

DELTA COUNTY BOARD OF ADJUSTMENT

**Administration Building – Board Room
560 Dodge St., Delta, CO 81416
Thursday, April 28, 2022 @ 5:30 p.m.**

**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. SCHEDULED ITEMS

1. Meeting Minutes

a. February 24, 2022

RECOMMENDATION: Approve the action minutes as presented

2. PLN21-005 (Klaseen)

Consider a variance reducing the required lot size for one (1) lot in the A-35 zone; from 35.0 acres minimum to 5.030 acres (Lot 2). The subject property is a 41.89-

CERTIFICATION OF POSTING

On April 21, 2022, at 2:30 PM, Kim Henderson did post the above AGENDA as public notice of the April 28, 2022 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.

acre parcel located on the north side of Redlands Mesa Road in Hotchkiss (Parcel: 324105300019).

RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):

- a) Consider required variance criteria and findings as they apply to PLN21-005 (Klaseen);
- b) Provide direction to either Approve, Conditionally Approve, or Deny a lot size variance for one (1) lot in the A-35 zoning designation located on the north side of Redlands Mesa Road in Hotchkiss (Parcel: 324105300019); and
- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

3. PLN21-089 (Bower)

Consider variances reducing the required lot size for two (2) lots in the A-5 zone; from 5.0 acres minimum to 1.21 acres (Lot 1) and 2.16 acres (Lot 2). The subject property is a 3.37-acre parcel located at 3659 & 3663 2000 Road, Delta (Parcel: 345534103002).

RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):

- a) Consider required variance criteria and findings as they apply to PLN21-089 (Bower);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) for two (2) lots in the A-5 zoning designation located at 3659 & 3663 2000 Road (Parcel: 345534103002); and
- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

4. PLN22-011 (Mitchell/Brill-Key)

Consider variances reducing the required lot size for two (2) lots in the A-20 zone; from 20.0 acres minimum to 9.286 acres (Lot 1) and 10.173 acres (Lot 2). The subject property is a 20-acre parcel located at 36908 & 36904 M50 Road and 12401 3700 Road (Parcel: 324316400027).

RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):

- a) Consider required variance criteria and findings as they apply to PLN22-011 (Mitchell/Brill-Key);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) for two (2) lots in the A-20 zoning designation located at 36908 & 36904 M50 Road and 12401 3700 Road (Parcel: 324316400027); and
- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

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.

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ADJOURNMENT

Adjourn to a Regular Meeting on Thursday, May 26, 2022 at 5:30 pm in Delta.

CERTIFICATION OF POSTING

On April 21, 2022, at 2:30 PM, Kim Henderson did post the above AGENDA as public notice of the April 28, 2022 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
February 24, 2022

Chairman Mark Roeber called the meeting to order at 5:33 p.m. in the Administration Building Commissioner's Meeting Room.

ROLL CALL

Board of Adjustments Members in Attendance:

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

Planning Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Planning & Community Development Planner I, Angie Kemp
Delta County Planning & Community Development Administrative Assistant, Kim Henderson
Delta County Administrator, Robbie LeValley

A. PUBLIC COMMENT

None

B. AGENDA ADDITIONS, DELETION, AND CORRECTIONS

None

C. APPROVAL OF CONSENT AGENDA

Item #1: Meeting Minutes for January 27, 2022.

Item #2: PLN21-021/Cottrell; Adopt a Resolution denying variances to lot size for a 2-lot subdivision (Minor Plat) in the A-5 zoning district; Lot 15-A (1.305 acres), Lot 15-B (1.000 acres).
RECOMMENDATION: Approve a Resolution with findings and evidence reflecting the 1/27/22 BOA action to deny the variance for PLN21-021/Cottrell.

Item #3: PLN21-071/Armstrong; Amend the application for a 5-Lot Clustered Subdivision (Preliminary Plat) – No Variance(s) Required.
RECOMMENDATION: Accept a status report for PLN21-071/Armstrong

Motion/Seconded: Mike Twamley moved to approve the Consent Agenda. Brett Hilling seconded the motion.

Action: Motion carried unanimously.

D. SCHEDULED ITEMS:

Item #1 PLN21-075/Pipher
Consider variance to lot size for a 2-lot subdivision (Minor Plat) in the A-35 zoning district: Lot 1 (3.193 acres), Lot 2 (35.0 acre). The property is located at 42044 Long Gulch Road, Crawford (Parcel: 350320200004).
RECOMMENDATION: Staff recommends that the Board of Adjustment (BOA):
a. Consider the required variance criteria/findings as they apply to PLN21-075/Pipher;
b. Provide direction to staff on the BOA's Intent to Approve/Conditionally Approve/Deny a variance for PLN21-075/Pipher, presented as a Minor Plat creating two (2) lots in the A-35 zoning designation located at 42044 Long Gulch Road, Crawford (Parcel: 350320200004).
c. Continue the matter to March 24, 2022 with direction for staff to prepare a Resolution reflecting the BOA decision.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

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

Motion/Second: Brett Hilling moved to approve PLN21-075 with staff recommendations. Since the septic information had not been submitted with the application, BoA member Hilling included a condition for septic system location verbiage (shared by the applicant at the meeting) be clarified in the Resolution. Mike Twamley seconded the motion.

Action: Motion carried unanimously.

E. BOARD COMMENT, REQUESTS AND REFERRALS

None

F. DEPARTMENT REPORT:

Director Holm reported on the following items:

- a. Land Use Code Review

Meeting adjourned at 5:54 p.m.

The next meeting will be held on Thursday, March 24, 2022 at 5:30 pm in the Delta County Administration Building, Delta, CO.

Respectfully submitted by:
Administrative Assistant, Kim Henderson



STAFF REPORT

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

Thursday, April 28, 2022 @ 5:30 p.m.

PLN21-005 (Klaseen)

Consider a variance to reduce the required lot size for one lot in the A-35 zoning district; from 35 acres minimum to 5.030 acres (Lot 2). The subject property is a 41.89-acre parcel located on Redlands Mesa Road (Parcel: 324105300019), Hotchkiss.

PROJECT INFORMATION:

Property Owner: Bryan J. and Pamela K. Klaseen
Applicant: Pamela K. Klaseen
Site Address(s): TBD Redlands Mesa Road
Parcel ID/Acct: 324105300019 /R025528
Parcel Size: 41.89 Acres
Zoning: A-35

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a) Consider required variance criteria and findings as they apply to PLN21-005 (Klaseen);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) for one (1) lot in the A-35 zoning designation located at TBD Redlands Mesa Road (Parcel 324105300019); and
- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).



SUMMARY:

Mr. and Mrs. Klaseen, the property owners and applicants, are seeking a 2-lot subdivision (Minor Plat) from an approximately 41-acre parcel with frontage on Redlands Mesa. The site is utilized as Agricultural land for the family Cow/Calf operation. The parcel has irrigation water, a corral, and irrigation piping.

The zoning is A-35 so the minimum acreage for subdividing this parcel is 35 acres per lot. The subdivision is designed to separate approximately 5-acres (Lot 2) from the western boundary, which would impact irrigated lands. As proposed, this Lot 2 does not meet standards for acreage set forth in the LUC so a variance is required.

When this project was first presented to the County (pre-application), it was to divide 5-acres from a 71.9-acre parcel with one existing water tap intended for use for the proposed Lot 2 future development. The stated purpose of subdividing was for the owner's son to build a home for his family to allow him more participation in the Cow/Calf operation because of close proximity. Since that time, a survey determined the property was about 76 acres and the owners split the parcel into two 35+ acre parcels, and then subsequently filed an application proposing to further subdivide the western 41+ acres. Assessor records include a Warranty Deed granting ownership of the eastern 35 acres to Karen S. Morgan and Matthew L. Morgan.

Variances are presented at a public hearing to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial considering the required criteria (4) and findings (3). Staff finds there are no unique physical conditions and the parcel could be subdivided if the BoA finds that it meets the required criteria and findings. Properties in the surrounding area are mostly large parcels (including some conservation easements) with the exception of some small lots scattered over the broad area. Therefore, the primary question is if the BoA finds that the hardship criteria/findings are met.

The LUC requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. Once a decision has been made by the BOA, the process will either proceed with the Subdivision process if approved, or, if denied, the applicant will have 10 (calendar) days to appeal the BOA's decision to the Board of County Commissioners (BoCC). If the BOA finds that variance(s) can be approved, then staff recommends eight (8) conditions.

DISCUSSION:

BACKGROUND

On April 5th, 2021, Bryan and Pamela Klaseen submitted a pre-application form requesting a variance to transfer 5-acres of the family ranch to their son. A pre-application conference was held on April 12, 2021. A letter summarizing the conference and explaining what is needed to complete an application package was sent on April 30, 2021. A sketch of the pre-application and associated plan is **Attached** for reference.



With no activity or communication, staff sent a notice on February 16, 2022 that the application would expire if the requested materials were not provided, or if the applicant does not express interest in pursuing their request, by March 31, 2022. On March 30, 2022, Planning received an email from the applicant that stated the applicants were still interested in pursuing their subdivision. On April 5, 2022 the applicant submitted a Development Application and updated plat, requesting the subdivision presented today.

Since the initial pre-application meeting, the applicant had a survey done of the approximately 76 acres that created a division of land into a 41.887-acre and 35.00-acre parcel. This division of land was recorded as a "Boundary Survey" on November 29, 2021 (Reception #734786, **Attached**). Boundary Surveys are a type of survey meant to formally document existing corners of a parcel and define the (existing) boundary lines. A Boundary Survey is not for creating new parcel, as occurred in this case.

That said, there is an exemption provision allowed by State Statute that excludes divisions of land from County subdivision regulations provided that; *"the division does result in creating an additional lot less than 35 acres of land and/or is intended to be used by multiple owners"*. This exemption is also inapplicable when the property owner seeks to construct multiple residences on a parcel which is more than 35 acres [Wilkerson v Bd of County Commissioners, 872 P.2d 1269].

County Resolution 2003-R-027 requires "review of Street Plans for 35-acre plus subdivisions". The ranch was shown to be a 72-acre parcel with frontage on Redlands Mesa Road (south and east property line), which is a County road. This plat was recorded without any County review, including no Street Plan being submitted. The 35-acre parcel has since been sold the Morgan family pursuant to a Warranty Deed dated February 2, 2022 (Reception #736542) thereby evading the Land Use Code. As such, the land division avoided dedication of Right-of-Way along Redlands Mesa Road abutting the eastern 35-acre parcel.

CURRENT APPLICATION

The application (PLN21-005) is for a 2-lot subdivision (Minor Plat) with frontage on Redlands Mesa Road which is a Delta County gravel road, County maintained.

- Lot 1 (36.293 Ac) consist of irrigated agricultural land, grazing land, and corrals.
- Lot 2 (5.030 Ac) consists of vacant, irrigated, agricultural land.

The lot design is intended to not impact the function of the corrals. The owner/applicant has stated, "This property is marginally productive and is best used for seasonal pasture due to insufficient irrigation water and rocky soil condition."

Records show the parcel to be 41.89 acres, and the parcel has been zoned per the Delta County Land Use Code as A-35. The minimum acreage for subdividing this parcel is 35 acres per lot. The application proposes to subdivide one parcel into two (2) lots where one (1) lot would be less than the 35-acre minimum. Because Lot 2 does not meet the minimum requirements per the zoning designation, a variance is required to create the lot.



The proposed plan illustrates splitting the property and irrigated land into two parcels with easements illustrating where access or utilities may cross into neighboring property. LUC requires a minimum frontage of 30 feet. Lot 2 (as designed) would have an easement to provide access, but no frontage on Redlands Mesa Road.

Creating the 5-acre lot, as proposed, would impact irrigated land. The applicant supplied information about existing irrigation for the entire 70+-acre parcel which, according to the application, consists of 35 shares from Overland Ditch and Reservoir Co., and shares from Redlands Mesa Water Users (B1) 36 shares of late season water & (B2) 75 shares of early season water. From the Warranty Deed, we know that the sale of the 35-acre parcel on February 2, 2022 included a USCDWUA water tap and 5 shares of the Overland Ditch & Reservoir Company. As proposed, all irrigation shares are proposed to remain with Lot 1 (41.89 acres).

The application states that this 5-acre parcel would take less than ½-acre of irrigated ag land out of ag where a house is built. However, Lot 2 is 5.0 acres and no irrigation water would be assigned to this lot. As such, there is nothing that would prevent the entire five (5) acres from being taken out of Ag, so staff views this as impacting 5.0 acres of irrigated land. The amount of irrigated land impacted could be reduced if the lot size is reduced. Lots served by septic can be a minimum of 1.0 acre.

Even without the split of irrigation shares, subdivision of land can affect irrigation operations. As such, an Irrigation Plan is required as part of the subdivision to describe how the operation of irrigation will continue, and how it will protect irrigated Ag lands (head gate location, pipe location, direction of flow, where/how irrigation water will be applied, etc.).

Subdivision requires proof of an adequate water supply. Prior to the 35+ acre split; it was noted that there was one tap for the 70+ acre parcel (USCDWUA #3439). Post 35+ acre subdivision, the existing tap remained with the western 41+ acre parcel (Lot 1). An additional tap was acquired for, and transferred with, the eastern 35-acre lot (USCDWUA #3518) and USCDWUA has supplied a letter stating they would be able to provide another tap for the 5.030 (Lot 2) in the case of a subdivision. Prior to accepting a Final, the applicant must install water meters for Lots 1 & Lot 2, potential condition if this variance is approved.

Engineering will have an opportunity to assess the subdivision and may request additional Right-of-Way (ROW) along the frontage of the 41-acre parcel abutting Redlands Mesa Road. A Plat is required to illustrate the centerline of the improved road surfaces as well as existing rights-of-way. The County generally requests dedication of right-of-way to the centerline of the roadway, except any land already dedicated and depending on the conditions for that area (e.g., steep slopes). Dedications are to be Fee Simple Title. Any other form (easement, road petition, etc.) requires the underlying land owner to continue paying property taxes even though they are not able to use that land.



There is an existing agricultural access on the 41-acre parcel utilized for cattle operations. At the pre-application, Engineering also noted that the driveway and access to Lot 2 shall be built to county standards. With the subsequent 35+-acre split, the proposed subdivision has not been assessed.

This existing agricultural access will be intensified to residential access and the eventual development of Lot 1 and/or Lot 2 will be subject to a Site Plan Review. That process requires establishing access, address, and septic permits from the County. Staff may want to see a shared access for Lots 1 & 2 (Conditions 1 & 2). Electrical and Plumbing permits will be obtained through the State.

The Land Use Code requires minimum setbacks (all structures, including septic) of 25 feet from the edge of ROW for all roads (public and private) and 15 feet from all interior property lines. In addition, a setback of 25 feet is required from the edge of any ditch, and 50 feet from the top of bank of a river, stream, or creek. These setbacks will be important with the eventual development of Lot 2.

PROCESS

Pursuant the LUC, Minor Plat (2-lot subdivisions) are handled Administratively, which means that the Director of Community Development and Natural Resources makes a final decision. The Director cannot act on the Minor Plat until/unless the Variance is approved. The application checklist requested enough detail, professionally drawn, for the BOA to be able to make a fully informed decision on the variance. The Minor Plat, with and without an aerial overlay, is attached (**Attachment**).

FINDINGS

The Land Use Code (LUC) 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. These criteria/findings are listed below with an initial assessment by staff:

Variation to Lot Size (Criteria): Chapter 3, Section 1.A.3 of the LUC states that the County may approve the creation of new lots that do not conform to the size requirements provided they meet four (4) criteria:

1. *The subdivision conforms to all other requirements of the Delta County Land Use Code.*

Staff finds that the site can support development that meets the minimum requirements for setbacks. The subdivision would impact about ½ acre of irrigated lands, according to the application, but no shares will be assigned to the 5.030-acre property (Lot 2). Upper Surface Creek Domestic Water Users Association submitted a letter early this month stating that they would be able to provide a tap to the property. Access will need to be built to County standards and permitted as a residential access.



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).*

Lot 2 as proposed has an easement for access to Redlands Mesa Road, there is no road frontage. Other minimum dimensions are met, as proposed (250ft by 850ft). If the BOA finds that a variance can be approved, then staff recommends a redesign of the lot so that each lot/parcel meet minimum requirements set out in the LUC.

3. *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.*

If the BOA finds that a variance can be approved, then staff recommends establishing a building envelope on Lot 1 where future development would not further impact the irrigated agricultural lands or wildlife habitat, where applicable.

4. *The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed.*

If variance(s) is/are approved, the BOA could apply a condition that requires including a Plat note reflecting this restriction.

Variance (Findings): Chapter 10, Section 2 of the LUC states that no variance shall be authorized unless the Board of Adjustment (BOA) makes three findings:

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.*

The owner/applicant has stated, "This property is marginally productive and is best used for seasonal pasture due to insufficient irrigation water and rocky soil condition."

The question is if the BOA finds that holding to the strict regulations for A35 zoning *"would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property."*

The applicant also stated, "Having our son on site to tend the property would benefit the ability to utilize the property more efficiently."

2. *A variance from strict application of the regulations at issue would relieve such difficulties or hardship.*



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.

3. *The requested variance would not create a substantial detriment to the public good or substantially impair the intent and purpose of this Code.*

Zoning is applied broadly, but we recognize that it may not fit every situation. Most of the abutting properties have at least 35 acres, with the exception of one 1.81-acre lot to the west. Staff counted 11 properties that are in or partially within a circle radius of one (1) square mile that contain less than 35 acres. There are 14 that fit 35 acres or more.

The variance process affords an avenue to request a smaller lot if required criteria/findings can be justified (e.g., physical constraint, hardship). The proposed layout would only impact an estimated ½ acre of agricultural land. But the use of this property for the owner's son to help with operations may be considered. Staff interprets that the exception for a variation to lot size is to create a single exception to address a unique situation.

This is a critical part in determining if a variance should be approved or denied. As such, staff recommends that the BOA take an action on the intent to approve, conditionally approve, or deny this request for a variance. Based on that direction, staff will return with a resolution for the BOA to adopt. At that point, an aggrieved party could appeal the BOA decision to the BoCC.

Findings/Hardship

The ability to approve any variance depends largely on defining *unnecessary/undue* hardship. There is no simple formula for determining, what is enough. Hence, the BOA holds a quasi-judicial hearing and renders a decision based on evidence presented.

Hardship should be more than mere inconvenience or a preference for a more lenient standard. An applicant should demonstrate how their situation compares to others subject to the same restriction in the vicinity of their project. For example, 1) does strict compliance with the Code totally prevent improvement of the property in a manner which is reasonable, customary and consistent with other properties in the area; or (2) are there conditions peculiar to the property that cause practical difficulty in strict compliance with the ordinance, due to significant or unjustified expense in light of the scope of the project, destruction or demolition of attractive features of the property, or similar reasons?

An unnecessary hardship should be peculiar to the subject property, not general to the neighborhood or the applicant's personal circumstances. A hardship should not result from actions taken by the applicant or property owner (self-created). For example, the



alleged practical difficulty was not created as a result of any action taken by the applicant or predecessors in interest of the property which was unlawful, or which could have been reasonably foreseen to create difficulty in complying with the ordinance for future improvements.

Another way of looking at variances is if granting it would create special privilege to this property that would not be granted to another property with similar conditions (size, shape) in the same zoning designation. Also, that because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

Arguments that tend to be legally successful include the following:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner (not just a mere inconvenience), if the strict letter of the zoning regulation were to be carried out;
2. That the conditions upon which the petition for variance relates would not be applicable generally to other property within the same zoning district;
3. That the purpose of the variance is not based exclusively upon a desire to make more money out of the property;
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
5. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. That the proposed variance will not:
 - a. Impair an adequate supply of light and air to adjacent property;
 - b. Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Town/City;
 - d. Diminish or impair property values within the neighborhood;
 - e. Unduly increase traffic congestion in the public streets and highways;
 - f. Create a nuisance; or
 - g. Result in an increase in public expenditures.
7. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

CONDITIONS

If the BoA finds that the variance can be approved per the required findings, the BoA could apply conditions to address issues as part of the subdivision review. Staff has identified items that will be addressed as part of the subdivision, prior to accepting the Final Plat:



1. The Minor Plat shall illustrate the centerline of the improved road surface. County Engineer Owner shall determine if Right-of-Way (RoW) is to be dedication for Redlands Mesa Road. Dedications to Delta County require acceptance by the BoCC. Dedications are required to be Fee Simple Title.
2. Driveway and access for Lots 1 & 2 shall be permitted and constructed to County standards. County shall assess if a shared driveway is required based on the current configuration.
3. The final plat shall be annotated such that no further subdivision of either lot created by this subsection is allowed. [Pursuant to Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria)]
4. Lots 1 & 2 shall have at least the minimum dimensions set out in the standards for the UGA zoning district (75-foot width, 30-foot frontage). An easement is not frontage, so Lot 2 will need to be revised to meet the minimum criteria. [Pursuant to Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria)].
5. An Irrigation Plan shall be submitted describing your proposed operation of irrigation for Lots 1, including any easements for access to irrigation headgates across Lot 2.
6. Building Envelope shall be established on Lot 1 to avoid future development from unnecessarily (further) encroaching on irrigated Ag lands.
7. Prior to accepting a Final Plat, a domestic water tap shall be installed for Lot 2, and the applicant shall provide written proof of an active domestic water tap for Lot 1 (installed).
8. The subdivision shall not encroach on existing easements (e.g., conservation, utility, irrigation).

OTHER AGENCY INVOLVEMENT

A Pre-application form was submitted on April 5, 2021 and a conference was held with the owner on April 12, 2021. At that meeting, representatives from multiple County departments were present. The purpose of a pre-application conference (meeting) is to inform the applicant of pertinent regulations and identify any potential issues. The application was including *this* subdivision but from a larger, approximately 76-acre, parcel.

The variance process itself does not generally involve other agencies. However, a public notice was sent to neighboring property owners, interested parties, and posted on the subject property. When/If a subdivision is processed, it will be referred to adjacent property owners and agencies for a 21-day comment period which could affect the subdivision.



Attached material: list, in order as attached

- Pre-Application + Sketch
- Boundary Survey
- Minor Plat
- Minor Plat (with aerial overlay)
- Public Comments (2)



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

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

PRE-APPLICATION REQUEST FORM

Upon submittal of all required information (including fee), the Planning Department staff will schedule a meeting to review the project with the applicant. The fee will be credited to your development application if application is submitted within twelve (12) months.

Packages that do not include all required information (including fees) will not be accepted.

PROJECT INFORMATION		
SITE ADDRESS	CITY/STATE	ZIP
TBD Redlands Mesa Road	Hotchkiss, Colorado	81419
NEAREST PUBLIC ROAD	ASSESSOR'S PARCEL NUMBER(S)	
Redlands Mesa Road	324105300018	
OWNER(S) INFORMATION		
NAME	PHONE	
Bryan and Pamela Klaseen	[REDACTED]	
MAILING ADDRESS	CITY/STATE	ZIP
[REDACTED]	[REDACTED]	[REDACTED]
E-MAIL	[REDACTED]	
APPLICANT(S) INFORMATION		
NAME	PHONE	
Bryan and Pamela Klaseen	[REDACTED]	
MAILING ADDRESS	CITY/STATE	ZIP
[REDACTED]	[REDACTED]	[REDACTED]
E-MAIL	[REDACTED]	
PROJECT DESCRIPTION		
we are requesting a variance for 5 acres to be transferred to our son. He will then build a single family residence for his personal residence.		
NOTE: If Applicant represents owner, owner must provide written consent to being represented on all matters pertaining to their application.		
Owner/Applicant Signature:		Date: 4-4-2021
Owner/Applicant Signature:		Date: 4/4/21
FOR DEPARTMENT USE ONLY		
RECEIVED BY:	DATE RECEIVED:	PERMIT NO.:
Kate Kelly	4.5.21	PLN21-005
STAFF ASSIGNED:	COMPLETED BY:	DATE SENT TO AGENCIES:
		4.6.21



PRE-APPLICATION FORM SUBMITTAL REQUIREMENTS

This is the first step in the Review Process for all land use entitlements.

The purpose is to review preliminary information to provide guidance on the next steps.

Please submit one (1) hardcopy of the materials listed below (maximum Plan size of 11" x 17").

An electronic copy (.pdf) of all submitted materials is also required to be submitted.

For All Development Projects:	Additional (for Subdivisions only):
- Photographs of the site - Conceptual Site (Sketch) Plan: ➤ Zoning Designation ➤ Parcel size, dimensions, set backs ➤ Existing/Proposed road(s)/access ➤ Existing/Proposed structures, including type of use ➤ Irrigated/AG land ➤ Ditches/ponds/streams ➤ Existing Utilities & Easements, water/wells, wastewater/septic systems, electrical ➤ Driveway & parking (businesses)	- Conceptual (Sketch) Plan/Map, including: ➤ Existing parcel size(s) ➤ Existing/proposed lot lines ➤ Proposed number of lots & lot sizes ➤ Proposed Utilities & Easements, including wells and septic systems

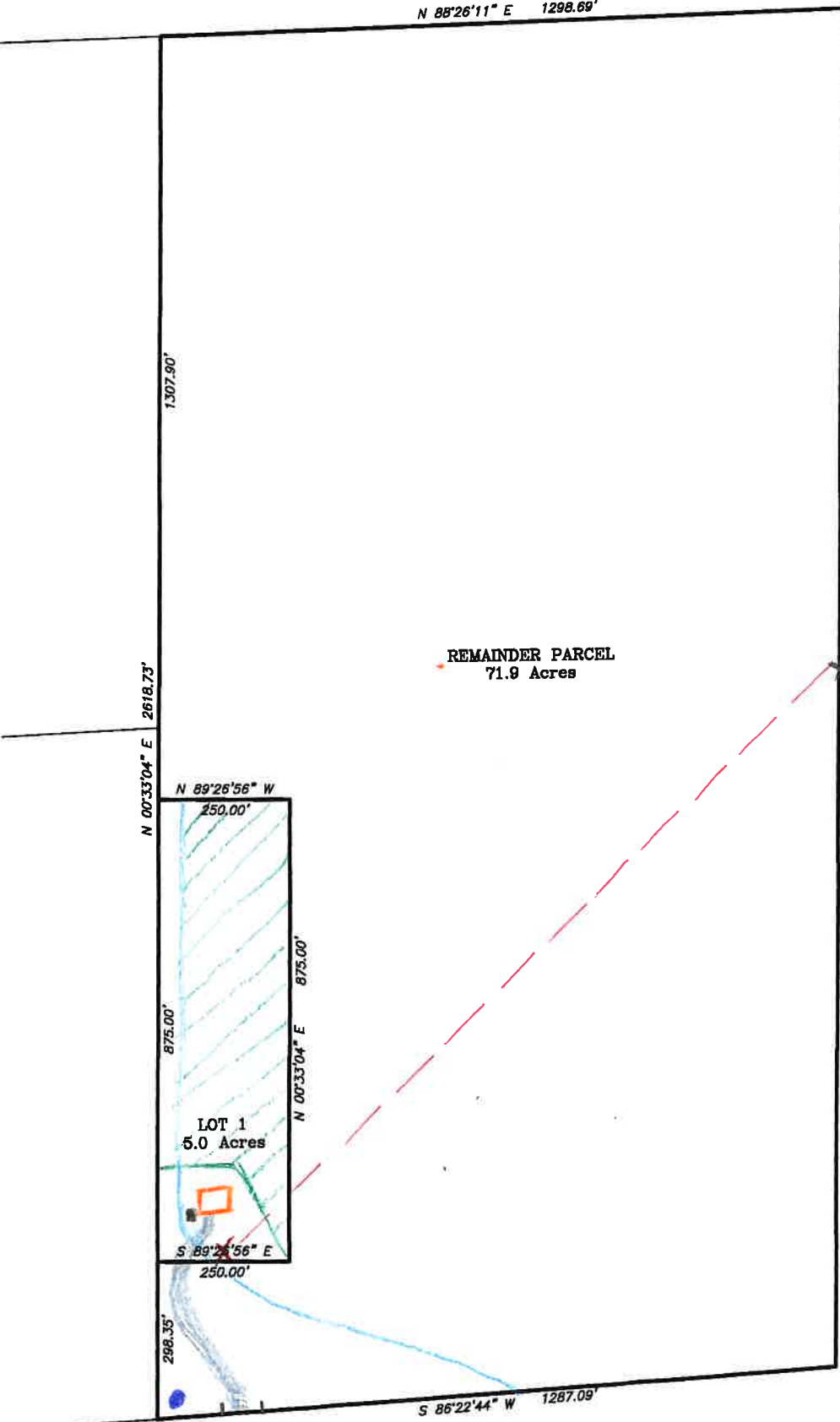
Please answer the following questions:

YES ☒ NO ☐	Would development be visible from a public road, designated vista point, or public park? If yes, is development located on a slope or near the top of a hill? YES ☐ NO ☒
YES ☒ NO ☐	Is irrigation water currently available and/or used on this site?
YES ☒ NO ☐	Does the property currently include lands used for agriculture?
YES ☒ NO ☐	Does the project include taking land out of cultivation? <i>less than 1/2 acre</i>
YES ☒ NO ☐	Does the project propose non-agricultural uses adjacent to any agricultural use(s)?
YES ☐ NO ☒	Does the project propose removal of native vegetation?
YES ☐ NO ☒	Would development occur within 50 feet of a seasonal or non-seasonal creek, lake, river, natural drainage, marsh, ocean, pond, slough, or stream?
YES ☐ NO ☒	Does the project propose development on steep slopes? (over 25% or 45-degree slope)
YES ☐ NO ☒	Does the project include grading, soil importation, soil removal, and/or drainage modifications?
YES ☒ NO ☐	Would the project include connection to a public water system?
YES ☐ NO ☒	Would the project be connected to an existing well or private water system?
YES ☐ NO ☒	Would development include construction, enlargement, alteration, repair, improvements or removal of a well?
YES ☐ NO ☒	Would the project include connection to a public wastewater (sewer) system?
YES ☐ NO ☒	Would the project include connection to a new or existing wastewater treatment system?
YES ☒ NO ☐	Would development include construction, enlargement, alteration, repair, improvement or removal of a septic tank/system?
YES ☒ NO ☐	Does the proposed project require/have (existing) permits for electrical, plumbing, and/or septic?

Zoning Designation: A35
25' set backs

TOTAL ACRES
76.9 Acres+/-

N 88°26'11" E 1298.69'



- Existing water tap.
- Proposed homesite - SFR
- Existing irrigation pipeline
- ▨ Irrigated land
- Proposed driveway
- ✗ - Existing DMEA powerline
- Proposed septic system

Redlands Mesa Road

BOUNDARY SURVEY PREPARED FOR
PAMELA K. and BRYAN J. KLAUSEN
E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

BLUESTAR INC
Reception Number
668619

SCHUM JAMES W
BOOK 706 PAGE 787

PARCEL A
LEGAL DESCRIPTION

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14621) with all other bearings relative thereto and being more particularly described as follows:
Beginning at said W1/16 corner common to Sections 5 and 8 and running thence along the west line of the SE1/4 of the SW1/4 N.00°33'28"E. 1309.07 feet to the NW corner of said SE1/4 of the SW1/4, also being the SW1/16 corner (monumented by a 3 1/4" aluminum cap PLS 20877); thence along the west line of the NE1/4 of the SW1/4 N.00°34'02"E. 1309.31 feet to the NW corner of said NE1/4 of the SW1/4, also being the CW1/16 corner (monumented by a 2" aluminum cap PLS 24944); thence along the north line of said NE1/4 of the SW1/4 N.88°26'20"E. 1298.65 feet to the NE corner of said NE1/4 of the SW1/4, also being the C1/4 corner (monumented by a 2" aluminum cap PLS 24944); thence along the east line of said NE1/4 of the SW1/4 S.00°54'34"W. 557.78 feet (monumented by a 2" aluminum cap PLS 25972); thence leaving said subdivision line N.88°17'24"E. 696.40 feet (monumented by a 2" aluminum cap PLS 25972); thence S.04°31'24"W. 201.00 feet (monumented by a 2" aluminum cap PLS 25972); thence S.06°09'20"W. 664.30 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°58'45"W. 341.70 feet (monumented by a 2" aluminum cap PLS 25972); thence S.51°03'13"E. 19.48 feet (monumented by a 2" aluminum cap PLS 25972); thence S.00°01'23"W. 632.73 feet (monumented by a 2" aluminum cap PLS 25972); thence S.65°30'44"E. 209.71 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°00'49"W. 138.92 feet to the section line common to Sections 5 and 8 (monumented by a witness corner bearing N.01°00'49"E. 36.86 feet from the true corner position and being a 2" aluminum cap PLS 25972); thence along said section line S.86°24'10"W. 694.40 feet to the Point of Beginning, said parcel containing 41.887 acres, more or less.
County of Delta,
State of Colorado.

PARCEL B
LEGAL DESCRIPTION

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14621) with all other bearings relative thereto and being more particularly described as follows:
Beginning at said 1/4 corner common to Sections 5 and 8 and running thence along the section line common to Sections 5 and 8 S.86°24'10"W. 592.83 feet (monumented by a witness corner bearing N.01°00'49"E. 36.92 feet from the true corner position and being a 2" aluminum cap PLS 25972); thence N.65°30'44"W. 209.71 feet (monumented by a 2" aluminum cap PLS 25972); thence N.00°01'23"E. 632.73 feet (monumented by a 2" aluminum cap PLS 25972); thence N.51°03'13"E. 19.48 feet (monumented by a 2" aluminum cap PLS 25972); thence N.01°58'45"E. 341.70 feet (monumented by a 2" aluminum cap PLS 25972); thence N.06°09'20"E. 664.30 feet (monumented by a 2" aluminum cap PLS 25972); thence N.04°31'24"E. 201.00 feet (monumented by a 2" aluminum cap PLS 25972); thence S.88°17'24"E. 696.40 feet to the east line of the NE1/4 of the SW1/4 (monumented by a 2" aluminum cap PLS 25972); thence along the east line of the NE1/4 of the SW1/4 S.00°54'34"W. 725.81 feet to the SE corner of the NE1/4 of the SW1/4, also being the CS1/16 corner (monumented by a 2" aluminum cap PLS 12786); thence along the east line of the SW1/4 S.00°50'09"W. 1289.57 feet to the Point of Beginning, said parcel containing 35.000 acres, more or less.
County of Delta,
State of Colorado.

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.

Date: 11/29/2021 Signed: [Signature]

COLORADO PROFESSIONAL LAND SURVEYOR #28932

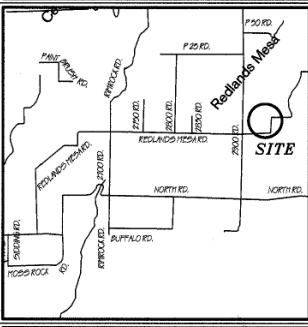
PLAT REFERENCES:

TULLY / SCHUM SURVEY---RECORDED MAY 14, 1998
UNDER RECEPTION NO. 514136.

ERIN WILLIAMS EXEMPTION SURVEY---UNDER RECEPTION
NO. 483856.

WINNE FAMILY MINOR SUBDIVISION---RECORDED DECEMBER
18, 2003 UNDER RECEPTION NO. 573759.

AREA LOCATOR



TYPICAL LEGEND

- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long w/2" aluminum cap PLS25972
- Set 5/8" rebar 12" aluminum cap as Witness corner or linepin PLS25972
- Found 3-1/4" aluminum cap PLS25972 or as noted, per monument record.
- Found 2" aluminum cap PLS 24944 per monument record.
- ORIGINAL USGLO SURVEY CAP per monument record.
- Found 3 1/4" aluminum cap PLS20677 per monument record.
- Found 5/8" rebar with 2" aluminum cap PLS 12786
- Found 5/8" rebar with 1 1/2" aluminum cap PLS 14621

— Fencelines
— Electric (overhead)
— UE— Electric (underground)
— W— Water line
— Easement

R.O.W. to Delta
County on parcel to east

BASIS OF BEARINGS:
S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner
GEODETIC NORTH
GPS OBSERVATION

SCALE 1"=120 U.S. SURVEY FEET

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.

PARCEL A
41.887 Acres
1824578 Sq. Feet

PARCEL B
35.000 Acres
1524601 Sq. Feet

30' ACCESS EASEMENT PER RECEPTION NO. 514136 AND 30' IRRIGATION, ACCESS AND UTILITY EASEMENT PER GRANT OF EASEMENTS RECEPTION NO. 467316 AND GRANT OF PARCEL B THRU PARCEL A FOR IRRIGATION, ACCESS FOR MAINTENANCE OF IRRIGATION PIPELINE PER Rec. No. 734785

30' ACCESS EASEMENT PER RECEPTION NO. 514136 AND 30' IRRIGATION, ACCESS AND UTILITY EASEMENT PER GRANT OF EASEMENTS RECEPTION NO. 467316 AND GRANT OF PARCEL A THRU PARCEL B FOR ACCESS AND UTILITIES PER Rec. No. 734784

CL REDLANDS MESA ROAD
SUBJECT TO 40' ROW ROAD PETITION BOOK C PAGE 196.
30' ROW ROAD PETITION BOOK C PAGE 196.
COUNTY ON EAST SIDE OF PROPERTY PER BOOK 374 PAGE 374.

WILLIAMS ERIN
Reception Number
38893

ACCESS EASEMENT SOUTH

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14621) with all other bearings relative thereto and being more particularly described as follows:
Beginning at said 1/4 corner common to Sections 5 and 8 and running thence along the section line common to Sections 5 and 8 S.86°24'10"W. 415.25 feet to the True Point of Beginning; thence continuing along said section line S.86°23'03"W. 177.57 feet; thence leaving said section line N.01°00'49"E. 60.24 feet; thence N.88°23'56"E. 172.73 feet; thence S.03°30'04"E. 60.00 feet to the True Point of Beginning.

ACCESS EASEMENT east

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14621) with all other bearings relative thereto and being more particularly described as follows:
Beginning at the SE corner of the NE1/4 of the SW1/4, also being the CS1/16 corner and running thence along the east line of said E1/2 of the SW1/4 S.00°52'56"W. 47.31 feet; thence leaving said subdivision line N.89°05'26"W. 30.03 feet; thence N.00°54'34"E. 1329.60 feet to the north line of said E1/2 of the SW1/4; thence along said north line N.88°26'20"E. 30.03 feet to the NE corner of said E1/2 of the SW1/4, also being the C1/4 corner; thence along the east line of said E1/2 of the SW1/4 S.00°54'34"W. 1283.59 feet to the Point of Beginning.

ACCESS EASEMENT east Parcel A thru Parcel B

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14621) with all other bearings relative thereto and being more particularly described as follows:
Beginning at the SE corner of the NE1/4 of the SW1/4, also being the CS1/16 corner and running thence along the east line of said E1/2 of the SW1/4 S.00°52'56"W. 47.31 feet; thence leaving said subdivision line N.89°05'26"W. 30.03 feet; thence N.00°54'34"E. 773.53 feet; thence S.88°17'24"E. 30.00 feet to the east line of said E1/2 of the SW1/4; thence along said east line S.00°54'34"W. 725.81 feet to the Point of Beginning.

RECEPTION#: 734786, 11/29/2021 at
10:32:02 AM, 1. R \$10.00 TERI A. STEPHENSON
DELTA COUNTY,
CO CLERK AND RECORDER
PLAT BK PG



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

408 Grand Avenue 970.527-4200 PHONE
P.O. Box 1652 970.527-4202 PHONE
Pasco, Colorado 81428 www.wilmorelandsurveying.com

FIELD CREW:
RAW, CW

DRAFTER:
RAW

CHECKED BY:
KC

BOUNDARY SURVEY PREPARED FOR
PAMELA K. and BRYAN J. KLAUSEN
E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

121077/FINAL

24 NOVEMBER 2021

KLASEEN MINOR SUBDIVISION

PLN NO.

E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

SUBDIVISION DEDICATION

We, Pamela K. Klaseen and Bryan J. Klaseen, being the owners of land described as follows:

LEGAL DESCRIPTION

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14821) with all other bearings relative thereto and being more particularly described as follows:

Beginning at said W1/16 corner common to Sections 5 and 8 and running thence along the west line of the SE1/4 of the SW1/4 N.00°33'28"E. 1309.07 feet to the NW corner of said SE1/4 of the SW1/4, also being the SW1/16 corner (monumented by a 3 1/4" aluminum cap PLS 20677); thence along the west line of the NE1/4 of the SW1/4 N.00°34'02"E. 1309.31 feet to the NW corner of said NE1/4 of the SW1/4, also being the CW1/16 corner (monumented by a 2" aluminum cap PLS 24944); thence along the north line of said NE1/4 of the SW1/4 N.88°26'20"E. 1298.65 feet to the NE corner of said NE1/4 of the SW1/4, also being the C1/4 corner (monumented by a 2" aluminum cap PLS 24944); thence along the east line of said NE1/4 of the SW1/4 S.00°54'34"W. 557.78 feet (monumented by a 2" aluminum cap PLS 25972); thence leaving said subdivision line N.88°17'24"W. 696.40 feet (monumented by a 2" aluminum cap PLS 25972); thence S.04°31'24"W. 201.00 feet (monumented by a 2" aluminum cap PLS 25972); thence S.06°09'20"W. 664.30 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°58'45"W. 341.70 feet (monumented by a 2" aluminum cap PLS 25972); thence S.51°03'13"W. 19.48 feet (monumented by a 2" aluminum cap PLS 25972); thence S.00°01'23"W. 632.23 feet (monumented by a 2" aluminum cap PLS 25972); thence S.65°30'44"E. 209.71 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°00'49"W. 138.92 feet to the section line common to Sections 5 and 8 (monumented by a witness corner bearing N.01°00'49"E. 36.86 feet from the true corner position and being a 2" aluminum cap PLS 25972); thence along said section line S.86°24'10"W. 694.40 feet to the Point of Beginning, said parcel containing 41.887 acres, more or less.

County of Delta,
State of Colorado,
In Delta County, Colorado, under the name of KLASSEN MINOR SUBDIVISION, have 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 Pamela K. Klaseen and Bryan J. Klaseen,
have subscribed their names this _____ day of _____, A.D. 20_____.

By: _____ By: _____
Pamela K. Klaseen Bryan J. Klaseen,

NOTARIAL:

State of _____

County of _____

ss. _____

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20_____, by Pamela K. Klaseen and Bryan J. Klaseen.

My commission expires: _____

My address is _____

Witness my hand and official seal.

MORTGAGEES APPROVAL

In witness whereof Mortgagee has subscribed its name approving the content of this

final plat this _____ day of _____, A.D. 20_____.

By: _____ Mortgagee

NOTARIAL:

State of _____

County of _____

ss. _____

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20_____, by Mortgagee

My commission expires: _____

My address is _____

Witness my hand and official seal.

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

The within plat of the above subdivision has been checked for compliance in accordance with Case No. PL####.

Dated this _____ day of _____, A.D., 20_____

Planning Director

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 (Account No. R025528) are paid in full.

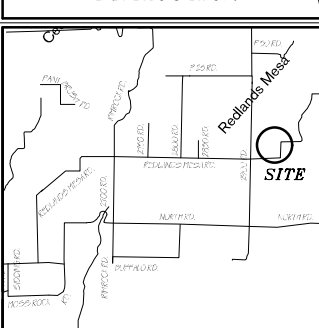
Dated this _____ day of _____, A.D. 20_____

Treasurer of Delta County, Colorado

SUMMARY TABLE:

LOT 1 = 36.293 ACRES
LOT 2 = 5.030 ACRES
REDLANDS MESA ROAD = 0.564 ACRES
TOTAL AREA OF SUBDIVISION = 41.887 ACRES
NUMBER OF BUILDABLE LOTS = 2
NUMBER OF NON-BUILDABLE LOTS = 0.
ZONING DESIGNATION A-35

AREA LOCATOR



TYPICAL LEGEND

- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long w/2" aluminum cap PLS25972
- Set 5/8" rebar 12" aluminum cap as Witness corner or Inset PLS25972
- Found 3-1/4" aluminum cap PLS25972 or as noted, per monument record.
- Found 2" aluminum cap PLS 24944 per monument record.
- ORIGINAL USGLO SURVEY CAP per monument record.
- Found 3 1/4" aluminum cap PLS20677 per monument record.
- Found 5/8" rebar with 2" aluminum cap PLS 12786
- Found 5/8" rebar with 1 1/2" aluminum cap PLS 14821

- F— Fencelines
- E— Electric (overhead)
- UE— Electric (underground)
- W— Water line
- E— Easement
- R.O.W.— R.O.W. to Delta County on parcel to east

BASIS OF BEARINGS:

S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner
GEODETTIC NORTH
GPS OBSERVATION

SCALE 1"=120 U.S. SURVEY FEET

0 60 120 240

- OUTDOOR LIGHTING SHALL BE HOODED OR SHIELDED SO THAT LIGHT IS DIRECTED DOWNWARD. OUTDOOR LIGHTING SHALL NOT CREATE GLARE ONTO ADJACENT PROPERTY OR PUBLIC OR PRIVATE ROADS, NOR SHALL IT CONTRIBUTE TO SKY GLOW THAT DILUTES THE NIGHT SKY.
- ALL DEVELOPMENT IN DELTA COUNTY IS SUBJECT TO THE DELTA COUNTY RIGHT TO FARM AND RANCH POLICY, ADOPTED AS RESOLUTION 96-R-020 BY THE BOARD OF COUNTY COMMISSIONERS OF DELTA COUNTY ON SEPTEMBER 27, 1999.
- ACCESS TO ALL SHOWN OR UN-SHOWN IRRIGATION DITCHES FOR CLEANING AND MAINTENANCE PURPOSES IS PERMITTED.
- COLORADO IS AN "OPEN RANGE" STATE. IT IS NOT THE RESPONSIBILITY OF A LIVESTOCK OWNER TO FENCE IN LIVESTOCK.
- THIS PROPERTY IS LOCATED IN AN AGRICULTURAL AREA. NORMAL AGRICULTURAL ACTIVITIES WILL CONTINUE UNABATED IN THE SURROUNDING AREAS AND MAY NOT BE THE BASIS FOR A LAWSUIT EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE.
- 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 COORDINATOR 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 TO OTHER THAN SINGLE FAMILY RESIDENTIAL OR AGRICULTURAL USE REQUIRES THE LOT OWNER TO PROCESS THE REQUEST IN ACCORDANCE WITH THE REGULATION OF DELTA COUNTY.
- ALL NEW UTILITIES MUST BE PLACED UNDERGROUND ON ALL PARCELS.
- THE MINIMUM SETBACKS FOR ALL STRUCTURES (INCLUDING ONSITE WASTEWATER TREATMENT SYSTEMS) IN THIS SUBDIVISION SHALL BE:

DISTANCE	SETBACK MEASURED FROM THE:
25'	EDGE OF ANY DITCH
25'	EDGE OF ROAD EASEMENT OR RIGHT-OF-WAY (PUBLIC AND PRIVATE)
15'	INTERIOR PROPERTY LINES, OTHER THAN ABUTTING ROAD
50'	TOP OF BANK (RIVER, STREAM, CREEK)

- THE SHARES OF IRRIGATION WATER ASSIGNED TO THE SUBJECT PROPERTY SHALL BE ASSIGNED AS FOLLOWS:
LOT 1 - #SHARED (APPLICABLE COMPANY/IES)
LOT 2 - #SHARED (APPLICABLE COMPANY/IES)

SHARES OF IRRIGATION WATER CONVEYED TO LOTS AT THE TIME OF PLAT RECORDING ARE SUBJECT TO THE IRRIGATION PLAN (DATED#####) INCLUDED WITH THIS SUBDIVISION.

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.

PLAT REFERENCES:

TULLY / SCHUM SURVEY"—RECORDED MAY 14, 1998
UNDER RECEPTION NO. 514136.

TERIN WILLIAMS EXEMPTION SURVEY"—UNDER RECEPTION NO. 483856.

WINNE FAMILY MINOR SUBDIVISION"—RECORDED NOVEMBER 29, 2021 UNDER RECEPTION NO. 573759.

PAMELA K. AND BRIAN J. KLASSEN BOUNDARY SURVEY"—RECORDED NOVEMBER 29, 2021 UNDER RECEPTION NO. 734786



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue
P.O. Box 1682
Paonia, Colorado 81428
www.wilmorelandsurveying.com

Defining Boundaries EMAIL randy@wilmorelandsurveying.com

FIELD CREW:

RAW

DRAFTER:

RAW

CHECKED BY:

KC

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 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.

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

KLASEEN MINOR SUBDIVISION

PLN NO.
E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

J20270 FINAL

17 MARCH 2022

KLASEEN MINOR SUBDIVISION

PLN NO.

E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

SUBDIVISION DEDICATION

We, Pamela K. Klaseen and Bryan J. Klaseen, being the owners of land described as follows:

LEGAL DESCRIPTION

A parcel of land located within the E1/2 of the SW1/4 of Section 5, Township 14 South, Range 93 West of the 6th Principal Meridian, having a description based upon a bearing of S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 24944) to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner common to Sections 5 and 8 (monumented by a 2" aluminum cap PLS 14821) with all other bearings relative thereto and being more particularly described as follows:

Beginning at said W1/16 corner common to Sections 5 and 8 and running thence along the west line of the SE1/4 of the SW1/4 N.00°33'28"E. 1309.07 feet to the NW corner of said SE1/4 of the SW1/4, also being the SW1/16 corner (monumented by a 3 1/4" aluminum cap PLS 20677); thence along the west line of the NE1/4 of the SW1/4 N.00°34'02"E. 1309.31 feet to the NW corner of said NE1/4 of the SW1/4, also being the CW1/16 corner (monumented by a 2" aluminum cap PLS 24944); thence along the north line of said NE1/4 of the SW1/4 N.88°26'20"E. 1298.65 feet to the NE corner of said NE1/4 of the SW1/4, also being the C1/4 corner (monumented by a 2" aluminum cap PLS 24944); thence along the east line of said NE1/4 of the SW1/4 S.00°54'34"W. 557.78 feet (monumented by a 2" aluminum cap PLS 25972); thence leaving said subdivision line N.88°17'24"W. 696.40 feet (monumented by a 2" aluminum cap PLS 25972); thence S.04°31'24"W. 201.00 feet (monumented by a 2" aluminum cap PLS 25972); thence S.06°09'20"W. 664.30 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°58'45"W. 341.70 feet (monumented by a 2" aluminum cap PLS 25972); thence S.51°03'13"W. 19.48 feet (monumented by a 2" aluminum cap PLS 25972); thence S.00°01'23"W. 632.73 feet (monumented by a 2" aluminum cap PLS 25972); thence S.65°30'44"E. 209.71 feet (monumented by a 2" aluminum cap PLS 25972); thence S.01°00'49"W. 138.92 feet to the section line common to Sections 5 and 8 (monumented by a witness corner bearing N.01°00'49"E. 36.86 feet from the true corner position and being a 2" aluminum cap PLS 25972); thence along said section line S.86°24'10"W. 694.40 feet to the Point of Beginning, said parcel containing 41.887 acres, more or less.

County of Delta,
State of Colorado,
in Delta County, Colorado, under the name of KLASSEN MINOR SUBDIVISION, have laid out, plotted, 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 Pamela K. Klaseen and Bryan J. Klaseen,
have subscribed their names this _____ day of _____, A.D. 20____

By: _____ By: _____
Pamela K. Klaseen Bryan J. Klaseen,

NOTARIAL:

State of _____ } ss.
County of _____ }
The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Pamela K. Klaseen and Bryan J. Klaseen.

My commission expires: _____
My address is _____

Witness my hand and official seal.

MORTGAGEES APPROVAL

In witness whereof Mortgagee has subscribed its name approving the content of this final plat this _____ day of _____, A.D. 20____.

By: _____ Mortgagee

NOTARIAL:

State of _____ } ss.
County of _____ }
The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20____, by Mortgagee

My commission expires: _____
My address is _____

Witness my hand and official seal.

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

The within plat of the above subdivision has been checked for compliance in accordance with Case No. PL####.

Dated this _____ day of _____, A.D., 20____

Planning Director

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 (Account No. R025528) are paid in full.

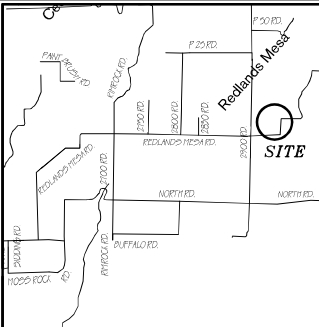
Dated this _____ day of _____, A.D. 20____

Treasurer of Delta County, Colorado

SUMMARY TABLE:

LOT 1 = 36.293 ACRES
LOT 2 = 5.030 ACRES
REDLANDS MESA ROAD = 0.564 ACRES
TOTAL AREA OF SUBDIVISION = 41.887 ACRES
NUMBER OF BUILDABLE LOTS = 2
NUMBER OF NON-BUILDABLE LOTS = 0
ZONING DESIGNATION A-35

AREA LOCATOR



TYPICAL LEGEND

- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long w/2" aluminum cap PLS25972
- Set 5/8" rebar 12" aluminum cap as Witness corner or linepin PLS25972
- Found 3-1/4" aluminum cap PLS25972 or as noted, per monument record.
- Found 2" aluminum cap PLS 24944 per monument record.
- ORIGINAL USGLO SURVEY CAP per monument record.
- Found 3 1/4" aluminum cap PLS20677 per monument record.
- Found 5/8" rebar with 2" aluminum cap PLS 12766
- Found 5/8" rebar with 1 1/2" aluminum cap PLS 14821

—F— Fencelines
—E— Electric (overhead)
—UE— Electric (underground)
—W— Water line
—E— Easement

BASIS OF BEARINGS:

S.86°24'10"W. from the 1/4 corner common to Sections 5 and 8 to the SW corner of said E1/2 of the SW1/4, also being the W1/16 corner
GEODETIC NORTH
GPS OBSERVATION

SCALE 1"=120 U.S. SURVEY FEET

0 60 120 240

- OUTDOOR LIGHTING SHALL BE HOODED OR SHIELDED SO THAT LIGHT IS DIRECTED DOWNWARD. OUTDOOR LIGHTING SHALL NOT CREATE GLARE ONTO ADJACENT PROPERTY OR PUBLIC OR PRIVATE ROADS, NOR SHALL IT CONTRIBUTE TO SKY GLOW THAT DILUTES THE NIGHT SKY.
- ALL DEVELOPMENT IN DELTA COUNTY IS SUBJECT TO THE DELTA COUNTY RIGHT TO FARM AND RANCH POLICY, ADOPTED AS RESOLUTION 96-R-020 BY THE BOARD OF COUNTY COMMISSIONERS OF DELTA COUNTY ON SEPTEMBER 27, 1999.
- ACCESS TO ALL SHOWN OR UN-SHOWN IRRIGATION DITCHES FOR CLEANING AND MAINTENANCE PURPOSES IS PERMITTED.
- COLORADO IS AN "OPEN RANGE" STATE. IT IS NOT THE RESPONSIBILITY OF A LIVESTOCK OWNER TO FENCE IN LIVESTOCK.
- THIS PROPERTY IS LOCATED IN AN AGRICULTURAL AREA. NORMAL AGRICULTURAL ACTIVITIES WILL CONTINUE UNABATED IN THE SURROUNDING AREAS AND MAY NOT BE THE BASIS FOR A LAWSUIT EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE.
- 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 COORDINATOR 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 TO OTHER THAN SINGLE FAMILY RESIDENTIAL OR AGRICULTURAL USE REQUIRES THE LOT OWNER TO PROCESS THE REQUEST IN ACCORDANCE WITH THE REGULATION OF DELTA COUNTY.
- ALL NEW UTILITIES MUST BE PLACED UNDERGROUND ON ALL PARCELS.
- THE MINIMUM SETBACKS FOR ALL STRUCTURES (INCLUDING ONSITE WASTEWATER TREATMENT SYSTEMS) IN THIS SUBDIVISION SHALL BE:

DISTANCE	SETBACK MEASURED FROM THE:
25'	EDGE OF ANY DITCH
25'	EDGE OF ROAD EASEMENT OR RIGHT-OF-WAY (PUBLIC AND PRIVATE)
15'	INTERIOR PROPERTY LINES, OTHER THAN ABUTTING ROAD
50'	TOP OF BANK (RIVER, STREAM, CREEK)

- THE SHARES OF IRRIGATION WATER ASSIGNED TO THE SUBJECT PROPERTY SHALL BE ASSIGNED AS FOLLOWS:
LOT 1 - #SHARED (APPLICABLE COMPANY/IES)
LOT 2 - #SHARED (APPLICABLE COMPANY/IES)
- SHARES OF IRRIGATION WATER CONVEYED TO LOTS AT THE TIME OF PLAT RECORDING ARE SUBJECT TO THE IRRIGATION PLAN (DATED#####) INCLUDED WITH THIS SUBDIVISION.

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.

PLAT REFERENCES:

"TULLY / SCHUM SURVEY"—RECORDED MAY 14, 1998
UNDER RECEPTION NO. 514136.

"ERIN WILLIAMS EXEMPTION SURVEY"—UNDER RECEPTION NO. 483856.

"WINNE FAMILY MINOR SUBDIVISION"—RECORDED DECEMBER 18, 2003 UNDER RECEPTION NO. 573759.

"PAMELA K. AND BRIAN J. KLASSEN BOUNDARY SURVEY"—RECORDED NOVEMBER 29, 2021 UNDER RECEPTION NO. 734786



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue
P.O. Box 1692
Paonia, Colorado 81428
www.wilmorelandsurveying.com

Defining Boundaries

EMAIL randy@wilmorelandsurveying.com

FIELD CREW:

RAW

DRAFTER:

RAW

CHECKED BY:

KC

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 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.

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

KLASEEN MINOR SUBDIVISION
PLN NO.

E1/2 SW1/4 OF SECTION 5, T.14S., R.93W., 6TH P.M.
DELTA COUNTY, COLORADO

122070 FINAL

17 MARCH 2022

PLN21-005/Klaseen Minor (2-10t) Subdivision

1 message

Anne Sievers [REDACTED]

Tue, Apr 19, 2022 at 12:05 PM

To: Planning@deltacounty.com, akemp@deltacounty.com, [REDACTED]

Cc: [REDACTED]

Dear Delta County Planning and Board of Adjustments,

I am an adjacent landowner on the south side of Redlands Mesa Road, and received this packet for comments in yesterday's (April 18) mail. I own a concrete inlet structure designed by USDA Soil Conservation Service CRSC #920114, originally owned by Fred and Anne Burritt and David and Anne Sievers. The concrete structure measures irrigation waters and is set according to irrigation water ownership distributed by Redlands Mesa Water Users Inc. There is a minimum water share ownership requirement in order to have a splitbox set by the company boxsetter.

Currently, ownership of this concrete structure is shared with the Klaseens.

I did not read in the packet mailed to me that any irrigation water is being transferred. If that is the case, I have no comments. If however irrigation water ownership is being transferred to Lot 2, there is no way to "set" a new split for the benefit of new Lot 2 (5.030 acres) from the existing concrete structure. This division would need to be internally "set" by the owners of Lots 1 and Lot 2.

Thanks,

Barney & Co., LLC

Anne Sievers

Nomi (Nancy) Gray

Hotchkiss, CO 81411

4-20-2022

Delta County Planning Dept
c/o Angie Kemp
295 W. 6th Street
Delta, CO 81416

RE: Klaseen Subdivision Variance Request

Dear Ms. Kemp

Thank you for the opportunity to comment on the above variance request. As one can see from the attached neighborhood map, this area, which is currently zoned for 35-acre lots consists primarily of large parcels in compliance with the current zoning regulations, with few non-conforming smaller lots. The proposed five (5) acre parcel, however, would be adjacent to one of those existing non-conforming lots.

The sentiment in this neighborhood typically values large parcels, and this is evidenced by a good number of properties that have been placed under conservation easement in order to preserve the open space and agricultural lands. In fact, a number of folks have used conservation easements to intentionally protect the neighborhood from fragmentation since until recently, there were no such protections provided by Delta County regulations. It would be good to know that now that we have zoning in place that we could depend on appropriate zoning administration for the new land use code, which gives large-lot areas the protections we've been awaiting.

As to the variance request – I cannot claim that it will have any direct negative effect on my property, and in fact, I'm glad to know that in the near term, the presence of Brian's son residing adjacent to Lot 1 might result in better stewardship than has been previously given to that property. I'm even happier to know that future subdivision of Lot 1 will be prohibited by a plat note. I will comment, however, on whether I think the request actually meets the criteria that the Board of Adjustment is supposed to consider in their decision.

Generally, the resulting Lot 1 which is already irregularly shaped as a result of a recent subdivision will be further misshapen by removal of the 5-acre parcel (Lot 2). The

applicant is requesting a major variance to create a 5-acre lot in a 35-acre minimum lot size zone. Lot 2 does not meet the criteria for a variance in that it lacks the 30-foot frontage onto the County Road.

According to the LUC, the BOA must be able to find all of the three code requirements are met. I doubt that there are any extraordinary or exceptional circumstances or undue hardships involved in this request. I do understand that it can be difficult to get bank financing for a new home unless you have a separate parcel that can be encumbered by the bank, but this is a very typical situation.

These are my comments and observations. I hope that the BOA will consider their decision carefully. If approved, I do hope that such future divisions will be very limited in order to preserve the integrity of our neighborhood. Thanks for your consideration.

Sincerely,

Nomi (Nancy) Gray



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

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

Thursday, April 28, 2022 @ 5:30 p.m.

PLN21-089 (Bower)

Consider variances to reduce the required lot size for two (2) lots in the A-5 zoning district; from 5.0 acres minimum to 1.21 acres (Lot 1) and 2.16 acres (Lot 2). The subject property is a 3.37-acre parcel located at 3659 & 3663 2000 Road (Parcel: 345534103002), Delta.

PROJECT INFORMATION:

Property Owner: Douglas M. Bower
Applicant: Douglas M. Bower
Site Address(s): 3659 & 3663 2000 Road
Parcel ID/Acct: 345534103002 /R018531
Parcel Size: 3.37 Acres
Zoning: A-5

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a) Consider required variance criteria and findings as they apply to PLN21-089 (Bower);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) for two (2) lots in the A-5 zoning designation located at 3659 & 3663 2000 Road (Parcel: 345534103002); and

- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

SUMMARY:

Mr. Bower, owner/applicant, is seeking a 2-lot subdivision (Minor Plat) from a 3.37-acre parcel with frontage on 2000 Road. There are two (2) existing residences. The subdivision is designed to separate existing homes and divide the lot in order to sell an existing residence (3663 2000 Road).

The zoning is A-5 so the minimum acreage for subdividing this parcel is 5 acres per lot. As proposed, the two (2) lots do not meet standards for acreage set forth in the LUC so two variances are required. Staff has verified that all structures (including septic systems) meet the required setbacks to proposed lot lines for Lots 1 and 2.

Variances are presented at a public hearing to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial considering the required criteria (4) and findings (3). Staff finds that there is no agricultural use of this property so it could be subdivided if the BoA finds that it meets the required criteria and finding. There are no unique physical conditions, and the lot sizes in the surrounding area are larger than the existing 3+ acres with the exception of one 1.08-acre parcel across 2000 Road. Therefore, the primary question is if the BoA finds that the hardship criteria/findings are met to approve variances reducing lot sizes that set a precedence in this area.

The LUC requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. Once a decision has been made by the BOA the process can either precede with the Subdivision application or the applicant has 10 (calendar) days to appeal the BOA's decision to the Board of County Commissioners (BoCC).

DISCUSSION:

The application (PLN21-089/ Bower) is for a 2-lot subdivision (Minor Plat) with frontage on 2000 Road (County paved road, public Right-of-Way (ROW)). Assessor records show the parcel to be 3.37 acres. The subject property has been identified as Lot 2 of the Sarah "B" Minor Subdivision (Reception # 537410), which was a 3-lot subdivision with shared access for Lots 2 & 3.

The parcel has been zoned per the Delta County Land Use Code as A-5. The minimum acreage for subdividing this parcel is 5 acres per lot. The application proposes to subdivide one parcel into two (2) lots where both lots would be less than the 5-acre minimum. Because proposed lots do not meet the minimum requirements per the zoning, variances are required to create the lots.

The proposed plan illustrates splitting the property into two parcels each with an existing residence, utilities and services. The site can be generally described as adobe land with

heavy alkali, supporting little to no vegetation. Easements are required where access, or access to utilities crosses into neighboring property.

- Lot 1/3663 2000 Road (1.21 Ac); Residence with existing services (water tap, OWTS) and shared existing access along east property line off of 2000 Road.
- Lot 2/3659 2000 Road (2.16 Ac); Residence and workshop and all services (water tap, OWTS). Tri-County Taps 7915 & 2974

Engineering stated that 2000 Road is classified as a Local Access Road with a 60-foot Right-of-Way (30 feet from the centerline). No additional Right of Way is requested. Engineering also noted that the driveway and access shall be built to county standards. The shared drive shall be a minimum of 16-foot wide.

As of now, there are two driveways shown on the Site Plan, County Staff has recommended that access be taken from the southernmost drive, so that there is a fairly direct path to both Lot 1 and Lot 2, instead of the northern drive that meanders along 2000 Road. The owner met with their neighbor and requested permission to begin that change.

Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria) states: “*The final plat is annotated such that no further subdivision of **either** lot created by this subsection is allowed.*” The Oxford definition of “either”: “used before first of two (or occasionally more) alternatives that are being specified...” Staff noted in the report for PLN21-089 that we interpret the LUC to implicitly limit property owners to one lot that does not meet the minimum lot size, and not multiple variances that effectively circumvent the zoning for a larger subdivision.

The Land Use Code requires minimum setbacks (all structures, including septic) of 25 feet from the edge of ROW for all roads (public and private) and 15 feet from all interior property lines. In addition, a setback of 25 feet is required from the edge of any ditch, and 50 feet from the top of bank of a river, stream, or creek. Staff is primarily looking at new property lines meeting the required setbacks.

Where a structure and/or septic system would not meet the setback from a proposed lot line, there are three options: 1) Require lot lines to meet setbacks, or deny the subdivision as designed if that is not possible; 2) Remedy the non-conforming condition (relocate, remove); or 3) Consider a variance for creating a condition that does not meet current standards. Generally, staff would not recommend Option #3 (in any case) because with granting a variance the non-conforming condition is allowed to remain. The intent of the Land Use code is to bring things into compliance with the current standards over time.

PROCESS

Variances are presented at a public hearing to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial. Chapter 1, Section 6.C.4 LUC

requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. Once a decision has been made by the BOA the process will either precede with the Subdivision application or the applicant has 10 days to appeal the BOA's decision to the Board of County Commissioners (BoCC).

Pursuant the LUC, Minor Plat (2-lot subdivisions) are handled administratively, which means that the Director of Community Development and Natural Resources makes a final decision. The Director cannot act on the Minor Plat until/unless the Variance is approved. The application checklist requested enough detail, professionally drawn, for the BOA to be able to make a fully informed decision on the variance. The Site Plan is attached (**Attachment**).

The Land Use Code (LUC) 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. These criteria/findings are listed below with an initial assessment by staff:

Variation to Lot Size (Criteria): Chapter 3, Section 1.A.3 of the LUC states that the County may approve the creation of new lots that do not conform to the size requirements provided they meet four (4) criteria:

1. *The subdivision conforms to all other requirements of the Delta County Land Use Code.*

Staff finds that structures including septic systems meet the required setbacks to proposed lot lines. There is one non-conforming shed that is proposed to be relocated prior to approval (Condition 1). Both lots have active, separate Tri-County domestic water taps. Access shall be constructed to County standards if it does not already meet the requirements.

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).*

The Site Plan displays that Lot 1 will have approximately 180ft of frontage on 2000 Road and Staff has estimated that Lot 2 will have about 130ft of frontage on 2000 Road. Both lots meet the minimum dimensions.

3. *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.*

There is no irrigated ag land at the subject property. The site can be generally described as adobe land with heavy alkali supporting little to no vegetation.

4. *The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed.*

If variance(s) is/are approved, the BOA could apply a condition that requires including a Plat note reflecting this restriction.

Variance (Findings): Chapter 10, Section 2 of the LUC states that no variance shall be authorized unless the Board of Adjustment (BOA) makes three findings:

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.*

Staff finds that there are no unique physical conditions relative to shape or topography of the subject property. The stated purpose for these variances is for dividing the existing residences and their services. The question is if the BOA finds that holding to the strict regulations for A5 zoning “*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.*

With the removal or relocation of a non-conforming shed, all other structures meet the setbacks minimum. The proposed subdivision would not impact irrigated lands.

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.

3. *The requested variance would not create a substantial detriment to the public good or substantially impair the intent and purpose of this Code.*

Zoning is applied broadly, but we recognize that it may not fit every situation. Residences are existing and this is not ag land, despite agricultural zoning. Lot sizes in the surrounding area are larger than the existing 3+ acres with the exception of one 1.08-acre parcel across 2000 Road.

The variance process affords an avenue to request a smaller lot if required criteria/findings can be justified (e.g., physical constraint, hardship). The

proposed layout would not impact agricultural operations and the site has been developed with multiple dwellings. However, staff interprets that the exception for a variation to lot size is to create a single exception to address a unique situation, not a subdivision.

This is a critical part in determining if a variance should be approved or denied. As such, staff recommends that the BOA take an action on the intent to approve, conditionally approve, or deny this request for a variance. Based on that direction, staff will return with a resolution for the BOA to adopt. At that point, an aggrieved party could appeal the BOA decision to the BoCC.

Findings/Hardship

The ability to approve any variance depends largely on defining *unnecessary/undue* hardship. There is no simple formula for determining, what is enough. Hence, the BOA holds a quasi-judicial hearing and renders a decision based on evidence presented.

Hardship should be more than mere inconvenience or a preference for a more lenient standard. An applicant should demonstrate how their situation compares to others subject to the same restriction in the vicinity of their project. For example, 1) does strict compliance with the Code totally prevent improvement of the property in a manner which is reasonable, customary and consistent with other properties in the area; or (2) are there conditions peculiar to the property that cause practical difficulty in strict compliance with the ordinance, due to significant or unjustified expense in light of the scope of the project, destruction or demolition of attractive features of the property, or similar reasons.

An unnecessary hardship should be peculiar to the subject property, not general to the neighborhood or the applicant's personal circumstances. A hardship should not result from actions taken by the applicant or property owner (self-created). For example, the alleged practical difficulty was not created as a result of any action taken by the applicant or predecessors in interest of the property which was unlawful, or which could have been reasonably foreseen to create difficulty in complying with the ordinance for future improvements.

Another way of looking at variances is if granting it would create special privilege to this property that would not be granted to another property with similar conditions (size, shape) in the same zoning designation. Also, that because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

Arguments that tend to be legally successful include the following:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner (not just a mere inconvenience), if the strict letter of the zoning regulation were to be carried out;
2. That the conditions upon which the petition for variance relates would not be applicable generally to other property within the same zoning district;
3. That the purpose of the variance is not based exclusively upon a desire to make more money out of the property;
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
5. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. That the proposed variance will not:
 - a. Impair an adequate supply of light and air to adjacent property;
 - b. Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Town/City;
 - d. Diminish or impair property values within the neighborhood;
 - e. Unduly increase traffic congestion in the public streets and highways;
 - f. Create a nuisance; or
 - g. Result in an increase in public expenditures.
7. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

OTHER AGENCY INVOLVEMENT

A Land Use application was submitted on December 17, 2021 and a pre-application conference was held with the owner on January 3, 2022. At that meeting, representatives from multiple County departments were present. The purpose of a pre-application conference (meeting) is to inform the applicant of pertinent regulations and identify any potential issues.

The variance process itself does not generally involve other agencies. However, a public notice was sent to neighboring property owners, interested parties, and posted on the subject property. When/If a subdivision is processed, it will be referred to adjacent property owners and agencies for a 21-day comment period.

CONDITIONS

If the BOA finds that the variance can be approved per the required findings, staff would recommend conditions to address the following items as part of the subdivision, prior to accepting the Final Plat:

1. Any non-conforming structures that do not meet setbacks to proposed or existing property lines shall be relocated (e.g. the non-conforming shed).
2. Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria) states: "The final plat is annotated such that no further subdivision of either lot created by this subsection is allowed."

Attached material: list, in order as attached

- Site Plan / Bower

3715 2000 RD
BURCH LINDA J.

3711 2000 RD
KINNETT KATH

3712 2000 RD
BAYSIS MADELINE

3620 2000 RD
PHILLIPS GARY D.
345535202007

3536 2000 RD.
PROSSER DONALD
DOUGLAS M BOWER
3663 2000 ROAD
Delta Co 81416
363-911-9676

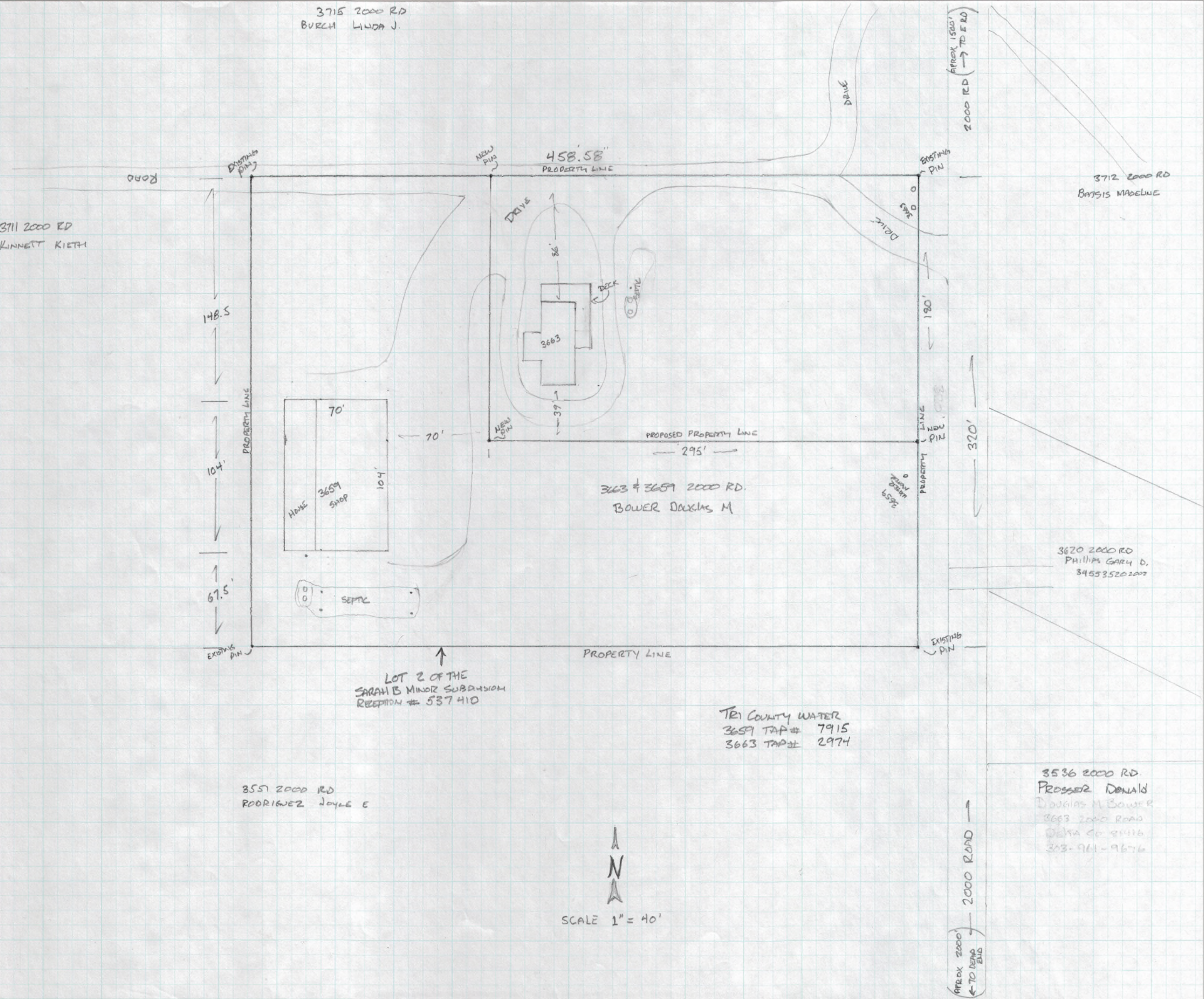
3551 2000 RD
RODRIGUEZ NOBLE E

TRI COUNTY WATER
3659 TAP# 7915
3663 TAP# 2974

LOT 2 OF THE
SARAH B MINOR SUBDIVISION
RECEPTION # 537410

3663 & 3659 2000 RD.
BOWER DOUGLAS M

N
SCALE 1" = 40'





STAFF REPORT

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

Thursday, April 28, 2022 @ 5:30 p.m.

PLN22-011 (Mitchell/Brill-Key)

Consider variances to reduce the required lot size for two (2) lots in the A-20 zoning district; from 20.0 acres minimum to 9.286 acres (Lot 1) and 10.173 acres (Lot 2). The subject property is a 20-acre parcel located at 36908 & 36904 M50 Road and 12401 3700 Road (Parcel: 324316400027), Hotchkiss.

PROJECT INFORMATION:

Property Owner: Roy Brill Key
Applicant: Dave Mitchell
Site Address(s): 36908 & 36904 M50 Road and 12401 3700 Road
Parcel ID/Acct: 324316400027 /R007436
Parcel Size: 20 Acres
Zoning: A-20

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a) Consider required variance criteria and findings as they apply to PLN22-011 (Mitchell/Key Subdivision);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) for two (2) lots in the A-20 zoning designation located at 36908 & 36904 M50 Road and 12401 3700 Road (Parcel 324316400027); and



- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

SUMMARY:

Mr. Roy Brill Key owns a 20-acre parcel with frontage on M50 Road and 3700 Road with three (3) existing residences. Mr. Dave Mitchell resides in the residence located off of M50 Road, and has been given authority from the owner (Mr. Key) to process a 2-lot subdivision (Minor Plat).

The proposed plan illustrates splitting the property and irrigated land into two parcels each with an existing residence, utilities and services. The subdivision is designed to separate existing homes and divide the property between the current owner (Mr. Key, 12401 3700 Road) and current tenant (Mr. Mitchell, 36904 M50 Road & 36908 M50 Road) so that agricultural operations can continue, both properties retain access to the North Fork of the Gunnison River, and they can each enjoy the wildlife park established on the parcel. The Wildlife Park was established for the purpose of restoring pheasant habitat, nesting material and winter feed are grown on the parcel. Mr. Key and Mr. Mitchell enjoy hunting in the area, and utilize their land in a way that supports the future success of their hobby.

The zoning is A-20 so the minimum acreage for subdividing this parcel is 20 acres per lot. As proposed, the two (2) lots do not meet standards for acreage set forth in the LUC so a variance is required. Staff has verified that all structures (including septic systems) meet the required setbacks to proposed lot lines for Lots 1 and 2.

Variances are presented at a public hearing to the Board of Adjustments (BOA) for either Approval, Approval with Conditions, or Denial considering the required criteria (4) and findings (3). There are no unique physical conditions, and the lot sizes in the surrounding area are 12+ acres. There is agricultural use of this property and, as proposed, these two lots would be smaller than other parcels in the surrounding area. Staff finds that 9-10 acre lots could be considered generally comparable. If the BOA finds that variance(s) can be approved, then staff recommends establishing building envelopes around existing development where future development would not impact the agricultural lands or the area designated as a wildlife park (Condition). The primary question is if the BoA finds that the hardship criteria/findings are met to approve variances reducing the lot sizes in this area.

The LUC requires the concurring vote of three members of a 3-member BOA, meaning actions by the BOA must be unanimous in order to pass. Once a decision has been made by the BOA, the process will either move forward to begin the Subdivision or the applicant has 10 (calendar) days to appeal the BOA's decision to the Board of County Commissioners (BoCC).



DISCUSSION:

The application for PLN22-011(Mitchell/Brill-Key Subdivision) is a 2-lot subdivision (Minor Plat) with frontage on M50 Road and 3700 Road. M50 and 3700 Road are County roads, public Right-of-Way (ROW). Assessor records show the parcel to be 20.00 acres.

The parcel has been zoned per the Delta County Land Use Code as A-20. The minimum acreage for subdividing this parcel is 20 acres per lot. There is a pond, irrigated agricultural land, and a section of the North Fork of the Gunnison River located on the southeast corner of the property (approximately 50 feet of frontage). The property is currently being utilized for residential and agricultural purposes.

The application proposes to subdivide one parcel into two (2) lots where both lots would be less than the 20-acre minimum:

- Lot 1; 9.286-acre lot with 2 existing residences (36904 M50 Road, 36908 M50 Road), a storage/coop, a storage shed, and part of an existing, irrigated Ag Field. Lot 1 is configured to retain a strip of access to the River, and the pond for duck hunting.
- Lot 2; 10.173-acre lot with one existing residence (12401 3700 Road) and part of an existing, irrigated Ag Field. Although this residence is located within the floodplain, staff determined that it was elevated so the finished floor is above the floodplain (as required).

Because each of the proposed lots do not meet the minimum requirements per the zoning of the parcel, variances must be approved before the subdivision can be considered. Under the 2021 Delta County Land Use Code, a Minor Plat (2-lot subdivision) is subject to administrative review, meaning the Director can approve a Minor Plat if the variances are approved by the BOA. In this case, the Board of County Commissioners will need to accept the Final Plat because of the road dedications.

There are three (3) addresses, one for each residence on the subject property. Originally, two (2) residences were built along M50 Road. A separate residence was built off 3700 Road with the intent to divide the property.

Access exists for each individual address, meaning there are two existing points of access off of M-50 Road (Lot 1). A separate access was created off of 3700 Road using what is illustrated as a gravel access road. Engineering noted that the driveway and access to Lot 2 is currently paved as 10-feet wide, but Road & Bridge confirmed that there is 16-feet of usable space with gravel shoulders, meeting County rural driveway standards.

Currently, the two homes on Lot 1 (36904 & 36908 M50 Road) share a septic system. (OWTS Permit # 032-22, 197-21, 004-88). A permit from Environmental Health has been granted for an engineered septic system, which will be installed to service the second residence. Based on a statement from the applicant, OWTS will be installed so that each residence is on its own system prior to the subdivision.



The Land Use Code requires minimum setbacks (all structures, including septic) of 25 feet from the edge of ROW for all roads (public and private) and 15 feet from all interior property lines. In addition, a setback of 25 feet is required from the edge of any ditch, and 50 feet from the top of bank of a river, stream, or creek. Staff has confirmed that new property lines meet all of the required setbacks.

The following are some initial comments relative to the subdivision that will apply if the variance is approved and a plat is processed:

To create a new lot/parcel requires proof of an adequate water supply. The applicant informed staff that there is a 50-foot deep well on the property that can serve the entire property, and a water quality and quantity test will be submitted to Planning prior to subdivision approval. To use well water with both parcels, a well sharing agreement will need to be provided between Lots 1 & 2.

Staff requires a Plat to include the centerline of the improved road surface. Based on that, the County generally requests dedication to the centerline of the roadway, except any land already dedicated and depending on the conditions for that area (e.g. steep slopes). The proposed plat illustrates dedicating the requested 30 feet of ROW each for M50 and 3700 Roads (a total of 0.692 Ac).

Engineering stated that M50 Road is classified as a Local Service Road with a 60-foot Right-of-Way (30 feet from the centerline). Currently, the road is a 40-foot (20-foot from the centerline) according to County records. Engineering is requesting an additional 10 feet of Right-of-Way (ROW) along the frontage of M50 Road as part of this subdivision. A Quit Claim Deed will be necessary to dedicate this ROW in Fee Simple Title.

Engineering also stated that 3700 Road is classified as a Local Service Road with a 60-foot Right-of-Way (30 feet from the centerline). Currently, the road is a 40-foot (20-foot from the centerline) according to County records. Engineering is requesting 10 feet of Right-of-Way (ROW) along the frontage of 3700 Road as part of this subdivision. A Quit Claim Deed will be necessary to dedicate this ROW in Fee Simple Title.

There are two shares of Sheppard Wilmot Water currently assigned to the property. The intent is to split irrigation equally with one (1) share assigned to each lot. An Irrigation Plan is required as part of the subdivision to describe how the owner proposes shares to be assigned (source and quantity) and also to 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.). The plat will need to accurately illustrate any easements for water ditches/lines affected by this project.

Easements will be required where irrigation, utility and/or access cross property lines to serve another lot. In addition, easements must be illustrated where access to utilities crosses into neighboring property.



FINDINGS

The Land Use Code (LUC) 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. These criteria/findings are listed below with an initial assessment by staff:

Variation to Lot Size (Criteria): Chapter 3, Section 1.A.3 of the LUC states that the County may approve the creation of new lots that do not conform to the size requirements provided they meet four (4) criteria:

1. *The subdivision conforms to all other requirements of the Delta County Land Use Code.*

Existing developments have been reviewed, all of which meet the minimum requirements for setbacks including setbacks from the proposed lot line. The subdivision would not significantly impact irrigated lands. The applicant has obtained access, address, and septic permits (County approvals) to existing homes that are located on each lot.

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).*

The subject property has about 300ft of frontage on M50 Road and 600ft of frontage on 3700 Road.

3. *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.*

If the BOA finds that variances can be approved, then staff recommends establishing building envelope(s) around existing development where future development would not impact the agricultural lands or wildlife park and bird habitat.

4. *The Final Plat is annotated such that no further subdivision of each lot created by this subsection is allowed.*

If variance(s) is/are approved, the BOA could apply a condition that requires including a Plat note reflecting this restriction.

Variance (Findings): Chapter 10, Section 2 of the LUC states that no variance shall be authorized unless the Board of Adjustment (BOA) makes three findings:

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.

Staff finds that there are no unique physical conditions relative to shape or topography of the property but that the location along the river and with the duck pond/ wildlife park status of a section of the property does lend itself to unique physical conditions. The stated purpose for these variances is for dividing the existing residences and their services amongst the parties evenly. The question is if 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.*”

2. *A variance from strict application of the regulations at issue would relieve such difficulties or hardship.*

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.

3. *The requested variance would not create a substantial detriment to the public good or substantially impair the intent and purpose of this Code.*

Zoning is applied broadly, but we recognize that it may not fit every situation. Most of the abutting properties have at least 20 acres, but there are some smaller lots (2.75 Ac, 2.31 Ac, 12.04 Ac, 18.9 Ac just to the northeast). To the northwest, along highway 133, there are many small lots, especially on the north side of 133 where zoning is A5. Highway 133 is less than a half-mile from the subject property.

The variance process affords an avenue to request a smaller lot if required criteria/findings can be justified (e.g., physical constraint, hardship). The proposed layout would not impact agricultural operations and the site has been developed with multiple dwellings. However, staff interprets that the exception for a variation to lot size is to create a single exception to address a unique situation, not a subdivision.

This is a critical part in determining if a variance should be approved or denied. As such, staff recommends that the BOA take an action on the intent to approve, conditionally approve, or deny this request for a variance. Based on that direction, staff will return with a resolution for the BOA to adopt. At that point, an aggrieved party could appeal the BOA decision to the BoCC.

Findings/Hardship



The ability to approve any variance depends largely on defining *unnecessary/undue* hardship. There is no simple formula for determining, what is enough. Hence, the BOA holds a quasi-judicial hearing and renders a decision based on evidence presented.

Hardship should be more than mere inconvenience or a preference for a more lenient standard. An applicant should demonstrate how their situation compares to others subject to the same restriction in the vicinity of their project. For example, 1) does strict compliance with the Code totally prevent improvement of the property in a manner which is reasonable, customary and consistent with other properties in the area?; or (2) are there conditions peculiar to the property that cause practical difficulty in strict compliance with the ordinance, due to significant or unjustified expense in light of the scope of the project, destruction or demolition of attractive features of the property, or similar reasons?

An unnecessary hardship should be peculiar to the subject property, not general to the neighborhood or the applicant's personal circumstances. A hardship should not result from actions taken by the applicant or property owner (self-created). For example, the alleged practical difficulty was not created as a result of any action taken by the applicant or predecessors in interest of the property which was unlawful, or which could have been reasonably foreseen to create difficulty in complying with the ordinance for future improvements.

Another way of looking at variances is if granting it would create special privilege to this property that would not be granted to another property with similar conditions (size, shape) in the same zoning designation. Also, that because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this Title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

Arguments that tend to be legally successful include the following:

1. That the particular physical surroundings, shape or topographical condition of the specific property involved would bring particular hardship upon the owner (not just a mere inconvenience), if the strict letter of the zoning regulation were to be carried out;
2. That the conditions upon which the petition for variance relates would not be applicable generally to other property within the same zoning district;
3. That the purpose of the variance is not based exclusively upon a desire to make more money out of the property;
4. That the alleged difficulty or particular hardship has not been created by any person presently having an interest in the property or by the applicant;
5. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
6. That the proposed variance will not:
 - a. Impair an adequate supply of light and air to adjacent property;



- b. Substantially increase the hazard from fire or other dangers to said property or adjacent property;
 - c. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of the Town/City;
 - d. Diminish or impair property values within the neighborhood;
 - e. Unduly increase traffic congestion in the public streets and highways;
 - f. Create a nuisance; or
 - g. Result in an increase in public expenditures.
7. That the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

OTHER AGENCY INVOLVEMENT

A Land Use application was submitted on February 3, 2022 and a conference was held with the owner on February 15, 2022. 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.

The variance process itself does not generally involve other agencies. However, a public notice was sent to neighboring property owners, interested parties, and posted on the subject property. When/If a subdivision is processed, it will be referred to adjacent property owners and agencies for a 21-day comment period.

CONDITIONS

If the BOA finds that the variances can be approved per the required findings, staff would recommend conditions to address the following items as part of the subdivision, prior to accepting the Final Plat:

1. Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria) states: "The final plat is annotated such that no further subdivision of either lot created by this subsection is allowed."
2. Owner shall dedicate the section of ROW M50 Rd of ROW 3700 Rd displayed on the plat to Delta County for acceptance by the BoCC
3. An Irrigation Plan will be submitted.
4. A Well Sharing Agreement will be submitted to avoid any future disputes for future owners. A well (permit # 85878) quantity and quality report will also be submitted.
5. Installation of OWTS for residence on Lot 1 will be completed.



6. Building Envelopes shall be established surrounding existing development to avoid future development encroachment on irrigated Ag or the wildlife park.

Attached material: list, in order as attached

- **Minor Plat/ Mitchell-Brill Key**
- **Minor Plat/ Mitchell-Brill Key (with aerial overlay)**

**SITE PLAN PREPARED FOR
MITCHELL MINOR SUBDIVISION PLN22-011
WITHIN THE NE1/4 SE1/4 OF SEC. 16, T.14S., R.92W., 6TH P.M.
DELTA COUNTY, COLORADO**

I, Roy Brill Key, being the owner of land described as follows:

County of Delta, State of Colorado

has subscribed his name this _____ day of _____, A.D. 20_____.

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20_____, by Roy Brill Key

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

Dated this _____ day of _____, A.D., 20 ____

BOARD OF COUNTY COMMISSIONERS APPROVAL

Dated this _____ day of _____, AD 20____

County Clerk of Delta County, Colorado

Treasurer of Delta County, Colorado

County Clerk

SITE PLAN PREPARED FOR
MITCHELL MINOR SUBDIVISION PLN22-011
WITHIN THE NE1/4 SE1/4 OF SEC. 16, T.14S., R.92W., 6TH P.M.
DELTA COUNTY, COLORADO

120221	9 MARCH 2022
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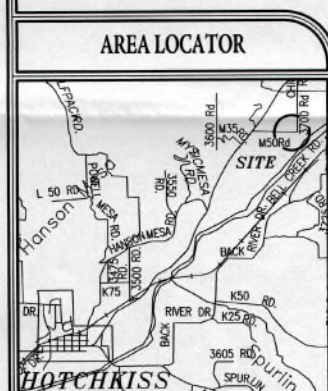
M-50 ROAD & 3700 ROAD—Dedicated to Delta County

County of Delta, State of Colorado



406 Grand Avenue
P.O. Box 1652
Paonia, Colorado 81428
970.527-4200 PHONE
970.314-1009 PHONE
www.wilmorelandsurveying.com
EMAIL kris@wilmorelandsurveying.com

REVISIONS



- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS38255
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner or linepin PLS38255
- Found 3/4" rebar 30" long with 3-1/4" aluminum cap PLS38255
- Found 5/8" rebar 30" long with 2" aluminum cap PLS25972 or as noted
- Found 5/8" rebar with 1 1/2" aluminum cap PLS12766 or as noted

BASIS OF BEARINGS:
 N.01°35'20"E. FROM THE SECTION
 CORNER COMMON TO SEC. 11,
 12, 13 & 14 TO THE S1/16
 COR. COMMON TO SEC. 11 & 12
 GEODETIC NORTH
 GPS OBSERVATION
 SCALE 1"=100 U.S. SURVEY FEET

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR #38255

LOT 1 = 9.286 ACRES/404511.5 SQ. FT.
LOT 2 = 10.173 ACRES/443127.0 SQ. FT.
DEDICATED ROADS = 0.692 ACRES/30146.4 SQ. FT.
TOTAL AREA OF SUBDIVISION = 20.151 ACRES/877784.9 SQ. FT.
NUMBER OF BUILDABLE LOTS = 2
NUMBER OF NON-BUILDABLE LOTS = 0
LAND USE (ZONING) DESIGNATION = A-20

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.

SITE PLAN PREPARED FOR
MITCHELL MINOR SUBDIVISION PLN22-011
WITHIN THE NE1/4 SE1/4 OF SEC. 16, T.14S., R.92W., 6TH P.M.
DELTA COUNTY, COLORADO



- ON ***** THE DELTA COUNTY BOARD OF ADJUSTMENTS APPROVED A VARIANCE FOR LOT SIZE (PLN22-011/MITCHELL MINOR), PURSUANT TO LAND USE CODE CHAPTER 3, SECTION 1.A.3. NO FURTHER SUBDIVISION OF EITHER LOT CREATED BY THIS SUBDIVISION IS ALLOWED.
- OUTDOOR LIGHTING SHALL BE HOODED OR SHIELDED SO THAT LIGHT IS DIRECTED DOWNWARD SO AS NOT TO GLARE INTO THE ADJACENT PROPERTY, OR DILUTE THE NIGHT SKY.
- ALL DEVELOPMENT IN DELTA COUNTY IS SUBJECT TO THE DELTA COUNTY RIGHT TO FARM AND RANCH POLICY, ADOPTED AS RESOLUTION 96-R-020 BY THE BOARD OF COUNTY COMMISSIONERS OF DELTA COUNTY ON SEPTEMBER 27, 1999.
- ACCESS TO ALL SHOWN OR UN-SHOWN IRRIGATION DITCHES FOR CLEANING AND MAINTENANCE PURPOSES IS PERMITTED.
- COLORADO IS AN "OPEN RANGE" STATE. IT IS NOT THE RESPONSIBILITY OF A LIVESTOCK OWNER TO FENCE W LIVESTOCK.
- THIS PROPERTY IS LOCATED IN AN AGRICULTURAL AREA. NORMAL AGRICULTURAL ACTIVITIES WILL CONTINUE UNABATED IN THE SURROUNDING AREAS AND MAY NOT BE THE BASIS FOR A LAWSUIT EXCEPT IN CASES OF PROVEN GROSS NEGLIGENCE.
- 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 BOARD) 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 TO OTHER THAN SINGLE FAMILY RESIDENTIAL OR AGRICULTURAL USE REQUIRES THE LOT OWNER TO PROCESS THE REQUEST IN ACCORDANCE WITH THE REGULATION OF DELTA COUNTY.
- ALL NEW UTILITIES MUST BE PLACED UNDERGROUND ON ALL PARCELS.
- THE MINIMUM SETBACKS FOR ALL STRUCTURES (INCLUDING ONSITE WASTEWATER TREATMENT SYSTEMS) IN THIS SUBDIVISION SHALL BE:

SETBACK MEASURED FROM:	SETBACK
EDGE OF ANY DITCH	25'
EDGE OF ROAD EASEMENT OR RIGHT-OF-WAY (PUBLIC AND PRIVATE)	25'
INTERIOR PROPERTY LINES, OTHER THAN ADJUTING ROAD	15'
TOP OF BANK (RIVER, STREAM, CREEK)	50'
- THE SHARES OF IRRIGATION WATER ASSIGNED TO THE SUBJECT PROPERTY SHALL BE AS FOLLOWS:

LOT	SHARE
LOT 1	1 SHARE SHEPHERD WILMOT IRRIGATION WATER
LOT 2	1 SHARE SHEPHERD WILMOT IRRIGATION WATER

SHARES OF IRRIGATION WATER CONVEYED TO LOTS AT THE TIME OF PLAT RECORDING ARE SUBJECT TO THE IRRIGATION PLAN (DATED*****#) INCLUDED WITH THIS SUBDIVISION.

M-50 ROAD & 3700 ROAD-Dedicated to Delta County

A parcel of land being the E1/2 of the NE1/4 of the SE1/4 of Section 16, Township 14 South, Range 92 West of the 6th P.M., having a description based upon a bearing of S.88°16'50"E. 18.00 feet from true corner position and being a 1-1/2" aluminum cap PLS1456 to the 1/4 Corner common to Sections 15 and 16 (monumented by a 3-1/4" aluminum cap PLS38255), with all other bearings relative thereto and being more particularly described as follows:
Beginning at said 1/4 Corner and running thence along the east line of said E1/2 of the NE1/4 of the SE1/4 S.01°25'05"W. 1343.49 feet to the SE corner of said E1/2 of the NE1/4 of the SE1/4, also being the S1/16 Corner common to Sections 15 and 16 (monumented by a 3-1/4" aluminum cap PLS25972); thence along the south line of said E1/2 of the NE1/4 of the SE1/4 N.87°58'40"W. 649.59 feet to the SW corner of said E1/2 of the NE1/4 of the SE1/4 (monumented by a 1-1/2" aluminum cap PLS12766); thence along the west line of said E1/2 of the NE1/4 of the SE1/4 N.01°01'13"E. 1340.14 feet to the NW corner of said E1/2 of the NE1/4 of the SE1/4 (monumented by a witness corner bearing S.01°01'13"W. 21.38 feet from true corner position and being a 1-1/2" aluminum cap PLS12766); thence along the north line of said E1/2 of the NE1/4 of the SE1/4 S.88°16'50"E. 658.86 feet to the Point of Beginning, containing 20.151 acres, more or less.

County of Delta, State of Colorado

SUBDIVISION DEDICATION

I, Roy Brill Key, being the owner of land described as follows:

A parcel of land being the E1/2 of the NE1/4 of the SE1/4 of Section 16, Township 14 South, Range 92 West of the 6th P.M., having a description based upon a bearing of S.88°16'50"E. 18.00 feet from true corner position and being a 1-1/2" aluminum cap PLS1456 to the 1/4 Corner common to Sections 15 and 16 (monumented by a 3-1/4" aluminum cap PLS38255), with all other bearings relative thereto and being more particularly described as follows:
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County of Delta, State of Colorado

In Delta County, Colorado, under the name of MITCHELL MINOR SUBDIVISION PLN22-011, have 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 Roy Brill Key

has subscribed his name this _____ day of _____, A.D. 20_____.

By:

Roy Brill Key

NOTARIAL:

State of _____ } ss.
County of _____ }

The foregoing instrument was acknowledged before me this _____ day of _____, A.D. 20_____, by Roy Brill Key

My commission expires: _____

My address is: _____

Witness my hand and official seal.

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

The within plat of the above subdivision has been checked for compliance in accordance with Case No. PLN22-011.

Dated this _____ day of _____, A.D. 20_____

Planning Director

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of MITCHELL MINOR SUBDIVISION PLN22-011 is accepted by the Delta County Board of County Commissioners. 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, 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.

Dated this _____ day of _____, AD 20_____

Chairman, Delta County Board of County Commissioners

Attest:

County Clerk of Delta County, Colorado

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 (Account No. R007436) are paid in full.

Dated this _____ day of _____, A.D. 20_____

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 _____, A.D. 20_____;

Reception Number _____, Time _____, Date _____

County Clerk

ROY BRILL KEY/DAVE MITCHELL
36908 M-50 ROAD, HOTCHKISS, CO 81419

AREA LOCATOR



TYPICAL LEGEND

- Set Mag Nail in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLS38255
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner or linepin PLS38255
- Found 3/4" rebar 30" long with 3-1/4" aluminum cap PLS38255
- Found 5/8" rebar 30" long with 2" aluminum cap PLS25972 or as noted
- Found 5/8" rebar with 1 1/2" aluminum cap PLS12766 or as noted
- Domestic Water Well
- Electric Transformer
- Setback Line
- 100 Year Floodplain
- Edge of River
- Fencelines
- Electric
- Water line
- Easement
- Previous Parcel Boundary
- New Quit Claim to Delta County

BASIS OF BEARINGS:

N.01°35'20"E. FROM THE SECTION CORNER COMMON TO SEC. 11, 12, 13 & 14 TO THE S1/16 COR. COMMON TO SEC. 11 & 12
GEODETIC NORTH
GPS OBSERVATION
SCALE 1"=100 U.S. SURVEY FEET

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR #38255

SUMMARY TABLE:

LOT 1 = 9.286 ACRES/404511.5 SQ. FT.
LOT 2 = 10.173 ACRES/443127.0 SQ. FT.
DEDICATED ROADS = 0.692 ACRES/30146.4 SQ. FT.
TOTAL AREA OF SUBDIVISION = 20.151 ACRES/877784.9 SQ. FT.
NUMBER OF BUILDABLE LOTS = 2
NUMBER OF NON-BUILDABLE LOTS = 0
LAND USE (ZONING) DESIGNATION = A-20

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.



WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

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Defining Boundaries EMAIL kris@wilmorelandsurveying.com

FIELD CREW:
KC

DRAFTER:
KC

CHECKED BY:
RAW

SITE PLAN PREPARED FOR
MITCHELL MINOR SUBDIVISION PLN22-011
WITHIN THE NE1/4 SE1/4 OF SEC. 16, T.14S., R.92W., 6TH P.M.
DELTA COUNTY, COLORADO

J20221

9 MARCH 2022