payable in advance for 5-year terms and will be requested by computer billing.

4. Terms and Conditions:


- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. The right-of-way is issued subject to prior valid existing rights, including the right-of-way for the San Juan County Road paralleling Mill Creek above Flat Pass.
- c. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- d. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.
- e. The map and plan set forth in Exhibit A, attached hereto, is incorporated into and made a part of this grant instrument.
- f. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- g. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- h. The holder shall conduct all activities associated with the operation, maintenance, and termination of the right-of-way within the authorized limits of the right-of-way.
- i. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of six inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- j. The access road will be maintained to provide drainage and minimize erosion. Culverts shall be installed if necessary to maintain drainage.

- k. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- l. All survey monuments, witness corners, reference monuments and bearing trees must be protected against destruction. Any damaged or obliterated markers must be re-established in accordance with accepted survey practices at the expense of the holder.
- m. Upon relinquishment of the right-of-way, the holder will remove surfacing material (i.e. gravel, roadbase) and recontour disturbed areas, or designated sections of the right-of-way, by grading to restore the site to approximately the original contour of the ground as determined by the authorized officer.
- n. The holder shall seed all disturbed areas, using an agreed upon method suitable for the location. Seeding shall be repeated if a satisfactory stand is not obtained as determined by the authorizing officer upon evaluation after the second growing season.

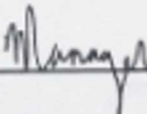
IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.



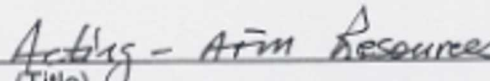
 (Signature of Holder)



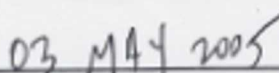
 (Signature of BLM Authorized Officer)



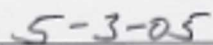
 (Title)



 (Title)



 (Date)



 (Effective Date of Grant)

Item 4.



EXHIBIT A

Access Road Right-of-Way UTU-75383
 T. 27 S., R. 23 E., sec. 4, E $\frac{1}{2}$ SW $\frac{1}{4}$
 Kane Springs 7 $\frac{1}{2}$ ' topographic map

PLAN A

PLAN VIEW

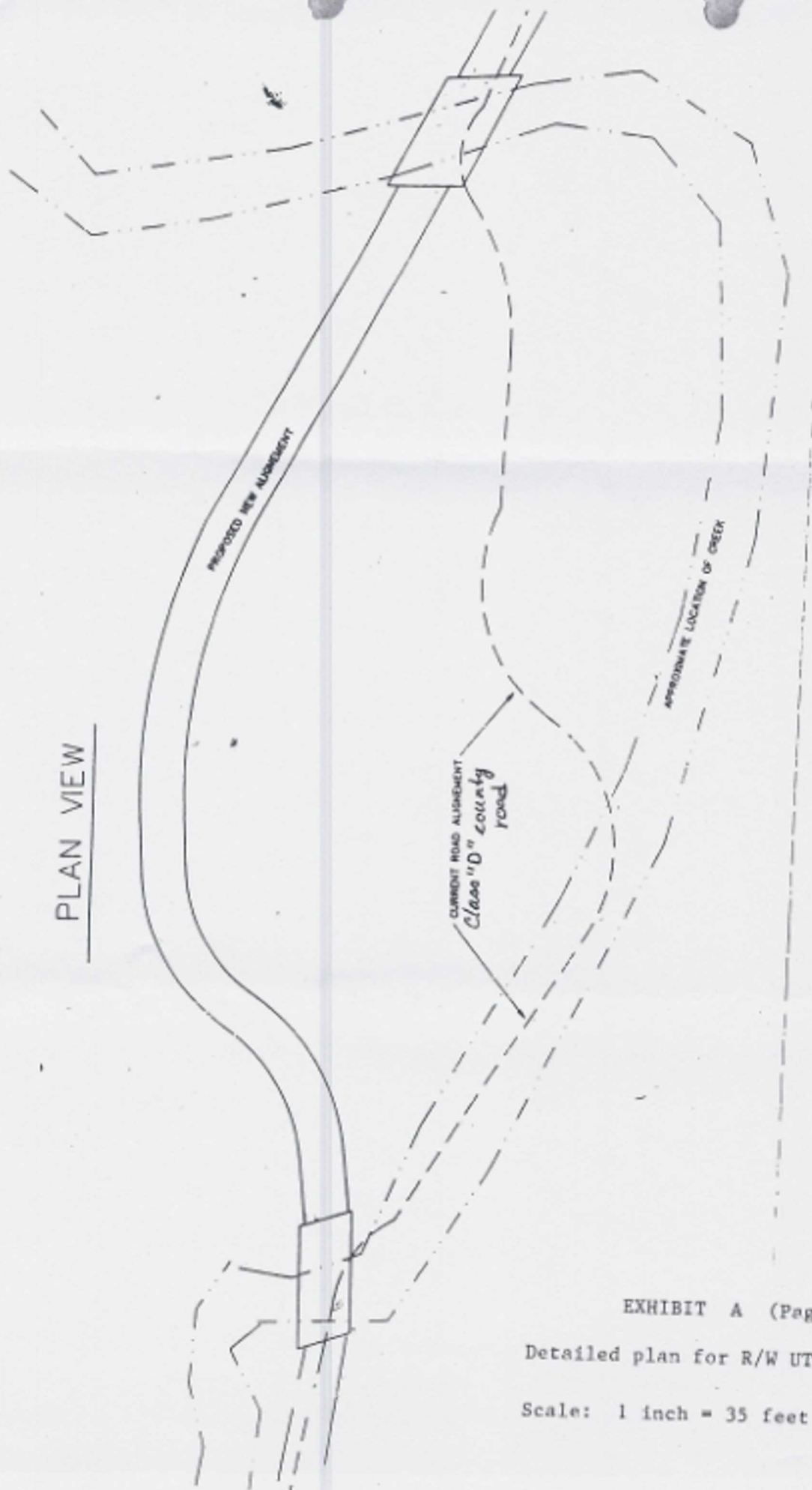


EXHIBIT A (Page 2)

Detailed plan for R/W UTU-75383

Scale: 1 inch = 35 feet



STAFF REPORT

MEETING DATE: February 10, 2022

ITEM TITLE, PRESENTER: Consideration and Approval of Pine View Subdivision, Gary Torres

RECOMMENDATION: Consideration and Approval

SUMMARY

Gary Torres of Monticello, Utah is proposing a subdivision of 40 acres of private land located 1.5 miles west of Monticello City along the North Creek Rd (county road 101). The land is in the Agriculture District (A-1). The proposed subdivision includes 6 lots that are five acres or larger in size.

The plat has been reviewed by county staff, and found to be in compliance with county subdivision and zoning regulations.

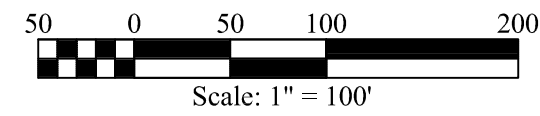
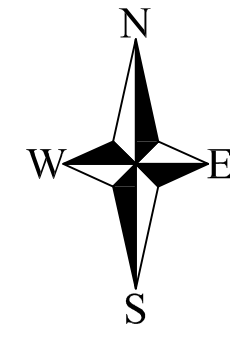
HISTORY/PAST ACTION

N/A

Final Plat

Pine View Subdivision

Within the SE¹/₄ NW¹/₄ of Section 34, Township 33 South, Range 23 East, SLB&M
39.62 Acres±



Subdivision Boundary Description

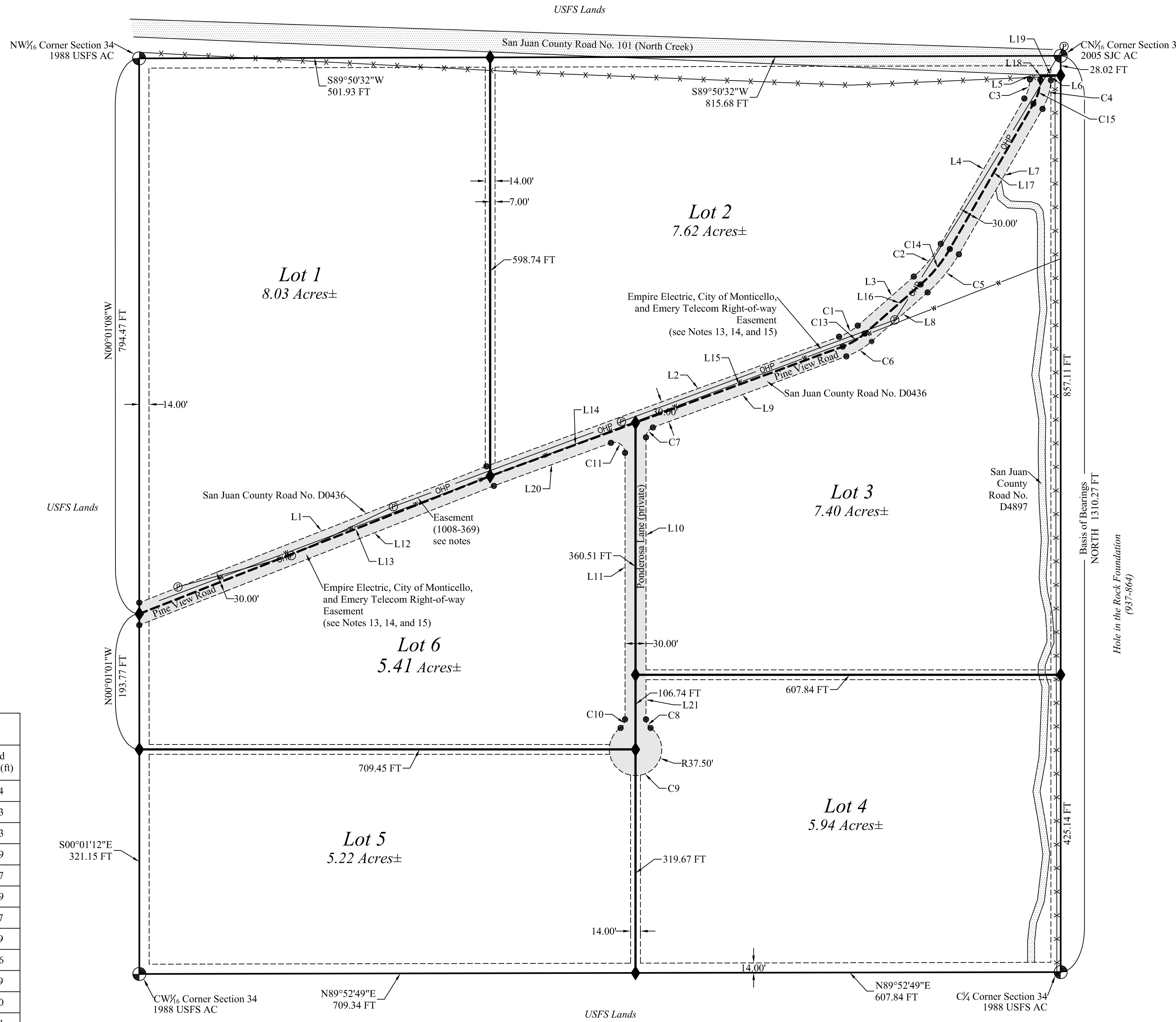
Exterior Bounds
Township 33 South, Range 23 East, SLB&M
Section 34: SE¹/₄ NW¹/₄

Line Table

Line #	Length (ft)	Direction
L1	533.28	N68°33'00"E
L2	537.18	N69°49'32"E
L3	106.49	N48°47'12"E
L4	239.75	N29°55'23"E
L5	6.23	N2°24'57"E
L6	6.23	N2°24'57"E
L7	239.75	N29°55'23"E
L8	106.49	N48°47'12"E
L9	294.65	N69°49'32"E
L10	332.57	S0°00'00"E
L11	381.18	S0°00'00"E
L12	544.72	N68°32'58"E
L13	539.00	S68°32'59"W
L14	221.43	N69°49'32"E
L15	315.59	N69°49'32"E
L16	106.49	N48°47'12"E
L17	239.75	N29°55'23"E
L18	6.23	N2°24'57"E
L19	28.75	N90°00'00"E
L20	178.27	N69°49'32"E
L21	56.66	S0°00'00"E

Curve Table

Curve #	Length(ft)	Radius(ft)	Delta	Chord Direction	Chord Length(ft)
C1	31.21	85.00	21.04°	N59°18'22"E	31.04
C2	60.91	185.00	18.86°	N39°21'18"E	60.63
C3	28.81	60.00	27.51°	N16°10'10"E	28.53
C4	43.21	90.00	27.51°	N16°10'10"E	42.79
C5	70.79	215.00	18.86°	N39°21'18"E	70.47
C6	42.23	115.00	21.04°	N59°18'22"E	41.99
C7	18.28	15.00	69.83°	S34°54'46"W	17.17
C8	14.44	15.00	55.15°	S27°34'30"E	13.89
C9	190.00	37.50	290.30°	N90°00'00"E	42.86
C10	14.44	15.00	55.15°	N27°34'30"E	13.89
C11	28.84	15.00	110.17°	N55°05'14"W	24.60
C13	36.72	100.00	21.04°	N59°18'22"E	36.51
C14	65.85	200.00	18.86°	N39°21'18"E	65.55
C15	36.01	75.00	27.51°	N16°10'10"E	35.66



Narrative

The purpose of this survey was to create the Pine View Subdivision from the Torres Tract as described in a warranty deed and recorded in the San Juan County Recorder's Office in book 1069 page 263 as shown hereon.

The basis of bearings for this survey is North between the C¹/₄ corner and Center-North ¹/₄ (CN¹/₄) corner of Section 34, Township 33 South, Range 23 East, SLB&M.

Notes

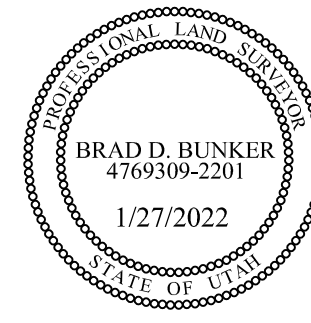
- This property is zoned A-1 "Agricultural Use"
- Ponderosa Lane is intended to be a private road. Pine View Road is only named per this subdivision plat. It is shown on the San Juan County road inventory as Road No. D0436. This survey does not purport to ascertain the extent of any rights for any entity as they pertain to access along the San Juan County "D" roads. San Juan County claims "D" roads as part of the county road inventory as public roads from disturbance to disturbance. The 30.00 foot wide easement width along Ponderosa Lane and Pine View Road is intended for ingress, egress and utilities.
- All lots shall comply with the requirements as set forth by the State of Utah for onsite wastewater systems.
- There is no official flood zone designation for any area within this proposed subdivision.
- There shall be a 14 ft wide utility easement along various lot lines as shown hereon. These shall not be used for ingress and egress except to install and maintain utilities.
- Wells and septic systems shall be installed in conformance with the rules and regulations of the Utah Division of Environmental Health whether they serve individual lots or multiple lots. All lots shall comply with R317-4 administrative rules for onsite wastewater systems. All lots must demonstrate acceptable soils within each lot boundary.
- Application to the Utah State Engineer shall be made by lot owners for wells and water appropriation.
- This subdivision consists of primarily ponderosa pine, gambrel oak, and sage brush.
- If there are restrictive covenants which pertain to this subdivision, San Juan County has no responsibility for enforcing said covenants.
- Total acreage within this subdivision is 39.62 acres more or less. This includes all roadway areas and easements.
- Calls without a bearing are cardinal.
- Lot ownership runs to the centerline of Ponderosa Lane and Pine View Road. The 30.00 ft roadway easement and cul-de-sac shall remain clear and unobstructed for the passage of vehicular traffic.
- As recorded in book 601 page 70 in the SJC Recorder's Office, there exists a 20.00 foot wide easement in favor of the City of Monticello for a water line. This instrument specifies that the easement width is 20.00 feet in width is located where the existing water line is placed. This instrument was recorded April 19 1979.
- As recorded in book 154 page 315 in the SJC Recorder's Office, there exists an easement in favor of Empire Electric Association, Inc for a power line. This "Right-of-way" Easement specifies it is to follow the water line and is to not exceed 20.00 feet. The water line easement mentioned in Note 13 was recorded in 1979. This power line easement was recorded in 1957, so it is assumed there existed some form of water line easement prior to the creation of this power line easement. For the purposes of this survey the existing power line is shown hereon. The water line is underground and is not specifically locatable in all locations.
- As recorded in book 1008 page 369 in the SJC Recorder's Office, there exists a 20.00 foot wide easement in favor of Emery Telecommunications and Video for a communications line. The description follows the existing utility poles more or less and is not shown hereon for clarity purposes.

Legend

- Found section monument as labeled
- Bearing break (not set)
- Set 1/2" rebar and plastic cap (LS 4769309)
- Power Pole
- Fence
- Easement
- Overhead power line
- Water line
- USFS United States Forest Service
- SIC San Juan County
- AC Aluminum Cap

Surveyor's Certificate

I Brad D. Bunker, Professional Utah Land Surveyor, Number 4769309, hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act. This survey has been completed under my direction for the property described hereon in accordance with section 17-23-17. I hereby certify all prepared descriptions and measurements are correct. Monuments will be set as noted hereon. I also certify that this record of survey has been prepared under my direction at the request of Gary Torres.



Brad D. Bunker Utah P.L.S. #4769309
Date 1/27/2022

County Surveyor

Approval in accordance with information and records on file in this office.

Date _____ County Surveyor _____

Pine View Subdivision

Within the SE¹/₄ NW¹/₄ of Section 34, Township 33 South, Range 23 East, SLB&M

County Recorder
State of Utah, County of San Juan, Recorded at the request of _____
Filed: Date: _____ Time: _____
Book: _____ Page: _____ Fee: _____

Approval as to Form
Approved this _____ Day of _____, 20____
Attorney _____

Health Department
Approved this _____ Day of _____, 20____
Health Official _____

Owners Dedication

Know all men by these presents that we, the undersigned owners of the above described tract of land, having caused the same to be subdivided into lots and streets hereafter to be known as the _____ Subdivision and do hereby dedicate for perpetual use of the public all parcels of land shown on this plat as intended for public use.
In witness whereof I have hereunto set my hand this _____ Day of _____, 20____

San Juan County Commission
The subdivision hereon was presented to the San Juan County Commission this _____ day of _____, 20____, and was accepted and approved.
Commissioner _____

Form Approval
Approved this _____ Day of _____, 20____
Health Official _____

San Juan County Planning Commission

Approved by the San Juan County Planning Commission this _____ Day of _____, 20____

Acknowledgement
State of Utah, County of San Juan, on the _____ Day of _____, 20____, personally appeared before me _____ and proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she/they) executed the same freely and voluntarily for the purposes stated herein.
My commission expires _____, 20____
Notary Public _____ Residing in _____ County _____

Bunker Engineering
965 S. South Creek Road, Monticello, UT 84535
P.O. Box 432, Monticello, UT 84535 (435) 459-9152
Date: 1/27/2022 Drawn By: B.D. Bunker Scale: 1" = 100'
Drawing Name: Survey Reference Number: BE1161



STAFF REPORT

MEETING DATE: February 10, 2022

ITEM TITLE, PRESENTER: Consideration and Approval of Mersereau Subdivision, Amendment 3, lots 1 and 2a, Daniel Wright

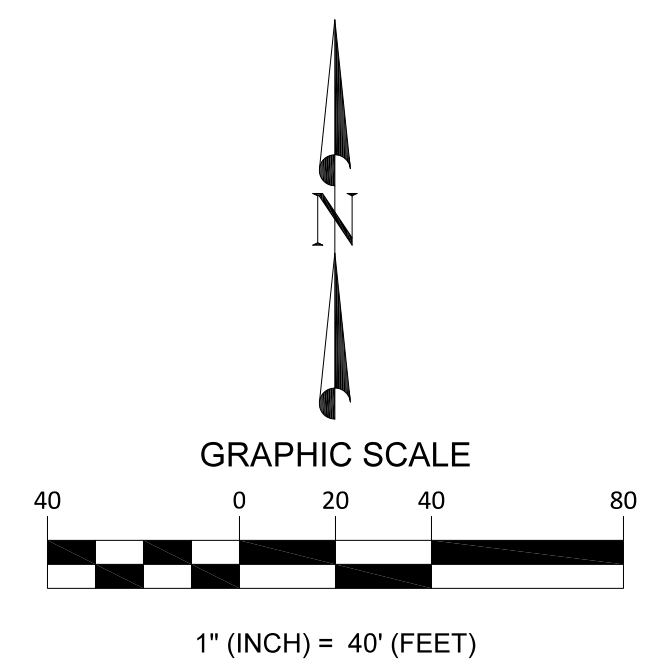
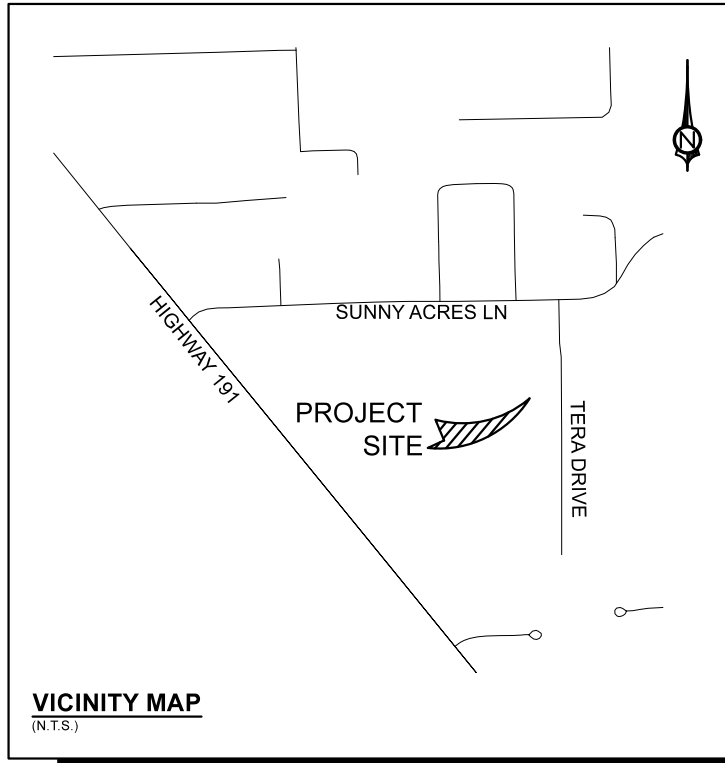
RECOMMENDATION: Approval

SUMMARY

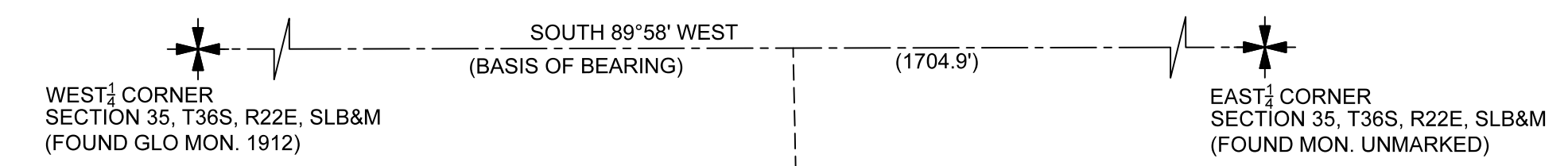
Daniel wright is proposing to amend lots 1 and 2a of the Mersereau Subdivision. The proposed amendment adjusts the boundary between lots 1 and 2a. The resulting lot 1 is .97 acres in size, and lot 2a is 1.15 acres in size.

HISTORY/PAST ACTION

The Mersereau subdivision was created in 2018 with 2 lots each larger than an acre in size. (See attached plat from 2018) Lot 2 was amended in 2021 to create lot 2a and 2b. (See attached plat from 2021)



FINAL PLAT OF
MERSEREAU SUBDIVISION, AMENDMENT III
AMENDING LOT 1, MERSEREAU SUBDIVISION &
AMENDING LOT 2A, MERSEREAU SUBDIVISION, AMENDED LOT 2,
BY LOT LINE ADJUSTMENT
LOCATED IN
THE SOUTHEAST QUARTER OF
SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST
SALT LAKE BASE AND MERIDIAN



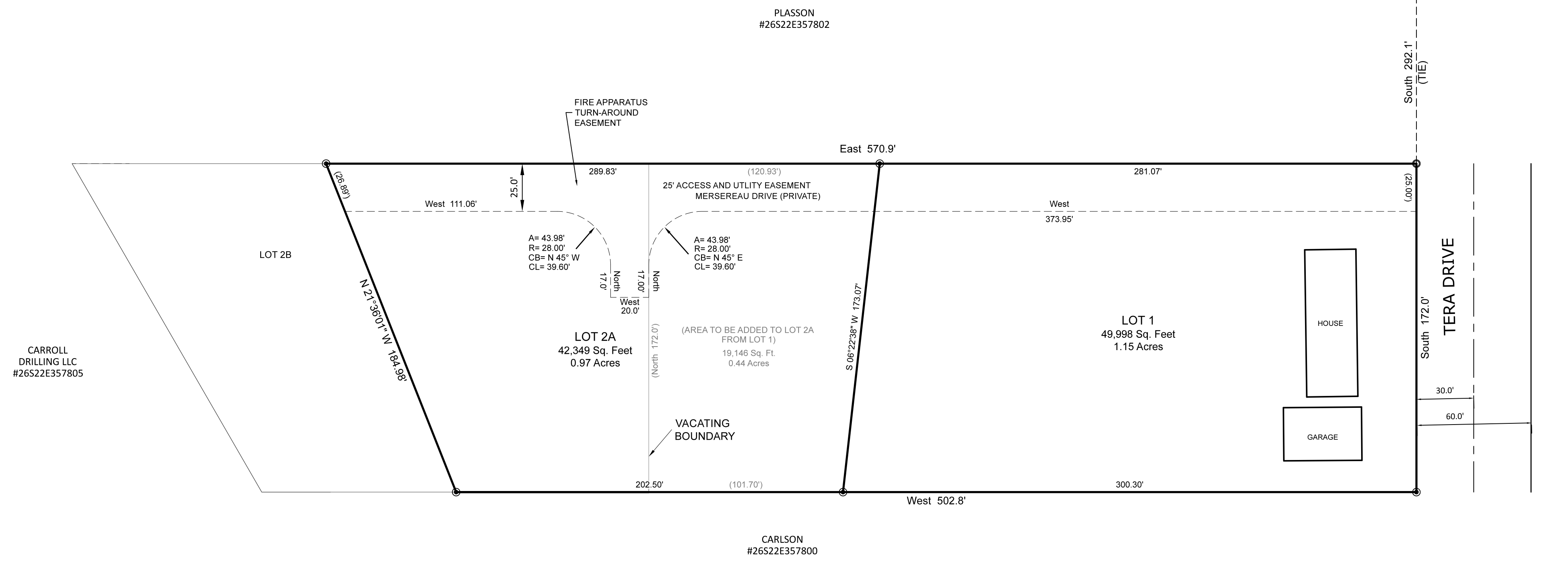
SURVEYOR'S CERTIFICATE

I, Lucas Blake, certify that I am a Professional Land Surveyor as prescribed under the laws of the state of Utah and that I hold license no. 7540504. I further certify that a land survey was made of the property described below, and have subdivided said tract of land into lots and streets hereafter to be known as:
MERSEREAU SUBDIVISION, AMENDMENT III
and that same has been correctly surveyed and staked on the ground as shown on this plat.

Lucas Blake _____ Date _____
License No. 7540504

BOUNDARY DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF LOT 1, MERSEREAU SUBDIVISION, SAID POINT BEING SOUTH 89°58' WEST 1704.90 FEET ALONG THE CENTER SECTION LINE AND SOUTH 292.1 FEET FROM THE EAST QUARTER CORNER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 172.0 FEET; THENCE WEST 502.8 FEET; THENCE N 21°36'01" W 184.98 FEET; THENCE EAST 570.9 FEET TO THE POINT OF BEGINNING.
CONTAINS 2.12 ACRES.



CARROLL DRILLING LLC #26522E357805

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS OF THE HEREON DESCRIBED TRACT OF LAND HAVING CAUSED SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO BE HEREAFTER KNOWN AS:

MERSEREAU SUBDIVISION, AMENDMENT III

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

DANIEL WRIGHT _____ MERSEREAU _____

ACKNOWLEDGMENT

STATE OF _____ } S.S.
COUNTY OF _____ }

ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, _____ WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS THE _____ OF _____

AND THAT THEY EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO, AND THEY DID DULY ACKNOWLEDGE TO ME THAT SUCH COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

NOTARY PUBLIC
NOTARY PUBLIC FULL NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

ACKNOWLEDGMENT

STATE OF _____ } S.S.
COUNTY OF _____ }

ON THE _____ DAY OF _____, 20____, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, _____ WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS THE _____ OF _____

AND THAT THEY EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO, AND THEY DID DULY ACKNOWLEDGE TO ME THAT SUCH COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

NOTARY PUBLIC
NOTARY PUBLIC FULL NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

LEGEND

- Property Corner
- Found Property Corner
- ✚ Section Corner Monument

SURVEY NARRATIVE

This plat is to adjust the boundaries between Lot 1 and 2A of the Mersereau Subdivision.

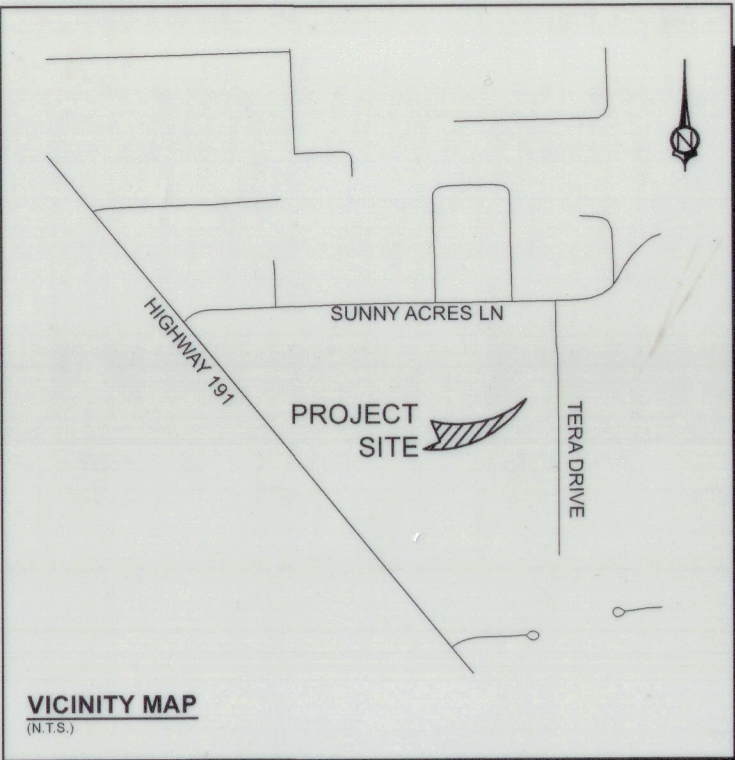
A SUBDIVISION LOCATED IN
THE SOUTHEAST QUARTER OF
SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST
SALT LAKE BASE AND MERIDIAN



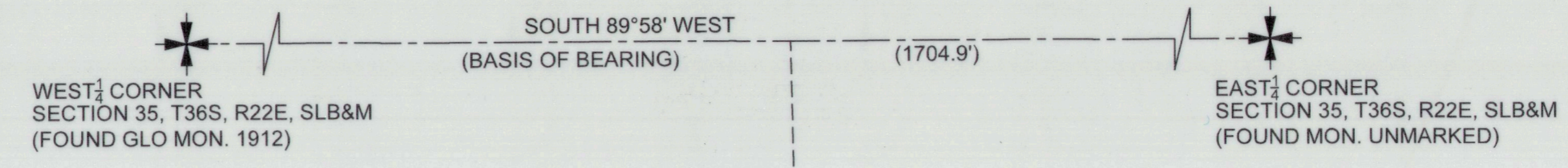
30 South 100 East
Moab, UT 84532
435.259.8171

Project	111-21
Date	8/31/21
Sheet	1 OF 1

COUNTY SURVEYOR APPROVAL IN ACCORDANCE WITH INFORMATION AND RECORDS ON FILE IN THIS OFFICE _____ COUNTY SURVEYOR DATE	APPROVAL AS TO FORM APPROVED AS TO FORM THIS _____ DAY OF _____, 2021. _____ ATTORNEY	COUNTY BOARD OF HEALTH APPROVED THIS _____ DAY OF _____, 2021. _____	PLANNING COMMISSION CERTIFICATE APPROVED THIS _____ DAY OF _____, 2021. BY SAN JUAN COUNTY PLANNING COMMISSION. _____ CHAIRMAN	COUNTY COMMISSION APPROVAL PRESENTED TO THE _____ THIS _____ DAY OF _____, 2021. SUBDIVISION WAS ACCEPTED AND APPROVED. ATTEST _____	COUNTY RECORDER NO. STATE OF UTAH, SAN JUAN COUNTY, RECORDED AT THE REQUEST OF _____ DATE _____ BOOK _____ PAGE _____ FEE _____
--	---	---	---	---	--



FINAL PLAT OF MERSEREAU SUBDIVISION A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST SALT LAKE BASE AND MERIDIAN

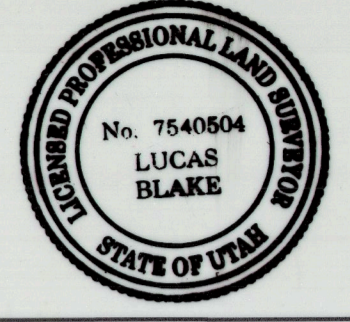


SURVEYOR'S CERTIFICATE

I, Lucas Blake, certify that I am a Professional Land Surveyor as prescribed under the laws of the state of Utah and that I hold license no. 7540504. I further certify that a land survey was made of the property described below, and have subdivided said tract of land into lots and streets hereafter to be known as:

MERSEREAU SUBDIVISION and that same has been correctly surveyed and staked on the ground as shown on this plat.

Lucas Blake Date 6/14/18 License No. 7540504



BOUNDARY DESCRIPTION

BEGINNING AT A POINT SOUTH 89°58' WEST 1704.90 FEET ALONG THE CENTER SECTION LINE AND SOUTH 292.1 FEET FROM THE EAST QUARTER CORNER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 172.0 FEET; THENCE WEST 604.6 FEET; THENCE NORTH 30°00' WEST 198.58 FEET; THENCE EAST 703.9 FEET (RECORD=703.8') TO THE POINT OF BEGINNING. CONTAINS 112,526 SQ. FT. or 2.59 ACRES.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS OF THE HEREON DESCRIBED TRACT OF LAND HAVING CAUSED SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO BE HEREFTER KNOWN AS:

MERSEREAU SUBDIVISION

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

Sarah J. Mersereau SARAH J. MERSEREAU

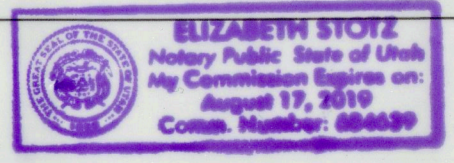
ACKNOWLEDGMENT

STATE OF Utah COUNTY OF Grand } s.s.

ON THE 20th DAY OF August 2018, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, Sarah J. Mersereau WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS THE owner OF

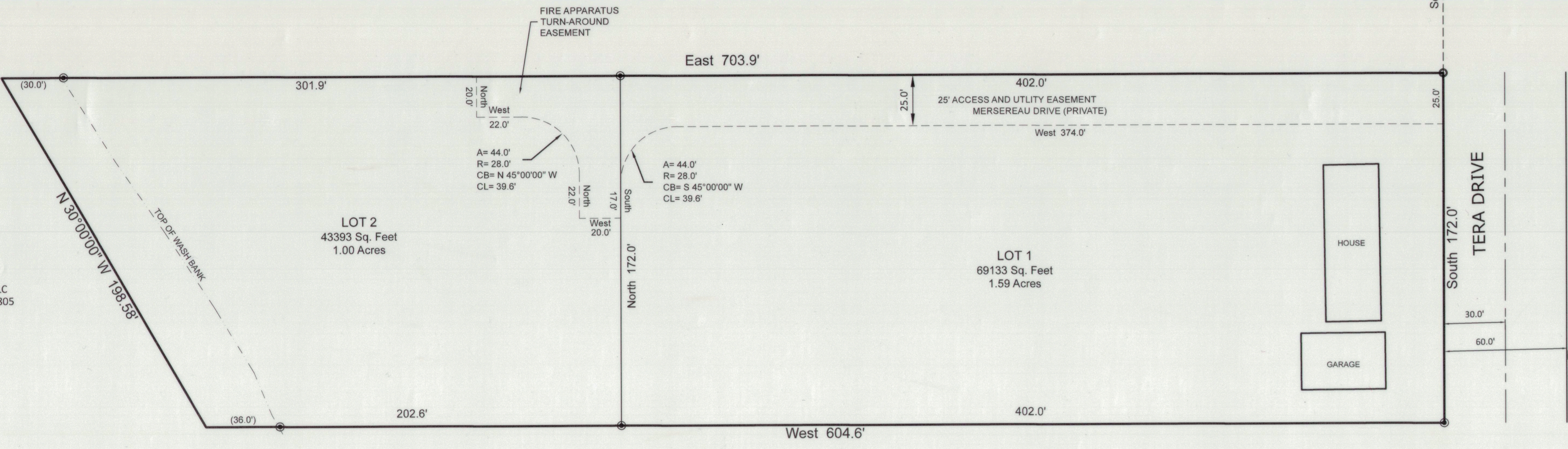
Lot 2 AND THAT THEY EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO, AND THEY DID DULY ACKNOWLEDGE TO ME THAT SUCH COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

Elizabeth Stutz Elizabeth Stutz My Commission Expires on August 17, 2019 Commission Number: 68449



Ent 156716 Bl: 1029 Pg 424 Date: 25-SEP-2018 3:55:30PM Fees: \$31.00 Credit Card Filled By: FK DAVID O CARPENTER, Recorder SAN JUAN COUNTY CORPORATION For: WRIGHT DANIEL

Table with 2 columns: Field (Project, Date, Sheet) and Value (069-18, 6/14/18, 1 OF 1)



CARROLL DRILLING LLC #26522E357805

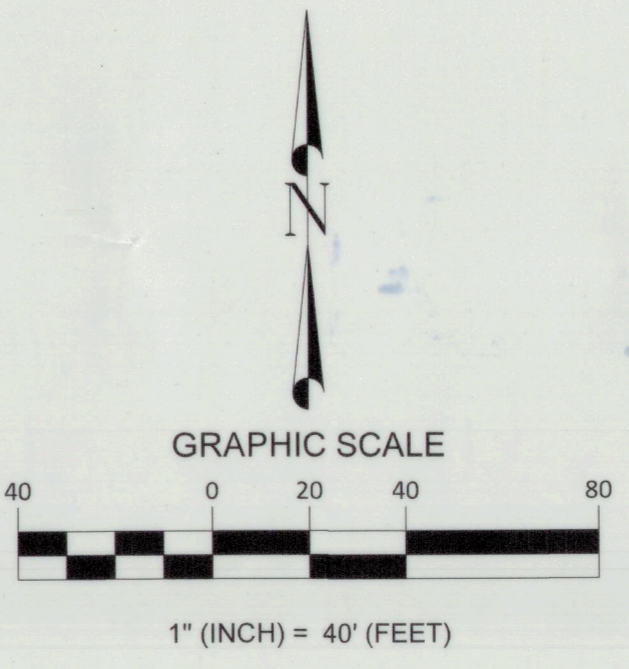
PLASSON #26522E357802

CARLSON #26522E357800

- LEGEND: Property Corner (circle with dot), Found Property Corner (circle), Section Corner Monument (cross), Section Corner Monument (cross with dot)

SURVEY NARRATIVE

This plat is to subdivide the current parcel into two lots so a new home can be constructed on Lot 2. A access and utility easement is provided through Lot 1 to access Lot 2. the properties access from Terra Drive which is a public right of way.



A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST SALT LAKE BASE AND MERIDIAN



COUNTY SURVEYOR I HAVE REVIEWED THIS PLAT AND FIND IT TO BE CORRECT AND IN ACCORDANCE WITH INFORMATION ON FILE IN THIS OFFICE. STATE OF UTAH COUNTY SURVEYOR DANIEL WRIGHT DATE 9-19-18

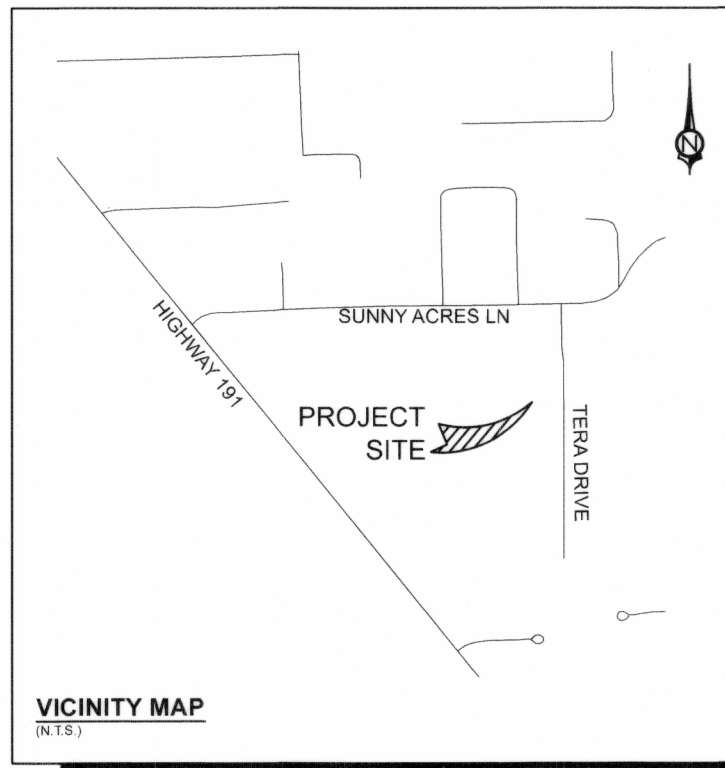
APPROVAL AS TO FORM APPROVED AS TO FORM THIS 12th DAY OF September 2018. Walt J. Bit ATORNEY

COUNTY BOARD OF HEALTH APPROVED THIS 13th DAY OF September 2018. [Signature]

PLANNING COMMISSION CERTIFICATE APPROVED THIS 14th DAY OF June 2018. BY SAN JUAN COUNTY PLANNING COMMISSION. [Signature] CHAIRMAN

COUNTY COMMISSION APPROVAL PRESENTED TO THE SJC Commission THIS 25th DAY OF September 2018. SUBDIVISION WAS ACCEPTED AND APPROVED. [Signature] ATTEST

COUNTY RECORDER NO. STATE OF UTAH, SAN JUAN COUNTY, RECORDED AT THE REQUEST OF Daniel Wright DATE 9-25-18 BOOK 1029 PAGE 424 FEE \$31.00



FINAL PLAT OF MERSEREAU SUBDIVISION, AMENDED LOT 2

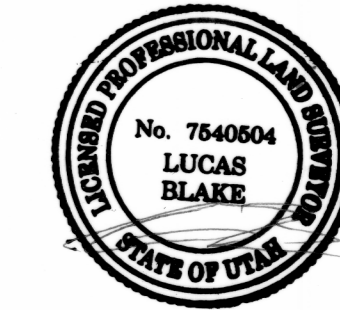
WEST 1/4 CORNER SECTION 35, T36S, R22E, SLB&M (FOUND GLO MON. 1912) SOUTH 89°58' WEST (BASIS OF BEARING) (1704.9') EAST 1/4 CORNER SECTION 35, T36S, R22E, SLB&M (FOUND MON. UNMARKED)

SURVEYOR'S CERTIFICATE

I, Lucas Blake, certify that I am a Professional Land Surveyor as prescribed under the laws of the state of Utah and that I hold license no. 7540504. I further certify that a land survey was made of the property described below, and have subdivided said tract of land into lots and streets hereafter to be known as: MERSEREAU SUBDIVISION, AMENDED LOT 2

Lucas Blake License No. 7540504

Date



BOUNDARY DESCRIPTION

BEGINNING AT THE NORTHEAST CORNER OF LOT 2, MERSEREAU SUBDIVISION, SAID POINT BEING SOUTH 89°58' WEST 1704.90 FEET ALONG THE CENTER SECTION LINE AND SOUTH 292.1 FEET AND WEST 402.0 FEET FROM THE EAST QUARTER CORNER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 172.0 FEET; THENCE WEST 202.6 FEET; THENCE NORTH 30°00' WEST 198.58 FEET; THENCE EAST 301.9 FEET TO THE POINT OF BEGINNING.

CONTAINS 1.00 ACRES.

OWNER'S DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNERS OF THE HEREON DESCRIBED TRACT OF LAND HAVING CAUSED SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO BE HEREAFTER KNOWN AS:

MERSEREAU SUBDIVISION, AMENDED LOT 2

DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE.

Daniel Wright DANIEL WRIGHT

ACKNOWLEDGMENT

STATE OF Utah COUNTY OF San Juan } S.S. ON THE 22nd DAY OF July 2021, PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, Daniel Wright WHO BEING BY ME DULY SWORN, DID SAY THAT HE IS THE Requestor OF Mersereau Subdivision, Amended Lot 2 AND THAT THEY EXECUTED THE FOREGOING OWNER'S DEDICATION IN BEHALF OF SAID COMPANY BEING AUTHORIZED AND EMPOWERED TO DO SO, AND THEY DID DULY ACKNOWLEDGE TO ME THAT SUCH COMPANY EXECUTED THE SAME FOR THE USES AND PURPOSES STATED THEREIN.

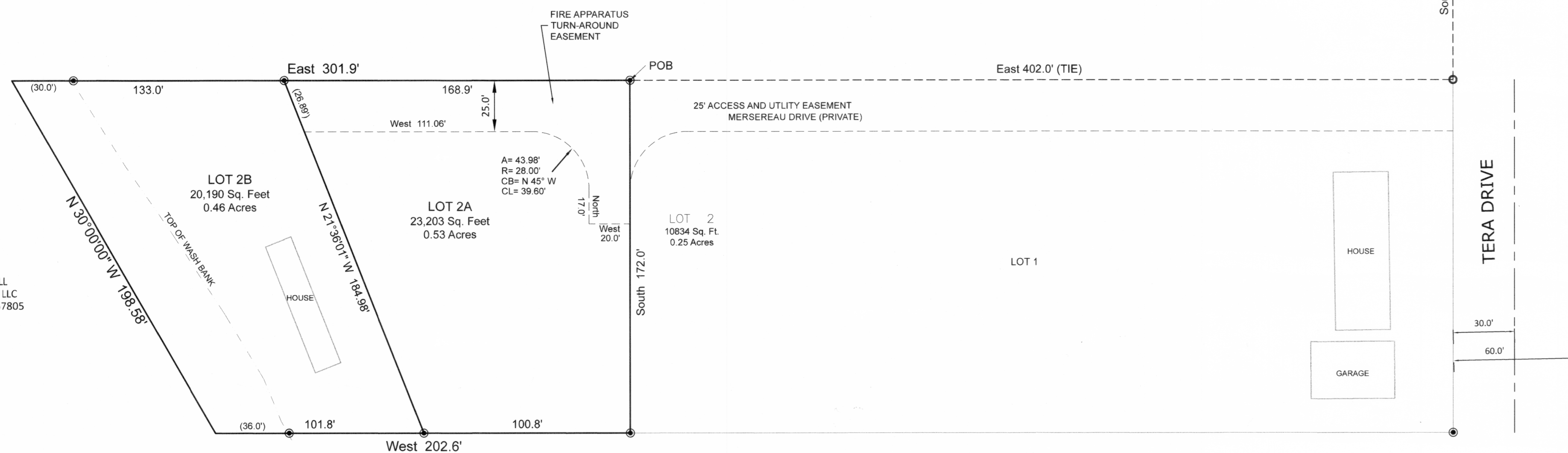
NOTARY PUBLIC NOTARY PUBLIC FULL NAME: Cindi Holyoak COMMISSION NUMBER: 711256 MY COMMISSION EXPIRES: 04/01/2024



Ent 165974 Blk 1065 Pg 789 Date: 22-JUL-2021 12:57:19PM Fees: \$50.00 Credit Card Filed By: IH CINDI HOLYOAK, Recorder SAN JUAN COUNTY CORPORATION For: WRIGHT DANIEL



Table with 2 columns: Field (Project, Date, Sheet) and Value (111-21, 7/12/21, 1 of 1)



PLASSON #26522E357802

CARLSON #26522E357800

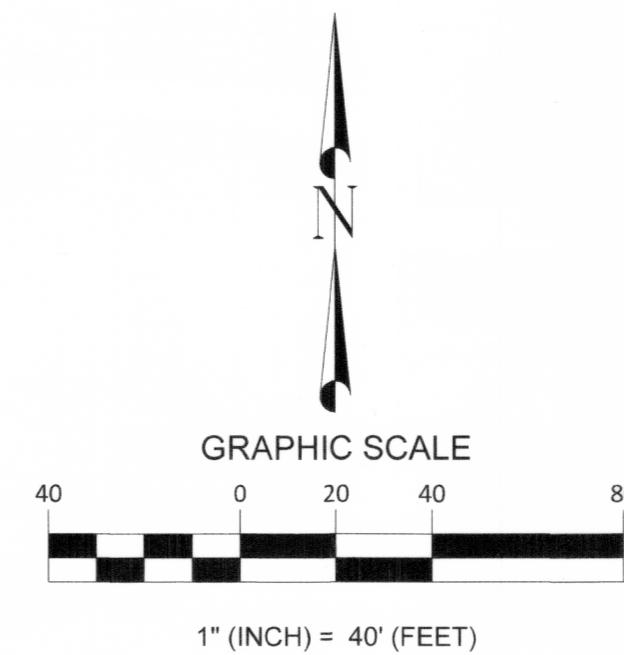
CARROLL DRILLING LLC #26522E357805

LEGEND

- Property Corner (circle with dot)
Section Corner Monument (cross)
Found Property Corner (circle with cross)

SURVEY NARRATIVE

This plat is to subdivide Lot 2 of Mersereau Subdivision into two lots. The 25' wide access & utility easement has been extend to Lot 2B and the emergency vehicle turnaround easement has been modified some for that.



A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 26 SOUTH, RANGE 22 EAST SALT LAKE BASE AND MERIDIAN

Approval table with columns: COUNTY SURVEYOR, APPROVAL AS TO FORM, COUNTY BOARD OF HEALTH, PLANNING COMMISSION CERTIFICATE, COUNTY COMMISSION APPROVAL, COUNTY RECORDER NO.



STAFF REPORT

MEETING DATE: February 10, 2022

ITEM TITLE, PRESENTER: Consideration of Request for Rezone, Katherine Lemus, San Juan Estates Phase 3 lot 25

RECOMMENDATION: Recommend the Board of County Commissioners deny the rezone request

SUMMARY

Katherine Lemus is requesting to rezone her property in the San Juan Estates Subdivision Phase 3. The property is lot 25, and is 1 acre in size. The property is currently in the Spanish Valley Residential District (SVR). The request is for a rezone from Spanish Valley Residential (SVR) to Highway Flex (HF). The property is approximately 1 mile from US Hwy 191. The request is also for a single 1 acre lot. The request is for only one single property and one single property owner whose stated request is for economic benefit.

This rezone request is clearly an illegal spot zone and staff's recommendation is for the Planning Commission to recommend that the Board of County Commissioners deny the rezone request.

HISTORY/PAST ACTION

The San Juan Estates Subdivision Phase 3 was created in 2002 in the Agriculture District (A-1). The subdivision has been in the Spanish Valley Residential District since the zone was enacted in December 2019.

RE-ZONE REQUEST – Application of Overnight Rental Overlay to Subject Property in Spanish Valley Residential District.

Pursuant to the San Juan County Spanish Valley Development Ordinances (SVDO) and as further defined in Section 1-13 of the San Juan County Zoning Ordinance (SJCO):

1-13 Amendments: *The number, shape, boundary, area or zone, or any regulation or any other provision of the Zoning Ordinance may be amended by the Board of County Commissioners from time to time, but any such amendment shall not be made or become effective until after thirty days notice and public hearing and unless the same shall have been proposed by or be first submitted to the Planning Commission, for its recommendation which shall be returned within thirty (30) days to the Board of County Commissioners.*

I am requesting a re-zone to highway commercial for the property located at 136 East Mount Peale Drive, Moab, Utah, 84532; lot number 25 (aka, subject property).

Pursuant to this request, under Utah State Law [17.27a.502](#) the planning commission shall:

- a. *provide notice as required by Subsection [17-27a-205\(1\)\(a\)](#) and, if applicable, Subsection [17-27a-205\(4\)](#);*
- b. *Hold a public hearing on a proposed land use regulation;*
- c. *If applicable, consider each written objection filed in accordance with Subsection [17-27a-205\(4\)](#) prior to the public hearing; and*
- d. –
 - i. *review and recommend to the legislative body a proposed land use regulation that represents the planning commission's recommendation for regulating the use and development of land within:

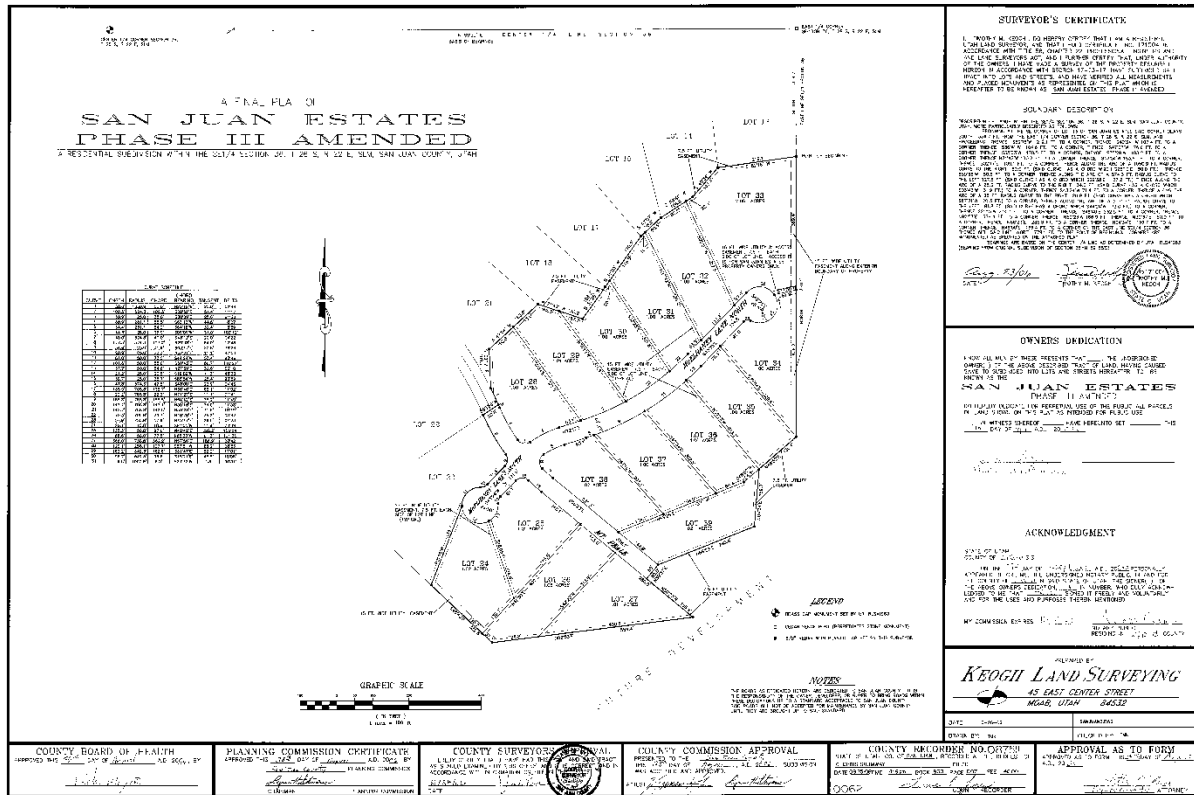
 - A. *all or any part of the unincorporated area of the county; or*
 - B. *for a mountainous planning district, all or any part of the area in the mountainous planning district; and**
 - ii. *forward to the legislative body all objections filed in accordance with Subsection [17-27a-205\(4\)](#).*

Under the state law, since the subject property under this petition is part of the unincorporated county area ([17.27a.502](#)(d).A) it should be reviewed on the merits without application of further ordinance that would apply to a properties in an incorporated area.

The subject property may be legally described under existing planning and zoning plats as Lot number 25 of the San Juan Valley Estates Phase III. The property is bordered to the north and west by the west section of McElhaney Lane South and to the East by Mount Please Drive as shown in [Figure 1](#), county recorder number 087511¹. The lot is 1.01 acres and is currently zoned Spanish Valley Residential under the SVDO.

¹ There have been multiple amendments to this platt however the amended drawings are not available on the internet.

Figure 1: Plat Map for Lot 25



Per the SVDO, this area is incorrectly classified on the zoning map (see Figure 2) as Spanish Valley Residential and per the Staff Report dated March 11, 2021, the SVDO does not permit the use of Short-Term rentals within this 'residential' area. However, the density of legally existing overnight rental properties already existing prior to enactment of the SVDO on December 5, 2019 in the area immediately surrounding the subject property (see Figure 3) demonstrates that the subject property was not residential and should have been correctly classified in the map as an established overnight accommodation area per Section 10 subsection 2 with a correct zoning of highway commercial or highway flex with an overnight accommodation overlay.

Figure 2: Zoning Map from the SVDO

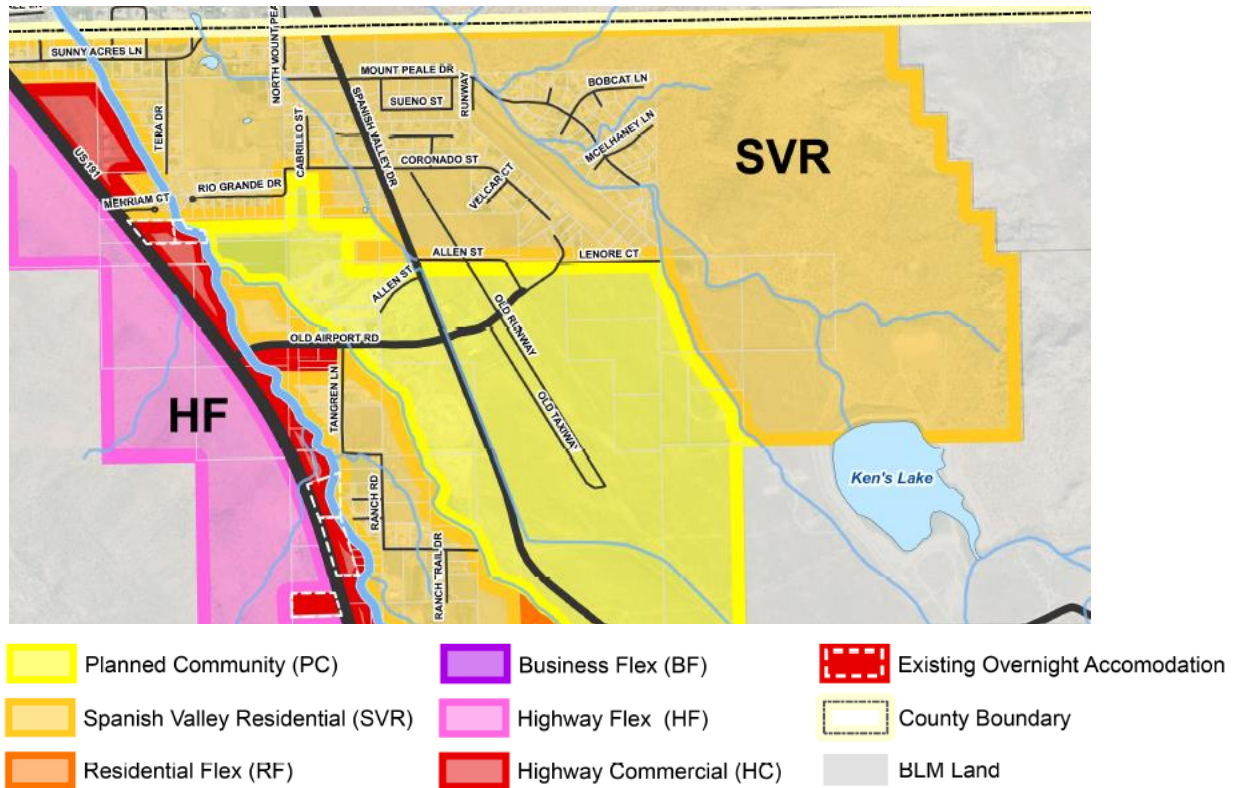
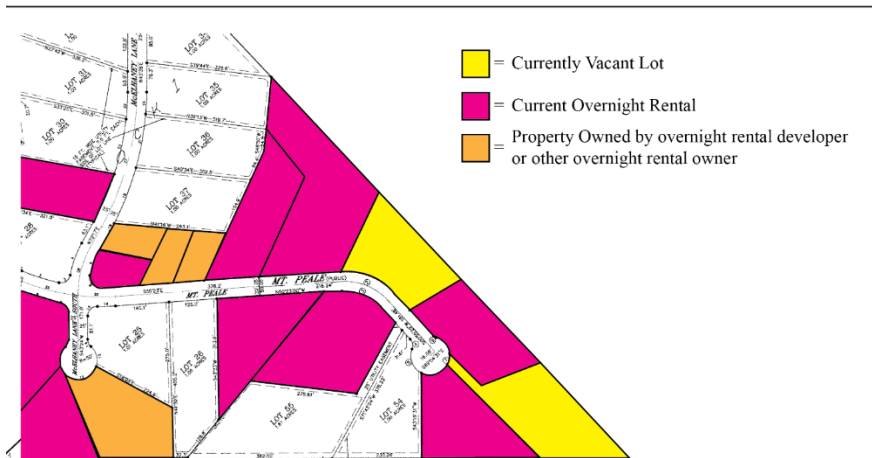


Figure 3 Adjacent Property Usage and Ownership



The three properties on the north and east side may at any point be rented out to a maximum of 58 occupants. Additionally, since San Juan County does not have ordinances prohibit the usage of recreational vehicles (e.g., 4x4s, side-by-sides, Rhinos, etc.) in residential areas tenants either bring or rent many additional recreational vehicles from commercial vehicle renters from Grand County. The resulting number of vehicles then exceeds the parking available on the rental properties leading to

spillover parking streetside (see [Figure 4](#), Figure 5, and Figure 6) occupying street frontage for nearby residences and resulting in traffic congestion causing the neighborhood to be unsafe.

Figure 4: Parking Overflow North Side of Lot 25



Figure 5: Parking Overflow Northwest side of Lot 25



Figure 6 Parking Overflow North and West side of Lot 38



For the subject property this situation is exacerbated by the density of short-term rental locations further south on Mt. Peale.

Therefore, the applicant is requesting the planning and zoning board rezone the subject property as Highway-Flex consistent with the majority of uses in the contiguous area. Once zoned Highway Flex the property would be subsequently eligible to apply for an overnight accommodation overlay as described in Section 10 of the SVDO.

Planning and Zoning and the Board of commissioners should consider as part of this request:

1. Literal enforcement of the existing “residential” ordinance causes an unreasonable hardship to the owner of the home. The current owner feels as if their residence is located in a hotel parking lot. Code enforcement, including parking and street use, is non-existent and will continue to be non-existent until the county funds and allocates resources for this activity. There has been no indication the county is considering addressing this. The residents are unwilling to sell their property to an unsuspecting new resident who will likewise be inured in untenable living conditions that are inconsistent with the county’s zoning designation.
2. The resident is unable to exercise a right other property holders in their area are not only reasonably expected to use but have already availed themselves of to operate their personal residences for overnight rental use.
3. The requested zoning change will not result in undue hardship to other residences in the neighborhood because they are already subject to an area that is preponderantly occupied by overnight rentals. Additionally, considering rezoning the subject property, with future consideration given to permitting the same zoning for the other four primary residences in this area will increase property values which reverses the decrease in property values the residents have already experienced given the density of existing overnight rentals.

This is a decision that should be weighed by the planning commission and board of commissioners on a case by case, neighborhood by neighborhood basis.



Permit Report

01/08/2022 - 02/04/2022

Permit #	Permit Date	City or County	Residential or Commercial	Type of Permit	Building CityStateZip	Owner Name	Applicant Name	Parcel #	Parcel Address
22,015	2/1/2022	San Juan County	Residential	New Construction	Blanding UT 84511	Joaquin and Katherine Harris	Joaquin Harris		1197 N 500 W
22,014	1/31/2022	San Juan County	Residential		Blanding, UT 84511	Dorthea Davis	Dorthea Davis	36S22E237205	1130 E KIVA DR
22,013	1/28/2022			Cell Tower	Englewood, CO 80112		Craig Chagnon		
22,012	1/27/2022	San Juan County	Residential	New Construction	Blanding, UT 84511		Jason Nay	37S22E017300	
22,011	1/25/2022	San Juan County	Residential	Electrical	Blanding	Debbie Orvin	Debbie Orvin	000940000010	
22,010	1/24/2022	San Juan County		Utilities	Moab ut 84532		Sam Page	000620000080	49 E BOBCAT LN
22,009	1/20/2022	San Juan County	Residential	New Construction	Moab, UT 84532	Keith Vanderhye & Adrienne Ruzic	Keith Vanderhye and Adrienne Ruzic		
22,008	1/18/2022	San Juan County	Residential	New Construction	Moab, UT 84532	Shik Han	Spanish Valley Builder LLC	00056000003G	
22,007	1/10/2022			New Construction	Moab, UT 84532	Sharell Carlson	Sharell Carlson	26S22E357800	170 S TERA DR.
22,001	1/19/2022	San Juan County	Residential	Solar	Moab, UT 84532	Randall Wallis	Brian Cooper	000340010020	43 N CABRILLO ST
21,134	2/2/2022	San Juan County	Residential	New Construction	Moab, UT 84532	Shik Han	Spanish Valley Builders	00056000003D	

Total Records: 11

2/4/2022

Page: 1 of 1