

DELTA COUNTY BOARD OF ADJUSTMENT
Special Meeting

Administration Building – Board Room
560 Dodge St., Delta, CO 81416
Thursday, November 17, 2022 @ 5:30 p.m.

Mike Twamley, 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/tZlvc-qgqTspEtFk7vJldUxbYYHPQak9RNzL>

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>

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. MEETING MINUTES

1. Regular Board of Adjustment meeting of October 27, 2022.
RECOMMENDATION: Approve the action minutes as presented.

CERTIFICATION OF POSTING

On November 10, 2022, at 4:00 PM, Kim Henderson did post the above AGENDA as public notice of the November 17, 2022 Special 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.

D. SCHEDULED ITEMS

1. **PLN22-045 (Schiros)**

Consider a variance to reduce the minimum setback of a gated entry from the required 35 feet to 28 feet. A gated entry has been constructed at 15805 – 15801 Black Bridge Road about 100 feet south of a 1-lane bridge near Paonia. (Parcel:318732200041).

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

- a. Consider required variance findings as they apply to PLN22-045 (Schiros);
- b. Provide direction to either Approve or Deny a variance reducing the required setback from 35 feet to 28 feet for an existing gate located at 15801 – 15805 Black Bridge Road, Paonia (Parcel 318732200041/Schiros).
- c. Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings.

2. **PLN22-057 (Kent)**

Continued from June 23, 2022. Consider a variance to reduce the required lot size from 35 acres in the A-35 zoning district to five (5) acres. The subject property is located at 13420 County Road 265, Paonia (Parcel: 292303400003).

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

- a. Consider required variance criteria and findings as they apply to PLN22-057 (Kent);
- b. Provide direction to either Approve, Conditionally Approve, or Deny lot size variance for one (1) lot in the A-35 zoning designation located at 13420 County Road 265 (Parcel 292303400003, Northumberland Group LLC); 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. **PLN22-065 (R. Thompson/Wacko Springs Ranch LLC)**

Consider a variance to reduce the required lot size from 35 acres in the A-35 zoning district. The subject property is 36.99 acres located southwest of Ash Mesa Road with access from/through 1987 Spring Drive, Delta (Parcel:349313100018).

RECOMMENDATION: Staff recommends that the Board of Adjustments (BOA) continue this matter and provide direction on:

- a. Access/Easement
- b. Lot Design
- c. Water
- d. Responsible Parties (Applicants)

4. **PLN22-071 (McCracken)**

Consider variances to reduce the required lot size from a 20.0 acre minimum in the A-20 zoning district. The subject property is a 2.61-acre parcel located at 3386 & 3390 Old Wagon Road (Parcel: 345736402001), Delta.

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

- a. Consider required variance criteria and findings as they apply to PLN22-071 (McCracken);

CERTIFICATION OF POSTING

On November 10, 2022, at 4:00 PM, Kim Henderson did post the above AGENDA as public notice of the November 17, 2022 Special 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.

- b. Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 2.61-acre lot into two (2) lots in the A-20 zoning designation located at 3386 & 3390 Old Wagon Road, Delta (Parcel 345736402001/McCracken):
 - 1. Lot 1 (1.55 Acres)
 - 2. Lot 2 (1.06 Acres)
- c. Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

E. 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.

F. DEPARTMENT REPORT

ADJOURNMENT

Adjourn to a Special Meeting on Thursday, December 15, 2022 at 5:30 pm in Delta.

CERTIFICATION OF POSTING

On November 10, 2022, at 4:00 PM, Kim Henderson did post the above AGENDA as public notice of the November 17, 2022 Special Meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

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

MINUTES
BOARD OF ADJUSTMENTS
REGULAR MEETING
DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
October 27, 2022

Chairman Mike Twamley 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

Members Absent:

Mark Roeber, District 3

Planning Staff in Attendance:

Delta County Planning & Community Development Planner I, Kate Kelly

Delta County Planning & Community Development Planner I, Angie Kemp

Delta County Planning & Community Development Administrative Assistant, Kim Henderson

A. PUBLIC COMMENT

None

B. AGENDA ADDITIONS, DELETION, AND CORRECTIONS

None

C. MEETING MINUTES

- a. Regular Board of Adjustment meeting of October 13, 2022

RECOMMENDATION: Approve the action minutes as presented.

Brett Hilling moved to approve the meeting minutes as presented. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously

D. PUBLIC HEARING ITEMS:

Item #1

PLN22-014 (Norell)

Consider a variance reducing the minimum lot size from 20 acres in the A20 zoning district located on 2200 Road, south of H Road (Parcel: 345513100024), Delta.

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

- Consider required variance criteria and findings as they apply to PLN22-014 (Norell);
- Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 30-acre parcel into three (3) lots in the A20 zoning designation located off of 2200 Road in Delta (Parcel 345513100024/Norell)
- Authorize the Director to prepare a Resolution reflecting the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

Angie Kemp presented the project.

The Board asked questions of staff and the applicant – Ken and Paula Norell were in attendance.

Brett Hilling moved to approve PLN22-014 with staff recommended findings and conditions. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.



Item #2

PLN22-148 (Kenyon)

Consider to reduce the required lot size from a 5.0 acre minimum in the A5 zoning district located at 24689 Timothy Road (Parcel: 319309100017), Cedaredge.

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

- a. Consider required variance criteria and findings as they apply to PLN22-148 (Kenyon);
- b. Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 3-acre lot into two (2) lots in the A5 zoning designation located at 24689 Timothy Road, Cedaredge, Parcel: 319309100017/Kenyon).
- c. Authorize the Director to prepare a Resolution reflection the BOA direction, including evidence relative to the required findings, and conditions (as applicable).

Angie Kemp presented the project.

The Board asked questions of staff and the applicant – Stanley and Stacey Kenyon were in attendance.

Brett Hilling moved to deny PLN22-148 and authorize the Director to create a resolution reflective of the action. Mike Twamley stepped down and seconded the motion.

Motion carried unanimously.

Findings.

The proposed northern lot (Lot 2) would have to use a shared access that was narrow and meandered through Lot 1, which is not a good design. The Board anticipated future issues if the land did not stay within the family.

The lots are both small and would not have very many options for OWTS replacement given the existing development configuration. Lot 2 does not meet the minimum criteria for 30-feet of road frontage, which would alleviate many of the issues. However, the lot is narrow and septic for the current residence exists on the opposite side of the driveway so the 30-feet of frontage is not a reasonably easy to accommodate.

The BoA finds that granting a variance in this case would create a special privilege to this property that would not be granted to another property with similar conditions in the same zoning designation.

The BoA finds that there is allowance for reasonable use of the land without granting the variance, a secondary dwelling is allowed in this zoning designation.

E. BOARD COMMENT, REQUESTS AND REFERRALS

Board Member Brett Hilling stated his term is expiring in February 16, 2023 and he does not know if he will volunteer to serve another term.

F. DEPARTMENT REPORT

1. Consider a Board of Adjustments meeting in December.

The Board of Adjustments will hold a Special Meeting on Thursday, December 15, 2022.

Meeting adjourned at 6:28 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

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

Thursday, November 17, 2022 @ 5:30 p.m.

PLN22-045/Schiros (Painted Vineyard)

Consider a variance to reduce the minimum setback of a gated entry from the required 35 feet to 28 feet. A gated entry has been constructed at 15805-15801 Black Bridge Road about 100 feet south of a 1-lane bridge near Paonia. (Parcel: 318732200041).

PROJECT INFORMATION:

Property Owner: Jeff and Karen Schiros
Applicant: Jeff and Karen Schiros
Site Address(s): 15805-15801 Black Bridge Road
Parcel ID/Acct: 318732200041 / R021974
Parcel Size: 11.09 Acres
Zoning: A20

Report prepared by: Angie Kemp, Planner I

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a) Consider required variance findings as they apply to PLN22-045(Schiros);
- b) Provide direction to either Approve or Deny a variance reducing the required setback from 35 feet to 28 feet for an existing gate located at 15801-15805 Black Bridge Road, Paonia (Parcel 318732200041/Schiros).
- c) Authorize the Director to prepare a resolution reflecting the BOA direction, including evidence relative to the required findings.

SUMMARY:

Mr. and Mrs. Schiros own an 11.09-acre lot with frontage on Black Bridge Road (County Road, County maintained), which is zoned A20. The access is located 126 feet south of the Black Bridge on the west side of Black Bridge Road. The site is used for residential and commercial purposes and the applicants are in the process of obtaining a Limited Use permit for the site for lodging and wine tasting room/restaurant uses. Vineyards have been planted on the south, southeast, and eastern portions of the property, and wine is produced at the subject parcel.

Site Conditions: There are large garages/shops in the northwestern corner of the property where wine is produced. A restaurant/tasting room was built within the past year in the northeast corner of the property (near Black Bridge Road). An “existing cabin” (15805 Black Bridge Road) shown on the Site Plan is an existing residence located between the driveway and the Gunnison River. An “existing home and garage” (15801 Black Bridge Road) located south of the driveway will be utilized as a 4-room Bed and Breakfast. There is an H2A worker duplex (farmworker housing) that was recently constructed to the southwest of the wine production garages labelled “existing housing” on the Site Plan.

The property’s north west property line includes sections of the North Fork of the Gunnison River, and areas within the floodplain, significantly reducing the amount of developable area. The applicants are aware that development within the floodplain is required to have a floodplain permit for the structure. The applicants have built a look-out deck on the river edge, and parking spots have been identified in the same section of property, to be utilized by tasting room clients. There is additional parking for staff, lodging guests, and wine production toward the other buildings.

As part of the review, it was determined that structures had been built in the floodway/floodplain and an entry gate had been constructed 28 feet from the existing edge of pavement. County Roadway Design and Construction Standards require a minimum setback of 35 feet for entry gates. These standards are referenced in the Land Use Code (LUC), and there is no other avenue to appeal a determination of the County Engineer, so the Director determined that a variance could be processed to the Board of Adjustment using the LUC process.

Access standards are designed for safety based on conditions in the area. The context of this access changes from residential/Ag to commercial with the addition of lodging and a restaurant. As a result, the traffic in/out of this site is anticipated to increase. An issue expressed by the County Engineer is that the access is located only 126 feet from a narrow 1-lane bridge over the Gunnison River, which can restrict traffic flow in this area.

The reasoning to justify this variance, as presented by the applicant, is that the pillars holding the gate in-place, have been there long before the current owners. It would be expensive and difficult to replace or move the pillars and gate, which are also visually appealing.

The existing Right-of-Way is 60 feet (30 feet to the centerline) and the existing gate is 28 feet from the edge of traveled way (10 feet from the edge of RoW). The ultimate RoW based on the road classification is 80 feet, which would reduce the setback another 10 feet. A standard pickup truck length is about 20 feet, and a variance runs with the land. In addition, the intensification of use will increase traffic in this area by 2.5%. Staff finds that the standard is designed to reduce risks of accidents that could occur on this section of roadway, and that it is advisable to consider the context for this particular site and its operations in the decision-making process.

Decisions by the BoA are final, unless an aggrieved party files an appeal. The Board of County Commissioners consider appeals based on the record, meaning if the BoA made a mistake. If the BoA determines that this request meets the required findings, then staff recommends conditions that either restrict use (e.g., large events) or operations (when the gate can be closed) in order to mitigate potential traffic impacts.

DISCUSSION:

Previous conversations with the applicant discussed the need for further review given that development continued at the property without all necessary approvals and permits. The Land Use has been expanded since the initial conversation about the development with the addition of four (4) rentable guest lodging rooms and the application type shifted with this information to a Limited Use, which requires a Level I Traffic Study as part of the application package. The Traffic Study contains discussion about the various land uses, the classification of the road (Collector), the one-way bridge capacity (just north of the property on Black Bridge Road crossing the North Fork of the Gunnison River), hours of operation (10am-6pm), days of operation (Thursday-Sunday), maximum project peak-hour trips (vph=17 vpd= 88), public parking requirements (8 spaces provided). The Engineer that conducted the study suggested that the project and all land uses at the site would only impact the road capacity by 2.5%.

The gate is made of Iron and is setback 28 feet from the edge of the pavement of Black Bridge Road. In front of the gate on both sides is a short pillar with a rock façade on a concrete base. The distance between each base is 16 feet (meets minimum access width standards).

The location and condition of the existing access meet the Delta County Roadway Design & Construction Standards. The STANDARDS can be found at the following link: <https://www.deltacounty.com/DocumentCenter/Home/Index/12>

The following sections of the Delta County Roadway Design & Construction Standards apply:

4.9 Access Standards states Pursuant to Section 43-2-147(1), C.R.S., local governments are authorized to regulate vehicular access to and from any public roadway under their respective jurisdictions as well as from and to property adjoining the roadway.

4.9.7 Use of Access states” “Access permits are issued for a specific use or type of service. No change in the type of use or service may be made without the property owner applying for an amended access permit and securing approval from Delta County (example – this application changes the use from residential to commercial, which requires an amended permit). Any change in the land use of the property served by the access, which, in the opinion of the County, can be reasonably expected to result in a significant change in the volume or type of traffic using the access, may necessitate issuance of a new or amended access permit. Any access, whether constructed before, on, or after the date of adoption of the STANDARDS, may be required by the County to be reconstructed or relocated to conform to the STANDARDS at the property owner’s expense if necessitated by a change in the use of the property which occurs after the adoption of the STANDARDS.”

4.9.11 Access Appurtenances, Paragraph 1 states that: “An access approach that is gated shall be designed so that the longest vehicle using it can completely clear the traveled way when the gate is closed. In no event shall the distance from the gate to the edge of the traveled surface be less than thirty-five (35) feet. Any overhead entry structures shall have at least thirteen feet, six inches (13’ 6”) height as clearance measured from the access surface.”

On August 16, 2022, Road and Bridge Foreman John Allen, Code Enforcement Officer Everett Neil, and Delta County Engineer Tim McCracken Inspected the existing gated access and determined the gate did not meet the 35-foot setback and should be moved to meet the setback or removed.

Road Right-of-Way width is determined by the Delta County Roadway Functional Classification System based on the Federal Highway Administration guidelines. Black Bridge Road is classified as a Collector Road with a required 80-foot Right-of-way. The existing ROW is 60 feet (30 feet on each side of the centerline) per Book 525, Page 275. Future improvements to Black Bridge Road will require the complete 80-foot ROW (40 feet on each side of the centerline). Black Bridge Road is maintained by Delta County Road & Bridge. Private, permanent above-ground and below-ground structures, including gates, **should not** be placed within the ROW.

Black Bridge is 126 feet north of the existing gated access. Black Bridge was constructed in 1930 and is first on the list for replacement. The bridge is a one-lane bridge with weight limits. Vehicles that cannot get entirely off of Black Bridge Road will further impede the one-lane traffic using the bridge, which could cause safety issues.

PROCESS

Variances are presented at a public hearing to the Board of Adjustments (BoA) for either Approval, Approval with Conditions, or Denial considering the required findings (3). Staff finds that the commercial access could be approved if the BoA finds that it meets the required findings. The primary question is if the BoA finds that the hardship findings are met.

The LUC requires a unanimous vote of the BoA in order to pass. Once a decision has been made by the BoA, the process will either proceed with the Limited Use 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).

Access Permits to County Roadways are handled through the Engineering Department after final inspection by The County Engineer or Road & Bridge District Foreman. The Commercial access cannot be granted 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).**

Pursuant the LUC, Limited Uses are handled Administratively, which means that the Director of Community Development and Natural Resources makes a final decision for the proposal of Winery, tasting room/restaurant, and lodging. The Director cannot act on the Limited Use until a complete application is received, which includes a finalized Commercial Access Permit.

If the variance is approved, staff recommends (3) conditions to reduce potential impacts:

1. Approval of this setback variance is based on the use(s) included with PLN22-045, as follows:
 - Residential (1 Duplex, 1 Cabin, 1 Bed and Breakfast 5-bedroom home)
 - Agricultural, Viticulture, Winery
 - Restaurant (Tasting Room)
 - Lodging (Four rentable rooms)

Future Development (e.g. additional structures and/or intensification of use/access) shall require a revised access permit that may trigger the need to revise/relocate the gate to conform with County requirements.

2. The gate shall

- a. Open inward (ONLY);
 - b. Remain open during operating hours; and
 - c. There shall be no after hour deliveries where the gate is closed.Otherwise, the gate must be located at least 35 feet from the edge of the travelled-way.
3. The owners shall sign for an encroachment permit that requires removal/relocation at owner's expense in the event that the road is widened to the expected 80 feet. Said permit shall require that owners agree to hold harmless and indemnify Delta County against any claims made that are attributable to the access gate on this property.

FINDINGS

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 question is if the BoA finds that holding to the strict regulations for gate setbacks to roadways “*would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property.*” There are stone/concrete pillars holding the gate in-place, which have been there long before the current owners. It would be expensive and difficult to replace or move the stone and concrete pillars, which are also visually appealing.

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.*

The County *Road Design and Construction Standards* are incorporated by reference in the Land Use Code, affording those standards access to the variance process. The process affords an avenue to request an exception to standards if required findings can be justified (e.g., physical constraint, hardship).

Staff interprets that the exception for a variation is to create a single exception to address a unique situation.

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 Code 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.

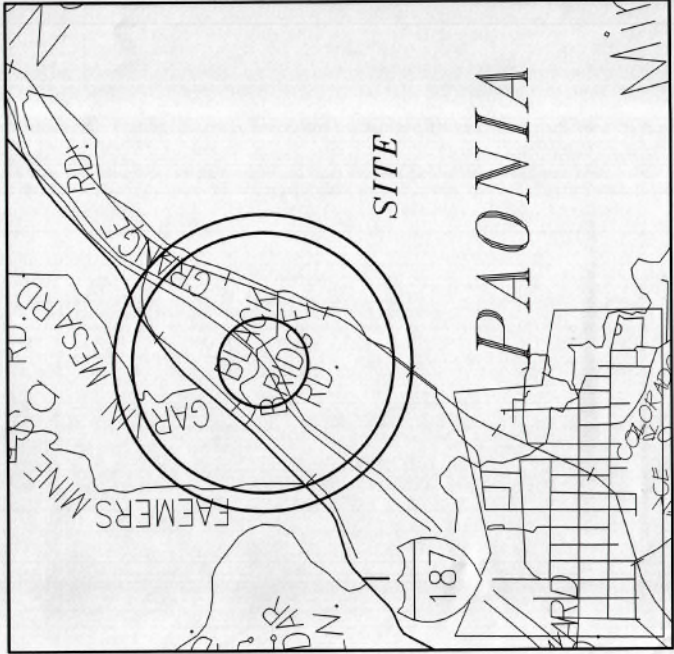
OTHER AGENCY INVOLVEMENT

The Development Application form was submitted on March 28, 2022. A letter and checklist were sent to the applicant on April 7, 2022. Additional information from the applicant and initial review triggered the need for an application conference was held June 1, 2022 with the applicant and County staff from Planning and Environmental Health. Information was given about lodging use of the property, so the project was elevated to be processed as a Limited Use. A new letter explaining Limited Use was sent to the applicant on June 8, 2022. Additional concerns were identified by County Staff including the gate setback, Division of Water Resources Well permit allowances (lack of adequate domestic water for commercial use), additional addresses needed. Variance fees were submitted October 19, 2022.

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

- Site Plan
- Site Plan with Aerial



SITE PLAN FOR THE PROPOSED PAINTED VINEYARD EXPANSION

15805 Black Bridge Road, Paonia

DELTA COUNTY, COLORADO

AREA LOCATOR

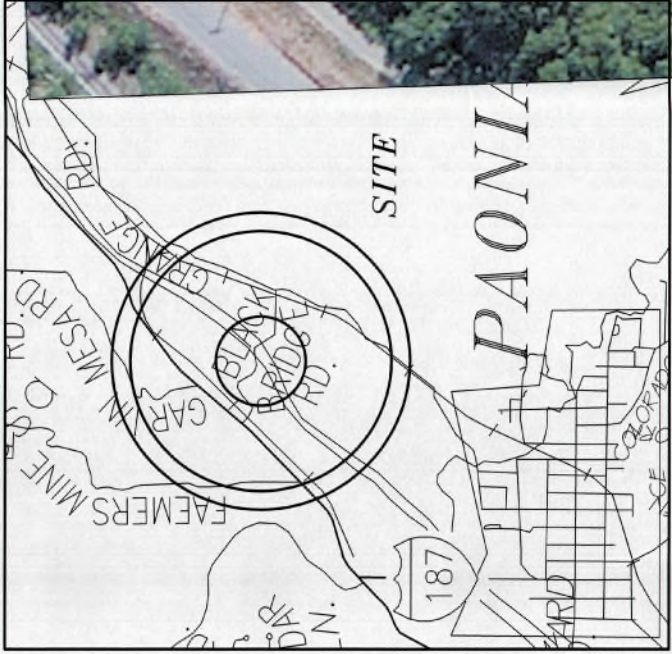
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	83.00'	7.04'	7.04'	S 33°05'41" E
C2-A	170.00'	79.04'	78.33'	N 43°58'55" W



TYPICAL LEGEND

- Fencelines
- Electric (overhead)
- Electric (underground)
- Propane Line (underground)
- Edge stream/river
- 100 Year Floodplain Limit
- 5/8" rbr./2" al. cap PLS25972
- Gravel Road

W&C Wilmore and Company
Professional Land Surveying Inc.
P.O. Box 1652/406 Grand Ave. Paonia, CO 81428
Phone: (970) 527-4200, (970)-527-4202
Drawing: J19140SKETCH
Drawn By: TWG
Date: 20 June 2022



AREA LOCATOR

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CURVED BEARING
C1	83.00'	7.04'	7.04'	S 33°29'41" E
C2-A	170.00'	79.04'	78.23'	N 43°58'55" W

THE PLAN FOR THE PROPOSED PAINTED VINEYARD EXPANSION
45805 Black Bridge Road, Paonia
DELTA COUNTY, COLORADO



TYPICAL LEGEND

- Fencelines
 - Electric (overhead)
 - Electric (underground)
 - Propane line (underground)
 - Edge stream/river
 - 100 Year Floodplain Limit
 - 5/8" rbr / 2" al cap PLS25972
 - Gravel Road

WAC Wilmore and Company
Professional Land Surveying, Inc.
P.O. Box 1652/406 Grand Ave., Paonia, CO 81429
Phone: (970) 527-4200, (970) 527-1203
Drawing: J19140SKETCH
Drawn By: TWC
Date: 20 June 2022



STAFF REPORT

Board of Adjustment

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

Thursday, November 17, 2022 @ 5:30 p.m.

PLN22-057/Kent

Continued from June 23, 2022. Consider a variance to reduce the required lot size from 35 acres in the A-35 zoning district to five (5) acres. The subject property is located at 13420 County Road 265, Paonia (Parcel: 292303400003)

PROJECT INFORMATION:

Property Owner: Northumberland Group LLC
Applicant: Stephen C Kent
Representative: Randy Wilmore (Wilmore & Company)
Site Address(s): 13420 County Road 265, Paonia
Parcel ID/Acct: 292303400003/R025397
Parcel Size: 41.028 Acres
Zoning: A-35

Report prepared by: Kate Kelly, Planner I

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a. Consider required variance criteria and findings as they apply to PLN22-057 (Kent);
- b. Provide direction to either Approve, Conditionally Approve, or Deny lot size variance for one (1) lot in the A-35 zoning designation located at 13420 County Road 265 (Parcel 292303400003, Northumberland Group LLC); 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:

The applicant owns 41+ acres and is requesting to subdivide off about 5 acres (PLN22-057). On June 23, 2022, the BOA held a public hearing on the subject application (report **Attached** for reference).

Staff presented the proposed project with a recommendation to continue the matter until the applicant was able to provide proof of: water; wastewater (septic), and access (US Forest Service). The applicant explained the history of the property; stating they wanted to subdivide to benefit a family friend with the proposed lot. The BOA discussed the application, specifically asking the applicant to explain the septic systems (being unpermitted) and water source to each of the structures.

The BOA continued the application, to a date uncertain, to allow time for the applicant to address the following:

- *Domestic Water*. Clarification is needed to ensure proper domestic water to both lots. Provide proof of a State approved well permit and/or Augmentation Plan to serve multiple lots/units. Senate Bill 20-155 (SB20-155) enacted language that a well cannot supply water to multiple lots/parcels without an Approved Augmentation Plan from the State.
- *Wastewater (Septic)*. Provide proof of permitted septic system(s) that meet applicable standards (e.g., setbacks). Staff confirmed that contact was made with Environmental Health and the septic systems have not been fully permitted. The BOA requested that the applicant update Environmental Health records and obtain permitted systems.
- *Wildlife*. BOA added that they wanted confirmation from Colorado Parks & Wildlife (CPW) to ensure there would be no concerns for wildlife in the area.

The BOA did not think that access was an issue, so they did not include a requirement to address the Private Road Easement (Forest Service).

Based on subsequent communications, staff finds that the applicant has addressed all concerns/issues and recommends that the BOA make a formal decision to approve PLN22-057. Relative to the findings, there are no unique conditions with this property. The key finding for granting a variance is hardship; however, the units exist where the family/friend can live without subdividing the land. That said, at least one of the lots will retain the 35-acre minimum.

DISCUSSION:

The proposed Site Plan illustrates splitting the property into two parcels (Minor Plat); Lot 1 (5.001 acres) and Lot 2 (36.026 acres). The subject property is located off of County Road 265, which is a Forest Service Road (maintained by the U.S. Forest Service), approximately 17.4 miles northerly of Paonia. There are multiple existing structures (two residences (one on each lot), four cabins, and two sheds) on the property. There is also



a well depicted on the Plat. No right-of-way dedication is proposed or necessary as the road is not a County maintained road and the property does not have direct access to the road.

On June 23, 2022, the BOA held a public hearing for PLN22-057. Staff recommended continuing the matter to address a few items. The applicant, Mr. Stephen Kent, and his Representative, Randy Wilmore (Wilmore & Company), explained the processes that they started years ago, but never finished. Mr. Kent stated that they wanted to bring the property up to current standards (permitted septic systems, addresses, etc.) and also subdivide to benefit a family friend who has been living on the property for many years; Mr. Kent explained that this friend could not afford their own land and since they already have a house established for them, they wanted to subdivide so that they could stay in the area and remain close to the family.

The BOA continued the application, to a date uncertain, with direction to address the following:

- Water: Staff explained that the applicant has an existing well located on the property, however, SB20-155 states that an existing well cannot be shared between parcels or lots, created through the subdivision process, without a State approved Augmentation Plan. As such, this subdivision would require Mr. Kent to apply for an Augmentation Plan with the State or provide proof of another source of domestic water for Lot 1. The BOA felt that clarification was needed on the well, so that there was proper domestic water for both lots.
- Wastewater (Septic): Staff confirmed that all structures on the property are existing, with utilities; however, the septic systems (for both Lots 1 & 2) have not been permitted properly, as the process was never completed through Environmental Health. The applicant explained that they had started the Septic Permit process with Environmental Health back in 2000. Mr. Kent also stated that they called for their final inspection of the Septic System but because they were located so far out of town, they couldn't get anyone to revisit the property to finalize the permit. The BOA asked Staff if they had talked with Environmental Health about the permits, to which Staff confirmed; Environmental Health confirmed that the permit was never completed by previous Staff and that the applicant would need to meet with them to discuss the current systems on the property and what steps need to be taken to obtain permits for both systems.
- Wildlife: The BOA pointed out notes from Staff in regards to not having confirmation from CPW when it came to wildlife impacts. The applicant explained that all structures have been existing since the 1990's and didn't feel that they had any impacts on the wildlife in the area, but would reach out to CPW to confirm.

Staff described the current Private Road Easement that was issued by the U.S. Forest Service, stating that it was to serve only one single-family dwelling. Staff had requested confirmation from the U.S. Forest Service that the Private Road Easement is adequate to serve multiple lots/parcels with multiple structures (units). Staff conditioned the project to address the Easement by having it updated to reflect the existing structures.



Since the June 23, 2022 hearing, the following has occurred:

- July 8, 2022, Staff sent a follow-up letter to the applicant, and their representative, explaining the continuance of the variance process. The letter addressed the items discussed by the BOA at the hearing and informed the applicant of the next steps that needed to occur in order to take the application back to the BOA.
- July 12, 2022, Environmental Health Director provided a Memo Summary (**attached**) of discussions had with the applicant, in regards to the unpermitted septic systems. The Memo addresses missing information that the applicant is responsible for providing to Environmental Health in order to complete their records. Recommendations (to complete permitting) are as follows: address all planning requirements in the proper order (access, water, address, septic).
- July 26, 2022, Staff emailed Andrew Taylor, District Wildlife Manager SW Region, Area 16, to confirm wildlife impacts/concerns for this location/proposal. Mr. Taylor responded (**attached**) on July 28, 2022, stating that the impacts to wildlife are minimal.
- August 3, 2022, Staff emailed County Engineering an application for access to the subject property; although the road is maintained by the U.S. Forest Service, access is subject to complying with County Standards. The access was inspected by Road & Bridge District #3 Foreman on August 10, 2022.
- August 22, 2022, Staff emailed the applicant to inform him that County had inspected, and approved, the access and would be sending the application for address to County GIS. Due to the fact that there are multiple units located on the property, GIS required the applicant to address each unit, for emergency purposes.
- August 25, 2022, Staff emailed County GIS an application for address.
- August 30, 2022, GIS updated their records to reflect six (6) new addresses; all cabins were assigned a unit identification and the residential structure existing on the proposed Lot 1, was assigned a separate address.
- September 6, 2022, Staff received an email (**attached**) from Greg Powers, Well Commissioner (DWR), Division 4, in regards to the existing well for the subject property. Mr. Powers stated that he spoke to the applicant, Mr. Kent, about the proposed subdivision and confirmed that he would allow the issuance of an additional exempt household use only well permit for the proposed Lot 1.

Attached material: list, in order as attached

- Staff Report (dated June 23, 2022)
- Site Plan (Minor Plat)
- Site Plan (Minor Plat) with Aerial
- Environmental Health Memo (dated July 12, 2022)
- CPW Comments (dated July 28, 2022)
- Division of Water Resources Comments (dated October 10, 2022)



STAFF REPORT

Board of Adjustment

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

Thursday, June 23, 2022 @ 5:30 p.m.

PLN22-057/Kent

Consider a variance to reduce the required lot size from 35 acres in the A-35 zoning district to 5.001 acres for Lot 1; Lot 2 would retain 36.026 acres. The subject property is located at 13420 County Road 265, Paonia (Parcel: 292303400003)

PROJECT INFORMATION:

Property Owner: Northumberland Group LLC
Applicant: Stephen C Kent
Representative: Randy Wilmore (Wilmore & Company)
Site Address(s): 13420 County Road 265, Paonia
Parcel ID/Acct: 292303400003/R025397
Parcel Size: 41.028 Acres
Zoning: A-35

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BoA) Continue PLN22-057/Kent until such time that the following issues are addressed, prior to the BoA considering a variance that will lead into a Minor Plat subject to Administrative Review:

- a. Provide proof of an adequate water supply for all lots being created, which includes 6 units plus out-structures. If the State does not approve a revised well permit and/or Augmentation Plan to serve multiple lots, then the applicant needs to provide evidence that a water tap is available for the new lot.



- b. Provide proof that there are permitted septic system(s) that will not be impacted by the new property lines, and that the septic systems meet the minimum setbacks from property lines, well, roads, and waterways.

SUMMARY:

The application (PLN22-057) is for a 2-lot subdivision (Minor Plat). The proposed Site Plan illustrates splitting the property into two parcels; existing easements for access, as well as utilities, have been illustrated for both Lots.

The subject property is located off of County Road 265, which is a Forest Service Road (maintained by the U.S. Forest Service), approximately 17.4 miles northerly of Paonia. There are multiple existing structures (two residences (one on each lot), four cabins, and two sheds) on the property. There is also a well depicted on the Plat with a 40' x 40' Well Maintenance Easement and a 20' wide Waterline Maintenance Easement to the proposed Lot 1. No right-of-way dedication is proposed or necessary as the road is not a County maintained road and the property does not have direct access to the road. Currently, the Private Road Easement serves multiple parcels.

Zoning for the parcel is A-35, which requires a minimum parcel size of 35 acres. The subdivision is designed to separate approximately 5-acres located in the middle of the southern property line as follows:

- Lot 1 (5.001 Acres). Consists of one dwelling unit. The property consists of heavily wooded areas with no irrigated agricultural land. A variance is required since Lot 1 does not meet the minimum acreage.
- Lot 2 (36.026 Acres). Consists of five units including four (4) cabins. There are also two out buildings ("sheds"). An existing well (Permit #218244) is located on this lot with a proposed 20-foot easement to Lot 1. It appears that there is a small portion (approximately 2-acres) of the lot that is irrigated agricultural land. There is a septic system that has been installed on the lot (2001), however, there is no evidence that the system is permitted. Lot 2 would consist of the remaining 36+ acres, so no variance is required for that lot.

Subdivisions require proof of an adequate water supply for all lots created. There is an existing well (Permit #218244) that is being proposed as the domestic water source for both lots, with an easement from Lot 2 to Lot 1. However, the permit is limited to fire protection, ordinary household purposes inside not more than *three (3)* single-family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, and the watering of domestic animals. As noted above, there are six units (dwellings + cabins) plus out buildings existing on the property.

A well cannot be shared across property lines without an approved Augmentation Plan through the State. Proof of water will require an Augmentation Plan approved by the State to utilize an existing well (Permit #218244) for both lots *as developed*. Current conditions exceed the limitations established in the well permit, so this also needs to be addressed in a revised Well permit for the additional development. Cisterns are not considered an adequate water supply for residential uses.



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.

As of right now, information has not been provided for staff to confirm the location of the septic system. There is a requirement that all septic systems be at a minimum 150-feet away from any well located on a property.

Staff is recommending the matter be continued to provide additional information. Alternatively, the BoA could take action to approve, conditionally approve, or deny the variance. This report attempts to address the required variation to lot size criteria and variance findings based on the information available. However, the report does not include any conditions. If the BoA approves the application (with or without conditions), the issue noted in this report will need to be addressed in order for the Director to approve the subdivision (Minor Plat).

DISCUSSION:

On March 25, 2022, Randy Wilmore (Wilmore & Company) submitted a Pre-Application Form to the Planning Department on behalf of Mr. Stephen Kent. The form was for the proposal of a 2-Lot Subdivision (Minor Plat). Staff discussed the application with Mr. Wilmore, explaining that a variance would be required for the proposed split. It was noted that other items might need to be addressed if issues come up through the process.

On April 14, 2022, Staff sent a letter informing Mr. Kent and Mr. Wilmore of the process, including documents that would be needed to process the Variance and the Subdivision. Staff expressed concern for the existing U.S. Department of Agriculture Forest Service Private Road Easement (Reception #551096) that is currently the access easement to the property. Staff recommended that the applicant contact the Uncompahgre and Gunnison National Forest Service Supervisor's Office to discuss the easement and whether or not it would need to be updated to reflect multiple lots with multiple structures.

On April 27, 2022, a Land Use Application was submitted with a Plat reflecting a 2-Lot Subdivision (Minor Plat). The subdivision is designed to separate approximately 5-acres (Lot 1) from the southern portion of the parcel. Lot 2 would consist of the remaining 36+ acres. The applicant also submitted a copy of the well permit for the property.

The subject property is one of four (4) parcels created from the Kent/Phillippe Improvement Survey Plat H.E. Survey No. 281 (Reception #730458). All parcels of the said Plat are over 35-acres (zoned A-35) and are surrounded by United States Forest Service Property.

PROCESS



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; however, the parcel could be subdivided if the BOA finds that it meets the required criteria and findings.

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 approves the variance, the Minor Plat could be handled Administratively by the Director of Planning.

Pursuant to the LUC, Minor Plats (2-lot subdivisions) are handled Administratively, which means that the Director of Community Development and Natural Resources makes the 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 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 is already developed. However, there is concern with the well permit (#218244), Septic System, and Private Road Easement.

The well is existing on Lot 2 and is proposed to be used as the domestic water source for Lot 1. The well is currently limited to the following: fire protection, ordinary household purposes inside not more than three (3) single family dwellings, the irrigation of not more than one (1) acre of home gardens and lawns, and the watering of domestic animals. Currently, there are six (6) existing structures on this parcel. With that being said, the well permit will need to be updated to show that domestic water from the well can be served to all six (6) structures. There is also the matter of Senate Bill 20-155 (SB20-155), which does not allow for an existing well to be used as a domestic water source for multiple lots/parcels without an augmentation plan being approved by the State. This will also need to be addressed.



There is a Septic System installed on the property but a letter from Environmental Health (EH) (dated July 18, 2001) states that the OWTS permit expired. There is also a note on file from EH that the system was installed without final approval. The application for OWTS stated that the system would be used for one (1) seasonal 3-bedroom frame cabin. With six (6) existing structures, EH cannot confirm if the system is being used for all six structures or if it is even capable of supporting all existing structures. The septic system will need to be inspected by a Licensed Engineer to confirm that the system can support the development.

Although the access is existing, there is an easement in place through the U.S. Forest Service that will need to be reviewed by the Forest Service. Currently, the easement states: "this easement shall continue for as long as the property served is used for a private residence." As there are multiple structures placed on the property, Staff feels the easement needs to be updated to address the intensification of the property to the Forest Service Road and ensure that adequate access is in place for the development.

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).*

Neither Lot 1 or Lot 2 have frontage to any County road. Therefore, the only frontage to County Road 265 is through the Private Road Easement (Rec. #551096). The easement is approximately 142.5-feet long and 16-feet wide (8-feet on each side of the centerline). With that being said, the easement would need to be widened to accommodate the 30-foot of frontage requirement for the lots. Other minimum dimensions are met, as the width measures approximately 155-feet at its narrowest part.

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.*

The current proposal does not disturb any irrigated portions of the property. With that being said, Staff will need confirmation from Parks & Wildlife on the habitat that is present in this area, if any.

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

If a variance is 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 exceptional circumstances that affect this property that would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of this property.

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

The applicant has not provided any information in regards to the request for the variance that would address any such difficulties or hardship placed on the applicant if the variance was denied.

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. All of the abutting properties have at least 35 acres, outside of the Forest Service Lands, and are zoned A-35.

The variance process affords an avenue to request a smaller lot if required criteria/findings can be justified (e.g., physical constraint, hardship). At this time, Staff cannot support the approval of the variance until the above issues are addressed and all requirements of development (access, address, domestic water, etc.) can be met and the appropriate infrastructure is available for each lot.

This is a critical part in determining if a variance should be approved or denied. As such, staff recommends that the BOA continue this matter until such time that the applicant can address the above listed issues and meet the minimum requirements as laid out in the Code for a variance.

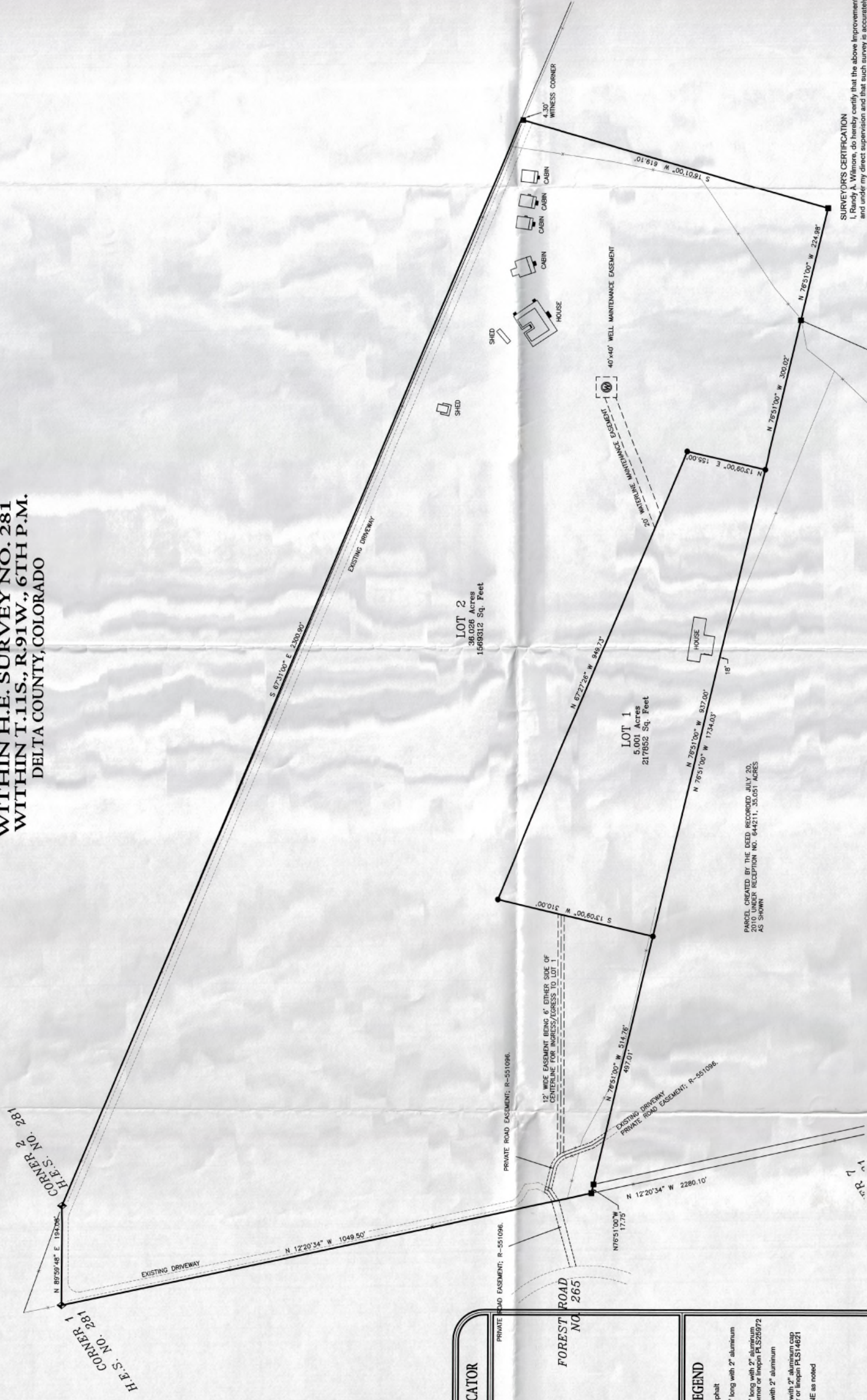
OTHER AGENCY INVOLVEMENT

The variance process itself does not generally involve other agencies. However, a public notice was sent to neighboring property owners 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. Comments received could become recommended revisions to the plat.

Attached material: list, in order as attached

- Site Plan (Minor Plat)
- Site Plan (Minor Plat) with Aerial

**NORTHERLAND MINOR SUBDIVISION
WITHIN H.E. SURVEY NO. 281
WITHIN T.11S., R.91W., 6TH P.M.
DELTA COUNTY, COLORADO**



SURVEYORS CERTIFICATION

I, Randy A. Wilmore, do hereby certify that the above Improvement Survey Plat has been surveyed by me and under my direct supervision and that such survey is accurately represented hereon, and that all visible improvements and easements of record are shown 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

REVISIONS	FIELD CREW: RAW	DRAFTER: RAW	CHECKED BY: KC
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WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.

406 Grand Avenue
P.O. Box 1652
Pueblo, Colorado 81428

970.527.4200 PHONE
970.260.4130 PHONE
www.wilmorelandsurveying.com

EMAIL: randy@wilmorelandsurveying.com

Defining Boundaries

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.

J22072FINAL	25 MARCH 2022
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NORTHUMBERLAND MINOR SUBDIVISION
WITHIN H.E. SURVEY NO. 281
WITHIN T.11S., R.91W., 6TH P.M.
DELTA COUNTY, COLORADO

AREA LOCATOR

FOREST ROAD
NO. 265

SITE

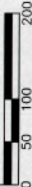
TYPICAL LEGEND

- Set Mag Nail in Asphalt
 - Set 5/8" rebar 30" long with 2" aluminum cap PLS25972
 - Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner of linepin PLS25972
 - Found 5/8" rebar with 2" aluminum cap PLS14621
 - Found 5/8" rebar with 2" aluminum cap as Witness corner of linepin PLS14621
- ◆ ORIGINAL STONE as noted

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

BASIS OF BEARINGS:

SCALE 1"=100 U.S. SURVEY FEET



NORTHERLAND MINOR SUBDIVISION
WITHIN H.E. SURVEY NO. 281
WITHIN T.11S., R.91W., 6TH P.M.
DELTA COUNTY, COLORADO



SURVEYOR'S CERTIFICATION
I, Randy A. Wilmore, do hereby certify that the above Improvement Survey Plat has been surveyed by me
and under my direct supervision and that such survey is accurately represented hereon, and that all visible
improvements and easements of record are shown 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

WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.
408 Grand Avenue
P.O. Box 1062
Pueblo, Colorado 81428
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NORTHERLAND MINOR SUBDIVISION
WITHIN H.E. SURVEY NO. 281
WITHIN T.11S., R.91W., 6TH P.M.
DELTA COUNTY, COLORADO

NOTE: According to Colorado law, any legal action based upon a defect in this
survey must be filed within the time specified in the Colorado Statutes.
In no event may any action based upon any defect in this survey be commenced
more than ten years from the date shown on this certification notice.

AREA LOCATOR

SITE

TYPICAL LEGEND

- Set Mag. Nail in Asphalt
- Set 5/8" rebar 30' long with 2" aluminum cap PL525972
- Set 5/8" rebar 30' long with 2" aluminum cap as Witness corner or Illinois PL525973
- Found 5/8" rebar with 2" aluminum cap PL514624
- Found 5/8" rebar with 2" aluminum cap as Witness corner or Illinois PL514625
- ORIGINAL STONE SET

- BASIS OF BEARINGS:
- Fencelines
 - Electric (overhead)
 - Electric (underground)
 - Water line
 - Easement

SCALE 1"=100 U.S. SURVEY FEET
0 50 100 200



MEMORANDUM

DATE: Jul 11, 2022
TO: Stephen Kent
FROM: Greg Rajnowski, Environmental Health Director
SUBJECT: Unincorp. Delta Property: 13420 Cty Rd 265 (Parcel 292303400003)

Dear Mr. Kent,

Provided below is a summary of our discussion on 7/11/22 regarding the property and unpermitted septic systems. Please keep in mind that, while some information was provided by you in order to bring this property and the systems into compliance, there is much information missing from packet that needs to be gathered in order to ensure that state and county regulations are met.

BACKGROUND

- Septic Permit 126-01:
 - Application was received on 6/1/99 (#5778) and a conditional approval to begin was given on 6/19/00.
 - A letter was sent by our office on 7/18/01 indicating that the permit had expired and a notation on the conditional permit stated *"Installed w/out final approval. KML 8/22/01"*
 - A design dated 8/21/01 shows a field of 28 infiltrators on the southwest side of a cabin (albeit there is no north arrow on the design).
- Second septic system disclosure:
 - Transmitted to the eh@deltacounty.com email on Mon, Jun 27, 2:21 PM.
 - Correspondence stated:
*"Greg[g],
Attached is what I have on the constructed but unpermitted septic at the cabin on the five acre parcel. I have enclosed maps to show where the ranch is located. A current survey shows the septic, cabin, and well locations. This cabin is not a permanent residence used only infrequently throughout the year. The system consists of 1)1,000 gallon septic tank , splitter box, and 12 infiltrators. Bacterial Roebic is put in the tank annually. Let me know what you think,
Thanks Stephen Kent*
 - The attachments demonstrate that there is a system on the designated 5-acre proposed parcel that extends to the NE of the home. The photo shows a system that cannot be determined to meet/exceed the required capacity. Engineered design did not accompany the attachments.
 - Survey plat shows 1 structure on a proposed 5 acre parcel, and 4 structures on the larger parcel with no located septic components.

- Missing Information:
 - Neither packet of attachments include information regarding the setbacks to key features of the property (wells, property boundaries, ditches, water lines, ponds, accessory structures, roads, etc.)
 - Septic systems cannot be verified to meet existing regulations.
 - Addresses for proposed structures are not identified.
 - Access cannot be determined.
 - Water source for all structures cannot be identified; however the well indicated appears to be within 150 ft from the indicated cabin structure and leach field for the incomplete permit (126-01).

FINDINGS

The Environmental Health regulations regarding OWTS have not been followed in the case of this parcel/subdivision. Proceeding without final permitting, failure to obtain permits prior to installation, and lack of engineered designs make validation of setbacks and other permit elements difficult. **Environmental Health's support of subdivision approval predicated on valid OWTS permits is possible when the recommendations in this letter have been completed.**

RECOMMENDATIONS

In order to ensure that all planning requirements are addressed in the proper order we recommend that you use the list that follows as a checklist to completion. We are able to move forward with validating and approving upermitted septic systems using the emergency permit process [Section 1.4(A)1] once the following have been completed:

- ☐ **Access:** County Engineering has been consulted on access to the property meeting current Land Use Code requirements.
- ☐ **State Division of Water Resources** well permits are obtained to reflect "drinking water for residential homes" or businesses as appropriate for the number/type of structures on the property.
- ☐ **Address:** The addresses for additional homes or proposed improvements have been assigned by County GIS.
- ☐ **Environmental Health:** Existing Unpermitted Systems on the property must apply for an emergency permit and undergo an operational inspection *"using a department provided inspection form or equivalent National Association of Wastewater Technicians form (NAWT) and the OWTS shall be upgraded to meet the requirements of these regulations. Inspection reports shall be provided to the department by the inspector and become part of the permit. A copy of the Department's inspection form is provided on the Department's website (www.deltacounty.com)."* [pursuant to Reg 43.4(M)2c]

Respectfully,



Greg Rajnowski, EH Director

PLN22-057/Kent MP

3 messages

Kate Kelly <kkelly@deltacounty.com>
To: "Taylor - DNR, Andrew" <andrew.taylor@state.co.us>

Tue, Jul 26, 2022 at 11:13 AM

Good Morning Andrew,

I am reaching out in regards to an application (PLN22-057) I have for Stephen Kent to subdivide his property located at 13420 County Road 265, Paonia. Mr. Kent emailed me stating that he spoke to you about wildlife impacts in relation to his subdivision application. He also stated that you requested I reach out to you directly in regards to this matter.

Can you please confirm that there are no wildlife impacts/concerns for this location. The County Board of Adjustments has tabled Mr. Kent's application until confirmation is received from CPW in regards to wildlife impact; among other concerns with other departments.

I appreciate your time.

Regards,

--

Kate Kelly
Planner I
295 W 6th Street
Delta, CO 81416
970-874-2110

Taylor - DNR, Andrew <andrew.taylor@state.co.us>
To: Kate Kelly <kkelly@deltacounty.com>

Thu, Jul 28, 2022 at 3:41 PM

After review of Mr. Ken's application. I can say there are minimal impacts to wildlife as whenever any kind of development is done in their habitat there is some impact but in this case it's pretty minimal. Elk do frequent that area and avoiding elk caving May-June is recommended. Thanks

Andrew Taylor
District Wildlife Manager
SW Region, Area 16



**LIVE LIFE
OUTSIDE**

P 970 527.4419 | F 970 641-7883 | C 970 275-4270
[300 W New York Ave](#)
[Gunnison, CO 81230](#)
andrew.taylor@state.co.us | www.cpw.state.co.us

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Kate Kelly <kkelly@deltacounty.com>

Thu, Aug 4, 2022 at 2:49 PM

To: "Taylor - DNR, Andrew" <andrew.taylor@state.co.us>

Thank you for your response Andrew.

Kate

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Split of Northumberland Group LLC parcel number 292303400003

1 message

Powers - DNR, Gregory <gregory.powers@state.co.us>
To: planning@deltacounty.com

Mon, Oct 10, 2022 at 1:43 PM

Hello.

My name is Greg Powers and I am the Well Commissioner for Division 4 of the Colorado Division of Water Resources. I am contacting you after speaking with Mr. Stephen Kent in regards to Delta County parcel 292303400003 and a possible split of this parcel that would allow the issuance of an additional exempt household use only well permit.

Previously, Well Permit number 218244 was issued for a 35.00 acre portion of this parcel. This permit encumbers the western 35.00 acres of the parcel. If a division of this parcel is made outside the normal County subdivision process, and the 35.00 acres that are encumbered by permit 218244 remain intact in a newly created parcel, then the portion that is split off into another new parcel would qualify for an exempt household use only well permit.

I have attached a diagram from the file for Well Permit 218244 showing the area it encumbers.

Please contact me if you have any questions or need further clarification.

Regards,

--

Greg Powers
Well Commissioner
Division 4

970-249-6622 x4109

1541 Oxbow Drive, Suite 1625, Montrose, CO 81401

Gregory.Powers@state.co.us | <https://dwr.colorado.gov/>**218244 tie up.pdf**

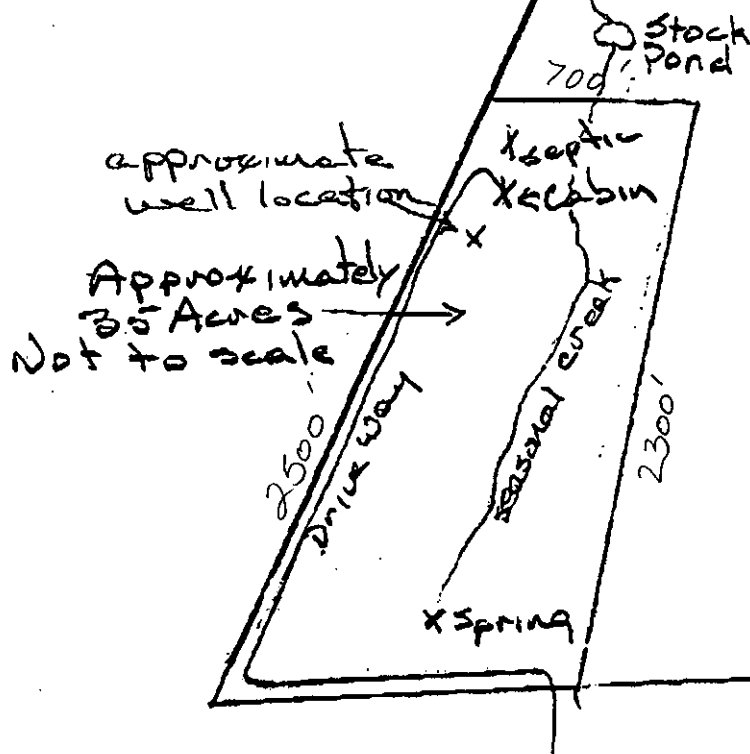
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EXHIBIT A 2 OF 2 RECEIVED
JUN 21 1999

Best Copy Available

#218244
KENT
CEMENT MTN.
QUAD 66FWATER RESOURCES
STATE ENGINEER
COLO

Plot Plan

Stephen Kent
13201 C.R. 265
Somerset Co.
Delta County



STAFF REPORT

Board of Adjustment

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

Thursday, November 17, 2022 @ 5:30 p.m.

PLN22-065/R. Thompson (Wacko Springs Ranch LLC)

Consider a variance to reduce the required lot sizes from 35 acres in the A-35 zoning district. The subject property is 36.99 acres located southwest of Ash Mesa Road with access from/through 1987 Spring Drive, Delta (Parcel: 349313100018)

PROJECT INFORMATION:

Property Owner: Wacko Springs Ranch LLC
Applicant: Rand Thompson
Site Address(s): TBD Spring Drive, Delta
Parcel ID/Acct: 349313100018/R018718
Parcel Size: 36.99 Acres
Zoning: A-35

Report prepared by: Kate Kelly, Planner I

RECOMMENDATION:

Staff recommends that the Board of Adjustment (BOA) continue this matter and provide direction on:

- a. Access/Easement
- b. Lot Design
- c. Water



d. Responsible Parties (Applicants)

SUMMARY:

Mr. Rand Thompson (Wacko Springs Ranch), owns multiple parcels east of 1600 Road, south of D25 Road, and southwest of Ash Mesa Road. They submitted plans to adjust the northern boundary line (to address access and fence lines) and then subdivide the remaining 36.99-acres into three lots (Subdivision Plat and Boundary Line Adjustment **Attached**). Zoning for the parcel is A-35, which requires a minimum parcel size of 35 acres.

Currently, the property consists of irrigated Ag land with a pivot irrigation system; there are no other structures on the property. The subdivision is generally designed to separate the non-irrigated portion of the property located in the north section of the parcel and is separated by a field access road. It has been stated that the purpose is to create lots that can be obtained by the farmworkers for the ranch.

As proposed, none of the lots would meet the minimum requirements for lot size as assigned by the zoning designation, so all three lots require a variance to lot size. Staff finds that the proposed subdivision does not meet the intent of the Land Use Code. There has been a pre-application conference and subsequent meetings/discussions between the applicant and County staff. Key issues that were addressed included Access, Lot Design, and Water (domestic). There are other issues that staff feels need to be addressed by the BOA to give the applicant direction before spending more resources on this application.

1. Access. This property does not have frontage on any right-of-way. Access is taken through other lots either owned by the applicant or recorded easements. As proposed, access for all lots would utilize an existing, 75-foot-wide, Non-Exclusive Easement for Ingress/Egress and Utilities (Reception #541317, 558460, and 572396).

This easement runs through a neighboring residential property (1987 Spring Drive, Parcel 349313102003/Conrad & Welsby) and includes language restricting use of this easement: "*to be access for farm ground and one residence*". Spring Drive is a public road, publicly maintained, approximately 1.55 miles south of Delta. The easement extends across the entire subject parcel and includes access for Parcel 349312408002 (Pike) where there are multiple residences.

A shared access serving more than two lots is required to meet County standards for a local road. In addition, this road would be subject to being named (County GIS).

2. Lot Design. Properties in the surrounding area vary. Generally, the majority of the area is zoned A-35 and is used as Ag land with an island of A-5 for the Big Springs Estate subdivision, including Spring Drive with 2-acre lots (Vicinity Map



and Zoning Map **Attached**). In addition, another cluster of A-5 (smaller lots) is located west of the surrounding area along 1600 Road.

Once these lots are created, there would be no requirement restricting sale to a farmworker working on these lands, or that they retain the lot. In addition, creating two lots is more of subdividing rather than allowing an exception due to a hardship - farmworker housing can be built on the property without subdividing the land. Separating this land from the Ag field creates an Ag parcel that has no place to develop other than the irrigated lands. This could be mitigated by creating a building envelope to restrict development on the Ag parcel.

Staff has presented the following options for the lot design:

- A. *Minor Plat*. Create one small lot (1.99 acres) while retaining one lot with 35 acres. Staff explained that the applicant could build two residential structures on one lot.
- B. *Clustered Subdivision*. With a significant amount of land in Ag, the subdivision could be processed as a clustered subdivision. Lot 3 would preserve the currently irrigated Ag lands; however, the owner did not want to place this land into a Stewardship Area.
- C. *Boundary Line Adjustments*. The applicant owns multiple adjoining parcels that could be used to create smaller lot(s) without creating additional lots. Staff finds Option A would be the most consistent with the Land Use Code. Alternatively, Option B provides the number of lots requested, but requires placing the Ag land under a Stewardship Area.

- 3. Water. Subdivisions require proof of an adequate water supply for all lots created. The applicant stated that there is a well located on the property, as well as a tap that has been assigned to the parcel. However, we have received no documentation confirming a water tap from the water purveyor (Tri-County), and staff's research did not yield a well permit for the subject property.
- 4. Responsible Parties. Neither Pikes (Parcel 349312408002) nor Conrad & Welsby (1987 Spring Drive, Parcel 349313102003), parties to the access easement, have signed the application or submitted documentation agreeing to amend this easement. Without their approval, plats that include proposed changes to the easement cannot proceed. In addition, Pike property is affected by the initial Boundary Line Adjustment to address access and fence lines. As such, they are required to be a party to that application. They did not sign the application, nor have we received any letter granting Mr. Thompson authority to act (process the application) on their behalf.

There are two paths forward:

- 1. Process the BLA adjusting the northern property line. This requires a separate application (not yet submitted) and Pike (Parcel 349312408002) is a required party to the BLA and easement. The easement could be amended at the same time so that the subsequent action is unencumbered. Conrad & Welsby (1987



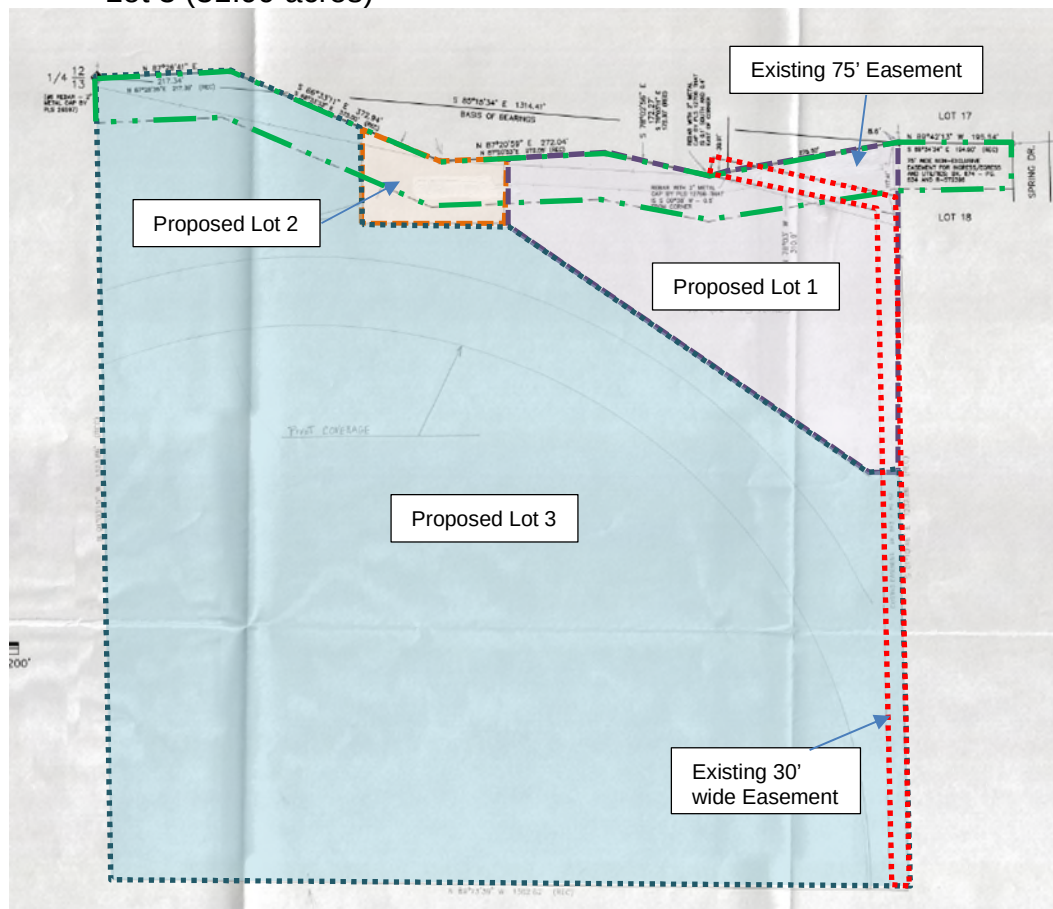
Spring Drive, Parcel 349313102003) is a required party to amending the easement. There is no requirement for proof of water and access does not need to be constructed with this action. The BLA can be processed administratively. Staff finds no issue with this step as long as all parties to the easement agree (if included).

2. Include adjustment of the northern property line with the overall project (one plat, one application). Proof of water is required and access does need to be constructed with this action. The process would be for the BOA to consider the variances first, then Planning Commission and BoCC consider the preliminary plat. Staff finds that the proposed design is not consistent with the Land Use Code, so would recommend Option A (Minor Plat) or B (Clustered Subdivision).

DISCUSSION:

On May 2, 2022, Mr. Rand Thompson (Wacko Spring Ranch) submitted a Development Application Form to the Planning Department, which proposed a 3-Lot Subdivision (Preliminary Plat) reflecting the existing property boundary and 75-foot-wide access easement:

- Lot 1 (4.50 acres)
- Lot 2 (0.50 acres)
- Lot 3 (31.99 acres)

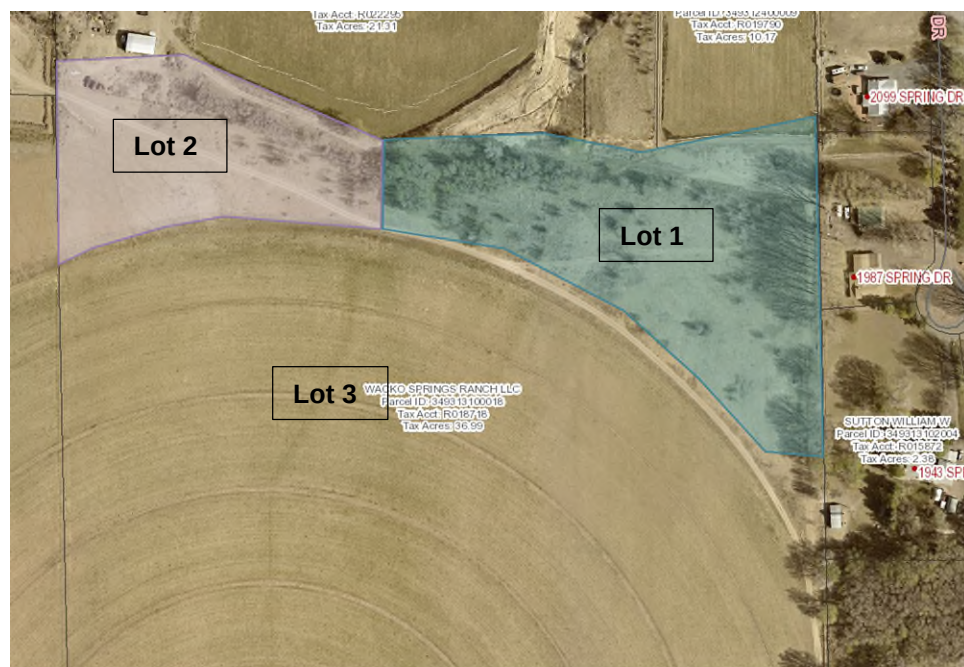




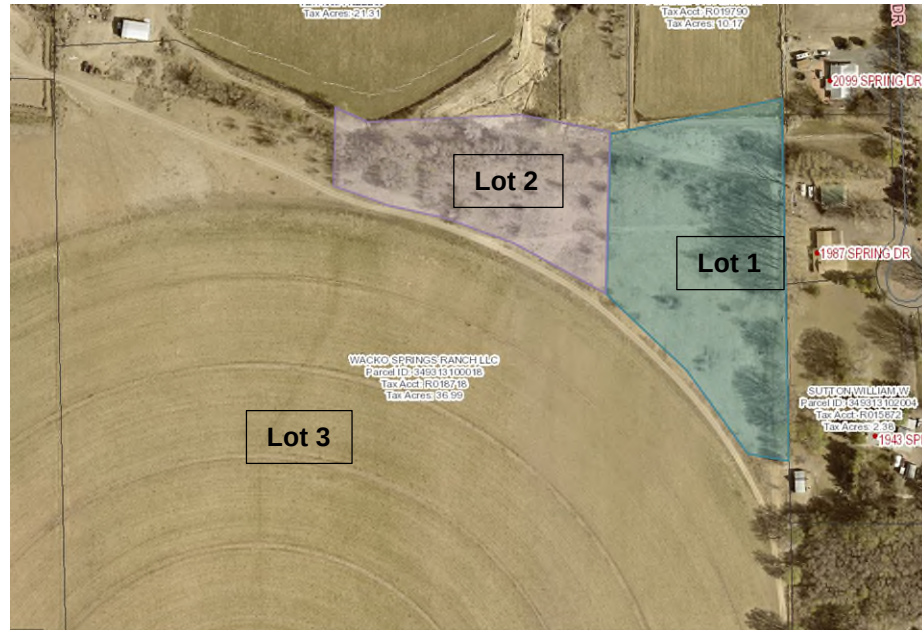
The stated purpose for the subdivision was to provide individual lots for Mr. Thompson's farmworkers.

On May 16, 2022, a Pre-Application Conference was held with the applicant and County Staff from Planning, Engineering, GIS, and Environmental Health (EH). The following items were discussed with the applicant:

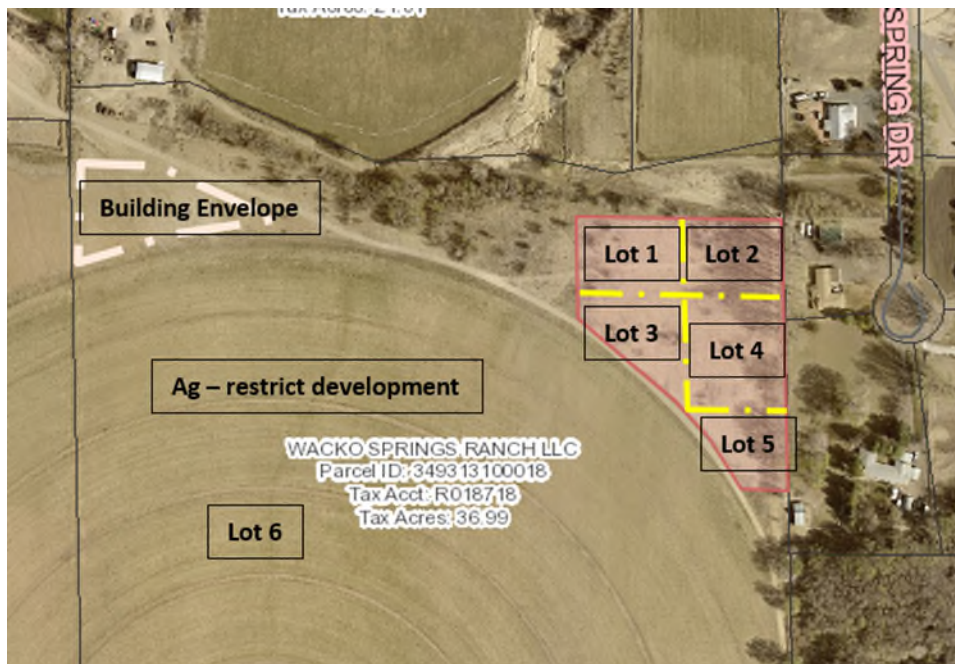
- A. Lot Configuration. The proposed configurations did not meet the minimum standards as required by the LUC for a variance (lot frontage, lot width). As such reconfiguration was discussed. Staff presented the applicant with the following options:
- 1) Reconfigure the proposed Lot 2 (0.5-acre lot) to consist of the westerly corner of the property, just north of the irrigated area. Keep proposed Lot 1 the same. Lot 2 would gain acreage that would better support development (setbacks, easements, etc.)



- 2) Reconfigure the proposed lots (Lot 1 & 2) to be relocated in the eastern portion of the property, just north of the irrigated area. This would retain a potential building site for proposed Lot 3 in the future. Lots 1 & 2 would be about 2.2 acres each.

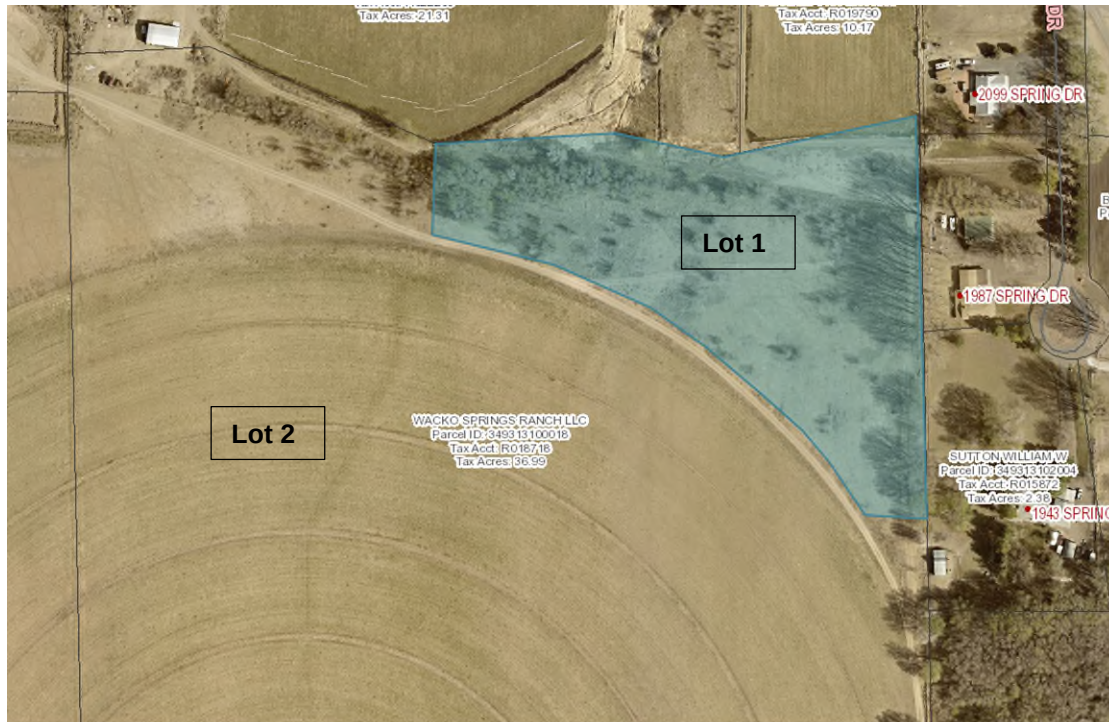


- B. Clustered Subdivision. Staff presented the option for a Clustered Subdivision. This type of subdivision has no limit to the number of lots, nor a minimum size provided significant resources (Ag land) are protected under a Stewardship Area. This would allow lots to be clustered in the area of the proposed Lot 1, which would preserve the irrigated portion of the parcel. Staff suggested including building envelopes for future development on the Ag lot, which would be restricted from further subdivision and development beyond the envelope as the intent is to protect Ag. This was the option Staff felt would be best if the applicant wanted to subdivide lots for others to purchase and develop on.





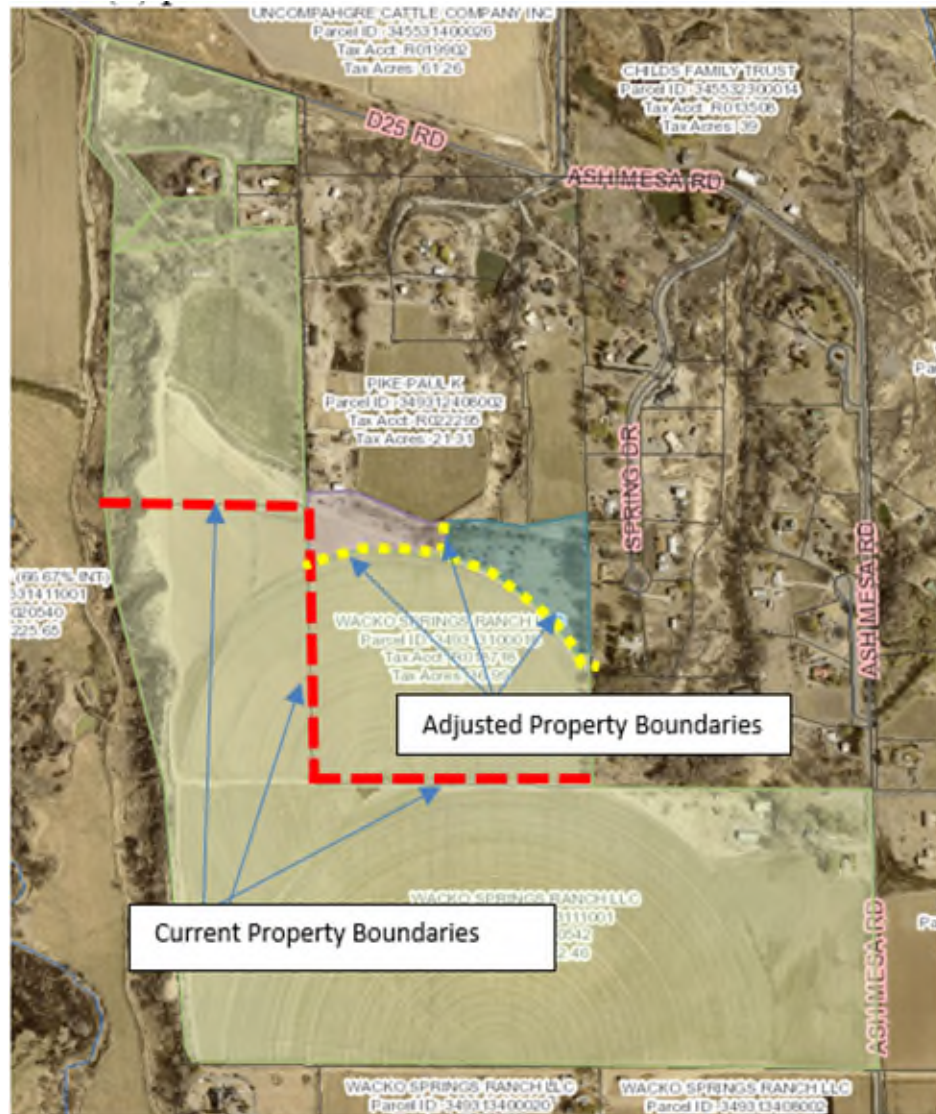
- C. Minor Plat. Reduce the number of lots from three (3) to two (2). Locate Lot 1 in the eastern portion of the property, just north of the irrigated area. Lot 1 is large enough to develop two (2) farmworker housing units, which is an Allowed Use and would not be subject to subdivision regulations. As a 2-Lot subdivision (Minor Plat), it would then become an Administrative Process. This would require two (2) variances, instead of three (3), and could be designed to require only one (1) variation to lot size.



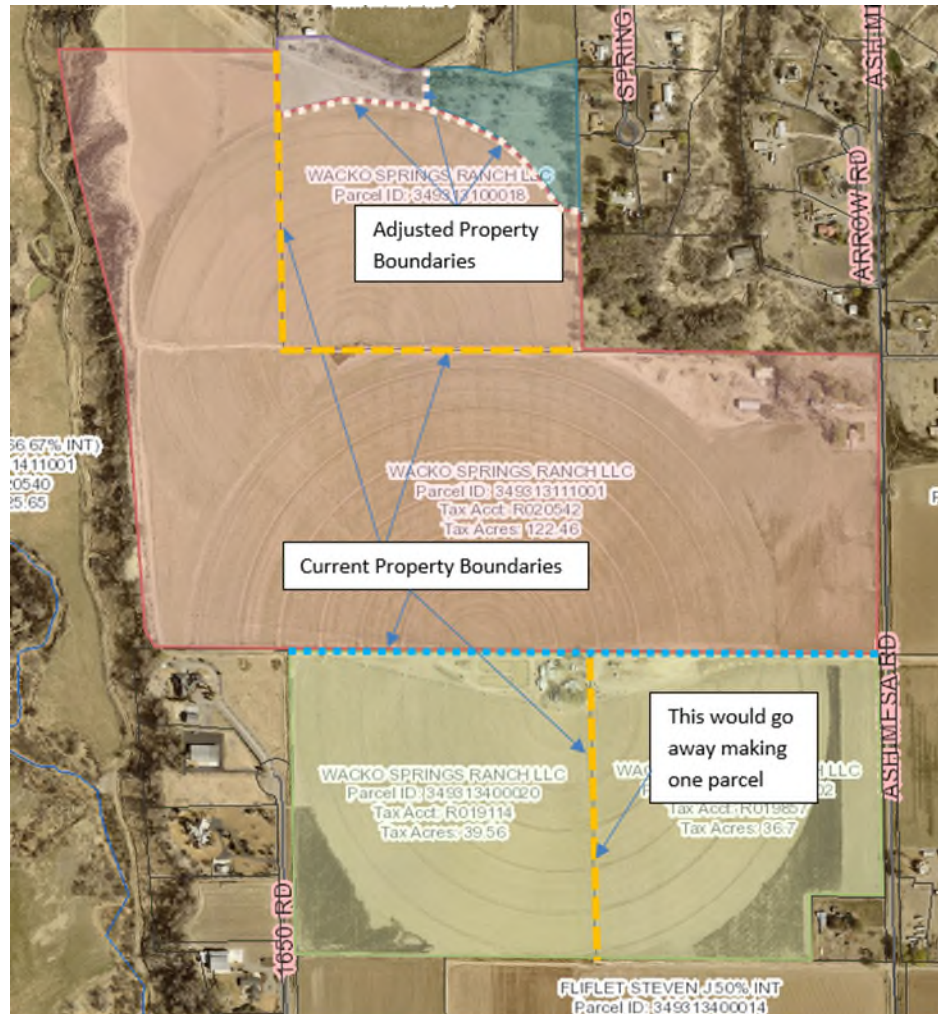
- D. Boundary Line Adjustment. The applicant owns multiple adjoining parcels (numerous acreages) where a majority of the parcels consist of irrigated Ag lands. Since they were created through a legal subdivision process, no lot size variance would be required to adjust property boundaries between the existing parcels. Staff felt that a Boundary Line Adjustment would be a good option to create the lots desired, while adding this portion of Ag ground to an adjoining parcel.

There are multiple ways to accomplish this. Examples of possible adjustments presented are discussed below:

- 1) Adjust three of the adjoining parcels. This would effectively create the two parcels that the applicant is proposing for this subdivision. This would be an adjustment beginning with three (3) parcels and ending with three (3) parcels.



- 2) Adjust four of the adjoining parcels. This would effectively create the two (2) lots that are being proposed for this subdivision. This would be an adjustment beginning with four (4) parcels and ending with four (4) parcels (next page).



- E. Access. Access is proposed from Spring Drive, through a recorded 75-foot-wide Access Easement (Reception #541317). This easement reads “A 75-foot non-exclusive easement and right of way for ingress and egress and utility purposes along the Northerly boundary of Lot 18, Big Spring Estates and along the Northerly boundaries of the following legal as described in Exhibit A attached hereto and made a part hereof, to be access for farm ground and one residence.”

This easement extends across Parcel 349313102003 (1987 Spring Drive, Conrad/Welsby), and across the entire northern boundary of the subject parcel (Parcel 349313100018, Wacko Springs Ranch LLC). It connects to Parcel 345531411002 (Wacko Springs Ranch LLC) and includes access for Parcel 349312408002 (Pike). Parcel 349312408002 (Pike) also has access off Ash Mesa Road (public) via Big Spring Ranch Road (private).

According to the plat, a 30-foot easement extends south along the eastern property line of the subject property from the 75-foot easement. This 30-foot



easement connects to Parcel 349313111001 (Wacko Springs Ranch LLC), which abuts Ash Mesa Road (1689 Ash Mesa Road).

As proposed the 75-foot easement would be amended to terminate just west of Parcel 349313102003 (1987 Spring Drive, Conrad/Welsby). This will need to be addressed throughout the process as the deed is currently restricting the use of this access easement and would impact access for other properties (e.g. Pike). Parcel 349313102003 (1987 Spring Drive, Conrad/Welsby) would need to agree to remove the restriction *“to be access for farm ground and one residence”* across their property.

County Engineering discussed the requirements for a shared access. A shared access shall not serve more than two lots, per Item 1 Document Terminology of the Delta County Roadway Design and Construction Standards. As such, Engineering informed the applicant that if the proposed access to all three (3) lots was to be used from Spring Drive, then a road built to County Standards (local road) will be required for the subdivision. However, if access is to be for two (2) lots (Lots 1 & 2, residential access only), then a shared driveway may be acceptable.

Most of Lot 2 would be encumbered by the existing 75-foot access easement. If the easement is not amended, Lot 2 is not an adequate size to build and meet County setbacks as there is no building/development allowed to occur within the easement.

Therefore, no right-of-way dedication is proposed/required since the parcel has no frontage onto a County road.

- F. Water. The Land Use Code requires proof of adequate domestic water supply for new development. For a subdivision plat, staff requires the applicant to demonstrate the ability to provide domestic water connections for all lots. This can be in the form of a well permit with enough water to serve the intended use(s), or written confirmation from the water purveyor (can and will serve).

Tri-County has a water line in the area serving Spring Drive. In addition, the applicant has stated that a Tri-County Water Tap has been assigned to the parcel, which would be a preferred source of domestic water in a subdivision when/where it is available. The applicant also stated that there is a well located on the property.

Staff asked for documentation for both the well (Well Permit) and the tap (Confirmation from Water Purveyor). However, we have received no documentation confirming a water tap from the water purveyor (Tri-County), and staff's research did not yield a well permit for the subject property. Under current State statute, a well cannot be shared as part of a subdivision, unless an approved Augmentation Plan from the State has been issued.



G. OWTS (Septic). Environmental Health (EH) asked about the proposed lots on the property, as there are no existing structures. Staff expressed concerns for the original proposal of a ½-acre lot. However, EH confirmed at this meeting that since they were updating their OWTS (Septic) Regulations anything less than ½-acre would be reviewed more stringently than parcels or lots with more than ½-acre. It was also discussed that State setback requirements from an existing well to a septic are 100-feet. EH will complete a full review of the application in relation to the septic once the subdivision application is sent to Referral Agencies – following BOA consideration of the variances, before consideration of the preliminary plat by the Planning Commission.

On August 23, 2022, a Letter was sent to the applicant summarizing numerous discussions, including the Pre-Application Conference (**Attached**). The letter offered the following additional information about reconfiguring the proposed lots to meet minimum standards as required by the LUC for a variance. Staff explained that when applying for a variance, the lots being proposed need to meet the minimum requirements as laid out in the UGA zoning designation, being that there must be 75-feet of Lot Width (minimum) and 30-feet of Lot Frontage (minimum).

On September 20, 2022, the applicant submitted two Plats:

- Boundary Line Adjustment: Address the existing access, while also moving the property boundaries to align with the existing fence along the northern border of the parcel.
- Preliminary Plat: Subdivide the parcel into three lots with a revised lot configuration, in a manner different from what was originally proposed:
 - Lot 1 (4.081 acres). Odd-shaped, vacant residential lot located along the northern property line.
 - Lot 2 (1.004 acres). Odd-shaped, vacant residential lot located along the northern property line.
 - Lot 3 (31.251 acres). Irrigated Ag field.

With the Boundary Line Adjustment proposed Lot 2 would consist of one acre. This would require revising easements to develop and meet County setback requirements. 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.

PROCESS

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 vary; the subject property, among others, surround an area of A-5 (smaller subdivided lots), while another cluster of A-5 is located west of the



surrounding area, with A-20 clustered to the north of the property. Generally, the majority of the area is zoned A-35 and is used as Ag land. Therefore, the primary question is: does the BOA find that the hardship criteria/findings have been met.

Actions by the BOA are final and 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 variances can be approved, then staff recommends adding conditions (noted later in this report).

The application checklist requested enough detail, professionally drawn, for the BOA to be able to make a fully informed decision on the variances. When/If the variances are decided, then the subdivision can be processed.

Preliminary Plats (3+ lot subdivisions, including clustered subdivisions) are presented to the Planning Commission (PC) at a public hearing, who makes a recommendation to the Board of County Commissioners (BoCC). The BoCC are the final decision-making body. Neither the PC nor the BoCC can take final action on the Preliminary Plat until/unless the Variances are approved. In addition, within 12 months, a Final Plat must be accepted by the BoCC once the conditions of approval are met.

Minor Plats (2-lot subdivisions) can be approved administratively by the Director. There is no public hearing required. The Director cannot take final action on the Minor Plat until/unless the Variances are approved. A Final Plat must be accepted by the Director once the conditions of approval are met, prior to recording the Plat.

Boundary Line Adjustments can be approved administratively by the Director. There is no public hearing required. With amending legal lots, no variance is required even if the lot does not meet the minimum size required by zoning.

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.*

The Land Use Code (LUC) calls for minimizing impact to irrigated ag lands. In this case, the purpose of the subdivision is to split off the portion that is not



irrigated ag land to allow the farmworkers for the ranch to obtain their own properties and build their own homes. Therefore, there is no irrigated land being affected by this subdivision. However, as designed, separating all of the no ag lands from the Ag field creates an Ag parcel that has no place to develop other than the irrigated lands.

Proof that adequate domestic water is available to serve all lots will be required for the subdivision; confirmation will be needed from the water purveyor as the applicant stated they have tap(s) already assigned to the parcel. If the well is to be used for domestic purpose, then an Augmentation Plan is required through the State.

Accesses, as approved by the County Engineer, shall be built to County Standards and will be permitted as residential & farm access. If the proposed access serves three or more (3+) lots, then a road built to County Standards (local road) will be required for the subdivision. However, if access is to be for two (2) lots, then a shared driveway may be acceptable.

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).*

Most of Lot 2 would be encumbered by the existing 75-foot access easement. If the easement is not amended, Lot 2 is not an adequate size to build and meet County setbacks as there is no building/development allowed to occur within the easement.

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.*

The current proposal does not disturb any irrigated portions of the property. However, as designed, separating all of the non ag lands from the Ag field creates an Ag parcel that has no place to develop other than the irrigated lands.

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

If variances are approved, the LUC requires a condition that restricts further subdivision. The BoCC has expressed concern with restrictions in perpetuity. Therefore, Staff recommends a plat note *restricting further variances for 15 years* where a variance to lot size is required.

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 there are no unique physical conditions that constrain the property, except the zoning. Generally, the majority of the area is zoned A-35 and is used as Ag land. However, Spring Drive is a subdivision of 2-acre lots created in the middle of agricultural lands. As such, properties in the surrounding area vary. The subject property, among others, surround an area of A-5 (smaller subdivided lots), while another cluster of A-5 is located west of the surrounding area (1600 Road), with A-20 zoning north of the property.

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

The applicant has expressed their intent in subdividing (current configuration) is to provide the ranches farmworkers with their own lots that they could reside at, while being close to the ranch; they will continue to work the property.

Once these lots are created, there would be no requirement restricting sale to a farmworker working on these lands, or that they retain the lot. In addition, creating two lots is more of subdividing rather than allowing an exception due to a hardship - farmworker housing can be built on the property without subdividing the land. Separating this land from the Ag field creates an Ag parcel that has no place to develop other than the irrigated lands. While there is a non-exclusive easement in place, proposed access is not encouraged for multiple lots (works as is).

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

Neither Lot 1 or Lot 2 have frontage to any County road. Therefore, the only frontage to Spring Drive (County Road) is through an existing 75-foot non-exclusive easement and right-of-way for ingress and egress and utility purposes (Reception #541317, 558460, and 572396) along the northerly boundary of Lot 18 (1987 Spring Drive), of the Big Spring Estates Subdivision (adjoining property). The easement is currently restricted to use for access to farm ground and one residence; this will need to be amended to allow access to multiple residential structures.

Neither Pikes (Parcel 349312408002) nor Conrad & Welsby (1987 Spring Drive, Parcel 349313102003), parties to the access easement, have signed the application or submitted documentation agreeing to amend this easement.



Without their approval, plats that include proposed changes to the easement cannot proceed. In addition, Pike property is affected by the initial Boundary Line Adjustment to address access and fence lines. As such, they are required to be a party to that application. They did not sign the application, nor have we received any letter granting Mr. Thompson authority to act (process the application) on their behalf.

CONDITIONS

If the BOA finds that the variances 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 Final Plat shall be annotated such that “No further subdivision of either lot created by this subsection is allowed for 15 years where a variance is required. [Pursuant to Chapter 3, Section 1.A.3.d (Variations to Lot Size-Criteria)].”
2. Domestic water (well or tap/meter) shall be installed prior to accepting/recording the Final Plat. The applicant shall provide proof of an adequate domestic water supply for all lots.
3. The existing 75-foot-wide access easement from Spring Drive must be amended, signed by all affected parties, to accommodate development on the proposed lots. A Shared Access Maintenance Agreement will need to be created and recorded with the County Clerk and Recorder along with the Final Plat.
4. Access shall be constructed and accepted by the County prior to accepting/recording the Final Plat. The applicant shall submit an application for access. The County Engineer will assess access options and the access shall be built to Shared Access Standards.

OTHER AGENCY INVOLVEMENT

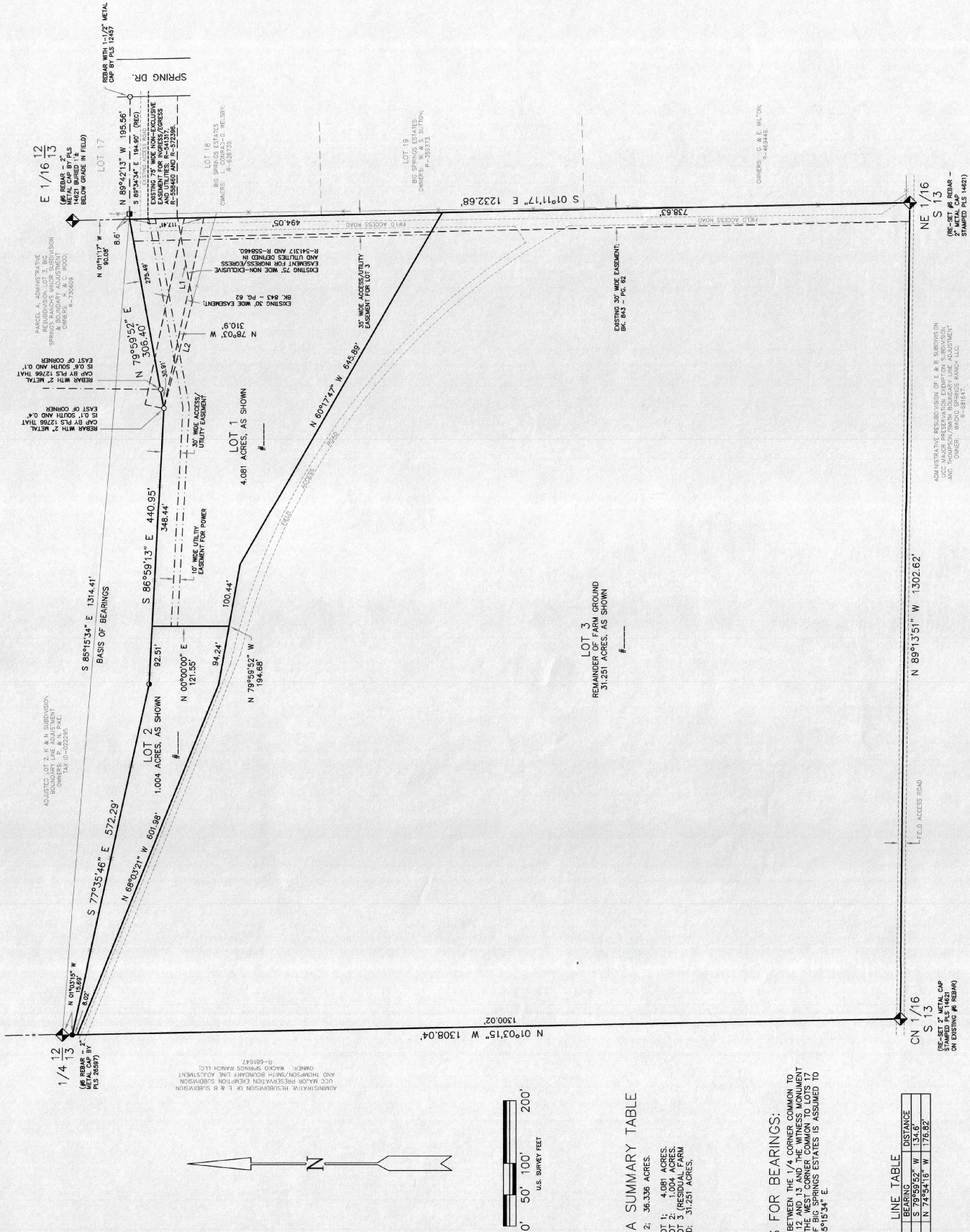
The variance process itself does not generally involve other agencies. However, a public notice was sent to neighboring property owners and posted on the subject property. When/If a subdivision is processed, it will be referred to adjacent property owners and agencies for a 21-day comment period. Comments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

Attached material: list, in order as attached

- Subdivision Plat (dated 7/19/22)
- Boundary Line Adjustment (dated 7/28/22)
- Vicinity Map
- Zoning Map
- Public Comments

WACKO MINOR SUBDIVISION

IN THE NW1/4 NE1/4, SECTION 13, T 51 N, R 11 W, NEW MEXICO P.M.
DELTA COUNTY, COLORADO
FILE NO. _____



LEGEND:

- 1/4 OR 1/16 CORNER MONUMENT FOUND, AS INDICATED.
- PROPERTY CORNER MONUMENT FOUND, AS INDICATED.
- PROPERTY CORNER MONUMENT FOUND, AS INDICATED.
- CAP STAMPED MESSENGER AND PLS 1421.
- PROPERTY CORNER MONUMENT SET, A 1-1/2" DIAMETER METAL CAP STAMPED MESSENGER AND PLS 1421.
- WITNESS MONUMENT OR PROPERTY LINE MARKER FOUND, A 1-1/2" DIAMETER METAL CAP STAMPED MESSENGER AND PLS 1421.
- EXISTING FENCE LINE.
- EXISTING IRRIGATION DITCH OR DRAINAGE.
- EASEMENT LINE.
- NEW EASEMENT LINE.
- ADJUT SECTION LINE.
- ADJUTMENT PARCEL/LOT LINE.
- TRI-COUNTY DOMESTIC WATER CONSERVANCY DISTRICT TAP NUMBER.
- OWNERS SHOWN ARE FROM THE RECORDS OF THE DELTA COUNTY ASSESSOR ON JULY 20, 2022.
- #9999
- OWNER, J. DOE.
- H-9182/3
- (REC)

NOTICE: This plat is a subdivision of land in the State of Colorado. It is subject to the provisions of the Colorado Subdivision Map Act, C.R.S. 38-1-101, et seq., and the rules and regulations of the Colorado Department of Natural Resources, Division of Land Surveying. The survey was made by the Land Surveyor herein named. Copies without original signatures and seals may contain unauthorized alterations and should not be relied upon or used in any manner. They may not be relied upon to establish property boundaries.

CERTIFICATE OF SURVEY:
I, JESSE J. MESSENGER, LAND SURVEYOR, DO HEREBY CERTIFY THAT THE FOREGOING PLAT REPRESENTS A SURVEY MADE BY ME OF PART OF THE NW 1/4 NE 1/4 OF SECTION 13, T 51 N, R 11 W, NEW MEXICO P.M., THAT SAID SURVEY IS IN ACCORDANCE WITH THE CURRENT STANDARDS FOR LAND SURVEYS OF THE COLORADO RES BOARD OF LAND SURVEYING, AND THAT THE SURVEY AND PLAT CONFORM TO ALL THE REQUIREMENTS OF THE COLORADO REVISED STATUTES. THIS SURVEY IS NOT A WARRANTY OR GUARANTEE EXPRESSED OR IMPLIED.

FOR REVIEW
JESSE J. MESSENGER P.L.S. 1421

DATE

AREA SUMMARY TABLE

TRACT 2: 36.336 ACRES.
NEW LOT 1: 4.081 ACRES.
NEW LOT 2: 1.004 ACRES.
NEW LOT 3: 31.251 ACRES.
TOTAL: 36.336 ACRES.

BASIS FOR BEARINGS:

THE LINE BETWEEN THE 1/4 CORNER COMMON TO SECTIONS 12 AND 13 AND THE WITNESS MONUMENT MARKING THE WEST CORNER COMMON TO LOTS 17 AND 18, BEARS S 88°15'34" E.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 79°59'52" W	134.6'
L2	N 74°54'16" W	176.82'

DEDICATION
Wacko Springs Ranch LLC, a Colorado Limited Liability Company, being the owner of the land described as follows:
Tract 2, Wacko Springs Ranch LLC/Pike Boundary Line Adjustment.
County of Delta, State of Colorado.
in Delta County, Colorado, under the name of WACKO MINOR SUBDIVISION, has laid out, platted and/or subdivided the same as shown on this plat, and hereby dedicates those portions of land labeled as easements for ingress/egress and for the installation and maintenance of public utilities or uses as shown hereon.
IN WITNESS WHEREOF, Wacko Springs Ranch LLC, a Colorado Limited Liability Company, has subscribed its name this _____ day of _____ A.D., 202____.

Wacko Springs Ranch LLC, a Colorado Limited Liability Company
Daryl Smith, Member
State of Colorado
County of _____
The foregoing instrument was acknowledged before me this _____ day of _____ A.D., 202____ by R. W. Thompson, Member and Daryl Smith, Member of Wacko Springs Ranch LLC, a Colorado Limited Liability Company. My commission expires _____
Witness my hand and official seal.

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

Notary Public
Date _____
Acting County Surveyor

DELTA COUNTY PLANNING DEPARTMENT APPROVAL
This plat of the above subdivision has been checked for compliance and is approved. Dated this _____ day of _____ 202____.

Planning Director.

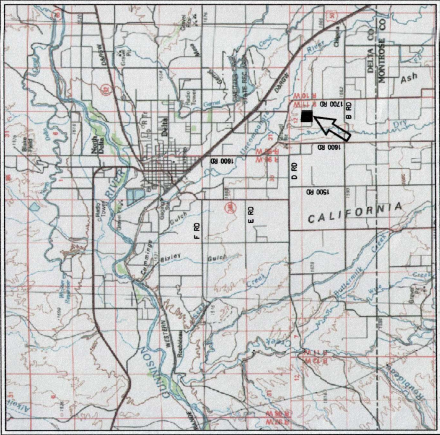
CERTIFICATE OF TAXES PAID
I hereby certify that the entire amount of taxes and assessments due and payable as of _____ upon all parcels of real estate described on this plat (tax account number R-018718) are paid in full. Dated this _____ day of _____ A.D., 202____.

DELTA COUNTY CLERK AND RECORDER'S ACCEPTANCE
I hereby certify that this plat was filed for record in the office of the Clerk and Recorder of Delta County, Colorado.

County Clerk

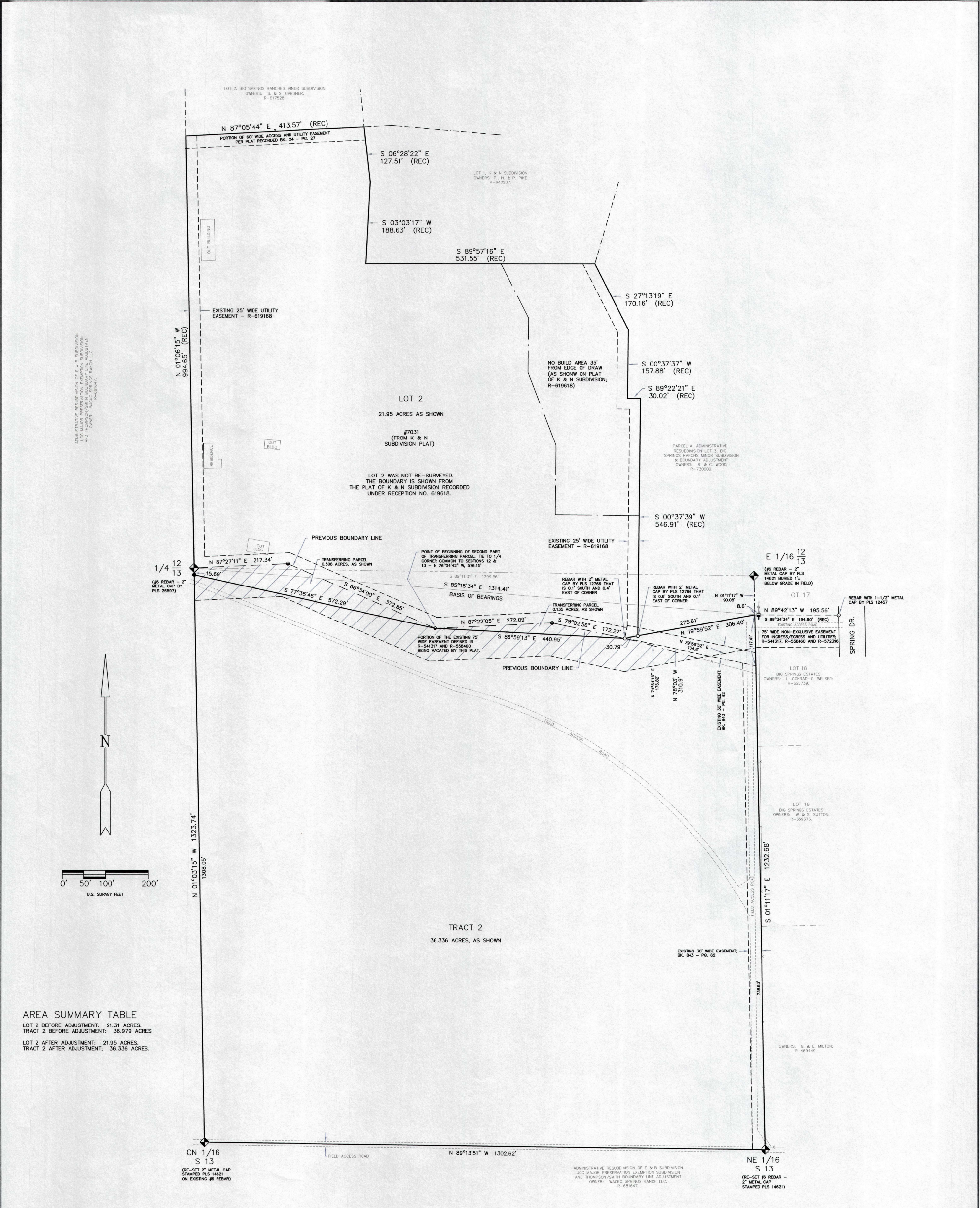
- PLAT NOTES:**
- Outdoor lighting shall be hooded or shielded so that light is directed downward so as not to glare onto a neighboring property or dilute the night sky.
 - All development in Delta County is subject to the Delta County Right to Farm and Ranch Policy, adopted as Resolution 96-R-33 by the Board of Delta County Commissioners on December 23, 1996.
This property is located in an agricultural area. Normal agricultural activities will continue unabated in the surrounding areas and may not be a basis for a lawsuit, except in cases of proven gross negligence.
Colorado is an open range state. It is not the responsibility of a livestock owner to fence in livestock.
 - Each lot owner shall be personally responsible to control undesirable, noxious weeds within the boundaries of that lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Management Advisory Commission concerning the control of such weeds.
 - Lots 1 and 2 are approved for one single family residential use only including manufactured housing. Any further subdivision or change of use requires the owner to comply with Delta County Regulations.
 - All new utilities must be placed underground on all lots.
 - The minimum setbacks in this subdivision, structures and septic shall be:
25' from edge of any ditch.
25' from edge of any road (public or private).
25' from edge of any waterway (including a road right-of-way).
50' from top of bank of a river, stream, or creek.
 - The shares of Uncompangre Valley Water Users Association water are divided with shares being divided as follows:
Lot 1 _____ Lot 2 _____ Lot 3 _____
 - Shares of irrigation water conveyed to lots at the time of plat recording may or may not be sold separately from the property and may not run with the land.
 - Access to all shown or un-shown irrigation ditches for cleaning and maintenance purposes is permitted.

VICINITY MAP



RECORDED/DEPOSITED PLATS:

BIG SPRINGS RANCHES MINOR SUBDIVISION, BOOK 3 - PAGE 31.
BIG SPRINGS RANCHES MINOR SUBDIVISION, BOOK 24 - PAGE 27.
BIG SPRINGS RANCHES MINOR SUBDIVISION, BOOK 28 - PAGE 99.
ADMINISTRATIVE RESUBDIVISION OF LOT 1, BIG SPRINGS RANCHES MINOR SUBDIVISION AND BOUNDARY ADJUSTMENT, BOOK 28 - PAGE 99.
BOUNDARY SURVEY OF LOT 18, BIG SPRINGS ESTATES SUBDIVISION, R-2008819.
NORTH LINE TRACT 2, BAER-REHMAN BOUNDARY ADJUSTMENT SURVEY PLAT, R-726309.



AREA SUMMARY TABLE

LOT 2 BEFORE ADJUSTMENT:	21.31 ACRES.
TRACT 2 BEFORE ADJUSTMENT:	36.979 ACRES.
LOT 2 AFTER ADJUSTMENT:	21.95 ACRES.
TRACT 2 AFTER ADJUSTMENT:	36.336 ACRES.

RECORDED/DEPOSITED PLATS:

BIG SPRINGS ESTATES SUBDIVISION; BOOK 3 - PAGE 31.
BIG SPRINGS RANCHES MINOR SUBDIVISION; BOOK 24 - PAGE 27.
BAIER/REHMAN BOUNDARY ADJUSTMENT; BOOK 25 - PAGE 9.
ADMINISTRATIVE RESUBDIVISION OF LOT 3, BIG SPRINGS RANCHES MINOR SUBDIVISION AND BOUNDARY ADJUSTMENT; BOOK 28 - PAGE 99.
K & N SUBDIVISION; R-619168.
BOUNDARY SURVEY OF LOT 18, BIG SPRINGS ESTATES SUBDIVISION; R-2008819.
NORTH LINE TRACT 2, BAIER-REHMAN BOUNDARY ADJUSTMENT SURVEY PLAT; R-726309.

CERTIFICATE OF SURVEY:

TO WACKO SPRINGS RANCH LLC; I, JESSIE J. MESSENGER, ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, HEREBY CERTIFY THAT THIS PLAT ACCURATELY REPRESENTS A SURVEY MADE BY ME OF TRACT 2, BAIER-REHMAN BOUNDARY ADJUSTMENT, THAT SAID SURVEY IS IN ACCORDANCE WITH THE CURRENT "STANDARDS FOR LAND SURVEYS" OF THE COLORADO A&S BOARD OF REGISTRATION, THAT THE SURVEY IS ACCURATELY REPRESENTED ON THIS PLAT, AND THAT THE SURVEY AND PLAT CONFORM TO ALL THE REQUIREMENTS OF THE COLORADO REVISED STATUTES. THIS SURVEY IS NOT A WARRANTY OR GUARANTEE EXPRESSED OR IMPLIED.
I FURTHER CERTIFY THAT THIS BOUNDARY LINE ADJUSTMENT WILL MEET THE INTENT OF THE DELTA COUNTY LAND USE CODE INCLUDING THE REQUIRED SETBACKS FOR VISIBLE EXISTING IMPROVEMENTS AND THAT NO NEW LOTS/PARCELS WERE CREATED.

FOR REVIEW

JESSIE J. MESSENGER P.L.S. 14621

DATE

LEGEND:

- 1/4 OR 1/16 CORNER MONUMENT FOUND, AS INDICATED.
- PROPERTY CORNER MONUMENT FOUND, AS INDICATED.
- PROPERTY CORNER MONUMENT FOUND, A #5 REBAR WITH A 1-1/2" DIAMETER METAL CAP STAMPED MESSENGER AND PLS 14621.
- PROPERTY CORNER MONUMENT SET, A #5 REBAR 30" LONG WITH A 1-1/2" DIAMETER METAL CAP STAMPED MESSENGER AND PLS 14621.
- WITNESS MONUMENT OR PROPERTY LINE MARKER FOUND, A #5 REBAR WITH A 1-1/2" DIAMETER METAL CAP STAMPED MESSENGER AND PLS 14621.
- EXISTING FENCE LINE.
- EXISTING IRRIGATION DITCH OR DRAINAGE.
- EASEMENT LINE.
- NEW EASEMENT LINE.
- ALIQUOT SECTION LINE.
- ADJACENT PARCEL/LOT LINE.
- TRI-COUNTY DOMESTIC WATER CONSERVANCY DISTRICT TAP NUMBER.
- OWNERSHIPS SHOWN ARE FROM THE RECORDS OF THE DELTA COUNTY ASSESSOR ON JULY 20, 2022.
- DIMENSIONS FROM THE RECORDED PLAT OF K & N SUBDIVISION (R-619168) OR OTHER DOCUMENTS.

BASIS FOR BEARINGS:

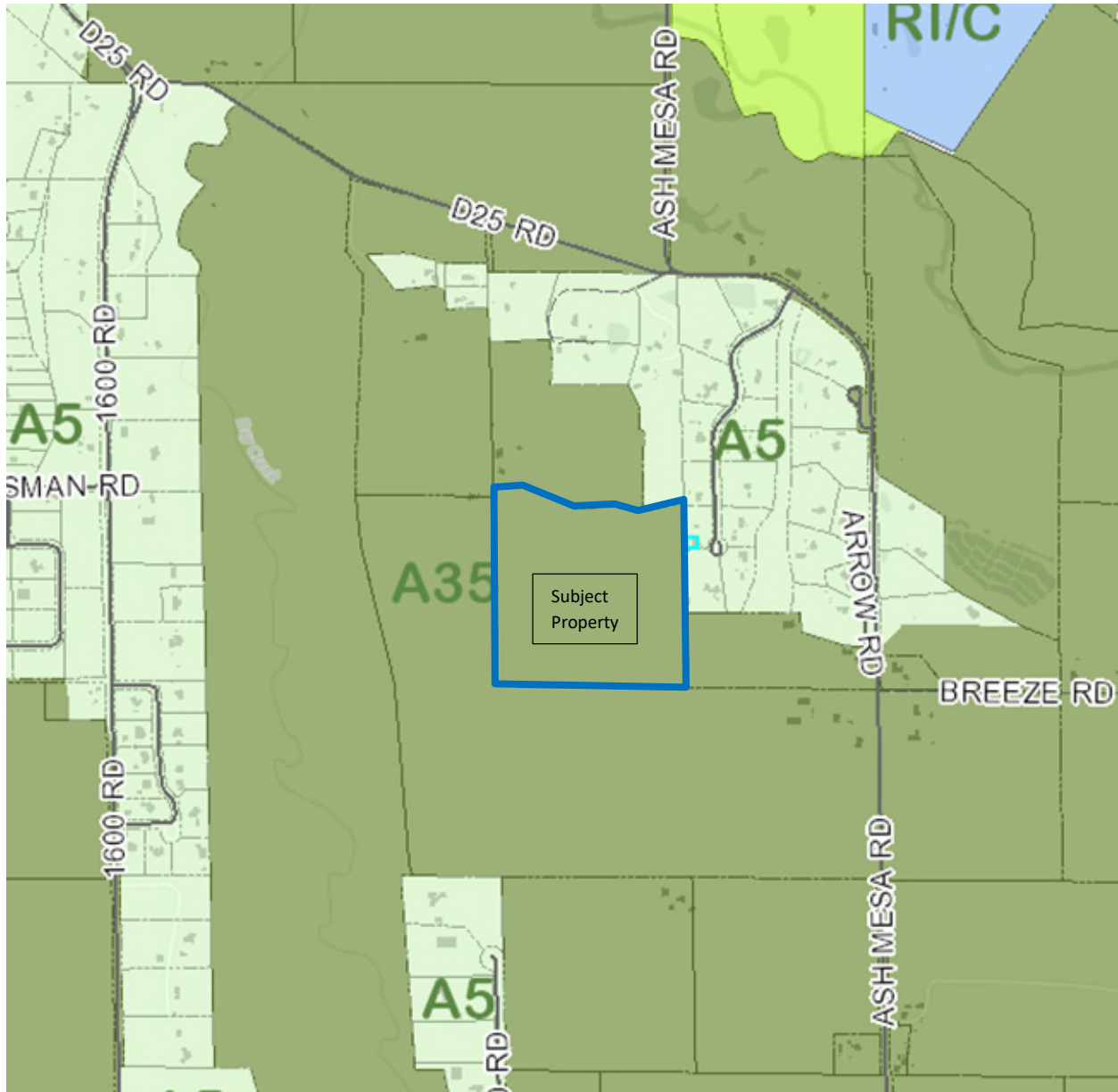
THE LINE BETWEEN THE 1/4 CORNER COMMON TO SECTIONS 12 AND 13 AND THE WITNESS MONUMENT MARKING THE WEST CORNER COMMON TO LOTS 17 AND 18 OF BIG SPRINGS ESTATES IS ASSUMED TO BEAR S 85°15'34" E.

WACKO SPRINGS RANCH LLC		
BOUNDARY LINE ADJUSTMENT PLAT		
WACKO SPRINGS RANCH LLC/PIKE		
BOUNDARY LINE ADJUSTMENT		
IN SECTIONS 12 AND 13,		
T 51 N, R 11 W, NEW MEXICO P.M.		
MESSENGER & ASSOCIATES LLC		
Austin, Co. 81410 (970) 835-3953		
jesse@messengerandassociates.com		
Acct.	No. 22-011.B/A	
Revised	Scale	Date
	1"=100'	7/28/22
		Drn. By
		jjm
Sheet 2 of 2		

VICINITY MAP



ZONING MAP



PLN22-065/R. Thompson Subdivision

1 message

Steve Astin <sastin30@hotmail.com>

Thu, Nov 10, 2022 at 9:50 AM

To: "Planning@deltacounty.com" <Planning@deltacounty.com>, Tami Astin <tmedea@gmail.com>

To the Board of Adjustments,

I strongly oppose the BOA granting a variance to the parties concerning PLN22-065/R. Thompson Subdivision. I am a resident and homeowner for 20 years living at 2413 Spring Dr. There have been other people in the past who have wanted to subdivide this same land for profit as well. The BOA denied those requests as well. This land is agricultural land and should be preserved as such.

Thank You

Steve Astin

[2413 Spring Dr](#)

[Delta, CO 81416](#)

970-773-6120

Sent from [Mail](#) for Windows

PLN22-065/R. Thompson Subdivision (Wacko Springs Ranch LLC)

1 message

Tamara Astin <tamara.astin@deltaschools.com>
To: planning@deltacounty.com

Thu, Nov 10, 2022 at 2:19 PM

I would like to oppose the request to create three lots that do not meet the requirements off of 1987 Spring Drive. My family and I live on 2413 Spring Dr. I was raised in that subdivision since I was 7 years old. I would not like to turn our peaceful neighborhood into something that is going to include more traffic and people up and down our dead end street. If you have any questions please call. Tami Astin 970-773-6120. Thank you

Tami Astin



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

STAFF REPORT

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

Thursday, November 17, 2022 @ 5:30 p.m.

PLN22-071 (McCracken)

Consider variances to reduce the required lot size from a 20.0 acre minimum in the A20 zoning district. The subject property is a 2.61-acre parcel located at 3386 & 3390 Old Wagon Road (Parcel: 345736402001), Delta.

PROJECT INFORMATION:

Property Owner: Vernon and Lela McCracken
Applicant: Vernon and Lela McCracken
Site Address(s): 3386 & 3390 Old Wagon Road, Delta
Parcel ID/Acct: 345736402001 / R0018024
Parcel Size: 2.61 Acres
Zoning: A20

Report prepared by: Angie Kemp, Planner I

RECOMMENDATION:

Staff recommends that the Board of Adjustments (BOA):

- a) Consider required variance criteria and findings as they apply to PLN22-071(McCracken);
- b) Provide direction to either Approve, Conditionally Approve, or Deny lot size variance(s) to subdivide a 2.61-acre lot into two (2) lots in the A20 zoning designation located at 3386 & 3390 Old Wagon Road, Delta (Parcel 345736402001/McCracken):
 - a. Lot 1 (1.55 Acres)
 - b. Lot 2 (1.06 Acres)

- 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. McCracken, owners, own a 2.61-acre lot with frontage on Old Wagon Road (County Road, County maintained). There are existing residences that would remain on Lot 1. The applicants are seeking a 2-lot subdivision (Minor Plat) to allow their son to own Lot 2 and build a residence there.

The zoning applied here is A20, so, the minimum acreage for subdividing this parcel is 20 acres per lot. Neither lot meets the minimum acreage set forth in the LUC for the A20 zone so variances are required before a subdivision can be processed.

Proof of water will need to be provided for the new lot, and the tap/meter installed, prior to recording a Plat. A shared access was originally proposed, County staff from Engineering and Planning have advised an individual access to avoid the development configuration of existing homes, septic tanks, and a garage which would create a problematic access. The original design also incorporated no frontage for Lot 2, effectively land-locking the lot and creating a design that does not meet the criteria for a variance.

The subdivision has been re-designed to create two (2) lots consisting of;

Lot 1 (1.55 Acres) includes two (2) residences, two (2) garages, and one (1) shed, with frontage on Old Wagon Road, and an existing shared access.

- 3386 Old Wagon Road is served by individual septic (Permit #06-024) and a Tri-County public water tap (#2992).
- 3390 Old Wagon Road has individual septic for (Permit # 99-078) and a Tri-County public water tap (#359).

Lot 2 (1.06 Acres) contains a granary and 42 feet of frontage on Old Wagon Road. Individual access is proposed along the northern property line.

Staff finds that the revised design better meets the standards of the Land Use Code. However, further subdividing this 2-acre parcel is not consistent with the surrounding area or the intent of the LUC when zoning was applied to this area. An addition unit can be constructed on the property without subdividing, so there is a question if a hardship is created.

DISCUSSION:

The subject property is Lot 1 of *R M B Minor Subdivision* recorded August 3rd, 1999 (Reception #527303). Lot 2 of *R M B Minor Subdivision*, is a one (1) acre lot, also owned by the McCracken family (3386 Old Wagon Road) with an individual access from Old Wagon Road. The properties involved in *R M B Minor Subdivision* consist of Parcel

A of *Exemption No. 1482* (Reception #450240) a plat recorded on November 28, 1990 displaying two separate parcels consisting of; Parcel A (3.61 acres), residential development and Parcel B (approximately 36 acres), an agricultural portion at Parcel 345736400026/ Conatser.

A number of properties in the area follow the development pattern where residential is subdivided from the larger ag operation. After the initial *Exemption No. 1482*, this property has continued to be subdivided into smaller lots under the same ownership. Surrounding parcels in this area are predominantly larger, except across Old Wagon Road where Mr. Groda utilized the Boundary Line Adjustment process as recommended by staff.

Planning discussed an option to do a Boundary Line Adjustment so that the existing two lots owned by the McCrackens could be reconfigured to have a vacant lot smaller than the zoning would allow for subdivision, to be utilized by their son, and their residential property combined with agribusiness operations at 3382 Old Wagon Road. The applicant expressed that this was unfavorable because they want to keep the business separate from the residential use.

County Engineering has assessed the subdivision proposal, no additional Right-of-Way (ROW) along the frontage abutting Old Wagon Road is required (County Road, County maintained). A Plat is required to illustrate the centerline of the improved road surfaces as well as existing rights-of-way. Because dedications not required, the small lot sizes will not be impacted and lessened.

PROCESS

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 the parcel could be subdivided if the BoA finds that it meets the required criteria and findings. Lot sizes of properties in the surrounding area vary broadly, most are for ag residential uses. Therefore, the primary question is if the BoA finds that the hardship criteria/findings are met.

The LUC requires a unanimous vote of the BoA 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 three (3) conditions (listed below).

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 for the BoA to be able to make a fully informed decision on the variance. The Site Plan 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.*

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 finds that the site has existing structures that must meet the setback requirements to the proposed boundary lines, and do not encroach into the roadway setback. Access shall 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).*

Both lots conform to the minimum dimension standards for width Lot 1 is approximately 280ft wide at its widest point, Lot 1 is approximately 180ft wide at its widest point. Lot 1 has about 280ft of frontage and Lot 2 has 42 ft frontage which meets the minimum standard of 30 feet of road frontage, as designed.

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.*

The Land Use Code calls for minimizing impact to irrigated ag lands. This is residential and contains a small portion of irrigated land that utilized UVWUA irrigation water. With the development, irrigated land will be impacted, but a very small portion.

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 LUC requires a condition that restricts further subdivision. Staff recommends a plat note *restricting further subdivision* where variances to lot size are required in this case.

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 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.*” The possible physical constraints restricting use of this lot for a third home would be access to that home, which would become a challenge if an additional access point was not granted by the County. Generally, one access is allowed per lot/parcel. A third home would, however, be *possible* to be built on the lot without subdivision, though it would have some challenges.

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. Splitting this lot as proposed and designed would could be considered consistent with the surrounding properties.

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. The variance process affords an avenue to request a smaller lot if required criteria/findings can be justified (e.g., physical constraint, hardship). Staff interprets that the exception for a variation to lot size is to create a single exception to address a unique situation.

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 Code 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 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)].”
2. Domestic water (tap/meter) shall be installed prior to accepting/recording the Final Plat. The applicant shall provide proof of an adequate domestic water supply for all lots.
3. Access shall be constructed and accepted by the County prior to accepting/recording the Final Plat. The applicant shall submit an application for access. The County Engineer will assess access options and the access shall built to rural access standards.

OTHER AGENCY INVOLVEMENT

The Development Application form was submitted on May 12, 2022. A pre-Application conference was held May 26, 2022 with the applicant and County staff from Engineering, GIS, Road & Bridge, Planning, and Environmental Health. A letter and checklist were sent to the applicant on June 3, 2022. Variance fees were submitted August 30, 2022.

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. No comments have been received as of November 10, 2022. 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

- Variance Application Materials
- Site Plan (with Staff recommendations)
- Previous Proposal (Site Plan)

Is irrigation water currently available and/or used on this site? ☐ YES ☒ NO

If yes, identify their locations, ditch name, and water rights/number of shares owned:

Would the project take any land out of cultivation? ☐ YES ☒ NO

Does the project propose non-agricultural uses adjacent to any agricultural use(s)? ☒ YES ☐ NO

B. ENVIRONMENTAL. Required for all Land Use Permit applications.

Would development occur within 50 feet of a seasonal or non-seasonal creek, lake, river, natural drainage, marsh, pond, slough, or stream? ☐ YES ☒ NO

Per FEMA maps, does the property include (check all that apply)?

☐ ZONE "A" ☐ ZONE "AE" ☐ ZONE "X" ☐ ZONE "D" ☐ Other: _____

Are you renovating more than 50 linear feet of pipe or 32 sq ft of surfaces? ☐ YES ☒ NO

Does the project propose development on steep slopes (over 25% or 45-degree slope)? ☐ YES ☒ NO

Would development be visible from a public road, designated vista point, or public park? ☐ YES ☒ NO

If yes, is development located on a slope or near the top of a hill? ☐ YES ☐ NO

C. DOMESTIC WATER. Required for all Land Use Permit applications pertaining to domestic water.

Would the project include connection to a public water system: YES ☒ NO ☐

Is there an existing water service/meter? ☐ YES ☒ NO

Would the project include construction, enlargement, alteration, or removal of a well: ☐ YES ☒ NO

Would planned improvements include connection to a public water system? ☒ YES ☐ NO

Would the project include construction, enlargement, or alteration of a cistern? ☐ YES ☒ NO

List well permit number(s), water tap or certificate number(s), court decree case number(s), or deeded water rights (*Attach copies of approved well permits, water tap or certificate, court decrees, or deeded water rights for all lots*): _____

1. SUBDIVISION. Complete this section if requesting to subdivide (create 1 or more additional lots) property

Has the subject property been previously subdivided: YES ☒ NO ☐

Was a variance granted for lot size? ☒ YES ☐ NO

Is there a public road dividing any of the proposed parcels: YES ☐ NO ☒

Are new roads proposed? ☐ YES ☒ NO *R M B Minor Subdivision #2*

Proposed Plat Name: *McCracken Minor Subdivision*

Total number of acres: *1.06*

SECTION IV: LAND USE SUPPLEMENTAL

This section is required if Delta County Planning determines that the proposed use requires an entitlement pursuant to the Land Use Code.

A. GENERAL INFORMATION. Required for all Land Use Permit applications.

Would existing structures be used: YES ☐ NO ☒

Please identify the number and type of residences existing and proposed (SAMPLE: 3 mobile homes, 1 built home): none

Please identify any other structures existing and proposed (shed, barn, garage, shop, etc.):

1 Grainery

Was the property part of a prior subdivision? ☒ YES ☐ NO

If yes, Provide the Name, Lot#, Block #:

Lot #2 RMB Subdivision

A part of the (1/4 Section) _____, Section _____, Township _____, Range _____

NOTE: The Parcel Number and Legal Description can be obtained from your Deed, Tax Notice, or by contacting the Delta County Assessor's Office. Attach a copy of the recorded plat.

Are you planning on phasing the proposed project? ☒ YES ☐ NO

Is there an existing electrical service/meter? ☐ YES ☒ NO

Do planned improvements include electrical wiring? ☒ YES ☐ NO

Do planned improvements include plumbing fixtures? ☒ YES ☐ NO

What Fire District serves the property? ☒ District 1/Delta ☐ District 2/Paonia ☐ District 3/Surface Creek

☐ District 4/Hotchkiss ☐ District 5/Crawford ☐ Other: _____

ACKNOWLEDGEMENTS - Please initial each of the following acknowledging that you have read, understand and agree with these terms:

km *An adequate water supply must be demonstrated for all new development.*

km *Cisterns (specifically hauled water) is not an adequate water supply (including subdivision).*

km *Delta County does not have Building Codes; however, new construction is subject to Electrical and Plumbing Codes. (Applicant is required to obtain permits from the State)*

km *Delta County allows RVs as a residence if connected to permanent, reliable infrastructure including water, power and wastewater disposal.*

km *Applicant is required to obtain permits from the State to install a mobile home within Delta County.*

km *Mobile homes constructed prior to June 15, 1976 (aka pre-HUD) are subject to regulations of Ordinance 2006-10.*

A. AGRICULTURE/IRRIGATION. Required for all Land Use Permit applications.

Does the property currently include lands used for agriculture? ☐ YES ☒ NO

Are any irrigation ditches located within or adjacent to the property? ☒ YES ☐ NO

Is any part of the property irrigated (pasture, orchard, etc.)? ☐ YES ☒ NO

Is the adjustment intended for use by multiple owners: YES ☐ NO ☐ Illustrate boundary lines where all resulting lots are 35+ acres in size, not part of a prior subdivision, and not intended for development (drawing of professional quality):

- a. Total land area proposed to be adjusted
- b. Existing parcel/lot configuration with pre-adjusted land area
- c. Proposed parcel/lot configuration with pre-adjusted land area
- d. Placement and location of all streets, easements, rights-of-way on the subject lands and those abutting said land
- e. All existing structures are setback from proposed property lines
- f. Illustration of existing water supply and location, including fire hydrants
- g. Illustration of drainage and irrigation

Surveyor's Statement is a certification by surveyor that no new lots are being created. Certification of Compliance with State Statute and Delta County Land Use Code. Form provided by Delta County.

Please list all landowners (as shown on title), along with their parcel number, who will be involved in this process:

Owner #1: _____ PARCEL: _____

Owner #2: _____ PARCEL: _____

Attach additional sheet(s) if necessary to represent ownership of additional parcels.

4. VARIANCE. Complete this section if requesting lots that do not meet the minimum size or to reduce development standards (e.g., setbacks) See LUC or request a *Variance Criteria and Findings* handout from the Planning Department.

Provide justification on how the requested Variation to Lot Size meets the required criteria (Chapter 3, Section 1.A.3 LUC):

- New lots have at least the minimum dimensions set out in the UGA zoning district (Table 3.a LUC):
 - Lot Size (7,500 square feet min.): Proposed: 1.06 acre
 - Lot Width (75 feet min.): Proposed: _____
 - Lot Frontage (30 feet min): Proposed: _____
- Minimize disturbance or development of irrigated agricultural portions of a property, and does not interfere with wildlife habitat.

Explain the reason(s) for requesting a variance (Findings):

Describe unique conditions of the property: Family Split

Explain the hardship created by not approving a variance (special circumstances):

Describe how the variance would not create a detriment to the public: _____

Splitting acre for family

Attach additional sheet(s) if necessary to explain/justify meeting the required criteria and findings.

Total number of proposed lots: _____

(Please reference **Chapter 3, Lots, Buildings, and Structures** for Lot Dimensions by Zoning District)

ACKNOWLEDGEMENTS - Please initial each of the following acknowledging that you have read, understand and agree with these terms:

KM

If irrigation water is used, an Irrigation Plan is required that identifies how the shares are assigned (source and quantity) and also 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.)

KM

No Minor Plat or Preliminary Plat shall be approved by the County unless the Colorado Department of Public Health and Environment or Delta County Environmental Health Division has made a favorable recommendation regarding the proposed method of sewage disposal.

KM

Fire protection facilities shall be reviewed and approved by the appropriate Fire Protection District with limited or conditional uses, minor plats and preliminary plats (or final plats, where a preliminary plat is not required prior to final plat approval).

KM

A Subdivision Improvement Agreement and appropriate collateral shall be required for all improvements not completed prior to accepting a final plat.

KM

If there is a loan on any property that is changing in configuration, the owner is responsible to inform the applicable lending agency.

2. REZONING. Complete this section if requesting an amendment to the district zoning maps.

Applicant wishes to amend the Delta County Zoning Maps by changing the above specified parcel

FROM: ☐ UGA ☐ RI/C ☐ A-5 ☐ A-20 ☐ A-35 Zoning District

TO: ☐ UGA ☐ RI/C ☐ A-5 ☐ A-20 ☐ A-35 Zoning District

Describe the purpose of this amendment: _____

3. REPLAT, LOT/BOUNDARY LINE ADJUSTMENTS, AND MERGERS. Complete this section if requesting minor amendments/corrections to a recorded plat, adjusting lot/parcel lines, removing/amending a plat note, merging land, etc.

Name, Recorded Date and Reception Number of previously approved Plat: _____

Description and purpose of proposed change: _____

Existing Parcel Size(s): _____

Adjusted Parcel Size(s): _____

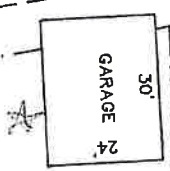
Are the existing boundary lines established and undisputed: YES ☐ NO ☐

Would the adjustment create any lots less than 35 acres: YES ☐ NO ☐

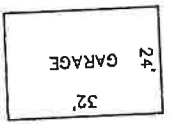
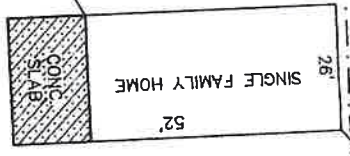
S 02° 58' E - 35.4'
S 01° 39' 13" E - 403.28'

22.0' 48.7' 320.93' 42.1' 25' 10' WIDE DITCH - UTILITY EASEMENT

UTILITY EASEMENT

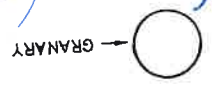


S 52° 09' E - 18.2'



N 83° 34' 11" E - 394.42'

Lot 1
2.61 ACRES,
MORE OR LESS,
AS SHOWN.
#359 & #2992



LOT 2
1.00 ACRES,
MORE OR LESS.

140.65' S 01° 32' 22" W - 403.28' 262.63' 25' 26'

R M B MINOR SUBDIVISION #2

LOCATED IN THE
NW1/4 SE1/4, SECTION 36, T 15 S, R 96 W, SIXTH P.M.,
DELTA COUNTY, COLORADO.
FILE NO. _____

DEDICATION

We, VERNON L. AND LELA J. MCCracken, being the owners of the land described as follows:
Lot 1, R M B Minor Subdivision, according to the plat recorded in the Real Estate Records of Delta County, Colorado on August 3, 1993 under Reception No. 327203.

County of Delta, State of Colorado
in Delta County, Colorado, where the name of R M B MINOR SUBDIVISION #2, have laid out, plotted and/or subdivided the same as shown on this plat and hereby dedicate those portions of said land to be used as easements for the installation and maintenance of public utilities or uses as shown hereon.
In WITNESS WHEREOF, Vernon L. McCracken and Lela J. McCracken have subscribed their names this _____ day of _____ A.D. 202____.

Vernon L. McCracken Lela J. McCracken
State of Colorado)
County of Delta)
The foregoing instrument was acknowledged before me this _____ day of _____ A.D. 202____ by Vernon L. McCracken and Lela J. McCracken.
My commission expires _____
Witness my hand and official seal _____
Notary Public

MORTGAGEE'S CONSENT
The undersigned Mortgagee hereby consents to the subdivision, dedications and conveyances established on the plat this _____ day of _____ A.D. 202____.

Mortgagee _____ By _____
Time _____
State of _____)
County of _____)
The foregoing instrument was acknowledged before me this _____ day of _____ A.D. 202____ by _____
Mortgagee _____ My commission expires _____
Witness my hand and official seal _____
Notary Public

DELTA COUNTY SURVEYOR'S APPROVAL
Approved for content and form only and not as to the accuracy of survey, computation or drafting, pursuant to CRS 28-51-106.
_____ Date _____
County Surveyor

DELTA COUNTY PLANNING DEPARTMENT APPROVAL
This plat of the above subdivision has been checked for compliance and is approved. Dated this _____ day of _____ 202____.
_____ 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 (tax account number R-015024) are paid in full. Dated this _____ day of _____ A.D. 202____.
Treasurer of Delta County, Colorado

DELTA COUNTY CLERK AND RECORDER'S ACCEPTANCE
I hereby certify that this plat was filed for record in the office of the Clerk and Recorder of Delta County, Colorado.
_____ County Clerk

- PLAT NOTES:
1. Subdivision lighting shall be provided or arranged so that light is directed downward so as not to glare onto a neighboring property of state the night day.
 2. All development in Delta County is subject to the Delta County Right to Farm and Ranch Policy adopted on Resolution No. 9-22 by the Board of Delta County Commissioners on December 22, 1998.
This subdivision is located in an agricultural area. Future agricultural activities will continue undisturbed in the surrounding areas and may not be a base for a lawsuit, lawsuit or claim of adverse effect or injury.
 3. Consistent with the "open range" policy, it is not the responsibility of a livestock owner to fence in livestock.
 4. Each lot owner shall be personally responsible for certain undesirable, noxious weeds within the boundaries of their lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Management Advisory Committee concerning the control of such weeds.
 5. Lot 1 was approved for two existing single family residences. Lot 2 is approved for one single family residential use only including manufactured housing. Any further subdivision or change of use requires the owner to comply with Delta County Regulations.
 6. All new utilities must be placed underground on all lots.
 7. The minimum setbacks in this subdivision, structures and septic shall be:
25' from edge of any ditch.
25' from edge of any road right-of-way (public or private).
15' from adjacent Property Lines (other than abutting a road right-of-way).
50' from line of back of a road, stream, or creek.
 8. The shares of Intermountain Valley Water Users Association water are divided with shares being divided as follows:
Lot 1 _____ Lot 2 _____
 9. Shores of irrigation water conveyed to lots at the time of plat recording may or may not be sold separately from the property and may not run with the land.
 10. Access to all shown or unshown irrigation ditches for cleaning and maintenance purposes is permitted.

CONTROL DIAGRAM



36

1.16 S. 15 N. 96 W. SIXTH P.M.

PLAT NO. 36

1.16 S. 15 N. 96 W. SIXTH P.M.

PLAT NO. 36

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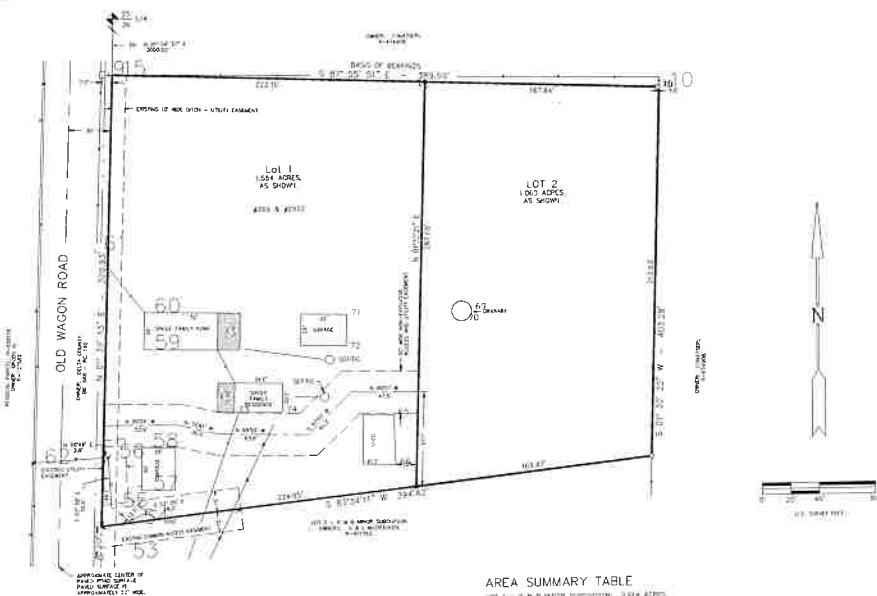
PLAT NO. 36

1.16 S. 15 N. 96 W. SIXTH P.M.

PLAT NO. 36

1.16 S. 15 N. 96 W. SIXTH P.M.

VERNON/LELA MCCracken	
LOT 1, R M B MINOR SUBDIVISION	
IN THE NW1/4 SE1/4, SECTION 36,	
T 15 S, R 96 W, SIXTH P.M.,	
DELTA COUNTY, COLORADO.	
MESSENGER & ASSOCIATES, LLC	
Austin, TX 78701 (512) 443-3333	
Act:	22-006
File:	Sheet 1 of 1



AREA SUMMARY TABLE

LOT 1 - R M B MINOR SUBDIVISION, 2.54 ACRES
NEW LOT 1, 1.54 ACRES
NEW LOT 2, 1.00 ACRES

BASIS FOR BEARINGS:

BEARINGS ARE BASED ON THE BEARINGS FROM THE PLAT OF THE R M B MINOR SUBDIVISION RECORDED IN THE REAL ESTATE RECORDS OF DELTA COUNTY UNDER RECEPTION NO. 327203. THE NORTH LINE OF LOT 1, R M B MINOR SUBDIVISION BEARS S 87° 16' 34" E

LEGEND:

- EXISTING SECTION CORNER, AS INDICATED
- SECTION CORNER MONUMENT SET, A 3-1/4" METAL CAP ON A 2" METAL PIPE OR A 2" METAL CAP STAMPED PLS 14021 ON A 1/2" REBAR.
- EXISTING 1/4 OR 1/2 CORNER, AS INDICATED
- 1/4 CORNER MONUMENT SET, A 3-1/4" METAL CAP ON A 2" METAL PIPE OR A 2" METAL CAP STAMPED PLS 14021 ON A 1/2" REBAR.
- 1/2 CORNER MONUMENT SET, A 2" METAL CAP STAMPED PLS 14021 ON A 1/2" REBAR
- EXISTING PROPERTY CORNER MONUMENT, AS INDICATED
- PROPERTY CORNER MONUMENT SET, A 1-1/2" METAL CAP STAMPED PLS 14021 ON A 1/2" REBAR
- EXISTING WITNESS CORNER ON PROPERTY LINE MARKER, AS INDICATED
- WITNESS MONUMENT TO PROPERTY CORNER SET, A 1-1/2" METAL CAP STAMPED PLS 14021 ON A 1/2" REBAR
- EXISTING FENCE LINE
- ROAD/EASEMENT CENTERLINE
- EXISTING IRRIGATION DITCH OR DRAINAGE
- EXISTING OVERHEAD POWER LINE
- EXISTING TELEPHONE LINE
- EXISTING WATER LINE
- OBSTRUCTIONS SHOWN ARE FROM THE FILES OF THE DELTA COUNTY AUDITOR ON 8/24/2022
- THE COUNTY DOMESTIC WATER CONSERVANCY DISTRICT MAP NUMBER



CERTIFICATE OF SURVEY

TO VERNON L. AND LELA J. MCCracken, I, SURVEYOR, do hereby certify that this plat accurately represents the subdivision as shown on the plat of the R M B MINOR SUBDIVISION, and that the survey is in accordance with the current laws and regulations of the State of Colorado. I further certify that the survey is in accordance with the current laws and regulations of the State of Colorado. I further certify that the survey is in accordance with the current laws and regulations of the State of Colorado.

FOR REVIEW

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____

DATE _____