

GRAND COUNTY PLANNING COMMISSION  
WebEx MEETING MINUTES

Wednesday, December 9th, 2020

MEMBERS PRESENT:      Marcus Davis                      Will MacDonald  
   Ingrid Karlstrom                      Bob Gnuse  
   Tara Fournet                              Ralph Graves  
   Deborah Fitch

MEMBERS ABSENT:      Kim Shepton

STAFF PRESENT:      Robert Davis                      Alex Taft  
   Taylor Schlueter                      Jacob Cote  
   Maxine LaBarre-Krostue              Chris Leahy  
   Patty Kemper

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The meeting was called to order by Chairperson Marcus Davis at 6:38 PM. Roll call was taken.

No minutes were presented. November & December Minutes will be presented at the January 2021 Meeting.

Commissioner Davis welcomed new Planning Commissioner, Ralph Graves, from District 3, Kristen Manguso’s district.

Commissioner Graves, introduced himself and gave his background. He stated, I have been in Grand County for 47 years. I have been a land development project manager and land surveyor since 1995. I spent my summers surveying with Jim Ward and I deal with county planning on a daily basis in Summit County. I am looking forward to learning the other side of what I deal with every day.

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There were 34 members of the Public in attendance by WebEx for the December 9<sup>th</sup> meeting.

**Lot 24 and 28 Block 7, Bussey Hills – Amended Final Plat – Dellaport**

Presented by: Jacob Cote, Planner 1

**CERTIFICATE OF RECOMMENDATION**

PLANNING COMMISSION DECEMBER 9, 2020

<b>Project Name</b>	Bussey Hills Amended Final Plat
<b>Applicant</b>	Theresa and John Dellaport
<b>Location</b>	18 County Road 6328
<b>Zoning</b>	Forestry & Open (F/O)
<b>Applicable Regulations</b>	Grand County Zoning Regulations, Grand County Subdivision Regulations
<b>Attachments</b>	A. Development Application B. Project Narrative Email C. Proposed Amended Final Plat D. Bussey Hills Final Plat - Reception No. 73932 E. Title Commitment F. Current Tax Receipt
<b>Staff Planner</b>	Jacob Cote, Planner I
<b>Request</b>	Approval of an Amended Final Plat to combine Lots 24 and 28, both owned by the Applicant.

### Background

Theresa and John Dellaport, herein referred to as “Applicant”, have owned Lots 24 and 28 located in the southeast corner of the Bussey Hills Subdivision since April 2020, per Warranty Deed recorded at Reception No. 2020-007567. Lots 24 and 28 are a combined 0.36 acres large. The parcels have not been developed and are not located in any Growth Areas, but they are in the Three Lakes Design Review Area. The lots are served by Three Lakes Sanitation for sewage and would be served by well water.

The Bussey Hills Subdivision is located south of Lake Granby, east of US 34, and is accessed via County Road 6. It is bordered by Forest Service land to the north and west, and by privately-held parcels to the south and east. The subdivision Final Plat was recorded at Reception No. 73932 in April 1952. Five-foot-wide utility easements were dedicated on all rear and side lot lines in the subdivision.

The subject properties are located in a neighborhood of the subdivision that has been lightly developed: the parcel directly adjacent to the west has been developed and there are a few other single-family residences in the immediate vicinity, but no directly adjacent parcels besides the parcel to the west have been developed. Parcels in the vicinity of the Applicant’s property range in size from 0.12-0.24 acres.

### History

The Bussey Hills subdivision, platted in 1952, contains over 200 small parcels (approximately 258 original lots). The subdivision is platted on the side of a large, steep hill, rendering many of the parcels in the subdivision nearly undevelopable. The lots are apparently also unappealing to developers: Pictometry imagery shows that fewer than 50 lots have been developed, and many of those lots are a result of Amended Final Plats to combine smaller parcels. There is clear precedent for an Amended Final Plat to combine small parcels in Bussey Hills.

### **Purpose of Request**

The Applicant is requesting this Amended Final Plat to combine their adjacent lots, creating a larger buildable area that will allow for the installation of a septic system, well, and cabin. If the interior lot line—and corresponding utility easements—separating the Applicant’s two parcels is not removed through this Amended Final Plat, the Applicant will have very limited space for the construction of a septic system, well, and cabin on one parcel or the other. The steep grade of much of the two parcels further limits the amount of buildable space on either parcel.

### **Staff Comments and Analysis**

The lots of Bussey Hills are relatively small when compared to most other subdivisions in Grand County, and the absence of any municipal water or well infrastructure makes development of any single lot even more difficult. The Applicant’s lots are currently nonconforming in size; they are far smaller than the minimum 5 acres for parcels outside of Growth Areas. The lot resultant of this Amended Final Plat will remain nonconforming, but the nonconformity will be reduced as much as possible.

Although the Bussey Hills Subdivision has existed for nearly 70 years, surprisingly few lots have been developed. It does not seem likely that a reduction of the number of developable lots in the subdivision through this Amended Final Plat would impact its development potential or rate of “build-out”. Put more simply, the subdivision can afford to have fewer developable lots because not many lots are being developed anyways.

### **Compliance with Zoning Regulations**

#### **Section VI - Forestry/Open District**

- §6.1 Uses Permitted** Intended use of the property is in compliance. (§6.1.1)
- §6.2 Minimum Area of Lot** The minimum lot area permitted in the Forestry & Open (F/O) Zoning District outside of a designated Growth Area is five (5) acres. The parcel resultant of this proposed Amended Final Plat would create a nonconforming lot, as the parcel would only be 0.36 acres large. However, this Amended Final Plat would reduce the nonconformity to the greatest possible extent. (§6.2.1)
- §6.3 Minimum Lot Width** Minimum lot width in this zoning district is 200’. The lots to be combined are pre-existing non-conforming, and will remain so following approval of this Amended Final Plat. (§6.3).
- §6.4-6 Minimum Yard s** By combining adjacent Lots 24 and 28, potential encroachment on required front, side, and rear yards is reduced.

### **Compliance with Master Plan Chapter 3: Plan Elements**

#### **Section 2.2: Land Use - the Pattern of Development**

- §2.2.1 Policies** “Promote an overall pattern of development that directs intensive development toward existing towns and communities”  
Approval of this Amended Final Plat would make the newly-formed Amended Lot 24 developable, ensuring continued “build-out” of the already-platted Bussey Hills subdivision. By encouraging development of lots in established subdivisions, Grand County is reducing the impact of development on our natural amenities and rural character.

#### **Section 2.3 : Town and Community Pattern**

- §2.3.1 Policies** “Encourage infill development in existing developed residential communities/areas in unincorporated areas.”  
Approval of this Amended Final Plat would make the newly-formed

Amended Lot 24 developable, ensuring continued “build-out” of the already-platted Bussey Hills subdivision. By encouraging development of lots in established subdivisions, Grand County is reducing the impact of development on our natural amenities and rural character.

**Subdivision Regulations - 4.3 Final Plat**

**§4.3 (1) (a-b)** The Final Plat Mylar shall be on a 24” x 36” sheet, at a minimum scale of 1”=100’.

**§4.3 (2) (a)** The Title of the Outright Exemption shall read:

**Amended Final Plat**

**Amended Lot 24, Block 7, Bussey Hills**

**Being a Replat of Lot 24 & Lot 28, Block 7, Bussey Hills, Reception No. 73932**

**Section 14, Township 2 North, Range 76 West of the 6<sup>th</sup> P.M.**

**Ownership recorded at Reception No. 2020007567**

**§4.3 (2) (b)** The legal descriptions shall be written as follows:

**Amended Lot 24, Block 7, Bussey Hills**

**§4.3 (2) (c)** Primary control points, or description and ties to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.

These requirements have been met.

**§4.3 (2) (d)** Tract boundary lines, rights-of-way lines of streets, easements and other rights-of-way, and property lines of residential lot and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves with long chord bearings and distances.

These requirements have been met.

**§4.3 (2) (e)** Names and right-of-way width of each street or other rights-of-way.

**The name of the street shown on the draft Amended Final Plat to be GCR 632, commonly known as “Chief Trail Road”, shall be amended to show the name of the street to be GCR 6328, commonly known as “Chief Circle” per the Schedule of Curve Data table of the Bussey Hills Final Plat Reception No. 73932.**

**§4.3 (2) (f)** Location, dimensions and purpose of any easement, including reference by book and page to any pre-existing recorded easements.

These requirements have been met.

**§4.3 (2) (g)** Number to identify each lot or site and acreage of each site to the nearest 1/100<sup>th</sup> of an acre.

These requirements have been met.

**§4.3 (2) (h)** Purpose for which sites, other than residential lots, are dedicated or reserved.

**This provision is non-applicable; the lots are intended to be used for residential purposes.**

**§4.3 (2) (i)** Location and description of monuments.

This requirement has been met.

**§4.3 (2) (j)** Current title commitment.

This requirement has been met.

**§4.3 (2) (k)** Statement by owner platting the property and dedicating the streets, rights-of-way, easements and any sites for public uses, to be in substantially the following form:

**DEDICATION**

KNOWN ALL MEN BY THESE PRESENTS: That **John C. Dellaport and Theresa Jehn-Dellaport** are the owners of that real property situated in Grand County, Colorado, more fully described as follows:

**Lots 24 and 28, Block 7, Bussey Hills**

**According to the Plat thereof filed April 30, 1952 at Reception No. 73932**

That they have caused said real property to be laid out and surveyed as **Amended Final Plat, Amended Lot 24, Block 7, Bussey Hills**, and do hereby dedicate and set apart all the streets, alleys and other public ways and places shown on the accompanying plat for the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements.

IN WITNESS WHEREOF, **John C. Dellaport** has caused their name to be hereunto subscribed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



rights-of-way reflected hereon for maintenance by said County. Until such roads and rights-of-way meet County specifications and are specifically accepted for maintenance by Resolution of the Board of County Commissioners of Grand County, the maintenance, construction, and all other matters pertaining to or affecting said roads and rights-of-way are the sole responsibility of the owners of the land embraced within the subdivision. This approval does not guarantee that the size or soil conditions of any lot shown herein are such that a Building Permit may be issued.

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Chairman  
Board of County Commissioners  
Grand County, Colorado

- §4.3 (2) (n)** Certification by a qualified professional engineering, designing or planning firm, insuring compliance with the design standards and all other requirements of the Grand County Subdivision Regulations.  
**This provision is non-applicable.**
- §4.3 (2) (o)** A two and one-half by three inch (2-1/2" x 3") vertical box in the lower right hand corner shall be provided for use by the County Clerk and Recorder.  
This requirement has been met.
- §4.3 (2) (p)** The executed original of the Restrictive Covenants and Articles of Incorporation and Bylaws of any owners' association showing filing of the Articles in the office of the Secretary of State and the State of Colorado.  
**This provision is non-applicable; there are no existing Articles, Bylaws, or Owners' Associations.**
- §4.3 (2) (q)** A vicinity map.  
This requirement has been met.
- §4.3 (2) (r)** The subdivider shall provide:
- (i) Storm drainage plans and related designs, in order to insure proper drainage ways.
  - (ii) Property survey and proof of ownership.
  - (iii) Sanitary sewer plans and designs, including soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal systems.
- Provisions (i) and (iii) are non-applicable. Property survey and proof of ownership are provided.**
- §4.3 (2) (s)** The subdivider shall provide sites and land areas for schools and parks when such are reasonably necessary to serve the proposed subdivision and the future residents thereof.  
**This provision is non-applicable.**
- §4.3 (2) (t)** No subdivision shall be approved until such data, surveys, analyses, studies, plans, and designs as may be required by this section and by the County Planning Commission or the Board of County Commissioners have been submitted, reviewed and found to meet all sound planning and engineering requirements of the County contained in these Subdivision Regulations.  
**This Amended Final Plat application shall comply.**
- §4.3 (2) (u-v)** "Major Activity Notice" and "Colorado Land Use Commission".  
**These requirements are not applicable, as this is not a new land division in Grand County. Colorado Land Use Commission does not receive applications for Amended Final Plats .**
- §4.3 (2) (w)** A 14" x 18" black-line mylar(s) with approved addresses and road numbers as required.  
**These shall be placed on the Final Plat Mylar. The final address for the subject parcels shall be 18 Grand County Road 6328.**
- §4.3 (2) (x)** Statement of taxes due showing current taxes paid.  
This requirement has been met.

- §4.3 (2) (y)** An electronic copy of the Final Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to any recording of any Final Plat. The drawing shall be based or transformed to a known coordinate system, not an assumed local coordinate system. If GPS Lat/Long is not used for this reference, the Geographic Coordinate Data Base should be used to obtain relative coordinates available from the BLM at [www.blm.gov/gcdb](http://www.blm.gov/gcdb). The drawing shall include either a data dictionary to explain the layers, or a self-explanatory layering system.  
**This shall be included prior to recording of the Final Plat Mylar.**

### **Planning Commission Recommendation**

Planning Commission hearing for this Outright Exemption application is scheduled for **December 9<sup>th</sup>, 2020**.

### **Staff Recommendation**

Staff recommends approval of the Amended Final Plat, Amended Lot 24, Block 7, Bussey Hills, being a replat of Lots 24 and 28, Block 7, Bussey Hills. The following conditions shall be met prior to the recording of the Amended Final Plat:

1. The name of the street shown on the draft Amended Final Plat shall be amended (see (e) above).
2. The address of the property shall remain 18 Grand County Road 6328 as recommended (see (w) above).
3. An electronic copy of the Final Plat shall be submitted (see (y) above).
4. All recording fees are to be paid by the Applicant.

Quit Claim Deeds to describe the amended legal description of the lots shall be completed and recorded with the Grand County.

Commissioner Davis asked the applicant if they had an opportunity to review the Certificate and if they had any questions/concerns.

Theresa Dellaport, applicant replied, yes she has reviewed the Certificate and no she does not have any questions.

Commissioner Gnuse, replied no questions.

Commissioner Fournet asked, was there the availability to get 2 wells and has it been reduced to the availability to get 1 well when these 2 properties are joined?

Theresa Dellaport replied, we have 1 well permit currently for both parcels. We have submitted that to the state engineer's office.

Commissioner Fitch stated, no questions.

Commissioner MacDonald stated he would like to make a recommendation of having the driveway connect from one road to the next given the really steep topography.

Commissioner Davis asked staff how that fits with the Road & Bridge requirements. It is a good idea, especially since they are in the back of the subdivision.

Jacob replied, I can't answer that. Right now there is a graded out level driveway existing. My assumption was that the parking would all take place along the driveway, then the building would happen below.

Commissioner Davis added, I think they will have to chat with Road & Bridge, because I think there is a restriction that you can only have 1 entrance to a driveway, but it may be worth a discussion with Road & Bridge given the proximity.

John Dellaport added, we have looked at the possibility of running a driveway through both entrances and it is just not feasible, that lower end has an extremely steep slope. We are just planning on using the driveway to access the home, then back out.

Commissioner Graves, stated no questions.

Commissioner Karlstrom stated no questions.

Commissioner Davis stated no questions.

Commissioner Davis asked the public if they had any comments/questions. Hearing non he asked for a motion.

Motion to recommend approval by Ingrid Karlstrom for Lots 24 and 28 Block 7, Bussey Hills – Amended Final Plat – Dellaport with staff conditions. Seconded by Bob Gnuse. No further discussion. All in favor "aye", none opposed. Motion carries.

*Commissioner Davis had a public question.*

*Barbara & Don Coloroso wanted to know how the Amended Final Plat would impact neighbors.*

*Jacob replied that this would not impact neighbors, this is entirely inside the Dellaport's lot lines.*

*Commissioner Davis apologized that he did not see this question in the chat room.*

## **Hot Sulphur Springs – Parshall Fire Protection District – Outright Exemption – Eldridge**

Presented by: Jacob Cote, Planner I

### **CERTIFICATE OF RECOMMENDATION**

PLANNING COMMISSION DECEMBER 9, 2020 ; BOARD OF COUNTY COMMISSIONERS TBD

<b>Project Name</b>	Eldridge Outright Exemption
<b>Applicant</b>	Applicant: Hot Sulphur Springs - Parshall Fire Protection District M&B Property Owner: Walter Eldridge Represented by: Tom Baumgarten, Fire Chief, HSS-Parshall FPD
<b>Location</b>	147 GCR 309
<b>Zoning</b>	Accommodations (A)
<b>Applicable Regulations</b>	Grand County Zoning Regulations, Grand County Subdivision Regulations, Grand County Outright Exemption Regulations
<b>Attachments</b>	G. Development Application H. Project Narrative Letter I. Proposed Eldridge Outright Exemption Final Plat J. Grand County Board of County Commissioners Res. No. 2008-4-51 approving Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption - Reception No. 2008006224 K. Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption - Reception No. 2008006225 L. Current Tax Receipts M. Title Commitments
<b>Staff Planner</b>	Jacob Cote, Planner I
<b>Request</b>	Approval of an Outright Exemption to create a new 0.365-acre parcel out of the Eldridge Metes & Bounds property to be joined to the adjacent Lot B, Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption.

### Background

Hot Sulphur Springs-Parshall Fire Protection District—represented by Tom Baumgarten, the “Applicant” or the “FPD”—is interested in acquiring a portion of the Metes & Bounds parcel owned by Walter Eldridge, “Eldridge”. The Applicant has owned Lot B (see plat) of the Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption since 2008, when the Outright Exemption was approved per Resolution No. 2008-4-51, recorded at Reception No. 2008-006224. Walter Eldridge has owned his property since at least August 2019 (per County Assessor’s records for the property) per Deed recorded at Reception No. 2019-005848.

The subject properties are located on the southwest edge of Parshall, between US 40 and the Colorado River. The parcel adjacent to the north of the current FPD parcel is a Grand County Road & Bridge refueling/storage facility. There are no residences immediately adjacent to the portion of the Eldridge parcel subject to this proposed Outright Exemption; Eldridge’s residence is in the extreme southeast of his property, away from County and FPD operations.

### Proposed Outright Exemption Final Plat History

The Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption Final Plat was approved by the Board of County Commissioners on April 1, 2008, and was recorded at Reception No. 2008-006224 (the Final Plat was recorded at Reception No. 2008-006225). The purpose of this Outright Exemption was to amend a lot line separating the Road & Bridge parcel and the FPD parcel that bisected the fire house. It resulted in the transferring of only 0.062 acres, or 2,700 ft.<sup>2</sup>.

The FPD parcel was a pre-existing non-conformity due to its size; the 2008 Outright Exemption did not bring the parcel into compliance but it did reduce the non-conformity.

### **Purpose of Request**

During the summer of 2020, Mr. Eldridge approached the Applicant to offer some of his land to the FPD as a donation. Eldridge does not use the section of the property subject to this Outright Exemption and believes the FPD could make better use of it.

The FPD was, before discussions with Mr. Eldridge began, searching for parcels in Parshall suitable for a water storage tank to be used for fire protection operations. The additional 0.37 acres of land to be transferred to the FPD via this Outright Exemption would give the Applicant sufficient space for this water storage tank. The additional space on the FPD property will also be used for training exercises.

Future projects that would become possibilities with the approval of this Outright Exemption include: a pumping source to pressurize water out of the tank, expediting fire truck loading; a paved driveway/section of the property for training; and possibly a new structure for training or storage.

### **Staff Comments and Analysis**

The FPD's need for more room in Parshall was met by Mr. Eldridge's offer to transfer a section of his property to them via an Outright Exemption. This Outright Exemption application is very similar in intent and nature to the 2008 Outright Exemption, which was recommended for approval by the Planning Commission and was approved by the County Commissioners.

Because this proposed Outright Exemption would involve a Metes and Bounds parcel (Eldridge's), this would not permanently create an additional parcel for development by a third party, and will have minimal-to-negligible impact on neighboring property owners, the Outright Exemption process has been deemed an appropriate process. This project is not intended to circumvent the County's Subdivision Regulations.

Staff understands this request is a boundary line adjustment between a Metes & Bounds parcel and an Outright Exemption parcel. The future Metes and Bounds parcel (as described as NW1/4 and of the NW1/SW1/4 of Section 18, Twp. 1 North, Range 78 West of 6<sup>th</sup> P.M. in Reception No. 99012962) legal description will be altered to reflect the removal of the proposed plat following recording of this proposed plat.

Staff suggests the surveyor make additions and corrections to the plat that achieve the following:

- Create an Outright Exemption Parcel from the existing Metes and Bounds Parcel.
- Join that parcel to Lot B of the Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption to be forever combined, never to be sold, transferred, or mortgaged separately.
- Create a plat of Eldridge Outright Exemption with the altered total area, therefore "legalizing" the remainder of Metes and Bounds parcel.

The use of the FPD parcel has no explicit definition in the Grand County Zoning Regulations. Staff has determined that none of the defined uses permitted—either by-right or by Special Use Permit—accurately describe the Fire Protection District's use of the property. The use of the property will not be changing through this Outright Exemption, but Staff asks that a discussion take place regarding the definition of "public safety facilities".

## Compliance with Zoning Regulations

### Section V - Accommodations District

- §5.1 Uses Permitted** The currently-permitted operations of the Fire Protection District will not change.
- §5.2 Minimum Area of Lot** The minimum lot area in the Accommodations District is one (1) acre. The Applicant's parcel will not be in compliance following completion of this **Outright Exemption, but its nonconformity will be reduced. (§5.2)**
- §5.3 Minimum Lot Width** The minimum lot width in the Accommodations District is 150'. Per the Grand County Zoning Regulations' definition of "Lot Width", the measurement is made at the narrowest section of the yard that passes through the structure. This Outright Exemption would create a lot width of over 200', bringing the parcel into compliance. (§5.3)

### Compliance with Master Plan Chapter 3: Plan Elements

### Section 2.2: Land Use - the Pattern of Development

- §2.2.1 Policies** "Promote an overall pattern of development that directs intensive development toward existing towns and communities"  
The option to keep all HSS-Parshall FPD operations on a single property through this Outright Exemption takes advantage of existing infrastructure and land use patterns in Parshall.

### Section 4.1: Public Facilities

- §4.1.1 Policies** "Encourage development in locations that minimize fiscal impacts on governmental service providers and direct growth toward areas that are efficient to serve."  
Maintaining all operations on a single property is the most efficient use of the FPD's resources.

#### Outright Exemption Regulations

- §1.4.1 (c)** Plat Note #1 of the draft Outright Exemption Final Plat describes the intent that the created Eldridge Outright Exemption shall be joined to Lot B of the Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption. This proposed Outright Exemption is therefore justified in the County's Outright Exemption regulations as its intent is to grant authority to acquire access to the created Outright Exemption parcel to the adjacent Lot B owned by the FPD.

**§3.2.1** The Final Plat drawing shall meet all requirements.

- §3.2.2 (a)** The Title of the Outright Exemption Final Plat shall be amended to read:

**Eldridge Outright Exemption**  
**Situated in the NW ¼ of Section 18, Township 1 North, Range 78 West of the 6<sup>th</sup>**  
**P.M.**  
**Ownership recorded at Reception No. 2019005848**

- §3.2.2 (b)** Legal description of the property shall be written as follows:

**Eldridge Outright Exemption**

- §3.2.2 (c)** Primary control points, or description and ties to such control points, to which all dimensions, angles, bearings, and similar data on the plat shall be referred.

These requirements have been met.

- §3.2.2 (d)** Tract boundary lines, rights-of-way lines of streets, easements and other rights-of-way, and property lines of residential lot and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves with long chord bearings and distances.

These requirements have been met.

- §3.2.2 (e)** Names and right-of-way width of each street or other rights-of-way.

These requirements have been met.



(Surveyor's stamp and registration number shall appear with this certificate)

- §3.2.2 (m)** Certificates for approval by the Board of County Commissioners of Grand County, Colorado as follows:

**COMMISSIONER 'S CERTIFICATE**

Approved and all public dedications accepted this \_\_\_ day of \_\_\_\_\_, 20\_\_ by the Board of County Commissioners of Grand County, Colorado. Acceptance of this platted outright exemption by the County of Grand does not constitute an acceptance of the roads and rights-of-way reflected hereon for maintenance by said County. Until such roads and rights-of-way meet County specifications and are specifically accepted for maintenance by Resolution of the Board of County Commissioners of Grand County, the maintenance, construction, and all other matters pertaining to or affecting said roads and rights-of-way are the sole responsibility of the owners of the land embraced within the subdivision. This approval does not guarantee that the size or soil conditions of any lot shown herein are such that a Building Permit may be issued.

\_\_\_\_\_  
Chairman  
Board of County Commissioners  
Grand County, Colorado

- §3.2.2 (n)** Certification by a qualified professional engineering, designing or planning firm, insuring compliance with the design standards and all other requirements of the Grand County Subdivision Regulations.  
**This provision is non-applicable.**
- §3.2.2 (o)** A two and one-half by three inch (2-1/2" x 3") vertical box in the lower right hand corner shall be provided for use by the County Clerk and Recorder.  
This requirement has been met.
- §3.2.2 (p)** A vicinity map.  
This requirement has been met.
- §3.2.2 (q)** Documented proof of legal access.  
This requirement has been met.
- §3.2.2 (r)** Documented proof of the availability of sewer and water supply.  
**This requirement is not applicable; there are no planned developments for the Outright Exemption parcel.**
- §3.2.2 (s)** Statement of taxes due showing current taxes paid.  
**This shall be submitted prior to recording of the Final Plat Mylar.**
- §3.2.2 (t)** An electronic copy of the Final Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to any recording of any Final Plat. The drawing shall be based or transformed to a known coordinate system, not an assumed local coordinate system. If GPS Lat/Long is not used for this reference, the Geographic Coordinate Data Base should be used to obtain relative coordinates available from the BLM at [www.blm.gov/gcdb](http://www.blm.gov/gcdb). The drawing shall include either a data dictionary to explain the layers, or a self-explanatory layering system.  
**This shall be included prior to recording of the Final Plat Mylar.**
- §3.2.2 (u)** Such additional information as may be required by the Grand County Board of County Commissioners.  
**No additional information has yet been requested.**

**Planning Commission Hearing**

Planning Commission hearing for this Outright Exemption application is scheduled for **December 9<sup>th</sup>, 2020.**

### **Staff Recommendation**

Staff recommends approval of the presented Outright Exemption to create the Eldridge Outright Exemption, to be forever joined to Lot B, Hot Sulphur Springs-Parshall Fire Protection District Outright Exemption. The following conditions shall be met prior to the recording of the Final Plat:

5. **The Title of the Outright Exemption Final Plat shall be amended (see §3.2.2 (a) above).**
6. Current title commitments from both involved parties shall be submitted to Grand County Community Development Department Staff prior to the hearing of this application by the Grand County Board of County Commissioners (see (j) above).
7. An electronic copy of the Final Plat shall be submitted (see (t) above).
8. The second "Reception" listed in Survey Note #2 of the draft Final Plat shall be amended to reflect the correct Reception Number of the Resolution: 2008-006224.
9. All recording fees are to be paid by the Applicant.

Quit Claim Deeds to describe the amended legal description of the lots shall be completed and recorded with the Grand County

Commissioner Davis asked if the applicant was on the call tonight. There was no applicant on the call this evening.

Commissioner Davis stated we rarely see Accommodations (zoning district) so if you could chat a little about the Accommodations, what the intended use is and why the protection district is needing Accommodations.

Jacob continued, we had an internal discussion on how this land use is permitted or disallowed or otherwise treated in the Accommodations District. There seemed to be no explicit definition of a public safety purpose/intent in any zoning district. We came to the conclusion that because it is a public safety/need and it is not addressed in the zoning code that is something such as these emergency services would be permitted.

Commissioner Davis stated there are not a lot of Accommodations in the county. In Parshall most definitely everything there is Accommodations and right along the highway.

Commissioner Gnuse stated, no questions.

Commissioner Fournet stated, no questions.

Commissioner Fitch stated, no questions.

Commissioner MacDonald asked, I thought we had to show the entire parcel in the presentation and then show what is being taken away with the Eldridge parcel, I did not see that in the presentation. I saw what was being added on but not where it is being taken from on the original lot. Does that need to be in what we send to the Board of County Commissioners (BOCC)?

Jacob showed the presentation, and that he will look into the regulations and if the (BOCC) requires a full view it will be added before we present to the (BOCC).

Commissioner Davis added, at the end of the day just seeing the entire view to see what chunk is coming off helps out. I think it was on the site plan.

Robert Davis added the detailed map shows the entire parcel.

Commissioner Davis added when looking at the map, he was assuming it was coming off the pink Eldridge parcel.

Commissioner MacDonald asked, is the parcel for Eldridge the parcel that is purple?

Jacob stated the Eldridge parcel is the salmon colored.

Commissioner Davis added, because the remaining land is greater than 35 acres it remains Metes and Bounds. So it is not included on the plat.

Commissioner MacDonald had one more question. How can we as a Planning Commission enable people to build ponds and have these storage tanks scattered more throughout the county so there are more places to pull water from. That was a reason a lot of Grand Lake survived having access to water. Having these locations spread out will help in the future. (Possible a question for the Fire Department).

Robert Davis added, I think under the guise of resiliency we can add that in and start looking at that as an item to consider for any future subdivision.

Commissioner Davis added, the Fire Protection District building exist there, even though the primary building is sitting in Hot Sulphur Springs. There is an outpost in Parshall, so this expands their footprint for equipment storage getting it closer to the needs in Parshall and beyond the opposite side of Byers Canyon. Is this correct?

Jacob replied, this is correct.

Commissioner Graves stated no questions.

Commissioner Karlstrom stated no questions.

Commissioner Davis stated no questions.

Commissioner Davis asked if the public had any comments/questions. Hearing none he would entertain a motion.

Motion to recommend approval by Tara Fournet for Hot Sulphur Springs-Parshall Fire Protection District – Outright Exemption – Eldridge with staff conditions. Seconded by Ingrid Karlstrom. No further discussion. All in favor "aye", none opposed. Motion carries.

## **Elk Ranch Vista (formally Gold Medal Ranch) Outright Exemption – Final Plat – Gold Medal Ranch, LLC**

Presented by: Alexander Taft, Planner, LEED Green Associate

### **CERTIFICATE OF RECOMMENDATION**

**Planning Commission December 9, 2020**; Board of County Commissioners TBD

**PROJECT NAME :** Elk Creek Vista Outright Exemption

**APPLICANT :** Gold Medal Ranch, LLC, represented by Will Berry and Kent Whitmer, Whitmer Law Firm, LLC

**LOCATION :** 11.3 acres (including ROW for CR 72) located one (1) mile south of downtown along County Road 72 in Part of the SW ¼ NE 1/4, Section 30, Township 1

South, Range 75 West of the 6<sup>th</sup> P.M, County of Grand, State of Colorado, commonly referred to as Byers Peak Ranch West.

**APPLICABLE**

**REGULATIONS :** Master Plan, Zoning Regulations, Outright Exemption Regulations

**ZONING :** F - Forestry and Open District

**ATTACHMENTS :**

- A. Vicinity Maps
- B. Application and Narrative Letter
- C. Title Commitment
- D. Proposed Outright Exemption Plat

**STAFF PLANNER :** Alexander Taft, LEED Green Associate

**REQUEST :** The Applicant is proposing a new parcel to contain a new single family dwelling through an Outright Exemption. Applicant is also proposing that Grand County vacate a ROW in exchange for a 60' wide dedicated and deeded ROW for CR 72 which contains the drive surface.

**I. BACKGROUND**

**a. Proposal**

Gold Medal Ranch, LLC represented by Will Berry of Whitmer Law Firm, LLC, here in referred to as the Applicant, purchased three (3) large parcels totaling 487 acres from Byers Peak Estates, LLC on July 21, 2014. A portion of the ownership is referred to as Lot 2 and is located in the E ½ NW ¼, SW ¼ NE ¼, except that portion of real property for county road right-of-way described at Book 105, Page 272 deed to the Grand County Board of County Commissioners. Lot 2 totals 113.26 acres. The referenced County Road Right-of-Way, the "ROW", totals 6.74 acres in area. The ROW is drawn by dashed grey lines and labeled "40' Existing County Road 72 Right of Way."

The Applicant is requesting an Outright Exemption to create a 9.41 acre parcel which can be conveyed as a fee simple parcel to be used for a single family dwelling.

A second part of this application involves the ROW, which was deeded to Grand County in 1953. Only portions of an historic two-track travelled way exists within this old ROW. CR 72 through these properties exists as a "prescriptive" ROW and its actual location is shown by solid grey lines and labeled "24' wide current driving surface CR#72." Applicant is proposing that Grand County vacate the ROW in exchange for a 60' wide dedicated and deeded ROW for CR 72 which contains the drive surface. This new ROW is labeled as "CR#72 Right of Way" on the plat. It results in Grand County owning the ROW as fee simple real property.

**b. History**

A similar application was reviewed by Grand County in 2015-2016 where the parcel boundaries were being redrawn by the proposed plat cleaning up a remnant corner of the Johns' Family Parcel which is adjacent to the east.

Byers Peak Ranch in its total land area has a long history of being an agricultural and ranching

property adjacent to the Fraser Experimental Forest, St. Louis Creek and leading to Byers Peak. Property to the west and south is primarily property owned by families who have been involved in agricultural operations being the Johns Family and the Bukley's.

## **II. STAFF ANALYSIS**

Elk Creek runs through the parcel at the southeast corner and there is a considerable grade from County Road 72 to the Creek. No grades in excess of 30% appear. The Johns Family parcel to the east is agricultural to the south and west is property owned by Denver Water Board, which borders the National Forest.

The Applicant has provided a lengthy analysis completed by Jon Mayberry, P.E. of Spronk Water Engineers about water use on the parcel, water rights and anticipated consumptive use. The analysis makes reference to anticipated annual water usage of 291,672 gallons per year. This is equivalent to the allowed usage of one (1) acre foot, or approximately three (3) households. The rights to this water would be in connection with an approved augmentation plan in Case No. 18CW3120 or as suggested in the letter a current plan which includes the creation of this parcel. If the parcel is approved prior to the approved augmentation plan, the State, consistent with Section 37-92-602(3) (b) (II) (A) has a right to grant a household only permit to the owner of the parcel. Staff has detailed a condition below in analysis of the plat which would restrict recording of a Plat until such time a decreed water augmentation plan is in place.

It is Staff's opinion that this parcel should not be developed for the use of a single family dwelling but reserved as public use for trailhead parking. Staff approached the Applicant about dedicating a portion of the parcel for a Trailhead easement. This was rejected as the Applicant cited other encumbrances on the property which would make it difficult to sell. The Fraser Valley is seeing increasingly higher traffic by tourist visiting for both winter and summer recreational activities. Our Master Plan states: "Preserve the economic, recreational, environmental, and cultural importance of hunting, fishing and wildlife watching in Grand County." With this in mind, Staff believes this parcel should be preserved for outdoor recreational uses. In order to accomplish this there are two grants available, one from Great Outdoors Colorado (GOCO) through the Resilient Communities Grants, the second opportunity through Open Lands Rivers and Trails (OLRT) Advisory Committee.

GOCO Resilient Communities Grant references the outcome of these awards to be used "to help partners advance outdoor recreation, stewardship, and land protection projects in a manner that best reflects community needs and priorities at this moment in time." Staff feels that this grant directly relates the Master Plan quote from above. The fund was set at \$15 million and has been through several review cycles already. There are approximately \$4.6 million remaining to be distributed in 2021. For the next and possible final review cycle, proposals are due February 2, 2021 and a decision is made by March 12, 2021.

OLRT Grants are on a bi-annual cycle with one review in spring and one in fall. The review is broken down into three groupings being Open Lands, Rivers, and Trails. This funding is generated from a .3% sales tax measure that was passed in 2016 which sunsets in 2026. Applications for spring 2021 are due March 5, 2021 and decisions are made in April on these applications.

Between these two opportunities, Staff feels confident that this parcel could be acquired for the future benefit of residents and visitors to Grand County Colorado. Staff also understands that the parcel could be sold to a private entity prior to the review of either grant if the applicant has the plat approved and recorded within the next 90-180 days typical of most Outright Exemption plats.

### III. COMPLIANCE/NON-COMPLIANCE WITH REGULATIONS

Any conditions to be met shall be highlighted in **bold** in the following sections.

#### a. **Grand County Master Plan**

The Grand County Master Plan contains seven (7) Plan Elements that form the core of the Master Plan. The Plan Elements include policies and implementation actions, of which two (2) is relevant to this proposal.

##### **Plan Element 1 - Natural and Cultural Resources**

As stated in Plan Element 1 in the Grand County Master Plan, the habitat and landscape are largely what gives Grand County its unique character. As part of that, the enjoyment and maintenance of wildlife within the County are a significant factor. Under 1.1.2 Implementation Actions the Grand County Master Plan states: "Preserve the economic, recreational, environmental, and cultural importance of hunting, fishing and wildlife watching in Grand County." If eventually developed as a trailhead, this proposal is an effort towards that action.

##### **Plan Element 2 - Land Use - The Pattern of Development**

This parcel is located adjacent to the Fraser Urban Growth Area and have minimal infrastructure and no public services. In the event this parcel is developed as residential, this Outright Exemption reduces the potential density in an area that is not a within a growth area.

##### **Plan Element 4 - Community and Public Facilities**

One mission represented in the Grand County Master Plan is to provide development that is compatible with the mountain environment and the County's general character. One action identified under Section 4.4 Recreational Facilities states: "...ensure that sufficient and appropriately located lands are provided to recreational needs of residents and visitors in the future." In the case of this proposal, if the land is acquired for a trailhead, the outdoor recreational needs are being met by the creation of this parcel.

#### b. **ZONING -Section 6.1 Forestry and Open District**

This parcel lies in the Forestry and Open District outside an identified Growth Area. This application complies with the regulations in the following ways:

- The Applicant proposes the use as a Single Family Dwelling (by future owner), a use permitted by right in this District. The proposed caretakers unit may be reviewed as a separate Single Family Dwelling or an Auxiliary Dwelling Unit as described in Section 13.1.
- This proposed parcel is outside an identified Growth Area as defined by the Grand County Master Plan requiring a five (5) acre minimum area of lot. The proposal is for a 9.41 acre lot and is therefore compliant with the requirements of the Forestry and Open District.
- The future dwelling and accessory structures to be proposed within this parcel shall comply with standard minimum yard setbacks of the Forestry and Open District.

**c. CRS 43-2-303 et al - Vacation Proceeding: Roads, Streets and Highways Compliance with C.R.S. 42-2-303**

Grand County has used the criteria in CRS 43-2-303, regarding vacation of roadways to review vacation of utility easements:

43-2-303 (1) All right, title, or interest of a county, of an incorporated town or city or of the state or of any of its political subdivisions in and to any roadway shall be divested upon vacation of such roadway by any of the following methods:

(1)(b) The board of county commissioners of any county may vacate any roadway or any part thereof located entirely within said county if such roadway is not within the limits of any city or town.

(2) No roadway of part thereof shall be vacated so as to leave any land adjoining said roadway without an established public road connecting said land with another established public road.

(3) In the event of vacation under subsection 1 of this section, rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water or similar pipelines and appurtenances for ditches or canals and appurtenances and for electric, telephone, and similar lines and appurtenances.

The vacation of the older ROW as described in Book 105 and Page 272 for County Road 72 will not eliminate access for adjacent property owners. The intent is to deed a ROW which contains the currently constructed road back to the County. The purpose is beneficial for both the County and the Applicant by ensuring use of the property for the public and eliminating encroachment on to private property.

**d. OUTRIGHT EXEMPTION - Article 1.4 - JURISDICTION**

Division of a parcel of land when the Board of County Commissioners determines that such division may be permitted without complying with either Grand County Subdivision Regulations or Grand County Subdivision Exemption Regulations. When not contrary to the best interests of present and future inhabitants of Grand County, and when the method of disposition is not adopted for the purpose of evading these Regulations, the Board of County Commissioners may grant such an Outright Exemption with regard to any land division under the following circumstances:

- a) Which involves adjustment of a tract boundary to resolve a boundary to establish/determine a boundary when substantial evidence of a bona fide dispute is presented.
- b) Which involves adjustment of a tract boundary to eliminate an existing encroachment of a substantial structure upon the real property of another.
- c) Which involves acquisition of access from one parcel of property through another.
- d) Which involves other unusual circumstances which are deemed by the Board of County Commissioners to justify such a grant.**

In Staff's opinion, this Outright Exemption request falls under subsection (d) of these regulations. The Applicant approached Community Development Staff requesting to create a lot that for single

family development with accessory uses. Generally the proposal has minimal impacts but Staff is concerned about water use and timing of approval consistent with a pending water court filing. Recently, Staff has moved away from using the Outright Exemption regulations to create new stand-alone parcels because it is our opinion that this is a subversion of the Subdivision and Subdivision Exemption regulations. That being said, we also recognize that there is no other simplified process which has been adopted by the county to consider these parcels. Therefore, it is Staff's opinion that this Outright Exemption request will not impair the intent and purpose of the Grand County Outright Exemption Regulations.

**e. OUTRIGHT EXEMPTION - Article 2 - DESIGN STANDARDS**

**Section 2.1 Driveway, Roads, Streets, and Easements.** There is an existing driveway on the parcel which was recorded at Reception No. 2020000394. The proposed plat has shown easements of 20' along the road and along the southern edge.

**Section 2.2 Tracts/Parcels/Lots.** The gross area of the lot will be 9.41 acres (409,899.6 ft<sup>2</sup>) if approved under this process. This area is compliant with the minimum area of a lot in the Forest and Open District outside a Growth Area Boundary, which requires five (5) acres. Access is provided the Drive described above connecting to County Road 72. **An address established by Grand County GIS shall be shown on the Final Plat.**

**Section 2.3 Public Dedications.** Adjacent County Road 72 is being dedicated pursuant to this plat. **The Applicant shall also file a Quit Claim Deed with the legal description of that Right-of-Way to the Board of County Commissioners.**

**Section 2.4 (1-2) Solid Fuel burning devices .** This section has been repealed from these Regulations via Resolution 2016-7-34.

**Section 2.5 (1-2) Emergency Service Impact Fees.** The lot created through this process is anticipated to contain one single family dwelling and is in the **East Grand Fire Protection District No. 4 requiring Impact fees of \$683 to be paid prior to recording the final plat, unless restricted to use for recreational purposed contingent on GOCO/OLRT grants.**

**E. OUTRIGHT EXEMPTION - Section 3.2 - PLAT**

**Section 3.1** A pre-application meeting was held for this application July 2, 2020. This application has been revised from a similar application submitted for a project titled "Johns Family Outright Exemption".

**Section 3.2 (1)** A Final Plat presented on a 24" x 36" sheet, drawn to scale, detailing the proposed Outright Exemption parcel and abutting properties, along with a vicinity map, has been provided prior to any scheduling of any review before the Board of County Commissioners. This requirement has been met.

**Section 3.2 (2) (a)** the plat shall contain or be accompanied by the following information:

**Title of the plat shall be :**

Elk Creek Vista Outright Exemption

Located in Part of the SE ¼, of the NE ¼ Section 33, Township 1 South, Range 80 West, of the 6th P.M.

Ownership Recorded at Reception No. 2013006108

The proposed Plat shows a scale, north arrow, and date of creation.

**Section 3.2 (2) (b)** Legal description of property is shown as: Elk Creek Vista Outright Exemption Located in Part of the SE ¼, of the NE ¼ Section 33, Township 1 South, Range 80 West, of the 6th P.M., This requirement has been met.

**Section 3.2 (2) (c)** Primary control points, or descriptions, and ties are shown on the proposed Plat. This requirement has been met.

**Section 3.2 (2) (d)** Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves with long chord bearings and distances have been provided. This requirement has been met.

**Section 3.2 (2) (e)** Names and Right-of-Way width of street shall be provided for County Road 72 which are shown on the plat, therefore this complies.

**Section 3.2 (2) (f)** Location, dimensions and purpose of easements, including reference by book and page to any pre-existing recorded easements have been provided on the Plat.

**Section 3.2 (2) (g)** The proposal is for the creation of a new lot shown to be 9.41 acres compliant with acreage to the nearest 1/100th.

**Section 3.2 (2) (h)** **The Lot shall be for a single family residence and accessory uses as applicable to the State issued well permit only, a plat note shall be added to this effect . State of Colorado Division of Water Resources shall review the plat and augmentation to verify adequacy of the water supply and no harm to senior water rights users.**

**Section 3.2 (2) (i)** Location and description of monuments are provided; therefore this requirement has been met.

**Section 3.2 (2) (j)** Title Company of the Rockies insurance commitment Number 0303029-C issued on October 6, 2020 has been provided. An updated title commitment, dated within 6 months, has met this requirement. **A lien holder's certificate is shown but its contents will need to be verified prior to Final plat.**

**Section 3.2 (2) (k)** A Statement by the owner platting the property and, dedicating the streets, rights-of-way, easements and any sites for public uses has been provided. This requirement has been met.

**Section 3.2 (2) (l)** A Correct Surveyor's certificate is shown. This requirement has been met.

**Section 3.2 (2) (m)** A Certificate of Approval by the Board of County Commissioners shall be in the form similar to the Subdivision regulations.

**Section 3.2 (2) (n)** A correctly sized box in the lower right hand corner has been provided for use by the County Clerk and Recorder. This requirement has been met.

**Section 3.2 (2) (o)** A vicinity map has been provided. This requirement has been met.

**Section 3.2 (2) (p)** Legal access is provided by County Road 72 as rededicated by this plat. This requirement has been met.

**Section 3.2 (2) ( q)** Documented proof of the availability of sewer and water supply. **The Applicant shall comply with current County Onsite Wastewater Treatment System regulations. The Applicant shall comply with State Well permitting procedure, a plat note shall be added to certify that a well permit shall be issued under augmentation plan (19/20 CW XX ) for this Parcel.**

**Section 3.2 (2) ( r)** Statement of taxes due has not been provided. **A statement of taxes due showing current taxes paid shall be submitted prior to recording of the Final Plat.**

**Section 3.2 (2) ( s)** An electronic copy of the Final Plat is required prior to recording. **An electronic copy of the Blue Valley Ranch Outright Exemption Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to recording.**

**Section 3.2 (2) ( t)** Such additional information as may be required by the Grand County Board of County Commissioners.

#### **IV. PLANNING COMMISSION RECOMMENDATION**

Planning Commission hearing is scheduled for December 9, 2020.

#### **V. STAFF RECOMMENDATION**

Staff recommends the approval of the Elk Creek Vista Outright Exemption and Vacation of ROW in QCD recorded in Book 105, Page 272 in exchange for a 60' wide dedicated and deeded ROW for CR 72 which contains the drive surface with the following conditions to be met:

1. An address established by Grand County GIS shall be shown on the Final Plat [2.2].
2. That Grand County vacate a ROW in exchange for a 60' wide dedicated and deeded ROW for CR 72 which contains the drive surface.
3. The Applicant shall also file a Quit Claim Deed with the legal description of that Right-of-Way to the Board of County Commissioners [2.3].
4. East Grand Fire Protection District No. 4 requiring Impact Fees of \$683 to be paid prior to recording the final plat, unless restricted to use for recreational purposed contingent on GOCO/OLRT grants [2.5].
5. Title of the plat shall be corrected as referenced in the recommendation above [3.2 (2) (a)].
6. The Lot shall be for a single family residence and accessory uses as applicable to the State issued well permit only, a plat note shall be added to this effect [3.2 (2) (h)].
7. State of Colorado Division of Water Resources shall review the plat and augmentation to verify adequacy of the water supply and no harm to senior water rights users [3.2 (2) (h)].
8. A lien holders certificate is shown but its contents will need to be verified prior to Final Plat [3.2 (2) (j)].
9. The Applicant and future owners shall comply with current County Onsite Wastewater Treatment System regulations a plat note shall be added to this effect [3.2 (2) (p)].
10. The Applicant shall comply with state well permitting procedure, a plat note shall be added to certify that a well permit shall be issued under augmentation plan (19/20 CW XX ) for this Parcel [3.2 (2) (q)].
11. A statement of taxes due showing current taxes paid shall be submitted prior to recording of the Final Plat [3.2 (2) (q)].

12. An electronic copy of the Elk Creek Vista Outright Exemption Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to recording [3.2 (2) (r)].
13. Such additional information as may be required by the Grand County Board of County Commissioners [3.2 (2) (s)].

**All legal documents required in conjunction with the final approval of this request are subject to the review and acceptance of the County Attorney.**

Commissioner Davis asked Kent Whitmer and JD Kronen if they had a chance to review the Certificate and if they had any questions/additions.

Kent Whitmer stated no questions on the Certificate. I would just comment that it seems like it is a win/win request to the county and that we have an old Right of Way that zigzags through the Gold Medal Ranch property that cause a marketability issue for my client. On the other hand, the county, where the road is located, there is no good easement for it. This application shores up both of those issues. If you look how the property is laid out, it is effectively sub-divided now by virtue of the physical impediment of the county road going through my client's property. From a reasonableness standpoint it seems to just make sense.

Commissioner Gnuse wanted clarification, you mentioned how this particular property has the potential for access and conservation. We have someone from the Headwaters Conservation group on the phone with us tonight. I am not connecting how all of that is playing into this request to create this single family home site.

Alex responded, the request came from the county as a creation of a single family developable parcel. We agree it is reasonable because it is separated by the road and there is no other way to make it a part of the larger ranch. This makes sense to us, maybe what I am trying to sell here is that this could also be a prime opportunity for the county to acquire the parcel for the purpose of providing some public access to both Elk Creek and the National Forest is not far away. Plus there are some grant opportunities that are available, but the parcel has to be created first. We will figure out how, if any way possible the county might acquire it.

Kent Whitmer added, he thinks he can clarify more also on behalf of the applicant. The sequence of events was, we started this process not with the intent to sell it to any government entity, but to create a standalone single family residence. During the process, it occurred to Alex that this might be a good fit for the county or the land trust or a conservation group, that was floated out to us and my client is respective to that. We have not talked any specifics but are certainly open to talking about the possibility. That is the background.

Commissioner Gnuse stated thanks. Alex had me going down one path to create a conservation easement or access for public to the forestry land, but what we are asked to do is create a single family lot separate from where it is currently joined to the former Gold Medal Ranch. I understand what Alex said, you first have to create the standalone lot and then we can talk about doing other things with it.

Commissioner Fournet stated she just has 1 question. On the staff recommendations, line 6 "the lot shall be for a single family resident and accessory uses as applicable to the state issued well permit only." Did you mean to say household only use or is it going to be a domestic well?

Alex replied, included with the application materials there is some further detail from the applicant's water engineer that gets into a well permit that could be obtained in conjunction with augmentation plan that they are working on currently. It could be a household well plus some outdoor watering

and care takers quarters, etc. That will all be contingent on getting approval of the augmentation plan.

Kent Whitmer stated that is correct. The plan is to go through water court and obtain an approval for an augmentation plan, so there would be some outside watering available.

Commissioner Davis added for more clarification. Currently there exist the ability to obtain a well permit. The path though is, instead of just taking the household use only, you are looking at an option to augment. They do have rights to a well permit currently.

Kent Whitmer added, it is kind of a chicken and egg deal. With approval of this 9 acre parcel, a well permit for in house use only would be available. If we go beyond that it would require an augmentation plan.

Commissioner Fitch asked, why does it need to be a single family resident with the well if it is going to be something for the county. I am confused why it needs to go through that process first if it is not going to need that.

Commissioner Davis replied, you have to create the parcel first so that the Division of Water Resources has the applicable parcels to show well permits, which they will do. However, they may not just go directly for the household use only well permit, they may look for augmentation to have additional well uses. That's what Kent was talking about with the chicken and the egg. Which comes first?

Kent Whitmer feels he can clarify more. My client is creating this parcel for sale as a single family resident. Alex has told us there might be an interest for the county to purchase or the land trust to purchase and that is great. We would love to see that happen. We are not going through this application process for the purpose of putting a conservation easement on it. The first purpose is to create a single family parcel for sale.

Commissioner Davis stated for the purposes of what we are trying to do tonight it is adding a little confusion to the application. It was just a suggestion from Alex and not part of what the applicant is requesting this evening. The application tonight is looking for an Outright Exemption for single family occupancy and there will be the availability of a well permit once the lot is created.

Jeremy Kronen from the land trust wanted to address a question from the chat. Ron asked is the purpose of combining the lots to get a larger tax deduction if sold as an easement, why not have the easement by both parcels at a lower cost? A quick explanation of the land trust and why I am here tonight. Colorado Headwaters Land Trust is a private nonprofit based in Granby. We work throughout Grand County and our primary tool is called The Conservation Easement. We don't own the property, we hold the deed of conservation easement, which is a restriction on development subdivision. It also deeds the conservation easement, also help in the perpetuity of the design use of a property. So if it is private holding (you pass it on to your kids) and you have no fear that they are going to sell and develop your great grandfather's ranch, but for this case, the easement would function as a recreation easement where governments change if 20 years down the road a new county commission wants to develop this property, they will not be able to. If we do go ahead with a conservation easement because that is in perpetuity. With Fraser growing at the pace that it is, with development growing but also with a growing interest in outdoor recreation and especially accessible after creation the land trust is interested in at least continuing the conversation. I do not believe that the purpose, including the land trust and discussion of easements pertains to the finances, it is more about the land use or the restrictions there of.

Commissioner MacDonald asked if we could add a condition that the easement will continue regardless of who the owner is.

Commissioner Davis stated that we do not have any control over that easement and it is speculation at this point.

Jeremy Kroner added if a conservation easement is placed it will be perpetuity. It is very difficult to nullify a conservation easement, regardless of what is included.

Commissioner MacDonald added, this might be a building department issue, it looks like the site is on a very steep grade and ending in a creek, who is going to regulate the septic development?

Alex replied, there is a considerable portion of the property (9 acres) the first 100 feet into the water are relatively flat before it starts to descend into the creek.

Commissioner Graves stated no questions.

Commissioner Karlstrom asked the name has been changed, does that name only pertain to this property and the rest is still the Gold Medal Ranch? Plus I am wondering if you are changing your strategy with his property?

Kent Whitmer stated, the original name was GMR Parcel 1 (for Gold Medal Ranch). Alex brought to our attention that there was another subdivision with a very similar name in the county. Alex actually suggested changing the name. There is no strategic underpinning here.

Commissioner Karlstrom continued, is the whole ranch now Elk Creek Vista?

Kent Whitmer replied, no just this parcel, because it is continuous with Elk Creek. Nothing has changed with the other side of the road.

Commissioner Davis stated when I was sitting in planning we looked at this parcel to try and straighten the road and providing better easement so I am glad to see this is happening and the county will get a better easement. Well presented, Alex you always seem to get the complicated projects that offer additional thought.

Commissioner Davis asked if the public had any comment. Hearing none he asked for a motion.

Motion to recommend approval by Ingrid Karlstrom for Elk Ranch Vista (formally Gold Medal Ranch) Outright Exemption – Final Plat – Gold Medal Ranch, LLC with staff conditions. Seconded by Will MacDonald. No further discussion. All in favor "aye", none opposed. Motion carries.

## **Nature Valley Ranch – Sketch Plan – Stillwater Ranch-11, LLC Ray Trimble (tabled from November)**

Presented by: Alexander Taft, Planner, LEED Green Associate

## **CERTIFICATE OF RECOMMENDATION**

**Planning Commission: November 18 & December 9, 2020** ; Board of County Commissioners: TBD  
January 2021

**PROJECT NAME :** Nature Valley Ranch Townhomes Subdivision- Sketch Plan  
**APPLICANT :** Kent Whitmer on behalf of Stillwater Ranch-11, LLC represented by Ray Trimble; Engineer: Kevin Vecchiarelli JVA, Inc.  
**LOCATION :** Part of the Section 22 and 27, Township 3 North, Range 76 West, of the 6<sup>th</sup> P.M. 120, 132, 134 GCR 4480

**APPLICABLE**

**REGULATIONS :** Grand County Master Plan, Grand County Zoning Regulations, Grand County Subdivision Regulations

**ZONING :** Split zoned R-Residential and F - Forestry and Open District

**ATTACHMENTS :**

- a) Vicinity Map
- b) Sketch Plan (Plat)
- c) Application and Narrative letter
- d) Water Court Decree 88 CW 270 and 91 CW 11

**STAFF PLANNER :** Alexander Taft, LEED Green Associate

**REQUEST :** The Applicant is proposing a subdivision to create four (4) parcels containing three existing dwellings on an approximately 8 acre parcel in Urban Growth Area No. 2 (Grand Lake).

**VI. BACKGROUND**

**a. PROPOSAL**

Stillwater Ranch-11, LLC represented by Ray Trimble, the Applicant, is proposing a four (4) unit single family residential detached subdivision consisting of approximately eight (8) acres. This is one of two proposals being proposed by the Applicant. The other is Northern Slope which is a multi-family proposal consisting of approximately 27 units on approximately eighteen (18) acres north of this proposal.

The subject property was purchased by Stillwater Ranch-11, LLC in 2011. It consists of a total of one hundred thirty one (131) acres. The two proposals comprise approximately twenty seven (27) acres within the property, leaving one hundred three (103) acres remaining outside of either proposal. It has been represented the remaining one hundred three (103) acres will be put in conservation only allowing one agricultural residence.

The subject property is close enough or served by Three Lakes Water and Sanitation District public sewer.

The lots being created for this subdivision will create fee-simple interest in the existing cabins and directly adjacent outdoor space, while maintaining a large portion of open space for continued agricultural use. These Residential District are parcels being served by a shared well and public sewer. They are accessed by a single driveway which extends north from County Road 4480. The site is located in Urban Growth Area No. 2 (Grand Lake) of the Master Plan.

**b. HISTORY**

Ray Trimble purchased this property in 2017 and has been working on development plans since. Ray approached Staff in late 2018, then after several back and forth discussions, an agreement was reached that the property would need to go through the subdivision process for approvals to be developed.

The property subject to this proposal has long had a history of proposed development containing multiple units through either a guest ranch or lodge development or residential subdivision. In 2004, Spike and Pat Potts started discussions to develop the property where at the time it was conveyed that it was possible to create 64 cabins as an undivided interest. Since then there have been other interpretations of the Zoning Regulations.

### **c. EXISTING REPORTS**

In County files, Staff has discovered the water court decree from the 1990's which updates Case No. 88 CW 270. The water court decree, dating back to the nineteen eighties, details some of the prospective uses for the property then owned by Spike and Patricia Potts as the proprietors of Stillwater Ranch Development Company. Specifically the Water Court Decree references water for uses including a small lake, 3200 ft<sup>2</sup> of office/community use building, eighty (80) single family cabins of 900 ft<sup>2</sup>, four (4) single family homes less than 4000 ft<sup>2</sup>, year round swimming pool, associated dressing and sanitation facilities, a laundromat, and a fish rearing operation.

The Applicant provided a letter from Moses, Wittenmyer, Harrison and Woodruff, P.C. which describes the Stillwater Ranch Water Supply. This letter details the augmentation plan confirming allowable uses and total depletions.

The most current files which would supply Staff insight to anticipated site conditions are from the Drainage and Soils Report provided for West Hillside Acres Subdivision in 2003.

The Soils Report for West Hillside suggests there are expansive soils on that site. Staff pulled a web soil survey from Natural Resource Conservation Survey (NRCS) to research if there is any similar soil types to those found in West Hillside Acres. The soil survey suggests that the soil found in the development area is composed primarily of loamy (higher organic contents) type soils which are typical of farmlands. The soil types differ from what is in the available soil report and require more investigation from the Applicant to confirm site conditions.

## **VII. STAFF ANALYSIS**

Following the November 18, 2020 Planning Commission Meeting, the Planning Commission Chair brought up questions about ambiguities caused by the regulations and what was being proposed. The Applicant and Staff worked on including some further analysis to bring clarity to the process and define the proposal in a way to suggest compliance for the whole property owned by the Applicant. The Applicant provided a memorandum assembled by Kent Whitmer which looks at case law related to subdivision plats and regulations. Staff reviewed the memo and concurs with the analysis and has sent it to the County Attorney's office for final review and analysis.

Additionally, to help bring context to where similar occurrences have happened in Grand County or the municipalities within Staff has found some references. Please use the Grand County Parcel Viewer to locate the following properties:

(In Fraser)

Grand Park LLC, Schedule Number R310960, PID 158730400153;

Legal description:

METES & BOUNDS 75 ALL 148.999 +/- AC BEING IN PT S2SE4 SEC 20, PT SW4NW4 & NW4SW4 SEC 28 & PT N2NE4 & PT SE4NE4 SEC 29 LYING NORTH OF RAILROAD ALL IN T1S R75W LESS TRACT LYING SOUTHWESTERLY OF US HWY 40 ROW & **LESS PT NW4NE4 SEC 29 BEING PT COZENS MEADOW AT GRAND PARK DESC AT REC NO 2007006785 AND LESS VILLAGE AT GRAND PARK FILING 1 DESC AT REC NO 2008007834 AND LESS VILLAGE AT GRAND PARK FILING 2A DESC AT 2008007840 ; LESS THAT PART DESC AT 2015004926 LESS THAT PT DESC AT 2016002214; LESS 2016 TRACT; LESS PLAT 2019007844; LESS PLAT 202000183**

(In Winter Park)

CORNERSTONE WINTER PARK HOLDINGS LLC, Schedule Number R308205, PID 158730400153;

Legal description:

METES & BOUNDS 75 ALL 10.477 AC +/- IN S2NE4SE4 SEC 30, T1S, R 75W DESC AT REC NO 2003016729 **LESS MOOSE HOLLOW AT GRAND PARK**

(in Unincorporated Grand County)

The Ranches at Devils Thumb METES & BOUNDS 75 ALL SEC 8 T1S R 75W **BEING PART OF THE NE4 133.5 AC LEFT OVER FROM PLAT OF RANCHES AT DEVILS THUMB**

The portion Staff has highlighted within the legal description is what would occur on this property. Future conveyances might resurvey the property boundaries to clarify boundaries, but the 103 acre stand alone is not required to be included with either of these plats or as a separate plat.

Water resources appear to be adequate and supportive of this proposed development as well as the adjacent Northern Slope Townhomes proposal. The Water Court Decree 88 CW 270 suggest 33.36 acre-feet being consumable. General allowances for an individual, single family dwelling is approximately a third acre foot (107,725 gallons).

The zoning on the property is referenced as Split-zoned pursuant to the zoning map. The split between Forestry and Open District and Residential District for this portion of the property is located at the North-South Section line separating NE. Staff notes that the Residential zoning does encompass the majority of the parcel, but not all the development area. **Staff recommends a rezoning be applied for and obtained prior to the Final Plat being approved.** This will allow the parcels to be sized consistent with the less restrictive Residential District. This will eliminate any concerns with §30-28-123 C.R.S., "Higher Standards Govern."

Access to this subdivision is from an existing County Road 4480 which dead ends into the property where properties further to the West are accessed by a private access easement road. The existing drive serving these parcels shall be improved to a local/low volume road standard.

## VIII. COMPLIANCE WITH GRAND COUNTY REGULATIONS

Conditions to satisfy Regulations shall be highlighted in the following sections in **BOLD**.

### f. Grand County Master Plan

The Grand County Master Plan contains seven (7) Plan Elements that form the core of the Master Plan. The Plan Elements include policies and implementation actions, of which one is relevant to this proposal.

**Plan Element 3 - Development: The Built Environment**

As stated in Plan Element 3 in the Grand County Master Plan, density is encouraged within the Urban Growth Areas where existing infrastructure and public services exist. Visually important lands and the desired rural landscape character is maintained. This proposal minimizes disturbance of the rural and open land character that residents of Grand County cherish as this proposal is isolating development near existing development.

**g. ZONING - SPLIT ZONE Section 4.1 Residential District; Section 6.1 Forestry and Open District.**

The parcels involved in this proposal are split-zoned within both the Residential and Forestry and Open Districts, existing inside the Urban Growth Area No. 2 (Grand Lake). In either district the property is allowable to be subdivided, consistent with its location within the Urban Growth Area. The site is surrounded by residential vacant land, subdivision open space tracts, or larger lot residential uses. Consistent with §30-28-123 C.R.S. "Higher Standards Govern" Staff has noted the more restrictive standards for reference if the property is not rezoned.

- (a) The use of these lots is for single family dwellings, consistent with uses by right in both Districts.
- (b) Both Districts require 30' minimum front yard setbacks and 20' minimum rear yard setbacks, Forestry and Open being the more restrictive requires 10' minimum side yard setbacks.
- (c) The minimum lot size in the Forestry and Open District is 2 acres (87,120 ft<sup>2</sup>) which is a requirement unless the property is rezoned to Residential District allowing 15,000 ft<sup>2</sup> (0.34 acres) when serviced by well or septic facilities.

**a. ARTICLE II - DESIGN STANDARDS - Sections 2.1-13**

Each new subdivision platted in Grand County will, to some degree affect the character and environmental appeal of the land, the cost of services and maintenance to the purchasers and the County government, and the interests of investors in the subdivided land and surrounding areas. New subdivisions shall provide safe, convenient travel routes to and from and within the subdivision. Each lot shall provide a desirable setting for construction so that natural features of the land may be preserved, views protected, privacy permitted and screening from traffic ways made possible. Area needs for flood channels, open spaces, parks, schools, fire stations, water and sewage treatment facilities and similar community facilities must be provided depending on the location and density of each development. Although Article VIII of these Regulations provides for variances under certain circumstances, the following design standards shall be followed wherever possible.

**Section 2.1 SPECIAL SITE CONSIDERATIONS:**

This portion of the property is relatively flat and used in connection with agricultural operations suggesting the soil is stable and suitable for residential development. **Aerial imagery shows a drainage surrounding Stillwater Creek, this shall be delineated as a "non-build zone" on the Final Plat [2.1 (1 & 2)] .**

Staff suspects that this area is not subject to flood risks. **Detail within the Phase III Drainage Study submitted at Preliminary Plat shall be added to confirm flood risk [2.1 (3&6)].**

The subject site is also approximately one mile, straight line distance, from US Highway 34 not requiring any buffer [2.1 (4)].

**Soils analysis shall be completed and submitted with the Preliminary Plat [2.1 (5)]** . These technical analyses, at a minimum, should provide data regarding soil suitability, construction bearing capacity, and potential radon hazards.

**Section 2.2 STREETS, ALLEYS, AND EASEMENTS:**

This application and required improvements shall comply with current Grand County Road and Bridge Standards.

The existing driveway is anticipated to contain 32 Average Daily Trips (ADT's) which meets criteria for a Local/Low Volume Road by Grand County Current Road and Bridge Standards. This road shall be improved and dedicated within a 60' ROW consistent with the Road and Bridge Standards.

It doesn't appear to have two points of ingress/egress as required by Section 2.2, paragraph 14, therefore, further detail shall be provided if it is intended to keep a single ingress/egress with the Preliminary Plat with details of why two points of access are unreasonable or not feasible. A dead end street with a cul-de-sac shall follow the requirements in the Road and Bridge Standards Section 3.4.3.

- **Section 2.3 & 2.4 BLOCKS & LOTS:**

**Staff assumes, based on existing dimensions, compliance with the block being no longer than four hundred feet (400 ') in length. This shall be confirmed in the Preliminary Plat submittal [2.3].**

It is Staff's understanding the Applicant would like to follow residential requirements. Lots shall be dimensioned on the preliminary plat. Minimum areas and widths shall be in compliance with the residential district requirements being a minimum of 15,000 ft<sup>2</sup> and having a minimum width of sixty feet (60').

- **Section 2.5 DEDICATIONS AND PUBLIC AND PRIVATE RESERVATIONS:**

The road serving this subdivision shall be dedicated to the public by deed and part of the "designated county road system" but maintained by the owners of the subdivision and a property owners association. The dedication on the plat shall be approved by the County Attorney's Office similar to a version of the following, referenced by Section 1.4 (2) (b&c):

Recognized as a public right-of-way by deed, dedication or prescriptive use, and is a part of the designated County road system provided for by Article 2, Title 43, Colorado Revised Statutes, 1973, amended, and is dedicated or conveyed to the owners of the subdivision and their successors in title and constructed to County road standards, and a property owners' association or other legal entity acceptable to the Board of Commissioners is legally obligated to maintain such road to County standards.

**This road shall be deeded to the public through a Quit Claim Deed recorded in conjunction with the Plat.**

The applicant shall provide for open space dedicated to the homeowners association that meets the following provision:

“The Planning Commission shall require the dedication, reservation or conveyance of acres or sites suitable for public purposes such as parks, flood channels, scenic areas and green belts, of twenty percent (20%) of the total area of the subdivision. The location of all such areas or sites shall be mutually agreed upon by the subdivider and the Planning Commission...” **Open space shall be included on a land use table in the Preliminary Plat submittal.**

- **2.6 SCHOOL LANDS :**

(1) All subdivisions shall provide for public school sites to serve the proposed subdivision and the future residents thereof and in accordance with these Regulations.

Lands would be dedicated at the following rate:

4 units

$4 \times .045 = .18$  acres (7,840 ft<sup>2</sup>)

Fees in lieu were calculated for this parcel in the following manner.

School Fees Formula Calculation

4 units

$4 \times .50 = 2$

$4 \times .09 = .18$

$.18 \times \$7,307.70/\text{acre} = \$1,315.38$  in school fees **ESTIMATED** .

This is an estimate solely relying on the sales price of the subject parcel. Other comps will be pulled to assess Fair Market Value as necessitated by the Subdivision Regulations. This impact fee shall be paid prior to recording the Final Plat.

- **Section 2.7, DESIGN STANDARDS FOR DRAINAGE, SEWER AND WATER:**

The property subject in this application appears not to be located in a ten (10) or one hundred (100) year flood plain and shall mitigate drainage to historic levels on site. **These requirements shall be fully analyzed in a Phase III Drainage Report which complies with Grand County Storm Drainage and Technical Criteria Manual shall be submitted with the Preliminary Plat.**

The Applicant intends to allow use of public sewer provided by Three Lakes Water and Sanitation District. The three existing cabins are already connected and the additional cabin will need to connect consistent with Three Lakes WSD construction standards [2.7 (2)].

Staff understands that a well sharing agreement is being drafted to support the use of an existing Stillwater Ranch Well for the four single family units. The applicant has provided a letter and summary of rights to use which explains rights to use water. Staff interprets compliance with **§29-20-304 C.R.S., which is the current update to §29-20-103 C.R.S., referenced in our regulations [2.7 (3)].**

- **Section 2.8 DESIGN STANDARDS FOR FLOOD HAZARD, FIRE HAZARD, GEOLOGICAL HAZARD AND MINERAL RESOURCE AREAS:**

Thinning of standing dead trees surrounding homes and other post mature plant material as recommended by Division of Natural Resources or State Forest service shall be completed. Any clearing and slash removal shall be done consistent with Division of Natural Resources guidelines.

**No burning of slash shall be allowed and disposal shall be included in the Engineers Estimate of Probable Cost provided with Preliminary Plat.**

**As required by State Law, the Applicant shall research and verify sub-surface mineral extraction rights as referenced in this section below .** Staff can provide a mineral resource procedure guide to help complete this process.

- a) Mineral Resource Areas
  - i) Prior to initiation of exploration or site operation, the operator or developer will provide a general exploration or development plan to the Planning Commission for review to insure compliance with applicable federal, state and county regulations.
  - ii) In areas where surface and mineral rights are divided, the surface developer will show proof that the mineral owner has been notified of proposed surface development or improvements C.R.S. §24-65.5-103. Said proof may be in the form of a legal publication, one (1) time, in a newspaper of general circulation in Grand County.
  - iii) Surface development may not preclude development of mineral resources, however, preference may be given to another use if sufficient technical or other evidence demonstrates that the economic value of the minerals present is less than the value of other use.
  - iv) Mineral extraction and exploration are prohibited if such activity would cause significant danger to the public health and safety.

- **2.10 ADDRESSING REQUIREMENTS TO ENHANCE 911 EMERGENCY SYSTEM :**

At Preliminary Plat, the Applicant shall provide proposed addressing. Staff suggests that the addresses are as follows:

The existing cabins shall remain 130, 132, 134 GCR 4480; Proposed Lot 4 shall be approximately 133 GCR 4480.

Reflective high visibility signs created by the local fire district shall be placed on each property being created by the proposed plat upon completion of construction. The sign installation shall be at the expense of the developer.

The addressing plan shall be reviewed by Grand Fire Protection District No. 1 and Grand County Office of Emergency Management (OEM) to help support tracking and response to new properties. The Applicant shall comply with Sub sections 2-3.

- **2.11 SLASH REMOVAL/DISPOSAL :**

Staff suspects that minimal clearing or removal of forest materials will be required on the subject property. Any clearing or removal that shall occur shall comply with this section and those guidelines set by Grand County Division of Natural Resources, East Grand Fire Protection District, and Colorado State Forest Service.

- **2.12 SOLID FUEL BURNING DEVICES Repealed via Resolution 2016 - 7 - 34**

- **2.12 DITCH CROSSINGS**

The red top ditch runs through the northern portion of the property but no anticipated impacts with this proposal.

- b. Article IV - SUBDIVISION - Section 4.1 - Sketch Plan**

The application shall comply with the Subdivision Regulations. The Sketch Plan addresses each of the following:

**Section 4.1 (1) (a)** Relevant site characteristics and analyses applicable to the proposed subdivision. **This Submittal complies.**

**Section 4.1 (1) (b)** Reports concerning streams, lakes, topography, geology, soils and vegetation. A topographic survey shall be provided with the Preliminary Plat. Grand Lake Fire District and Colorado Parks and Wildlife, Colorado State Forest Service will be Preliminary Plat review agencies. Updated reports shall be supplied at Preliminary Plat for information regarding soil bearing capacity and drainage. **This Submittal complies.**

**Section 4.1 (1) (c)** Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision. Staff has pulled information from NRCS related to soils and geologic characteristics. The application narrative briefly details of the soils and grades which elude to the level of future analysis needed. **This Submittal complies.**

**Section 4.1 (1) (d)** In the areas of potential radiation hazard to the proposed future land use, these potential radiation hazards shall be evaluated. Most areas in Grand County show above average levels of Radon averaging 6.1 picocuries requiring mitigation of radon gas in any newly proposed structure. As similar with adjacent subdivisions, soil studies provided at Preliminary Plat shall include information on radon hazards within the subject parcel. This will determine appropriate mitigation measures upon application for building permits.

**Section 4.1 (1) (e-f)** (e) has been repealed.

(f) A sketch drawing and other documentation showing the proposed layout or plan of development area, the total number and types of dwelling units and other buildings, the total area of greenbelt, and open space and their location, and the proposed area for school sites if applicable. **This Submittal complies.**

**IX. PLANNING COMMISSION RECOMMENDATION**

Planning Commission hearing scheduled for November 18, 2020.

**X. STAFF RECOMMENDATION**

Staff recommends the approval of the Nature Valley Sketch Plan with the following conditions to be met prior to submitting an application for Preliminary Plat approval:

Staff recommends a rezoning be applied for and obtained prior to the Final Plat being approved.

2) The proposed lots shall conform to the Residential District when rezoned.

- 3) Drainage surrounding Stillwater Creek shall be delineated as a “non-build zone” on the Final Plat [2.1 (1 & 2)].
- 4) Phase III Drainage Study submitted at Preliminary Plat shall be added to confirm flood risk [2.1 (3&6)].
- 5) Soils analysis shall be completed and submitted with the Preliminary Plat [2.1 (5)].
- 6) Staff assumes based on existing dimensions compliance with the block being no longer than four hundred feet (400’) in length, this shall be confirmed in the Preliminary Plat submittal [2.3].
- 7) An extension for GCR 4480 shall be dedicated as part of the plat and shall be deeded to the public through a Quit Claim Deed recorded in conjunction with the Plat [2.5].
- 8) Open space shall be included on a land use table in the Preliminary Plat submittal [2.5].
- 9) The Applicant shall pay any impact fees assessed during the approval of a Final Plat [2.6& 3.3 (3) ()].
- 10) A Phase III Drainage Report which complies with Grand County Storm Drainage and Technical Criteria Manual shall be submitted with the Preliminary Plat [2.7(1)].
- 11) No burning of slash shall be allowed and disposal shall be included in the Engineers Estimate of Probable Cost provided with Preliminary Plat [2.8].
- 12) The Applicant shall research and verify sub-surface mineral extraction rights prior to the Preliminary Plat review by Planning Commission [2.8].
- 13) A topographic survey shall be provided with the Preliminary Plat [4.1(1) (b)].
- 14) Plat review agencies during Preliminary Plat shall include:
  - Mountain Parks Electric, Inc. (MPEI)
  - Xcel
  - Centurylink
  - Comcast
  - Colorado State Forest Service
  - Grand Lake Fire Protection District
  - Colorado Geologic Survey
  - East Grand School District
  - State Engineers Office (Division of Water)
  - Three Lakes Water and Sanitation District
  - Colorado Parks and Wildlife
  - Grand County Consulting Engineer
  - Grand County Assessor’s Office
  - Grand County Division of Natural Resources

Plus any additional required by Planning Commission and Board of County Commissioners.

- 15) The Applicant shall meet all Preliminary Plat requirements.

Commissioner Davis stated as I stated last month, if I am wrong, I will be the first to admit it and I want to take a few minutes to describe one of the reasons the item was tabled from last month and what I have learned in the process. A question I brought up last month was “Do we need to create the parcel first and through a secondary step subdivide”. Reality speaking, is that our subdivision regulations allows us to streamline these processes and that is what Alex hinted on last month. Through my research and verification, just like our subdivision process allows us to do variances to the Subdivision Regulations through the subdivision process it also allows us to streamline the creation of a subdivision from a larger parcel. In this case, the remaining acreage will remain Metes and Bounds and the creation of the whichever of the next 2 proposals are being created, that creation along with the addition of the creation of the subdivision are a joint step as Alex presented, I was wrong. I said I would be the first to admit it and there is the explanation.

Commissioner Davis asked if this is the project that will create lots for the existing cabins and a Lot E has been added that will be still open space but more intended to be used for that common aspect and an open space that is to remain part of the subdivision but it is totally untouched along the willows and this was the lower density with 1 additional spot.

Kent Whitmer added, Marcus you described Nature Valley very well. I wanted to add a little about the thinking behind this additional Lot E. The thought is, this would be a parcel that would possibly be that the Homeowners Association (HOA) could buy as a common amenity from the developer. It would be restricted to agricultural uses, they could possibly put a barn there or a riding arena. It could be someone else who purchased it also, but it would still be restricted to those agricultural uses. The thought being it is right up against the hay meadow, which is the center piece of that area and it would blend naturally into that hay meadow. The other thing I think is good that Alex did is he showed the separation between the 2 developments that is on the table now and how they complement the hay meadow. They are not in the meadow, they are not even encroaching onto the meadow, I think that might not have been clear at the last meeting and it is a critical point because I know from reading the comments that have come in that there is great concern for the wildlife in the area as there is on the part of Ray Trimble. One comment to the 105 acres that will be left over. I think there was confusion with regard to that at the last meeting, what its purpose was and why it is even being mentioned. There was a perception that maybe that 105 acres was somehow a part of these 2 developments. It needs to be clear that the 105 acres is a separate parcel. Yes it is Mr. Trimble's intent to keep it pristine and available for possible use by the homeowners in these 2 developments. There is not a guarantee here that a conservation easement will go on it. He is talking to the land trust and that is his intent and that is the direction he wants to head. But I want to be clear that 105 acre parcel is not connected to either 1 of these applications.

Commissioner Davis interjected, to that end the 105 acres is not part of this request and we have no authority over this parcel as the Planning Commission.

Kent Whitmer, stated correct, all I can tell you is, Mr. Trimble is intent is pure and he intends to keep pursuing the conservation easement with the Land Trust.

Commissioner Davis stated the 2 properties are separate items so let's try to stay focused 1 development at a time as we go through the projects.

Commissioner Gnuse asked what we are talking about now is the Stillwater Ranch Sketch Plan? Which one have we opened up discussion about?

Alex replied, Nature Valley Ranch.

Commissioner Gnuse asked it is that the 8.23 acres?

Commissioner Davis answered, as I summarized a minute ago, it creates lots where there is existing cabins. They added 1 more lot for a potential home site. They added open space and then they have added Lot E which would be deed restricted for accessory uses by the HOA or by another purchaser. Reminder this is still Sketch Plan stage, we are looking at thoughts and observations and ways to guide them towards Preliminary Plat.

Commissioner Gnuse stated no questions.

Commissioner Fournet asked, is it required that there be a turnaround for fire trucks, like a cul-de-sac turnaround?

Alex replied, yes either a cul-de-sac or hammer head turnaround will have to be added.

Commissioner Davis asked if this is 1 of the conditions? So this would be plus 1 on the conditions, the Road and Bridge is listed as a review agency already.

Alex replied, he thinks it would be appropriate to add, Condition 16 being compliance with Road and Bridge standards for all access.

Commissioner Fitch stated she is interested to see what the public has to say so will pass for now.

Commissioner MacDonald stated that he would still like to see a clear outline of the original property. We have a good idea of the meadow, just would like to see the entire property.

Alex showed Commissioner MacDonald the overview with the outline of the parcel included in the presentation. The outline is there but maybe we need to highlight it. We can bring back another graphic that is more refined during preliminary plat.

Robert Davis interjected in the staff report there is a vicinity map that shows the entire parcel.

Commissioner Davis added we had asked for an entire map showing all the parcels at our last meeting. To see the overall extent of how it fits in, so what you are looking at Robert, is on page 4 of the document. It is the blue outline, unfortunately the GIS graphic blurs out the surrounding subdivisions and density. We were looking at how is this feathering out density and what is the consideration compared to neighboring density? Yes this is in a growth area but what does that look like. That is what we are looking at for clarification.

Alex showed the vicinity map that highlights the entirety of the 130 acres looking at the green highlights. North is Stillwater small tracts, 2 2/3 acre parcel, the yellow is higher density, the green is uninhabited except for the 3 cabins **that exist and the pink is low density those are 2 1/2 acre lots** in Stillwater Ranch west. Colorado Anglers is pretty high density as well.

Commissioner Graves stated he would also like to see the entire parcel more clearly, but feels that it will happen for Preliminary Plat stage. No further questions.

Commissioner Karlstrom wondered why these 2 parcels weren't just created through the Outright Exemption process.

Commissioner Davis stated that is what he said at the beginning were we had confusion last time, because they already have a plan for further division, the Subdivision Regulations allow us to skip the first step of creating the parcel and the second step of subdividing it, now we can do it all at once.

Commissioner Karlstrom replied, so we don't have to call it an Outright Exemption?

Commissioner Davis stated, correct. That is where I was mistaken the last time.

Commissioner Karlstrom continued, there is a statement regarding the augmentation (page 2 of the Certificate) that says "allowable uses and total depletions of water" what does that mean?

Alex replied, in the letter from Moses (water engineering firm) he talks about the water use and the depletions which is related to the water tables or surface waters adjacent. They account for this when they are drawing out the water rights.

Kent Whitmer added, depletions in the water world refer to consumptive use of water. It is the amount of water that is taken out of the system permanently, it is what must be replaced to the system to keep the system in balance.

Commissioner Karlstrom added, it is not left in a state of total depletion?

Kent Whitmer replied, no, the augmentation plan is in place when operated replaces the depletions to the system and this case the depletion are replaced by ceasing to irrigate a certain portion of the hay meadow (not all of it, not even a great percentage of it) but a portion. A portion of that water stays in the system and goes down the Colorado River and that is how depletions are replaced.

Commissioner Karlstrom continued, what is the situation with Three Lakes Water and Sanitation? Are you switching to the Three Lakes Water and Sanitation for a well and water but staying with them for sewer?

Kent Whitmer replied, yes. Sewer will be with Three Lakes for both developments. Water will be through wells that will be operated in accordance with the augmentation plan.

Commissioner Davis commented that Three Lakes Water does not go that far south.

Commissioner Karlstrom asked if there is still only 1 access. Is it because the road is only about 400 feet long?

Alex replied, there is only 1 access and the Road and Bridge Standard requirements say that you can only have 1 access with the appropriate turnarounds, equal to or less than 9 units.

Commissioner Davis asked about answers regarding the growth area and feathering densities, those were questions both from the Commissioners and the public.

Question from Mark Hutchinson, just for clarification if I understand the proposal correctly, the addition of Lot E will be used for agricultural purposes, and the HOA can choose to purchase it and use it without it being sold or it could be sold and if it is sold it is deed restricted. Is this correct?

Kent Whitmer replied, yes. No matter who owns the property their uses are limited to agricultural purposes.

Commissioner Davis stated he will watch for that in the submissions. Can we return to the overlay? The road goes from the northeast corner past Lot E between Lots 8A, B, C and D and begins to tie into Road 4440.

Alex stated 4480.

Commissioner Davis correct 4480. Is there also a Right of Way in the gap between C and E?

Kent Whitmer replied, that is access for the Lot owners A-D and to access the open space along Stillwater Creek, to recreate, walk, cross country ski, etc.

Commissioner Davis asked for more understanding, what you have labeled on this graphic is Nature Valley Ranch Parcel. I think that is on your overlay but that section is going to be the common open space, but it is not labeled. The label is not associated with that space, is that correct?

Kent Whitmer replied, yes that probably needs to be fixed going forward. It needs to be something other than Parcel 1 or Parcel 1 needs to be defined as open space.

Commissioner Davis continued, let's call it what it is, open space. With this proposal and the addition of Lot E do we satisfy the open space requirements?

Alex replied, I don't recall. We could deduce that the land area looks to be at least 20% of the growth area.

Commissioner Davis asked, the subdivision requirement for this subdivision is what?

Alex replied, 20%.

Commissioner Davis stated we need this clarified by the Preliminary Plat and clarify that Lot E is not part of the open space calculations but it will be restricted in usage.

Neighbors comments:

- Confused by map, my understanding was the Lot E was the tall skinny section that was defined as the open space and I thought that was the Lot E that could be sold off. I am good now.
- Wanted to know what the plan for access is for on Lot E? Will any access come off of County Road 4 or will it just come from the south?

Alex replied the access for Lot E is from that 40 foot easement that terminates into E and it looks like there is an additional 30 foot access easement which stretches south to north across E which goes into the adjacent meadow.

- On the water augmentation plan that was developed in 1990/91, the landscape there is very different, there is a lot more development than there was in 1990, will anyone go back and look at the augmentation plan and make sure it still makes sense today?

Kent Whitmer replied, I consulted the water lawyer for Ray and asked her 2 questions. Is a 30 year old augmentation plan still legitimate and useable? Her response was, augmentation plans do not expire and we are not proposing any changes in the operation that would amount to creating an amendment to the augmentation plan decrees. She went on to say that the radial ditch which is the augmentation supply for this plan has never appeared on the division engineer's abandonment list, including the 1 that was just released last July 1st. The augmentation supply remains a valid live water right. I asked her do we need to go back and have the water court bless what we are contemplating, which is a contractual split of the augmentation plan between Rays remaining property and these 2 developments we are proposing? Her response was, we do not need a water decree for the contractual split, because we aren't changing the operations in a way that would amount to an un-decreed amendment to the augmentation plan. The short answer is no we are not planning on going back to water court or to re-evaluate the augmentation plan, it is still a valid augmentation plan.

- Did the water resource board look at the flow through the ditch to see if it was still the same as 30 years ago?

Kent Whitmer replied, the division engineer administers water decrees and they are saying this is a valid water decree. They will be obligated to administer according to the decree.

Commissioner Davis added, in laymen's terms it means that it is looked at annually and regularly if not more that annually for what can and cannot be used, is that what that means?

Kent Whitmer explained, the augmentation plan means that the owner is allowed to use water for purposes that wouldn't normally be allowed because the purposes that they are using them for deplete the overall water system. In order to get permission to do that they ask for an augmentation plan to be approved. The augmentation plan requires that they replace to the system. Replacements will be made to the system pursuant to the augmentation plan and the system will remain in balance. If it is not operated according to the augmentation plan than the water commissioner and the commission engineer will enforce the decree by its terms.

Commissioner Davis asked, 1 more point of clarification that might help is that augmentation plans are looked at per water right, per replacement and they are looked at in conjunction with the things around them. As other developments happen it becomes a senior priority. This plan was done 30 years ago, it has standing over a new plan. That is why they do not expire. They are continuously looked at on a holistic view as there are changes.

Kent Wittmer replied, that is exactly right. That is why they fit into Colorado's water log scheme as far as a prior appropriation, in other words they have an augmentation plan that has a priority date and that is why we would not go back and revisit it because it has a priority date. A little bit about the process, water applications for these types of augmentations plans are open public processes. They are advertised in the paper, they are published that they are accruing. People who feel like they have potential injury from the application have a right to jump into the water case and object. If they don't object, then they are precluded from objecting moving forward. That is how the system has to work to give certainty to people that go through the time and expense to get these augmentation plans in place.

Commissioner Karlstrom asked if the augmentation takes into account the changing climate and the drought.

Kent Whitmer replied, as a general matter the fire appropriation system takes that into account. There is only so much water each year and it is given first priority to the oldest and most senior rights and when you get down to a point in a dry year, because of climate change or drought those more junior rights are going to be curtailed.

Commissioner Davis stated Colorado is very unique in that there are only 2 states that prior appropriation is a very unique situation and Colorado set theirs up originally with almost 200% allocation to what a normal year would be. So there is always someone at the bottom of the list that doesn't get water. That is taken into account as well for the sustainability of your subdivisions. When they go through the augmentation they have to insure they have a senior enough water right so it sustains. There are ways to sell water rights and trade them.

- In the water augmentation plan it did mention that they did not own the water rights for the wells that they had listed. How does that put them on the priority list and if we do own our water rights just outside that property and they don't is the priority what you are talking about?

Commissioner Davis responded, are you talking about wells? Our Colorado water rights and prior appropriation is based on surface water. Wells, depending on where they are drilled whether they are pulling from ground water or surface water are then inherently associated with either ground water or surface water and so a well goes purely off of ground water than it has no correlation to the surface water augmentation plan.

- I have a question regarding Parcel 2 which is the 1 that is north of where we are talking about. The North Slope Subdivision.

Commissioner Davis stated that will be the next discussion on the agenda and we will discuss then.

- Is the depth of the well what determines if it is a surface water well. How would you determine that?

Commissioner Davis stated, no it is the riparian drainage. Most of the water you see on the surface is not the only water that is traveling, it can be miles wide or it can be very simple. The Colorado Water Division would determine the surface water.

- The existing cabins and the new parcel are going to be hooked into Three Lakes Sewer, (but not Three Lakes Water) for both parcels, is that true and I would assume the 3 cabins that are there are already on water so my question is are they currently on Three Lakes Sanitation and overall the domino effect of other homeowners particularly in Stillwater Valley having to hook in because of these developments.

Alex replied, for Nature Valley Ranch the deal is that the 3 existing cabins, as part of Nature Valley Ranch are all served by a shared well which would continue consistent with the augmentation plan. They are also hooked into Three Lakes Sewer.

Commissioner Davis asked, currently today Alex? That does not constitute extension of services which was 1 of the concerns from last meeting and extension of services may or may not cause adjacent property owners within a certain distance to be obligated to tie in?

Alex replied, correct. The extension is not on this proposal.

- Looking at the Certificate of recommendation for Nature Valley, on page 10, the staff is recommending the approval of the sketch plan and is recommending a rezoning to be applied and on page 4 they are looking at changing the zoning into a residential district which eliminates restrictions. Nature Valley Ranch is in the Three Lakes Design Review and this is not mentioned in the Certificate. So my question is do you want to change to residential zoning and why has the Three Lakes Design Review been left out of the picture?

Alex showed an illustration which is in the staff recommendation, the gray area on the right side of the parcel is Residential zoned district and then the green area is Forestry/Open and that splits (showing on the map) in the overall proposal. In compliance with the state law requirements that higher standards govern (referenced in the recommendation) we recommend they rezone in order to have the least area of a lot. The lots expanded from 13 thousand square feet to nearly an acre and could go all the way to 2 acres and this is something the client is not interested in doing. The rezoning meets them half way.

Commissioner Davis added, what you are saying is it is currently residential were the houses currently exists and were the proposed house is and the desire is to extend that residential zoning out further, which in turn keeps the lot sizes smaller and minimizes the impact of this development.

Alex stated, right. To answer the Three Lakes question, we have not gotten into that level of detail and it is a standard thing with new subdivision plats in this area. It is a standard plat condition/note that we highlight that this property is in the Three Lakes Design Review Area. Not only is it in our zoning code but it is also on the plat so anybody who would purchase the lot should be aware, by reading it on the plat.

Commissioner Davis added, additionally this is sketch plan but it will show up in preliminary plat per subdivision regulations requirements. It is not something we typically talk about in sketch plan. It is about deflected windows, paint color, not sky lining things like that.

- The property is only 30 acres, parcel 8, the size, does it have to be rezoned to be bigger and be cut up from the 35 acre piece or was that already discussed? Even if the current parcel is only 30 acres?

Commissioner Davis answered, that was discussed in the beginning, and the clarification there is that, my concern from the previous meeting that you are referencing was that you could create the parcel and then subdivide it. Our subdivision regulations allow us to combine that and streamline that for the applicant. Yes, even if less than 35 acres.

Commissioner Gnuse, no questions.

Commissioner Fournet, no questions.

Commissioner Fitch, when looking at the map graphic, what is Lot D?

Alex replied, Lot D will be a future single family home parcel.

Commissioner Fitch continued, so that is different than the agricultural lot?

Alex replied, the agricultural lot is Lot E, which is separate from the open space lot.

Commissioners Fitch continued, there is 1 augmentation plan, I am unclear on is how does 1 augmentation plan sufficient for the 2 developments, plus we are talking about the depletion. How much of the meadows irrigation waters are actually going to be depleted for the first subdivision and what will be depleted for the multi-family subdivision. Will this dry up the entire hay meadow as in will all the irrigation be gone?

Kent Whitmer replied, the last thing Ray wants to do is dry up that meadow. That was a specific question we asked to the water engineers. The answer goes back to how robust this original augmentation plan was when it was approved back in the early 90's. The original plan was to accommodate 80 cabins, an event center, an Olympic size pool and a trout pond. What we are talking about today is doing about 10-15% of the original project. So about 10-15% of the hay meadow will have to be dry. The augmentation plan states you irrigate a little bit less for each additional acre of depletions that you incur. What I am told from the water engineers is there will be no noticeable difference that it is primarily a lot of that ground is sub irrigated naturally.

Commissioner Fitch asked if you could just clarify to me how 1 augmentation is being used for both subdivisions.

Kent Whitmer replied, we consulted with our water counsel, law firm in Boulder, and the suggestion was we contractually split the augmentation plan between the 2 developments and the remaining property. There will be a contract in place before any third parties buy into any of these developments. Which lays out the rights and obligations of all of the people that benefit and are burdened by the augmentation plan and how they move forward sharing those responsibilities to make sure the augmentation plan is operated according to the decree.

Commissioner Fitch asked if the contract needs to be included with what the Planning Commission has to evaluate.

Commissioner Davis stated, no, the only requirement we confirm here is that there is a valid, capable water source moving forward through the subdivision process. That is where our authority ends, because we are not the water authority. Our subdivision regulations deem that you must have acceptable source of water. Which we do, as proposed by the state. The actual management of that and making sure it is valid for the subdivision proposed is the job of The Division of Water Resources.

Kent Whitmer added, this plat will be forwarded to the division of engineer's office and the states engineers' office for review and comment. As well as CPW and all the other interest government entities.

Commissioner MacDonald stated no questions.

Commissioner Graves replied, no questions.

Commissioner Karlstrom stated, no questions.

Commissioner Davis has no more questions.

Commissioner Davis added we are adding note 16 that although the Road and Bridge is a standard review agency that we show it preliminary plat compliance with Road and Bridge Standards.

Commissioner asked for a motion.

Motion to recommend approval by Tara Fournet for Nature Valley Ranch – Sketch Plan – Stillwater Ranch – 11, LLC, Ray Trimble with 16 staff conditions. Seconded by Ingrid Karlstrom. No further discussion. All in favor "aye", none opposed. Motion carries.

## **North Slope Subdivision – Sketch Plan – Stillwater Ranch-11, LLC, Ray Trimble (tabled from November)**

Presented by: Alexander Taft, Planner, LEED Green Associate

### **CERTIFICATE OF RECOMMENDATION**

**Planning Commission: November 18 & December 9, 2020** ; Board of County Commissioners: TBD November/December, 2020

**PROJECT NAME :** Northern Slope Subdivision- Multi-Family Sketch Plan

**APPLICANT :** Kent Whitmer on behalf of Stillwater Ranch-11, LLC represented by Ray Trimble; Engineer: Kevin Vecchiarelli JVA, Inc.

**LOCATION :** Part of the Section 22 and 27, Township 3 North, Range 76 West, of the 6<sup>th</sup> P.M. approximately 1001 GCR 4

#### **APPLICABLE**

**REGULATIONS :** Grand County Master Plan, Grand County Zoning Regulations, Grand County Subdivision Regulations

**ZONING:** Split Zoned R/F - Residential and Forestry and Open District

**ATTACHMENTS :**

- e) Vicinity Map
- f) Sketch Plan (Plat)
- g) Application and Narrative letter

**STAFF PLANNER :** Alexander Taft, LEED Green Associate

**REQUEST :** The Applicant is proposing a subdivision to create thirteen (13) duplexes and two (2) single-family totaling 27 units on an approximately 19 acre parcel separated from the “Potts Ranch.”

**XI. BACKGROUND**

**a. PROPOSAL**

This proposal by Stillwater Ranch-11, LLC, is to create a total of 28 dwelling units composed of thirteen duplexes totaling twenty six (6) units and a two (2) single family dwelling on approximately 19 acres. The proposed sketch plan represents a single drive to serve all proposed units. The other proposed development on this property is Nature Valley Ranch which is a single-family proposal consisting of 4 units, consisting of three (3) existing cabins and a vacant lot for a future single family home on approximately nine (9) acres south of this proposal.

The subject property was purchased by Stillwater Ranch-11, LLC in 2011. It consists of a total of one hundred thirty one (131) acres. The two proposals comprise approximately twenty seven (27) acres within the property, leaving one hundred three (103) acres remaining outside of either proposal. It has been represented the remaining one hundred three (103) acres will be put in conservation only allowing one agricultural residence.

The property is split zoned with the boundary for Residential District lying in the center of Stillwater Creek. Multi-Family residential is allowed as a use by right in the Residential District parcels being served by a proposed water system and public sewer. They are accessed by a single road and allows several points for turnaround for emergency and personal vehicles alike. The site is located in Urban Growth Area #2 (Grand Lake) of the Master Plan.

**b. HISTORY**

Ray Trimble purchased this property in 2017 and has been working on development plans since. Ray approached Staff in 2018 originally then after several back and forth discussions an agreement was reached that the property would need to go through the subdivision process for approvals to be developed.

The property subject to this proposal has long had a history of being intended for development of multiple units through either a guest ranch or lodge development or residential subdivision. Staff has found records dating back to the nineteen eighties, specifically the Water Court Decree reference water for uses including “a small lake, 3,200 ft<sup>2</sup> of office or community use building, eighty (80) single family cabins of 900 ft<sup>2</sup>, four (4) single family homes less than 4000 ft<sup>2</sup>, year round swimming pool and associated dressing and sanitation facilities, a laundromat, and a fish rearing operation...” this or a portion of this proposal was discussed with Grand County in 2004.

**c. EXISTING REPORTS**

In County files, Staff has discovered the water court decree from the 1990's which updates Case No. 88 CW 270. This water court decree dating back to the nineteen eighties details some of the prospective uses for the property then owned by Spike and Patricia Potts as the proprietors of Stillwater Ranch Development Company. Specifically the Water Court Decree referenced, in the old plan created by the Potts, water for uses as described above.

The Applicant provided a letter from Moses, Wittenmyer, Harrison and Woodruff, P.C. which describes the Stillwater Ranch Water Supply. This letter details the augmentation plan confirming allowable uses and total depletions.

The most current files which would supply Staff insight to anticipated site conditions are from the Drainage and Soils Report provided for West Hillside Acres Subdivision in 2003.

The Soils report for West Hillside suggests there are expansive soils on that site. Staff pulled a web soil survey from Natural Resource Conservation Survey (NRCS) to research if there is any similar soil types to those found in West Hillside Acres. The soil survey suggests that the soil found in the development area is composed primarily of loamy (higher organic contents) type soils which are typical of farmlands. The soil types differ from the available soil report and require more investigation from the Applicant to confirm site conditions.

## **XII. STAFF ANALYSIS**

Following the November 18, 2020 Planning Commission Meeting, the Planning Commission Chair brought up questions about ambiguities caused by the regulations and what was being proposed. The Applicant and Staff worked on including some further analysis to bring clarity to the process and define the proposal in a way to suggest compliance for the whole property owned by the Applicant. The Applicant provided a memorandum assembled by Kent Whitmer which looks at case law related to subdivision plats and regulations. Staff reviewed the memo and concurs with the analysis but sent it to the County attorney's office for final review and analysis.

Additionally, to help bring context to where similar occurrences have happened in Grand County or the municipalities within Staff has found some references. Please use the Grand County Parcel Viewer to locate the following properties:

(In Fraser)

Grand Park LLC, Schedule Number R310960, PID 158730400153;

Legal description:

METES & BOUNDS 75 ALL 148.999 +/- AC BEING IN PT S2SE4 SEC 20, PT SW4NW4 & NW4SW4 SEC 28 & PT N2NE4 & PT SE4NE4 SEC 29 LYING NORTH OF RAILROAD ALL IN T1S R75W LESS TRACT LYING SOUTHWESTERLY OF US HWY 40 ROW & **LESS PT NW4NE4 SEC 29 BEING PT COZENS MEADOW AT GRAND PARK DESC AT REC NO 2007006785 AND LESS VILLAGE AT GRAND PARK FILING 1 DESC AT REC NO 2008007834 AND LESS VILLAGE AT GRAND PARK FILING 2A DESC AT 2008007840; LESS THAT PART DESC AT 2015004926 LESS THAT PT DESC AT 2016002214; LESS 2016 TRACT; LESS PLAT 2019007844; LESS PLAT 202000183**

(In Winter Park)

CORNERSTONE WINTER PARK HOLDINGS LLC, Schedule Number R308205, PID 158730400153;

Legal description:

METES & BOUNDS 75 ALL 10.477 AC +/- IN S2NE4SE4 SEC 30, T1S, R 75W DESC AT REC NO 2003016729 **LESS MOOSE HOLLOW AT GRAND PARK**

(in Unincorporated Grand County)

**The Ranches at Devils Thumb METES & BOUNDS 75 ALL SEC 8 T1S R 75W BEING PART OF THE NE4 133.5 AC LEFT OVER FROM PLAT OF RANCHES AT DEVILS THUMB**

The portion Staff has highlighted within the legal description is what would occur on this property. Future conveyances might resurvey the property boundaries to clarify boundaries but the 103 acre stand alone is not required to be included with either of these plats or as a separate plat.

Water resources appear to be adequate and supportive of this proposed development. The Water Court Decree 88 CW 270 suggest 33.36 acre-feet being consumable. General allowances for an individual, single family dwelling is approximately a third acre foot (107,725 gallons).

The zoning on the property is referenced as Split-zoned pursuant to the zoning map. Staff notes that the Residential zoning does encompass the majority of the parcel, but not all the development area. Staff believes that a rezoning is not necessary here because the entirety of the parcel being created will be designated in the Residential District complying with the proposed use. This will allow the parcels to be sized consistent with the less restrictive Residential District. This will **eliminate any concerns with §30-28-123 C.R.S., “Higher Standards Govern.”**

Access to this subdivision is from an existing County Road 4 which is adjacent to the property. The proposed access road shall be dedicated to the public consistent with the Subdivision Regulations. It appears that the drive serving these units is anticipated to be improved to a local/low volume road standard. The construction drawings submitted with the Preliminary Plat shall detail this and any non-conformities with the Road and Bridge Standards.

The applicant shall be made aware Section 1.4 “Control over Platting” (5):

Once submittal of a sketch plan has been made to the Grand County Planning Department for review of a subdivision, **no disturbance of the site, nor installation of any improvements associated with the proposed subdivision is allowed until after approval of the final plat by the Board of County Commissioners,** or prior approval of any site disturbance or installation of required improvements has been authorized by the Board of County Commissioners. The developer will be allowed to do any soils and geologic testing, soils borings, surveying, etc. that are needed to provide the technical reports required for review of the subdivision.

**XIII. COMPLIANCE WITH GRAND COUNTY REGULATIONS**

Conditions to satisfy Regulations shall be highlighted in the following sections in **BOLD**.

**h. Grand County Master Plan**

The Grand County Master Plan contains seven (7) Plan Elements that form the core of the Master Plan. The Plan Elements include policies and implementation actions, of which one is relevant to this proposal.

**Plan Element 3 - Development: The Built Environment**

As stated in Plan Element 3 in the Grand County Master Plan, density is encouraged within the Urban Growth Areas where existing infrastructure and public services exist. Visually important lands and the desired rural landscape character are maintained. This proposal minimizes

disturbance of the rural and open land character that residents of Grand County cherish as this proposal is infill within a pre-existing development.

**i. ZONING - Section 4.1 Residential District**

The parcels involved in this proposal lie within the Residential District, existing inside the Urban Growth Area No. 2 aka the Grand Lake Growth Area. The site is surrounded by residential vacant land, subdivision open space tracts, or larger lot residential uses.

- (d) The use of these lots is anticipated as multiple family dwelling, consistent with uses by right in this District.
- (e) This District requires 30' minimum front yard setbacks, 5' minimum side yard setbacks and 20' minimum rear yard setbacks. Staff would interpret the total development area as the lot boundary and it appears that any structures on site are positioned consistent with these requirements.
- (f) The minimum lot size in the Residential Zoning District is 7,000 ft<sup>2</sup> (0.34 acres) when serviced by both public water and public sanitation. The total parcel area is 18.66 acres where the ownership will be condo type or fee-simple specific to the unit. The Multi-family standards do not have more restrictive minimums.

**j. ARTICLE V - DESIGN STANDARDS (MULTI-FAMILY) - Sections 5.1-10**

- **Section 5.1 SCOPE:**

This application shall comply with the scope of the design standards for apartment houses, condominiums, townhouses, or conversions to apartment houses and those required by Article II. Section 2.7, Design Standards for drainage, sewer and water, is not duplicated within Article 5 and shall be reviewed as part of this proposal.

- **Section 2.7, DESIGN STANDARDS FOR DRAINAGE, SEWER AND WATER:**

The property subject in this application appears not to be located in a one hundred (100) year flood plain and shall mitigate drainage to historic levels on site. **A Phase III drainage study consistent with the standards identified within the Storm Drainage Design and Technical Criteria Manual [2.7(1)].**

The Applicant intends to connect to the local public sewer via Three Lakes Water and Sanitation District. The Applicant will also be constructing a Public Water System consistent with State Regulation 11 serving the 27 proposed units. This infrastructure and connection requires compliance with the "Grand County Administrative Regulations for New and Major Extensions of Existing Domestic Water and Sewer Treatment Systems" commonly referred to as the 1041 Regulations. **A 1041 permit shall be obtained prior to recording the final plat [2.7(2) (b)].**

Service lines and structures shall be in accordance to these regulations as a minimum standard [2.7(2) (d)].

- **Section 5.2 SPECIAL SITE CONSIDERATIONS:**

**Aerial imagery shows a drainage surrounding Stillwater Creek, this shall be delineated as a "non-build zone" on the Final Plat [5.2 (1 & 2)] .** Drainage flows are estimated to terminate to

Stillwater Creek, this shall be confirmed in the Phase III Study. The applicant has provided confirmation that US Army Corps., will be reviewing wetland impacts in order for the proposed access road to cross.

The surrounding parcels are of residential use not necessitating a landscape or setback buffer. The proposal has located building sites to further reduce impacts of new construction on view corridors.

- **Section 5.3 STREETS, ALLEYS AND EASEMENTS:**

The access to this subject parcel is via existing county roads. A proposed drive will connect the units to County Road 4. The effective impact of the proposed 27 units is approximately 138 Average Daily Trips (ADTs). This amount of ADT meets criteria for a Local/Low Volume road by Grand County Current Road and Bridge Standards. It doesn't appear to have two points of ingress/egress as required by **Road and Bridge Standards, Section 3.4.2, detail on the feasibility/infeasibility shall be submitted with the Preliminary Plat [5.3(11)].**

**This application shall comply with current Road and Bridge Standards . Staff recommends specific focus on the requirements in Section 3.10 Multi-Family Development. The Applicant shall also provide a Phase II Traffic Impact Analysis as identified in 3.12.2.**

- **Section 5.4 UTILITY METER INSTALLATIONS AND ACCESSES:**

Staff anticipates that the utility meters for these structures will be separate on unit style systems. **The Preliminary Plat shall show details of locating utility easements and access details to determine compliance with this provision. Xcel and Mountain Parks Electric Inc. (MPEI) shall be a Preliminary Plat Review agency.**

- **Section 5.5 DEDICATIONS AND PUBLIC AND PRIVATE RESERVATIONS:**

The applicant shall provide for open space dedicated to the owners association that meets the following provision:

“The Board of County Commissioners shall require the dedication, reservation or conveyance of areas or sites suitable for purposes such as parks, flood channels, scenic areas and green belts, of sixty percent (60%) of the total of land covered in the apartment house, condominium, or townhouse area dedication...” **Calculated open space shall be included on a land use table in the Preliminary Plat submittal and remain on the Final Plat.**

- **Section 5.6 DESIGN STANDARDS FOR FLOOD HAZARD, FIRE HAZARD, GEOLOGICAL HAZARD AND MINERAL RESOURCE AREAS:**

It is evident because of recent events of the East Troublesome Fire that this area is subject to potential fire hazard. Typical thinning of standing dead trees surrounding homes and other post mature plant material as recommended by Division of Natural Resources or State Forest Service shall be completed by the applicant. Property Owners whether a sole owner, separated interests, or separate interests under a Owners Association shall maintain the landscape in a fire wise

manner within the boundaries of this development, a plat note shall be added to the final plat to this effect.

As required by State Law, the Applicant shall research and verify sub-surface mineral extraction rights as referenced in this section below.

- a) Mineral Resource Areas
  - i) Prior to initiation of exploration or site operation, the operator or developer will provide a general exploration or development plan to the Planning Commission for review to insure compliance with applicable federal, state and county regulations.
  - ii) In areas where surface and mineral rights are divided, the surface developer will show proof that the mineral owner has been notified of proposed surface development or **improvements C.R.S. §24-65.5-103. Said proof may be in the form of a legal publication, one (1) time, in a newspaper of general circulation in Grand County.**
  - iii) Surface development may not preclude development of mineral resources, however, preference may be given to another use if sufficient technical or other evidence demonstrates that the economic value of the minerals present is less than the value of other use.
  - iv) Mineral extraction and exploration are prohibited if such activity would cause significant danger to the public health and safety.

- **5.7 SCHOOL LANDS :**

(1) All subdivisions shall provide for public school sites to serve the proposed subdivision and the future residents thereof and in accordance with these Regulations.

Lands would be dedicated at the following rate:

27 units

$27 \times .018 = .486$  acres (21,170.2 ft<sup>2</sup>)

Fees in lieu were calculated for this parcel in the following manner.

School Fees Formula Calculation

27 units

$27 \times .20 = 5.4$

$5.4 \times .09 = .486$

$.486 \times \$7,307.69/\text{acre} = \$3,551.54$  in school fees **ESTIMATED**.

This is an estimate solely relying on the sales price of the subject parcel. Other comps will be pulled to assess Fair Market Value as necessitated by the Subdivision Regulations. This impact fee shall be paid prior to recording the Final Plat.

- **5.8 ADDRESSING REQUIREMENTS TO ENHANCE 911 EMERGENCY SYSTEM**

At Preliminary Plat, the Applicant shall provide proposed addressing. Reflective high visibility signs created by the local fire district shall be placed on the property upon completion of construction at the expense of the Developer.

Staff suggests that the addresses are as follows:

45-95 (Unit A&B) GCR 4485W, **Staff and the Applicant shall work together on addresses prior to Planning Commission reviewing the Preliminary Plat [5.8].**

The Applicant shall comply with sub sections 2-3.

- **5.9 SLASH REMOVAL/DISPOSAL :**

Clearing or removal of forest materials will be required on the subject property to reduce risks of fire hazard. Any clearing or removal that shall occur shall comply with this section and those guidelines set by Grand County Division of Natural Resources, Grand Lake Fire Protection District, and Colorado State Forest Service.

- **5.10 SOLID FUEL BURNING DEVICES Repealed via Resolution 2016 - 7 - 34**

- a. Article VII - SUBDIVISION (MULTI-FAMILY) - Section 7.1 - Sketch Plan**

The application shall comply with the Subdivision Regulations (Multi Family). The Sketch Plan addresses each of the following:

**Section 7.1 (1) (a)** Relevant site characteristics and analyses applicable to the proposed subdivision. Staff has gathered analysis completed by other projects within the vicinity that discuss common development issues with properties in the area. **This Submittal complies.**

**Section 7.1 (1) (b)** Reports concerning streams, lakes, topography, geology, soils and vegetation. A topographic survey, as a portion of the building site plans, has been provided with the Sketch Plan. The Grand Fire District No. 1 and Colorado State Forest Service will be Preliminary Plat review agencies. Updated reports shall be supplied at Preliminary Plat for information regarding soil bearing capacity and drainage. **This Submittal complies.**

**Section 7.1 (1) (c)** Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed subdivision. It is Staff's opinion that the impact of geologic characteristics within a subdivision of this character and size will not significantly impact the land use. Details of any significant geologic characteristics or hazards shall be detailed in the Soils analysis submitted with the Preliminary Plat. **This Submittal complies.**

**Section 7.1 (1) (d)** In the areas of potential radiation hazard to the proposed future land use, these potential radiation hazards shall be evaluated. As similar with subdivisions throughout the County, soil studies provided at Preliminary Plat shall include information on radon hazards within the subject parcel. This will determine appropriate mitigation measures upon application for building permits. **A plat note shall be added to the Final Plat which requires radon mitigation infrastructure in all new construction pursuant to this Subdivision.**

**Section 7.1 (1) (e-f)** (e) has been repealed (f) A sketch drawing and other documentation showing the proposed layout or plan of development area, the total number and types of dwelling units and other buildings, the total area of greenbelt, and open space and their location, and the proposed area for school sites if applicable. **This Submittal complies**

**XIV. PLANNING COMMISSION RECOMMENDATION**

Planning Commission hearing scheduled for November 18, 2020 and tabled until December 9, 2020.

**XV. STAFF RECOMMENDATION**

Staff recommends the approval of the Northern Slope Sketch Plan with the following conditions to be met prior to submitting an application for Preliminary Plat approval:

- 16) A Phase III Drainage Study consistent with the standards identified within the Storm Drainage Design and Technical Criteria Manual [2.7(1)].
- 17) A 1041 Permit shall be obtained prior to recording the final plat [2.7(2) (b)].
- 18) Aerial imagery shows a drainage surrounding Stillwater Creek. This shall be delineated as a “non-build zone” on the Final Plat [5.2 (1 & 2)].
- 19) This application shall comply with current Road and Bridge Standards [5.3].
- 20) Feasibility/infeasibility of compliance with Road and Bridge Standards, Section 3.4.2, shall be submitted with the Preliminary Plat [5.3(11)].
- 21) The Applicant shall also provide a Phase II Traffic Impact Analysis as identified in 3.12.2 [5.3].
- 22) The Preliminary Plat shall show details of locating utility easements and access details [5.4].
- 23) Calculated open space shall be included on a land use table in the Preliminary Plat submittal and remain on the Final Plat [5.5].
- 24) The Street or shall be dedicated as part of the plat and shall be deeded to the public through a Quit Claim Deed recorded in conjunction with the Plat [5.5].
- 25) The Applicant shall pay any impact fees assessed during the approval of a Final Plat [5.7].
- 26) Staff and the Applicant shall work together on addresses prior to Planning Commission reviewing the Preliminary Plat [5.8].
- 27) A plat note shall be added to the Final Plat which requires radon mitigation infrastructure in all new construction pursuant to this Subdivision [7.1(1) (d)].
- 28) Plat review agencies during Preliminary Plat shall include:
  - Mountain Parks Electric, Inc. (MPEI)
  - Xcel
  - Centurylink
  - Comcast
  - Colorado State Forest Service
  - Grand Fire Protection District No. 1
  - Colorado Geologic Survey
  - East Grand School District
  - State Engineers Office (Division of Water)
  - Colorado Parks and Wildlife
  - Grand County Consulting Engineer

- US Army Corps of Engineers
- Grand County Division of Natural Resources
- Headwaters Trails Alliance

Plus any additional required by Planning Commission and Board of County Commissioners.

29) The Applicant shall meet all Preliminary Plat requirements.

Commissioner Davis asked Alex to touch on the zoning of this property, is it purely Residential, or is it also split zoned at the moment? The 20 acres does it reside entirely in residential zoning.

Alex replied, the 20 acres is zoned residential and will stay residential for this project, it does not have to go through a rezoning process. The other process that is related to developing this parcel is there is a requirement for a 1041 Permit, which relates to public water and public sewer system so public sewer can be extended to all these units. They are proposing a public water system to serve these units as well. The threshold is 20 units or more which triggers a 1041 Permit and we have included this in our conditions.

Commissioner Davis asked for clarification on the sewage side. The existing Three Lakes Sewer run, does it come near enough to this 20 acre parcel that it is a matter of extension to just this subdivision or will this cause an extension that would then generate concern to other neighbors as previously discussed? There is a policy at Three Lakes Water and Sanitation that if you are within 500 feet of service you are required to tie in within 15 years.

Alex replied the extension of service may impact other properties that would have to connect pursuant to the Three Lakes bylaws.

Commissioner Davis continued, at this point, so we do not get lost in this discussion tonight. I would like to propose to say that the Three Lakes discussion will be ferreted out at preliminary plat and there will be discussions with Three Lakes Water and Sanitation as far as any additional impact there may be. I do not believe we have any additional information right now.

Alex responded, correct. Three Lakes Water and Sanitation needs to be added as a review agency.

Commissioner Davis added that we are going to modify Condition 13, to add Three Lakes Water and Sanitation District and can we add a 16<sup>th</sup> condition that says, "we will understand the impact of the Three Lakes Water and Sanitation extension come preliminary plat"?

Alex replied, yes.

Commissioner Davis added, to clarify the proposal to add a small water district to supply the water but that it still pulls from that augmentation plan and there is still way sufficient water to do that. It is just how they are choosing to administer it within the subdivision and are there HOA regulations? This is sketch plan and we are not supposed to have the answers now, but we will at preliminary plat.

Alex replied, correct and it will be addressed in the 1041 Permit for both the water and sewer. Kent Whitmer will also talk about the water system and the use of the augmentation plan and how it is laid out. Clarification on the number of units, there will be 28 units.

Commissioner Gnuse needed clarification on the Certificate, page 9. I am trying to figure out what the difference is between the slide you are showing, which has 15 conditions and what is in the

Certificate that shows 14 conditions and I think that you missed a numbering on page 9. Then Marcus you added a 16<sup>th</sup> condition.

Commissioner Fournet asked in the Subdivision Regulations 2.13, ditch crossings, in reading this section and looking at the map for the sketch plan, there are several ditch crossings. I was wondering if and when the owners of the ditches are to be contacted to give their opinions and consent.

Alex replied, I am curious to know where you have identified those ditches.

Commissioner Fournet replied, in the Northern Slope Sketch Plan submittal copy dot (pdf), and if you zoom in it says there is a culvert to Red Top Ditch, I am assuming these are irrigation ditches. There is another ditch to the entrance where there is a culvert pipe and of course the culvert pipe to the wetlands.

Kent Whitmer replied, he is not aware of any irrigation ditch crossing and I see where you are talking about. We will have to find out if those are Ray's ditches or someone else's. If they are Ray's ditches it is not an issue, if they are someone else's ditches than we certainly have to get their permission before we tamper with them.

Ray Trimble, applicant, replied, the wetlands do have a conduit (a culvert) and that will be required to move the water from one side to the other and that has been approved by the Core. There are no other irrigations, including the Red Top that is crossed. The only culvert I know of is the wetlands.

Commissioner Fournet added, that she is showing 3 culverts.

Ray Trimble added the radial ditch is a private irrigation ditch and we will have to cross that going up the hill that is dry. In the augmentation plan it has been dry for the 4 years I have been here. I can only think of the 1 that crosses the wetlands off of County Road 4. Then there is the Red Top, where is the 3<sup>rd</sup> one that you are looking at?

Commissioners Fournet added, there is 1 culvert that goes through the wetlands. Then probably 50 feet to the northwest is another culvert over what it says is a ditch, then to the northwest corner of the property, just prior to the last dwelling, it says that there is a culvert from a ditch going to the Red Top ditch.

Ray Trimble replied, that is not a water way it is just a low place that is part of the excavation. We need to put something in there that will not obstruct some migration of water coming down the hills, but it is not a water way.

Commissioners Davis added, all this will be addressed by the drainage report that the engineers will put together. Just for clarification, just because a ditch is dry doesn't mean the rights have vanished. It takes 20+ years of unuse to be able to utilize that land and it is pretty strict.

Commissioner Fournet continued, many of the letters that she read are people having concerns regarding the traffic impact on County Road 4. They feel it is already a dangerous road. With this traffic impact analysis that Ray has to do, will that help the county decide what improvements need to be made further down the road?

Alex replied, yes. That is the intention of obtaining that study, especially since staff knows this is a dangerous road and that it accesses the National Forest. Will we use this study to help answer these types of questions?

Commissioner Fournet asked as far as the 2 entrances for this subdivision, there is going to have to be a cul-de-sac at the end of the road to the northeast, near County Road 4 and how would the cul-de-sac impact the wetlands versus actually putting in another entrance/exit? I would like to see some information on this.

Commissioner Davis added, so kind of a cost benefit look at the argument for just 1 is because we are trying to restrict the disturbance but the benefit having 2 entrances/exits is real and up front in our recent experiences with fires and that is something that review agency will look at. We will need to make sure that is part of the conditions, so let's add a 17<sup>th</sup> condition that is a comparative pros and cons for 1 versus 2 entrances/exits based off of the review agencies guidelines.

Commissioners Fitch asked, what was the augmentation date of the water plan?

Alex replied, either 88 or 91.

Commissioners Fitch continued, did we say the hay meadow was 105 acres?

Commissioner Davis corrected, that is the remainder of the parcel.

Commissioner Fitch continued, is that the whole property 130 acres? I am not getting the parcels to add up.

Ray Trimble responded, there are a couple of notes that do not correlate and I understand the confusion. It shows up as a 134 acres on the survey and the deed, but I have also seen it referred to as 131 acres. There is 25 acres that is a combination between the 2 subdivisions and 105 acres in the meadow that would be my interpretation.

Commissioner Fitch stated her next question may be controversial, are there any other high density areas like this in this area. To me this seems like an uncommon use. This is a significant increase in density, what was agricultural zoned, is now being put out there to create a high density development in a rural area and in my opinion is not in harmony to the rural lifestyle of this area. I am wondering if there are any neighbors in favor of this development.

Commissioner Davis added, just a couple of quick things. Remember agricultural is an assessment status, this is zoned Residential and Forestry/Open and is within a county approved urban growth boundary for this type of density. That is the foundation, the rest of your question is still valid.

Alex added, the multi-family is a little out of character because the adjacent development is single family detached anywhere from 20 thousand square foot lot to 5+ acre lots, there are a couple that are 40 acre lots. The overall density, if we are talking about 32 units across the 23 acres that are being developed, that gets into densities of about 1.2 dwellings units per acre and that is relatively consistent with what is adjacent to County Road 4.

Commissioner Fitch stated she gets that, but having multi-family is much different than single family in that type of an area. I think there is a place for everything, but not this development in this location.

Commissioner MacDonald stated he would like to give some support for Ray, he think this is a very modest development compared to what could have been done as far as density is concerned. I realize the concern with multi-family but at the same time I think you are trying to make it slightly more affordable (although it is not really affordable housing) it is more affordable than what single family units would have been. I think it is very appropriate for the location and the zoning. I do

have a recommendation that you go above and beyond any fire restriction when you are dealing with the fire department, for protection from wildfires and home fires.

Commissioner Graves stated no questions.

Commissioner Karlstrom stated for an urban growth area it is really not all that dense. The traffic study will show that this density creates enough problems on County Road 4 that they might have to change some things. I think it is a good project. On Condition 9, reword that sentence, it does not make clear what you are saying.

Alex replied, I was looking at the condition and I think it is supposed to read “the street or road or easement shall be dedicated through”, yes I will reword for clarification.

Commissioners Karlstrom added, she is glad that it was clarified that no buildings will be built in the meadow.

Commissioner Davis asked for neighbors comments:

- A recommendation that one of the ditches is owned by Bunty's, something to check into there.
- A traffic analysis at this time will not be accurate, as the forest has just burned.

Commissioner Davis added, 2 considerations there. Alex make sure you address during the review agencies. My assumption is that they will look at this with the assumption to rebuild any properties that were lost when they review the traffic analysis and they look at it from an average day trips. My assumption will be that they will count those lots as potential buildable, the same as they will be addressing these with potential buildable when they do the traffic analysis. Let's confirm through the review agency. There are several points here regarding the traffic from last time and this time plus there is not even a center line down County Road 4. A benefit folks need to remember is this is spurring the potential for further improvement.

- Three Lakes Design Review area, which is not being addressed again.

Commissioner Davis stated as we discussed in the previous project, multifamily dwellings not in keeping with the area. We have to look at this area in its entirety of that corridor. A huge portion of the zoning up Highway 34 is mobile and that is houses on top of houses, as far as density goes. Even though we are not putting in things like, Soda Springs, things you see further north near Grand Lake which are more of your condo style, it certainly is reasonable within the zoning and within the urban growth area. We have talked a lot in other developments about, how does it feather away from your higher density and what is the overall development. In this one we are looking at 2 small pockets that may or may not be entirely exact with the adjacent property. The potential allowable is very high and I am not saying that this makes this OK, but what I am saying is they have a right to put condos on this property. I agree the owner is being responsible in the proposal for what is happening. Housing prices are very high, we talked about potentially 500 thousand and it is very difficult to build houses these days that meets that need for our communities and for the employees that live up here.

- County Road is not striped and there are no shoulders.
- 27 to 28 units, need to know the exact number. Response: this will not change anything that Planning Commission is looking at.
- Are the 2 projects butted up against each other? Response: there is separation between the 2 proposals they are not butted up against each other.
- Will building this development take away from the resources and building materials needed for folks rebuilding from the fire? Response: there is subjectivity in that.

- Will the 28 units be sold to 28 people or Short Term Rentals? Response: at the end of the day the property owner has a right to do with their property what they want and we as a County we are supportive of that. Property rights are first and foremost.
- I appreciate they are not building in the meadow but at the same time those of us that live on Stillwater Creek, there will be building on Stillwater Creek and that is of great concern. If you go through County Road 451, there is not a home in the entire Stillwater Valley that is within 2-300 yards of the creek, it is a very pristine creek and we would like to keep it that way. While the meadow is not being disturbed I am equally concerned about the creek.
- I would like to see in the next step the current map on this subdivision, just plotted out those 13 Townhomes, it really did not give us a sense of where that is and to clarify where the ditch comes through and where Still Water Creek comes through. I did speak with Ben from the Army Corp of Engineers about Stillwater Creek and the permitting, it was my understanding that the permit was for the wetlands only and not for any work to be done on the Stillwater and there should not be any work done on Stillwater Creek or anything that effects in any way on Stillwater Creek.
- Hopefully Three Lakes Design Review will review this project, height and color will matter since I will look at it every day. Would appreciate the traffic study. The comment regarding the number of units being rentals or not, I know it is not the Commissioners or the Boards right to know, but we keep saying affordable housing, if it going to be built to be Short Term Rentals from the start, I feel we should know this because we are having more houses built in the community, but if we are not going to sell them to the community it seems like the other piece of the puzzle is not being answered. I think the last piece of the puzzle is when we build cul-de-sacs that will be across from my property and hopefully does not go into the wetlands. Maybe you have to take a townhome out to fit it, there will be a lot of houses in a very little area. How can these single family homes not have to have a larger footprint within the dwelling? How can you divide subdivide into a single family home?

Commissioner Davis explained the Three Lakes Design Review area is an overlay zoning in our current regulations. This board and Board of County Commissioner (BOCC) review the Three Lakes Design Review Area requirements and we see those as they come through on the plat and it is staffs responsibility to comment on those and they will have a section in the Certificate for the preliminary plat. We only have the authority over the plat, additionally they don't have to present height that can be done 1 at a time through the building department. For our purposes we like to see what the final structures looks like, but that is the building and zonings responsibility. As far as the Short Term Rentals, honestly there is a gap, everybody knows it, a gap between allowing people to use their property as they so wish and the ability to centralize areas where tourism has housing. There is a gap and it is being discussed, this is not an answer just a, your point is heard. Regarding the concepts of the duplexes, it is truly a multifamily and there are real-estate rules that define how that footprint exist and what is sold with a duplex versus a single family dwelling. That is why their footprints are smaller it falls under townhome/duplex definition of real estate law.

- The lay of the land where the duplexes are being proposed, there is an elevation difference between where they are looking to show the duplexes and getting down to the bottom of the wetlands that would be a drop in driveways/road. That could be dangerous, will this be reviewed? There could be a 30 foot drop. Will anyone be reviewing this? If Three Lakes Water and Sanitation decides they are getting close enough to any of the properties that are on the other side of Red Dirt ditch and they fall within that 500 feet, just 1 of those properties being designated at being Three Waters Sanitation is going to cause the whole Stillwater Creek Subdivision to have to get onto Three Lakes Water and Sanitation. I think there **should be something in the final thing that says that the 2 ½ acre lots on the other side of Red Dirt ditch do not have to join Three Lakes Water and Sanitation.** I have had comments with others about where a house was built (1/2 mile up) since it was in an area they wanted

**to have water, by doing that they force all the properties along that whole ½ mile to actually have to join water and sanitation. This should be stressed stronger about Three Lakes Water and Sanitation that give some type of “no this does not require the area above to join”.**

Commissioners Davis responded, the water and sanitation that is what I was discussing earlier, we have already modified Condition 13 to add Three Lakes Water and Sanitation as a review agency and we added Number 16 that when we come back to preliminary plat that there will be a potential impact study if there is an extension of that sewage line. The roads and the slopes of the roads, certainly a valid comment, the engineers reviews the plat and the Army Corp reviews the environmental impacts, they will be looking at this as part of the drainage study. The Master Plan that is in place, show the Growth Boundaries and this property was deemed part of the Urban Growth Area some time ago, so that has been part of our Master Plan. The Master Plan was created in 2011.

Commissioner Gnuse, no questions.

Commissioner Fournet, no questions.

Commissioner Fitch added, I wanted to say to Ray I appreciate what he is trying to do as the developer, personally I just wish it was in a different area that may be more appropriate.

Commissioners Graves, no questions.

Commissioner Karlstrom stated that Charles Garcia made the comment about the closeness to the creek. I was lead to believe at the last meeting that it is elevated quite a bit above the creek, not like they are right on the creek. Is that true?

Charles Garcia responded we can't tell from the maps that we have. It goes back to the fact that Mr. Trimble has admittedly been going in and doing work on the creek as part of this subdivision and that is troubling.

Commissioner Davis stated that was addressed at the last meeting. He has permission to do some rehabilitation work in the creek.

Charles Garcia stated he does not, he spoke to the Corp and he has no permission from the Corp to be doing anything in the creek. The permit is limited to the wetlands and the wetlands only.

Commissioner Davis asked the staff to address this issue. He stated there are no additional questions at this time. A reminder that this is sketch plan we discussed many items and he appreciated all the input. He is up to 17 conditions, I just recently talked about number 13 and 16 conditions. Condition 17 is the study of the pros and cons with the review agency with the 1 versus 2 entrances.

Commissioner Davis stated he missed David Englebert wanting to give a comment. We cannot hear David.

Commissioner Davis suggested asking him his question through the chat or send your comments to staff. Staff noted their e-mail address in the chat room.

Mr. Ray Trimble wanted to clarify. There have been some illusions to the map and being able to establish where the development is in relationship to the entire body of Stillwater Creek and the

Ranch. I wanted to correct the gentleman who was talking about 2 things. 1 was the work on the creek and the other was the fact that we are building along the creek. It is near County Road 4 **which would be near the east and south and not north and west. We put it a ½ mile from the creek.** Plus I know that I am within my rights, I have been in collaboration and discussion with the Corp and I did build a pedestrian bridge across the creek which didn't touch the water and I didn't touch any wetlands, it was a small impact. I am very sensitive to the water and the meadow. I just needed to make that statement. Currently I am in the process of getting a permit to dredge the 2 ponds, which are probably 30 years old and they have no redeeming value for wildlife, fish or birds.

Motion to recommend approval by Ingrid Karlstrom for the North Slope Subdivision – Sketch Plan – Stillwater Ranch – 11, LLC Ray Trimble with 17 staff conditions. Seconded by Tara Fournet. No further discussion. All in favor "aye", Deborah Fitch opposed. Motion carries.

**Rangeview 30' ROW Vacation – Michael Smith and Caroline Talcott**

Presented by: Alexander Taft, Planner, LEED Green Associate

**CERTIFICATE OF RECOMMENDATION**

Planning Commission December 9, 2020; Board of County Commissioners T.B.D.

**PROJECT NAME :** Right-of-Way Vacation pursuant to C.R.S. § Title 43, Article 2, Part 3

**APPLICANT :** Michael Smith and Caroline Talcott

**LOCATION :** Lots 4-7, 22-28, and 30 Rangeview Subdivision, Amended Final Plat, Tracts 1 and 2 of a portion of State of Columbine Tract B, located in part of Section 36, Township 4 North, Range 76 West of the 6<sup>th</sup> P.M. Grand County, Colorado.

**APPLICABLE**

**REGULATIONS :** C.R.S. § Title 43, Article 2, Part 3

**ZONING :** R- Residential District

**ATTACHMENTS :**

- h) Application and Narrative Letter
- i) Improvement Location Certificate, dated 6-23-2019
- j) Vicinity Map
- k) Title Commitment
- l) Recorded Property Transfer Deeds

**STAFF PLANNER :** Alexander Taft, LEED Green Associate

**REQUEST :** The Applicant is proposing the vacation of a Right-of-Way to cure encroachment and allow construction of a deck.

## **I. BACKGROUND**

### **a. PROPOSAL**

Michael Smith and Caroline Talcott, herein referred to as the Applicants, made an application requesting the vacation of a 30' Right-of-Way (ROW) adjacent to Lot 23. They are owners in a **25% (1/4) interest of Lot 23 as Joint Tenants. The intention of this application is to cure** encroachment of a deck on the 20' rear yard required in the Grand County Zoning Regulations.

The application was presented to the Board of County Commissioners originally in September 2019. Staff was told the Board would not vacate a single portion of the ROW. The Applicant and Staff discussed other options which included finding a way to vacate an entire stretch of unused ROW. In the Staff analysis section below more detail is listed about the notice completed to achieve a vacation of the whole stretch.

### **b. HISTORY**

The construction of a deck on the property subject to this proposal was discovered by a complaint received from a neighboring property owner. It was then orange tagged during a blight inspection on an adjacent property. Staff received an application for this deck on August 30, 2018 and worked with the Applicant to find resolution to these issues that prevented the approval of the site plan and issuance of a building permit. These issues were on hold over the winter months and were picked up in March of 2019 when the Applicant proposed the possibility of a ROW vacation to grant the space needed to cure the encroachment.

State Columbine Subdivision was platted in November 24, 1920, recorded at Reception No. 25643, created by the State Board of Land Commissioners. Paul Eckleman purchased several of the lots in State Columbine Subdivision, amended the State Columbine Subdivision Plat and created Rangeview Subdivision on July 10, 1947 recorded at Reception No. 65625.

One quarter ownership on Lot 23 began in December 1960 when Jack F. Faulkner and Kingston L Morris sold the property to Amos Sanches (Sanchez), John F. Kitson, John F. Conger, Leo R. Wadsack, and Alta L. Wadsack under a Warranty Deed recorded at Book 143 and Page 544. An agreement in Book 336 Pages 370-377 detailed rights and maintenance to the divided the improvements. That agreement generally views the improvements and the utilities to serve those improvements may be expanded so long as "the land occupied is not materially increased." The Applicants currently own what were identified as the 'Sanchez' improvements.

Above is the Rangeview Subdivision plat, the lot subject in this proposal is highlighted in blue. The central ROWs are sixty feet (60') in width and the most westerly ROW highlighted in red is thirty feet (30'). No roadway or access has been constructed in these thirty feet (30') ROW. Other ROW, highlighted in yellow, created by this Plat has previously been vacated for similar reasons.

## **II. STAFF ANALYSIS**

This application was originally brought on by a request for an alternative to a variance in order to finish the construction of a deck. Staff prefers this to a variance because it helps maintain the purpose and integrity of the zoning regulations. The Applicant's property is unique in the way the ownership has been conveyed over the last several decades.

Due to the Applicant having one quarter interest in the property, Staff would recommend a sign off by the majority of property owners on the subject property lot as the increase in land area, effectively increases "common area". It has been represented that three of the four other property

owners within Lot 23 have agreed that this is a reasonable request. One letter was provided to Staff **and included as an attachment by one of the ¼ interest owners when this was presented to the Board of County Commissioner in September 2019.**

Staff has previously reached out to the Assessor’s office to see what sort of additional financial burden could be added, the Assessor’s office represented that there is no or minimal impact to the total valuation for the additional tenth of an acre.

Staff believes to stay consistent with future needs that have not yet materialized in this application and consistent with previous applications a total twenty foot (20’) easement, being ten foot (10’) either side of the centerline of the ROW, shall be publically dedicated along the vacated ROW. This easement will be located within the limits of the rear yard, which vertical construction is supposed to remain outside of its limits.

It was originally Staff’s interpretation that there were no lots within the same subdivision, on the north side of this ROW and that all thirty feet 30’ of the ROW shall be added to Lots within the Range View Subdivision. Upon further research we believe that Range View is an Amended Plat of State Columbine subdivision which was created in 1920 and provided the original ROW. The ROW shall be split evenly between owners in Range View and State Columbine to the western most boundary of State columbine subdivision.

Consistent with C.R.S. § 43-2-303 Staff has supplied notice via first class mail to adjacent property owners within a minimum 250’ radius. Staff received little response in March when an attempt was made to gain response to confirming there were no disputes with the vacation if granted. Working with the Applicant, a notice was provided over the summer and several affected parties responded.

This table below details who responded and their comment:

Property Owner	Legal Description	Responded?	Support ?
CHICA, LLC c/o BUSSE, ROBERT & BEVERLY	METES & BOUNDS 76 ALL 33.22 AC IN SEC 36, T4N, R76W 33.22 AC+/- IN NE4SW4, SE4NW4 & NE4SW4 SEC 36 T4N R76W, LESS RIO	yes	yes
MORRELL, RICK & SCOTT	RANCHO SMALL TRACTS SUB EX DESC AT REC NO 2000-005219	yes	NA
SMITH, MICHAEL D	RANGE VIEW SUBDIVISION Lot: 22	yes	yes
LIVELY, DAVID LEE	RANGE VIEW SUBDIVISION NO 2 Lot: 31	yes	NA
MADIGAN, DANIEL & KATHY	STATE COLUMBINE AMND LOT B Lot: 1	NA	
BDQ GRAND ESTATES LLLP	RANGE VIEW SUBDIVISION Lot: 25,26	yes	yes
GRAVES, RICKEY E & LINDA M LACHAPPELLE	RANGE VIEW SUBDIVISION Lot: A	yes	yes

CRESPIN, MARIA L	RANGE VIEW SUBDIVISION Lot: B		
KOCHENDORFER, THE JOINT LIVING TRUST	RANGE VIEW SUBDIVISION Lot: 9	yes	NA
FISCHER, JOHN F & PATRICIA J	RANGE VIEW SUBDIVISION Lot: 24	yes	yes
WARE, LARRY J 2017 QUALIFIED PERSONAL R	RIO RANCHO SMALL TRACTS SUB EXEMP Lot: 3	yes	NA
BRADBURY, HADLEY & JOAN	RIO RANCHO SMALL TRACTS SUB EXEMP Lot: 1	NA	
KRATZ, KEITH A & LAURA L &	RANGE VIEW SUBDIVISION Lot: 23	yes	
STEINKE, STEVE & STEINKE, STEVE W &	RANGE VIEW SUBDIVISION Lot: 7	Called?	
APPLEQUIST, MARILYN S & GENE M	RANGE VIEW SUBDIVISION Lot: 28	yes	yes
KLUTSCH, JOHN E & KATHRYN L	RANGE VIEW SUBDIVISION Lot: 29	NA	

When contacted by the Applicant eleven (11) of sixteen (16) who would be impacted if the ROW is vacated, responded. Staff may have received phone calls from Steve Steinke and Hadley and Joan Bradbury but did not note those in writing.

Staff sent another group of First Class mailers out December 3, 2020 and hopes that will bring more calls. Additionally, Staff made contact with Keith Kratz to ask about further information and got another useful piece of contact information which will be used before the next meeting. Before presentation to the Board of County Commissioners, Staff will work with the applicant to tract down the remaining three (3) to five (5) property owners.

The pressure causing this request to move forward prior to having 90-100% response is empathy to those who did lose their homes in the East Troublesome Fire, the Applicant being one individual who did. The Applicant as stated above has been working on resolving this issue for approximately two years, now with the possibility to rebuild entirely Staff is trying to allow some closure and flexibility to complete what was intended prior to the fire.

**III. Compliance with C.R.S. 43 Article 2, Part 3 et seq. - Vacation Proceeding: Roads, Streets and Highways**

Grand County Community Development Staff has used the criteria in C.R.S. § 43 Article 2 Part 3, regarding vacation of roadways:

43-2-302:

- (1) Subject to the requirements set forth in sections 43-1-210 (5) and 43-2-106 governing the disposition of certain property by the department of transportation, whenever any roadway

has been designated on the plat of any tract of land or has been conveyed to or acquired by a county or incorporated town or city or by the state or by any of its political subdivisions for use as a roadway, and thereafter is vacated, title to the lands included within such roadway or so much thereof as may be vacated shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

- a. In the event that a roadway which constitutes the exterior boundary of a subdivision or other tract of land is vacated, title to said roadway shall vest in the owners of the land abutting the vacated roadway to the same extent that the land included within the roadway, at the time the roadway was acquired for public use, was a part of the subdivided land or was a part of the adjacent land.
- b. In the event that less than the entire width of a roadway is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.
- c. In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway, except as provided in paragraphs (a) and (b) of this subsection (1). In the event that the boundary lines of abutting lands do not intersect said roadway at a right angle, the land included within such roadway shall vest as provided in paragraph (d) of this subsection (1).
- d. In all instances not specifically provided for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his land, or any part thereof, is nearest in proximity.**
- e. No portion of a roadway upon vacation shall accrue to an abutting roadway.
- f. Notwithstanding any other provision of this subsection (1), a board of county commissioners may provide that title to the vacated roadway shall vest, subject to a public-access easement or private-access easement to benefit designated properties, in the owner of the land abutting the vacated roadway, in other owners of land who use the vacated roadway as access to the owners' land, or in a legal entity that represents any owners of land who use the vacated roadway as access to the owners' land. Title shall vest to the owner of the land abutting the vacated roadway as otherwise required by paragraphs (a) to (d) of this subsection (1), unless the board expressly requires the title to vest pursuant to the authority set forth in this paragraph (f) in the resolution to vacate the roadway that is approved by the board.

As identified in the Staff analysis above, the bolded portion of this section of the Vacation Proceedings note the right to the vested property if approved. Staff has completed further research regarding the vesting of the property to abutting property owners and that research determines that the ROW was originally dedicated to owners within the State Columbine subdivision and therefore it shall be split evenly between the northern and southern properties being 15' either side of the center of the Right - of - Way.

43-2-303:

**(1) All right, title, or interest of a county, of an incorporated town or city, or of the state or of any of its political subdivisions in and to any roadway shall be divested upon vacation of such roadway by any of the following methods:**

- (a) The city council or other similar authority of a city or town by ordinance may vacate any roadway or part thereof located within the corporate limits of said city or town, subject to the provisions of the charter of such municipal corporation and the constitution and statutes of the state of Colorado.
- (b) The board of county commissioners of any county may vacate any roadway or**

**any part thereof located entirely within said county if such roadway is not within the limits of any city or town.**

- (c) If such roadway constitutes the boundary line between two counties, such roadway or any part thereof may be vacated only by the joint action of the boards of county commissioners of both counties.
- (d) If said roadway constitutes the boundary line of a city or town, it may be vacated only by joint action of the board of county commissioners of the county and the duly constituted authority of the city or town.

CRS 43-2-303 (1) (b) is the authority by which the Grand County Board of County Commissioners (BOCC) is granted to vacate the thirty feet (30') ROW as proposed.

(2)

- (a) **No platted or deeded roadway or part thereof or unplatted or undefined roadway** which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road.
- (b) If any roadway has been established as a county road at any time, **such roadway shall not be vacated by any method other than a resolution approved by the board of county commissioners** of the county. **No later than ten days prior to any county commissioner meeting at which a resolution to vacate a county roadway is to be presented**, the county commissioners **shall mail a notice by first-class mail to the last-known address of each landowner who owns one acre or more of land adjacent to the roadway**. Such notice shall indicate the time and place of the county commissioner meeting and shall indicate that a resolution to vacate the county roadway will be presented at the meeting.
- (c) If any roadway has been established as a municipal street at any time, such street shall not be vacated by any method other than an ordinance approved by the governing body of the municipality.
- (d) If any roadway has been established as a state highway, such roadway shall not be vacated or abandoned by any method other than a resolution approved by the transportation commission pursuant to section 43-1-106 (11).
- (e) Paragraphs (b), (c), and (d) of this subsection (2) shall not apply to any roadway that has been established but has not been used as a roadway after such establishment.
- (f) If any roadway is vacated or abandoned, the documents vacating or abandoning such roadway shall be recorded pursuant to the requirements of **section 43-1-202.7**.

CRS 43-1-202.7 states the following:

Recording of documents vacating or abandoning a roadway. If any roadway is vacated or abandon by the state, by the county, or by a municipality, the documents vacating or abandoning such a roadway, **including but not necessarily limited to any resolution, ordinance, deed conveyance document, plat, or survey**, shall be recorded in the office of the clerk and recorder of the county in which such a roadway is located.

The vacation of this ROW will not leave any land adjoining without access. There is currently no constructed roadway within the ROW. A Resolution will be presented for signature by the BOCC to vacate the ROW which will be recorded in the office of the Clerk and Recorder of Grand County pursuant to the provisions of 43-2-303 (2) (b).

(3) **In the event of vacation under subsection (1) of this section, rights-of-way or easements** may be reserved for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone, and similar lines and appurtenances.

At the time of the creation of this certificate Staff is in process of contacting Xcel, Mountain Parks Electric Inc., Three Lakes Water and Sewer District, and Century Link. Mountain Parks Electric Inc. to verify there are no conflicts with the vacation of this ROW. Staff believes that a 20' utility easement shall be created for the purpose of maintaining utility access for future undetermined purposes.

(4) **Any written instrument of vacation or a resubdivision plat purporting to vacate or** relocate roadways or portions thereof which remains of record in the counties where the roadways affected are situated for a period of seven years shall be prima facie evidence of an effective vacation of such former roadways. This subsection (4) shall not apply during the pendency of an action commenced prior to the expiration of said seven-year period to set aside, modify, or annul the vacation or when the vacation has been set aside, modified, or annulled by proper order or decree of a competent court and such notice of pendency of action or a certified copy of such decree has been recorded in the recorder's office of the county where the property is located.

As demonstrated in the map above this Right-of-Way has never had a road constructed within its boundaries.

#### **IV. Planning Commission Review**

Planning Commission is scheduled to review this application at their regular meeting December 9, 2020.

#### **V. STAFF RECOMMENDATION**

Staff recommends approval of the vacation of the 30' Right-of-Way adjacent to Range View Subdivision Lots 4-7, 22-28 and Lot 30, and Lot A, B, and C, State Columbine Subdivision with the following conditions:

1. The resolution for the road vacation shall reserve a private access easement for the owners, successors and heirs of the properties that currently utilize the portion of the unnamed ROW to be vacated for access.
2. A twenty foot (20') "public" utility easement, ten foot (10') either side of the centerline, shall be reserved in the utility access. The use of said easements will allow construction, maintenance, and repair for all "public" utilities. The condition, if the vacation is approved by the Board of County Commissioners the easement shall be addressed and reserved within the BOCC resolution granting approval.

**All legal documents required in conjunction with the final approval of this request are subject to the review and acceptance of the County Attorney.**

Commissioner Davis asked if the applicants were on the line. Hearing none.

Commissioner Gnuse stated, no questions.

Commissioner Fournet stated, no questions.

Commissioner Fitch stated, no questions.

Commissioner MacDonald stated, no questions.

Commissioner Graves stated, no questions.

Commissioner Karlstrom asked how long the vacation is. Yes the length of what is being vacated?

Alex asked, like the length of the road? I did not calculate that.

Commissioner Karlstrom stated it does not matter I was just wondering how big it is.

**Alex replied that these lots are about a ¼ acre a piece and I would assume it is about a 1/8 of a mile.**

Commissioner Karlstrom stated it is a 30 foot Right of Way and the easement will end up being what 10 feet.

Alex replied 20 feet being 10 feet on either side of the center line. Then it will benefit parties on both sides.

Commissioner Davis asked I know the road has never been improved but we can also not leave properties without access so, can you show where the access is to each lot, my concern is Lots 1, 2, and 30.

Alex replied, I should clarify this graphic extends a little further than the request is intended. In the highlight area on the map shown, the platted Right of Way road dead ends then the constructed road dead ends at Lot 30. The access for Lots 1 & 2 is (Alex showed on map).

Commissioner Davis stated there is access from the northeast that gets you to Lots 1 & 2. Lot 30 is this weird cross over so it has access from within the subdivision next to Lot 28. Lot 22-whatever is on Sherman Road. Lot 3, Rio Del Rancho, I am guessing that is a road or a driveway going through it.

Alex stated yes Rio Rancho is a small tract which actually includes what this Metes and Bounds is identified as. There is a portion of Tract 4 of Rio Rancho small tracts (showing on map), these are all accessed through a private access easement which was include with that plat.

Commissioner Davis stated, we are not restricting any access. How about Lots A and B?

Alex replied, let's look at the plat graphic, there is a Right of Way that goes to the end (showing on map).

Commissioner Davis stated, so Lots A & B are the previous 1, 2, 3, 4, 6, 7.

Alex stated correct.

Commissioner Davis asked where this property is located.

Alex replied, this is on the far north and west side of Columbine Lake Subdivision.

Commissioner Davis stated 1 of the options in vacations is to split it down the middle of the road and give ½ to each. **So you will have 20 Quit Claim Deeds by the time this is said and done? You**

have to redefine your legal boundaries, so should that be a 3<sup>rd</sup> condition? Because the ownership has just changed?

Alex replied, I think this was in our recommendations. The statute gives us several different options that vacate the road and grant the easement so we can detail it out within the Resolution that is signed by the Board of County Commissioners (BOCC).

Commissioner Davis stated you are not looking to change the original proximity but you are looking to attach the vacation, OK that will be a lengthy Resolution, but as long as it is laid out. Have you confirmed that there is no utilities on the site of that proposed new easement?

Alex replied, we still need to confirm that.

Commissioner asked if there is any public questions/comments. Hearing none, he asked for a motion.

**Motion to recommend approval by Tara Fournet for Rangeview 30' ROW Vacation – Michael Smith & Caroline Talcott with staff conditions plus 1 condition (utilities) condition 3 prior to Board of County Commissioner's (BOCC). Seconded by Bob Gnuse. No further discussion. All in favor "aye", none opposed. Motion carries.**

Commissioners Davis added in our packet is a Resolution for the Planning Commission offering relief to those effected by the East Troublesome Fire. Grand County Planning Commission Resolution number 2020-12-1. It is a resolution recommending approval of a temporary emergency planning and zoning relief resolution for homeowners effected by fire damage to their homes associated with the East Troublesome Fire local disaster emergency declared by the Board of County Commissioners Resolution number 2020-10-22. In general this offers:

Relief from the strict enforcement of our zoning regulations for those effected for a period up to December 31<sup>st</sup>- 2024 allowing

- Temporary modification to ease the burden of rebuilding homes.
- Temporary suspension or modifications or waiver of zoning regulations.
- Temporary camping on effected properties while building, typically 1 year this is for 3 years.
- Non-conforming uses in buildings, allowing folks to for a period of 12 months to 36 months for non-conforming permissibility on their property.

I want to thank staff for pulling this together and for the commitment of the Board of County Commissioners (BOCC). I would encourage staff that if we need to amend or add another resolution that we do so appropriately to offer whatever services that this board can offer for those affected. This Resolution shows a signature by each and every one of us, not a signature but a vote of "aye". I will get this signed at the next opportunity.

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**Motion to adjourn. Approved Bob Gnuse. Seconded Ingrid Karlstrom. All in favor "aye" None opposed. Meeting adjourned.**

**Meeting adjourned at 10:21 pm.**

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