

DELTA COUNTY PLANNING COMMISSION MEETING
Administration Building – Board Room
560 Dodge St., Delta, CO 81416
Wednesday
April 14, 2021
@ 5:30 p.m.

Instructions for Public Participation:

The public can join the meeting remotely by registering in advance of the meeting at:

<https://us02web.zoom.us/meeting/register/tZUzd-qprDloG9R-tqe6-Mwj0Dd64-Xbmm4>

After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

5:30 P.M. – CALL TO ORDER

1. Meeting Minutes for March 17, 2021 & March 24, 2021
RECOMMENDATION: Approve the minutes.
2. SUB20-031 Angelovich Subdivision
Consider a Sketch Plan to subdivide a 36.401 acre parcel into two parcels: Lot 1 – 34.392 acres; Lot 2 – 1.11 acres. The property is located at 32501 & 32505 J Road, Hotchkiss, CO 81419.
RECOMMENDATION: Recommend that the Board of County Commissioners approve Sketch Plan for SUB 20-031/Angelovich Subdivision, subject to conditions.
3. SUB20-033 Nate & Sarah Subdivision
Consider a Sketch Plan to subdivide a 5.23 acre parcel into two parcels: Lot 1 – 3.26 acres; Lot 2 – 2.01 acres. The property is located at 24650 Ute Trail Road, Cedaredge, CO 81413.
RECOMMENDATION: Table SUB20-033/Nate & Sarah Subdivision and provide direction regarding staff recommendations relative to revising the Sketch Plan.
4. Consider definition of “Aggrieved Party” as it pertains to appeals.
RECOMMENDATION: Provide a recommendation to the Board of County Commissioners.

ADJOURNMENT

CERTIFICATION OF POSTING

On 4/9/2021 at 1:30 PM, Kate Kelly did post the above AGENDA as public notice of the 04/14/2021 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

REGULAR PLANNING COMMISSION MEETING MINUTES

DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
March 17, 2021

Planning Commission Members in Attendance:

Eli Wolcott
Steve Shea
Kate Darlington
Dick Gilmore

Tom Kay
Steve Schrock
Jacob Gray
Tate Locke

Absent Members:

Layne Brones

Planning Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Planning & Community Development Technician II, Kate Kelly

Chairman Tom Kay called the meeting to order at 5:30 p.m. in the Administration Building Commissioner's Meeting Room.

1. Receive a presentation on the following items relative to implementing the 2021 Delta County Land Use Code: (Continued from 3/10/21)
 - a. Forms and Instructions
 - b. Assessing Land Uses (Similar Use, Change of Use, Nonconforming Use)
 - c. Subdivisions

Motion/Second: No motion or second was necessary for this meeting.

Action: No action was taken.

Meeting adjourned at 7:42 p.m.

Respectfully submitted by:
Planning & Community Development Technician II, Kate Kelly



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REGULAR PLANNING COMMISSION MEETING MINUTES

DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
March 24, 2021

Planning Commission Members in Attendance:

Eli Wolcott
Layne Brones
Jacob Gray
Tate Locke

Tom Kay
Steve Schrock
Dick Gilmore

Absent Members:

Kate Darlington
Steve Shea

Planning Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Planning & Community Development Technician II, Kate Kelly

Chairman Tom Kay called the meeting to order at 5:30 p.m. in the Administration Building Commissioner's Meeting Room.

Item #1: Approve Meeting Minutes for March 10, 2021

Motion/Second: Dick Gilmore moves to approve the minutes. Layne Brones seconds the motion.

Action: Motion carried unanimously.

Item #2: SUB20-031 Angelovich Subdivision
Consider a Sketch Plan to subdivide a 36.401 acre parcel into two parcels: Lot 1 – 34.392 acres; Lot 2 – 1.11 acres. The Property is located at 32501 & 32505 J Road, Hotchkiss, CO 81419.
RECOMMENDATION: Continue SUB20-031 to April 14, 2021 and re-notice the hearing.

Motion/Second: Steve Schrock moves to continue SUB20-031 Angelovich Subdivision to April 14th. Jacob Gray seconds the motion.

Action: Motion carried unanimously.

Item #3: SUB20-033 Nate & Sarah Subdivision
Consider a Sketch Plan to subdivide a 5.23 acre parcel into two parcels: Lot 1 – 3.26 acres; Lot 2 – 2.01 acres. The property is located at 24650 Ute Trail Road, Cedaredge, CO 81413.
RECOMMENDATION: Continue SUB20-033 to April 14, 2021 and re-notice the hearing.

Motion/Second: Jacob Gray moves to continue SUB20-033 Nate & Sarah Subdivision to April 14th. Steve Schrock seconds the motion.

Action: Motion carried unanimously.

Item #4: SD20-002 Weber Industries, Ltd
Consider a Specific Development for an automotive repair and service business. The property is located at the southeast corner of Highway 92 and 3200 Road, Hotchkiss, CO 81419. An existing residence takes access from Highway 92 (32062 Highway 92), and access for the business is proposed off of 3200 Road.
RECOMMENDATION: Table SD20-002.

Motion/Second: Jacob Gray moves to table SD20-002 Weber Industries. Dick Gilmore seconds the motion.

Action: Motion carried unanimously.

Meeting adjourned at 6:08 p.m.



DELTA COUNTY

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Delta, Colorado 81416
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970.874.2110

Respectfully submitted by:
Planning & Community Development Technician II, Kate Kelly

DRAFT



STAFF REPORT

**Delta County Planning Commission Meeting
Delta County Administration Building
560 Dodge Street, Delta, CO 81416
Wednesday, April 14, 2021 @ 5:30 p.m.
(Continued from March 24, 2021)**

SUB20-031/Angelovich Subdivision

Consider a Sketch Plan subdividing approximately 36 acres into two lots: Lot 1 is 34.392 acres and Lot 2 is 1.16 acres. The project is located at 32501 and 32505 J Road, Hotchkiss

PROJECT INFORMATION:

Property Owner: Angelovich, Gregg
Applicant: Gregg and Heather Angelovich
Representative: Randy Wilmore, Wilmore and Company
Site Address: 32501/32505 J Road, Hotchkiss
Location: Section 35, Township 14S, Range 93W, 6thPM
Parcel ID/Acct: 324135300043/R024594
Parcel Size: 36.4 Acres
Zoning: A20

RECOMMENDATION:

Staff finds that the Sketch Plan for SUB 20-031/Angelovich Subdivision is feasible and recommends that the Planning Commission recommend Board of County Commissioner approval with the directions given for Final Plat and subject to the findings and conditions in the attached check list (Attached).

SUMMARY:

Gregg and Heather Angelovich own 36.40 acres with two single family dwellings with all utilities. The present land use is mostly agricultural with one residence on centrally located, and a second residence is located near J Road east of the farm access. The property is located east of 3200 Road and south of Highway 92, near the Town of Hotchkiss.



This application proposes to subdivide off a 1+ acre lot (Lot 2) so that each lot will have an existing single family dwelling. At staff's direction, the proposed lot lines were adjusted to better accommodate an existing access from J Road for Lot 2.

On 12/28/2020, Randy Wilmore, representing the Angleovich's, submitted an application for a 2-lot subdivision. Staff finds that this project was submitted prior to adoption of the Land Use Code and Moratorium on 1/5/2021 (Resolution 2021-R-001). As such, this application is subject to the Delta County Subdivision regulations 2008 amended (dated January 22, 2019). In addition, a Final Plat under the former regulations must be submitted by January 5, 2022.

Lot 1 is served by a well and a water tap has been issued by Rogers Mesa Company Water for Lot 2. Both properties have existing septic systems that are located within the boundaries of the proposed lot configuration, and meets the required set backs.

The existing access to J Road is being widened to be used by the single family dwelling, farm equipment and all agriculture to J Road. A new access from J Road is in the process of being finished to provide a separate access to serve the single family dwelling on Lot 2.

DISCUSSION:

Lot 1 is residential / agriculture with a single family dwelling with all utilities containing all of the agriculture land, barn/shed, equipment, and the complete agriculture operation. Lot 1 has an existing well permit (# 200825), which is located in the northeast corner of the area of the single family dwelling for Lot 1. The well is located with 5 acres or more to be in compliance with Delta County regulations.

Lot 2 is a single family dwelling with all utilities and is set up to be used by family members. Lot 2 has a Rogers Mesa Domestic Water Tap No 876.

Land uses which are adjacent to the boundaries of the entire piece of property on which the division is proposed including properties across J Road are residential properties with agriculture intermixed. No changes are proposed to existing property other than separate deeds.

Compliance with Density Standard

- The Density Standard for this subdivision is 2.34
- The maximum number of lots within this subdivision is – 2 Lots

Impacts on adjacent property, service providers, and County Roads

- No studies or reports will be required for this subdivision
 - All irrigation water will remain with Lot 1.
-



Assessment of the viability and feasibility of the concept of the proposed development:

Staff Findings

- Utilities issues
 - Domestic water (quantity): Lot 1- domestic well permit No 200825; Lot 2- Water Tap from Rogers Mesa Company.
 - Irrigation plan: 979 shares of Fire Mountain Canal irrigation water all stay with Lot 1.
 - Septic: Lot 1-existing ISDS; Lot 2-existing ISDS. Located in respective parcels
- Access issues
 - County road standards: Both lots take access off J Road.
 - Access: Each lot has its own access
 - New Roads: Dedication of 30-foot strip for right of way (J Road).
 - CDOT: N/A
- Traffic Issues: N/A
- Resource Maps/Referrals:
 - Engineering Memo dated 3/3/2021
 - Rogers Mesa comment dated 2/22/2021.
 - Irrigated Lands. About $\frac{3}{4}$ of the property (Lot 1), no impact from creating Lot 2.
 - Mule Deer and Elk habitat
- Design issues
 - Building envelopes: Subject to setbacks in place when a structure is built. No building within easements (existing or proposed).
 - Lot configuration: N/A
 - Density: 2 Lots used (in compliance)
- Subdivision Standards
 - Phasing: N/A
 - Setbacks: Lot 2 will be subject to standards in place at the time a home is built.
 - Fencing: N/A (existing)
 - Building Height: N/A (existing)

OTHER AGENCY INVOLVEMENT

Rogers Mesa Water Distribution Agency noted there is an existing tap, no easement is required. Owner is responsible for their line between the meter and the house.

Engineering issued a memorandum dated March 3, 2021 and provided comments/notes on the Sketch Plan to address with the Final Plat.



DMEA had no comment.

Fire. No comments. The Fire Mitigation Fee is \$500/Lot. There is one existing lot and one new lot. Historically this has been interpreted as two lots (\$1,000), but staff finds that the County should not charge for an existing lot and there is only one new lot being created (\$500).

Attached material: list, in order as attached

- Checklist for Final Plat
- Sketch Plan
- Aerial Photo
- Vicinity Map
- Referral Agency Comments (Access Permit, DMEA, County Engineer, Rogers Mesa)
- Resource Maps (Irrigated Lands, Wildfire Risk, Wildlife Impact, Mule Deer Habitat, Elk Habitat)



DELTA COUNTY PLANNING

Checklist for Final Plat

All of the following items must be obtained and completed prior to Planning Staff scheduling your project for Final Plat approval from the Board of County Commissioners. All materials must be submitted to the Delta County Planning and Community Development Department as one package, incomplete or partial submittals will not be accepted with the exception of the required paper copies of the Final Plat.

Mandatory Requirements:

Staff Applicant

- ___ X Payment of Final Fees: Some or all of the following may apply (to be determined by the Planning Department):
- Final Plat review fee - \$350 + \$50 per lot
 - Open Space fee - \$300 per lot
 - County Surveyor review fee - \$50 per lot/\$150 minimum
 - Subdivision Road Inspection fees - \$250 per Inspection
 - Subdivision Improvement Agreement fee - \$100
 - Fire Mitigation Fee - \$500 per lot
- [NOTE: Recording fees – Will be determined at document submittal]

___ ___ A copy of the approved preliminary plat

Final Plat Requirements:

Staff Applicant

- ___ X Three (3) paper copies 24" x 36" of Final Plat map that contains the following:
- ___ ___ All of the requirements for the preliminary plat map
- ___ X A description of all monuments, both found and set, which mark the boundaries of the property
- ___ X A statement by the surveyor explaining how the bearings were determined
- ___ X All easements, apparent and of record
- ___ X All utility easements as required for domestic water, electricity, telephone, and gas service
- ___ X The name of the domestic water provider and tap or certificate number on each lot and/or the location of the domestic well and spring



- ___ ___ All lots have designated building envelopes
- ___ X The following signature blocks [Note – see Article II Section 4.4 for language to be used]:
- o Dedication
 - o Notarial
 - o Mortgagees Approval
 - o Delta County Surveyor's Approval
 - o Delta County Planning Department Approval
 - o Board of County Commissioner Approval
 - o Certificate of Taxes Paid
 - o Delta County Clerk and Recorder's Acceptance
- ___ X All of the Standard Plat notes in Article II Section 4.4 (I) plus the following if applicable:

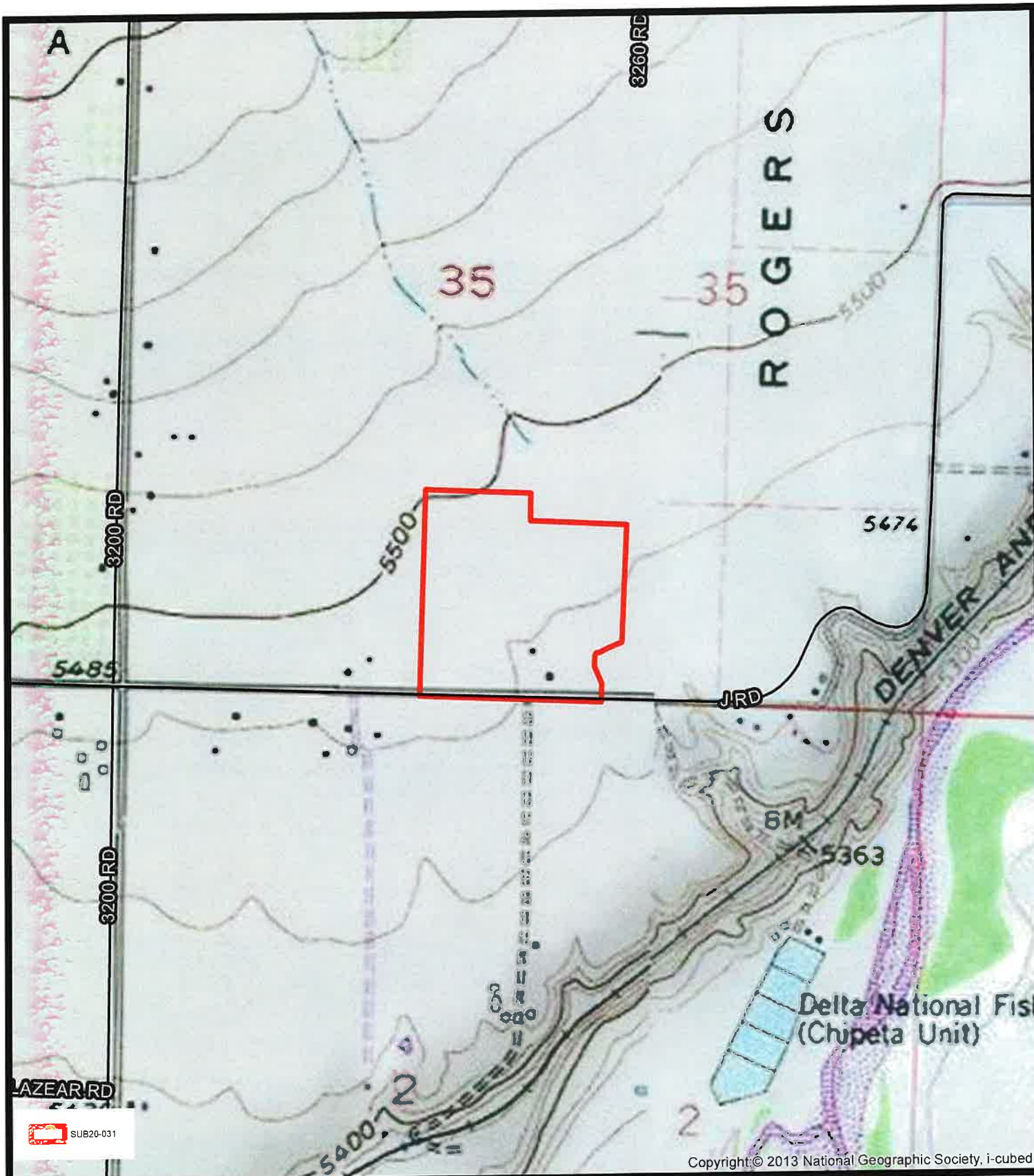
Additional items to be submitted with the Final Plat:

Staff Applicant

- ___ X Copies of any agreements with notarized signatures (access, road maintenance, ditch company, domestic water, subdivision improvements, etc.)
- ___ X Current copy of Owner's deed for the property being subdivided
- ___ X Current title insurance commitment dated within two (2) weeks of Final Plat submittal or an updated copy of the title commitment submitted with the Sketch Plan.
- ___ X The deed or deeds for the new lots with notarized signatures.
- ___ X Any final reports, studies, or plans as required from Sketch Plan approval
- ___ X Proof of the extension of utilities and other required improvements to each lot line.
- ___ X Address Delta County Engineering Department memorandum dated March 3, 2021 plus written comments on the Sketch Plan.
- ___ ___ Compliance with the recommendations of the Division of Wildlife on impacts to wildlife
- ___ ___ Provide a fire mitigation plan that is acceptable to the Colorado State Forest Service and/or the individual fire districts and how it will be implemented



-
- ☐ — Proof of the source of domestic water for all lots including dependability, quantity, and quality
 - ☒ X An irrigation plan for all lots
 - ☒ X A noxious weed mitigation and implementation plan
 - ☒ X Sketch Plans approved under the former subdivision regulations must have a Final Plat submitted by January 5, 2022.



Topographic

Subdivision 20-031 Angelovich Subdivision

GIS Disclaimer:

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0 700 1,400 2,800 Feet



1:10,000



DELTA COUNTY PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

March 31, 2021

Angelovich, Gregg
32505 J Road
Hotchkiss, CO 81419
(970) 250-7002

Dear Applicant,

Your application DP# 12762 has been approved to begin constructing the access from J Road with the following conditions from the Road & Bridge Foreman.

1. Culvert is in place, may need to be moved depending on fence readjustment.
2. Driveway needs to be 16' minimum width.
3. Maintain slight slope away from pavement for proper drainage away from County road.
4. The access should be constructed in accordance with the attached drawings.

When you have completed the construction of your access, please call District #3 Road & Bridge Foreman, John Allen at (970) 872-3254 to schedule a final inspection of the access. If you have questions regarding construction, please contact the Road & Bridge Foreman.

Sincerely,

Kate Kelly

Kate Kelly
Planning & Community Development Technician II



Vivian Archuleta <varchuleta@deltacounty.com>

RE: SUB20-031 Angelovich Subdivision Case Summary

1 message

Darleen Carron <darleen.carron@dmea.com>
To: Vivian Archuleta <varchuleta@deltacounty.com>

Fri, Feb 26, 2021 at 4:40 PM

Good afternoon,

DMEA has no comment on this plat.

Thanks,

Darleen

Darleen Carron

System Design Aide

Delta Montrose Electric Assn

darleen.carron@dmea.com

970-240-1273

**From:** Vivian Archuleta [mailto:varchuleta@deltacounty.com]**Sent:** Friday, February 12, 2021 2:55 PM

To: John Allen <jallen@deltacounty.com>; Robbie LeValley <rlevalley@deltacounty.com>; Mark Taylor <mtaylor@deltacounty.com>; Greg Rajnowski <grajnowski@deltacounty.com>; Tim McCracken <tmccracken@deltacounty.com>; Carrie Derco <cderco@deltacounty.com>; Debbie Griffith <debbieg@deltacounty.com>; editor@deltacountyindependent.com; Long, Bill (Paonia) <bill.long@tdstelecom.com>; Trainor - DNR, Darlene <darlene.trainor@state.co.us>; dawn.bresett@state.co.us; Jim Farmer <jim.farmer@deltaschools.com>; Kurt Clay <kurt.clay@deltaschools.com>; Shelby Bear <shelby.bear@dmea.com>; Darleen Carron <darleen.carron@dmea.com>; Larry Wilkening <mayor.wilkening@townofhotchkiss.com>; hfd1@tds.net; Luke Reschke - DNR <luke.reschke@state.co.us>; Aggen - CDOT, Kandis <kandis.aggen@state.co.us>; Brian Killian - CDOT <brian.killian@state.co.us>; deltaconservationd@gmail.com; mwerkmeister@usbr.gov; Carl Holm <chohm@deltacounty.com>

Subject: SUB20-031 Angelovich Subdivision Case Summary



Memo

To: Planning Department
From: Tim McCracken
CC: File
Date: March 3, 2021
Re: Review of SUB20-031 Angelovich Subdivision – Sketch Plan

In my review of this subdivision I noted the following:

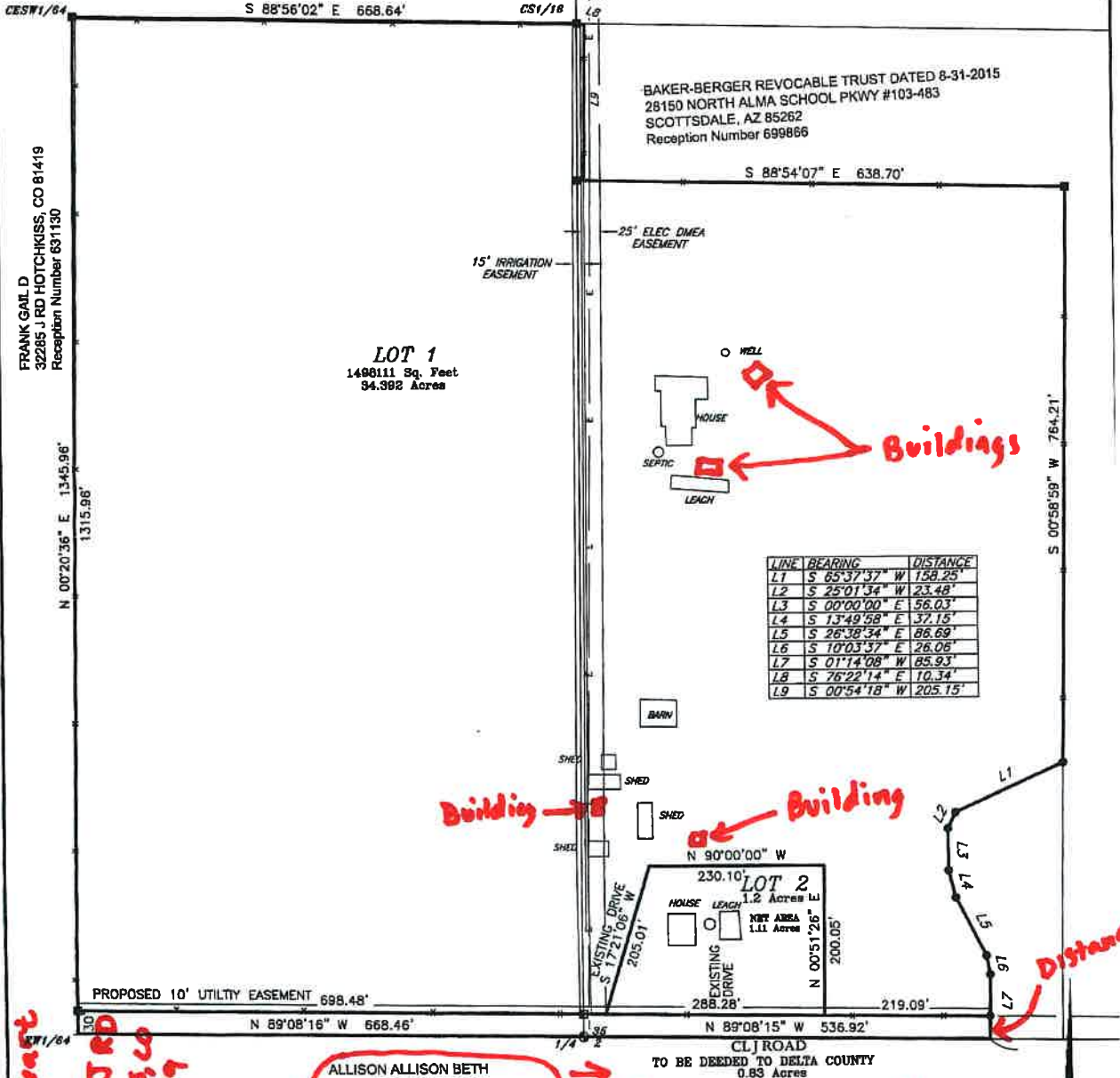
1. A site visit was made by the Delta County Engineering Department on 2/17/21 by Tim McCracken, County Engineer.
2. J Road is classified as a Local Access Road with an 60' right-of-way width.
3. Show Section, Township, Range, P.M., County and State on the Final Plat.
4. Show width of right-of-way dedication on the east end of J Road on the Final Plat.
5. Show all existing utilities on the Final Plat.
6. Show all existing buildings on the Final Plat.
7. Show all adjacent property owners on the Final Plat.
8. Show and Check total acreage on the Final Plat.
9. This Subdivision appears to be feasible with the items above being addressed and is approved by the Delta County Engineering Department.
10. This sketch plan report is not meant to be fully comprehensive and additional requirements may arise at further reviews.

If you have any questions, please contact me.

SKETCH PLAN OF ANGELOVICH SUBDIVISION PREPARED FOR GREGG ANGELOVICH

Sec. TWP. Rng. P.M. .
COUNTY, STATE

Total Acreage



Housewate
1ra w
32282 JRD
Hotchkiss, CO
81419

ALLISON ALLISON BETH
32702 J RD HOTCHKISS, CO 81419
Reception Number 653430

Show existing Utilities

ALLISON BETH ALLISON
32702 J RD Hotchkiss, CO 81419
Rec. No. 679269



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue 970.527-4200 PHONE
P.O. Box 1862 970.527-4202 FAX
Paonia, Colorado 81428 www.wilmorelandsurveying.com

Defining Boundaries

EMAIL: randy@wilmorelandsurveying.com

J20348SKETCH 28 DECEMBER 2020 DRAWN BY: RAW

SCALE 1"=140'

Delta County Planning and Community Development
295 W 6th Street Delta, Colorado 81416
Phone 970-874-2110 Fax 970-874-2500
e-mail: planning@deltacounty.com website: www.deltacounty.com

CASE SUMMARY COMMENT FORM

(Please return to the Planning Department)

SUB20-031 Angelovich Subdivision

► COMMENTS ARE ACCEPTED AT ANYTIME, BUT TO BE INCLUDED WITH THE PLANNING STAFF REPORTS, THEY MUST BE RECEIVED BY:

March 17, 2021

REVIEW AGENCIES: Please Submit Comments, as well as, NO COMMENTS.

UTILITY PROVIDERS: Please mark the easements you need or want on the sketch and give written comments explaining the easements.

LOT 2 HAS A ROGERS MESA
DOMESTIC WATER TAP ALREADY
INSTALLED. TAP IS ON J ROAD
NO EASEMENT NEEDED AS LANDOWNER
IS RESPONSIBLE FOR PIPING FROM
METER TO HOUSE.

By <u>DIANE PERRY</u>	Date <u>2/22/21</u>
Title <u>OFFICE MANAGER</u>	Agency <u>ROGERS MESA DOMESTIC WATER</u>



Irrigated Lands

Subdivision 20-031 Angelovich Subdivision

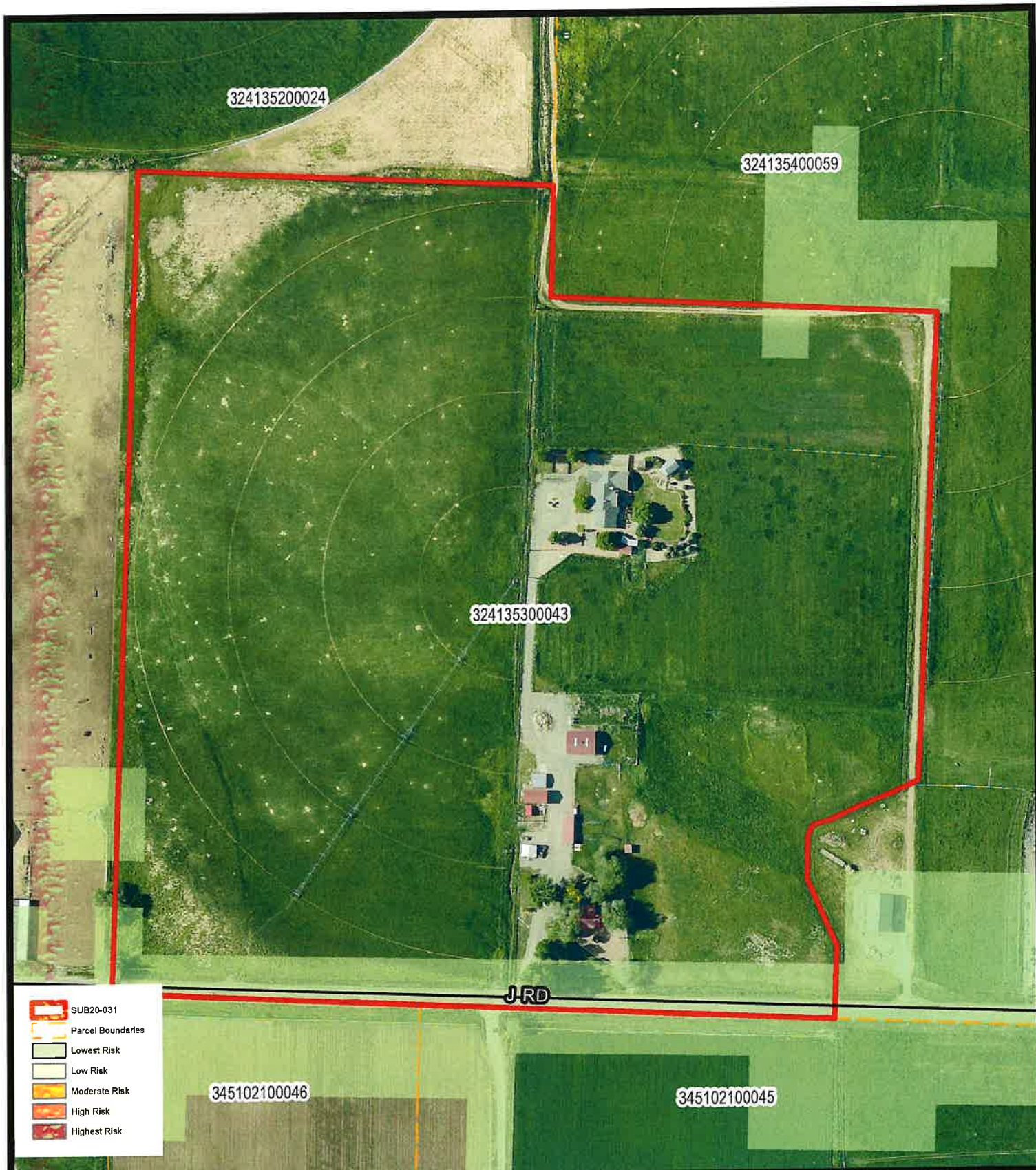
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1:2,500



Wildfire Risk

Subdivision 20-031 Angelovich Subdivision

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0 175 350 700 Feet



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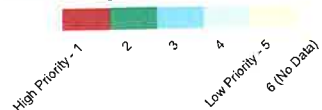
Habitat Priority Level: 4

JRD

 SUB20-031

Crucial habitat for Tier 1 terrestrial animal and plant-Species of Greatest Conservation Need

Habitat Priority Level

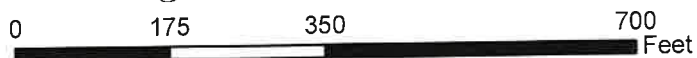


Wildlife Impact

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Subdivision 20-031 Angelovich Subdivision



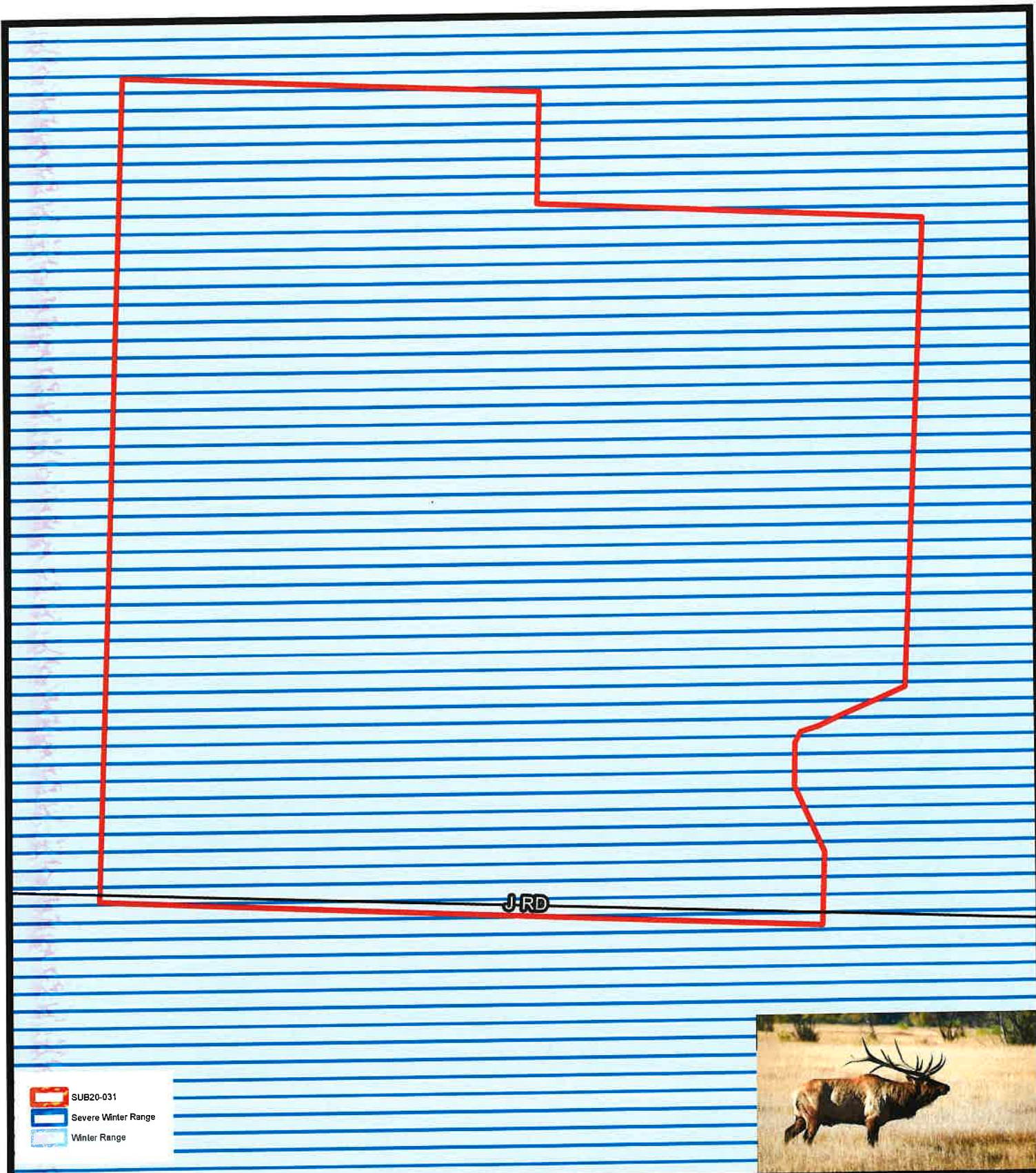


Mule Deer Habitat within Subdivision 20-031 Angelovich Subdivision

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Elk Habitat within

Subdivision 20-031 Angelovich Subdivision

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0 175 350 700 Feet





STAFF REPORT

Delta County Planning Commission Meeting

**Delta County Administration Building
560 Dodge Street
Delta, CO 81416**

**Wednesday, April 14, 2021 @ 5:30 p.m.
(Continued from March 24, 2021)**

SUB20-033/Nate & Sarah Subdivision

Consider a Sketch Plan subdividing approximately 5.3 acres into two lots: Lot 1 (3.26 acres) and Lot 2 (2.0) acres. The project is located at 24650 Ute Trail Road, Cedaredge

PROJECT INFORMATION:

Property Owner: Row, George W Jr
Applicant: George & Joyce Row
Representative: Kenneth Schaaf, Southwest Land Surveying, LLC
Site Address: 24650 Ute Trail Road, Cedaredge
Location: Section 4, Township 13S, Range 94W, 6thPM
Parcel ID/Acct: 319304400019/R001723
Parcel Size: 5.26 Acres
Zoning: A5

RECOMMENDATION:

Staff recommends continuing this matter until the following items are addressed, prior to the Planning Commission considering a Sketch Plan for SUB20-033/Nate and Sarah Subdivision:

- a. Sketch Plan needs to include data to the centerline of Ute Trail Road, and dedicate right of way where applicable for a 100-foot right of way (minor arterial).
- b. Illustrate where property lines of neighboring properties intersect the subject parcel. Identify owner name and address, including lot(s) across Ute Trail Road.
- c. Illustrate location of all utilities (water, septic, electrical). Identify the location of the existing septic system for Lot 1.



- d. The Sketch Plan illustrates a shop on Lot 1 constructed in the right of way. This issue needs to be resolved either by: a) noting relocation/removal of the shop; or b) Delta County vacating the easement such that the easement can be reduced such that it may not impact the structure. Also, there is a 25-foot set back from the edge of right of way (reflected in Note #10).
 - e. Aerial photo shows what appears to be a structure located on a corner of the property (Lot 1) near 24714 Ute Trail Road. This structure is located in the right of way, and is located in the shaded area of the Sketch Plan that, per the legend, reflects the improved portion of the road ("driving surface"). The Sketch needs to accurately reflect the limits of the improved access road as it pertains to the easement, and all existing structures.
 - f. Staff questions the proposed lot line creating Lot 2 crossing the ditch if there is no irrigation assigned to Lot 2. Staff recommends that the applicant demonstrate a building envelope adequate for structures and septic given the set backs, soil type (Agua Fria stony loam), slope (3-12%), and proximity to the ditch. In other words, identify the net usable area, which is much less than the gross acreage with all the restrictions. The area north of the ditch on Lot 2 would not be considered usable for these purposes.
 - g. The Sketch Plan includes a note (Note #11) about shares of irrigation water, but the applicant does not indicate there is any irrigation water allocated to this property. In addition, the irrigated lands map illustrates no irrigated lands on this parcel.
 - h. When identifying easements on a Plat (e.g. access easement), the description should include reference to the recording document. The Sketch Plan indicates there is a 60-foot wide common access + a 30' easement for Upper Surface Creek Domestic Water Association (20' of this is illustrated as a driving surface).
- As this is a Sketch Plan, some of these points could be address on a Final Plat. However, staff feels that most of this information is necessary in order to make a fully informed recommendation.

Alternatively, the Commission could make a recommendation to the Board based on Staff's comments/recommendations. If that is the Commission preferred direction, staff requests that the Commission continue this matter to the next meeting to return with recommended conditions.

SUMMARY:

Planning and Community Development has reviewed the proposed Sketch Plan (SUB20-033/Nate & Sarah) by George and Joyce Row to subdivide a 5.26 acre parcel into two lots: Lot 1 totaling 3.26 acres and Lot 2 totaling 2.0 Acres. Lot 1 (23650 Ute Trail Road, Cedaredge) has a single family dwelling, and garage and all existing utilities are installed.

A 60-foot access easement was dedicated to Delta County as part of a subdivision in the early 1980's making it a public right of way (ROW) that is privately maintained. In addition, there is a 30-foot wide easement for Upper Surface Creek Domestic Water



Association where 20-feet is located on Lot 2. These easements (80 feet total) significantly restrict development of the proposed Lot 2. There is also a set back required from the "un-named" ditch (also shown as "aqueduct").

The area proposed for Lot 2 is heavy forested with cypress trees. Resource mapping shows this area as having moderate fire risk. Delta County Fire Protection District #3 identified concerns when homes are built on this land, including fuel management and access (width and turn-around). A hydrant is preferred if there is an adequately-sized water line. Staff recommends addressing mitigation before approving a subdivision as the last point where we can address the issue, since there are no building permits.

Staff has received comments from three neighboring property owners. Comments include suggestion that Lot 2 should be located on the west side of the parcel with access through Lot 1. Staff is open to any comments from the Planning Commission in regards to this proposed development.

DISCUSSION:

Subdivisions and boundary adjustments in the 1980's resulted in creating five parcels, including the subject parcel, that share a common access easement off of U-50 Road (later became Ute Trail Road).

Lot 1 and 2 will access from Ute Trail Road. There is an existing 60' previously dedicated to Delta County easement located on the east side of the Lot 1 and provides access to Lot 2. Alternatively, access to Lot 2 could be designed/developed from Ute Trail Road south along west boundary of Lot 1, which would require bridging the ditch.

An unnamed ditch carries tail water to down-stream water users. Upper Surface Creek Domestic Water Users Association supplies the domestic water. Lot 1 has an existing water tap. The owner will need to purchase a water tap for Lot 2; however, USCDWUA comments that a second tap would be available for purchase.

Lot 1 has an existing onsite waste water treatment (septic) system, but needs to be illustrated on the Plan to prove it is not impacted by the proposed subdivision. Lot 2 will have an onsite waste water treatment system installed as part of developing the site with a single family dwelling. The proposed division would be compatible with the surrounding residential land uses; however, the applicant needs to establish adequate building envelop (structures and septic) considering setbacks for the ditch and exclusion of the right of way.

A common access easement to parcels in Book 437 at pages 802 and 803 is to be combined with a 30-foot wide easement being dedicated to public use. It appears that a water pipeline may be located underground running the entire length of the parcel. Staff needs information about the size of the pipe and if it belongs to Cedaredge or Upper Surface Creek Domestic Water Users.



The length of the access easement is dedicated to Delta County, making it a public right-off-way. However, it has not been constructed to County standards and there is no plan for extending this right of way and making it into a County road. As such, staff recommends that the easement be revised to remove Delta County (private), where a maintenance agreement would be required prior to accepting the Final Plat. The access road is privately maintained, and would need a maintenance agreement if this subdivision goes forward, including all parcels abutting the access easement. A turnaround will need to be constructed with Lot 2, Fire recommends a cul-de-sac with a 60' turning radius.

The access easement serves 5 lots (6 if this subdivision is approved), and three homes have been constructed that access/use this easement. County policies are to name roads that serve more than three lots or dwellings (4 or more). This subdivision would create a sixth lot so we would include a condition requiring a road name (by GIS) with the Final Plat knowing there are already five lots and three homes served by the access road.

Compliance with Density Standard

- The Density Standard for this subdivision is 0.44
- The maximum number of lots within this subdivision requires a waiver to allow 2 Lots. Delta County density determination starting in 2013 allowed density waivers for a two lot subdivision. The process stopped on January 5th 2021.

Impacts on adjacent property, service providers, and County Roads

- No studies or reports will be required for this subdivision

Assessment of the viability and feasibility of the concept of the proposed development:

Staff Findings

- Utilities issues
 - Domestic water (quantity): Lot 1- Existing Upper Surface Creek Domestic Water Tap; Lot 2- Will purchase a Water Tap from Surface Creek.
 - Irrigation plan: N/A (no irrigation water)
 - Septic: Lot 1- existing septic; Lot 2-septic to be installed during construction
- Access issues
 - County road standards: Shared access easement off Ute Trail Road.
 - Access: Lot 1 has access from Ute Trail Road. Lot 2 will require a new access from the shared easement.
 - New Roads: Dedication of ??-foot strip for right of way (Ute Trail Road).



- CDOT: N/A
- Traffic Issues: N/A
- Resource Maps/Referrals:
 - Engineering Memo dated March 3, 2021
 - Fire comments, email dated March 24, 2021
 - Wildlife: Mule Deer and Elk habitat
- Design issues
 - Building envelopes: Subject to setbacks in place when a structure is built. No building within easements (existing or proposed).
 - Lot configuration: N/A
 - Density: 2 Lots used (waiver)
- Subdivision Standards
 - Phasing: N/A
 - Setbacks: Lot 2 will be subject to standards in place at the time a home is built. Set backs will be enforced from the right of way and unnamed ditch for septic and structures.
 - Fencing: N/A
 - Building Height: N/A (existing)

OTHER AGENCIES INVOLVED:

- Cedaredge Fire District. The standard for wild land is to have a hydrant within 1000 feet, and the closest fire hydrant is located on Ute Trail Road about 250 feet east of the property, about 1000 feet from where a home would be developed on Lot 2. A fire mitigation plan has to be created and implemented and approved by the Cedaredge Fire District. After conversation with staff, the District submitted the following recommendations on the Nate and Sarah Subdivision:
 - In the future that any structure is built the district recommends a clear zone around the structure of approximately twice the height of given vegetation on the property. This is the current guidelines given by the Western Wildfire Council.
 - If any structures are built in the subdivision, an access to the furthest home should be wide enough for two vehicles to pass, including trucks, and have a 60ft cul de sac for apparatus to turn around easily and quickly.
 - If possible a fire hydrant should be installed at the cul de sac, but with small water lines or inadequate water supply the hydrant isn't required.
- Engineering. Memorandum dated March 3, 2021 identifies items to be addressed. While the memo references addressing these items on the Final Plat, Planning staff finds that some of these items should be address before approving the Sketch Plan.
- Road & Bridge. Planning staff consulted District 2 Foreman relative to the existing conditions and future plans for Ute Trail Road and the access easement.



DELTA COUNTY

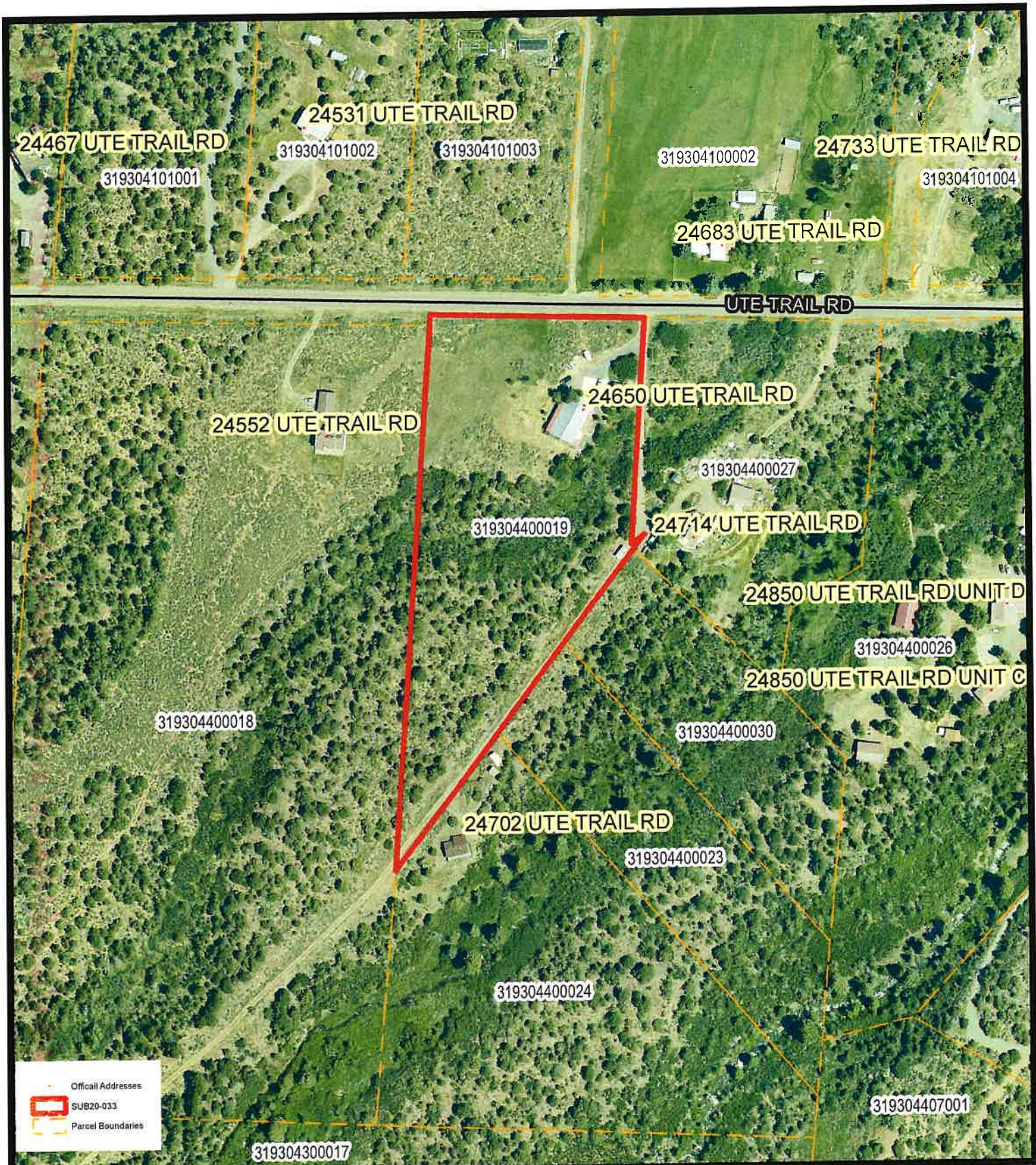
PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street
Delta, Colorado 81416
planning@deltacounty.com
970.874.2110

- Environmental Health. Planning staff consulted Env Health relative to septic feasibility. It is agreed that we need to make sure septic is feasible given the site conditions before creating new lots.
- USCDWUA. Noted that there is currently only one tap (existing home), but another one would be available for purchase.

Attachment(s):

- Sketch Plan
- Aerial Photo
- Vicinity Map
- Referral Agency Comments (County Engineer, Fire, USCDWUA)
- Resource Maps (Irrigated Lands, Wildfire Risk, Wildlife Impact, Mule Deer Habitat, Elk Habitat)
- Neighbor comments (Story, Meyers, Kennedy)
- Soil Report



Aerial

Subdivision 20-033 Nate & Sarah Subdivision

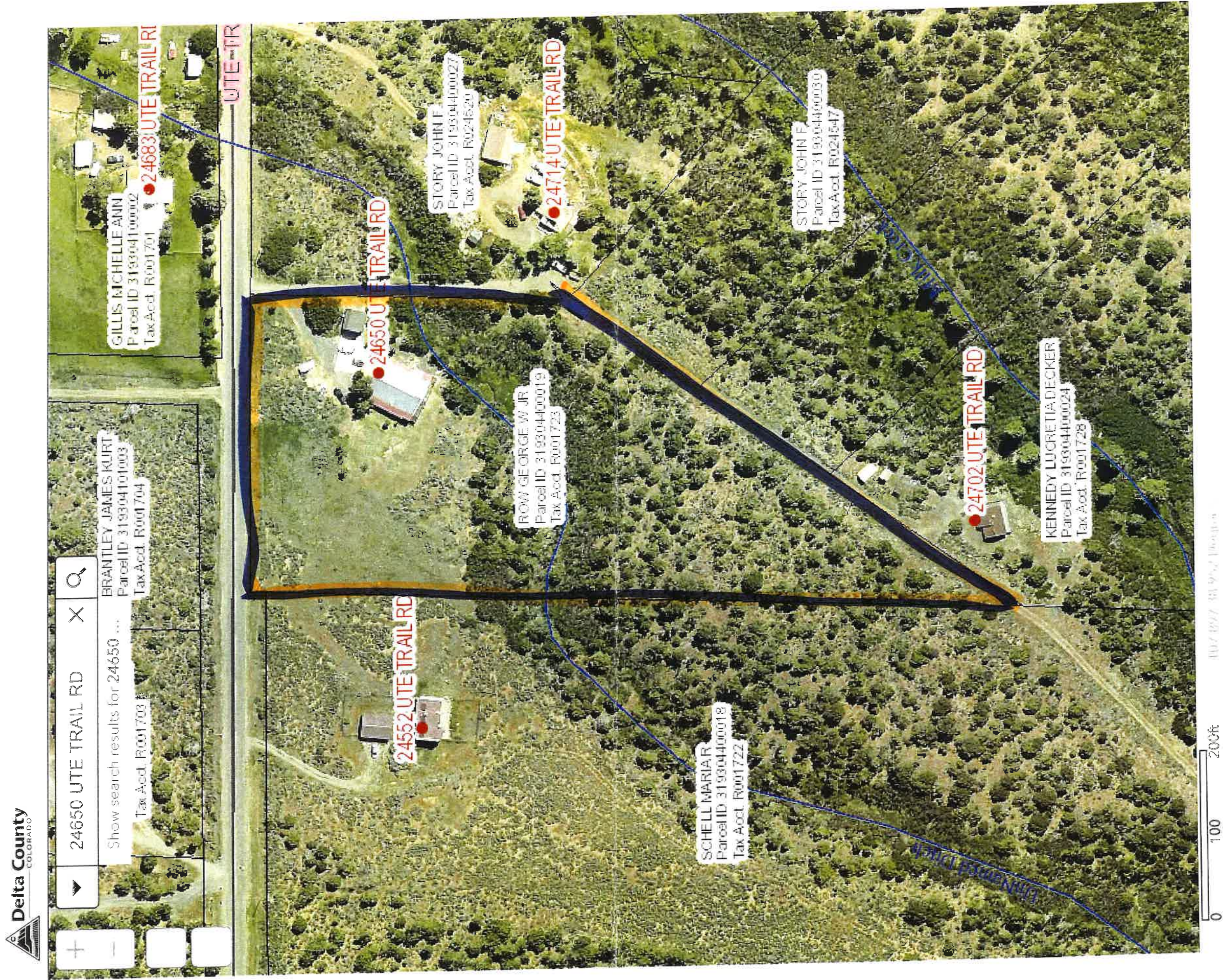
GIS Disclaimer:

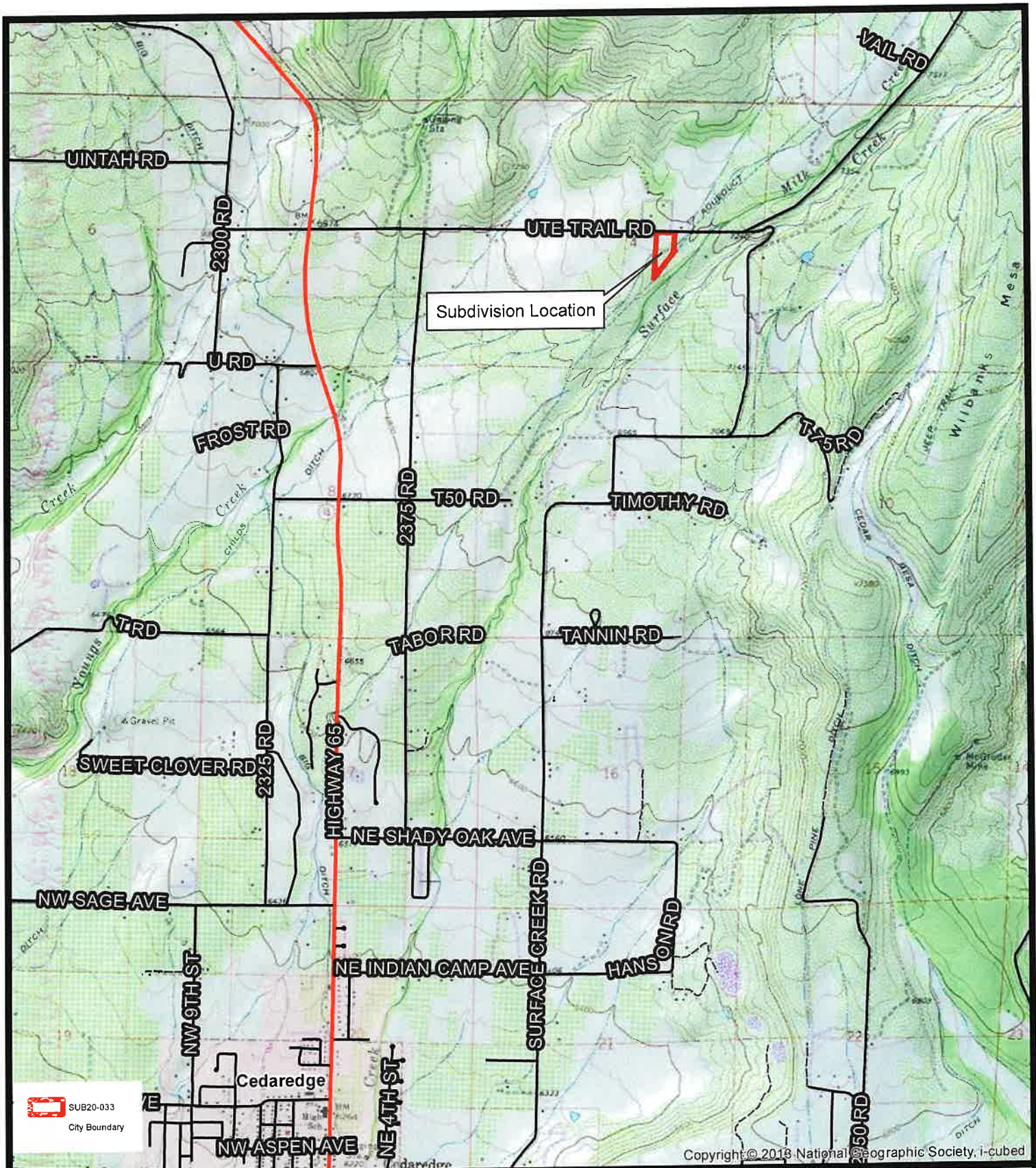
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Vicinity

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Subdivision 20-033 Nate & Sarah Subdivision

0 0.375 0.75 1.5 Miles



1:30,000



Memo

To: Planning Department

From: Tim McCracken

CC: File

Date: March 3, 2021

Re: Review of SUB20-033 Nate & Sarah Subdivision – Sketch Plan

In my review of this subdivision I noted the following:

1. A site visit was made by the Delta County Engineering Department on 02/17/2021 by Tim McCracken, County Engineer.
2. Ute Trail Road is classified as a Minor Arterial Road with a 100' right-of-way width.
3. A 10' utility easement outside of the Ute Trail Road right-of-way will need to be shown on the final plat. Refer to Delta County Roadway Design and Construction Standards, Appendix 5, Item 19 Utility Location and Easement Guidelines.
4. Show existing and proposed right-of-way for Ute Trail Road on the Final Plat.
5. Show Ute Trail Road Centerline, with dimensions to the northern property boundary of proposed Lot 1 on the Final Plat.
6. Show existing fences on the Final Plat.
7. Show existing utilities on the Final Plat.
8. Show existing easements on the Final Plat.
9. Label Total acres on the Final Plat.
10. Label all structures on the Final Plat.
11. Label existing and proposed access to all lots on the Final Plat.
12. Label land use (agricultural, irrigated cropland, pasture, orchards, etc.) on the Final Plat.
13. Show all adjacent property owners, mailing addresses, account numbers, and or reception numbers on the Final Plat.
14. Show all adjacent platted subdivisions on the Final Plat.

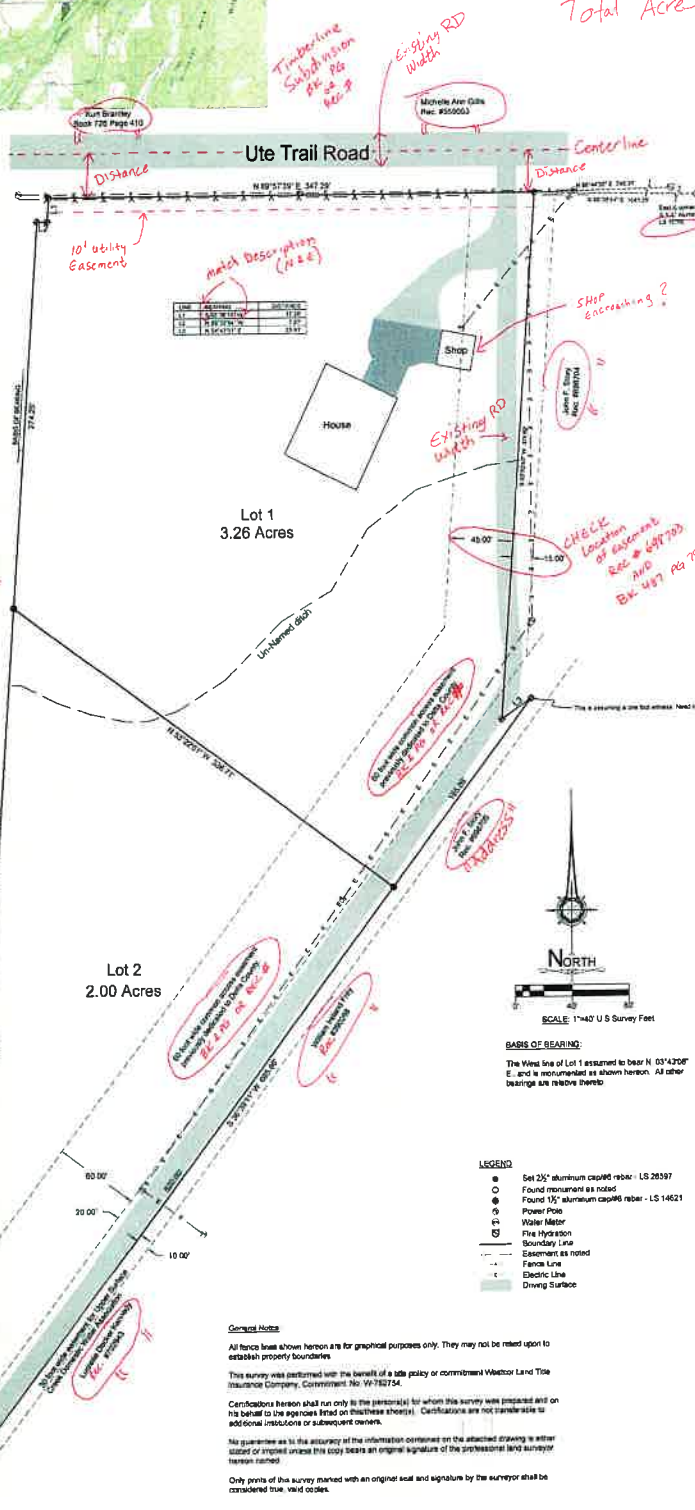
If you have any questions, please contact me.

Sketch Plan

Nate and Sarah Subdivision

Section 4, Township 13 South, Range 94 West, of the 6th Principal Meridian
Delta County, Colorado

Vicinity Map
N.T.S.



Certifications and Plat Notes

Deposition

We, George W. Row JR, and Joyce K. Row being the owner(s) of the land described as follows

A parcel of land described in deed recorded a reception No. 489608 Delta County Clerk and Recorder Office

Part of Parcel A of the Bary Exemption according to the recorded plat thereof which is recorded in book 8, page 8 of the Real Estate records (Plats), of Delta County, Colorado, being part of the NW 1/4, SE 1/4, and part of the SW 1/4 NE 1/4 of Section 4, Township 13 South, Range 94 West of the 6th P.M., described as follows:
Beginning at a point on the northern line of said Parcel A, whence the East 1/2 corner of said Section 4 can be seen; thence South 89°30'45" East 1041.25 feet; thence South 03°52'42" West 274.69 feet to the southerly line of said Parcel A; thence North 54°47'31" East 124.91 feet to a point on the southerly line of said Parcel A; thence on the said southerly line of Parcel A to the following: South 20°30'12" West 685.65 feet; thence North 03°43'00" East 893.58 feet; thence South 89°32'34" East 7.21 feet; thence North 03°20'12" East 17.20 feet; thence North 89°17'32" East 347.297 feet to the point of beginning; have laid out, placed and subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, ways, roads and other public areas as shown hereon and those portions of said subject as easements for the installation and maintenance of public utilities as shown.

In witness whereof George W. Row JR, and Joyce K. Row, have subscribed their names this ____ day of ____ AD ____

By: George W. Row JR. Joyce K. Row

Notarities

State of Colorado vs. County of Delta

The foregoing instrument was acknowledged before me this ____ day of ____ AD ____

My Commission expires ____

My address is ____

In witness my hand and official seal

Notary Public (Seal)

Delta County Surveyor's Approval

Approved for content and form only and not as to accuracy of survey, computations or drafting pursuant to CRS 38-6-106.

County Surveyor Date

Delta County Planning Department Approval

This plat of the above subdivision has been checked for compliance on this ____ day of ____ AD ____

(Planning Department)

Board of County Commissioners Approval

1. The within plat of ____ is approved this ____ day of ____ AD ____ and the maps and other public areas are hereby accepted (provided, however, that such acceptance shall not in any way be construed as an endorsement for maintenance purposes. Maintenance of, or snow removal from, the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or regulations as may be in effect at that time.

Commissioner

County Clerk

Certificate of Taxes Paid

I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of ____ upon all parcels of real estate described on this plat are paid in full. Dated this ____ day of ____ AD ____

Treasurer of Delta County, Colorado

Delta County Clerk and Recorder's Acceptance

This plat was accepted for filing in the office of the Clerk and Recorder of Delta County, Colorado, on this ____ day of ____ AD ____ Reception Number ____ Time ____

Book ____ Page ____ Date ____

County Clerk

Standard Plat Notes

- Outdoor lighting shall be hooded or shielded so that light is directed downward so as not to glare onto the adjacent property or onto the night sky.
- All development in Delta County is subject to the Delta County Right to Farm and Ranch Policy, adopted as Resolution 96-N-025 by the Board of County Commissioners on September 27, 1996.
- This property is located in an agricultural area. Normal agricultural activities will continue unabated in the surrounding areas and must not be a basis for a lawsuit, except in cases of proven gross negligence.
- Access to all shown or unshown irrigation ditches for easement and maintenance purposes is permitted.
- Colorado is an "open range" state. It is not the responsibility of a livestock owner to fence in livestock.
- Certain Covenants and Restrictions on the property in this Subdivision and other documents have been recorded in the office of the Delta County Clerk and Recorder. Reception No. ____ (This note required if applicable.)
- Each lot owner shall be personally responsible to control undesirable vicious weeds within the boundaries of the lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Management Advisory Commission concerning the control of such weeds.
- Unless approved otherwise, an residential lot within this subdivision has been approved for one single residential use only. Any further subdivision on any lot requires the owner of said lot to apply for a subdivision of the land in compliance with the Regulations of Delta County. Any change of use to other than residential or agricultural use requires the lot owner to process the request in accordance with the Specific Development Regulation of Delta County.
- All vehicles must be placed underground on all parcels.
- The minimum setbacks in this subdivision shall be from:
Any Public Road: 10' to 25'
Front Property Line: 25'
Side and Rear Property Lines: 25'
- Shades of irrigation water conveyed to lots at the time of plat recording may or may not be sold separately from the property and may not run with the land.

General Notes

All fence lines shown hereon are for graphical purposes only. They may not be relied upon to establish property boundaries.

This survey was performed with the benefit of a title policy or commitment Vector Land Title Insurance Company, Commitment No. VV752754.

Certifications hereon shall run only to the person(s) for whom this survey was prepared and on his behalf to the persons listed on this sheet(s). Certifications are not transferable to additional resolutions or subsequent surveys.

No guarantee as to the accuracy of the information contained on the attached drawing is either stated or implied unless this copy bears an original signature of the professional land surveyor hereon named.

Only prints of the survey marked with an original seal and signature by the surveyor shall be considered true and correct.

CERTIFICATE OF SURVEY

I, Brian D. Hapner, a Registered Land Surveyor in the State of Colorado, do hereby certify that this plat accurately represents that the surveying services addressed herein have been performed by the professional land surveyor or under the professional land surveyor in charge. It is based upon the professional land surveyor's knowledge, information and belief, is in accordance with applicable standards of practice. It is not a guarantee or warranty, either expressed or implied, I further certify that the measurements shown hereon actually exist, and that their positions are as shown.

Signature Date Seal
PLS No. 26667

U.S. MINERAL SURVEYORS REGISTERED LAND SURVEYORS IN COLORADO		SOUTHWEST LAND SURVEYING LLC 1293 H Lane, Delta, CO 81416 (970) 874-2881 Delta, Colorado	
PLAN SCALE: 1"=40' U.S.S.F. FIELD CREW: KCH CHECKER: KES	REVISIONS: Located in: Sec. 4, T. 13 S., R. 94 W., 8th P.M. Delta County, Colorado	George Row 14000 W. 1st Ave. Colorado Springs 81103	PL: 1293 H Lane CO: 81416

Sketch Plan

Nate and Sarah Subdivision

Section 4, Township 13 South, Range 94 West, of the 6th Principal Meridian
Delta County, Colorado

VICINITY MAP



Total Acres

Owner address
Act. or Rec. No.

Owner address
Act. or Rec. No.

Owner address
Act. or Rec. No.

Distance

Existing utility lines
& Fence

Owner address
Act. or Rec. No.

Owner address
Act. or Rec. No.

Owner address
Act. or Rec. No.

Legend
Center Line (in Name) Drive
Existing Driveway Surface

NOTE:
Survey and distances shown where changed from file recorded deed



U.S. MINERAL SURVEYORS REGISTERED LAND SURVEYORS IN COLORADO		SOUTHWEST LAND SURVEYING LLC 1200 S. 1st Avenue, Suite 100, Delta, CO 81416 (970) 367-2500 (970) 374-9800 EMAIL: info@swlandsurveying.com	
PROJECT: DATE: BY: CHECKED: DATE:	PROJECT: DATE: BY: CHECKED: DATE:	Nate & Sarah Subdivision Located in: Sec. 4, T. 13 S., R. 94 W., 6th P.M. Delta County, Colorado	George Row 24850 Ute Trail Road Delta, Colorado 81403



Vivian Archuleta <varchuleta@deltacounty.com>

Nate & Sarah Subdivision

Cedaredge Fire <cedaredgefire@gmail.com>

Wed, Mar 24, 2021 at 10:32 AM

To: Carl Holm <cholm@deltacounty.com>

Cc: Kelly Yeager <kyeager@deltacounty.com>, Vivian Archuleta <varchuleta@deltacounty.com>, Kate Kelly <kkelly@deltacounty.com>, Carrie Derco <cderco@deltacounty.com>, Dan Sickles <dsickles@deltacounty.com>, Greg Rajnowski <grajnowski@deltacounty.com>, Tim McCracken <tmccracken@deltacounty.com>

Carl, after our telephone conversation the fire district has the following recommendations on the Nate and Sarah Subdivision.

1. In the future that any structure is built the district recommends a clear zone around the structure of approximately twice the height of given vegetation on the property. This is the current guidelines given by the Western Wildfire Council.

2. If any structures are built in the subdivision, an access to the furthest home should be wide enough for two vehicles to pass, including trucks, and have a 60ft cul de sac for apparatus to turn around easily and quickly.

3. If possible a fire hydrant should be installed at the cul de sac, but with small water lines or inadequate water supply the hydrant isn't required.

These are the concerns of Delta County Fire Protection District #3 when homes are built on this land.

Steve Hanson
Cedaredge Fire Dept

On Fri, Mar 12, 2021 at 4:02 PM Carl Holm <cholm@deltacounty.com> wrote:

[Quoted text hidden]

Delta County Planning and Community Development
295 W 6th Street Delta, Colorado 81416
Phone 970-874-2110 Fax 970-874-2500
e-mail: planning@deltacounty.com website: www.deltacounty.com

CASE SUMMARY COMMENT FORM
(Please return to the Planning Department)

SUB20-033 Nate & Sarah Subdivision

► COMMENTS ARE ACCEPTED AT ANYTIME, BUT TO BE INCLUDED WITH THE PLANNING STAFF REPORTS, THEY MUST BE RECEIVED BY:

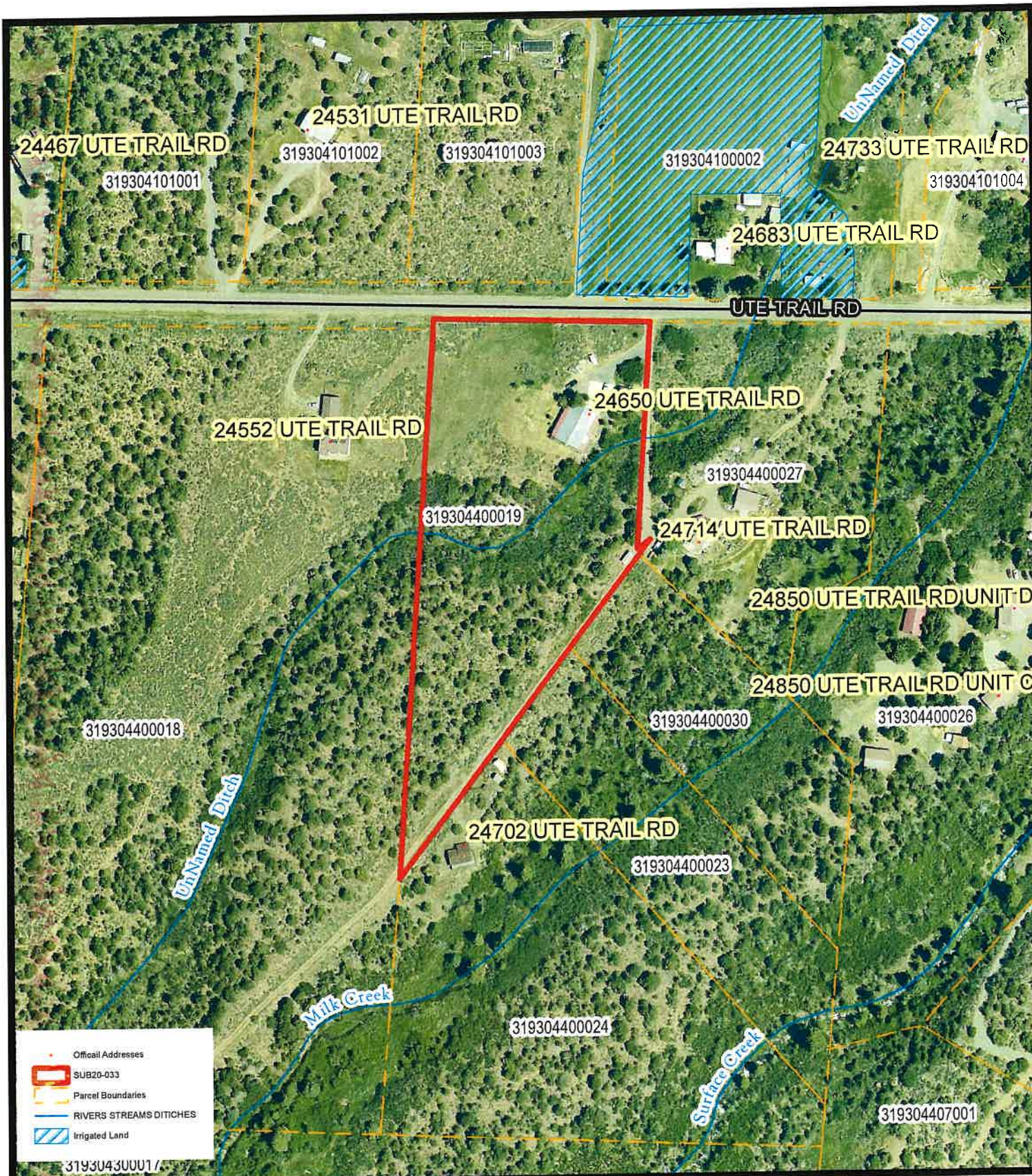
March 17, 2020

REVIEW AGENCIES: Please Submit Comments, as well as, NO COMMENTS.

UTILITY PROVIDERS: Please mark the easements you need or want on the sketch and give written comments explaining the easements.

At this time, there is only one tap with the property. Another one would be available for purchase.

By <i>Dayton Myers</i>	Date <i>3/24/21</i>
Title <i>Operations Manager</i>	Agency <i>USCD WUA</i>



Irrigated Lands

Subdivision 20-033 Nate & Sarah Subdivision

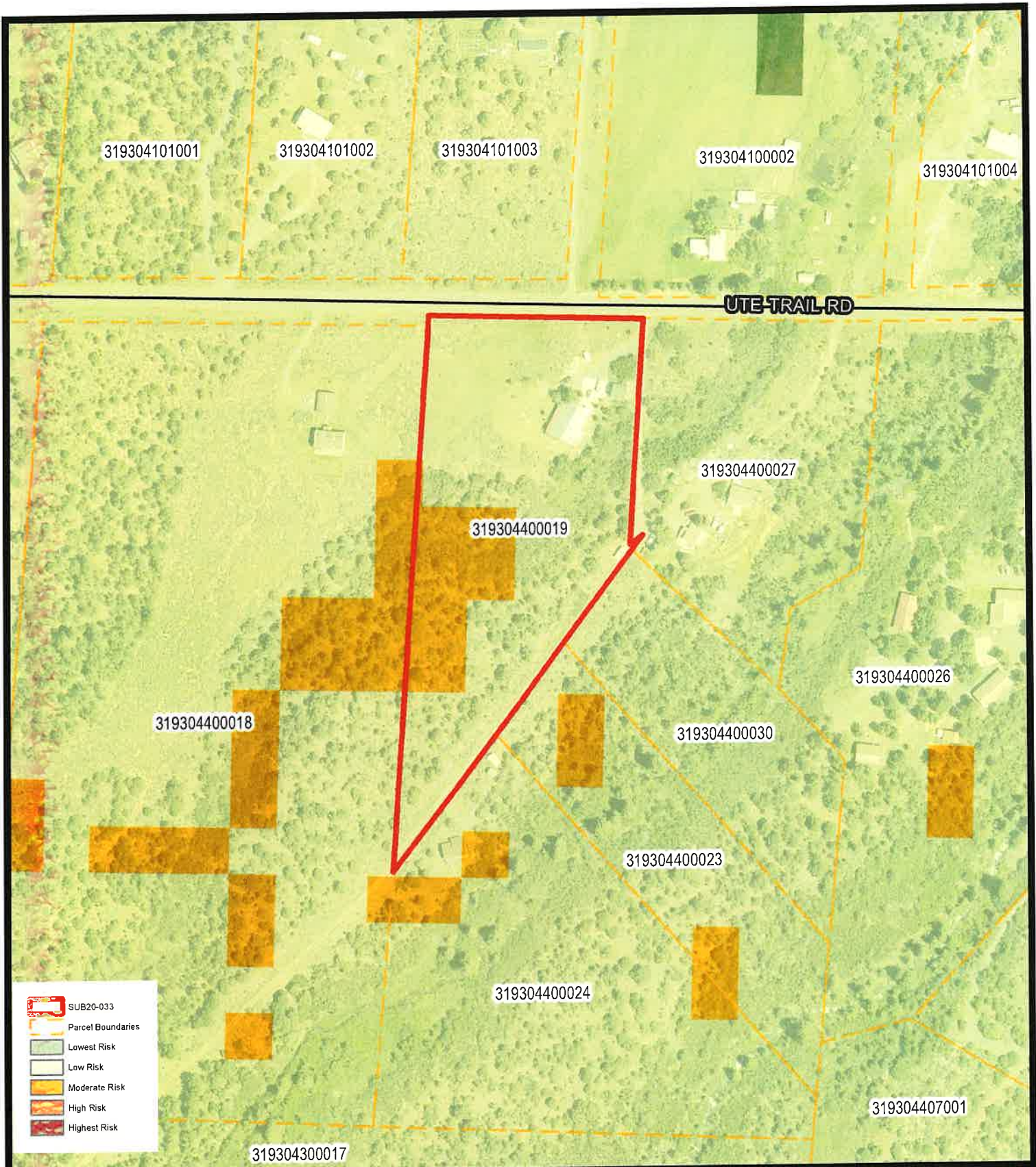
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Wildfire Risk

Subdivision 20-033 Nate & Sarah Subdivision

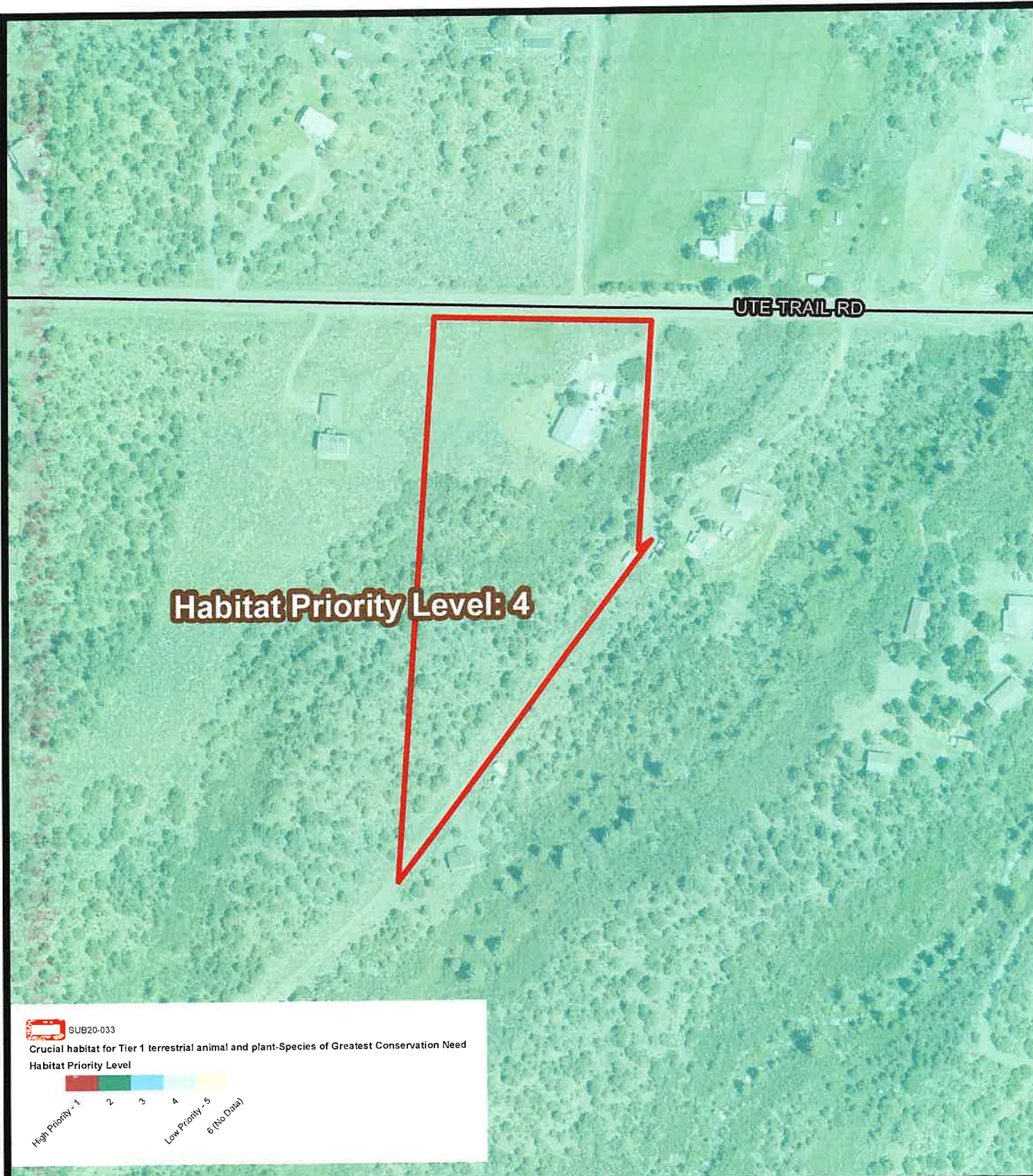
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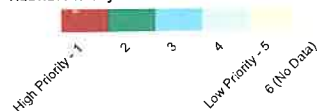
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SUB20-033

Crucial habitat for Tier 1 terrestrial animal and plant-Species of Greatest Conservation Need

Habitat Priority Level

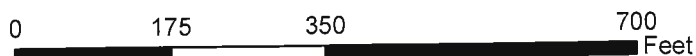


Wildlife Impact

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Subdivision 20-033 Nate & Sarah Subdivision





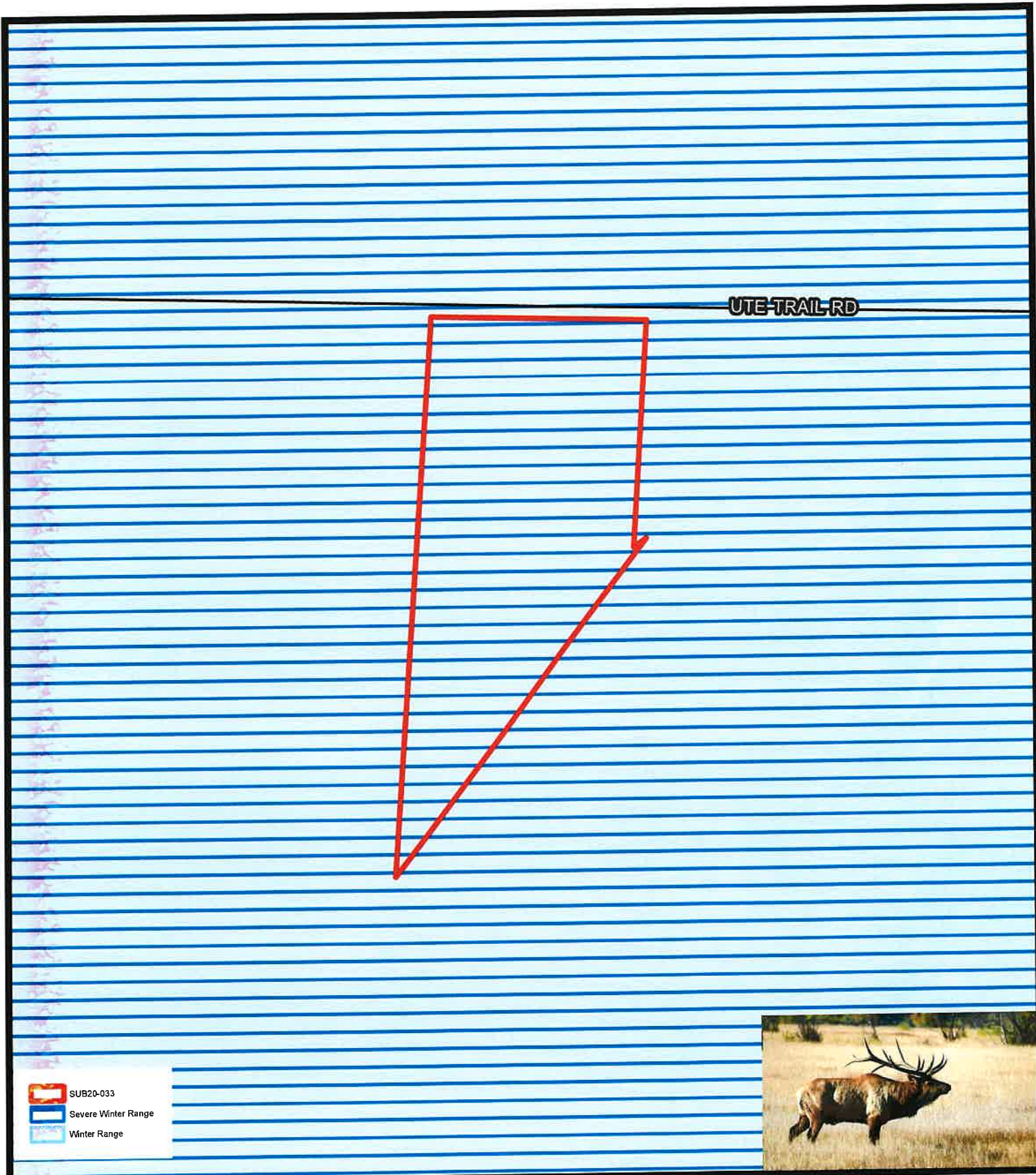
Mule Deer Habitat within Subdivision 20-033 Nate & Sarah Subdivision

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0 175 350 700 Feet





Elk Habitat within

Subdivision 20-033 Nate & Sarah Subdivision

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March 16, 2021

Delta County, Colorado
Planning And Community Development
295 West 6th. Street
Delta, Colorado 81416

Re: Subdivision Case Summary
Subdivision Name: SUB20-033 Nate & Sarah Subdivision
Land Owner: George & Joyce Row

To Whom It May Concern:

We would like to present the following comments for review at the Delta Counting Planning Commission Meeting:

Our preference of access to Lot #2 be developed from Ute Trail Rd. South along West boundary of Lot #1 & 2, not the existing East boundary road.

- The road along the East boundary is currently used by 3 residences, utility companies, irrigation ditch personnel, as well as Town of Cedaredge & Upper Surface Creek Domestic Water lines running under this roadway.
- The current condition of the East boundary road would be directly impacted by additional residential as well as construction traffic.
- This road currently consists of a thin layer of gravel over dirt.
- To sustain additional usage, current roadway would need to be built up, to County standards by the developer encompassing all accesses, easements & existing building encroachments.
- A West boundary access road would provide additional firefighting access.
- Adding another residence along the East boundary road, will require naming of said road as well as address changes to all current residences.
- If the existing East boundary road was used, a road maintenance & repair agreement needs to be established among all property owners with residences along current road.

Thank you for your consideration of our concerns.

Respectfully Yours,


John & Darlene Story
24714 Ute Trail Rd
Cedaredge, CO 81413
(970) 260-9315

Delta County Planning and Community Development
295 W 6th Street Delta, Colorado 81416
Phone 970-874-2110 Fax 970-874-2500
e-mail: planning@deltacounty.com website: www.deltacounty.com

CASE SUMMARY COMMENT FORM

(Please return to the Planning Department)

SUB20-033 Nate & Sarah Subdivision

► COMMENTS ARE ACCEPTED AT ANYTIME, BUT TO BE INCLUDED WITH THE PLANNING STAFF REPORTS, THEY MUST BE RECEIVED BY:

March 17, 2020

REVIEW AGENCIES: Please Submit Comments, as well as, NO COMMENTS.

UTILITY PROVIDERS: Please mark the easements you need or want on the sketch and give written comments explaining the easements.

At this time, there is only one tap with the property. Another one would be available for purchase.

By <i>Danthon Myers</i>	Date <i>3/24/21</i>
Title <i>Operations Manager</i>	Agency <i>USCD WUA</i>

April 2, 2021

From:

Lucretia D. Kennedy
P.O. Box 20296
Boulder, CO 80303-3296

To:

Delta County Planning and Community Development
295 W 6th Street
Delta, CO 81416

Via Fedex

Re: Sub20-033 Nate and Sarah Subdivision

Applicant: George and Joyce Row, 24650 Ute Road, Cedaredge CO 81413
Parcel number 3193-044-00-019

Dear Sir or Madame,

I am Lucretia D. Kennedy, owner of the property at 24702 Ute Road, Cedaredge, CO 81413. I am an adjacent property owner and an owner within 1000 feet of the boundaries of the property that is the subject of this subdivision application.

We don't want to interfere with subdivision itself, but, in the interest of fairness, the driveway to Lot 2 for access from Ute Trail should be located on the western boundary of Lot 1, where it would still be a good distance from the existing residence location, and not from the existing driveway.

The existing driveway to the Storys and my house is not in good shape and often requires four-wheel-drive to negotiate during the winter months. The burden of maintenance has been borne by John and Darlene Story, my neighbors of 36 years. To withstand the load of increased traffic, including construction truck traffic, the road would have to be upgraded substantially if the existing driveway was used.

Thank you for allowing me to submit my thoughts on this subdivision.

Sincerely,


Lucretia D. Kennedy



United States
Department of
Agriculture

NRCS

Natural
Resources
Conservation
Service

A product of the National
Cooperative Soil Survey,
a joint effort of the United
States Department of
Agriculture and other
Federal agencies, State
agencies including the
Agricultural Experiment
Stations, and local
participants

Custom Soil Resource Report for Paonia Area, Colorado, Parts of Delta, Gunnison, and Montrose Counties



January 15, 2021

Preface

Soil surveys contain information that affects land use planning in survey areas. They highlight soil limitations that affect various land uses and provide information about the properties of the soils in the survey areas. Soil surveys are designed for many different users, including farmers, ranchers, foresters, agronomists, urban planners, community officials, engineers, developers, builders, and home buyers. Also, conservationists, teachers, students, and specialists in recreation, waste disposal, and pollution control can use the surveys to help them understand, protect, or enhance the environment.

Various land use regulations of Federal, State, and local governments may impose special restrictions on land use or land treatment. Soil surveys identify soil properties that are used in making various land use or land treatment decisions. The information is intended to help the land users identify and reduce the effects of soil limitations on various land uses. The landowner or user is responsible for identifying and complying with existing laws and regulations.

Although soil survey information can be used for general farm, local, and wider area planning, onsite investigation is needed to supplement this information in some cases. Examples include soil quality assessments (<http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/health/>) and certain conservation and engineering applications. For more detailed information, contact your local USDA Service Center (<https://offices.sc.egov.usda.gov/locator/app?agency=nrcs>) or your NRCS State Soil Scientist (http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/contactus/?cid=nrcs142p2_053951).

Great differences in soil properties can occur within short distances. Some soils are seasonally wet or subject to flooding. Some are too unstable to be used as a foundation for buildings or roads. Clayey or wet soils are poorly suited to use as septic tank absorption fields. A high water table makes a soil poorly suited to basements or underground installations.

The National Cooperative Soil Survey is a joint effort of the United States Department of Agriculture and other Federal agencies, State agencies including the Agricultural Experiment Stations, and local agencies. The Natural Resources Conservation Service (NRCS) has leadership for the Federal part of the National Cooperative Soil Survey.

Information about soils is updated periodically. Updated information is available through the NRCS Web Soil Survey, the site for official soil survey information.

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Contents

Preface	2
How Soil Surveys Are Made	5
Soil Map	8
Soil Map.....	9
Legend.....	10
Map Unit Legend.....	12
Map Unit Descriptions.....	12
Paonia Area, Colorado, Parts of Delta, Gunnison, and Montrose Counties...	14
3—Agua Fria stony loam, 3 to 12 percent slopes.....	14
5—Agua Fria clay loam, 1 to 6 percent slopes.....	15
References	17

How Soil Surveys Are Made

Soil surveys are made to provide information about the soils and miscellaneous areas in a specific area. They include a description of the soils and miscellaneous areas and their location on the landscape and tables that show soil properties and limitations affecting various uses. Soil scientists observed the steepness, length, and shape of the slopes; the general pattern of drainage; the kinds of crops and native plants; and the kinds of bedrock. They observed and described many soil profiles. A soil profile is the sequence of natural layers, or horizons, in a soil. The profile extends from the surface down into the unconsolidated material in which the soil formed or from the surface down to bedrock. The unconsolidated material is devoid of roots and other living organisms and has not been changed by other biological activity.

Currently, soils are mapped according to the boundaries of major land resource areas (MLRAs). MLRAs are geographically associated land resource units that share common characteristics related to physiography, geology, climate, water resources, soils, biological resources, and land uses (USDA, 2006). Soil survey areas typically consist of parts of one or more MLRA.

The soils and miscellaneous areas in a survey area occur in an orderly pattern that is related to the geology, landforms, relief, climate, and natural vegetation of the area. Each kind of soil and miscellaneous area is associated with a particular kind of landform or with a segment of the landform. By observing the soils and miscellaneous areas in the survey area and relating their position to specific segments of the landform, a soil scientist develops a concept, or model, of how they were formed. Thus, during mapping, this model enables the soil scientist to predict with a considerable degree of accuracy the kind of soil or miscellaneous area at a specific location on the landscape.

Commonly, individual soils on the landscape merge into one another as their characteristics gradually change. To construct an accurate soil map, however, soil scientists must determine the boundaries between the soils. They can observe only a limited number of soil profiles. Nevertheless, these observations, supplemented by an understanding of the soil-vegetation-landscape relationship, are sufficient to verify predictions of the kinds of soil in an area and to determine the boundaries.

Soil scientists recorded the characteristics of the soil profiles that they studied. They noted soil color, texture, size and shape of soil aggregates, kind and amount of rock fragments, distribution of plant roots, reaction, and other features that enable them to identify soils. After describing the soils in the survey area and determining their properties, the soil scientists assigned the soils to taxonomic classes (units). Taxonomic classes are concepts. Each taxonomic class has a set of soil characteristics with precisely defined limits. The classes are used as a basis for comparison to classify soils systematically. Soil taxonomy, the system of taxonomic classification used in the United States, is based mainly on the kind and character of soil properties and the arrangement of horizons within the profile. After the soil

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scientists classified and named the soils in the survey area, they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research.

The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements. Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, onsite investigation is needed to define and locate the soils and miscellaneous areas.

Soil scientists make many field observations in the process of producing a soil map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations. Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components. Properties of each soil typically vary from one point to another across the landscape.

Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties.

While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil.

Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date.

After soil scientists located and identified the significant natural bodies of soil in the survey area, they drew the boundaries of these bodies on aerial photographs and

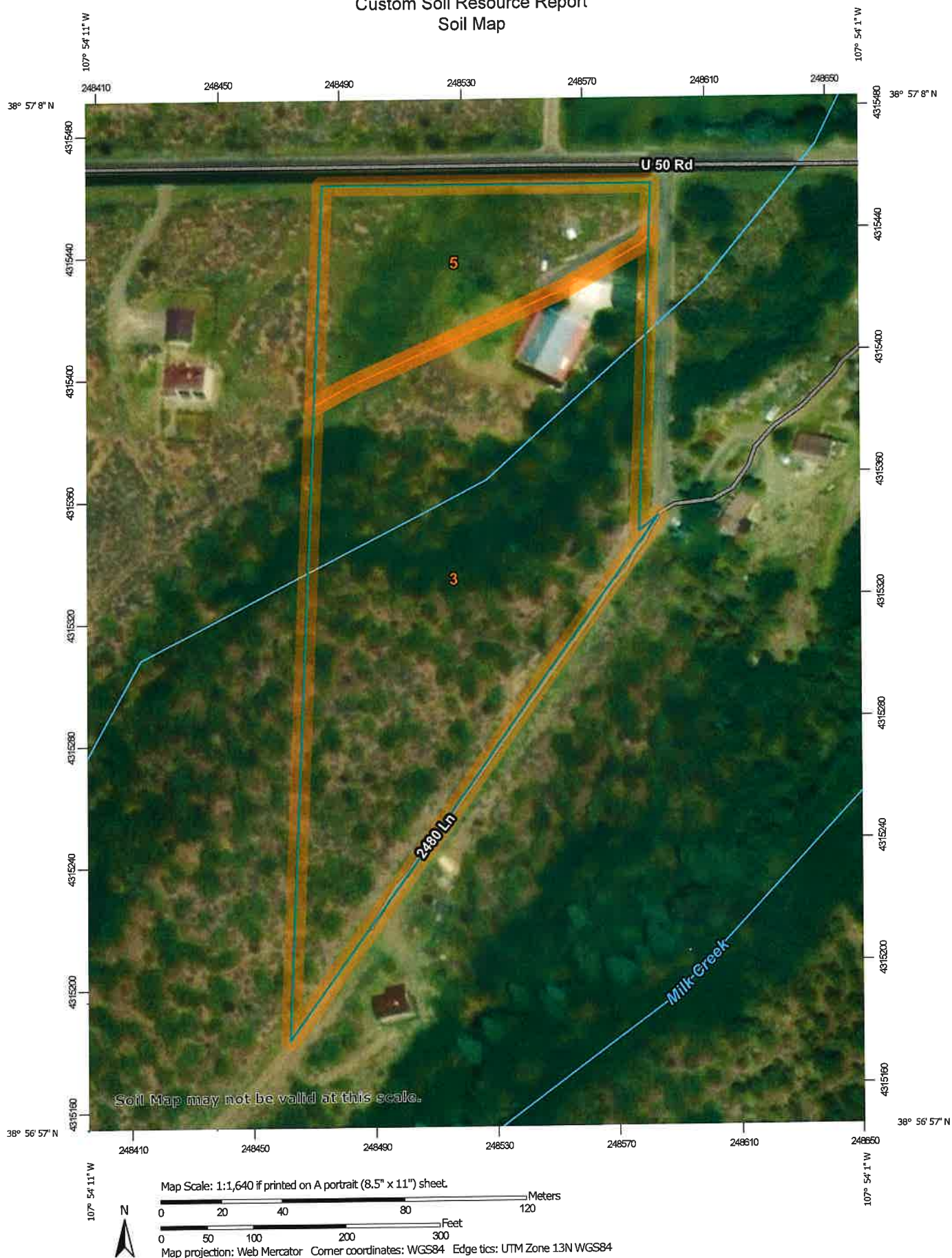
Custom Soil Resource Report

identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately.

Soil Map

The soil map section includes the soil map for the defined area of interest, a list of soil map units on the map and extent of each map unit, and cartographic symbols displayed on the map. Also presented are various metadata about data used to produce the map, and a description of each soil map unit.

Custom Soil Resource Report Soil Map



MAP LEGEND

	Area of Interest (AOI)		Spill Area
	Area of Interest (AOI)		Stony Spot
Soils			Very Stony Spot
	Soil Map Unit Polygons		Wet Spot
	Soil Map Unit Lines		Other
	Soil Map Unit Points		Special Line Features
Special Point Features		Water Features	
	Blowout		Streams and Canals
	Borrow Pit	Transportation	
	Clay Spot		Rails
	Closed Depression		Interstate Highways
	Gravel Pit		US Routes
	Gravelly Spot		Major Roads
	Landfill		Local Roads
	Lava Flow		Aerial Photography
	Marsh or swamp		
	Mine or Quarry		
	Miscellaneous Water		
	Perennial Water		
	Rock Outcrop		
	Saline Spot		
	Sandy Spot		
	Severely Eroded Spot		
	Sinkhole		
	Slide or Slip		
	Sodic Spot		

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Paonia Area, Colorado, Parts of Delta, Gunnison, and Montrose Counties
Survey Area Data: Version 13, Jun 8, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Dec 31, 2009—Jul 29, 2017

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background

MAP LEGEND

MAP INFORMATION

imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
3	Agua Fria stony loam, 3 to 12 percent slopes	4.1	77.0%
5	Agua Fria clay loam, 1 to 6 percent slopes	1.2	23.0%
Totals for Area of Interest		5.3	100.0%

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however,

Custom Soil Resource Report

onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. Except for differences in texture of the surface layer, all the soils of a series have major horizons that are similar in composition, thickness, and arrangement.

Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Paonia Area, Colorado, Parts of Delta, Gunnison, and Montrose Counties

3—Agua Fria stony loam, 3 to 12 percent slopes

Map Unit Setting

National map unit symbol: jnrk

Elevation: 5,800 to 7,000 feet

Farmland classification: Farmland of unique importance

Map Unit Composition

Agua fria and similar soils: 85 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Agua Fria

Setting

Landform: Fans, mesas, terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Cobbly, stony outwash alluvium derived from basalt

Typical profile

H1 - 0 to 2 inches: loam

H2 - 2 to 24 inches: stony clay loam

H3 - 24 to 34 inches: cobbly loam

H4 - 34 to 60 inches: very cobbly loam

Properties and qualities

Slope: 3 to 12 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

Runoff class: Very high

Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.20 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: None

Frequency of ponding: None

Calcium carbonate, maximum content: 35 percent

Maximum salinity: Very slightly saline to slightly saline (2.0 to 4.0 mmhos/cm)

Available water capacity: Moderate (about 6.9 inches)

Interpretive groups

Land capability classification (irrigated): 4e

Land capability classification (nonirrigated): 4e

Hydrologic Soil Group: C

Hydric soil rating: No

Minor Components

Cerro

Percent of map unit:

Hydric soil rating: No

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Saraton

Percent of map unit:
Hydric soil rating: No

Delson

Percent of map unit:
Hydric soil rating: No

Avalon

Percent of map unit:
Hydric soil rating: No

Mesa

Percent of map unit:
Hydric soil rating: No

5—Agua Fria clay loam, 1 to 6 percent slopes

Map Unit Setting

National map unit symbol: jns8
Elevation: 5,800 to 7,000 feet
Farmland classification: Prime farmland if irrigated

Map Unit Composition

Agua fria and similar soils: 85 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Agua Fria

Setting

Landform: Fans, mesas, terraces
Landform position (three-dimensional): Tread
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Cobbly, stony outwash alluvium derived from basalt

Typical profile

H1 - 0 to 2 inches: clay loam
H2 - 2 to 24 inches: stony clay loam
H3 - 24 to 34 inches: cobbly loam
H4 - 34 to 60 inches: very cobbly loam

Properties and qualities

Slope: 1 to 6 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Well drained
Runoff class: High
Capacity of the most limiting layer to transmit water (Ksat): Moderately low to moderately high (0.06 to 0.20 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: None

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Frequency of ponding: None

Calcium carbonate, maximum content: 35 percent

Maximum salinity: Very slightly saline to slightly saline (2.0 to 4.0 mmhos/cm)

Available water capacity: Moderate (about 6.9 inches)

Interpretive groups

Land capability classification (irrigated): 3e

Land capability classification (nonirrigated): 4e

Hydrologic Soil Group: C

Ecological site: R048AY284CO - Loamy Foothills

Other vegetative classification: LOAMY FOOTHILLS (048AY284CO)

Hydric soil rating: No

Minor Components

Saraton

Percent of map unit:

Hydric soil rating: No

Cerro

Percent of map unit:

Hydric soil rating: No

Avalon

Percent of map unit:

Hydric soil rating: No

Delson

Percent of map unit:

Hydric soil rating: No

Mesa

Percent of map unit:

Hydric soil rating: No

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Custom Soil Resource Report

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STAFF REPORT

Delta County Planning Commission
Delta County Administrative Building
560 Dodge Street, Delta, CO 81416
Wednesday, April 14, 2021 @ 5:30 p.m.

CONSIDER DEFINITION OF “AGGREIVED PARTY” AS IT PERTAINS TO APPEALS

RECOMMENDATION:

Provide a recommended definition to the Board of County Commissioners as part of the appeal process outlined in the Board of Adjustment General Rules.

SUMMARY/DISCUSSION:

On April 6, 2021, the Board of County Commissioners (BoCC) adopted Resolution No. 2021-R-009 establishing General Rules for the newly formed Board of Adjustments (BOA). Staff's report to the BoCC and resolution are attached for reference. Section 6.10 of the General Rules establishes the appeal process with the BoCC as the final decision-making body.

Staff informed the BoCC that the Planning Commission has been discussing what constitutes and aggrieved party. The BoCC referred the matter to the Planning Commission for a recommendation on defining aggrieved party, and directed staff to return with General Rules reflecting this clarification early-May. The BoCC also referred an item to the BOA to address how long the BOA has to decide an appeal, where the Land Use Code (LUC). The LUC specifies that the BOA shall consider the appeal within 45 days, meaning staff getting the matter to the BOA.

Staff is attaching the hand out presented at the last meeting by the Chair for consideration.

Attached material: list, in order as attached

- Definitions proposed by Chair on 3/24/2021
- 4/6/21 BoCC Staff Report
- Resolution 2021-R-009

DEFINITIONS:

Neighbor:

Owner of a property adjoining the applicant's property AND, other property owners, entities, groups and organizations as determined by the Director

Aggrieved Parties:

Those property owners defined as neighbors AND those property owners who received Notification as determined by the Director.

Aggrieved Parties:

The language of the administrative appeals section is not limited to the applicant. However, the statutory authority of the Board is limited to addressing appeals from people who are "aggrieved" by the decision.

The appeal form should include a section that requests information about how the appellant is aggrieved by the administrative action.

As a practical matter, there is nothing in the statute or the code that says how standing is to be evaluated. As such, the County could ask for information about how the appellant is aggrieved, and then process the appeal, regardless of what that information says (unless it's blank, in which case, the County should request the information as a condition of moving forward). Then a court can work out the standing issues if things come to that.

Modifications to Table 7b and 7c:

Eliminate Mail 2 from the Code.

Board of Adjustments

Notification of all variances and appeals to the BOA in advance of hearings to neighbors as defined above.



STAFF REPORT

Board of County Commissioner Meeting
Board Room
560 Dodge Street, Delta, CO 81416
Tuesday,
April 6, 2021 @ 10:00 a.m.

RESOLUTION TO ESTABLISH GENERAL RULES FOR THE DELTA COUNTY BOARD OF ADJUSTMENTS

RECOMMENDATION:

Staff recommends that the Board of County Commissioners adopt a resolution (**Attachment 1**) establishing General Rules for the Delta County Board of Adjustments.

SUMMARY/DISCUSSION:

On January 5, 2021, Delta County Board of County Commissioners (BoCC) adopted Resolution 2021-R-001 adopting a new land use code, including zoning maps. Chapter 1, Section 6.C of the Land Use Code establishes a Board of Adjustments (BOA), and Resolution 2021-R-001 further defines the membership as three members, one from each commissioner district. Generally, the BOA is charged with review of applications for variances, minor amendments, and appeals of administrative determinations.

On February 16, 2021, the BoCC, via minute action, appointed members of the newly formed Board of Adjustments as follows:

- District 1; Mike Twamley (3-year term);
- District 2; Brett Hilling (2-year term); and
- District 3; Mark Roeber (1-year term)

At the conclusion of each of these initial terms, appointment/reappointment would be for three (3) years. This format is identified in these General Rules.

Staff has drafted general rules for the BoCC's consideration that would govern the organization, procedure, and jurisdiction of the BOA. These General Rules are in addition to and intended to be complementary with those rules governing the BOA contained in the Land Use Code, and adopting resolution. For example, the LUC establishes the BOA as the appeal authority for Administrative decisions and determinations (made by the Director). The LUC is silent if the BOA decision is final or



there would be opportunity to appeal to the BoCC for a final determination, so staff recommends that the General Rules include direction from the BoCC in this regard.

As drafted, an appeal to the BOA would be “*de novo*” meaning that the action is considered from the beginning and new information can be introduced. In addition, staff has included the ability for an “aggrieved party” to be able to appeal the BOA decision to the BoCC. As drafted, this appeal to BoCC would be “of record” meaning the hearing would be based only on information considered by the BOA.

Staff is not aware of anything in the statute or the code that says how standing for an appeal is to be evaluated. Statutory authority of the Board is limited to addressing appeals from people who are “aggrieved” by the decision; however, there is no definition of an “aggrieved party”. The language of the administrative appeals section is not limited to the applicant, and Planning Commissioners have expressed ideas ranging from being very limited to being very open. Per the LUC, a decision is stayed until the appeal matter is resolved.

Staff has drafted the BOA General Rules with an appeal process as noted above. Meanwhile, the Planning Commission intends to discuss (and recommend) a definition for an “aggrieved party”. An appeal form is being drafted that would include a section that requests information about how the appellant is aggrieved by an Administrative (Director) action, until/unless there is a definition for an aggrieved party that requires amending said form. Alternatives to the process recommended by staff include: 1) no appeal to the BoCC, meaning the BOA action is final; 2) variation to the type of hearing before the BOA and/or BoCC (de novo vs of record); 3) further defining what constitutes an “aggrieved party” to have standing for filing an appeal.

The BOA may adopt supplemental rules of procedure not inconsistent with State Statutes or rules established by the BoCC. Staff intends to hold an initial meeting with the BOA on Thursday, April 22, 2021 at 5:30 pm to select officers, consider a meeting schedule, review the BOA role per the LUC, and review the BoCC’s general rules.

OTHER AGENCIES INVOLVED:

County Attorney, County Administrator, and the Director of Community Development and Natural Resources coordinated on developing draft rules for the Board to consider.

Prepared by: Carl P. Holm, AICP, Director of Community Development and Natural Resources, 970/874-2105, cholm@deltacounty.com
March 31, 2021

Attachment(s):

1 Proposed Resolution, Exhibit A

**RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DELTA,
STATE OF COLORADO**

RESOLUTION NO. 2021-R-__

**RESOLUTION TO ESTABLISH GENERAL RULES FOR THE DELTA COUNTY BOARD OF
ADJUSTMENTS**

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted Resolution 2021-R-001, repealing Delta County regulations regarding land use and subdivision and adopting a new land use code (including zoning maps); and

WHEREAS, Chapter 1, Section 6.C of the Delta County Land Use Code establishes a Board of Adjustments, including the composition and compensation, powers and duties, and voting requirement; and

WHEREAS, Resolution 2021-R-001 further defines the membership as three members, one from each commissioner district; and

WHEREAS, on February 16, 2021, the Board of County Commissioners, via minute action, appointed three (3) members of the newly formed Board of Adjustments; and

WHEREAS, Delta County Board of County Commissioners (Board) desires to provide general rules to govern the organization, procedure, and jurisdiction of the Board of Adjustment (BOA) pursuant to Colorado Revised Statutes (C.R.S.) 30-28-117(2).

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delta County as follows:

1. General Rules applicable to the Delta County Board of Adjustments, are hereby attached hereto and incorporated herein by reference as Exhibit A.

ADOPTED AS SET FORTH ABOVE on this ____ day of ____, 2021.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST:

Mike Lane, Chair

Don Suppes, Vice Chair

Teri Stephenson
Delta County Clerk & Recorder

Wendell Koontz, Commissioner

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

Section 1: Authority

1.1 The Delta County Board of County Commissioners (Board) are authorized pursuant to Colorado Revised Statutes (C.R.S.) 30-28-117(2) to provide general rules to govern the organization, procedure, and jurisdiction of the Board of Adjustment (BOA).

1.2 These General Rules are in addition to and in complementary with those rules governing the BOA contained in the Resolution and Land Use Code adopted by the Board on January 5, 2021 and recorded at reception No. 725219.

1.3 Pursuant to C.R.S. 30-28-117(2) the BOA may adopt supplemental rules of procedure not inconsistent with C.R.S. or rules established by the Board.

Section 2: Board of Adjustment Purpose

2.1 The purpose of the BOA shall be to implement applicable sections of C.R.S. and the Delta County's Land Use Code (LUC); e.g., review of applications for variances, minor amendments, and appeals of administrative determinations.

Section 3: Definitions/Acronyms

3.1 As used herein, "the Board" shall mean the Delta County Board of County Commissioners.

3.2 As used herein, "the BOA" shall mean the Board of Adjustment.

3.3 As used herein, "the Staff" shall mean the Delta County Planning and Community Development Department staff, both individually and collectively.

Section 4: Jurisdictional Area

4.1 The jurisdictional area of the BOA shall be limited to the unincorporated areas of Delta County.

Section 5: Member Duties

5.1 Membership

- a. The BOA shall consist of three members appointed by a majority of the Board.
- b. There shall be one member appointed from each Commissioner District.
- c. Terms shall be for three (3) years unless otherwise specified by the Board. To stagger the membership, initial appointments (beginning 2021) shall be as follows:

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

1. District 1, three (3) years
2. District 2, two (2) years
3. District 3, one (1) year

5.2 Attendance

Each BOA member shall have the responsibility of attending all regular and special meetings, including work sessions, of the BOA so that the business of the BOA can be conducted in an effective, efficient and responsible manner.

5.3 Compensation

Members of the BOA, including Associate members if applicable, shall receive as per diem compensation for meetings attended while serving on the BOA as follows: \$50 per meeting and travel expenses.

5.4 Reimbursement

BOA members shall be reimbursed for travel expenses to attend scheduled meetings at a rate established by the Board of County Commissioners. All other expenses incurred while conducting business of the BOA will require Director approval for reimbursement prior to incurring the expense. Such reimbursements that require Director approval include, but are not limited to, conferences and/or meetings in other jurisdictions and travel expenses to such conferences/meetings.

Section 6: Meetings

6.1 Quorum

- a. A quorum of the BOA shall be a minimum of two (2) members present at the beginning of a meeting. No public hearing or meeting shall be held unless a quorum is present. In the absence of a quorum, the BOA shall terminate any scheduled public hearing or meeting within a reasonable time after gathering.
- b. If a public hearing or meeting has not been convened due to lack of quorum; applications that require public notice will not be required to republish notice.

6.2 Official Action

- a. No action of the BOA is official unless authorized by a majority of the members of the BOA present at a regular or special meeting.
- b. In the event a quorum is not present, all items on the agenda will be tabled until the next regular meeting of the BOA or until a special meeting is called.

6.3 Order of Business

The order of business shall be set forth in an agenda prepared by the Staff as follows, unless otherwise ordered by the BOA Chair:

- A. Call to Order.
- B. Approval of minutes from previous meeting(s).
- B. Consideration of and action on applications tabled from a prior meeting.

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

- C. New applications.
- D. Other Agenda Business.
- E. New Business.
- F. Adjournment.

6.4 Order of Presentation of Agenda Application Matters

After the BOA Chair has brought the meeting to order, the BOA Chair shall establish the rules of the meeting, after consultation with the Staff and subject to the approval of the BOA. The order of presentation with respect to each application generally will be as follows:

- A. Presentation of the application by Staff.
- B. Questions of the BOA directed to Staff.
- C. Presentation by the Applicant.
- D. Questions of the BOA to the applicant.
- E. Public Comments.
- F. Final comments, rebuttal, from the applicant.
- G. Final questions of the BOA.
- H. Closing of public comments.
- I. Deliberation of the BOA.
- J. Motion and official action by the BOA.

6.5 Establishment of Meeting Agendas

- a. The Staff, in consultation with the BOA Chair, shall establish the agenda for regular and special meetings.
- b. A BOA member may request that a specific matter, directly related to BOA business, be included on a future meeting agenda by making such request as a new business item in a regular meeting. Such matters will be scheduled for discussion in the next available meeting, subject to public notice requirements.

6.6 Rules of Order

- a. Evidentiary hearings before the BOA should be conducted in an orderly manner but need not strictly conform to the rules of procedure and evidence necessary in a judicial proceeding. Proceedings may be conducted in an informal manner; the basic requirement is that the principals of fundamental fairness be observed.
- b. Roberts Rules of Order shall govern the BOA in all parliamentary procedures unless otherwise specified in these General Rules.

6.8 Form for Motions on Applications

BOA actions are final, unless appealed to the Board. Motions on applications shall be made for approval, approval with conditions or denial. Application motions shall make reference to the applicable sections of County regulations that may control the recommended action.

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

6.9 Continuance of Agenda Item

When the BOA decides to continue or table a matter or application before it, it may do so by motion without any requirement for further notice to the affected parties or the public. The matter postponed shall be scheduled to the nearest future regular or special meeting. No further notice shall be required provided the matter is continued to a date and time certain.

6.10 Appeals.

- a. Decisions and/or determinations by the Director may be appealed to the BOA by an aggrieved party. The hearing before the BOA shall be de novo.
- b. Decisions of the BOA may be appealed to the Board by an aggrieved party. The hearing before the Board shall be of record.
- c. In order to initiate an appeal, an aggrieved party must submit a complete appeal application and filing fee within the prescribed timeline. Said application shall include, but not be limited to, information about how the appellant is aggrieved.

Section 7: Voting Privileges

7.1 Voting Right

Each member, including the BOA Chair and Vice-Chair, shall have one (1) vote and shall exercise that voting right at the appropriate time during the proceedings. Proxies are not to be allowed.

7.2 Conflict of Interest

- a. Any member of the BOA who has a conflict of interest on any matter that comes before the BOA shall disclose the conflict on the record and then shall voluntarily excuse him/herself, vacate his/her seat, leave the room where necessary to avoid any appearance of influence on the matter under consideration, and refrain from discussing or voting on the matter. A conflict of interest includes any situation where a BOA member:
 1. Has a direct financial interest in the matter; or
 2. Will be directly affected by the decision in the matter; or
 3. Believes he or she has a conflict of interest as defined by an applicable law; or
 4. Will gain an advantage to relations, groups, or associations to whom he or she is affiliated.
- b. A member who has an application before the BOA shall recuse his or her position on the BOA as to such application and participate in the matter as the applicant before the BOA without any voting rights in the matter.

Section 8: Officers

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

8.1 Elective Office

The elected officers of the BOA shall be the BOA Chair and Vice-Chair who shall be elected by a majority of BOA members.

8.2 Eligibility

Any regular member of the BOA may hold an elected BOA office.

8.3 Duties of the BOA Chair

The BOA Chair shall supervise and manage the BOA and at a minimum shall:

- A. Preside over all meetings of the BOA.
- B. Sign documents of the BOA.
- C. See that all actions of the commission are properly taken.
- D. Advise the Staff on any matters pertaining to the BOA business.
- E. Be the public representative of the BOA.

8.4 Duties of the Vice-Chair

During the absence or disqualification of the BOA Chair, the Vice-Chair shall exercise and perform the duties and responsibilities of the BOA Chair.

8.5 Terms of Office

The term of all elected officers shall be for one (1) year effective on the date of the annual meeting. No elected officer shall serve in that position for more than two (2) consecutive years but may be elected to serve again after a one (1) year hiatus.

8.6 Vacancies

The Vice-Chair shall succeed the BOA Chair if the Chairperson vacates his/her office prior to the expiration of the term. The Vice-Chair shall serve as BOA Chair for the remainder of the unexpired term and the BOA shall elect a new Vice-Chair.

8.7 Nominations

Any member of the BOA can nominate a member of the BOA for the position of any office.

8.8 Elections

If more than one (1) nominee is presented for any office, voting shall be done by secret ballot and a plurality of the votes cast shall be necessary for election. If only one (1) nominee is presented for each office, voting shall be done in a manner specified by the BOA Chair.

Section 9: Committees

9.1 The BOA Chair may appoint members of the BOA to various committees as is necessary to conduct BOA business.

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

Section 10: Amendments

10.1 Amendments to these General Rules

These General Rules may be amended at any meeting of the Board by an official action.

Section 11: County Staff

11.1 Functions of the Staff

The Staff will carry out the day to day operations of the Community Development Department. For the BOA, the Staff shall at a minimum:

- A. Review and approve all financial documents and vouchers for the BOA and its members.
- B. Give, serve, post and advertise all public notices as required by the County's regulations.
- C. Prepare, post and distribute the agenda for meetings of the BOA.
- D. Inform the BOA of any changes to the agenda, absences of any BOA member and any matter related to Planning in which the BOA should be informed.
- E. Prepare Staff reports for all applications in accordance with County regulations for review by the BOA.
- F. A member of the Staff or if necessary, another employee of Delta County shall record the minutes of all meetings of the BOA.
- G. Keep the minutes of all meetings in an appropriate manner.
- H. Arrange and coordinate all field tours and travel for the BOA.
- I. Provide timely meeting notices and policies and documents as may be necessary and required for the effective conduct of BOA meetings.

Section 12: Professional Performance

12.1 Bias

The BOA must hear land use matters that come before them without bias, and without any appearance of bias. This is necessary to instill and maintain public confidence and trust in governing bodies.

BOA members provide input to the Board through various on-the-record actions. BOA members who publicly voice opinions or state positions on these matters create an appearance of impropriety to the public.

It is therefore inappropriate for a member of the BOA to speak in favor of, or in opposition to, an application that was previously before the BOA at any subsequent BOA or Board meeting or other public venue including social media or the news outlets involving the referenced land use matter. In the event that the Board were to refer a matter to the BOA for consideration or recommendations, a BOA member's statement of

EXHIBIT A
General Rules
The Delta County Board of Adjustment
Effective Date: April 6, 2021

opinion or position to the Board on the matter would create the appearance of predetermination, which seriously undermines the public trust.

12.2 Gifts

A BOA member shall not accept any compensation, gift, or service which would violate the provisions of Article XXIX of the Colorado Constitution or applicable C.R.S.

12.3 Ex Parte

A BOA member shall not engage in an ex parte communication regarding any active application that will be heard by the BOA in any quasi-judicial proceeding. An ex parte communication is a communication between a BOA member and a member of the public or an applicant that takes place outside a noticed public hearing or meeting on an application that will be heard by the BOA. A BOA member who engages in ex parte communication shall disclose it to the BOA and consider abstaining from voting if such ex parte communication creates an appearance of impropriety, creates a conflict of interest, or otherwise affects due process in the decision making proceedings.

12.4 Colorado Open Meetings

- a. Meetings of the BOA, including site visits and work sessions shall be open to the public pursuant to C.R.S. 24-6-401 et seq. The BOA may meet in executive session as allowed by law.
- b. BOA members should avoid written and oral communications (including email and social media communications) with other members outside of scheduled meetings concerning any application or other quasi-judicial matter pending before the BOA or that has been considered by the BOA in the past as well as individuals and groups that may appear before the BOA with respect to such applications. Such communications can meet the definition of a public meeting and must be avoided to prevent potential violations of the Colorado Open Meetings Law.