

DELTA COUNTY BOARD OF ADJUSTMENT

**Administration Building – Board Room
560 Dodge St., Delta, CO 81416
Thursday, October 21, 2021 @ 5:30 p.m.
Special Meeting**

**Mark Roeber, Chair
Brett Hilling, Vice-Chair
Carl Holm, Director**

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/tZ0ufu6grDliE9LFgFpKEZBzav8fdG_U3gf

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

You can also obtain a copy of the agenda for this meeting at:

<https://www.deltacounty.com/AgendaCenter/Delta-County-Board-of-Adjustment-8>

REGULAR AGENDA

5:30 P.M. – CALL TO ORDER

ROLL CALL

Mike Twamley, District 1
Brett Hilling, District 2
Mark Roeber, District 3

A. PUBLIC COMMENTS

This is time set aside for the public to comment on matters not on the agenda. The Chair may set a time limit for speakers.

B. AGENDA ADDITIONS, DELETIONS, AND CORRECTIONS

The Board of Adjustment Secretary will announce changes to the agenda that arose after posting of the agenda.

C. APPROVAL OF CONSENT AGENDA

1. Meeting Minutes for September 23, 2021. Approve the minutes as presented.
2. PLN21-014/N. Hutto. Adopt a resolution with findings and evidence supporting Board of Adjustment action on September 23, 2021 to approve PLN21-014/N. Hutto, subject to conditions.

CERTIFICATION OF POSTING

On 10/14/2021 at 3:30 PM, Kate Kelly did post the above AGENDA as public notice of the 10/21/2021 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.

3. PLN21-020/Becker-Beeson. Adopt a resolution with findings and evidence supporting Board of Adjustment action on September 23, 2021 to approve PLN21-020/Becker-Beeson, subject to conditions.

SCHEDULED ITEMS

1. PLN21-041/Bachman

Consider a variance to allow creating one parcel of approximately 4.1 (+/-) acres in the Agricultural (20-acre) zoning designation (A-20). The property is located at 455 1740 Road, south of F Road, Delta.

RECOMMENDATION: Staff recommends that the Board of Adjustment adopt a resolution:

- a) Finding that the project meets the required criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code);
- b) Finding that the project meets the required findings for a variance (Chapter 10, Section 2.A.2 Land Use Code); and
- c) Approve a variance for PLN21-041/Bachman, a Minor Plat allowing one 4.1 (+/-) acre parcel in the A-20 zoning designation as part of a 2-Lot subdivision located at 455 1740 Road (south of F Road), Delta (Parcel: 3455-292-00-010), subject to six (6) conditions.

2. PLN21-072/Straub

Consider a variance to allow creating parcels of approximately 5.36 acres (Lot 1) and 15.88 acres (Lot 2) in the Agricultural (20-acre) zoning designation (A-20). The property is located at 37441 Back River Road, Paonia.

RECOMMENDATION: Staff recommends that the Board of Adjustment adopt a resolution:

- a) Finding that the project meets the required criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code);
- b) Finding that the project meets the required findings for a variance (Chapter 10, Section 2.A.2 Land Use Code); and
- c) Approve a variance for PLN21-072/Straub, allowing a Minor Plat with parcels of approximately 5.36 acres (Lot 1) and 15.88 acres (Lot 2) in the A-20 zoning designation located at 37441 Back River Road, Paonia (Parcel: 3243-153-00-023), subject to four (4) conditions.

D. BOARD COMMENTS, REQUESTS AND REFERRALS

This is time set aside for the Board of Adjustments to comment, request, or refer a matter that is not on the agenda for future consideration.

E. DEPARTMENT REPORT

This is time set aside for the Director to report on matters affecting the Department.

ADJOURNMENT

Adjourn to a Special Meeting on Thursday, October 28, 2021 at 5:30 pm in Delta

CERTIFICATION OF POSTING

On 10/14/2021 at 3:30 PM, Kate Kelly did post the above AGENDA as public notice of the 10/21/2021 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.



REGULAR BOARD OF ADJUSTMENTS MEETING MINUTES
DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
September 23, 2021

Board of Adjustments Members in Attendance:

Mike Twamley
Brett Hilling
Mark Roeber

Planning Staff in Attendance:

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

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

- Item #1: Approval of Consent Agenda
1. PLN21-007/C. Rasmussen. Adopt a resolution with findings and evidence supporting Board of Adjustment action on August 26, 2021 to approve PLN21-007/ C. Rasmussen, subject to conditions.
 2. PLN21-010/Corona. Adopt a resolution with findings and evidence supporting Board of Adjustment action on August 26, 2021 to deny PLN21-010/ Corona.

Motion/Seconded: Bret Hilling moves to approve the consent agenda. Mike Twamley seconds the motion.

- Item #2: Scheduled Items:
Meeting Minutes for August 26, 2021
RECOMMENDATION: Approve the minutes.

Motion/Seconded: Approved with no objections.

- Item #3: PLN21-014 - Hutto
Consider a variance to allow re-subdividing two existing lots and creating one additional lot where all lots do not meet the minimum size for parcels in the Agricultural (35-acre) zoning designation (A-35). The property is located at 17095 B Road, Delta.
RECOMMENDATION: Staff recommends that the Board of Adjustments:
- a. Consider the required variance criteria/findings as they apply to PLN21-014/N. Hutto;
 - b. Provide direction to staff on the BOA's Intent to Approve/Conditionally Approve/Deny a variance for PLN21-014/N. Hutto, a Minor Plat adjusting two existing lots (Lot 1=28.46, Lot 2=3.25 acres) and creating one additional lot (Lot 3=3.53 acres) in the A-35 zoning designation located at 17095 B Road, Delta Parcels: 349518301002 and 349518301001); and
 - c. Direct staff to prepare a resolution reflecting the BOA direction.

Motion/Second: Brett Hilling moves to approve PLN21-014 N.Hutto Minor Plat with staff recommendations and conditions. Brett Hilling seconds the motion.

Action: Motion carried unanimously.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

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

- Item #4: PLN21-020 – Becker-Beeson
Consider a variance to allow subdividing an 80+-acre parcel creating one 2.35-acre lot in the A-35 in the Agricultural (35-acre) zoning designation (A-35). The property is located at 3881 Old Wagon Road, Delta.
RECOMMENDATION: Staff recommends that the Board of Adjustments:
- Consider the required variance criteria/findings as they apply to PLN21-020/Becker-Beeson;
 - Provide direction to staff on the BOA's Intent to Approve/Conditionally Approve/Deny a variance for PLN21-020/Becker-Beeson, a Minor Plat subdividing an 80+-acre parcel into two lots [Lot 1 (78.54 acres) and Lot 2 (2.35 acres)] in the A-35 zoning designation located at 3881 Old Wagon Road, Delta Parcel:345736200006); and
 - Direct staff to prepare a resolution reflecting the BOA direction.
- Motion/Second: Mike Twamley moves to approve PLN21-020 Becker-Beeson Minor Plat with staff recommendations and conditions. Brett Hilling seconds the motion.
- Action: Motion carried unanimously.

Meeting adjourned at 6:06 p.m.

The Board of Adjustment will hold a Special Meeting on Thursday, October 14, 2021 at 5:30 pm in Delta.

Respectfully submitted by:
Administrative Assistant, Kim Henderson

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

PLN21-014/N. HUTTO

RESOLUTION APPROVING A VARIANCE TO ALLOW RE-SUBDIVIDING TWO EXISTING LOTS TOTALING ABOUT 36 ACRES AND CREATING ONE ADDITIONAL LOT WHERE ALL LOTS DO NOT MEET THE MINIMUM SIZE FOR PARCELS IN THE AGRICULTURAL (35-ACRES) ZONING DESIGNATION (A-35) LOCATED AT THE NORTHEAST CORNER OF B ROAD AND ASH MESA ROAD, DELTA (PARCELS:349518301002 & 349518301001/NANCY J. HUTTO).

RECITALS

WHEREAS, Nancy Jessica Hutto owns Parcel 349518301002 (Account R017219), which according to Assessor records is 34.06 acres (Lot 2 of the Sayre Minor Subdivision) that is currently undeveloped irrigated Ag land ; and

WHEREAS, Nancy J. Hutto owns Parcel 349518301001 (Account R017218), which according to Assessor records is 2.05 acres (Lot 1 of the Sayre Minor Subdivision, 17095/17103 B Road), separating the existing homestead from the irrigated Ag lands; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, the subject property is zoned per the Delta County Land Use Code as Agriculture (35-acre) or A-35, which requires a minimum acreage of 35 acres per lot; and

WHEREAS, on April 12, 2021, Nancy Hutto submitted a pre-application form requesting to resubdivide her two properties by splitting a 7-acre field on the southeast portion into two lots and making the existing homestead part of the larger Ag parcel (PLN21-014); and

WHEREAS, parcels created prior to adoption of the Land Use Code that do not meet the minimum acreage required are considered legal parcels; and

WHEREAS, on May 3, 2021, a pre-application conference was held with representatives from the County Planning, Road & Bridge, GIS, and Engineering departments; and

WHEREAS, the application consists of re-subdividing two lots totaling about 36 acres into three lots, creating one new lot, with frontage on the northern boundary of B Road; and

WHEREAS, the Director determined that creating one new lot constitutes a Minor Plat, which is subject to Administrative Review by the Director upon a finding of compliance with the applicable requirements of the Land Use Code; and

WHEREAS, because of the proposal of 36 (+/-) acres being subdivided into lots smaller than the minimum 35 acres, a variance is required that must meet criteria set forth in the Land Use Code; and

WHEREAS, on July 26, 2021, Ms. Nancy Hutto submitted an application requesting consideration of the variance prior to submitting materials for consideration of the subdivision; and

WHEREAS, a variance requires posting and public notice sent to adjacent property owners at least 14 days prior to the public hearing; and

WHEREAS, on September 9, 2021, notice was posted on the property and sent to adjacent property owners informing the public of the date, time and place for the Board of Adjustment hearing this matter; and

WHEREAS, the application (PLN21-014/N. Hutto) came on for a hearing before the Delta County Board of Adjustment on September 23, 2021.

DECISION

NOW, THEREFORE, BE IT RESOVLED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the Delta County Board of Adjustment hereby:

- A. Finds, based on evidence presented in the staff report and this resolution, that the project does meet criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code):
 - 1. The subdivision conforms to all other requirements of the Delta County Land Use Code.
 - 2. The new lots have at least the minimum dimensions set out in the standards for the UGA zoning district (75-foot width, 30-foot frontage).
 - 3. As such, the size and configuration of the new lot minimizes disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat. Irrigation water would be divided between the properties to continue irrigating the field on Lot 2.
 - 4. The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed. Condition #3 requires adding a plat note restricting further subdivision and requires a zoning overlay to illustrate this on the zoning map.

FINDINGS:

Lot 1 received a water tap from Tri-County Water (Tap #: 6565850533), and is served by an existing septic system. Prior to approving the Plat, the applicant will need to provide proof of an adequate water supply for Lots 2 & 3 (Condition #2).

The property has been assigned 34 shares of the Uncompahgre Valley Water Users Association. The plat illustrates that the shares would be assigned as follows: Lot 1 (29 shares), Lot 2 (2.5 shares), Lot 3 (2.5 shares). The applicant will need to prepare an Irrigation Plan for assigning these shares to the proposed lots that will need to be on the Plat (Condition #3).

Lot 1 has an existing access. Lots 2 & 3 will share access, which will require an easement and maintenance agreement (Condition #4). The narrowest frontage/width of the proposed lots is 264 feet.

The property currently includes irrigated lands surrounding the 2+ acres where the homestead has been developed. Irrigation patterns are illustrated on the Preliminary Plat, and the subdivision has been designed considering the irrigation flow. Lots 2 and 3 would impact land that is currently irrigated agriculture, but the better Ag lands would be preserved as part of Lot 1.

The applicant has stated that the reasoning of this project is generally financial to support the main agricultural ranch/operation (Lot 1), and the intent would be for the new owners to have small agricultural use (orchard, livestock, etc.). Condition #5 requires building envelopes on Lots 2 & 3 that restrict the area to be developed and retains land for agricultural purposes.

With approval of the variance, a Minor Plat is required that includes a Plat note reflecting restriction of any lot being subdivided further. Condition #1 also requires a zoning overlay designation that reflects this restriction for Lots 1-3 in order to clearly identify where a variance has been approved.

- B. Further finds, based on evidence presented in the staff report and this resolution, that the project does meet findings for a variance (Chapter 10, Section 2.A.2 Land Use Code):
1. Due to the exceptional narrowness, shallowness, or shape of the subject property on the effective date of this Code, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property.
 2. A variance from strict application of the regulations at issue would relieve such difficulties or hardship.
 3. The requested variance would not create substantial detriment to the public good or substantially impair the intent and purpose of this Code.

FINDINGS:

There are no unique physical conditions relative to shape or topography of the property. The applicant has stated that the reasoning of this project is generally financial. Existing conditions include one parcel that is 2.05 acres around the developed homestead. Lots 2 and 3 would be 3.25 and 3.53 acres, respectively.

The applicant has stated that the reasoning of this project is generally financial to support the main agricultural ranch/operation (Lot 1). Adequacy to sunlight for solar energy devices installed after January 1980 can be a possible consideration in determining difficulty or hardship. There is no solar on the property to be considered in determining difficulty or hardship.

The intent would be for the new owners of Lots 2 and 3 to have small agricultural use (orchard, livestock, etc.). Condition #5 requires building envelopes on Lots 2 & 3 that restrict the area to be developed and retains land for agricultural purposes.

- C. Approves a variance for PLN21-014/N. Hutto, a Minor Plat adjusting two existing lots (Lot 1=28.46, Lot 2=3.25 acres) and creating one additional lot (Lot 3=3.53 acres) in the A-35 zoning designation located at 17095 B Road, Delta Parcels: 349518301002 and 349518301001).

ADOPTED AS SET FORTH ABOVE on this 21st day of October, 2021 upon motion of Board member Brett Hilling, seconded by Board member Mike Twamley, by the following vote:

AYES: Twamley, Hilling, Roeber
NOES: None
ABSENT: None
ABSTAIN: None

COUNTY OF DELTA
STATE OF COLORADO

Carl P. Holm, AICP
Planning Commission Secretary

Dated: _____

EXHIBIT A

Conditions of Approval N. Hutto Minor Plat (PLN21-014) October 21, 2021

1. Include a note on the plat that Lot 1, Lot 2 and Lot 3 cannot be subdivided further:
"On September 23, 2021, the Delta County Board of Adjustment approved a variance for lot size (PLN21-014). Pursuant to Land Use Code Chapter 3, Section 1.A.3.d, "No further subdivision of either lot created by the subdivision is allowed."
An overlay zoning designation will be created for this property to highlight that these properties cannot be subdivided further.
2. Prior to approving the Plat, the applicant shall provide proof of an adequate water supply for Lots 2 & 3 pursuant to Land Use Code Chapter 5, Section 3.B.
3. The applicant shall submit an Irrigation Plan, including a Plat note, assigning irrigation shares to the proposed lots and explaining rights to irrigation water pursuant to Land Use Code Chapter 4, Section 5.F.
4. The applicant shall illustrate an easement on the Plat and provide a Maintenance Agreement for shared access between Lots 2 and 3.
5. The Final Plat shall include building envelopes on Lots 2 & 3 that restrict the area to be developed on the front 1/3 of the lot in order to retain land for agricultural purposes, to the satisfaction of the Director of Community Development and Natural Resources.

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

PLN21-020/BECKER-BEESON

RESOLUTION APPROVING A VARIANCE TO ALLOW SUBDIVIDING AN 80+ ACRE PARCEL CREATING ONE 2.35-ACRE LOT IN THE AGRICULTURAL (35-ACRES) ZONING DESIGNATION (A-35) LOCATED AT 3881 OLD WAGON ROAD, DELTA (PARCEL:345736200006/JOHN H. BEESON TRUST).

RECITTALS

WHEREAS, John H. Beeson Trust (Thelma Starner, Trustee) owns Parcel 345736200006 (Account R015736), which according to Assessor records is 80.3628 acres; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, the subject property is zoned per the Delta County Land Use Code as Agriculture (35-acre) or A-35, which requires a minimum acreage of 35 acres per lot; and

WHEREAS, on April 12, Shawn Becker, with authority from Thelma Starner (Trustee) submitted a pre-application form requesting to "*subdivide approximately 2.4 acres from the NE Corner of an 80-acre parcel...*" (PLN21-020); and

WHEREAS, the Director of Community Development and Natural Resources waived requirement for a pre-application conference but met with the applicant on separate occasions to review the intent; and

WHEREAS, the application consists of a 2-lot subdivision (Minor Plat) from an approximately 80-acre parcel with frontage on the western boundary of Old Wagon Road; and

WHEREAS, because of the proposal to create a 2.5-acre lot results in a lot smaller than the minimum 35 acres, a variance is required that must meet criteria set forth in the Land Use Code; and

WHEREAS, Minor Plats are issued by the Director upon a finding of compliance with the applicable requirements of the Land Use Code; and

WHEREAS, on August 3, 2021, Mr. Shawn Becker (applicant) and Ms. Thelma Starner (owner, Trustee) submitted an application requesting consideration of the variance prior to submitting materials for consideration of the subdivision; and

WHEREAS, a variance requires posting and public notice sent to adjacent property owners at least 14 days prior to the public hearing; and

WHEREAS, on September 9, 2021, notice was posted on the property and sent to adjacent property owners informing the public of the date, time and place for the Board of Adjustment hearing this matter; and

WHEREAS, the application (PLN21-020/Becker-Beeson) came on for a hearing before the Delta County Board of Adjustment on September 23, 2021.

DECISION

NOW, THEREFORE, BE IT RESOVLED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the Delta County Board of Adjustment hereby:

- A. Finds, based on evidence presented in the staff report and this resolution, that the project does meet criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code):
 - 1. The subdivision conforms to all other requirements of the Delta County Land Use Code.
 - 2. The new lots have at least the minimum dimensions set out in the standards for the UGA zoning district (75-foot width, 30-foot frontage).
 - 3. As such, the size and configuration of the new lot minimizes disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat. Irrigation water would be divided between the properties to continue irrigating the field on Lot 2.
 - 4. The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed. Condition #3 requires adding a plat note restricting further subdivision and requires a zoning overlay to illustrate this on the zoning map.

FINDINGS:

Prior to approving the Plat, the applicant will need to provide proof of an adequate water supply for Lot 2 (Condition #2). A septic permit is required when the site is developed.

The property has an existing water tap from Tri-County Water that will remain with Lot 1 (3881 Old Wagon Road). The applicant will need to prepare an Irrigation Plan for assigning irrigation shares to the proposed lots (source and quantity) that will also need to be stated on the Final Plat (Condition #3).

Lot 1 has an existing access. Lot 2 will use the same point of access off Old Wagon Road and then will become a private driveway at the property line of Lot 2. The shared access will require an easement and maintenance agreement (Condition #4).

Lot 2 dimensions are at least 250 feet by 360 feet. Lot 2 is located in an area where there is about 1+ acre of hayfield and that contained a residence that was removed several years ago. The intent is to construct a new residence and shop where there is infrastructure from the original homestead, keeping the developed portion contained in the northeast corner of the property.

With approval of the variance, a Minor Plat is required that includes a Plat note reflecting a restriction from further subdivision. Creating 35+ acres lots for agricultural purposes would be exempt from subdivision regulations so would this restriction would not apply in that case. Condition #1 also requires a zoning overlay designation that reflects this restriction for Lots 1 and 2 in order to clearly identify that a variance has been approved.

- B. Further finds, based on evidence presented in the staff report and this resolution, that the project does meet findings for a variance (Chapter 10, Section 2.A.2 Land Use Code):
1. Due to the exceptional narrowness, shallowness, or shape of the subject property on the effective date of this Code, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property.
 2. A variance from strict application of the regulations at issue would relieve such difficulties or hardship.
 3. The requested variance would not create substantial detriment to the public good or substantially impair the intent and purpose of this Code.

FINDINGS:

There are no unique physical conditions relative to shape or topography of the property. However, Lot 2 includes a portion of the property that has been developed as part of the original homestead, bordered by existing access roads. The reasoning of this project is generally to allow Mr. Shawn Becker to own and construct a new residence. Granting a variance would restrict the remaining 78+ acre from being subdivided further, unless the parcels are 35+ acres for agricultural purposes.

Adequacy to sunlight for solar energy devices installed after January 1980 can be a possible consideration in determining difficulty or hardship. There is no solar on the property to be considered in determining difficulty or hardship.

- C. Approves a variance for PLN21-020/Becker-Beeson, a Minor Plat subdividing an 80+ acre parcel creating one 2.35-acre lot in the agricultural (35-acres) zoning designation (A-35) located at 3881 Old Wagon Road, Delta Parcel 345736200006 (Account R015736).

ADOPTED AS SET FORTH ABOVE on this 21st day of October, 2021 upon motion of Board member Mike Twamley, seconded by Board member Brett Hilling, by the following vote:

AYES: Twamley, Hilling, Roeber
NOES: None
ABSENT: None
ABSTAIN: None

COUNTY OF DELTA
STATE OF COLORADO

Carl P. Holm, AICP
Planning Commission Secretary

Dated: _____

EXHIBIT A

Conditions of Approval Becker-Beeson Minor Plat (PLN21-020) October 21, 2021

1. Include a note on the plat that Lot 1 and Lot 2 cannot be subdivided further (excludes creating parcels 35+ acres for agricultural purposes). An overlay zoning designation will be created for this property to highlight that these properties cannot be subdivided further.
2. Prior to approving the Plat, the applicant shall provide proof of an adequate water supply for Lot 2.
3. The applicant shall submit an Irrigation Plan assigning irrigation shares (source and quantity) to the proposed lots and how said irrigation is managed; specify the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.). Also include a Plat note explaining rights to irrigation water.
4. The applicant shall submit an Access Easement and Maintenance Agreement for shared access between Lots 1 and 2.
5. Include a building envelope on Lot 1 that restrict the area to be developed around the existing structures (near Lot 2) and retains land for agricultural purposes.



STAFF REPORT

**Board of Adjustment
Board Room
560 Dodge Street, Delta, CO 81416**

Thursday, October 21, 2021 @ 5:30 p.m.

PLN21-041/Bachman

Consider a variance to allow creating one parcel of approximately 4.1 (+/-) acres in the Agricultural (20-acre) zoning designation (A-20). The property is located at 455 1740 Road, south of F Road, Delta

PROJECT INFORMATION:

Property Owner: Jeffrey Bachman

Applicant/Representative: Jeffrey & Tammy Bachman

Site Address: 455 1740 Road, Delta

Location: SE ¼ NW ¼ Section 29, Township15S, Range 95W, 6th P.M.

Parcel ID/Acct: 3455-292-00-010/R013292

Parcel Size: 39.5 acres

Zoning: A-20

RECOMMENDATION:

Staff recommends that the Board of Adjustments adopt a resolution (**Attached**):

- a) Finding that the project meets the required criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code);
- b) Finding that the project meets the required findings for a variance (Chapter 10, Section 2.A.2 Land Use Code); and
- c) Approve a variance for PLN21-041/Bachman, a Minor Plat allowing one 4.1 (+/-) acre parcel in the A-20 zoning designation as part of a 2-Lot subdivision located



at 455 1740 Road (south of F Road), Delta (Parcel: 3455-292-00-010), subject to six (6) conditions.

Staff recommends that the BOA take an action on the intent to approve, conditionally approve, or deny this request for a variance. If needed, staff will amend the resolution per the BOA direction. Alternatively, the BOA could deny or continue the matter with direction on findings/changes to the project. Upon adopting a resolution an aggrieved party could appeal the BOA decision to the Board of County Commissioners.

SUMMARY:

Jeffrey and Tammy Bachman, owner/applicant, are requesting to subdivide a 39.5-acre parcel into two lots:

- Lot 1 would be 4.1 acres with one double wide trailer as the main house, with multiple outbuildings located on the property. There is an existing water tap (Tap #351) and wastewater system for this residence. The lot configuration for Lot 1 was created based on the location of the leach field that sits behind the west side of the trailer.
- Lot 2 would be a 34.7-acre parcel that is primarily used for agricultural purposes. Development of a home on this lot would require approval of access to receive an address, which is required to obtain a septic permit. There is a retention pond located on the property that would be located on Lot 2. The applicant intends to build a new home on Lot 2 north of this pond.

The site consists of one residence with multiple outbuildings. A majority of the land is irrigated and would remain agricultural. The surrounding area consists of irrigated parcels with some residential homes in the surrounding areas.

The “UVWUA Irrigation Ditch GHE Lateral” runs through the property, and there are 22.5 shares of irrigation water assigned to the property. This irrigation water would be divided with 2.8 shares assigned to Lot 1 and 19.7 shares with Lot 2. An aerial photograph illustrates that irrigation generally flows north and south. As designed, the proposed Lot 1 would impact irrigation operations.

In order to approve a Minor Plat, the lots must be designed to protect irrigated agriculture. Staff finds that that Lot 1 must be designed with consideration of irrigation and access. Lot 2 will require a Building Envelope to define the specific area allowed for development, limiting impact to the irrigated lands. An Irrigation Plan will be required that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.). The Minor Plat needs to be designed to protect as much irrigated land as possible given the irrigation.

The property located west of 1740 Road and south of F Road, is zoned Agriculture (20-acres) or “A-20” per the Delta County Land Use Code (LUC). The minimum acreage for



subdividing this parcel is 20 acres per lot so the proposal to subdivide a 4.1 (+/-) acre lot from the 39+-acre parcel does not meet standards set forth in the LUC. As such, a variance is required for Lot 1 – Lot 2 meets the minimum acreage. A sketch of the proposed subdivision, with and without an aerial overlay, is attached (**Attachment**).

Access was discussed at the pre-application conference and it was confirmed that there is an existing driveway off of 1740 Road that comes in at a 45° angle to the existing trailer. A site visit by R&B determined that the driveway has adequate site distance and does not need to be reconstructed. There is a second access to the property located on the north boundary of the parcel and that it was used by the ditch rider. Staff finds that a shared access is not a viable option and a second access to the property, most likely located along the northern boundary, would be acceptable. Elm trees will need to be removed along the north property line to improve the sight distance for Lot 2 access.

Engineering determined that 1740 Road is classified as a Local Service Road with a 60-foot right-of-way (ROW), and is County maintained. This project requires dedicating an additional 10 feet right-of-way for the west side of 1740 Road from the centerline of the road (0.78 acres).

Tri-County commented that Tap #351 currently serves this property. They currently have capacity to serve another tap at this location. The applicant informed staff that Tri-County recently installed a new water meter on 1740 Road.

The Plat will be required to include easements for access to service the infrastructure, the water lines and all other utilities. In addition, the Land Use Code requires a minimum 25-foot setback from County road ROW and 15-foot setbacks from all interior property lines for all structures (including septic). Electrical and plumbing will have to be applied for through the State.

DISCUSSION:

Minor Plats for the creation of two lots, replats, or lot line adjustments approvals are issued by the Director (Director of Community Development and Natural Resources) upon finding compliance with applicable requirements of the Land Use Code (LUC). Because one of the proposed lots does not meet the minimum requirements per the zoning of the parcel, a variance will have to be applied for and presented to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial. Once a decision has been made by the BOA the process will either precede with the Subdivision or an appeal can be filed against the BOA's decision. Approval of a variance requires a condition that there would be no further subdivision of either lot.

The Board of Adjustment (BOA) is designated as the decision-making authority to consider variance applications. Chapter 1, Section 6.C.4 requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. The Land Use Code includes four (4) criteria that must *all* be met for granting a variation of lot size. In addition, there are three (3) findings that must *all* be



met to allow a variance of land use regulation. Staff has prepared a draft resolution that addresses these criteria/findings.

Once a decision has been made by the BOA, the process will either proceed with the Subdivision or the owner has a right to appeal the BOA's decision to the Board of County Commissioners (BoCC). The Director cannot take final action on the Minor Plat until/unless the Variance is approved. Therefore, the applicant submitted an application requesting consideration of the variance before proceeding with the subdivision application. Staff requested enough detail, professionally drawn, for the BOA to be able to make a fully informed decision on the variance.

OTHER AGENCY INVOLVEMENT

A pre-application conference was held with the owner on June 21, 2021. At that meeting, representatives from multiple County departments were present to identify applicable regulations and address potential issues. The purpose of a pre-application conference (meeting) is to inform the applicant of pertinent regulations and identify any potential issues.

A public notice was sent to Adjacent Property Owners. One comment letter was received from a neighbor that supports the proposed application.

Attached material: list, in order as attached

- Draft Resolution
 - o Recommended Conditions
- Sketch Plan
- Sketch Plan, Aerial
- Concept Site Plan

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

PLN21-041/BACHMAN

RESOLUTION APPROVING A VARIANCE TO ALLOW ONE APPROXIMATELY 5-ACRE PARCEL IN THE A-20 ZONING DESIGNATION AS PART OF A 2-LOT SUBDIVISION LOCATED AT 455 1740 ROAD (SOUTH OF F ROAD), DELTA (PARCEL: 3455-292-00-010/BACHMAN).

RECITTALS

WHEREAS, Jeffrey Bachman owns Parcel 3455-292-00-010 (Account R013292), which according to Assessor records is 39.5 acres; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, the subject property is zoned per the Delta County Land Use Code as Agriculture (20-acre) or A-20, which requires a minimum acreage of 20 acres per lot; and

WHEREAS, on May 28, 2021, Jeffrey Bachman submitted a pre-application form requesting to subdivide off approximately 5.0 acres from existing 39.5 acres" (PLN21-041); and

WHEREAS, on June 21, 2021, a pre-application conference was held with representatives from the County Planning, Engineering, and Road & Bridge; and

WHEREAS, the application consists of a 2-lot subdivision (Minor Plat) from an approximately 39.5-acre parcel with frontage on the western boundary of 1740 Road, approximately 2.11 miles southeast of Delta; and

WHEREAS, Minor Plats are issued by the Director upon a finding of compliance with the applicable requirements of the Land Use Code; and

WHEREAS, because of the proposal of a 5.0 (+/-) acre lot being subdivided from the 39.5-acre parcel, a variance is required that must meet criteria set forth in the Land Use Code; and

WHEREAS, on September 7, 2021, Jeffrey & Tammy Bachman submitted an application requesting consideration of the variance prior to submitting materials for consideration of the subdivision; and

WHEREAS, a variance requires posting and public notice sent to adjacent property owners at least 14 days prior to the public hearing; and

WHEREAS, on September 30, 2021, notice was posted on the property and sent to adjacent property owners informing the public of the date, time and place for the Board of Adjustment hearing this matter; and

WHEREAS, the application (PLN21-041/Bachman) came on for a hearing before the Delta County Board of Adjustment on October 21, 2021.

DECISION

NOW, THEREFORE, BE IT RESOVLED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the Delta County Board of Adjustment hereby:

- A. Finds, based on evidence presented in the staff report and this resolution, that the project does meet criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code):
1. The subdivision conforms to all other requirements of the Delta County Land Use Code.
 2. The new lots have at least the minimum dimensions set out in the standards for the UGA zoning district (75-foot width, 30-foot frontage).
 3. As such, the size and configuration of the new lot minimizes disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat. Irrigation water would be divided between the properties to continue irrigating the field on Lot 2.
 4. The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed.

FINDINGS:

Tri-County commented that Tap #351 currently serves this property, and that they currently have capacity to serve another tap at this location.

The "UVWUA Irrigation Ditch GHE Lateral" runs through the property, and there are 22.5 shares of irrigation water assigned to the property. This irrigation water would be divided with 2.8 shares assigned to Lot 1 and 19.7 shares with Lot 2. An aerial photograph illustrate that irrigation generally flows north and south. Condition 2 requires an Irrigation Plan that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.).

There is an existing driveway off of 1740 Road that comes in at a 45° angle to the existing trailer, it was determined that the driveway has adequate site distance and does not need to be reconstructed. A shared access is not a viable option and a second access to the property, so a second access to the property is proposed on the north boundary of the parcel. An access permit will be required and elm trees will need to be removed along the north property line to improve the sight distance for Lot 2 access.

The Plat will be required to include easements for access to service the infrastructure, the water lines and all other utilities. In addition, the Land Use Code requires a minimum 25-foot setback from County road ROW and 15-foot setbacks from all interior property lines for all structures (including septic). Electrical and plumbing will have to be applied for through the State.

Condition #3 requires adding a plat note restricting further subdivision and requires a zoning overlay to illustrate this on the zoning map.

- B. Further finds, based on evidence presented in the staff report and this resolution, that the project does meet findings for a variance (Chapter 10, Section 2.A.2 Land Use Code):
1. Due to the exceptional narrowness, shallowness, or shape of the subject property on the effective date of this Code, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property.
 2. A variance from strict application of the regulations at issue would relieve such difficulties or hardship.
 3. The requested variance would not create substantial detriment to the public good or substantially impair the intent and purpose of this Code.

FINDINGS:

There are no unique physical conditions relative to shape or topography of the property. The stated purpose for this variance is to create a second lot where there is not enough land to meet the acreage required by zoning. According to the application, the reason provided for requesting a variance/subdivision is that the trailer is not big enough for the family and the owners cannot afford to build without selling off some land.

Pursuant to the Land Use Code, adequacy to sunlight for solar energy devices installed after January 1980 can be a possible consideration in determining difficulty or hardship. Staff finds that there is no solar on the property to be considered in determining difficulty or hardship.

The BOA finds that holding to the strict regulations for A20 zoning would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property. This variance will allow the owner to retain the property and continue some agricultural operations. Lot 1 has limited agricultural land that will be minimally impacted by this subdivision.

In order to approve a Minor Plat, the lots must be designed to protect irrigated agriculture. As designed, the proposed Lot 1 would impact irrigation operations. Lot 1 must be designed with consideration of irrigation and access. Lot 2 will require a Building Envelope to define the specific area allowed for development, limiting impact to the irrigated lands.

- C. Approves a variance for PLN21-041/Bachman, a Minor Plat allowing one 4.1 (+/-) acre parcel in the A-20 zoning designation as part of a 2-Lot subdivision located at 455 1740 Road (south of F Road), Delta (Parcel: 3455-292-00-010), subject to six (6) conditions.

ADOPTED AS SET FORTH ABOVE on this 21st day of October, 2021 upon motion of Board member _____, seconded by Board member _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

COUNTY OF DELTA
STATE OF COLORADO

Carl P. Holm, AICP
Planning Commission Secretary

Dated: _____

EXHIBIT A

Conditions of Approval PLN21-041/Bachman

1. The Minor Plat shall include/provide easements necessary for access to service the infrastructure, water lines and all other utilities, including irrigation lines/ditches and water delivery systems (e.g. removal of tail/wastewater).
2. Provide an Irrigation Plan that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.) Irrigation water (22.5 shares) would be divided with 2.8 shares assigned to Lot 1 and 19.7 shares with Lot 2. The Final Plat shall reflect how irrigation water is assigned.
3. Include a note on the plat that Lot 1 and Lot 2 cannot be subdivided further: *“ON OCTOBER 21, 2021, THE DELTA COUNTY BOARD OF ADJUSTMENTS APPROVED A VARIANCE FOR LOT SIZE (PLN21-041). PURSUANT TO LAND USE CODE CHAPTER 3, SECTION 1.A.3.d, NO FURTHER SUBDIVISION OF EITHER LOT CREATED BY THIS SUBDIVISION IS ALLOWED.”* An overlay zoning designation will be created for this property to highlight that these properties cannot be subdivided further.
4. The Minor Plat needs to be designed to protect as much irrigated land as possible given the irrigation. Lot 1 must be designed with consideration of irrigation and access and Lot 2 will require a Building Envelope to define the specific area allowed for development, limiting impact to the irrigated lands to the satisfaction of the Planning Department.
5. 1740 Road is classified as a Local Service Road with a 60-foot right-of-way (ROW), and is County maintained. This project requires dedicating an additional 10 feet right-of-way for the west side of 1740 Road from the centerline of the road.
6. Prior to recording a Final plat, the owner shall obtain a permit from Delta County to install access and remove elm trees along the north property line to improve the sight distance for Lot 2 access.

SKETCH PLAN
BACHMAN SUBDIVISION
WITHIN THE SE1/4 NW1/4 SEC. 29
T.15S., R.95W., 6TH P.M.
DELTA COUNTY, COLORADO

SUBDIVISION DEDICATION

Mr. Jeffrey Bachman and Tammy Bachman, being the owners of land described as follows:

In Delta County, Colorado, under the name of BACHMAN SUBDIVISION, has laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, easements, and other improvements shown hereon, together with the right to install and maintain for the installation and maintenance of public utilities as shown herein.

In witness whereof Jeffrey Bachman and Tammy Bachman have subscribed their names this _____ day of _____, A.D. 20____.

By: Jeffrey Bachman _____ By: Tammy Bachman _____

NOTARIAL:
State of _____ } ss.
County of _____ }
The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Jeffrey Bachman and Tammy Bachman

My commission expires: _____

My address is _____

Witness my hand and official seal. _____

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

This plat of the above subdivision has been checked for compliance by _____ on this _____ day of _____.

Planning Staff

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of BACHMAN SUBDIVISION is approved this _____ day of _____, A.D. 20____, and the roads and other public areas are hereby accepted provided, however, that such acceptance shall not in any way be considered as an acceptance 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 in effect at that time.

Chairman _____

Attest _____

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 _____, A.D. 20____.

Treasurer of Delta County, Colorado _____

COUNTY SURVEYOR'S CERTIFICATE:
Approved for content and form only and not as to the accuracy of survey, computations or drafting pursuant to CRS 38-51-106.

County Surveyor _____ Date _____

SURVEYOR'S CERTIFICATION

I, Randy A. Wilmore, do hereby certify that the above described parcel has been surveyed by me and that my survey is accurate and correct. My survey is accurately represented on this plat and is based upon my knowledge, information and belief, and is in accordance with applicable standards of practice and is not a guaranty or warranty, either expressed or implied.

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR #25972

NOTE: According to Colorado law, any legal action based upon a defect in this survey must be commenced within the time specified herein. Any defect in this survey shall be deemed to have been known by the owner of the land at the time of the survey.



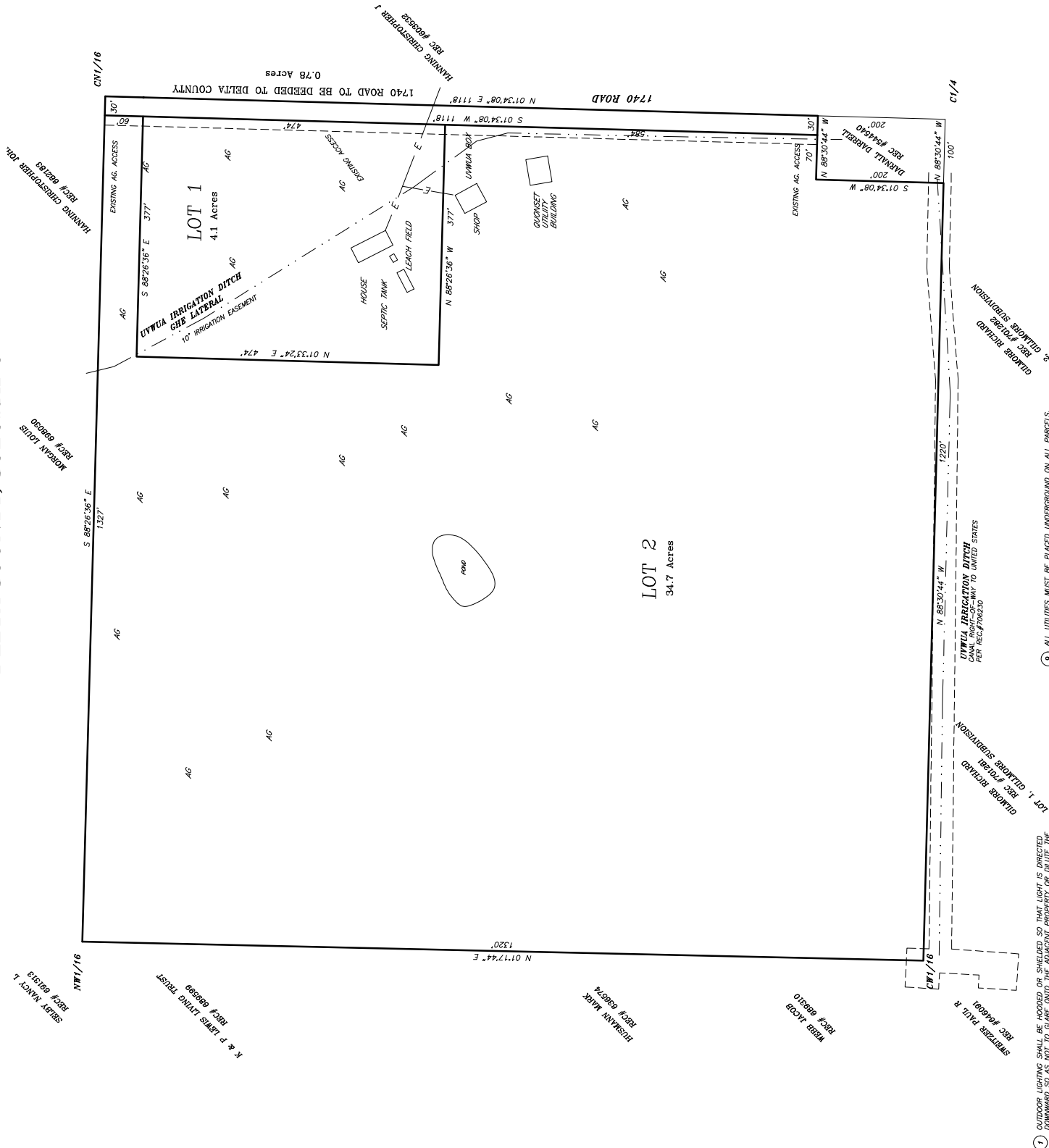
WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

408 Grand Avenue
P.O. Box 1682
Pueblo, Colorado 81428
970.527-4200 PHONE
970.265-4130 PHONE
www.wilmorelandsurveying.com
EMAIL: randy@wilmorelandsurveying.com

BACHMAN SUBDIVISION
WITHIN THE SE1/4 NW1/4 SEC. 29
T.15S., R.95W., 6TH P.M.
DELTA COUNTY, COLORADO

J21250FINAL

3 SEPTEMBER 2021



- OUTDOOR LIGHTING SHALL BE HOODED OR SHIELDED SO THAT LIGHT IS DIRECTED AWAY FROM THE ADJACENT PROPERTY OR ADJUT THE NIGHT SKY.
- ALL DEVELOPMENT IN DELTA COUNTY IS SUBJECT TO THE DELTA COUNTY RIGHT TO FARM ACT AND THE DELTA COUNTY RIGHT TO FARM ACT. THE BOARD OF COUNTY COMMISSIONERS ON SEPTEMBER 27, 1998.
- THIS PROPERTY IS LOCATED IN AN AGRICULTURAL AREA. AGRICULTURAL ACTIVITIES WILL CONTINUE UNABATED IN THE SURROUNDING AREAS AND MUST NOT BE A BASIS FOR A LANSUIT, EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE.
- ACCESS TO ALL SHOWN OR UN-SHOWN IRRIGATION DITCHES FOR CLENNING AND MAINTENANCE PURPOSES IS PERMITTED.
- COLORADO IS AN "OPEN RANGE" STATE. IT IS NOT THE RESPONSIBILITY OF A UNSTOCK OWNER TO FENCE IN LIVESTOCK.
- IF THERE ARE COVENANTS, RESTRICTIONS OR OTHER DOCUMENTS FOR THE PROPERTY, THE SAME SHALL BE RECORDED IN THE OFFICE OF THE DELTA COUNTY CLERK AND RECORD.
- EACH LOT OWNER SHALL BE PERSONALLY RESPONSIBLE TO CONTROL UNDESIRABLE NOXIOUS WEEDS WITHIN THE BOUNDARIES OF THAT 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, ALL LOTS WITHIN THIS SUBDIVISION HAVE BEEN APPROVED FOR ONE SINGLE RESIDENTIAL USE ONLY. ANY FURTHER SUBDIVISION OR ANY CHANGE OF USE SHALL BE SUBJECT TO THE DELTA COUNTY PLANNING DEPARTMENT AND THE LOT OWNER TO PROCESS THE REQUEST IN ACCORDANCE WITH THE REGULATION OF DELTA COUNTY.

AREA LOCATOR



TYPICAL LEGEND

- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS25972
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner or linepin PLS25972
- Found 5/8" rebar with 2" aluminum cap PLS25972
- ▣ Found 5/8" rebar with 2" aluminum cap as Witness corner or linepin PLS25972
- Found 3/4" rebar 30" long with 3-1/4" aluminum cap PLS25972 per monument record
- Found 5/8" rebar 30" long with 2" aluminum cap PLS25972
- Found 5/8" rebar with 1 1/2" aluminum cap RLS 1456 or as noted

- Fencelines
- E— Electric (overhead)
- UE— Electric (underground)
- W— Water line
- Easement
- Previous Parcel Boundary
- ▨ New Quit Claim to Delta County
- ▨ Previous R.O.W. to Delta County

BASIS OF BEARINGS:



SCALE 1"=100 U.S. SURVEY FEET



SKETCH PLAN

We, Jeffery Bachman and Tammy Bachman, being the owners of land described as follows:

in Delta County, Colorado, under the name of BACHMAN SUBDIVISION, has laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, alleys, roads and other public areas as shown hereon and those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof Jeffery Bachman and Tammy Bachman have subscribed their names this _____ day of _____, A.D. 20_____.

By: Jeffery Bachman

By: Tammy Bachman

NOTARIAL: _____ ss.
State of _____

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Jeffery Bachman and Tammy Bachman

My commission expires: _____

My address is _____

Witness my hand and official seal.

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

This plat of the above subdivision has been checked for compliance by _____ on this _____ day of _____.

Planning Staff

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of BACHMAN SUBDIVISION is approved this _____ day of _____, AD 20____, and the roads and other public areas are hereby accepted provided, however, that such acceptance shall not in any way be considered as an acceptance 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 in effect at that time.

Chairman

Attest

County Clerk

CERTIFICATE OF TAXES PAID

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 _____, A.D. 20 _____.

Treasurer of Delta County, Colorado

COUNTY SURVEYOR'S CERTIFICATE:

approved for content and form only and not as to the accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

County Surveyor _____ Date _____

SURVEYOR'S CERTIFICATION

Randy A. Wilmore, do hereby certify that the above described parcel has been surveyed by me and under my direct supervision and that such survey is accurately represented hereon, and is based upon my knowledge, information and belief, and is in accordance with applicable standards of practice and is not a warranty or warranty, either expressed or implied.

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR #25972

NOTE: According to Colorado law any legal action based upon a defect in this survey must be commenced within three years after such defect is discovered. In no event may any action based upon any defect in this survey be commenced more than ten years from the date showing the certification herein.

WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

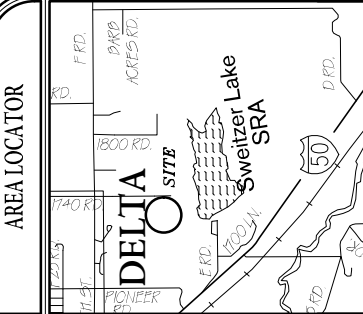
Grand Avenue
Box 1652
Colorado 81428
970.527-4200 PHONE
970.260-4130 PHONE
www.wilmoreandsurveying.com

Defining Roundtrips

J21250FINAL | 3 SEPTEMBER 2021



- 100' 0"
- 1 OUTDOOR LIGHTING SHALL BE PROTECTED OR SHIELDED SO THAT LIGHT IS DIRECTED TOWARD THE LOT AND NOT TO GAZE ONTO THE ADJACENT PROPERTY OR ILLUMINE THE NIGHT SKY.
- 2 ALL DEVELOPMENT IN DELTA COUNTY IS SUBJECT TO THE DELTA COUNTY BOARD TO PLANT AND MAINTAIN TREES AND BUSHES TO PROTECT THE DELTA COUNTY BOARD OF PLANT AND FENCE POLICY ADOPTED AS RESOLUTION BY-1020 BY THE BOARD OF COUNTY COMMISSIONERS ON SEPTEMBER 27, 1999.
- 3 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 LITIGIOUS, EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE.
- 4 ACCESS TO ALL SHOWN OR UN-SHOWN IRRIGATION DITCHES FOR CLEANING AND MAINTENANCE PURPOSES IS PERMITTED.
- 5 COLORADO IS AN "OPEN RANGE" STATE. IT IS NOT THE RESPONSIBILITY OF A LIVESTOCK OWNER TO FENCE IN LIVESTOCK.
- 6 IF THERE ARE COVENANTS, RESTRICTIONS OR OTHER DOCUMENTS FOR THE PROPERTY, IN THIS SUBDIVISION, THE DEED MUST BE RECORDED IN THE OFFICE OF THE DELTA COUNTY CLERK AND RECORDER.
- 7 EACH LOT OWNER SHALL BE PERSONALLY RESPONSIBLE TO CONTROL UNDESIRABLE NOXIOUS WEEDS WITHIN THE BOUNDARIES OF THAT LOT. TO PREVENT THE SPREADING OF NOXIOUS WEEDS, THE DELTA COUNTY BOARD OF PLANT AND FENCE POLICY OF THE DELTA COUNTY NEED MANAGEMENT ADVISORY COMMISSION CONCERNING THE CONTROL OF SUCH WEEDS.
- 8 UNLESS APPROVED OTHERWISE, ALL LOTS WITHIN THIS SUBDIVISION HAVE BEEN APPROVED FOR USE AS SINGLE-FAMILY RESIDENTIAL OR AGRICULTURAL USE. THE LOT OWNER TO PROCESS THE REQUEST IN ACCORDANCE WITH THE REGULATION OF DELTA COUNTY.
- 9 ALL UTILITIES MUST BE PLACED UNDERGROUND ON ALL PARCELS.
- 10 THE MINIMUM SET BACKS FOR ALL STRUCTURES (INCLUDING ONSITE WASTEWATER TREATMENT SYSTEMS), IN THIS SUBDIVISION SHALL BE:
- 25' ANY PUBLIC ROAD ROW
15' INTERIOR PROPERTY LINE
- 11 SHARES OF IRRIGATION WATER CONVERTED TO LOTS AT THE TIME OF PLAT RECORDING WILL NOT BE SOLD SEPARATELY FROM THE PROPERTY AND MAY NOT RUN WITH THE LAND.
- 12 *** shares of Uncompagnate Valley Water Users Assoc. irrigation water shall be assigned as follows:
Lot 1 - ** shares (Uncompagnate Valley Water Users Assoc.)
Lot 2 - ** shares (Uncompagnate Valley Water Users Assoc.)
- Shares of Irrigation water conveyed to lots at the time of plat recording may or may not be included in the subdivision plat. The land on which the lot is subject to the Irrigation from (dated *****), included with this subdivision.
- 13 THIS SITE HAS BEEN IDENTIFIED BY THE COLORADO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE AS BEING IN A CRITICAL WILDLIFE HABITAT AREA. PROPERTY OWNERS MAY SUFFER DAMAGE TO LANDSCAPING, TREES, FENCES, ETC. FROM
- 100' 0"



TYPICAL LEGEND

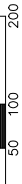
- Set 5/8" Nail in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS535972
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner of Inleap PLS535972
- Found 5/8" rebar with 2" aluminum cap PLS535972
- Found 5/8" rebar with 2" aluminum cap as Witness corner of Inleap PLS535972
- Found 3/4" rebar 30" long with 3/4" aluminum cap PLS535972
- Found 1/2" rebar 30" long with 1/2" aluminum cap per monument record
- Found 5/8" rebar 30" long with 2" aluminum cap PLS535972
- Found 5/8" rebar with 1 1/2" aluminum cap

- | | |
|---|--------------------------------|
| —* | Fencelines |
| —E— | Electric (overhead) |
| —UE— | Electric (underground) |
| —W— | Water line |
| — — — | Easement |
| • • • • • | Previous Parcel Boundary |
|  | New Quit Claim to Delta County |

BASIS OF BEARINGS:



SCALE 1"=100 U.S. SURVEY FEET





□ New Building
Site

● Pond

└─ New Driveway

Proposed Subdivide





-New Build Site





STAFF REPORT

**Board of Adjustment
Board Room
560 Dodge Street, Delta, CO 81416**

Thursday, October 21, 2021 @ 5:30 p.m.

PLN21-072/Straub

Consider a variance to allow creating parcels of approximately 5.36 acres (Lot 1) and 15.88 acres (Lot 2) in the Agricultural (20-acre) zoning designation (A-20). The property is located at 37441 Back River Road, Paonia.

PROJECT INFORMATION:

Property Owner: Michael David Straub Revocable Trust
Applicant/Representative: Michael Straub
Site Address: 37441 Back River Road, Paonia
Location: SE ¼ SW ¼ Section 15, Township14S, Range 92W, 6th P.M.
Parcel ID/Acct: 3243-153-00-023/R007392
Parcel Size: 19.3 acres
Zoning: A-20

RECOMMENDATION:

Staff recommends that the Board of Adjustments adopt a resolution (**Attached**):

- a) Finding that the project meets the required criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code);
- b) Finding that the project meets the required findings for a variance (Chapter 10, Section 2.A.2 Land Use Code); and
- c) Approve a variance for PLN21-072/Straub, allowing a Minor Plat with parcels of approximately 5.36 acres (Lot 1) and 15.88 acres (Lot 2) in the A-20 zoning



designation located at 37441 Back River Road, Paonia (Parcel: 3243-153-00-023), subject to four (4) conditions.

Staff recommends that the BOA take an action on the intent to approve, conditionally approve, or deny this request for a variance. If needed, staff will amend the resolution per the BOA direction. Alternatively, the BOA could deny or continue the matter with direction on findings/changes to the project. Upon adopting a resolution an aggrieved party could appeal the BOA decision to the Board of County Commissioners.

SUMMARY:

Michael Straub, owner/applicant, is requesting to subdivide 22.82 acres (as surveyed) into two lots:

- Lot 1 (5.36 acres) would consist of the existing (1) residence, a shed, two (2) barns.
- Lot 2 (15.88 acres) would include a small orchard, irrigated farmland and an existing well (Permit No. 190354) located on the southeast corner of the property.
- Dedication of right-of-way for Back River Road and Slate Point Road (1.58 acres)

At the pre-application conference, the applicant identified three existing access points to the property:

- 1- Slate Point Road, northeast corner of property (Ag access). Slate Point Road is classified as a Local Service Road that requires a 40-foot right-of-way. The Plat illustrates right-of-way to be dedicated to Delta County for a total of 30 feet from centerline of the road.
- 2- Back River Road, about 400 feet east of Slate Point Road (Ag access). Back River Road is classified as a Minor Arterial Road that requires a 100-foot right-of-way, and there is 60 feet of right-of-way existing. The Plat illustrates an additional 20 feet of right-of-way to be dedicated to Delta County.
- 3- Back River Road where it makes a 90-degree turn (Shared Access to residence and neighbor). There is a 60-foot wide private road easement serving the existing home and the residence north of the property. The Plat illustrates a centerline of the existing access road as it has been constructed. This access easement will need to be adjusted to align with the existing access road.

In addition, Bell Creek Road is located west of the property, but is not used for access. Bell Creek Road is classified as a Local Service Road with a 30-foot right-of-way. Engineering is requesting 30 feet of right-of-way be dedicated to Delta County along this road alignment (not included on the Sketch Plan). Condition 4e requires illustrating this road on the Minor Plat and provide right-of-way (where possible) as part of the subdivision. Staff also recommends that a “no access” strip (1-foot wide) be established to prevent any future attempt to access Bell Road from these properties.

Aerial photos show Short Ditch to run north-south along the west edge of the property (not included on the Sketch Plan). An irrigation divider box is located at the northeast corner of the property. Water coming out of that box is split between three properties;



the subject property owns seven (7) shares (Stewart Ditch and Reservoir Company). Condition #1 and 4f requires the Minor Plat to illustrate these improvements and provide appropriate easements. An Irrigation Plan will be required (Condition #2) that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.).

At the pre-application conference, staff explored options for dividing the property as the applicant intends. The discussion revolved around access and where the building site is located in order to reduce impact to Ag lands and uncertainty of the variance.

Option 1. Lot 2 would have shared access off Back River Road with a building site west of the access road. Utilizing the existing access would reduce impacting Ag land for roads. There would be temporary impacts to run water and electrical underground from their existing location.

Option 2. Lot 2 would take access off Slate Point Road - as far from the intersection as possible. This site would be closer to existing utilities but would impact the more productive area used for Ag production.

The intent of the Land Use Code (and Master Plan) is to minimize taking lands out of Ag production. Establishing a building envelope on Lot 2 would better define the potential impact when considering if a variance should be granted. Staff expressed that a shared-access for both Lot 1 & Lot 2 with a building envelope west of the existing access would be the best option from a planning perspective to reduce impact to Ag lands (Condition 4d). However, we also recognized a potential to create a building site closer to the well. County Road & Bridge stated that they would be ok with access for either option. In either of these options, variances are still required for both lots.

The shape of Lot 1, as proposed, includes an odd triangular piece along the east boundary. Staff recommends that the east boundary be adjusted to follow the centerline of the access easement/road (Conditions 4a and 4b). Aerial imagery as well as the Sketch Plan (**Attached**) provided by the surveyor illustrates a corral/pen extending across the property line with the neighbor to the north. Prior to approving a Final Plat, either this improvement needs to be removed from the subject property, or the project needs to include a lot line adjustment that accommodates the improvement (Condition 4c).

The applicant has provided narrative to address this application (**Attached**).

A plat will need to include access, irrigation, water and utility easements where they cross the lots. In addition, the Land Use Code requires a minimum 25-foot setback from County road right-of-way (ROW) and 15-foot setbacks from all interior property lines for all structures (including septic). Electrical and plumbing will have to be applied for through the State.



DISCUSSION:

Minor Plats for the creation of two lots, replats, or lot line adjustments approvals are issued by the Director (Director of Community Development and Natural Resources) upon finding compliance with applicable requirements of the Land Use Code (LUC). Because one of the proposed lots does not meet the minimum requirements per the zoning of the parcel, a variance will have to be applied for and presented to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial. Once a decision has been made by the BOA the process will either precede with the Subdivision or an appeal can be filed against the BOA's decision. Approval of a variance requires a condition that there would be no further subdivision of either lot.

The Board of Adjustments (BOA) is designated as the decision-making authority to consider variance applications. Chapter 1, Section 6.C.4 requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. The Land Use Code includes four (4) criteria that must *all* be met for granting a variation of lot size. In addition, there are three (3) findings that must *all* be met to allow a variance of land use regulation. Staff has prepared a draft resolution that addresses these criteria/findings.

Once a decision has been made by the BOA, the process will either proceed with the Subdivision or the owner has a right to appeal the BOA's decision to the Board of County Commissioners (BoCC). The Director cannot take final action on the Minor Plat until/unless the Variance is approved. Therefore, the applicant submitted an application requesting consideration of the variance before proceeding with the subdivision application. Staff requested enough detail, professionally drawn, for the BOA to be able to make a fully informed decision on the variance.

PROJECT REFERRAL

A pre-application conference was held with the owner on August 16, 2021. At that meeting, representatives from multiple County departments were present to identify applicable regulations and address potential issues. The purpose of a pre-application conference (meeting) is to inform the applicant of pertinent regulations and identify any potential issues.

A public notice was sent to Adjacent Property Owners for this hearing before the BOA.

Attached material: list, in order as attached

- Draft Resolution
 - o Recommended Conditions
- Sketch Plan
- Sketch Plan, Aerial
- Applicant Narrative

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

PLN21-072/STRAUB

RESOLUTION APPROVING A VARIANCE TO ALLOW CREATING PARCELS OF APPROXIMATELY 5.36 ACRES (LOT 1) AND 15.88 ACRES (LOT 2) IN THE AGRICULTURAL (20-ACRE) ZONING DESIGNATION (A-20). THE PROPERTY IS LOCATED AT 37441 BACK RIVER ROAD, PAONIA (PARCEL: 3243-153-00-023/STRAUB).

RECITALS

WHEREAS, Michael David Straub Revocable Trust owns Parcel 3243-153-00-023 (Account R007392), which according to Assessor records is 19.3 acres and as surveyed is 22.82 acres; and

WHEREAS, on January 5, 2021, Delta County Board of County Commissioners adopted the Delta County Land Use Code (LUC). Resolution No 2021-R-001 repealed regulations regarding land use and subdivision and adopted a new land use code (including zoning maps); and

WHEREAS, the subject property is zoned per the Delta County Land Use Code as Agriculture (20-acre) or A-20, which requires a minimum acreage of 20 acres per lot; and

WHEREAS, August 6, 2021, Michael Straub submitted a pre-application form requesting to subdivide 22.82 acres (as surveyed) into two lots (PLN21-072); and

WHEREAS, on August 16, 2021, a pre-application conference was held with representatives from the County Planning, Engineering, and GIS (Road and Bridge emailed Planning their comments ahead of the meeting); and

WHEREAS, the application consists of a 2-lot subdivision (Minor Plat) from an approximately 22-acre parcel with frontage on the northern boundary of Back River Road and the western boundary of Slate Point Road, between the Towns of Hotchkiss and Paonia (unincorporated Delta County); and

WHEREAS, Minor Plats are issued by the Director upon a finding of compliance with the applicable requirements of the Land Use Code; and

WHEREAS, the application includes creating parcels of 5.36 and 15.88 acres in the A-20 zone; therefore, variances are required that must meet criteria set forth in the Land Use Code; and

WHEREAS, on September 14, 2021, Michael Straub submitted an application requesting consideration of the variance prior to submitting materials for consideration of the subdivision; and

WHEREAS, a variance requires posting and public notice sent to adjacent property owners at least 14 days prior to the public hearing; and

WHEREAS, on September 30, 2021, notice was posted on the property and sent to adjacent property owners informing the public of the date, time and place for the Board of Adjustment hearing this matter; and

WHEREAS, the application (PLN21-072/Straub) came on for a hearing before the Delta County Board of Adjustment on October 21, 2021.

DECISION

NOW, THEREFORE, BE IT RESOVLED, having considered all the written and documentary evidence, the administrative record, and other evidence presented, the Delta County Board of Adjustments hereby:

- A. Finds, based on evidence presented in the staff report and this resolution, that the project does meet criteria for variation to lot size (Chapter 3, Section 1.A.3 Land Use Code):
 - 1. The subdivision conforms to all other requirements of the Delta County Land Use Code.
 - 2. The new lots have at least the minimum dimensions set out in the standards for the UGA zoning district (75-foot width, 30-foot frontage).
 - 3. As such, the size and configuration of the new lot minimizes disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat. Irrigation water would be divided between the properties to continue irrigating the field on Lot 2.
 - 4. The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed.

FINDINGS:

Lot 1 is developed with an existing water source. Lot 2 incudes a well (Permit # 190354) that allows one single family residence.

Short Ditch runs through the property and there is an irrigation divider box that provides water from Stewart Ditch and Reservoir Company (7.0 shares). Condition #2 requires an Irrigation Plan that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.).

There is an existing shared access road off of Back River Road located at a 90° corner. It was determined that the driveway has adequate site distance and does not need to be reconstructed. However, the location and design of Ag access requires a permit and approval by County agencies. A Building Envelope is required for Lot 2 to limit potential impact of irrigated agricultural lands. Condition #4 includes a list of requirements for the Minor Plat to comply with the Land Use Code, and justify approval variances to create two lots that do not meet the minimum size required (20 acres).

The Plat will be required to include easements for access to service the infrastructure, the water lines and all other utilities. In addition, the Land Use Code requires a minimum 25-foot setback from County road ROW and 15-foot setbacks from all interior property lines for all structures (including septic). Electrical and plumbing will have to be applied for through the State.

Condition #3 requires adding a plat note restricting further subdivision and requires a zoning overlay to illustrate this on the zoning map.

- B. Further finds, based on evidence presented in the staff report and this resolution, that the project does meet findings for a variance (Chapter 10, Section 2.A.2 Land Use Code):
1. Due to the exceptional narrowness, shallowness, or shape of the subject property on the effective date of this Code, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property.
 2. A variance from strict application of the regulations at issue would relieve such difficulties or hardship.
 3. The requested variance would not create substantial detriment to the public good or substantially impair the intent and purpose of this Code.

FINDINGS:

There are no unique physical conditions relative to shape or topography of the property. The stated purpose for this variance is to create a second lot where there is not enough land to meet the acreage required by zoning. According to the application, the reason provided for requesting a variance/subdivision is to retain the home and sell off the Ag land to be farmed (no longer able to farm it).

Pursuant to the Land Use Code, adequacy to sunlight for solar energy devices installed after January 1980 can be a possible consideration in determining difficulty or hardship. Staff finds that there is no solar on the property to be considered in determining difficulty or hardship.

The BOA finds that holding to the strict regulations for A20 zoning would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property. This variance will allow the owner to retain the property and continue agricultural operations on Lot 2.

In order to approve a Minor Plat, the lots must be designed to protect irrigated agriculture. As designed, the proposed Lot 2 could impact irrigation operations depending on where development occurs. Condition #4 requires a Building Envelope on Lot 2 to define the specific area allowed for development, limiting impact to the irrigated lands.

- C. Approves a variance for PLN21-072/Straub, allowing a Minor Plat with parcels of approximately 5.36 acres (Lot 1) and 15.88 acres (Lot 2) in the A-20 zoning designation located at 37441 Back River Road, Paonia (Parcel: 3243-153-00-023), subject to four (4) conditions.

ADOPTED AS SET FORTH ABOVE on this 21st day of October, 2021 upon motion of Board member _____, seconded by Board member _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

COUNTY OF DELTA
STATE OF COLORADO

Carl P. Holm, AICP
Planning Commission Secretary

Dated: _____

EXHIBIT A

Conditions of Approval PLN21-072/Straub

1. The Minor Plat shall identify and provide easements necessary for access to service the infrastructure, well/water lines and all other utilities, including irrigation lines/ditches and water delivery systems (e.g. removal of tail/wastewater).
2. Provide an Irrigation Plan that identifies how the shares are assigned (source and quantity), and also specifies the operation of irrigation and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.). The Final Plat shall reflect how irrigation water is assigned. An Irrigation Plan will be required.
3. Include a note on the plat that Lot 1 and Lot 2 cannot be subdivided further: *“ON OCTOBER 21, 2021, THE DELTA COUNTY BOARD OF ADJUSTMENTS APPROVED A VARIANCE FOR LOT SIZE (PLN21-072). PURSUANT TO LAND USE CODE CHAPTER 3, SECTION 1.A.3.d, NO FURTHER SUBDIVISION OF EITHER LOT CREATED BY THIS SUBDIVISION IS ALLOWED.”* An overlay zoning designation will be created for this property to highlight that these properties cannot be subdivided further.
4. The Minor Plat shall address the following to the satisfaction of the Planning Department:
 - a. Replace the existing access easement off Back River Road where it aligns with the access road as constructed. Provide a Shared Access Maintenance Agreement for all lots using this access.
 - b. Revise the eastern boundary of Lot 1 to align with the centerline of the revised access road easement.
 - c. The Minor Plat (survey) shall certify that all structures on Lot 1 meet the required setbacks. The neighboring corral/riding pen shall not encroach onto the subject property (Lot 1).
 - d. Lot 2 requires one Building Envelope to define the specific area allowed for development, limiting impact to the irrigated lands to the satisfaction of the Planning Department. It is recommended that the Building Envelope be located west of the access easement off Back River Road (Orchard site).
 - e. Bell Creek Road (Local Service Road) needs to be identified on the Plat (western boundary), and reflect a 30-foot right-of-way where possible along this road alignment. Establish a 1-foot wide “no access” strip along the Bell Creek Road right-of-way.
 - f. Identify Short Ditch along the western boundary and provide an appropriate easement to be recorded.
 - g. Specifically locate Ag Access off Back River Road and Slate Point Road to the satisfaction of County Engineering and Road & Bridge. Access permits will be required prior to recording a Final Plat.
 - h. Identify the well permit number on the Minor Plat
 - i. Identify the water source (e.g. tap #) for Lot 1 on the Minor Plat.

STRAUB SUBDIVISION

WITHIN THE SE1/4 of the SW1/4 AND WITHIN THE SW1/4 of the SW1/4 OF SECTION 15, T.14S., R.92W., 6TH P.M.

DELTA COUNTY, COLORADO

AGREEMENT:

I/We, being the Owner(s) of the land as shown hereon do hereby agree to the boundary lines as shown hereon and that no new parcels were created by this boundary line agreement.
In witness whereof THE MICHAEL DAVID STRAUB REVOCABLE TRUST and NANCY M. RODRIGUEZ have subscribed their

name(s) this _____ day of _____, A.D. 20____.

THE MICHAEL DAVID STRAUB REVOCABLE TRUST

By: _____
Michael David Straub, as trustee

By: _____
Nancy M. Rodriguez

NOTARIAL:

State of Colorado)
County of Delta) ss.

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Michael David Straub, as trustee of THE MICHAEL DAVID STRAUB REVOCABLE TRUST

My commission expires: _____

My address is _____

Witness my hand and official seal.

NOTARIAL:

State of Colorado)
County of Delta)

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Nancy M. Rodriguez

My commission expires: _____

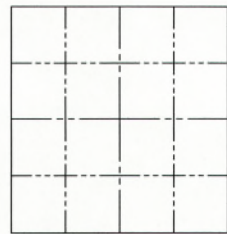
My address is _____

Witness my hand and official seal.

PLAT REFERENCES:

"IMPROVEMENT SURVEY PLAT PREPARED FOR NANCY M. RODRIGUEZ" --RECORDED JULY 22, 2011 UNDER RECEPTION NO. 652099.

SEE PLAT



CONTROL MAP



AREA LOCATOR

TYPICAL LEGEND

- Found Gear Top Spike in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS25972
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner or linepin PLS25972
- Found 5/8" rebar with 1 1/2" aluminum cap LS 12457
- Found 5/8" rebar with 1 1/2" aluminum cap as Witness corner or linepin LS 12457
- Found 3/4" rebar 30" long with 3-1/4" aluminum cap PLS25972 or as noted, per monument record
- Found 3/4" rebar with 3 1/4" aluminum cap PLS 12766
- Found 5/8" rebar Set 2" aluminum cap PLS 25972 on top.
- Found 1 1/2" aluminum cap LS 18453
- Fencelines
- Electric (overhead)
- Electric (underground)
- Water line
- Easement
- Previous Parcel Boundary
- Centerline Ditch
- Centerline Road
- Subdivision line
- Rail Road Tracks

BASIS OF BEARINGS:

S.87°55'26"W. FROM THE 1/4 CORNER COMMON TO SEC. 15 & 22 TO THE W1/16 COR. COMMON TO SEC. 15 & 22 GEODETIC NORTH GPS OBSERVATION

SCALE 1"=100 U.S. SURVEY FEET

0 50 100 200

SURVEYOR'S CERTIFICATION

I, Randy A. Wilmore, do hereby certify that the above described parcel has been surveyed by me and under my direct supervision and that such survey is accurately represented hereon, and is based upon my knowledge, information and belief, and is in accordance with applicable standards of practice and is not a guaranty or warranty, either expressed or implied. I further certify that the monuments shown hereon actually exist, and that their positions are as shown. I further certify that this Boundary Agreement plat is made according to the agreement of the adjoining land owners and that no new parcels were created.

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR #25972

COUNTY SURVEYOR'S CERTIFICATE:

Approved for content and form only and not as to the accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

County Surveyor _____

Date _____



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue P.O. Box 1652 Paonia, Colorado 81428
970.527-4200 PHONE 970.527-4202 FAX
www.wilmorelandsurveying.com

Defining Boundaries

EMAIL: randy@wilmorelandsurveying.com

FIELD CREW:

RAW, CW

DRAFTER:

RAW

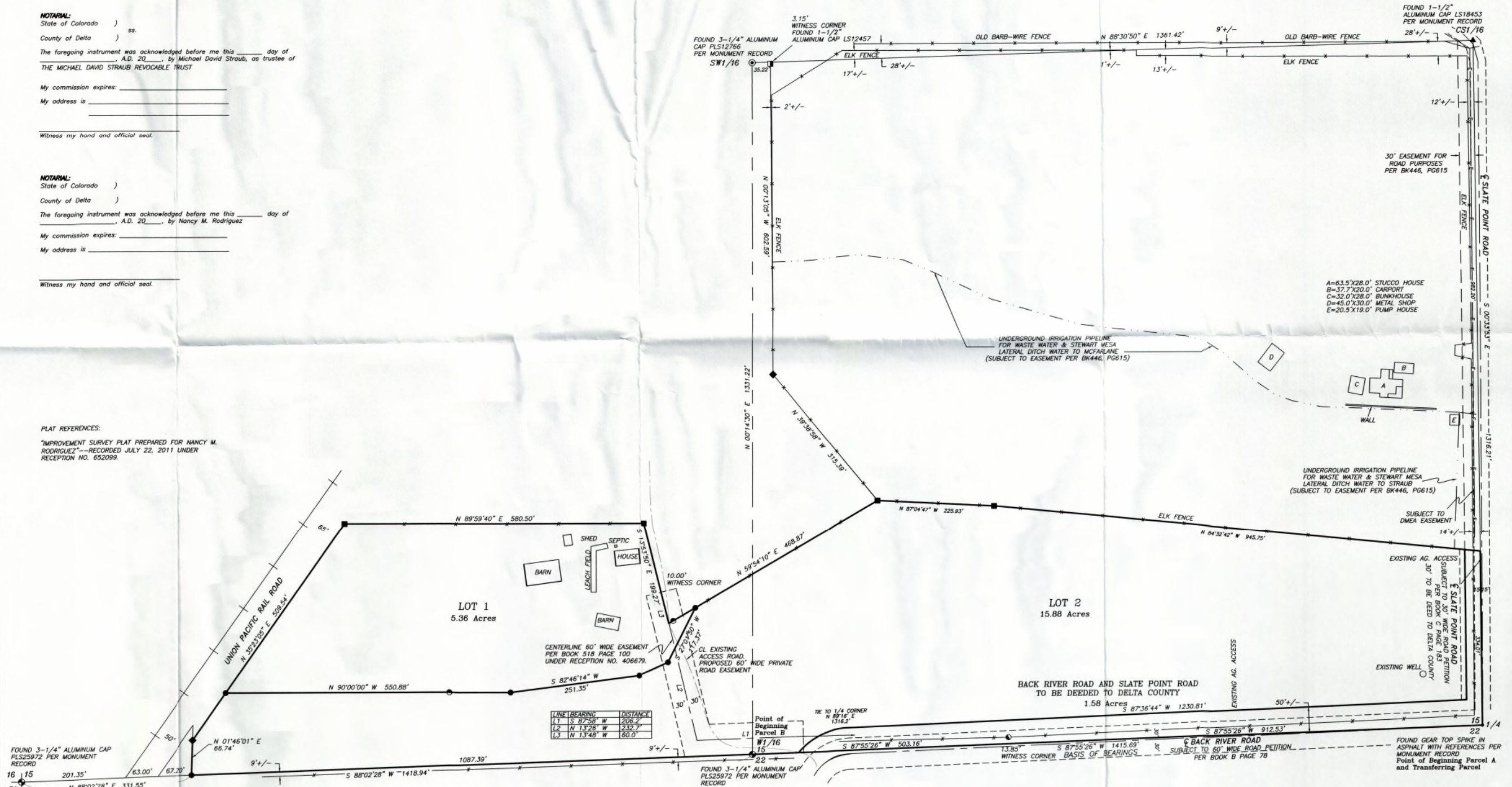
CHECKED BY:

KC

STRAUB SUBDIVISION
WITHIN THE SE1/4 of the SW1/4 AND WITHIN THE SW1/4 of the SW1/4 OF SECTION 15, T.14S., R.92W., 6TH P.M.
DELTA COUNTY, COLORADO

119165FINAL

7 OCTOBER 2019



NOTE: According to Colorado law any legal action based upon a defect in this survey must be commenced within three years after such defect is discovered. In no event may any action based upon any defect in this survey be commenced more than ten years from the date shown on the certification hereon.

STRAUB SUBDIVISION

WITHIN THE SE1/4 OF THE SW1/4 AND WITHIN THE SW1/4 OF SECTION 15, T.14S, R.92W, 6TH P.M.
DELTA COUNTY, COLORADO

I, the Owner(s) of the land as shown herein do hereby agree to the boundary lines as shown herein and that no new parcels were created by this survey and that the survey is for the purpose of subdividing the land as shown herein.

name(s) this day of 2019

MICHAEL DAVID STRAUB REVOCABLE TRUST

My address is:

My telephone is:

My e-mail address is:

My commission expires:

My address is:

My telephone is:

My e-mail address is:

My address is:

My telephone is:

My e-mail address is:

My address is:

My telephone is:

My e-mail address is:

My address is:

My telephone is:

My e-mail address is:

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My address is:

My telephone is:

My e-mail address is:

My address is:

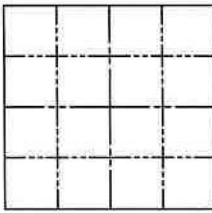
My telephone is:

My e-mail address is:

My address is:

My telephone is:

SEE PLAT



CONTROL MAP



AREA LOCATOR

TYPICAL LEGEND

- Found Gaur Top Spike in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS 12457
- Set 5/8" rebar 30" long with 2" aluminum cap as witness corner of angle PLS 12457
- Found 5/8" rebar with 1 1/2" aluminum cap LS 12457
- Found 5/8" rebar with 1 1/2" aluminum cap as witness corner of angle LS 12457
- Found 3/4" rebar 30" long with 3 1/4" aluminum cap PLS 12766
- Found 3/4" rebar with 3 1/4" aluminum cap PLS 12766
- Found 5/8" rebar Set 2" aluminum cap PLS 25972 on top
- Found 1 1/2" aluminum cap LS 12457
- Electric (overhead)
- Electric (underground)
- Water line
- Easement
- Previous Parcel Boundary
- Centerline Road
- Subdivision line
- Rail Road Tracks

BASIS OF BEARINGS:
S.87°55'28"W. FROM THE 1/4 CORNER COMMON TO SEC. 15 & 22 TO THE W1/16 COR. CORNER COMMON TO SEC. 15 & 22
GPS OBSERVATION
SCALE 1"=100 U.S. SURVEY FEET



COUNTY SURVEYOR'S CERTIFICATE
Approved for content and form only and not as to the accuracy of survey, computations or drafting, pursuant to CRS 38-5-1-106.

County Surveyor

Date: _____

Signature: _____

COLORADO PROFESSIONAL LAND SURVEYOR #26592

WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.
406 Grand Avenue
P.O. Box 1693
Pueblo, Colorado 81428
970.537.4000 PHONE
970.537.4002 FAX
www.wilmorelandsurveying.com
EMAIL: landy@wilmorelandsurveying.com

STRAUB SUBDIVISION
WITHIN THE SE1/4 OF THE SW1/4 AND WITHIN THE SW1/4 OF SECTION 15, T.14S, R.92W, 6TH P.M.
DELTA COUNTY, COLORADO
J19165FINAL 7 OCTOBER 2019

**STRAUB
LAND USE APPLICATION**

ATTACHMENTS

PAGES 1 - 4

STRAUB LAND USE APPLICATION FORM

SECTION I, PAGE 3

EXPLANATION OF QUESTIONS ANSWERED WITH BOTH YES AND NO

On Page 3 of the Land Use Application, there are two questions that I have answered by checking both the “Yes” and “No” boxes. This is because there are two possible home sites on the new parcel that are being submitted for the Board’s consideration: Slate Point Road Site and Orchard Site.

The first question asks if the development would be visible from a public road, designated vista point or public park. The Slate Point Road Site would be visible from Slate Point Road and/or Back River Road, and it would not be visible from any designated vista point or public park. The Orchard Site would not be visible from any road, designated vista point or public park.

The second question asks if any land would be taken out of cultivation. The Slate Point Road Site is located in a pasture. Depending upon the size of the development of the house, some land would be taken out of cultivation. The Orchard Site would not take any land out of cultivation.

APPLICATION FORM SECTION II D
and
Checklist Item: ADDITIONAL REQUIRED INFORMATION
Variation to Lot Size as per
Land Use Code
Chapter 3, Section 1.A.3.d. and Chapter 10, Section 2

I have owned this property and farmed hay here for the past 30 years. I am 75 years old, and I have health problems that prohibit me from continuing to farm. My health problems include chronic asthma and chronic back pain.

If the variance to subdivide is granted, I will seek a purchaser of the new parcel to replace my income from farming.

My decision to subdivide is also based on my desire to preserve the pastures for agricultural production.

I hope to sell to a person who would like to build a house on the parcel and continue farming.

The size and configuration of the new parcel have been determined to minimize disturbance or development of the irrigated portions of the property. The 5-acre portion of the property that I will retain is not currently being used for any farming, and none of it is being irrigated. I will receive sufficient water that will be stored on an existing pond, to water a personal garden.

All of the new parcel can be irrigated, and most of it is irrigated now. The only disturbance to the irrigated portions of the property, and the only interference with wildlife habitat, will be if the new owner decides to build a home on site. Details about the possible home sites are presented in the attachment on page 4 of this file.

STRAUB LAND USE APPLICATION

Checklist Item: ADDITIONAL REQUIRED INFORMATION

Variance Findings (General-setbacks)

Narrative describing how the proposed project meets the required findings.

I have carefully reviewed all of the information regarding setbacks presented in the cover letter accompanying the Application Packet.

I have consulted with Wilmore & Company regarding staff's findings, and I am willing to comply with all setback requirements.

The enclosed sketch and plat reflect all the setback requirements discussed at the Pre-application meeting and presented in the cover letter with the Application Packet.

STRAUB LAND USE APPLICATION - DESCRIPTION OF TWO POSSIBLE HOME SITES

As suggested by staff at the Pre-application meeting, there could be two home sites. The sketch and plat submitted include the two sites identified by staff and described below.

SLATE POINT ROAD SITE

This building envelope is located in an irrigated pasture that is currently being farmed, at the intersection of Slate Point Road and Back River Road, both of which form boundaries of the new parcel. The reasons for suggesting this site are:

- There are two utility poles with electric power lines located very close to this site. One is at the intersection of the two roads, and the other pole is located on Slate Point Road at the north property boundary, next to the current agricultural access driveway.
- The existing well is also located close to the intersection of the two roads.

The proximity to the well and electricity are the only reasons for suggesting this site.

ORCHARD SITE

This building envelope is located at the westernmost corner of the new parcel, just west of the existing driveway. Next to the driveway is a small pasture, currently irrigated and being farmed. To the west of the pasture is a small orchard of pear trees. To the west of the orchard area there are many trees, both deciduous and evergreen. To the west of these trees is an area of sage brush and other, similar vegetation, and then a steep slope. The pasture and the orchard are not within the building envelope. On the south side of this site are pastures owned by the McCallisters, and on the north side is a large ravine that separates the site from the parcel that the owner will retain.

The reasons for suggesting this site are:

- It does not require any disturbance to any currently irrigated or cultivated areas, nor does it take any agricultural area out of production.
- Electricity is available from a utility pole located on the parcel to be retained by the owner, just a short distance from this home site.
- It provides an expansive view of the Gunnison River and the North Fork Valley.
- It is not directly adjacent to any public road.
- Access to this site would be via the shared driveway off Back River Road.
- No houses or outbuildings are visible from this site.
- The site is very quiet and private.