



## COUNTY PLANNING COMMISSION

### MEETING AGENDA MARCH 11, 2020

Norwood Public Library, 1455 Pinion Street,  
Norwood, CO 81423

8:30 AM Leave Telluride

9:30 AM Site Visit: 5 acre parcel located off County Road W35, Norwood, legally described as S2SE4SE4SW4 SEC 17 T45 R13, for a Construction/ Contractor Staging Area Special Use Permit

1. **10:15 AM CALL TO ORDER.**
2. **APPROVAL OF MINUTES, PLANNING COMMISSION AND STAFF COMMENTS**
3. **10:30 AM CONSIDERATION OF LAND USE APPLICATION** received from Ground Pounders LLC and Jason Baker, owner of a 5 acre parcel, legally described as S2SE4SE4SW4 SEC 17 T45 R13 NMPM, for a Construction/ Contractor Staging Area Special Use Permit for an Excavation & Snow Removal Operation, located off County Road W35, Norwood. MOTION
4. **10:50 AM ANNUAL REVIEW** of the Spitfire Realty LLC: Aircraft Landing Areas Special Use Permit, Hastings Mesa, approval granted February 20, 2019. MOTION
5. **11:10 AM WORKSESSION**: Discussion of potential Land Use Code Amendment to Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow limited outside commercial cultivation operations.
6. **WORKSESSION**: Discussion of the proposed Telluride Region master plan update.
7. Adjourn

**NOTE:** All times are approximate; items may begin earlier (except public hearings) or later than scheduled. For more information contact Planning Department at (970) 728-3083.

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**SAN MIGUEL COUNTY PLANNING COMMISSION  
MINUTES – REGULAR MEETING**

**January 8, 2020**

**Second Floor, Miramonte Building, County Offices, 333 W. Colorado Ave. Telluride**

Present: Lee Taylor, Chair  
Pamela Hall, Vice-chair  
Josselin Lifton-Zoline, Member  
Matthew Bayma, Sr. Alternate  
Tobin Brown, Jr. Alternate  
Ian Bald, Member

Absent: M.J. Schillaci, Secretary

Planning Staff Present: Kaye Simonson, Planning Director  
John Huebner, Senior Planner

County Staff Present: Nancy Hrupcin, Legal Assistant, County Attorney’s Office

9:00 a.m. Chair called the meeting to order.

**Approval of Minutes**

**MOTION** by Pam Hall to approve October 9, 2019 meeting minutes with corrections.

**SECONDED BY** Josselin Lifton-Zoline. **VOTE PASSED 6-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

**Election of Officers for 2020**

**MOTION** by Lee Taylor to appoint MJ Schillaci as Secretary for Planning Commission meetings in 2020, to re-appoint Lee Taylor as Chair [nominated by Pam Hall], and to re-appoint Pam Hall as Vice-Chair [nominated by Josselin Lifton-Zoline.] **SECONDED** by Ian Bald.

**VOTE PASSED 6-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	<u>Aye</u>	Nay	Abstain	<u>Absent</u>
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

**Planning Commission meeting dates for 2020**

**MOTION** by Pam Hall to approve the second Wednesday of each month as the regular meeting date for the Planning Commission in 2020. **SECONDED** by Matthew Bayma.

**VOTE PASSED 6-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	Aye	Nay	Abstain	<u>Absent</u>
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	<u>Aye</u>	Nay	Abstain	Absent

**Planning Commission and Staff Comments**

Kaye Simonson, County Planning Director updated the Planning Commission on various matters.

A meeting is tentatively scheduled with the Planning Commissions of the Towns of Telluride and Mountain Village on February 12, 2020 at the Miramonte County Building. A meeting with the Norwood Planning Commission may be planned for this summer.

An application is expected from Genesee Properties for development of the Society Turn Parcel.

New Senior Planner Troy Hangen is expected to start January 28, 2020. John Huebner has also been promoted to Senior Planner.

A Down Valley community meeting regarding water and sewer was held January 7, 2020.

**First Annual Review of the Schmid Family Ranch LLC: Sporting Uses and Social & Scenic Uses Special Use Permit**

Those who addressed the Commission:

John Huebner, Senior Planner

Kayla Brack, Foreman of Schmid Family Ranch

Maggie Stevens, Mentorship Director, Sheridan Arts Foundation

Chris Hazen, Director of SMCF Land Trust

Others present: Neil Brack, Schmid Family Ranch (SFR); Syd Schmid, SFR; Marvin Schmid, SFR; Julia Caulfield, KOTO; Suzanne Cheavens, Telluride Daily Planet

John Huebner, Senior Planner, presented the Staff report regarding the first annual review of Schmid Family Ranch, LLC Sporting and Social and Scenic Uses Special Use Permit dated January 8, 2020. He noted that an update prepared by Kayla Brack of the activities permitted at Schmid Family Ranch from the past year was included in the packet materials. He stated that a requirement of the review was to reach out to the neighbors, the parties who submitted comments during the review process, the Ptarmigan Ranch HOA and Wilson Mesa HOA, other interested parties to solicit comments on the permit activities in the last years.

John said the three comments received by the Planning Department were generally supportive of the activities at Schmid Family Ranch (SFR) this past year. He pointed out that the access to the

main ranch property is from Silver Pick Road (CR 60M) and then from CR 59H to special events at the ranch's Upper Place. Jim Boeckel, Fire Marshal, Telluride Fire Protection District, commented he had no objections or comments on the renewal of this special use permit. Ryan Righetti, Road & Bridge Director, commented verbally to Planning staff that he had not received any complaints regarding the special permit activities or traffic on Silver Pick Road. Rob Roberts on behalf of the Ptarmigan Ranch HOA wrote that Kayla had especially done a good job and deserved kudos for reaching out to the neighbors when activities occurred. Rob commented that some commercial vehicles were driving too fast on CR 59H, and this had made one of the residents uncomfortable. John suggested that Kayla as part of her operations could remind the wedding vendors to drive safely and observe the posted speed limits and road conditions. John stated that Planning staff does not recommend any changes to the Special Use Permit, and is supportive of the job done by Schmid Family Ranch this past year.

Pam Hall asked if there will be another review of the special use permit every year now. John clarified that annual reviews are required this year (2020) and next year (2021), and that the Board of County Commissioners have the authority to require additional annual reviews. Matthew Bayma asked if the applicant was seeking any changes or increases to activities allowed under the special use permit. Kayla Brack replied not at this time.

Lee Taylor asked if the applicant would like to provide any additional information.

Kayla Brack said that in regard to the comment made by Ptarmigan Ranch HOA in regards to traffic she has become more involved with the whole process; she is talking more to the actual vendors on site and making sure they understand what their responsibilities are, road safety issues, and to respect our neighbors. She added she reaches out to neighbors regularly and that all vendors have been respectful. She said she is always on site and that everything has gone really smoothly this last year. Several wedding nominated Schmid Ranch for the best of Telluride award. The ranch experiences of those with the 4-H Program, Telluride Academy and Wild West Fest were very good this year.

Lee Taylor asked if the public would like to provide any comments.

Maggie Stevens of the Wild West Fest stated her support for the Schmid Family Ranch. She said the program is very successful and very exciting for the inner city kids who really enjoy their overnight ranch stay and ranch activities.

Chris Hazen, San Miguel Conservation Foundation Director, stated that SMCF is the holder of the conservation easement on the Schmid Ranch property. He related his extensive involvement with the applicant and county during the application process. He said SMCF has heard no comments from any neighbors on Wilson Mesa during the subsequent twelve months since approval of the special use permit. He said that the family had done what they said they would do and that SMCF was 100% supportive of their continued special use permit operations.

Lee Taylor closed the meeting to public comments.

**MOTION** by Matthew Bayma that they recommend to the Board of County Commissioners that no changes to be made to the approved Schmid Family Ranch LLC: Sporting Uses and Social and Scenic Uses Special Use Permit based on the finding the administration and oversight for the approved special uses has complied with the terms and conditions of approval.

**SECONDED** by Josselin Lifton-Zoline. **VOTE PASSED 5-0.**

Lee Taylor	<u>Aye</u>	Nay	Abstain	Absent
Pamela Hall	<u>Aye</u>	Nay	Abstain	Absent
Ian Bald	<u>Aye</u>	Nay	Abstain	Absent
M.J. Schillaci	Aye	Nay	Abstain	<u>Absent</u>
Josselin Lifton-Zoline	<u>Aye</u>	Nay	Abstain	Absent
Matthew Bayma	<u>Aye</u>	Nay	Abstain	Absent
Tobin Brown	Aye	Nay	Abstain	Absent

**Worksession: Discussion regarding 2020 major Planning projects**

Kaye Simonson, County Planning Director updated the Planning Commission on the 2020 Planning Department Work Program.

10:41 a.m. Adjourned.

Respectfully Submitted,

\_\_\_\_\_  
Nancy Hrupcin, Legal Assistant, County Attorney

and

\_\_\_\_\_  
John Huebner, Senior Planner

Approved on \_\_\_\_\_.

SAN MIGUEL COUNTY PLANNING COMMISSION

\_\_\_\_\_  
M.J. Schillaci, Secretary

Public Meeting Record

County Planning Commission

Application: Ground Pounders

Special Use Permit: Construction/Contractor Office and Staging Area, Wrights  
Mesa Zone District

Date: March 11, 2020

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).
2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).
3. Memorandum to the San Miguel County Planning Commission from Troy Hangen, Senior Planner dated March 11, 2020.
4. Draft Resolution of the County Planning Commission, San Miguel County, Colorado, Resolution 2020-001, Approving a Construction/Contractor Office and Staging Area Special Use Permit For Ground Pounders In Wrights Mesa Zone District.
5. Application submitted by Ground Pounders dated February 10, 2020.
6. Applicant's Certifications of Compliance with the public noticing requirements of the San Miguel County Land Use Code Section 3-9 dated August 31, 2019.

AGENCY COMMENTS

7. Memorandum from Troy Hangen, Senior Planner to Referral Agencies dated February 12, 2020.
8. Email from Ryan Righetti, County Road Director to Troy Hangen, Senior Planner received February 27, 2020.
9. Email from Lisa Garrett, County Site Inspector to Troy Hangen, Senior Planner received February 18, 2020.
10. Email from Patti Grafmyer, Administrator for the Town of Norwood to Troy Hangen, Senior Planner received February 26, 2020.
11. Email from Patti Grafmyer, Administrator for Norwood Water Commission to Troy Hangen, Senior Planner received February 26, 2020.
12. Email from Mark Caddy, Norwood District manager for Colorado Parks and Wildlife to Troy Hangen, Senior Planner received March 2, 2020.

13. Email from John J. Bockrath, District Chief for Norwood Fire Protection District to Troy Hangen, Senior Planner received March 4, 2020.

#### OTHER

14. Reference Letter from Kaye Simonson AICP, San Miguel County Planning Director, in regards to Phase I Environmental Site Assessment created on May 29, 2019
15. Phase I Environmental Site Assessment Created by Avant Environmental Services Inc. for the existing owner, Jason Baker, on May 20, 2019

#### PUBLIC COMMENTS

None

# MEMORANDUM

**MEETING DATE:** March 11, 2020  
**TO:** San Miguel County Planning Commission  
**FROM:** Troy Hangen, Senior Planner  
**RE:** *Ground Pounders Construction/Contractor Office and Staging Area*  
- Special Use Permit

Applicant: Mike Kimball & Mike Kimball II, Ground Pounders

Applicant's Representative: Bo James Nerlin

Property Owner: Jason Baker

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## SUMMARY OF REQUEST

Mike Kimball and Mike Kimball II of Ground Pounders have submitted an application requesting approval of a Special Use Permit for the installation and operation of a Construction/Contractor Office and Staging Area. The 5-acre parcel, #429517300003, is located approximately 2 miles northwest of the Town of Norwood and is zoned WM-Wright's Mesa.

## PROPOSAL

Mike Kimball and Mike Kimball II of Ground Pounders are under contract to purchase a 5-acre parcel to the northwest of Norwood on the north side of County Road W35. Ground Pounders is a Colorado Corporation that operates a general contracting service that provides residential excavation, road construction/maintenance and snow removal services primarily in San Miguel County. The applicant proposes to install a 2,500 square foot Construction/Contractor Office and Staging Area for their established business. It will include a garage for the routine repair and maintenance and storage of equipment plus a small office. There will also be three steel shipping containers for storage. A Construction/Contractor Office & Staging Area is a use allowed in the WM-Wright's Mesa Zone District subject to a One-Step Planning Commission Special Use Permit Review. The main purpose of the structure is to work on and maintain their equipment during the winter months.

The property presently has access from CR W35. The Town of Norwood will provide water to the parcel and an on-site water treatment, (OWTS) will be installed.

## BACKGROUND

The parcel is the former Town of Norwood Landfill that was in use from the 1950's until the 1980's. There is no closure documentation on record with the State.

A Phase I Environmental Site Assessment (ESA) was performed and is attached as an Appendix to this report. The Planning Department reviewed the ESA and issued a letter, also attached, regarding conditions for development of the site.

The west half of the property is lightly treed with pinyon pine and juniper trees, while the east half is cleared. There are residences on the properties immediately east and south. The SMPA solar facility and County Transfer Station are further east. CR W35 rests along the southern edge of the site and makes a turn back to cross the northwest corner of the site.

## **PUBLIC NOTICES**

As required by C.R.S. § 30-28-106(1), a Notice of Public Meeting was published in the Telluride Daily Planet and in the Norwood Post on Wednesday, March 4, 2020. Public Notice and the required posting was also completed by Mike Kimball on February 17, 2020. Notice was mailed to all property owners within 500 feet of the property.

## **REFERRALS**

### **Notified Referral Agencies:**

- San Miguel County Attorney
- San Miguel County Road and Bridge Department - responded
- San Miguel County Site Inspector - responded
- Colorado Parks and Wildlife - responded
- Colorado Division of Water Resources
- Town of Norwood - responded
- Norwood Water Commission - responded
- Norwood Fire Protection District - responded

San Miguel County Site Inspector: Requested clarification regards whether the site will be served by Norwood water or a well.

Town of Norwood: In support of the proposal

Norwood Water Commission: In support of proposal

San Miguel County Road and Bridge: A driveway permit will be required, and improvements may be necessary as there is no current approach driveway permit on file.

Colorado Parks and Wildlife: The CPW has identified the proposed site as an area close to a movement corridor for black bears, mountain lions, mule deer, elk, bobcat, and coyotes. Sensitive fencing for wildlife is desired if installed. After construction has ended, CPW would like to see the use of native species when reclaiming disturbed soils.

Norwood Fire Protection District: NFPD approves of the Special Use Permit. They are requesting 24 hour access to the property and a security code or lock box key will be

required.

**Public Comments:** As of the writing of this report, no public comments have been received.

# VICINITY MAP



VICINITY MAP  
NTS

S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SECTION 17 TOWNSHIP 45 NORTH  
RANGE 13 WEST SAN MIGUEL COUNTY, COLORADO

PROJECT MANAGER: GEA      DATE: FEBRUARY 6, 2020  
DRAWN BY: ADM      PROJECT #: 2020002



**ALPINE LAND  
CONSULTING, LLC**

P.O. BOX 234  
RICO, COLORADO 81332  
970-708-0326  
GREGG@ALPINELANDCONSULTING.COM

AERIAL MAP





## REVIEW STANDARDS

### Regulations:

The Planning Commission shall evaluate the Special Use Permit application using LUC Section 5-319 K, "Review Standards for all Wright's Mesa Zone Special Use Permits." These Standards are listed below:

#### 5-319 K. Review Standards for all WM Zone District Special Uses

All special uses shall:

- I. Be consistent with the County Master Plan, the County Land Use Policies in Article 2 and the purpose of the WM Zone District;

*The SUP proposal is consistent with the County Master Plan and the WM Zone District. Article 2 of the LUC has been addressed with an Environmental Site Analysis and a reference letter (see attachments).*

- II. Be consistent with and compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, and/or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development;

*The proposed new use will visually merge with the existing residential and non-residential uses.*

- III. Be designed, located and proposed to be operated so that the public health, safety and welfare will be protected;

*The proposed new use will abide by all Codes and Standards for development protecting the health, safety, and welfare of the neighbors.*

- IV. Be located, designed and operated to minimize adverse effects, including impacts on scenic quality, pedestrian and vehicular circulation, parking, trash, service delivery, noise, vibration and odor on surrounding properties. (The allowed number of employees or occupants may be limited depending upon potential impacts on surrounding properties);

*The new structure will be approximately 146' from the front setback and will be screened from a mass of vegetation. A wood privacy*

*fence will screen the storage containers.*

- V. Provide adequate public facilities and services to serve the special use, including but not limited to roads, adequate water supply in terms of both quality and quantity, sewer, solid waste and fire protection;

*The site plan shows a 16 foot wide driveway with a gravel surface. This should be sufficient to serve the property. The site plan indicates a commercial well but the application narrative says it will be served by Norwood Water – the applicant will need proof of water service prior to issuance of the Development Permit and OWTS.*

- VI. Not substantially adversely affect agriculture or ranching operations, residences or scenic quality of land surrounding State or County roads (including through addition of traffic);

*This proposal will not affect any agriculture or ranching operations.*

- VII. Comply with setback and height restrictions; however, the County may require greater setbacks to mitigate impacts on neighbors or scenic quality;

*The proposed structure is set 146 feet from the road and towards the western side of the site – far from the nearby residences.*

- VIII. Be required to shield exterior lighting to prevent direct visibility of light bulbs from off-site. All exterior lighting shall be directed toward the ground or the surface of a building. High-intensity sodium-vapor and similar lighting shall be prohibited;

*A lighting plan was not submitted and will be required with the development permit. Norwood is a Dark Sky Community. The applicant should make an effort to minimize night lighting.*

- XI. Be located to preserve scenic views and blend in with and utilize the natural topography;

*Existing trees will be kept, with no significant change to the site.*

- X. Use native or similar horticultural materials for revegetation and reforestation, and provide guarantees that any needed revegetation or reforestation will be completed during the first planting season after construction;

*Existing trees will be kept. A revegetation and weed control plan will be required.*

- XI. Only include roads, utilities and associated structures that bear logical relationships to existing topography and minimize cuts and fills;
- XII. Comply with the applicable sign standards in Land Use Code Section 5-704; and

*The site plan indicates an address sign. A business sign will require a sign permit.*

- XIII. Be consistent with the historic rural and agricultural character of Wright's Mesa. The following standards, along with input from neighbors, shall be considered by the County in determining consistency:

#### **Siting of Buildings**

- Locate buildings away from open meadows, visible ridges, and wildlife habitat areas.
- Cluster structures with surrounding open space ("ranch compound" concept).
- Locate buildings to maximize solar access.

#### **Roads/Driveways**

- Minimize cuts and fills, which should not exceed 2:1 slopes.
- Stabilize cut and fill slopes with erosion-resistant vegetation or material contoured to blend with natural, undisturbed terrain.
- Maintain the natural drainage on the property to the greatest extent possible.
- Encourage shared driveways between buildings.
- Avoid cutting through open meadows.
- Surface driveways with gravel, or employ dust-control.

#### **Parking**

- Locate parking areas behind or to the side of buildings.
- Consider parking-surface alternatives, such as gravel and reinforced sod.
- Separate parking areas from buildings with pedestrian ways and planting zones.
- Landscape at least 15 percent of parking areas, and provide one shade tree for each 300 square feet of parking.

#### **Building Materials**

- Utilize predominantly natural building materials, such as wood siding and native stone. (Corrugated metal buildings are discouraged, and at minimum should be sited to minimize visibility from roads.)
- Encourage natural earth tones and muted colors to blend with surroundings.
- Paint or anodize exposed metal flashing or trim to reduce reflectivity.
- Encourage composition shingle, metal, slate or other earth toned non-reflective roofing.

#### **Architectural Elements**

- Encourage front and side porches.
- Encourage roof slopes that change pitch and peaked roofs with gentle slopes.
- Encourage horizontal building forms (this does not preclude two stories).
- Encourage pitched roofs, and discourage flat, mansard, curved and domed roofs.
- Match roof colors with the darkest colors in the adjacent landscape.
- Encourage reuse, renovation, and/or modification of existing buildings.

### **Accessory Structures**

- Screen mechanical appurtenances, service and storage areas and trash receptacles from public view.
- Utilize the same or similar building materials (forms, colors and textures) for main and accessory structures.
- Mitigate visibility of accessory structures with fences, walls and/or landscaping

These Standards are generally met through site design. They will be further evaluated when the Development Permit for the building is submitted.

## **SECTION 5-10: SPECIAL USES**

### 5-1001 General

This section of the Code establishes standards to review special uses subject to either one-step Planning Commission or Board of County Commission review or two-step special use permit review. Special uses may or may not be appropriate in certain locations depending on degree of conformance with adopted, relevant standards and policies. For certain special uses these standards may supplement special standards for specific uses. Refer to Section 3-5 for one-step review procedures, Section 3-6 for two-step review procedures and Section 4-7 for submission contents.

### 5-1002 Standards for All Special Uses and Other Uses Requiring One-step and Two-step Review

All Uses requiring One-step and Two-step Review, except Oil and Gas Exploration and Development (Section 5-26), shall comply with the standards in this section.

### 5-1002 A. Consistency with Master Plan, Land Use Polices, Zone District and Neighborhood

The Uses to be reviewed shall be:

- I. Consistent with the County Master Plan;
- II. Consistent with County Land Use Policies in Article 2;
- III. Consistent with the purpose of the Zone District in which it is proposed to be located;
- IV. Consistent with and Compatible with the Character of the Neighborhood of the Parcel proposed for Development and surrounding land Uses, and may enhance the mixture of

complementary Uses and activities in the Neighborhood of the Parcel proposed for Development;

V. Necessary for public convenience at the proposed location; and

VI. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

5-1002 B. Impacts on Surrounding Area

Compatibility with the Character of Parcels adjacent to the Parcel shall be expressed in terms of appearance, scale and features, Site design, landscaping, as well as, the control and Minimization of adverse Impacts including Noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, Impacts on pedestrian and traffic congestion, parking, trash, service delivery, or other undesirable or hazardous conditions.

5-1002 C. Public Facilities

Adequate public facilities and services shall exist or shall be provided to serve any reviewable Use including, but not limited to, roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical, hospital and medical, drainage system and schools.

5-1002 D. Bond Requirement

A bond may be required, as a condition of any reviewable Use permit as deemed necessary by the Board of Commissioners or the Planning Commission, sufficient to cover the cost of Site remediation and/or satisfaction of the other conditions and requirements.

5-1002 E. The following must be addressed as part of any application:

- I. A Site plan including:
  - a. Ownership, Use and zoning of all adjacent Parcels;
  - b. Driveways, streets and right-of-way, Access ways, including points of ingress, egress, parking plan;
  - c. Easements;
  - d. Location and dimensions of Structures and Signs;
  - e. Typical elevations/Heights of such Buildings;
  - f. Landscaping;
  - g. Topography; and
  - h. Specific areas proposed for specific types of land Use/the identification of specific land Uses;
  - i. Information regarding the function and characteristics of any Building or Use proposed, including: days and hours of operation, number of employees, number of students, number of rooms for rent, etc., as applicable;
- II. Lighting plan;
- III. Signs – all Signs must meet Section 5-704 standards;
- IV. Water/sewer plan – must meet state standards and may include verification of a commercial well permit;

- V. Drainage plan;
- VI. Grading plan;
- VII. Dust control plan;
- VIII. Detailed engineered plans and specifications by a registered Colorado Professional Engineer as requested by staff or Referral Agents;
- IX. Weed control plan that must include use of weed free hay or straw;
- X. Fencing Plan; and
- XI. Additional permits as necessary from other agencies.

*The application generally addresses all the requirements contained in Section 5-10 Special Uses and issues identified by the Planning staff. The County Road and Bridge (R&B) Director may ask for a driveway apron at the time of the approach permit, to be determined upon review of the driveway permit.*

### **Recommendation**

Staff recommends **APPROVAL** of the Construction/Contractor Office and Staging Area Special Use Permit. The following is a sample motion:

“Move to Approve the Ground Pounders Special Use Permit to allow construction of a 2,500 square foot Construction/Contractor shop and office building, with outdoor parking and gravel staging area and up to three (3) shipping containers, based on the findings that the uses as proposed are consistent with Land Use Code 5-319 E, Uses Allowed Subject to One Step Planning Commission, Special Use Review; 5-319 K, Review Standards for all WM Zone District Special Uses; 5-10, Special Uses; and the County Master Plan, with the following conditions:

1. All written representations of the applicant in the original submittal and all supplements, letters and emails are deemed to be conditions of approval, except to the extent modified by this Motion.
2. The applicant shall provide evidence that Norwood Water Commission will serve the property.
3. A lighting plan shall be submitted. All lighting shall be shielded and directed down and meet the requirements of LUC Section 5-319.K.VIII.
4. Submit a weed control and revegetation plan with the Development Permit application. The vegetation plan shall include revegetation of all disturbed areas with an approved seed mix.
5. A Road and Bridge Driveway permit shall be obtained and all conditions of that permit shall be met.

6. The Applicant shall apply for and obtain a Development Permit and a Building Permit prior to making any site improvements and constructing the building. A Geotechnical/soils report shall be provided, demonstrating there is competent fill to support the structure.
7. The use of the site shall be limited to the areas shown on the site plan. There shall be no further removal of trees, expansion of parking and storage areas, or additional storage containers without County Planning approval.

**RESOLUTION OF THE COUNTY PLANNING COMMISSION,  
SAN MIGUEL COUNTY, COLORADO,  
APPROVING A SPECIAL USE PERMIT FOR A CONSTRUCTION/CONTRACTOR  
OFFICE WITH STAGING AREA FOR GROUND POUNDERS IN WRIGHTS MESA  
ZONE DISTRICT**

**Resolution 2020-001**

**WHEREAS**, Bo James Nerlin, on behalf of Ground Pounders, Mike Kimball and Mike Kimball II, Owners, (Applicant), on a 5-acre parcel owned by Jason Baker (Owner) in the Wrights Mesa (WM) Zone District, located approximately 2 miles northwest of the Town of Norwood at Parcel # 429517300003 (on County Road W35), and more particularly described as shown on Exhibit A Legal Description, submitted an application on February 10, 2020 seeking a Special Use Permit; and

**WHEREAS**, the application Construction/Contractor Office and Staging Area Special Use Permit was referred to the County Attorney, County Road and Bridge Director, County Site Inspector, Colorado Parks and Wildlife, Colorado Division of Water Resources, Town of Norwood, Norwood Water Commission, and Norwood Fire Protection District for review and comment; and

**WHEREAS**, as required by C.R.S. § 30-28-106(1), a Notice of Public Meeting was published in the Telluride Daily Planet and in the Norwood Post on Wednesday, March 4, 2020; and

**WHEREAS**, as required by C.R.S. § 24-65.5-103(1), a Public Notice was mailed to all property owners within 500 feet of the proposed special uses, and the required posting was completed by Mike Kimball on February 17, 2020; and

**WHEREAS**, the Planning Commission conducted a site visit and considered this application, along with relevant evidence and testimony, at a public meeting in Norwood on Wednesday, March 11, 2020.

**NOW, THEREFORE, BE IT RESOLVED** that the County Planning Commission of San Miguel County, Colorado, approves the Ground Pounders Special Use permit to allow a 2,500 square foot Construction/Contractor Office and Staging Area on a 5-acre parcel, based on the finding that the uses as proposed in the application are consistent with and comply with the review standards in Land Use Code Sections 5-319 E. Uses Allowed Subject to One-step Planning Commission Special Use Permit Review; 5-319 K. Review Standards for all WM Zone District Special Uses; 5-10: Special Uses; and the County Master Plan, with the following conditions:

1. The applicant shall provide evidence that Norwood Water Commission will serve the property.
2. A lighting plan shall be submitted. All lighting shall be shielded and directed down and meet the requirements of LUC Section 5-319.K.VIII.

3. Submit a weed control and revegetation plan with the Development Permit application. The vegetation plan shall include revegetation of all disturbed areas with an approved seed mix.
4. A Road and Bridge Driveway permit shall be obtained and all conditions of that permit shall be met.
5. The Applicant shall apply for and obtain a Development Permit and a Building Permit prior to making any site improvements and constructing the building. A Geotechnical/soils report shall be provided, demonstrating there is competent fill to support the structure.
6. The use of the site shall be limited to the areas shown on the site plan. There shall be no further removal of trees, expansion of parking and storage areas, or additional storage containers without County Planning approval.

**BE IT FINALLY RESOLVED** that all written representations of the applicant in the original submittal and all supplements, letters and emails are deemed to be conditions of approval, except to the extent modified by this review process.

**DONE AND APPROVED** by the County Planning Commission of San Miguel County, Colorado, on March 11, 2020.

**SAN MIGUEL COUNTY, COLORADO  
PLANNING COMMISSION**

By: \_\_\_\_\_  
Lee Taylor, Chair

Vote:	Lee Taylor	Aye	Nay	Abstain	Absent
	Pamela Hall	Aye	Nay	Abstain	Absent
	Ian Bald	Aye	Nay	Abstain	Absent
	M.J. Schillaci	Aye	Nay	Abstain	Absent
	Josselin Lifton-Zoline	Aye	Nay	Abstain	Absent
	Matthew Bayma	Aye	Nay	Abstain	Absent
	Tobin Brown	Aye	Nay	Abstain	Absent

ATTEST:

By: \_\_\_\_\_  
M.J. Schillaci, Secretary

EXHIBIT “A” Legal Descriptions

EXHIBIT “B” Public Meeting Record list

EXHIBIT “C” Site plan

[Z:\Applications\2020\_Ground Pounder SUP\_Wrights\_Mesa]

# EXHIBIT A

## LEGAL DESCRIPTION

S ½ SE ¼ SE ¼ SW ¼, SECTION 17, T.45N., R.13W., N.M.P.M. COLORADO

## **Exhibit B**

Public Meeting Record

County Planning Commission

Application: Ground Pounders

Special Use Permit: Construction/Contractor Office and Staging Area, Wrights  
Mesa Zone District

Date: March 11, 2020

1. San Miguel County Land Use Code (Adopted 11/30/90) with all amendments to date (By Reference Only).
2. San Miguel County Comprehensive Development Plan (Adopted 8/3/78) with all amendments to date (By Reference Only).
3. Memorandum to the San Miguel County Planning Commission from Troy Hangen, Senior Planner dated March 11, 2020.
4. Draft Resolution of the County Planning Commission, San Miguel County, Colorado, Resolution 2020-001, Approving a Construction/Contractor Office and Staging Area Special Use Permit For Ground Pounders In Wrights Mesa Zone District.
5. Application submitted by Ground Pounders dated February 10, 2020.
6. Applicant's Certifications of Compliance with the public noticing requirements of the San Miguel County Land Use Code Section 3-9 dated August 31, 2019.

## AGENCY COMMENTS

7. Memorandum from Troy Hangen, Senior Planner to Referral Agencies dated February 12, 2020.
8. Email from Ryan Righetti, County Road Director to Troy Hangen, Senior Planner received February 27, 2020.
9. Email from Lisa Garrett, County Site Inspector to Troy Hangen, Senior Planner received February 18, 2020.
10. Email from Patti Grafmyer, Administrator for the Town of Norwood to Troy Hangen, Senior Planner received February 26, 2020.
11. Email from Patti Grafmyer, Administrator for Norwood Water Commission to Troy Hangen, Senior Planner received February 26, 2020.

12. Email from Mark Caddy, Norwood District manager for Colorado Parks and Wildlife to Troy Hangen, Senior Planner received March 2, 2020.

13. Email from John J. Bockrath, District Chief for Norwood Fire Protection District to Troy Hangen, Senior Planner received March 4, 2020.

#### OTHER

14. Reference Letter from Kaye Simonson AICP, San Miguel County Planning Director, in regards to Phase I Environmental Site Assessment created on May 29, 2019

15. Phase I Environmental Site Assessment Created by Avant Environmental Services Inc. for the existing owner, Jason Baker, on May 20, 2019

#### PUBLIC COMMENTS

None





J. David Reed, P.C.  
ATTORNEYS AT LAW

J. David Reed | Bo James Nerlin | James D. Mahoney | Andrew M. Boyko

MONTROSE • RIDGWAY • TELLURIDE

Bo James Nerlin  
[bnlerlin@jdreedlaw.com](mailto:bnlerlin@jdreedlaw.com)

February 10, 2020

Via email and hand delivered: [kayes@sanmiguelcountyco.gov](mailto:kayes@sanmiguelcountyco.gov); [johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)

Ms. Kaye Simonson, Planning Director  
San Miguel County Planning Department  
PO Box 548  
Telluride, Colorado 8135

Mr. John Huebner, Associate Planner  
San Miguel County Planning Department  
PO Box 548  
Telluride, Colorado 81435

*Re: Ground Pounders – Mike Kimball, Mike Kimball II  
Special Use Permit: Wrights Mesa*

Dear Ms. Simonson:  
Dear Mr. Huebner

Our office represents Ground Pounders, a Colorado Corporation, and its owners Mike Kimball and Mike Kimball II (combined the “Applicant”) concerning their request for a Special Use Permit for real property located on Wrights Mesa, Parcel No. #429517300003 (hereinafter the “Property”). The Applicant is under contract to purchase the Property from its current owner Mr. Jason Baker. The Applicant is seeking a Special Use Permit under Section 5-319(E)(VI) and 5-319(K) of the County Land Use Code to install a 2500 square foot garage structure (the “Shop”) with an office, to store and maintain equipment owned by the Applicant. The Applicant operates a general contracting service that provides residential excavation, road construction/maintenance and snow removal services primarily in San Miguel County.

The Property is a five-acre parcel accessed off of CR W35, approximately five miles northwest of Norwood. The Property is currently zoned Wrights Mesa. The Applicant’s proposed use is not a use by right, thus this application for One Step County Planning Commission review for a Special Use Permit.

In support of the Applicant’s request for a Special Use Permit, enclosed with this letter are the following:



## J. David Reed, P.C.

ATTORNEYS AT LAW

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Ms. Kaye Simonson, Planning Director

Mr. John Huebner, Associate Planner

February 10, 2020

Page 2 of 5

1. Agency Letter from the owner Mr. Jason Baker authorizing the Applicant to submit this application;
2. Agency Letter from the Applicant authorizing our office's representation;
3. Title Commitment for the Property dated January 17, 2020;
4. Preliminary Site Plan demonstrating the Applicant's proposed use for the Property, and where on the Property the Applicant intends to install the Shop and related infrastructure;
5. Plan elevations demonstrating the proposed exterior of the Shop, the dimensions of the Shop and exterior colors;
6. Vicinity Map showing the Property in location to the Town of Norwood;
7. Noticing Map listing all owners within 500 feet of the Property;
8. List of equipment owned by the Applicant, and breakdown of Applicant's proposed trips to the Property.

As to the County Planning Department letter of January 22, 2020, the following is the Applicant's response to the issues raised by the County during the pre-application conference.

### Use of the Property

In the event the Applicant is successful, it will look to install the Shop within the next twelve months. The Shop itself will be constructed of steel laying on a concrete pad, and the Applicant will obtain all proper building permits for the installation of the same. Concerning the use of the Shop, the Applicant anticipates that 95% of the building will be used as a garage, storage facility, and the remaining 5% for a small office. At this time the Applicant does not anticipate installing a residence on the Property.

The Property currently has a driveway that accesses CR W35, and therefore the Applicant does not need an access easement. The Property also has access to Town of Norwood municipal water, which, if approved, the Applicant will tie into with the purchase of a water tap. The Property does not have access to municipal sewer; therefore, the Applicant will install a septic tank to handle waste generated from use of the Shop. As the Applicant can access Town of Norwood water, the



## J. David Reed, P.C.

ATTORNEYS AT LAW

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Ms. Kaye Simonson, Planning Director

Mr. John Huebner, Associate Planner

February 10, 2020

Page 3 of 5

Applicant does not anticipate the need for a Commercial Well Permit. The Applicant is willing to and will install an Onsite Wastewater Treatment System upon approval, which it is believed will meet its proposed use.

The Applicant anticipates that any one time, it will have between three to five pieces of equipment stored on the Property. The Applicant will use the Shop primarily to work on and maintain their equipment during the winter months. The Applicant will not undertake any fabricating on the Property. The Shop will have six parking spaces for the Applicant's employees, most of which will carpool to the Property.

It is anticipated that during the winter months the Applicant and its employees will have up to four trips a day to the Property. During the summer the Applicant anticipates one – to – three trips a day to the Property.

### Environmental Impact

Upon approval and construction of the Shop, Applicant will apply a County approved mix of hydroseed upon any disturbed areas. Further, the Applicant is willing to with the San Miguel County Weed Manager to mitigate and prevent the spread of any noxious weeds. The Shop will be installed in the northwest corner of the Property, in a wooded area making it naturally screened from CR W35.

If approved, the Applicant will install minimal privacy fencing surrounding the Shop to protect equipment and secure the Property. The fencing will be wood fencing and should not have any impact on wildlife. Further, the Applicant will install minimal lighting on the Shop, all downward facing to be used to light ingress and egress.

The size of the Shop itself is within the scope of the size of a single-family home that could be constructed as a use by right. Further, there is no irrigation canals or ditches on the Property, thus there is not the risk of any wastewater from the Applicant entering the same. Lastly, as most of the work on the Property will be contained in the Shop, and there is not any water on the Property, the Applicant does not anticipate any impact on wildlife habitat. To the extent there is a concern, the Applicant is willing to work with Colorado Park and Wildlife to address any concerns. Based on the foregoing, the Applicant believes that the environmental impact of the proposed Shop would be de minimums.



## J. David Reed, P.C.

ATTORNEYS AT LAW

Ms. Kaye Simonson, Planning Director  
Mr. John Huebner, Associate Planner  
February 10, 2020  
Page 4 of 5

### Surrounding Neighborhood

The Property is the former site of the County Landfill. East of the Property is a County owned solar array and a refuse transfer station. The remaining parcels surrounding the Property appear to be a mix of agricultural and residential use. In consideration of the industrial and commercial use of the surrounding properties, the Applicant believes that the proposed use under the Special Use Permit will be consistent with the uses within the surrounding neighborhood.

### Review Standards

#### County Master Plan

The Applicant's proposed use of the Property is consistent with the Wright's Mesa – San Miguel County Master Plan. With respect to the vision statement of the Wright's Mesa Master Plan, it is believed that the proposed use by the Applicant is in line with the intent of the Plan. The following is a breakdown supporting the same:

- Foster orderly growth that is compatible with our small town and rural characteristics;
  - o The Applicant is taking a vacant parcel of land that was at one time the San Miguel County Landfill and improving upon it with the proposed installation of the Shop. The Applicant has no intent to subdivide or create expanded commercial operations on the Property, but to use it to maintain equipment.
- Maintain our rural way of life, equestrian activities, and agriculture
  - o Considering the limited number of trips, the Applicant and its employees will take to the site; it is not anticipated that the use will have an impact on the resources of the Town, on the rural characteristics of the surrounding area, or on the surrounding agricultural area. Work by the Applicant will primarily be contained within the Shop; thus, it is not anticipated that the Applicant will have any impact on equestrian activities or agriculture.
- Protect our assets
  - o The Applicant's proposed Shop will be located in a wooded area, thus having little to no impact on any view corridors surrounding the Property. Further, the Applicant will not use any irrigation water or groundwater, but Norwood municipal water.
- Retain opportunities for families and multiple generations to live and work on Wright's Mesa
  - o The Applicant is a family-owned business. The Kimballs have roots in the area going back to the 1800s. Should the Applicant receive its Special Use Permit,



## J. David Reed, P.C.

ATTORNEYS AT LAW

Ms. Kaye Simonson, Planning Director  
Mr. John Huebner, Associate Planner  
February 10, 2020  
Page 5 of 5

the Applicant will be able to continue and grow its family business, hopefully creating a future on Wrights Mesa for future generations.

- Promote land use that conserves energy and resources; and
  - o The Applicant does not foresee extensive use of energy or resources, and the Shop and the Property will primarily be used for storage. Other than installing the Shop, the Applicant does not intend to disturb the Property.
- Celebrate our independent spirit and history.
  - o As noted herein, the Kimball family has roots in the area dating back to the 1800's. The site on Wright's Mesa will allow for them to preserve their family owned independent business while continuing to serve the residences and businesses of San Miguel County.

### County Land Use Policies – Zone District and Neighborhood

The Applicant's proposed Special Use Permit is also in accordance with the County's Land Use Policies under Article 2 of the Land Use Code. As noted herein the proposed use is in conformance with the County's Comprehensive Plan. The Applicant is not proposing any significant development; thus, it is anticipated that there will be zero impact on population densities. The proposed Shop will also help foster a community balance, as it will not add any population density, and it is not anticipated to impact either recreational activities or have any environmental impact. The Applicant's use is consistent with other uses by right in the Wright's Mesa Zone District. The Property is not located within a homeowner's association, and the Applicant believes that the use will be in conformity with the surrounding and adjacent homeowners and neighborhoods. Lastly, upon approval, the Applicant will comply with all proper building code regulations and other County and State laws in installing the Shop.

### Conclusion

The Applicant believes that it has met the submission requirements for its Special Use Permit, and further believes that the proposed use. Either the Applicant or our office is happy to address any questions or concerns the Planning Department or Planning Commission may have.

Sincerely,

*Bo James Nerlin*  
Bo James Nerlin

Encls

cc: Mr. Mike Kimball  
Mr. Mike Kimball II

# LETTER OF AUTHORIZATION

To:

Michael Kimball  
Ground Pounders  
PO Box 15  
Placerville, CO 81430  
(970)708-2270

I, Jason Baker, the owner of lot parcel legally identified as S2SE4SE4SW4 SEC 17 T4S R13, Parcel #429517300003, give Michael Kimball of Ground Pounders, consent to apply for a Special Use Permit pertaining to a Construction / Contractor Office and Staging Area with the San Miguel County Planning Department.

Owner:

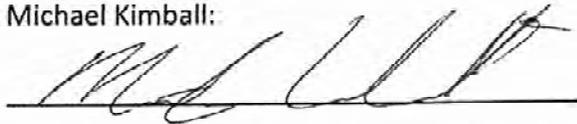
Jason Baker



ADDRESS: 36 E Homestead Rd  
PO. Box 787, Placerville CO  
PHONE: 970 729 1710

Applicant:

Michael Kimball:



Ground Pounders  
Mike Kimball II

Ms. Kaye Simonson, Planning Director  
San Miguel County Planning Department  
PO Box 548  
Telluride, Colorado 8135

Mr. John Huebner, Associate Planner  
San Miguel County Planning Department  
PO Box 548  
Telluride, Colorado 81435

February 10, 2020

*Re: Legal Representation and Representative Agents*

Dear San Miguel County Planning Department:

Please be advised that as a co-owner of Ground Pounders, a Colorado Corporation, I authorize attorney, Bo James Nerlin, with J. David Reed, P.C. to assist with, and communicate with the County on behalf of Ground Pounders regarding its Special Use Permit Application for Parcel No. #429517300003 (the "Property").

Bo James Nerlin is authorized to submit applications and prepare documents on the Company's behalf and to have access to any and all information regarding the application and development process for the Property. His information is as follows:

Bo James Nerlin  
J. David Reed, P.C.  
1047 S. 1<sup>st</sup> Street  
PO Box 196  
Montrose, CO 81402  
(970) 249-3806  
[bnerlin@jdreedlaw.com](mailto:bnerlin@jdreedlaw.com)

Should you have any questions, please feel free to contact me:

Mike Kimball II  
[gpexcavation@gmail.com](mailto:gpexcavation@gmail.com)

Thank you for your consideration in this matter.

DocuSigned by:  
  
F821619C9C294B6...

Mike Kimball, II

2/10/2020

# Certificate Of Taxes Due

Account Number R0007068  
 Parcel 429517300003  
 Assessed To  
 BAKER JASON A  
 PO BOX 787  
 NORWOOD, CO 81423

Certificate Number 8317  
 Order Number  
 Vendor ID 9  
 Land Title Guarantee Company  
 191 S. Pine Street  
 Unit 1C  
 Telluride, CO 81435

<b>Legal Description</b>	<b>Situs Address</b>
S2SE4SE4SW4 SEC 17 T45 R13 CONT 5 AC MOL	COUNTY ROAD W35 NORWOOD 814230000

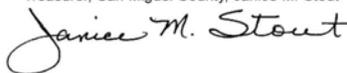
Year	Tax	Interest	Fees	Payments	Balance
<b>Tax Charge</b>					
2019	\$518.18	\$0.00	\$0.00	\$0.00	\$518.18
Total Tax Charge					\$518.18
<b>Grand Total Due as of 01/17/2020</b>					<b>\$518.18</b>

Tax Billed at 2019 Rates for Tax Area 203 - Norwood Outlying

Authority	Mill Levy	Amount	Values	Actual	Assessed
San Miguel County	11.6520000	\$111.51	UNIM LND 1-4.99 AC	\$33,000	\$9,570
Norwood Fire District	10.6000000	\$101.44	Total	\$33,000	\$9,570
Lone Cone Library District	10.4280000	\$99.80			
San Miguel Solid Waste Disp	0.4000000	\$3.83			
Norwood Park and Rec Distri	1.0000000	\$9.57			
Norwood School Dist R2JT	19.5680000	\$187.27			
SW Water Cons District	0.4030000*	\$3.86			
San Miguel Water Cons Distr	0.0940000	\$0.90			
Taxes Billed 2019		54.1450000			\$518.18

\* Credit Levy

ALL TAX LIEN SALE AMOUNTS ARE SUBJECT TO CHANGE DUE TO ENDORSEMENT OF CURRENT TAXES BY THE LIENHOLDER OR TO ADVERTISING AND DISTRAINT WARRANT FEES. CHANGES MAY OCCUR AND THE TREASURER'S OFFICE WILL NEED TO BE CONTACTED PRIOR TO REMITTANCE AFTER THE FOLLOWING DATES: PERSONAL PROPERTY AND MOBILE HOMES - SEPTEMBER 1, REAL PROPERTY - OCTOBER 1. TAX LIEN SALE REDEMPTION AMOUNTS MUST BE PAID BY CASH OR CASHIERS CHECK. SPECIAL TAXING DISTRICTS AND THE BOUNDARIES OF SUCH DISTRICTS MAY BE ON FILE WITH THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK, OR THE COUNTY ASSESSOR. This certificate does not include land or improvements assessed under a separate account number, personal property taxes, transfer tax or misc. tax collected on behalf of other entities, special or local improvement district assessments or mobile homes, unless specifically mentioned. I, the undersigned, do hereby certify that the entire amount of taxes due upon the above described parcels of real property and all outstanding sales for unpaid taxes as shown by the records in my office from which the same may still be redeemed with the amount required for redemption are as noted herein. In witness whereof, I have hereunto set my hand and seal.

Treasurer, San Miguel County, Janice M. Stout  




305 W Colorado Ave., Suite 105  
 PO Box 488  
 Telluride, CO 81435



**Land Title Guarantee Company  
Customer Distribution**



**PREVENT FRAUD - Please remember to call a member of our closing team when initiating a wire transfer or providing wiring instructions.**

Order Number: **TLR86009635**

Date: **01/21/2020**

Property Address: **(VACANT) COUNTY ROAD W35, NORWOOD, CO 81423**

**PLEASE CONTACT YOUR CLOSER OR CLOSER'S ASSISTANT FOR WIRE TRANSFER INSTRUCTIONS**

---

**For Closing Assistance**

Jody Metcalf  
191 S PINE ST #1C  
TELLURIDE, CO 81435  
(970) 728-1023 (Work)  
(877) 348-5414 (Work Fax)  
[jmetcalf@ltgc.com](mailto:jmetcalf@ltgc.com)  
Contact License: CO588669  
Company License: CO44565

**Closing Associate**

Lindsay Reimann  
191 S PINE ST #1C  
TELLURIDE, CO 81435  
(970) 728-1023 (Work)  
(877) 348-5414 (Work Fax)  
[lreimann@ltgc.com](mailto:lreimann@ltgc.com)  
Company License: CO44565

**Closing Processor**

Alysha Patterson  
191 S PINE ST #1C  
TELLURIDE, CO 81435  
[alpatterson@ltgc.com](mailto:alpatterson@ltgc.com)  
Company License: CO44565

**For Title Assistance**

Land Title San Miguel County Title  
Team  
191 S PINE ST #1C  
TELLURIDE, CO 81435  
(970) 728-8673 (Work)  
(877) 261-1730 (Work Fax)  
[tlresponse@ltgc.com](mailto:tlresponse@ltgc.com)

---

**Buyer/Borrower**

GROUND POUNDERS, INC.  
Attention: Michael George Kimball and Michael George  
Kimball, II  
Delivered via: Electronic Mail

**Agent for Buyer**

PINE CONE REALTY  
Attention: ARLEEN BOYD  
PO BOX 103  
1533 GRAND AVE  
NORWOOD, CO 81423  
(970) 729-0589 (Cell)  
(970) 327-4114 (Work)  
(970) 327-4134 (Work Fax)  
[arleenboyd@gmail.com](mailto:arleenboyd@gmail.com)  
Delivered via: Electronic Mail

**Seller/Owner**

JASON A. BAKER

Delivered via: Electronic Mail

**Agent for Seller**

PINE CONE REALTY

Attention: ARLEEN BOYD

PO BOX 103

1533 GRAND AVE

NORWOOD, CO 81423

(970) 327-4114 (Work)

(970) 327-4134 (Work Fax)

arleenboyd@gmail.com

Delivered via: Electronic Mail



**ALTA COMMITMENT**

**Old Republic National Title Insurance Company**

**Schedule A**

Order Number: TLR86009635

**Property Address:**

(VACANT) COUNTY ROAD W35, NORWOOD, CO 81423

**1. Effective Date:**

01/15/2020 at 5:00 P.M.

**2. Policy to be Issued and Proposed Insured:**

"ALTA" Owner's Policy 06-17-06 Reissue Rate

\$49,000.00

Proposed Insured:

GROUND POUNDERS, INC.

**3. The estate or interest in the land described or referred to in this Commitment and covered herein is:**

A Fee Simple

**4. Title to the estate or interest covered herein is at the effective date hereof vested in:**

JASON A. BAKER

**5. The Land referred to in this Commitment is described as follows:**

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 45 NORTH, RANGE 13 WEST OF THE NEW MEXICO PRINCIPAL MERIDIAN, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

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**ALTA COMMITMENT**

**Old Republic National Title Insurance Company**

**Schedule B, Part I**

**(Requirements)**

**Order Number:** TLR86009635

**All of the following Requirements must be met:**

**This proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.**

**Pay the agreed amount for the estate or interest to be insured.**

**Pay the premiums, fees, and charges for the Policy to the Company.**

**Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.**

1. LAND TITLE GUARANTEE COMPANY HAS RECEIVED AN IMPROVEMENT LOCATION CERTIFICATE/SURVEY FOR THE SUBJECT PROPERTY PREPARED BY SAN MIGUEL ENGINEERING, JOB NO. SC8BAKERJASON, DATED SEPTEMBER 04, 2015, IMAGE [20705211](#), THAT IS ACCEPTABLE TO THE COMPANY.

\*\*\* IN ADDITION, A SURVEY AFFIDAVIT, EXECUTED BY JASON A. BAKER, IS NECESSARY INDICATING THAT THERE HAVE BEEN NO NEW IMPROVEMENTS, EASEMENTS OR BOUNDARY CHANGES SINCE THE DATE OF SAID IMPROVEMENT LOCATION CERTIFICATE/SURVEY AND THAT THE IMPROVEMENTS SHOWN ON SAID IMPROVEMENT LOCATION CERTIFICATE/SURVEY HAVE NOT BEEN ALTERED SINCE THE DATE OF SAID IMPROVEMENT LOCATION CERTIFICATE/SURVEY. \*\*\*

2. RELEASE OF DEED OF TRUST DATED SEPTEMBER 10, 2015 FROM JASON A. BAKER TO THE PUBLIC TRUSTEE OF SAN MIGUEL COUNTY FOR THE USE OF AARON R. TODD AND JANICE F. TODD TO SECURE THE SUM OF \$19,000.00 RECORDED SEPTEMBER 15, 2015, UNDER RECEPTION NO. [439294](#).
3. CERTIFICATE OF GOOD STANDING FROM THE SECRETARY OF STATE OR OTHER APPROPRIATE OFFICER OF THE STATE, SHOWING THAT GROUND POUNDERS, INC. IS A DULY ORGANIZED AND EXISTING CORPORATION UNDER THE LAWS OF SAID STATE.
4. SPECIAL WARRANTY DEED FROM JASON A. BAKER TO GROUND POUNDERS, INC. CONVEYING SUBJECT PROPERTY.

NOTE: THE COMMITMENT DOES NOT REFLECT THE STATUS OF TITLE TO WATER RIGHTS OR REPRESENTATION OF SAID RIGHTS.

REQUIREMENTS TO DELETE THE PRE-PRINTED EXCEPTIONS IN THE OWNER'S POLICY TO BE ISSUED

A. UPON RECEIPT BY THE COMPANY OF A SATISFACTORY FINAL AFFIDAVIT AND AGREEMENT FROM THE SELLER AND PROPOSED INSURED, AND A SURVEY AFFIDAVIT, ITEMS 1-4 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED. ANY ADVERSE MATTERS DISCLOSED BY THE FINAL AFFIDAVIT AND AGREEMENT AND SURVEY AFFIDAVIT WILL BE ADDED AS EXCEPTIONS.

B. IF LAND TITLE GUARANTEE COMPANY CONDUCTS THE CLOSING OF THE CONTEMPLATED TRANSACTIONS AND RECORDS THE DOCUMENTS IN CONNECTION THEREWITH, ITEM 5 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED.

C. UPON RECEIPT OF PROOF OF PAYMENT OF ALL PRIOR YEARS' TAXES AND ASSESSMENTS, ITEM 6 OF THE PRE-PRINTED EXCEPTIONS WILL BE AMENDED TO READ:

TAXES AND ASSESSMENTS FOR THE YEAR 2020 AND SUBSEQUENT YEARS.

**ALTA COMMITMENT**  
**Old Republic National Title Insurance Company**  
**Schedule B, Part II**  
**(Exceptions)**

Order Number: TLR86009635

This commitment does not republish any covenants, condition, restriction, or limitation contained in any document referred to in this commitment to the extent that the specific covenant, conditions, restriction, or limitation violates state or federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, or national origin.

1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.
6. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.
8. RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES TOGETHER WITH ALL MINERAL DEPOSITS AND DEVELOPMENT RIGHTS AS RESERVED IN UNITED STATES PATENT NO. 1189216, DATED DECEMBER 11, 1958. LETTER IN CONNECTION WITH SAID PATENT RECORDED DECEMBER 4, 1984 IN BOOK 415 AT PAGE [320](#).
9. RESTRICTIONS AS CONTAINED IN INSTRUMENT RECORDED MARCH 3, 1987 IN BOOK 434 AT PAGE [527](#).
10. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN RESOLUTION 1997-24 ADOPTING AMENDMENTS TO THE SAN MIGUEL COUNTY COMPREHENSIVE DEVELOPMENT PLAN REGARDING WRIGHT'S MESA RECORDED FEBRUARY 05, 1998 UNDER RECEPTION NO. [316914](#) AND RESOLUTION 1998-12 APPROVING LAND USE CODE AMENDMENTS CREATING THE WRIGHT'S MESA ZONE DISTRICT AND REZONING LAND WITHIN THE WRIGHT'S MESA PLANNING AREA TO THE WRIGHT'S MESA ZONE DISTRICT RECORDED FEBRUARY 17, 1998 UNDER RECEPTION NO. [317098](#) AND AS AMENDED IN RESOLUTION 2008-3 RECORDED FEBRUARY 22, 2008 UNDER RECEPTION NO. [400074](#) AND AS AMENDED IN RESOLUTION 2010-6 RECORDED MAY 6, 2010 UNDER RECEPTION NO. [412323](#) AND ANY AMENDMENTS THERETO.
11. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN NOTICE BY SAN MIGUEL POWER ASSOCIATION, INC. RECORDED MARCH 18, 1999 UNDER RECEPTION NO. [325020](#).

**ALTA COMMITMENT**  
**Old Republic National Title Insurance Company**  
**Schedule B, Part II**  
**(Exceptions)**

**Order Number:** TLR86009635

12. ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE NORWOOD FIRE PROTECTION DISTRICT, AS EVIDENCED BY INSTRUMENTS RECORDED JANUARY 11, 2008 UNDER RECEPTION NO. [399298](#) AND RECORDED DECEMBER 30, 2009 IN SURVEYORS PLAT BOOK S1 AT PAGE [694](#) AND RECORDED DECEMBER 17, 2009 UNDER RECEPTION NO. [410284](#).
13. ANY RIGHTS OR INTERESTS OF THIRD PARTIES WHICH EXIST OR ARE CLAIMED TO EXIST IN AND OVER THE RIGHT OF WAY FOR COUNTY ROAD W35 AS DISCLOSED BY MAP OF LAND RECORDED DECEMBER 1, 1997 IN SURVEYORS PLAT BOOK S1 AT PAGE [92A](#) AND GREAGER RANCH TRACT MAP OF LAND RECORDED DECEMBER 1, 1997 IN SURVEYORS PLAT BOOK S1 AT PAGE [93A](#) AND ON IMPROVEMENT LOCATION CERTIFICATE, IMAGE [20705211](#).
14. MATTERS DISCLOSED ON IMPROVEMENT LOCATION CERTIFICATE ISSUED BY SAN MIGUEL ENGINEERING CERTIFIED SEPTEMBER 04, 2015, JOB NO. SC8BAKERJASON, IMAGE [20705211](#).



## LAND TITLE GUARANTEE COMPANY DISCLOSURE STATEMENTS

**Note: Pursuant to CRS 10-11-122, notice is hereby given that:**

- (A) The Subject real property may be located in a special taxing district.
- (B) A certificate of taxes due listing each taxing jurisdiction will be obtained from the county treasurer of the county in which the real property is located or that county treasurer's authorized agent unless the proposed insured provides written instructions to the contrary. (for an Owner's Policy of Title Insurance pertaining to a sale of residential real property).
- (C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

**Note:** Effective September 1, 1997, CRS 30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform, except that, the requirement for the top margin shall not apply to documents using forms on which space is provided for recording or filing information at the top margin of the document.

**Note:** Colorado Division of Insurance Regulations 8-1-2 requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed". Provided that Land Title Guarantee Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued.

**Note:** Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- (A) The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- (B) No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- (C) The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- (D) The Company must receive payment of the appropriate premium.
- (E) If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

**Note:** Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments disclosing that a mineral estate has been severed from the surface estate, in Schedule B-2.

- (A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- (B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

**Note:** Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

**Note:** Pursuant to Colorado Division of Insurance Regulations 8-1-3, notice is hereby given of the availability of a closing protection letter for the lender, purchaser, lessee or seller in connection with this transaction.



**JOINT NOTICE OF PRIVACY POLICY OF  
LAND TITLE GUARANTEE COMPANY,  
LAND TITLE GUARANTEE COMPANY OF SUMMIT COUNTY  
LAND TITLE INSURANCE CORPORATION AND  
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

This Statement is provided to you as a customer of Land Title Guarantee Company as agent for Land Title Insurance Corporation and Old Republic National Title Insurance Company.

We want you to know that we recognize and respect your privacy expectations and the requirements of federal and state privacy laws. Information security is one of our highest priorities. We recognize that maintaining your trust and confidence is the bedrock of our business. We maintain and regularly review internal and external safeguards against unauthorized access to your non-public personal information ("Personal Information").

In the course of our business, we may collect Personal Information about you from:

- applications or other forms we receive from you, including communications sent through TMX, our web-based transaction management system;
  - your transactions with, or from the services being performed by us, our affiliates, or others;
  - a consumer reporting agency, if such information is provided to us in connection with your transaction;
- and
- The public records maintained by governmental entities that we obtain either directly from those entities, or from our affiliates and non-affiliates.

Our policies regarding the protection of the confidentiality and security of your Personal Information are as follows:

- We restrict access to all Personal Information about you to those employees who need to know that information in order to provide products and services to you.
- We may share your Personal Information with affiliated contractors or service providers who provide services in the course of our business, but only to the extent necessary for these providers to perform their services and to provide these services to you as may be required by your transaction.
- We maintain physical, electronic and procedural safeguards that comply with federal standards to protect your Personal Information from unauthorized access or intrusion.
- Employees who violate our strict policies and procedures regarding privacy are subject to disciplinary action.
- We regularly assess security standards and procedures to protect against unauthorized access to Personal Information.

**WE DO NOT DISCLOSE ANY PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT STATED ABOVE OR PERMITTED BY LAW.**

Consistent with applicable privacy laws, there are some situations in which Personal Information may be disclosed. We may disclose your Personal Information when you direct or give us permission; when we are required by law to do so, for example, if we are served a subpoena; or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

Our policy regarding dispute resolution is as follows: Any controversy or claim arising out of or relating to our privacy policy, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



## Commitment For Title Insurance

### Issued by Old Republic National Title Insurance Corporation

#### NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON. .

#### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, Old Republic National Title Insurance Company, a Minnesota corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured. If all of the Schedule B, Part I—Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

#### COMMITMENT CONDITIONS

##### 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

##### 4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

##### 5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
  - i. comply with the Schedule B, Part I—Requirements;
  - ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
  - iii. acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.

- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

IN WITNESS WHEREOF, Land Title Insurance Corporation has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A to be valid when countersigned by a validating officer or other authorized signatory.

Issued by:  
Land Title Guarantee Company  
3033 East First Avenue Suite 600  
Denver, Colorado 80206  
303-321-1880



Senior Vice President



**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**  
A Stock Company  
400 Second Avenue South, Minneapolis, Minnesota 55401  
(612) 371-1111

By  President  
Attest  Secretary

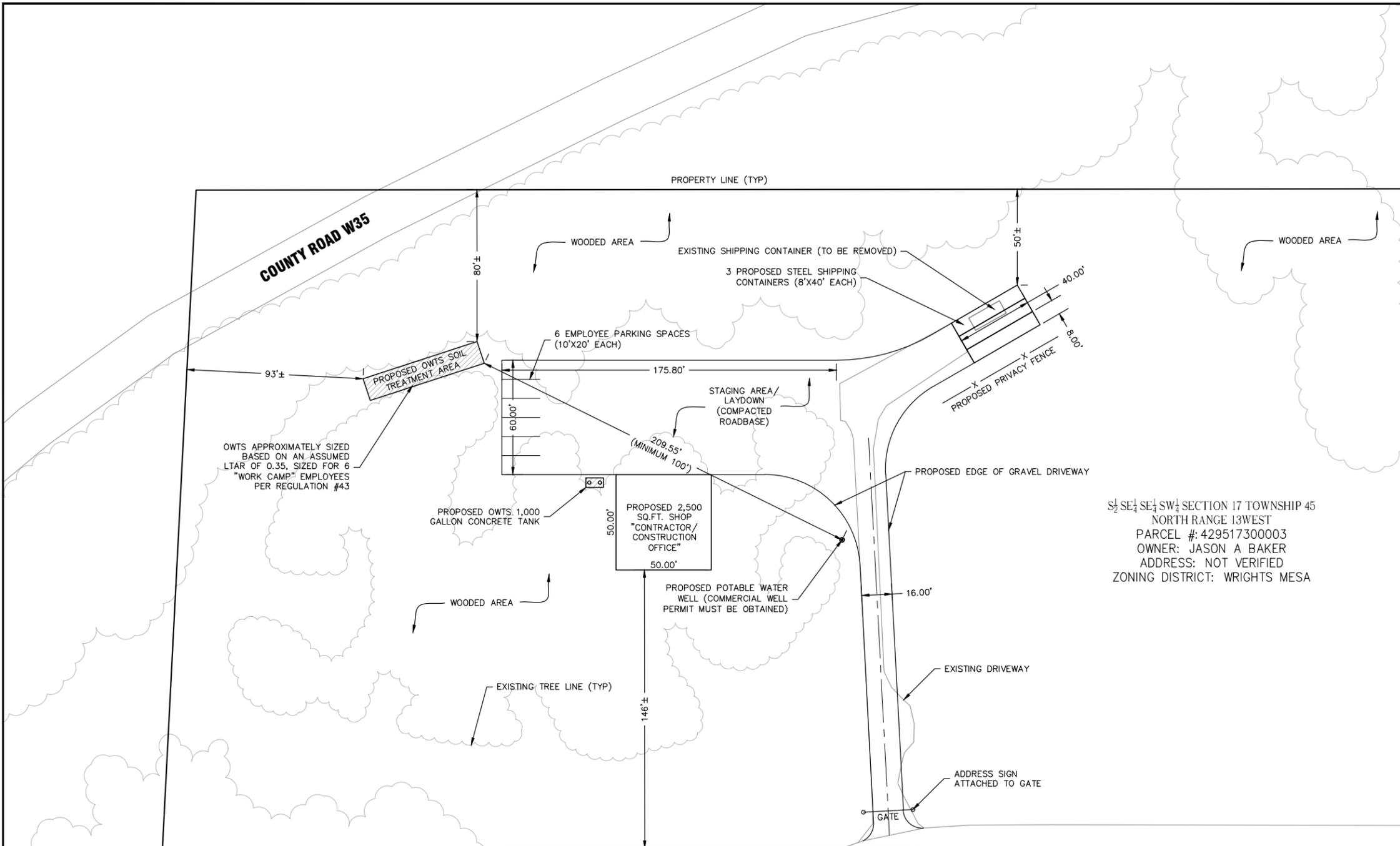
This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Land Title Insurance Corporation. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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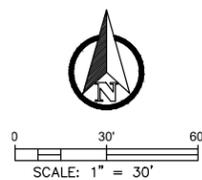
# NOTES

1. ALL SURVEY BOUNDARY INFORMATION FROM SAN MIGUEL COUNTY GIS AND IS FOR PLANNING PURPOSES ONLY. FINAL SURVEY AND TOPOGRAPHIC INFORMATION WILL BE REQUIRED PRIOR TO FINAL DESIGN.
2. THE PURPOSE OF THIS SITE IS FOR THE STORAGE AND ROUTINE REPAIR AND MAINTENANCE OF GROUND PONDERS' HEAVY CONSTRUCTION EQUIPMENT ON SITE AND IN THE PROPOSED GARAGE/SHOP. THE GARAGE/SHOP IS INTENDED TO HAVE A MAXIMUM OF 6 EMPLOYEES IN THE GARAGE/SHOP ("OFFICE") SPACE.
3. THE ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) WAS DESIGNED WITH ASSUMED SOIL CONDITIONS FOR A MAXIMUM OF 6 EMPLOYEES USING THE ONSITE FACILITIES. FINAL OWTS DESIGN WILL BE COMPLETED WITH FINAL BUILDING DESIGN.
4. ALL DISTURBED AREAS TO BE RE-SEEDDED WITH SAN MIGUEL COUNTY APPROVED SEED MIX.
5. ALL FENCES ARE FOR PRIVACY PURPOSES ONLY AND AREA TO BE WILDLIFE FRIENDLY.



S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SECTION 17 TOWNSHIP 45  
 NORTH RANGE 13WEST  
 PARCEL #: 429517300003  
 OWNER: JASON A BAKER  
 ADDRESS: NOT VERIFIED  
 ZONING DISTRICT: WRIGHTS MESA

LOT 12  
 NORWOOD GARDEN  
 ESTATES



## PRELIMINARY SITE PLAN

**NOT FOR CONSTRUCTION**

**THIS PLAN HAS BEEN REDUCED TO APPROXIMATELY HALF SCALE (11"X17")**

CALL UTILITY NOTIFICATION CENTER OF COLORADO  
**1-800-922-1987**  
 OR  
**811**  
 CALL 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE, OR EXCAVATE FOR THE MARKING OF UNDERGROUND MEMBER UTILITIES.

ALPINE LAND CONSULTING, LLC  
 P.O. BOX 234  
 RICO, COLORADO 81352  
 970-708-0326  
 GREGG@ALPINELANDCONSULTING.COM

S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SECTION 17 T45N, R13W, SAN MIGUEL COUNTY, COLORADO  
 SITE PLAN

CLIENT:  
 GROUND POUNDERS LLC  
 PO BOX 15  
 PLACERVILLE, CO 81430

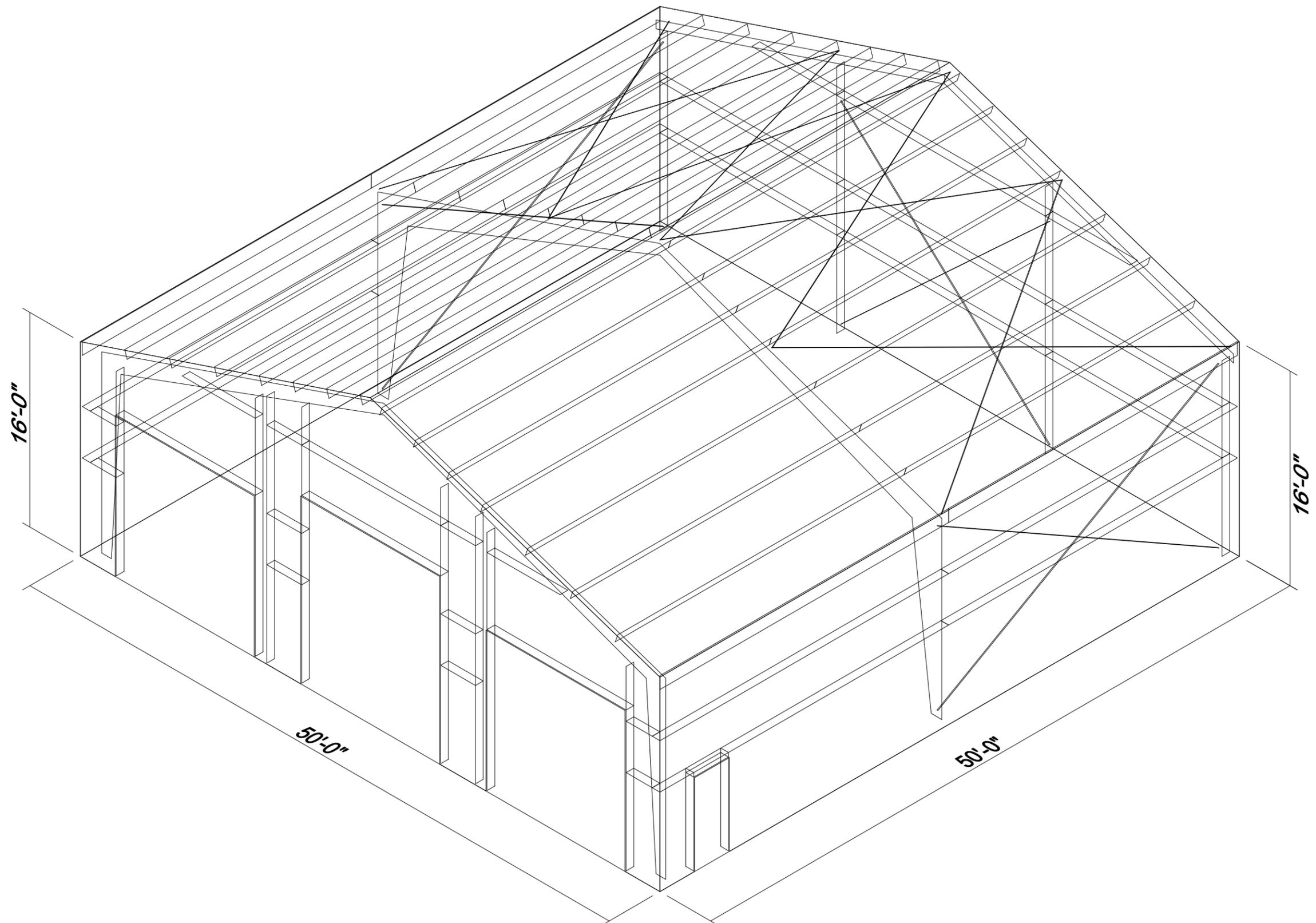
DATE: FEBRUARY 6, 2020

PROJECT #: 2020002

PROJECT MANAGER: GEA  
 DRAWN BY: ADM

SHEET #:

NO.	REVISIONS	DATE





# ARMSTRONG STEEL CORPORATION

ARMSTRONGSTEELBUILDINGS.COM | 2 Inverness Drive E. Englewood, CO 80112 | p800.345.4610 | f720.230.7266

Jeffrey Reimers

(720) 707-0163

jeffrey.r@armstrongsteel.com

## Building Specifications

QUOTE #

Kimball2020-01-27(B)

DATE

Jan 30, 2020

### CUSTOMER DETAILS

Attention **Mike Kimball**

Phone **(970) 708-2270**

Building Address **Lot #174 CR W35**

County **San Miguel**

City **Norwood**

State **CO**

Zip **81423**

### BUILDING DETAILS

Width **50'**

Length **50'**

Eave Height **16'**

Pitch **4:12**

Doors **N/A**

Windows **N/A**

Insulation **N/A**

Wall Color **SMP - (TBD)**

Trim Color **SMP - (TBD)**

Roof Color **Galvalume Plus**

### CODES & LOADS

Ground Snow **35**

Roof Snow **35**

Wind **115**

Exposure **C**

Building Code **IBC-15**

Collateral Load **1**

### INCLUDED

- Roof Z Purlin & Wall Z Girt Galvanized Secondary Framing
- Galvanized Endwall Framing
- Structural Steel I-Beams
- **50 Year Warranty** On All Structural Members
- 26 Gauge PBR Color Wall Sheeting (**40 Year Warranty**)
- 26 Gauge Galvalume PBR Roof (**35 Year Warranty**)

- All Fasteners and Hardware
- **Lifetime Warranty** against rust on all fasteners.
- Premium Sculpted Trim
- Premium Base Trim
- Dedicated Professional Project Manager
- Certified, Stamped & Engineered Drawings specific to your state.

- **ALL AMERICAN** – Armstrong is proud to be an American company that uses only American made materials.
- **Precision Engineering** – Our structures are faultless. State of the art technology ensures that every building is made to the highest standards.
- **On Time Delivery** – Confirmed delivery times mean more efficient crew scheduling, saving you time and money.

**ENGINEERING AND DRAWINGS**

**INCLUDED**

**PROJECT MANAGER**

**INCLUDED**

**BUILDING PRICE**

**\$26,424.00**

800.345.4610

**50 YEAR FACTORY WARRANTY**

## Commercial Colors

Silicone polyester coatings are proven performers. It is an excellent exterior finish for pre-engineered buildings, agricultural buildings and components.

- Minimizes chalking and fading by resisting the detrimental effects of the sun's UV rays, rain, humidity and weathering.
- Basic Polyester provides good color retention, exterior durability, abrasion resistance to the sun, rain and other adverse weather conditions.
- Limited Warranty available upon written request.

\*\*Copper Metallic available only in KYNAR 500®/HYLAR 5000®



Galvalume

Polar White

Brilliant White

Hunter Green



Colony Green



Crimson Red



Rustic Red



Burgundy



Gallery Blue



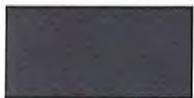
Hawaiian Blue



Light Stone



Desert



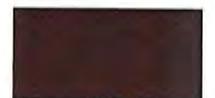
Charcoal



Gray



Burnished Slate



Brown



Tan



Copper Metallic\*\*



**ARMSTRONG STEEL CORPORATION**  
5889 Greenwood Plaza Blvd Greenwood Village, CO 80111 (800) 345-4610

[WWW.ARMSTRONGSTEEL.COM](http://WWW.ARMSTRONGSTEEL.COM)

## Architectural Colors

Kynar 500®/Hylar 5000® color. Contact your sales rep for accurate pricing. Panels manufactured in Copper Metallic must be installed in the same direction. See directional arrows or stickers provided on your panels.

Standing Seam Roofs come standard with 10 year weather tightness warranty.

Color variation between orders is normal and is not cause for rejection.



Copper Metallic\*\*



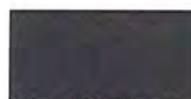
Sand



Ash



Brite White



Smoke



Bronze



Tudor



Autumn



Roman Blue



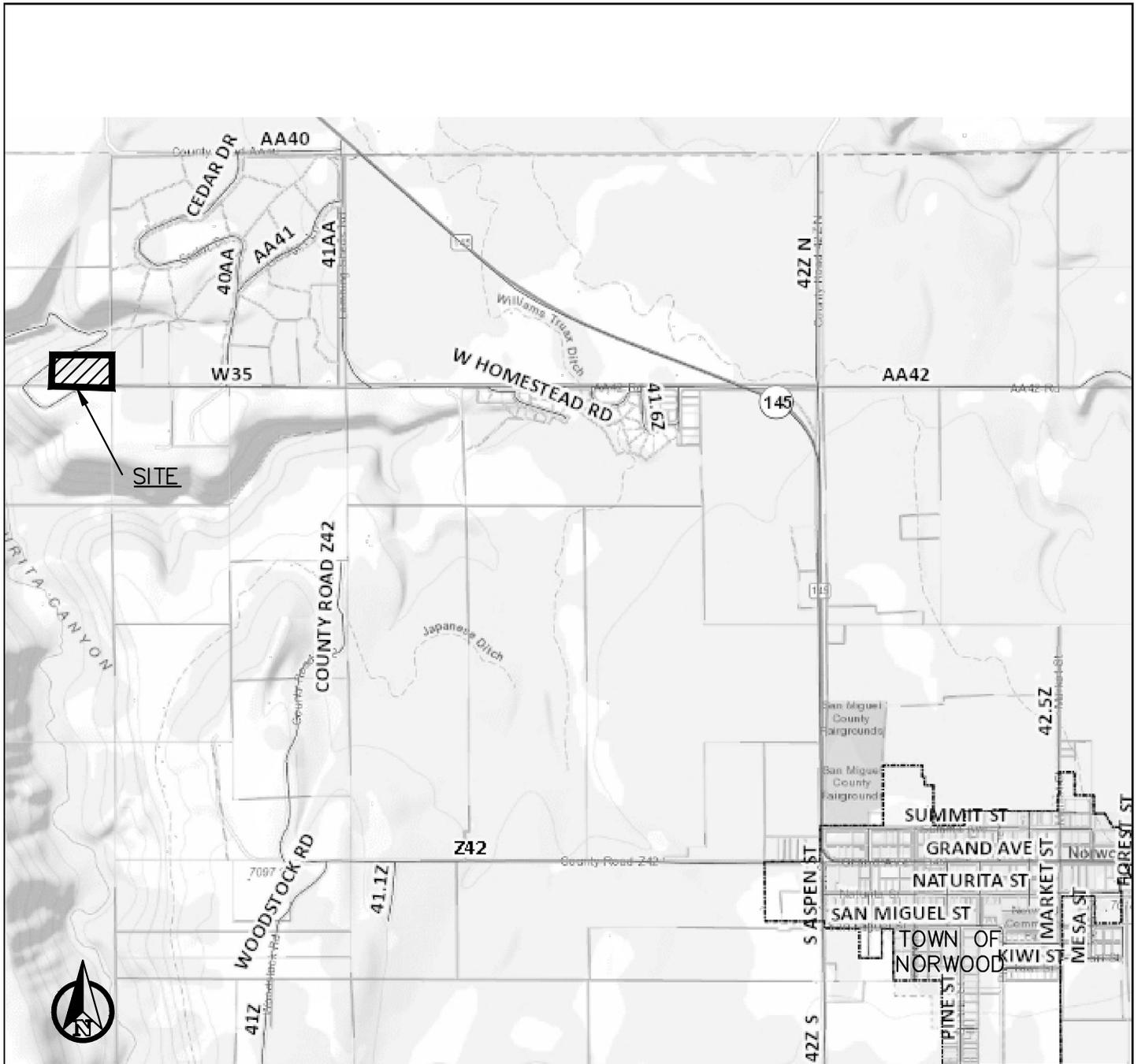
Verdigris



Evergreen



**All of the colors listed above are Energy Star Rated**  
The colors above are for information purposes only, color chips are available upon request for color matching.



**VICINITY MAP**  
NTS

S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SECTION 17 TOWNSHIP 45 NORTH  
RANGE 13 WEST SAN MIGUEL COUNTY, COLORADO



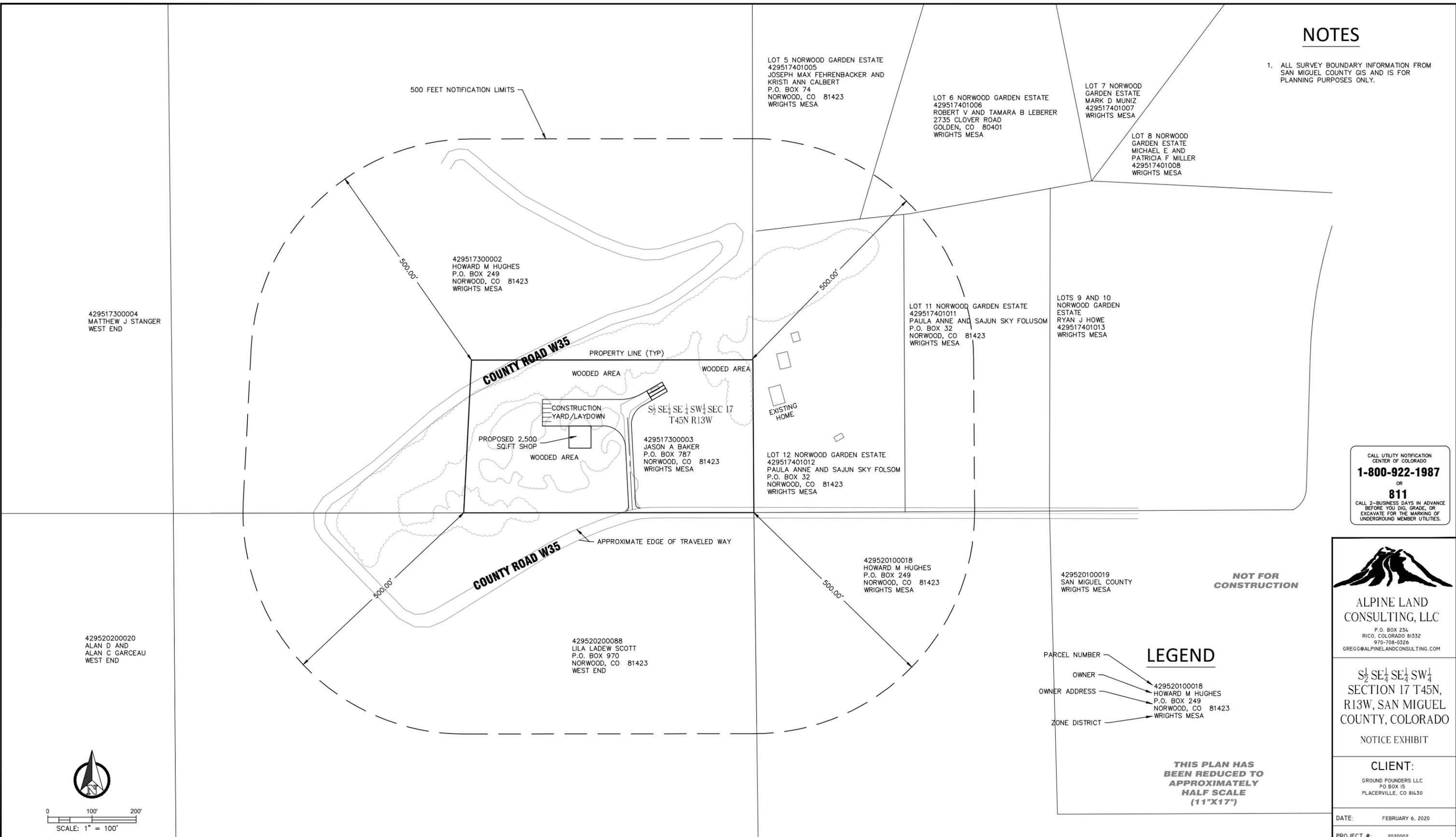
**ALPINE LAND  
CONSULTING, LLC**

P.O. BOX 234  
RICO, COLORADO 81332  
970-708-0326  
GREGG@ALPINELANDCONSULTING.COM

PROJECT MANAGER:	GEA	DATE:	FEBRUARY 6, 2020
DRAWN BY:	ADM	PROJECT #:	2020002

**NOTES**

1. ALL SURVEY BOUNDARY INFORMATION FROM SAN MIGUEL COUNTY GIS AND IS FOR PLANNING PURPOSES ONLY.



**500 FEET NOTIFICATION EXHIBIT**

CALL UTILITY NOTIFICATION  
CENTER OF COLORADO  
**1-800-922-1987**  
OR  
**811**  
CALL 2-BUSINESS DAYS IN ADVANCE  
BEFORE YOU DIG, GRADE, OR  
EXCAVATE FOR THE MARKING OF  
UNDERGROUND MEMBER UTILITIES.

**ALPINE LAND CONSULTING, LLC**  
P.O. BOX 234  
RICO, COLORADO 81352  
970-708-0326  
GREGG@ALPINELANDCONSULTING.COM

**S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$  SECTION 17 T45N, R13W, SAN MIGUEL COUNTY, COLORADO**  
NOTICE EXHIBIT

**CLIENT:**  
GROUND POUNDERS LLC  
PO BOX 15  
PLACERVILLE, CO 81430

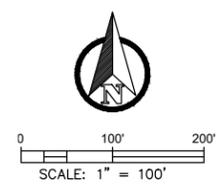
DATE: FEBRUARY 6, 2020  
PROJECT #: 2020002  
PROJECT MANAGER: GEA  
DRAWN BY: ADM  
SHEET #: 1

**LEGEND**

- PARCEL NUMBER → 429520100018
- OWNER → HOWARD M HUGHES
- OWNER ADDRESS → P.O. BOX 249
- ZONE DISTRICT → NORWOOD, CO 81423
- WRIGHTS MESA

**THIS PLAN HAS BEEN REDUCED TO APPROXIMATELY HALF SCALE (11"X17")**

NO.	REVISIONS	DATE



**NOT FOR CONSTRUCTION**

429517300004  
MATTHEW J STANGER  
WEST END

429520200020  
ALAN D AND  
ALAN C GARCEAU  
WEST END

429517300002  
HOWARD M HUGHES  
P.O. BOX 249  
NORWOOD, CO 81423  
WRIGHTS MESA

**COUNTY ROAD W35**

CONSTRUCTION  
YARD/LAYDOWN  
PROPOSED 2,500  
SQ.FT SHOP

429517300003  
JASON A BAKER  
P.O. BOX 787  
NORWOOD, CO 81423  
WRIGHTS MESA

429520200088  
LILA LADEW SCOTT  
P.O. BOX 970  
NORWOOD, CO 81423  
WEST END

LOT 5 NORWOOD GARDEN ESTATE  
429517401005  
JOSEPH MAX FEHRENBACHER AND  
KRISTI ANN CALBERT  
P.O. BOX 74  
NORWOOD, CO 81423  
WRIGHTS MESA

LOT 6 NORWOOD GARDEN ESTATE  
429517401006  
ROBERT V AND TAMARA B LEBERER  
2735 CLOVER ROAD  
GOLDEN, CO 80401  
WRIGHTS MESA

LOT 7 NORWOOD GARDEN ESTATE  
429517401007  
MARK D MUNIZ  
WRIGHTS MESA

LOT 8 NORWOOD GARDEN ESTATE  
MICHAEL E AND  
PATRICIA F MILLER  
429517401008  
WRIGHTS MESA

LOT 11 NORWOOD GARDEN ESTATE  
429517401011  
PAULA ANNE AND SAJUN SKY FOLSOM  
P.O. BOX 32  
NORWOOD, CO 81423  
WRIGHTS MESA

LOTS 9 AND 10  
NORWOOD GARDEN ESTATE  
RYAN J HOWE  
429517401013  
WRIGHTS MESA

LOT 12 NORWOOD GARDEN ESTATE  
429517401012  
PAULA ANNE AND SAJUN SKY FOLSOM  
P.O. BOX 32  
NORWOOD, CO 81423  
WRIGHTS MESA

429520100018  
HOWARD M HUGHES  
P.O. BOX 249  
NORWOOD, CO 81423  
WRIGHTS MESA

429520100019  
SAN MIGUEL COUNTY  
WRIGHTS MESA

List of equipment/vehicles:

1. 2019 Dodge Ram 2500 Pickup
2. 2018 Dodge Ram 2500 Pickup
3. 2018 Dodge Ram 2500 Pickup
4. 2007 Dodge Ram 2500 Pickup
5. 2006 Ford F350 Pickup
6. 1999 Dodge Ram 2500 Pickup
7. 2000 Mack dump truck
8. 1993 Ford Dump Truck
9. 1987 Freightliner Water Truck
10. 1993 S&S Heavy duty plow truck
11. 1987 John Deere 772 Motorgrader
12. 2000 John Deere 120 Excavator
13. 2018 John Deere 50G Excavator
14. 2016 John Deere 50G Excavator
15. 2000 John Deere 310E Backhoe
16. 2018 CAT Skidsteer
17. 2006 JBC Compator/Roller
18. 2000 Large Tilt Deck Trailer
19. 2018 Small Tilt Deck Trailer
20. Hydorseeder
21. Total of approximately 10 attachment for equipment

Total of 3-5 pieces of equipment at the yard at a given time. Total of 0-3 pickup trucks at the yard at a given time. Total of 5 attachments at the yard at a given time. Summer will have snow removal attachments stored and winter will have compactors/rock breakers and other earth moving attachments stored.

Ground Pounders currently employs 5 workers, 2 from Redvale, 2 from Naturita and 1 from Montrose. All 4 employees from Redvale and Naturita carpool in the same vehicle to and from work. Max amount of employees at location at a given time 6-8. 0-1 employees at location 80% of the time and 6-8 employees on location 20% of the time.

**APPLICANT'S CERTIFICATION OF COMPLIANCE WITH THE PUBLIC NOTICING REQUIREMENTS OF THE SAN MIGUEL COUNTY LAND USE CODE SECTION 3-9**

Mike Kimball, Applicant, or the duly designated agent(s) of Applicant, has applied to San Miguel County for approval of a land use application. Applicant recognizes that the provisions of the San Miguel County Land Use Code (LUC) Section 3-9 require public notice by First Class mail and posting of the property not less than twenty (20) days before the date scheduled for a public meeting or hearing.

Applicant or Applicant's agent(s) have examined the current tax records of San Miguel County as they appeared either in the records of the San Miguel County Assessor or under the San Miguel County Geographic Information Systems<sup>1\*</sup> (GIS) mapping program no more than sixty (60) days prior to the date of the public meeting or hearing. Applicant or Applicant's agent(s) hereby certifies that: (Applicant must check all.)

- Following an examination of the records in the San Miguel County Assessor or under the San Miguel County GIS<sup>2\*</sup> mapping program, the Applicant has provided public notice, in compliance with LUC § 3-903C not less than twenty (20) days before the date scheduled for a public meeting or hearing, by First Class mail to every property owner and condominium unit owner within 500 feet of the perimeter of the subject property. **I hereby certify that I have attached a copy of this public notice letter and mailing list to this certification.**

AND

- Not less than twenty (20) days before the date scheduled for a public meeting or hearing, I hereby certify that, in compliance with LUC § 3-903B, public notice has also been provided by posting a sign in a conspicuous place on the property that is the subject of the land use application.

I understand that San Miguel County requires completion and delivery of this Certification of Compliance to the San Miguel County Planning Department at least ten (10) days prior to the initial public meeting or hearing on a land use application. I further understand that failure to submit the required Certification of Compliance to the County Planning Department at least ten (10) days prior to the initial public meeting on a land use application will result in the public meeting or hearing being rescheduled to a later date.

Mike Kimball

Name

(Insert Applicant's name if executed by agent)

S25E4SE4SW4 Sec 17 T45 R13, Parcel #429517300003

Physical location of Property and/or legal description

PO Box 15, Placerville, CO 81430

Mailing Address (if different from above)

Date: 3/3/2020

Signature: 

[text/luc/certification.property.owner]

\* GIS data may not accurately or completely reflect owners in multi-unit, multi-floor buildings in San Miguel County. In such instance, the applicant must examine the Assessor's information in addition to the GIS data in order to provide the required public notice.



## PLANNING DEPARTMENT

KAYE SIMONSON, PLANNING DIRECTOR

### MEMORANDUM

TO: Amy Markwell, County Attorney  
Ryan Righetti, County Road & Bridge Director  
Lisa Garrett, County Site Inspector  
Kelly Crane, Colorado Parks and Wildlife  
Gregory Powers, Colorado Division of Water Resources  
Patti Grafmyer, Town of Norwood & Norwood Water Commission  
John Bockrath, Norwood Fire Protection District

FROM: Troy Hangen, Senior Planner

RE: Construction / Contractor Office and Staging Area Special Use Permit, Wrights Mesa

APPLICANT: Mike Kimball – Ground Pounders LLC

DATE: February 12, 2020

Please find the attached application submitted by Bo James Nerlin on behalf of Mike Kimball of Ground Pounders LLC for your review and comment. The Planning Commission meeting date is March 11, 2020. Please provide your review comments by March 4, 2020 to Troy Hangen, Senior Planner, [troyh@sanmiguelcountyco.gov](mailto:troyh@sanmiguelcountyco.gov) in the County Planning Department. Please contact the Planning Department if you have any questions.



## ROAD & BRIDGE DEPARTMENT

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RYAN RIGHETTI, ROAD SUPERINTENDENT

---

To: San Miguel County Planning Department  
From : Ryan Righetti  
RE: SUP-2-20-3540

After review of the application for Special Use Permit SUP-2-20-3540 for parcel # 429517300003 on Wrights Mesa with access from County Road W35, Road and Bridge has the following comments.

Road and Bridge finds no specific or immediate issues related to reasonable access at the location described in the application. This location will be able to accommodate the requirements defined within the San Miguel County Land Use Code Section 5-502 DD.

The Applicant will be required to obtain a Road and Bridge Driveway Permit to improve the location shown for ingress/egress if there is not already a current and approved Driveway Permit on file for this location.



Troy Hangen &lt;troyh@sanmiguelcountyco.gov&gt;

---

## Referral Comments For Special Use Permit - Ground Pounders LLC Wright's Mesa

---

**Lisa Garrett** <lisag@sanmiguelcountyco.gov>  
To: Troy Hangen <troyh@sanmiguelcountyco.gov>

Tue, Feb 18, 2020 at 11:48 AM

Hi Troy,

I have received and reviewed the memorandum and the letter written by you on February 12, 2020, both titled ground.pounders.wrights.mesa.pdf along with the packet of information from Bo Nerlin in support of Ground Pounders' Special Use Permit Application.

The Preliminary Site Plan shown on page 21 of the packet shows a "Proposed Potable Water Well" with the notation (Commercial Well permit must be obtained.) However, the paragraph near the bottom of Page 2 and the top of Page 3 of the packet states that the Property "can" access Town of Norwood water "if approved". This paragraph is not clearly composed and is in disagreement with the information on the Preliminary Site Plan. Please clarify the information regarding the proposed water source.

I have no other recommendations regarding these documents.

Best regards, Lisa

*Lisa Garrett*  
*Site Inspector*  
*San Miguel County*  
*Phone: 970-728-3923*  
*Cell: 970-708-0323*  
[lisag@sanmiguelcountyco.gov](mailto:lisag@sanmiguelcountyco.gov)  
<http://www.sanmiguelcountyco.gov>



[Quoted text hidden]



## **TOWN OF NORWOOD**

*P.O. Box 528  
1670 Naturita Street  
Norwood, Colorado 81423  
www.norwoodtown.com*

February 26, 2020

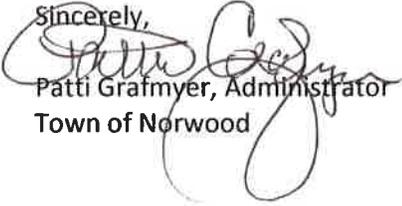
San Miguel County Planning Department  
Attn: Troy Hangen, Senior Planner  
P.O. Box 548  
Telluride, CO 81435

**Regarding: Application from M. Kimball-Ground Pounders LLC.**

Dear Troy:

The Norwood Board of Trustees supports Mr. Kimball's application to construct a shop/office and staging area, on the Baker 5-acre parcel, located on County Road W35. The Board of Trustees is pleased the Kimball's have chosen to bring their family business operation to the Norwood regional area. We have no further comments at this time, but please keep us informed as this application moves forward.

Sincerely,

  
Patti Grafmyer, Administrator  
Town of Norwood

**NORWOOD WATER COMMISSION**  
1670 NATURITA STREET  
P.O. BOX 528  
NORWOOD, COLORADO 81423  
(970) 327-4288 • (970) 327-0451 FAX

February 26, 2020

San Miguel County Planning Department  
Attn: Troy Hangen, Senior Planner  
P.O. Box 548  
Telluride, CO 81435

**Regarding: Application from M. Kimball-Ground Pounders LLC.**

Dear Troy:

The Norwood Water Commission encourages the San Miguel Planning Commission to approve Mr. Kimball's application to construct a shop/office and staging area, on the Baker 5-acre parcel, located on County Road W35. We have no further comments at this time, but please keep us informed as this application moves forward.

Sincerely,

  
Patti Grafmyer, Administrator  
Norwood Water Commission



# COLORADO

## Parks and Wildlife

Department of Natural Resources

Montrose Service Center  
2300 S. Townsend Avenue  
Montrose, CO 81401  
P 970.252.6000 | F 970.252.6053

March 2, 2020

Ms. Kaye Simonson, Planning Director  
San Miguel County Planning Department  
PO Box 548  
Telluride, Colorado 8135

Dear Ms. Simonson,

Thank you for the opportunity to comment on the proposed construction by Mike Kimball on W35 Road, Norwood, CO. As you are aware, Wrights Mesa is designated as winter range as well as overall range for Mule Deer and Elk. Naturita Canyon is a movement corridor for numerous wildlife species including, but not limited to black bears, mountain lion, mule deer, elk, bobcat, and coyotes.

While Colorado Parks and Wildlife (CPW) does not like to see the loss of any wildlife habitat, the construction site is highly degraded, primarily as it was the old county dump site. The control of noxious invasive weeds will have some benefit to wildlife that utilize the area and it is CPW's hope that such weed control will include the entire property. CPW suggests using native species when reclaiming disturbed soil. CPW would also suggest that the proposed fence be constructed to be as wildlife friendly as possible while still functioning as the required security enclosure. We would be willing to discuss possible construction designs with the owners.

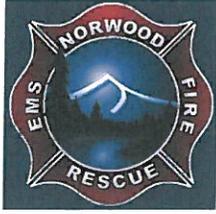
According to the plan, the site will be primarily for large equipment storage with limited human occupancy. Even with the limited occupancy, CPW suggest that the owners utilize bear proof or at minimum bear resistant trash container on site. CPW does have documented instances of human/bear conflicts in the area.

Again, thank you for the opportunity to comment. If you or the owners have any questions, feel free to contact District Wildlife Manager Mark Caddy.

Sincerely,

Mark W. Caddy  
Colorado Park & Wildlife  
Norwood District Manager  
P.O. Box 532  
Norwood, CO 81401  
mark.caddy@state.co.us





Troy Hagen, Senior Planner  
San Miguel County Planning Department  
333 W. Colorado Ave.  
Telluride, CO 81435

RE: Ground Pounders LLC.

Dear Troy,

The Norwood Fire Protection District approves the request for the Special Use Permit for the property located on CR W35 Rd, Wrights Mesa; Parcel No. 429517300003.

The proposed structure meets current fire code with non-combustible construction for said use. The total square footage of 2,500 is well under the 5,000 square feet for a sprinkler system.

The Norwood Fire Protection District is requesting 24-hour access to the security gates for ingress to the property in case of an emergency. Security Code or lock box key will be required.

Please contact me with any questions or concerns.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized first name and a more complex last name.

John J. Bockrath, District Chief  
Norwood Fire Protection District

Office: 970-327-4800  
Cell: 630-709-7961



## PLANNING DEPARTMENT

KAYE SIMONSON, PLANNING DIRECTOR

May 29, 2019

Jason Baker Via email: [jasonbaker712@gmail.com](mailto:jasonbaker712@gmail.com)  
PO Box 787  
Norwood, CO 81423

RE: Phase I Environmental Site Assessment for 5-acre parcel, County Road W35, Norwood, Colorado

Dear Jason,

The purpose of this correspondence is to provide a formal letter regarding the potential acceptance of applications of development and building permits by the County Planning and Building Department for the 5-acre parcel you currently own off County Road W35, near Norwood, Colorado. This property is located near the San Miguel County Transfer station, and was at one time used as a landfill by the Town of Norwood. We also understand that this property is currently under contract for sale and that part of the buyer's due diligence is to determine whether the county will issue permits for the construction of residential structures on this parcel.

The Planning Department has received a copy of the Phase I Environmental Site Assessment prepared for you by Avant Environmental Services Inc. for the subject 5-acre parcel, dated May 20, 2019. We have reviewed the report regarding the environmental conditions of the site and determined that the Planning and Building could accept applications for development and building permits for the site subject to compliance with all other County Land Use Code standards.

The County Building Department reviews projects on a case by case basis in the Wrights Mesa area to determine if a geotechnical/soils report should be completed. Because this site is a former landfill, we will require a geotechnical/soils report to ensure there is competent fill to support a structure. If there is an Engineer designing the foundation and he has determined the soils classification, acknowledged the landfill concerns and addressed them accordingly we could waive the soils report requirement if it isn't a larger or multi story home.

Please contact the Planning Department if you have additional questions or concerns.

Sincerely,

Kaye Simonson, AICP  
Planning Director

Phase I  
Environmental Site Assessment  
5-Acre Parcel, Road W35  
Norwood, Colorado

---

**Avant Project Number: 9125-1**  
**May 20, 2019**



# Phase I Environmental Site Assessment 5-Acre Parcel, Road W35 Norwood, Colorado

---

May 20, 2019

*Submitted by:*

**Avant Environmental Services Inc.**  
2500 Broadway Unit B-235  
Grand Junction, Colorado 81507  
(970) 260-8468

*Prepared for:*

Jason Baker  
PO Box 787  
Norwood CO 81423



Author:

---

Edward M. Baltzer  
Project Manager

I declare that, to the best of my professional knowledge and belief, I meet the definition of *Environmental Professional* as defined in Section 212.10 of 40 CFR part 312. I have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. I have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312.

Avant Project Number: 9125-1

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## ACRONYMS AND ABBREVIATIONS

AST	Above-ground Storage Tank
ASTM	American Society for Testing and Materials
Avant	Avant Environmental Services Inc.
BTEX	benzene, toluene, ethylbenzene, and xylenes
CDPHE	Colorado Department of Public Health and Environment
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CERCLIS	CERCLA Information System
ERNS	Emergency Response Notification System
ESA	Environmental Site Assessment
LUST	Leaking Underground Storage Tank
MSHA	Mine Safety and Health Administration
NFRAP	No Further Remedial Action Planned
NPL	National Priority List
NRCS	Natural Resource Conservation Service (formerly Soil Conservation Service)
NTIS	National Technical Information Service
OPS	Colorado Department of Labor and Employment, Oil and Public Safety
PCBs	Polychlorinated Biphenyls
RCRA	Resource Conservation and Recovery Act
RCRIS	RCRA Inventory System
ROD	Records of Decision
Site	5-Acre Parcel, Road W35, Norwood, Colorado
SPL	State Equivalent Priorities List
SQGs	Small Quantity Generators
TSD	Treatment, Storage, and Disposal
USDA	United States Department of Agriculture
USEPA	United States Environmental Protection Agency
USGS	United States Geological Survey
UST	Underground Storage Tank
VCUP	Colorado Voluntary Clean-Up

## **EXECUTIVE SUMMARY**

This Phase I Environmental Site Assessment (ESA) of a parcel of land located on Road W35 northwest of Norwood, San Miguel County, Colorado (the Site) was conducted by Avant Environmental Services, Inc. (Avant). The ESA was prepared on behalf of Jason Baker in anticipation of selling the Site. Avant has performed an ESA in conformance with the scope and limitations of ASTM Practice E-1527-13 of the Site. Any exceptions to, or deletions from, this practice are described in the section where they occur in this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the Site except that the Site has historically been used as a dump, with an undetermined volume of trash and refuse of unknown content buried on the Site.

Evidence gathered by the Site inspection, owner interviews, and aerial photographs indicates that the area between the east property line and the driveway, extending to the north, was historically used as a dump. It appears that the trash layer likely thickens towards the north, with less or possibly no buried trash in the south area east of the driveway. Evidence indicates that the trash is likely buried beneath clean fill brought in from off-site excavations. This fill dirt thickens to several feet depth towards the north. It appears that surrounding land has also been used to dump trash, with trash visible on the west part of the Site, south of the Site, and on the slopes below Road W35 north and west of the Site. Trash at the Site dump was reportedly burned; if so, the remaining trash is not likely to further decompose. Finally, soil at the Site is thin, with shallow bedrock that is hard sandstone. This would limit the ability to dig deep trenches for trash burial, suggesting that any trenches that may have been dug for trash would not likely be deeper than four or five feet below the original grade.

# **Phase I Environmental Site Assessment 5-Acre Parcel, Road W35 Norwood, Colorado**

## **1 INTRODUCTION**

This report presents the findings of a Phase I Environmental Site Assessment (ESA) conducted on a five-acre parcel of land located on W35 Road, located about two miles northwest of Norwood, Colorado. It is listed as parcel number 429517300003 by the San Miguel County assessor (the “Site”, see Figure 1 and legal description in Appendix B). This ESA was prepared by Avant Environmental Services Inc. (Avant) on behalf of Jason Baker, the Site owner, of Norwood, Colorado.

### **1.1 Purpose**

This ESA was performed prior to selling the Site by Jason Baker (the ESA User and Site Owner). The objective of this assessment is to provide information regarding the environmental condition of the Site.

### **1.2 Scope of Service**

This ESA consisted of a review of available local, county, state, and federal documents; examination of historical aerial photographs, topographic maps, city directories, and fire insurance maps; interviews; and a visual inspection of the Site. This ESA was conducted in accordance with American Society of Testing and Materials (ASTM) Standard E1527-13, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* (ASTM, 2013).

### **1.3 Previous Reports**

Neither Avant nor the Owner identified any previous environmental reports for the Site. A deed restriction on file with the San Miguel County Clerk and Recorder was provided to Avant by the Owner; a copy of it is included in Appendix B.

### **1.4 Assumptions, Limitations, and Exceptions**

In preparing the conclusions to this ESA, Avant assumed that information provided by others is reliable and makes no warranty to its accuracy. No significant limitations or deviations from the ASTM standard were encountered. Minor deviations from the ASTM standard are described in the sections where they occur. No sampling of soil, water, building materials, or other material was conducted.

## **2 SITE DESCRIPTION**

### **2.1 Site Location and Legal Description**

The Site is located about two miles northwest of Norwood, Colorado. It consists of approximately 5 acres of vacant land situated in the southeast quarter of the southwest quarter of Section 17, Township 45 north, Range 13 west of the New Mexico Principal Meridian. According to the San Miguel County assessor, the Site is owned by Jason Baker.

### **2.2 Site and Vicinity General Characteristics**

The Site is located in a mostly open and agricultural area with scattered residences and agriculture-related structures.

### **2.3 Current Property Use and Description**

The Site is developed with a partial fence, a driveway, an electrical drop, a small open shed, and a storage container. It has recently been used for agricultural purposes, and historically has been used as a horse corral and before that as a municipal dump.

### **2.4 Physical Setting**

#### **2.4.1 Topography**

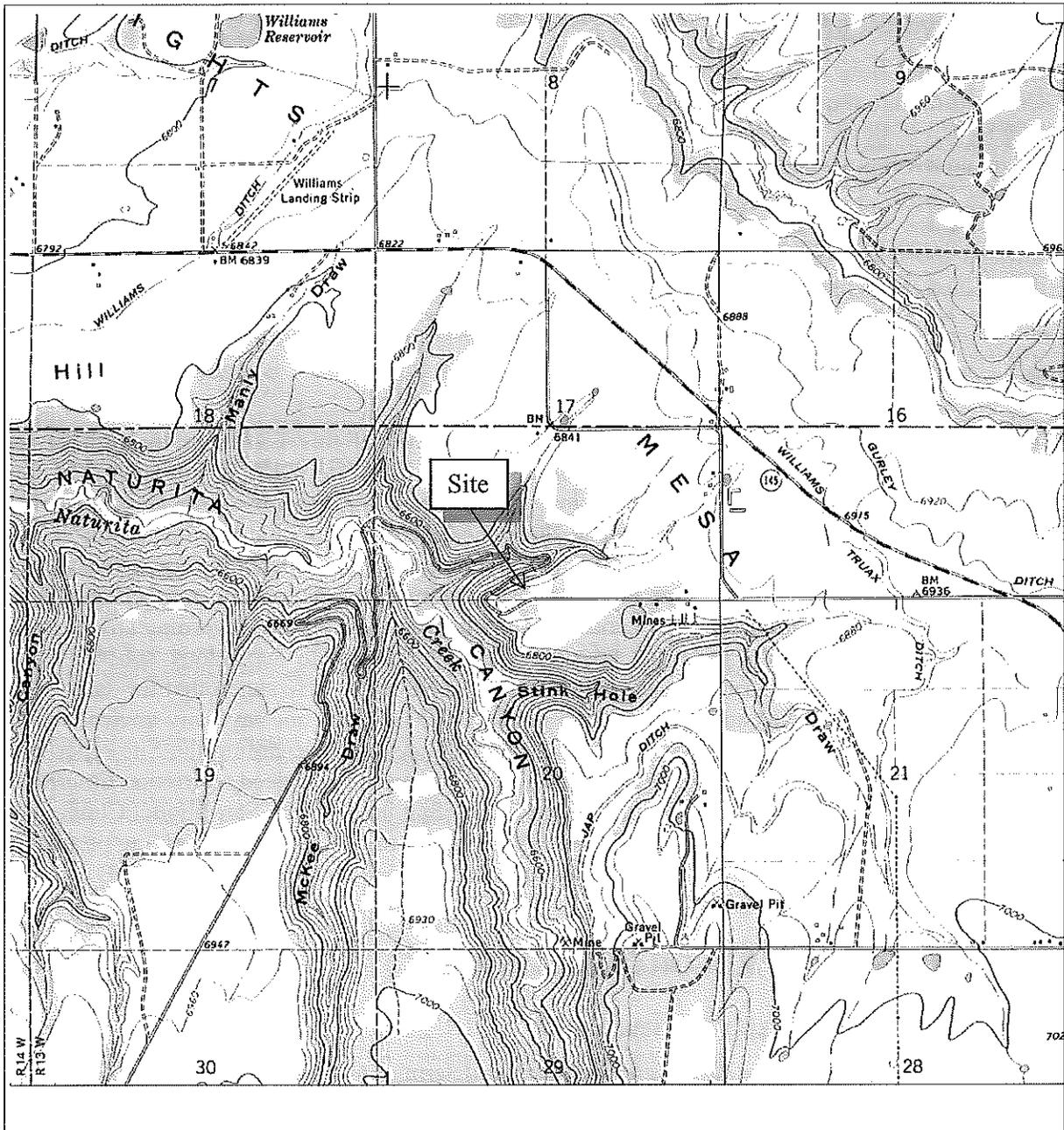
The Site lies within the USGS Norwood, Colorado quadrangle at an elevation of approximately 6,840 feet above mean sea level. The topography in the vicinity of the Site is generally a plateau (Wrights Mesa) dissected by several drainages. The Site is mostly flat land, with the northwest corner of the parcel steeply sloping off to the northwest into Naturita Canyon, which has incised about 400 feet into the plateau.

#### **2.4.1 Regional and Site Geology**

The Site is located southwest of the Uncompahgre Plateau (Tweto, 1979; Williams, 1964). The Uncompahgre Plateau is an uplift of primarily Mesozoic sedimentary bedrock forming an anticline that plunges northward into the Grand Valley and slopes southwest into the Paradox Valley and other parallel salt-anticline valleys. Bedrock at the Site is the Dakota and Burro Canyon formations, composed of fluvial sandstone and conglomerate. These overlie the Brushy Basin member of the Jurassic Morrison Formation composed of bentonitic mudstone, fluvial and lacustrine shale, and sandstone and is known to have numerous dinosaur bones and trace fossils and uranium and vanadium deposits. The Morrison Formation is exposed in the slopes of Naturita Canyon and overlies the Jurassic Summerville Formation and Entrada Sandstone.

#### **2.4.2 Soils**

Soil at the Site is mapped Gurly Loam, 1 to 8% slopes (flat areas) and Rock outcrop-Orthents complex, 40 to 90 percent slopes (steep slopes) (U.S. NRCS). Gurly Loam is 20-40 inches deep, well drained loam to gravelly loam soil over bedrock.



**Figure 1. Site Location Map**

Base map from:  
 USGS Norwood, Colorado  
 7.5 minute topographic maps  
 1964; photorevised 1973



### **2.4.3 Hydrology**

Surface water flow in the area of the Site is toward the northwest into Naturita Creek. Naturita Creek flows into the San Miguel River at Naturita, about 17 miles northwest of the Site. The San Miguel River flows into the Dolores River, which in turn flows into the Colorado River. The Colorado River is a perennial drainage that ultimately flows into the Pacific Ocean.

Groundwater, if present in the vicinity, is likely to flow perpendicularly to surface contours, or towards the northwest. The actual groundwater depth and flow direction at the Site was not determined and is likely to vary depending on the season and other factors.

## **3 USER PROVIDED INFORMATION**

The ESA User (Mr. Jason Baker) stated that the purpose of this ESA was to learn of the environmental condition prior to selling or developing the Site. He is not aware of any environmental liens, activity or use limitations, or environmental permits on or associated with the Site. He is not aware of any pending, threatened, or past litigation relevant to hazardous substances or petroleum products in, on, or from the Site, nor of any pending threatened, or past administrative proceedings relevant to hazardous substances or petroleum products in, on or from the Site. He is not aware of any notices from governmental entities regarding any possible violation of environmental laws or possible liability relating to hazardous substances or petroleum products other than a deed restriction described below. He stated that the sales price will not be reduced owing to environmental conditions. He does not have any environmental reports for the Site, nor does he have any environmental concerns regarding the Site other than the presence of a historic landfill on part of the Site. He provided a deed restriction describing the historic landfill and precluding constructing on the Site until 2012. San Miguel County has also stated to Mr. Baker that they would like a Phase I ESA prior to issuing a building permit for the Site. Mr. Baker provided an owner's questionnaire which is included in Appendix B.

## **4 HISTORICAL RECORDS REVIEW**

### **4.1 Aerial Photograph Review**

Aerial photos from 1955 to 2015 were reviewed to determine use and development of the Site. Copies of reviewed images are included in Appendix A.

The 1955 image shows the Site to be native land with the east portion possibly used for pasture. Land to the east and south appears as fields, and land to the north and west appears as brush-covered slopes.

The 1963 image shows the Site to have had the east portion graded and stripped of topsoil and vegetation, with this material cast over the bank to the north. The west half of the Site appears as brush-covered land. Surrounding land use appears irrigated to the south and east, and native brush slopes to the north and west.

The 1978 and 1982 images show the Site to have native vegetation on the west half and the east half appears mostly un-vegetated in 1978 and partially vegetated in 1982. East-west linear features are visible in the 1982 image and the north part of the dump area appears vegetated. Another trench or similar feature appears southeast of the Site in 1978 and is expanded by 1982. A structure appears some distance east of the Site in 1982, and other surrounding land use appears unchanged.

By 1993 the east half of the Site appears to be vegetated with grass or weeds. The trench that had appeared to the southeast appears graded level. No other land use changes are noticeable on the image.

The 2009 and 2015 images show the Site and surrounding land to appear similar to today. Several additional structures are visible south and east of the Site. Several rows of trees or bushes appear along the north edge of the east property line. The 2017 image shows the Site with a structure at the end of a driveway that splits the Site in half. Several lineaments, possibly trenches used for the reported hemp operation, and several lines of trees or bushes appear in the east half. Two tanks are visible adjacent to the Site on the property to the east, as are several new structures. A fence or similar feature that casts a shadow is visible trending east from the driveway north of the county road. Solar panels appear on the historic landfill ¼ mile east of the Site.

In summary, the aerial photographs show that the southeast portion of the Site was used between 1963 and 1982 for a purpose that required grading and possibly excavating. The Site was developed with a driveway and structure by 2017, and several lineaments are visible on the east half of the Site. Nearby properties have seen increasing use and development, and scattered structures are visible near the Site.

#### **4.2 United States Geological Survey (USGS) Topographic Maps**

The Site is located within the Norwood, Colorado quadrangle. This quadrangle was originally printed in 1964 and was photorevised in 1972. The map shows the Site as being located in a rural area northwest of Norwood. Several mines are shown on the map just east of the Site. The Moab 1:250,000 scale topographic map was produced in 1957 and shows the Site to be vacant land.

#### **4.3 Polk City Directories**

The street sections of Polk City Directories provide information on the names of occupants of specific addresses in an area. No city directories were available for the Site.

#### **4.4 Sanborn Fire Insurance Rate Maps**

The Sanborn Company prepared maps for fire insurance companies during the latter part of the nineteenth and early twentieth centuries. These maps often indicate locations of USTs, ASTs, building construction, and business names. No Sanborn maps were produced for the Site.

## **5 ENVIRONMENTAL RECORDS REVIEW**

A search of environmental records held by pertinent agencies was conducted by ERS, a subcontractor to Avant Environmental. The search focused on records pertaining to facilities within one mile of the Site that are regulated by government agencies or that have reported releases of regulated materials. An electronic copy of all the GeoSearch findings can be provided to the ESA User upon request. A map showing the locations of these facilities is included in Appendix B of this report. The following sections of this ESA summarize the environmental records findings.

### **5.1 Federal Records**

#### **5.1.1 CERCLA Sites and Superfund Sites (NPL)**

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides a system for prioritizing existing areas of known contamination for remediation. The U.S. Environmental Protection Agency (EPA) ranks the CERCLA Information System (CERCLIS) sites according to risk based on the Hazard Ranking Score. Higher risk sites are placed on the National Priority List (NPL) and these sites are then considered Superfund sites. The CERCLIS lists no NPL sites within one mile and no active CERCLA sites within ½ mile of the Site, and no archived CERCLA facilities adjacent to the Site.

#### **5.1.2 RCRA/Hazardous Waste Notifiers**

The Resource Conservation and Recovery Act (RCRA) Notifiers' List is an inventory of hazardous waste transporters; treatment, storage, and disposal (TSD) facilities; and large, small, and very small quantity generators. Large-quantity generators (LQGs) generate more than 1,000 kilograms (2,205 pounds) of hazardous waste per month. Small quantity generators (SQGs) generate between 100 and 1,000 kilograms per month; and conditionally-exempt small quantity generators (CESQGs) generate less than 100 kilograms (220 pounds) per month. There are no facilities within one mile of the Site and with corrective actions, no TSD facilities within ½ mile, and no other generator or inactive sites at or adjacent to the Site.

#### **5.1.3 Emergency Response Notification System (ERNS)**

Spill reports received by the EPA regarding hazardous substance incidents are maintained in an on-line database called ERNS. When a reportable quantity of a hazardous substance is released, the National Response Center (NRC) must be notified within 24 hours and these reports are also included in ERNS. No spills or releases were positively identified at the Site or on the adjacent properties. Some of the ERNS sites are non-locatable due to insufficient data provided to the EPA.

#### **5.1.4 Other Federal Records**

Various additional agency records were reviewed by ERS beyond those required by ASTM for a Phase I ESA. These include the Material Licensing Tracking System, the National Pollutant Discharge Elimination System, the Toxic Substance Control Act Inventory, historic gas stations, the open dump inventory, Department of Defense sites, and several others. No other facilities were found to be listed at or near the Site.

## **5.2 State and Local Agency Records**

### **5.2.1 Environmental Covenants**

The CDPHE uses environmental covenants to approve requests by a party to restrict the future use of a property using an enforceable agreement called an environmental real covenant. These covenants, which are recorded with the deed and stay associated with the land in perpetuity, provide a mechanism to ensure that institutional controls that are part of environmental remediation projects are properly implemented and that engineered structures are protected and maintained, so that implemented remedies continue to be protective of human health and the environment for as long as any residual contamination remains a risk. The list of environmental covenants was searched. No covenants exist at or adjacent to the Site.

### **5.2.2 Spills**

The CDPHE department of Emergency preparedness and response maintains a listing of chemical spills and/or releases. No spills were listed at or adjacent to the Site.

### **5.2.3 Voluntary Cleanup Sites**

The State of Colorado has a voluntary cleanup program whereby property owners can clean up unregulated sites with environmental contamination to standards that are agreed upon by the State CDPHE. A review of the VCUP list of sites revealed no such facilities within ½ mile of the Site.

### **5.2.4 Landfill/Solid Waste Activities**

CDPHE records were searched for active landfill locations within San Miguel County. The Norwood Transfer Station and the Norwood Landfill are listed as being about ¼ mile east of the Site.

The Site is not listed in the CDPHE landfill list as it was closed prior to the implementation of Subtitle D of RCRA in the 1980s, and is therefore not regulated as a landfill. Miquette Gerber of the CDPHE was contacted and stated that they have no information on the historic dump, but do have some information on the Norwood landfill located ¼ mile to the east. That landfill was closed in 1990 and is in post-closure care at this time. CDPHE had one record concerning the Site; it is a telephone log dated April 11, 2019 from John O'Rourke of the CDPHE leaving a voice mail message for Jason Baker. Mr. O'Rourke states that the landfill was closed prior to Subtitle D regulations and is therefore not regulated by them. A copy of this telephone log is included in Appendix B.

### **5.2.5 Above and Underground Storage Tanks (AST/USTs)**

Lists compiled by the State of Colorado Oil and Public Safety Division (OPS) were searched for leaking underground and aboveground storage tanks (USTs/ASTs) located within one-half mile of the Site. Open sites are undergoing active remediation; while closed sites have reportedly been cleaned up. There are no leaking UST/AST facilities within ½ mile of the Site, nor are there any registered UST/AST facilities at or adjacent to the Site.

### **5.2.6 Other Colorado Environmental Records**

The ERS records search included many additional Colorado and proprietary records beyond those required by ASTM for a Phase I ESA. These include water wells, dams, and air pollution control division permitted facilities. No facilities were identified at or near the Site.

### **5.2.7 Norwood Fire Protection District**

Avant contacted the Norwood Fire Protection District to determine if hazardous materials incidents, spills, or fires had occurred on or near the Site. They had not responded to the request by publication.

### **5.2.8 San Miguel County Planning Department**

Avant contacted Kay Simonson with the San Miguel County planning department to inquire about the landfill. Ms. Simonson stated that they have no information on the Site's use as a landfill. She stated that the land currently used as a transfer station had been the town landfill that was closed in 1990. She did not know when that landfill had begun operations.

### **5.2.9 Town of Norwood**

Patty Grafmyer of the Town of Norwood was contacted and asked about the Site landfill. She stated that it was no longer being used by some time in the 1980s, before she was familiar with the area. She recalled that it was operated by installing trenches that were filled with trash and covered. She had no other information on the Site.

## **6 SITE INSPECTION AND INTERVIEWS**

### **6.1 Subject Site Inspection**

Avant personnel inspected the Site on May 17, 2019 accompanied by Jason Baker, the owner. The weather was partly cloudy with occasional rainfall. The Site is mostly flat ground accessed by a driveway from Road W35. The south property line is denoted by fencing and corner pins indicating the Site is not adjacent to Road W35. The east property line was determined by the two east property pins, the south property line is denoted in part by a derelict fence, and the west property line was located using the two west corner pins. The driveway leads to near the north property line where an empty steel storage container is parked.

A new pad-mounted electrical transformer is located at the property line just east of the driveway. Land between the driveway and the east property line is mostly open and covered with weeds and grasses, with hedgerows of bushes along the east and south property lines. This portion of the Site has evidence of the removal of fence posts (concrete anchors and wood posts) surrounding an area with several trenches and potholes. Mr. Baker stated that he cultivated hemp on this part of the Site about 3 years ago. The crop was planted into holes that were augered to about three feet below grade or into trenches that were dug about two to three feet below grade and filled with topsoil. He reported that only minor trash occasionally was turned up by the excavating activities. The growing area was surrounded by a fence (visible as a mostly rectangular shape in the 2017 aerial photograph). A small wooden stall is present just east of the driveway; Mr. Baker stated that it was constructed as a shaded area for the hemp workers. The hedgerows, trenches, fencing, stall, driveway, and storage container are all visible on the 2017 aerial photograph (Appendix A). The entire area between the driveway and the hedgerows near the east property line is elevated up to about four feet above what appears to have been the historic grade.

The cultivated area slopes down towards the north, becoming steeper and more brush and tree covered towards the north. A road cut made for the storage shed revealed a minor amount of trash such as rusted metal and broken glass pieces within the bank cut. Farther north down the slope various pieces of scrap metal and an old truck body are located on or north of the Site property boundary. Near the center of the north property line the land becomes covered with trees and brush, and more of the parcel is on the north slope. An old road cut is visible in the area leading towards the northwest across the Site. This area is tree-covered with occasional pieces of metal scrap, tree trunks, and other trash. The northwest corner is across W35 Road and the west property line crosses the road, ending at the southwest property pin. The land on the west half of the Site is brush and tree-covered, with a discarded washing machine and microwave oven and some small areas of trash on the surface of the ground consisting of cinders, glass, and ceramic. A partially-buried trash pile is present just north of the property west of the driveway; this consists of metal, branches, and dirt, with some of the trash having fallen north onto the Site.

### **6.2 Surrounding Properties**

To the north is a sliver of property and Road W35, south of the road is a rural residence. To the west is open private property. To the east is a residence, and to the north is a wooded, steep slope leading down into Naturita Canyon and Road W35 where trash has been dumped.

### **6.3 Subject Property Owner Interview**

The Site owner as recorded by the San Miguel County Assessor is Jason A. Baker. Mr. Baker completed an owner's questionnaire that is attached in Appendix B. It revealed no recognized environmental conditions associated with the Site other than its historic use as a municipal dump. Mr. Baker stated that a local contractor, Mr. Ed Jenson, recently told him that he had hauled fill dirt onto this area as part of the dump reclamation in the 1980s. Mr. Jenson also recalled that the Site had been a "burn dump" where trash was routinely burned. Mr. Baker had grown hemp about three years ago and in the process had dug many holes across the former dump area for fence posts and planting locations. He reported that these holes exposed mostly clean soil, with occasional pieces of trash such as cans and glass in very minor amounts he described as "hands full". He stated that he had the driveway installed, set the storage container and used it for drying the hemp crop, installed and removed a fence, and built a small shed used by workers to rest in the shade. He also stated that he removed sagebrush from across the planted area, indicating that the ground had been undisturbed long enough to establish sagebrush.

## **7 CONCLUSIONS**

This Phase I Environmental Site Assessment (ESA) of a parcel of land located on Road W35 northwest of Norwood, San Miguel County, Colorado (the Site) was conducted by Avant Environmental Services, Inc. (Avant). The ESA was prepared on behalf of Jason Baker in anticipation of selling the Site. Avant has performed an ESA in conformance with the scope and limitations of ASTM Practice E-1527-13 of the Site. Any exceptions to, or deletions from, this practice are described in the section where they occur in this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the Site except that the Site has historically been used as a dump, with an undetermined volume of trash and refuse of unknown content buried on the Site.

Evidence gathered by the Site inspection, owner interviews, and aerial photographs indicates that the area between the east property line and the driveway, extending to the north, was historically used as a dump. It appears that the trash layer likely thickens towards the north, with less or possibly no buried trash in the south area east of the driveway. Evidence indicates that the trash is likely buried beneath clean fill brought in from off-site excavations. This fill dirt thickens to several feet depth towards the north. It appears that surrounding land has also been used to dump trash, with trash visible on the west part of the Site, south of the Site, and on the slopes below Road W35 north and west of the Site. Trash at the Site dump was reportedly burned; if so, the remaining trash is not likely to further decompose. Finally, soil at the Site is thin, with shallow bedrock that is hard sandstone. This would limit the ability to dig deep trenches for trash burial, suggesting that any trenches that may have been dug for trash would not likely be deeper than four or five feet below the original grade.

## **8 DEVIATIONS AND LIMITATIONS**

### **8.1 Data Gaps**

The ASTM Standard requires identifying significant data gaps that affect the Environmental Professional's ability to identify recognized environmental conditions. There are no data gaps that are significant to the findings of this report.

### **8.2 Limitations**

Avant conducted this Phase I ESA in accordance with the guidelines set forth by ASTM. The qualifications of the personnel preparing this assessment are included in Appendix D. The sources of information obtained to perform this assessment include documents, oral statements, and other information from parties outside of Avant's control. Avant cannot guarantee the accuracy of the information. Snow covered most of the ground surface; this would have obscured visible indications of any potential contamination.

Avant's conclusions for this Phase I ESA are based on information provided by third parties (including government records) and general site conditions determined by a visual inspection. Prior to the 1970s, environmental records were not required, and as such, activities at that time may have adversely impacted the area without being documented by government agencies. In addition, current record-keeping requirements may not be adhered to by all facilities.

This assessment was limited and it did **not** include:

- Collection, testing, or chemical analysis of any samples of soil, groundwater, surface water, wastewater, building materials, or other material which was or could have been on site.
- Interviews, except as specifically noted in this report, with past owners, tenants, employees, or neighboring landowners regarding past site use, waste generation and disposal practices (including disposal at remote sites), or manufacturing processes which may have contributed to environmental contamination at the Site.
- Evaluation of the potential risks associated with identified concerns from records searches with incomplete addresses location listings, or sites where no records were available for review.

If additional information concerning site environmental conditions becomes available, the conclusions presented in this report will not be considered valid unless this information is reviewed and the conclusions and recommendations of this report are modified and approved in writing by Avant. It is possible that additional reports or investigations could alter the conclusions of this assessment. This report was prepared for the use of our client(s) and authorized agents only.

## 9 REFERENCES

- American Society for Testing and Materials (ASTM). 2013. *Standard Practice for ESAs: Phase I ESA Process*. Designation: E 1527-13.
- ERS. 2019. *RecCheck Report Results, W35, Norwood, CO 81423 (N 38-8-45, W 108-19-36) NAD83*. ERS Project No. 2104706719, May, 2019.
- Tweto, Ogden. 1979. *Geologic Map of Colorado*.
- U.S. Army Map Service. 1957. *Moab, Utah and Colorado Quadrangle*. 1:250,000 scale.
- U.S. Geological Survey. 1964. *Norwood, Colorado Quadrangle*. Photorevised 1972. 1:24,000 scale 7½ minutes.
- U.S. Natural Resource Conservation Service. Soil Survey of the Colona Area, Colorado. <http://www.soils.usda.gov/survey/>. Accessed December 31, 2018.
- Williams, Paul L. 1964. *Geology, Structure, and Uranium Deposits of the Moab Quadrangle, Colorado and Utah*. USGS Map I-360. Reprinted in 1976 and 1983. 1:250,000 scale.

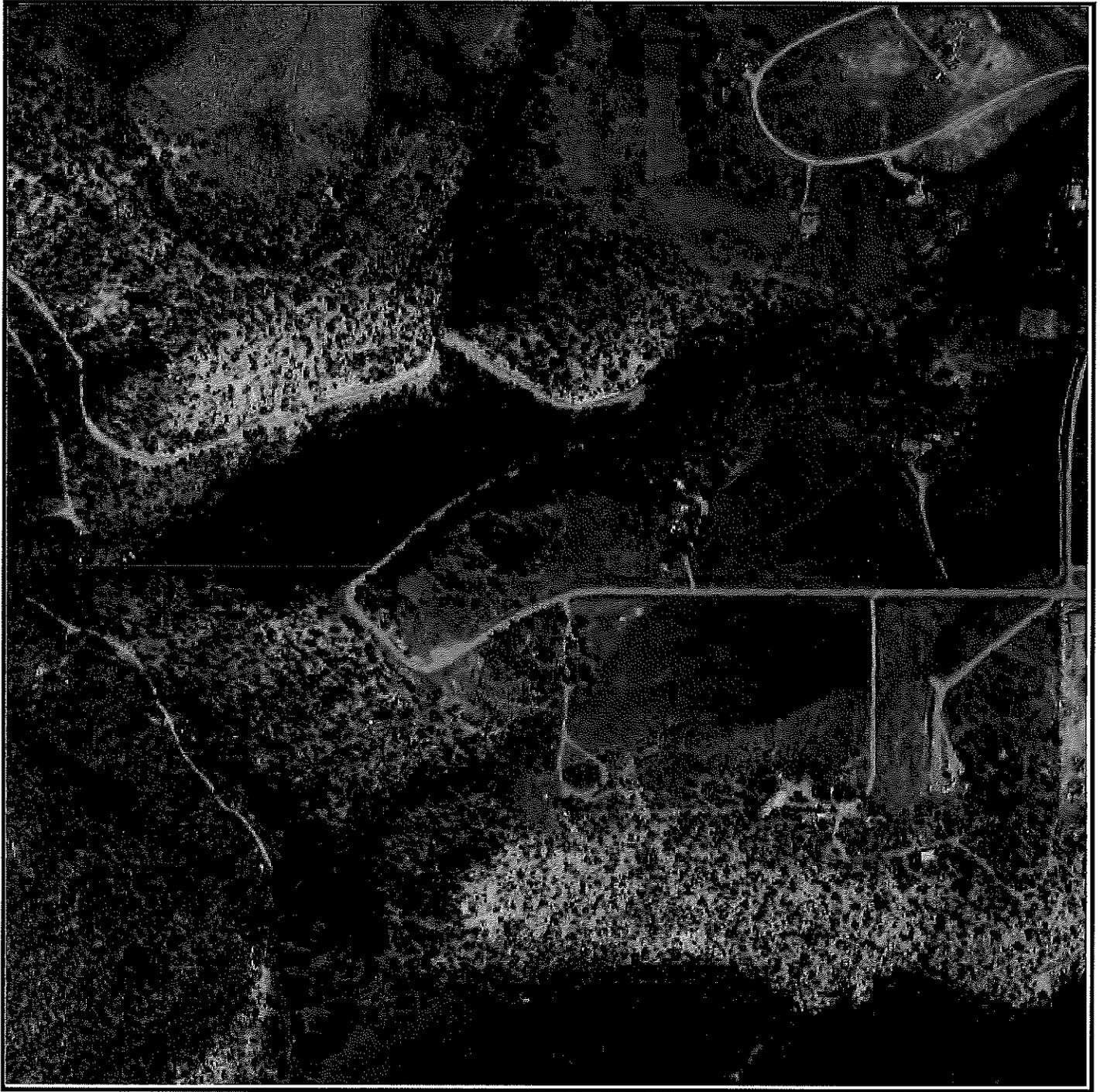
**APPENDIX A**

**AERIAL PHOTOGRAPHS**



County Road W35

2017 Aerial Photo



Historical Aerial Photo  
Year 2015

W35 Road  
Norwood, CO



Target Site: 38.145722, -108.326530 Job #: 2104706719

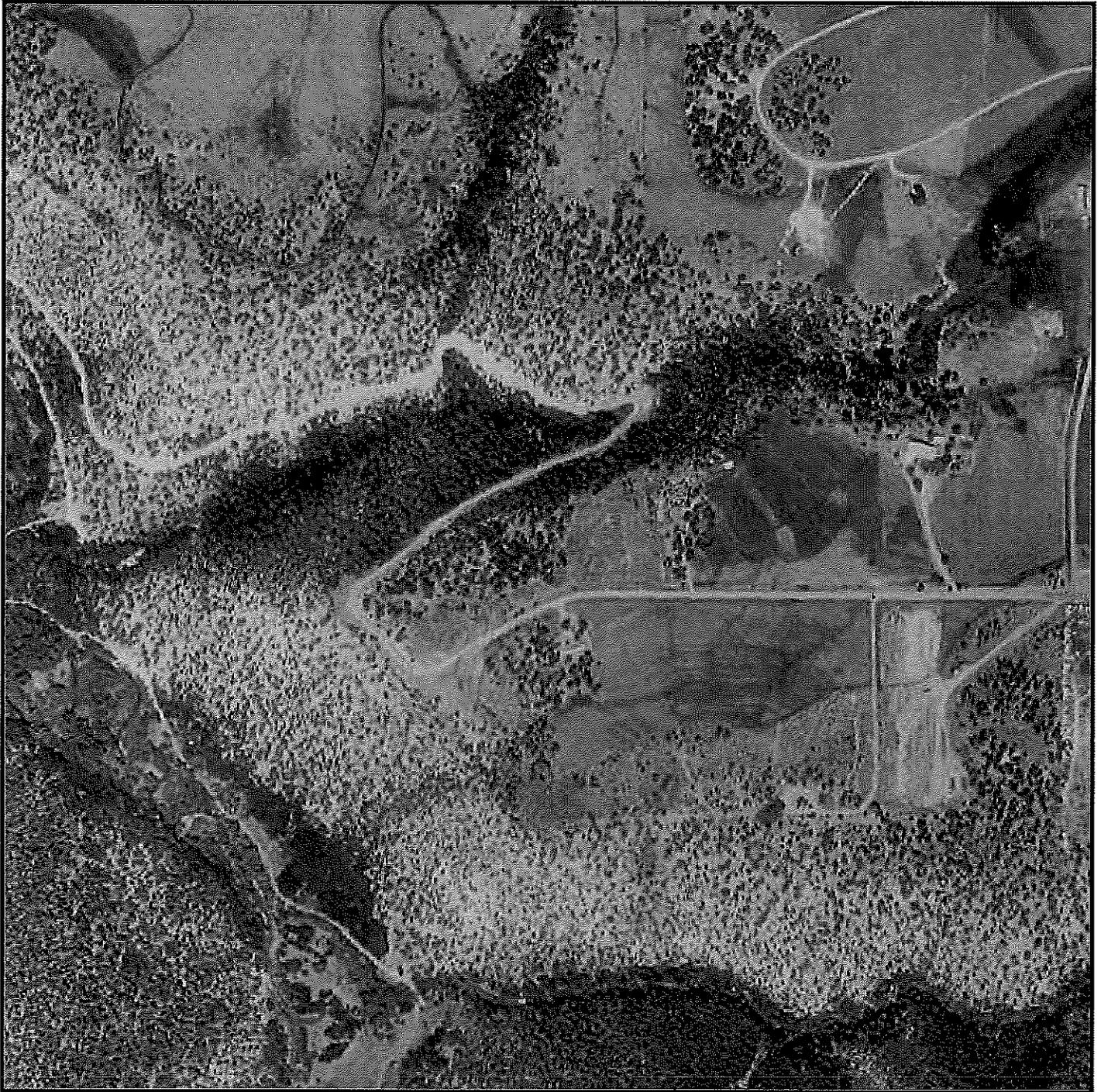


Historical Aerial Photo  
Year 2009

**W35 Road  
Norwood, CO**



Target Site: 38.145722, -108.326530 Job #: 2104706719

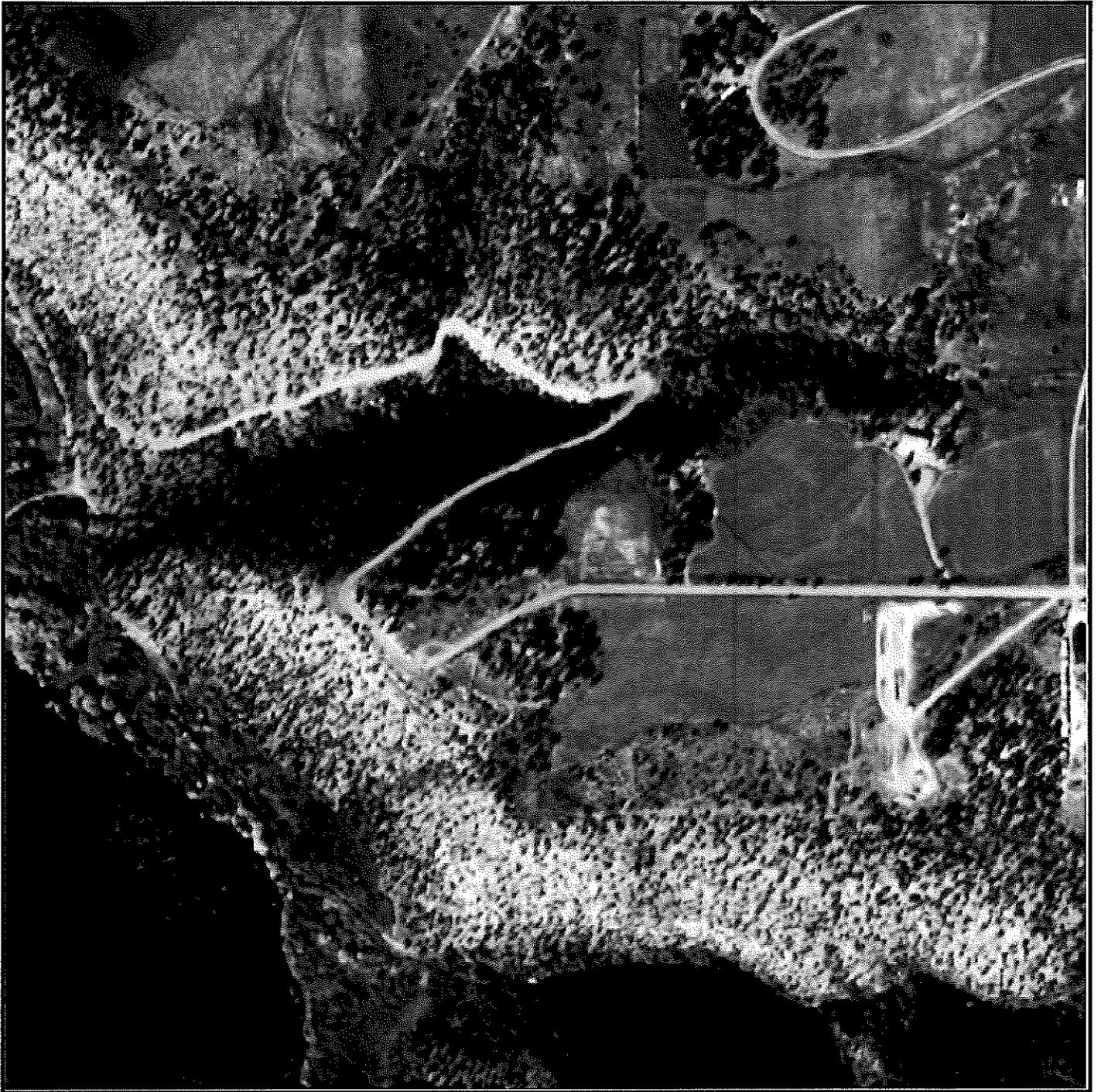


Historical Aerial Photo  
Year 1993

**W35 Road  
Norwood, CO**



Target Site: 38.145722, -108.326530 Job #: 2104706719



Historical Aerial Photo  
Year 1982

**W35 Road  
Norwood, CO**



Target Site: 38.145722, -108.326530 Job #: 2104706719

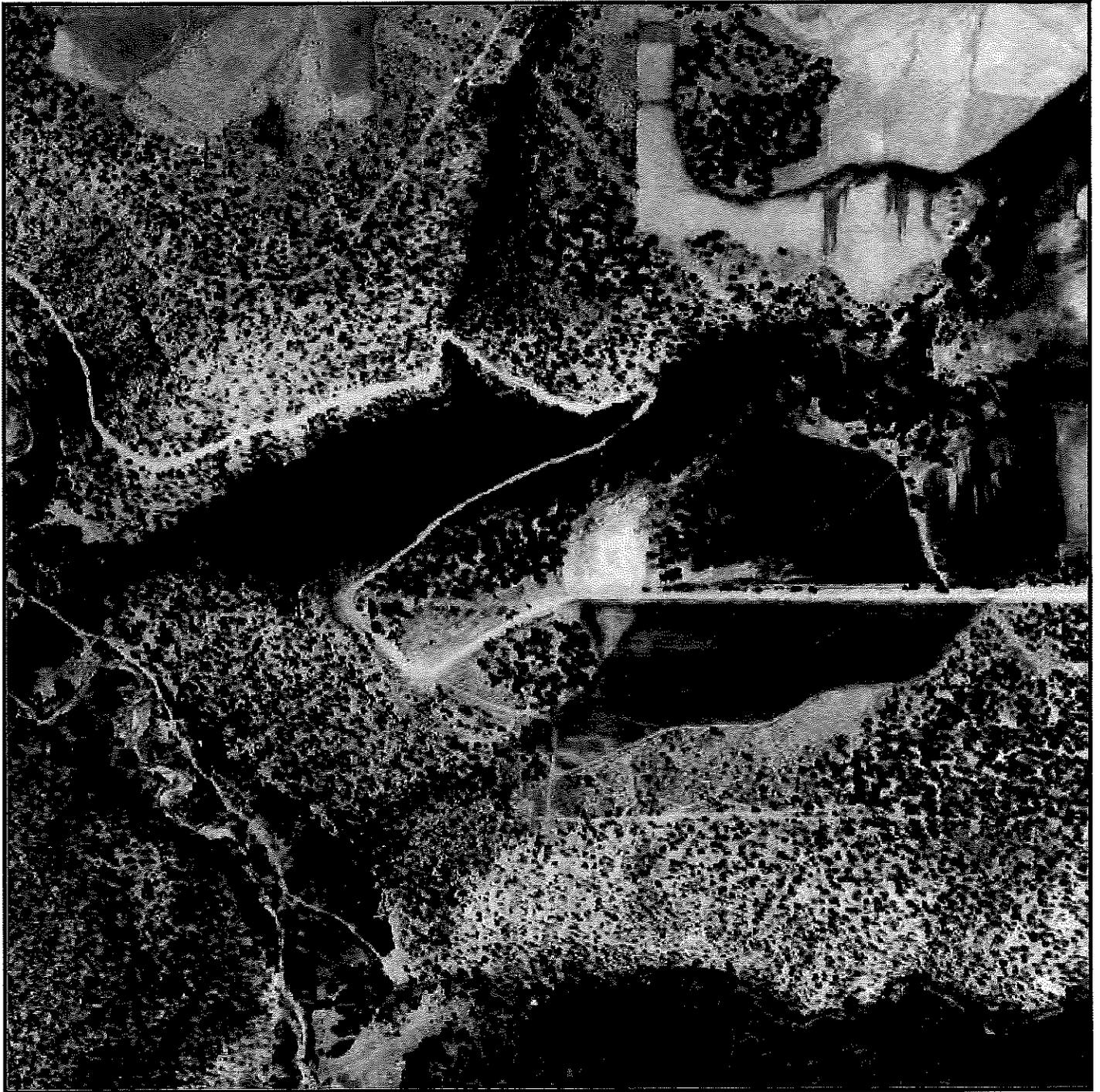


Historical Aerial Photo  
Year 1978

**W35 Road**  
**Norwood, CO**



Target Site: 38.145722, -108.326530 Job #: 2104706719

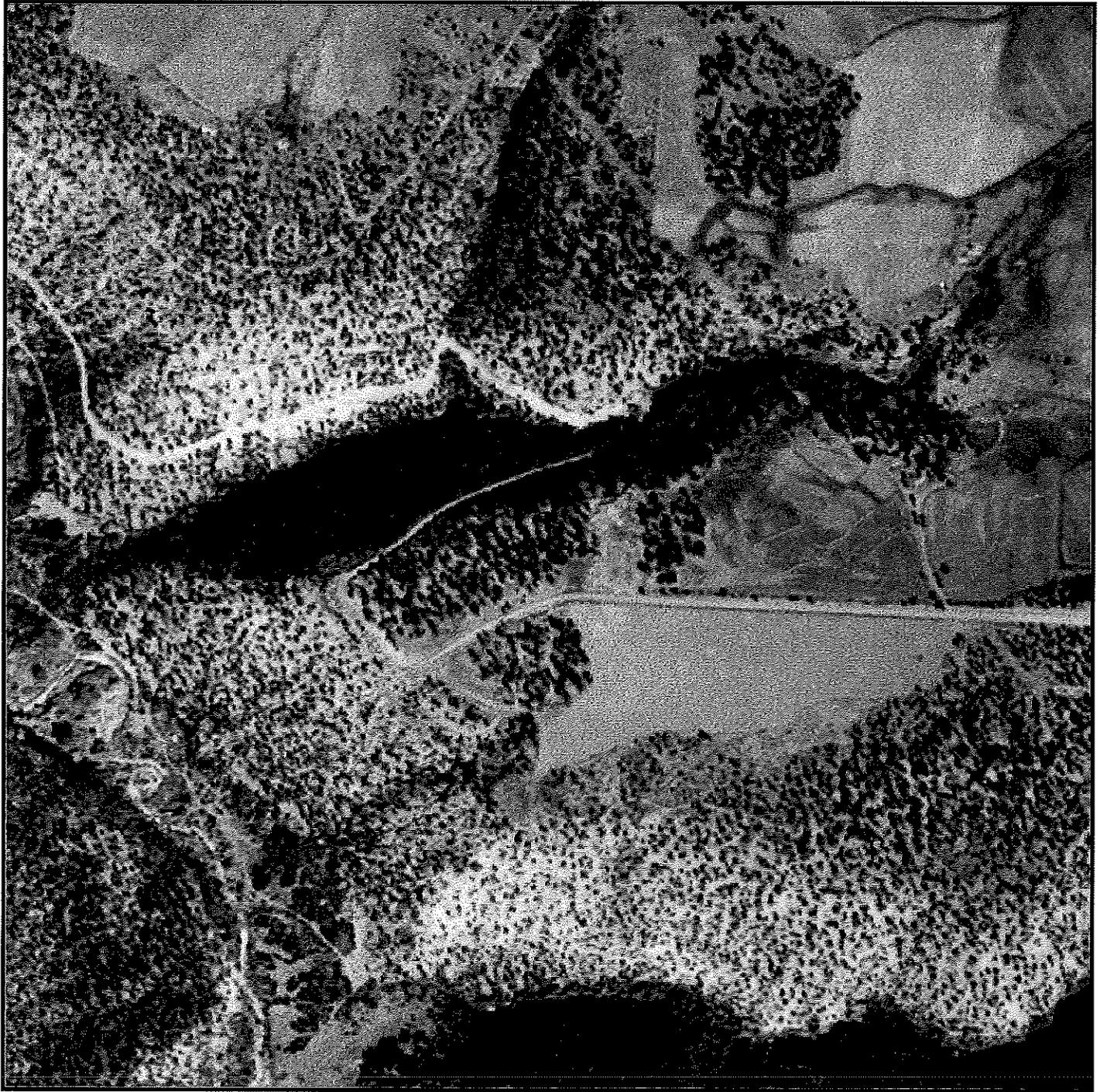


Historical Aerial Photo  
Year 1963

W35 Road  
Norwood, CO

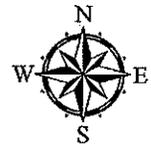


Target Site: 38.145722, -108.326530 Job #: 2104706719



Historical Aerial Photo  
Year 1955

**W35 Road**  
**Norwood, CO**



Target Site: 38.145722, -108.326530 Job #: 2104706719

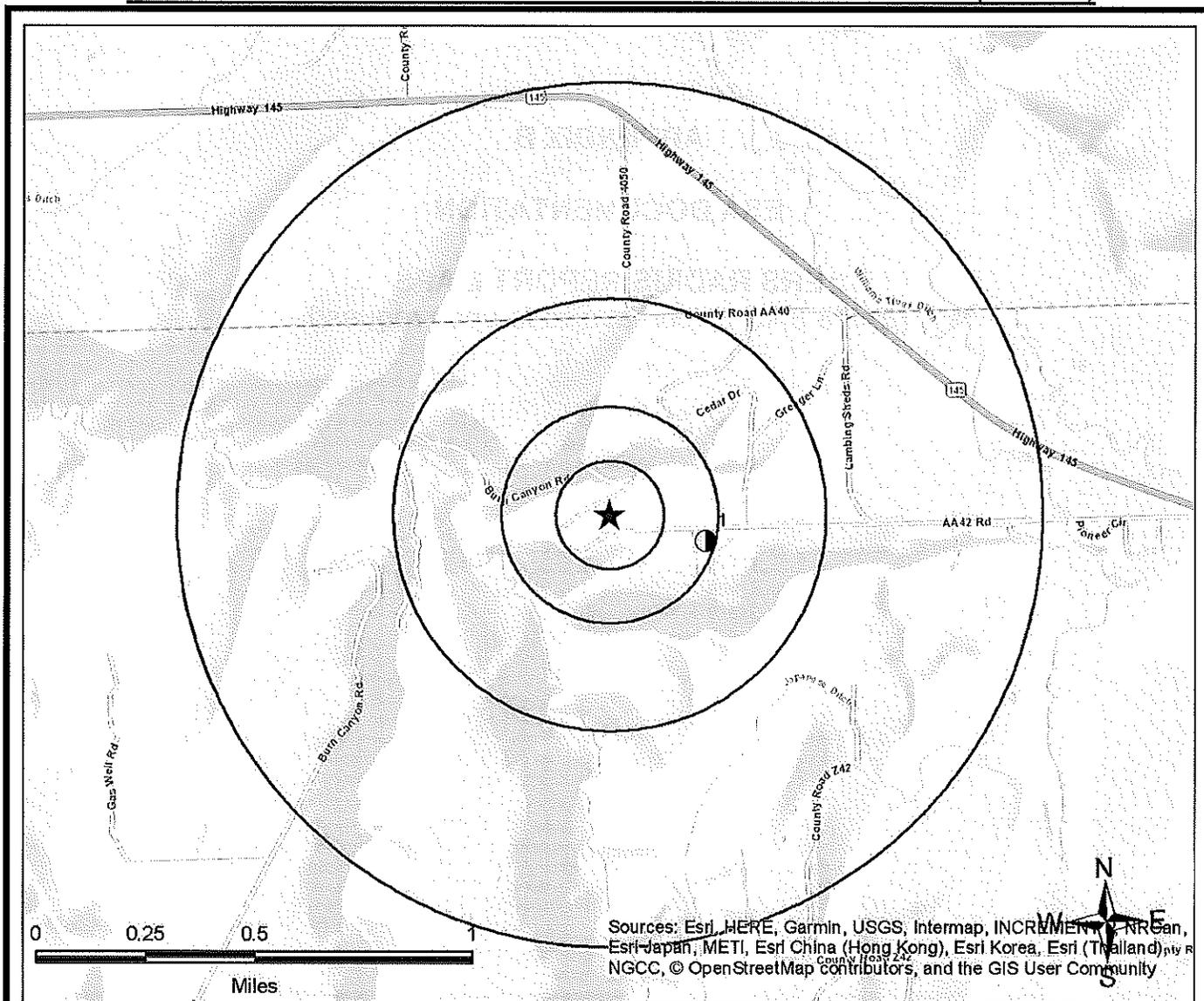
**APPENDIX B**

**ESA DOCUMENTATION**

**ERS RADIUS REPORT MAPS**

*(Entire ERS Report available upon request)*

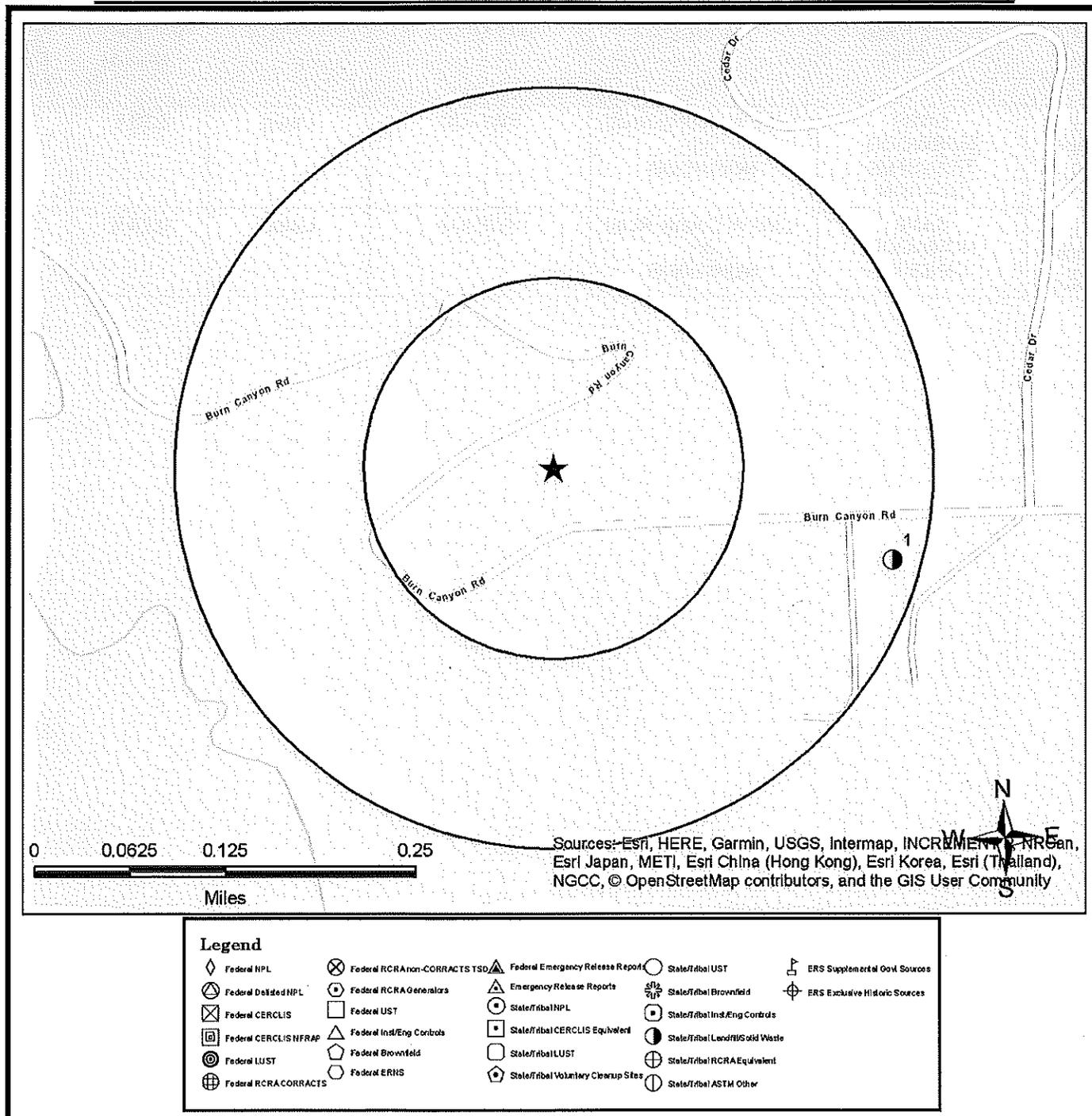
# 1-MILE RADIUS STREET MAP W/OCCURRENCES (MAP1)



Legend					
	Federal HPL		Federal RCRA non-CORRACTS TSD		Federal Emergency Release Reports
	Federal Delisted NPL		Federal RCRA Generators		Emergency Release Reports
	Federal CERCLIS		Federal UST		State/Tribal NPL
	Federal CERCLIS/NFRAP		Federal Ind/Eng Controls		State/Tribal CERCLIS Equivalent
	Federal LUST		Federal Brownfield		State/Tribal Lend/Res/Solid Waste
	Federal RCRA CORRACTS		Federal ERNS		State/Tribal RCRA Equivalent
					State/Tribal Voluntary Cleanup Sites
					State/Tribal ASTM Other
					ERS Supplemental Govt Sources
					ERS Exclusive Historic Sources

All plotted occurrences represent approximate locations based on geographic information provided by the respective agency. Actual locations may vary due to numerous reasons such as: the size of the property, accuracy of the provided location, accuracy of the software used to determine the location, etc. Occurrences are shown in three colors to give a visual indication of the potential risk of the listed occurrence based on the type of list and the current status of the occurrence. Occurrences shown in RED are locations with known contamination that have not received a "case closed" or "no further action" status. Occurrences shown in YELLOW have been listed by the respective agency, but do not always represent an environmental risk. The detailed status information and description of the listing should be reviewed for further information. Occurrences shown in GREEN are occurrences that have active permits or have had contamination in the past but have received a "case closed" or "no further action" status and therefore, do not likely present an environmental risk.

## 0.25-MILE RADIUS STREET MAP W/OCCURRENCES (MAP2)



All plotted occurrences represent approximate locations based on geographic information provided by the respective agency. Actual locations may vary due to numerous reasons such as: the size of the property, accuracy of the provided location, accuracy of the software used to determine the location, etc. Occurrences are shown in three colors to give a visual indication of the potential risk of the listed occurrence based on the type of list and the current status of the occurrence. Occurrences shown in RED are locations with known contamination that have not received a "case closed" or "no further action" status. Occurrences shown in YELLOW have been listed by the respective agency, but do not always represent an environmental risk. The detailed status information and description of the listing should be reviewed for further information. Occurrences shown in GREEN are occurrences that have active permits or have had contamination in the past but have received a "case closed" or "no further action" status and therefore, do not likely present an environmental risk.

### SUMMARY OF OCCURRENCES

MAP ID	ID/SITE NAME	ADDRESS	DATABASE	STATUS	DISTANCE (MILES)	ELEV DIFF (FEET)
1 Maps: <u>1</u> , <u>2</u> , <u>4</u>	SAM9 NORWOOD TRANSFER STATION	1.3Mi W County Road 35 NORWOOD	SWF-CO	Listed	0.23 E	27
1 Maps: <u>1</u> , <u>2</u> , <u>4</u>	SAM8 NORWOOD LANDFILL	1.3Mi W County Road 35 NORWOOD	SWF-CO	Listed	0.23 E	27

**APPENDIX C**  
**SITE PHOTOGRAPHS**



View to northeast of the entrance to Site; note transformer and shed



View to northwest of the entrance to Site; fence posts denoting north property line



Cinders, glass, and ceramic trash on surface west of driveway



Minor trash on ground surface near north property line



View to south near east property line; note higher ground on right (Site) suggesting filling



View to west from the center east property line; note discarded fence posts and trenches



West end of Site showing discarded appliances



View to northwest of the north center of the Site; note old graded road in center of image and wood debris cast over the bank



View to east from the north-center of the Site showing storage container and driveway cut

**APPENDIX D**

**ENVIRONMENTAL PROFESSIONAL  
QUALIFICATIONS**

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**EDWARD M. BALTZER**

*Manager, Regulatory Specialist, and Environmental Scientist*

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**KEY EXPERTISE**

- ✓ Phase I Environmental Site Assessments
- ✓ Permitting and Regulatory Support
- ✓ Environmental Site Characterization
- ✓ Soil, Groundwater, and Asbestos Investigations and Remediation
- ✓ Industrial Hygiene and Worker Health and Safety
- ✓ Hazardous Waste Handling and Disposal
- ✓ Voluntary Cleanup Plans

**EDUCATION AND CERTIFICATIONS**

M.A., Geology and Environmental Sciences, State University of New York, 1989  
B.A., Environmental Engineering, University of Colorado, 1981  
Certified Hazardous Material Manager (CHMM) #11357, 2002-2017  
Registered Professional Environmental Scientist #5078, Colorado Oil Inspection Section  
Wyoming Registered Professional Geologist PG-3325  
Certified Professional Geologist (AIPG) CPG 8861, 1993-2018  
Former Asbestos Inspector, EPA and Colorado #8738  
OSHA 40-hour Hazardous Waste Operations Worker and 8-hour Supervisor training

**EXPERIENCE SUMMARY**

Mr. Baltzer has 38 years of professional experience including 28 as an environmental consultant and 10 as a soil geologist and Quaternary tectonics specialist. He has performed environmental and geologic investigations on hundreds of sites, has prepared written reports for most of these, and has delivered oral presentations on several dozen topics. He is responsible for evaluating the presence and/or extent of contamination at sites. He provides regulatory, technical, and managerial assistance on Phase I ESAs, asbestos, voluntary cleanup, hazardous waste, TSCA, ecological, and other types of environmental projects.

**PROFESSIONAL AFFILIATIONS**

EPA/NGWA Advisory Council member for the Remediation of Abandoned Mine Lands Conference  
AIPG Annual Convention Planning Committee and Chief Editor, 2009 National Convention  
Mesa County Indoor Air Task Force member, 2007 to 2011  
Former Chair and Vice Chair, Mesa County (Colorado) Local Emergency Planning Committee (LEPC)  
American Institute for Professional Geologists (AIPG) Associate Editor  
Member, Mesa State College Environmental Restoration Education Advisory Committee  
Part time professor of Environmental Restoration at Mesa State College, 2005 to 2009  
Mesa County Household Hazardous Waste Task Force member, 1994-1996  
Former Town Councilman and Volunteer Firefighter

**PUBLICATIONS, PRESENTATIONS, AND AWARDS**

*Service to Geology Award*, December, 2009 from the American Institute of Professional Geologists  
Recognition by USFS chief for vital role in, "the best example of a land exchange in the nation", 2005  
Guest lecturer, Mesa State College Environmental Restoration Program, 1993-present.  
Colorado Produced Water Rules – Western COGA environmental summit, 2010  
*Preservation of Water Quality near a Surface Mine, Northwestern Colorado*. 2007 GSA convention.  
*Neotectonics of the Lemhi Fault*, Geological Society of America, Northwest Section Meeting, 1989.  
*Use of Remote Sensing to Define Fault Traces, Central Utah*. American Society of Remote Sensing, 1982.  
Co-author of numerous geologic reports, U.S. Bureau of Reclamation, 1981-1985

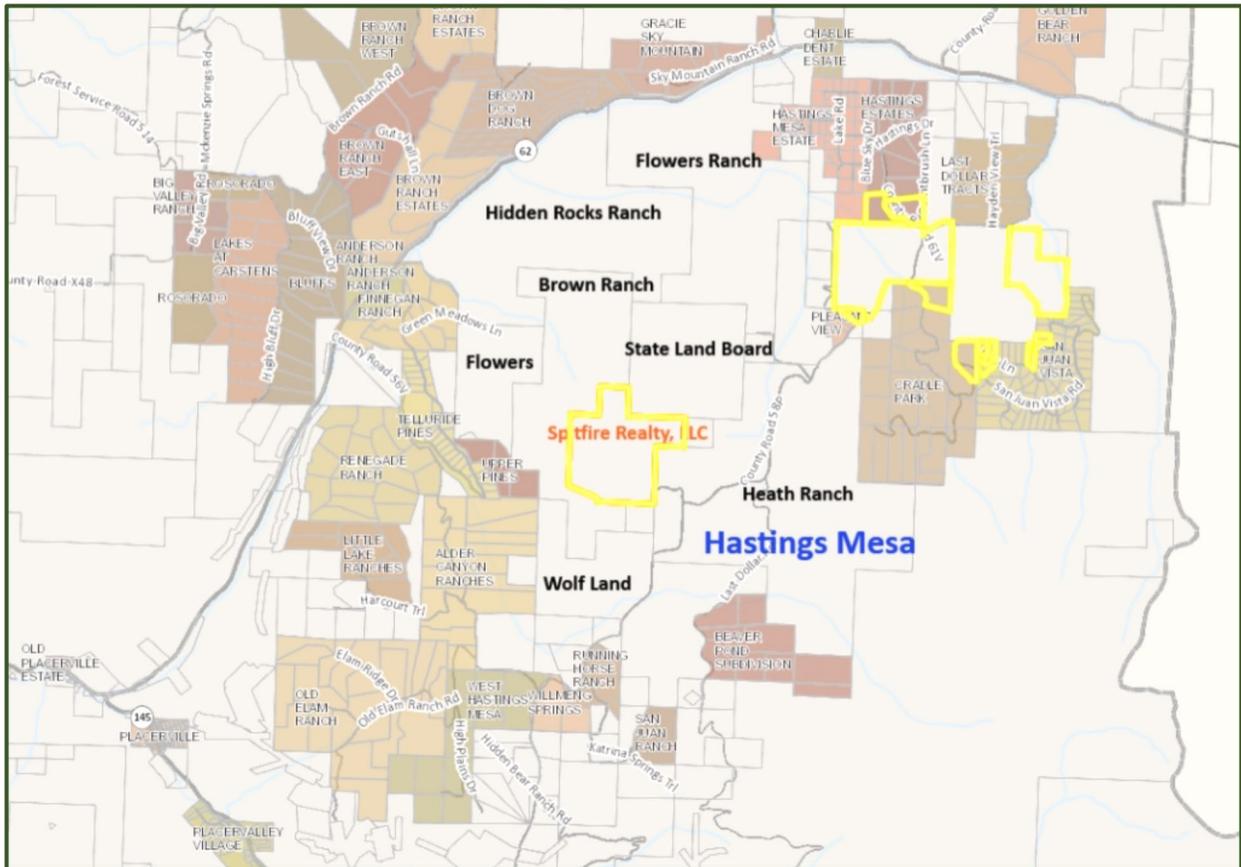
# MEMORANDUM

**TO:** San Miguel County Planning Commission  
**FROM:** John Huebner, Senior Planner  
**RE:** Spitfire Realty, LLC Special Use Permit (SUP) to Allow Use of Two Aircraft Landings Areas on a 418-acre Parcel within T44N, R10W, on Hastings Mesa First Annual Review  
**DATE:** March 11, 2020 [Z:\Applications\2018\_Spitfire Realty LLC\_SUP\_Hastings Mesa\10 Review Period\CPC Review Report Spitfire Realty.SUP.Airstrips 031120.docx]

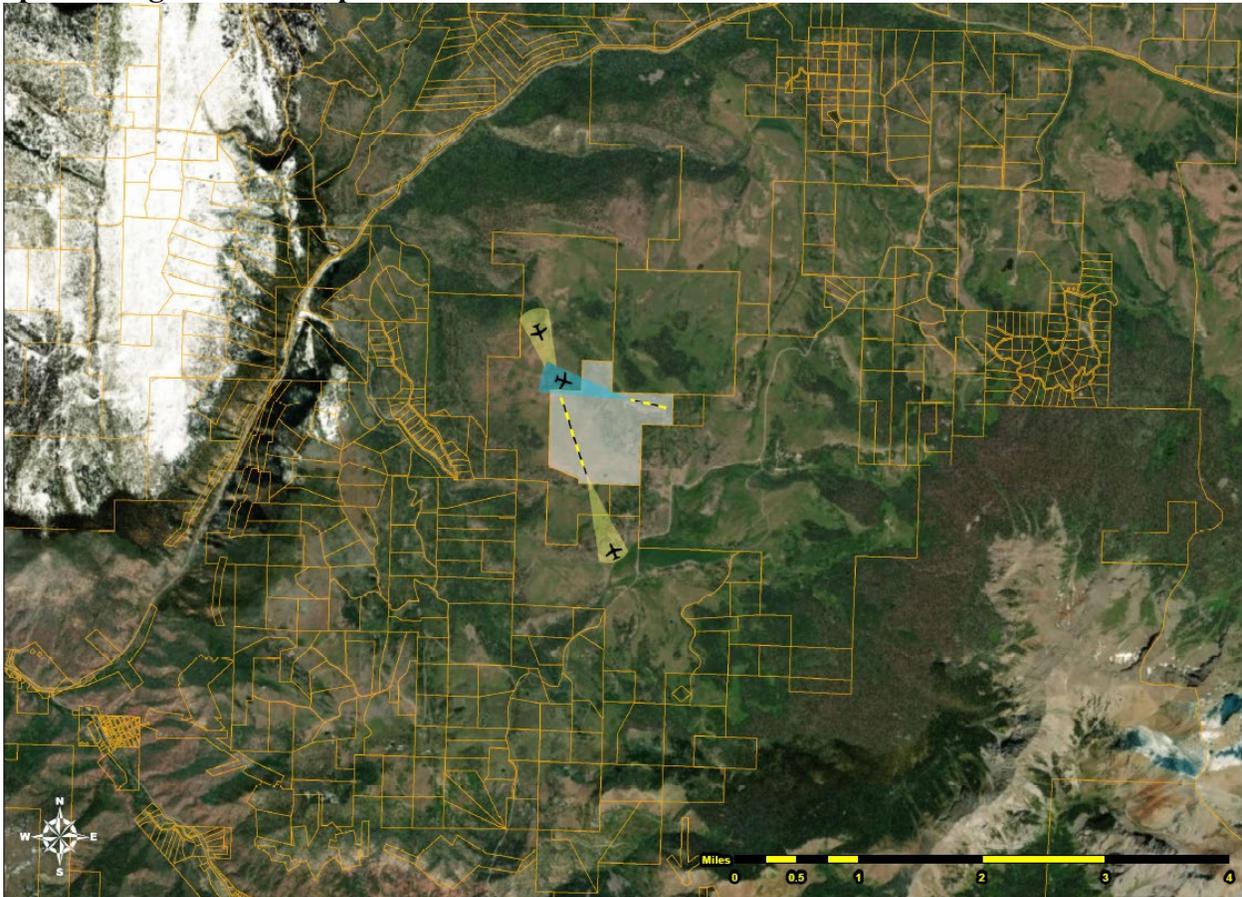
## Background

The Board of County Commissioners in December 2018 conditionally approved an Aircraft Landing Areas Special Use Permit for Spitfire Realty, LLC, on Parcel 452120100073, a 418-acre parcel, off CR 58P on Hastings Mesa, zoned Forestry, Agriculture and Open. (BOCC Resolution 2019-005 is attached) The use of the two natural vegetation-covered airstrips is limited to Mr. Lewis, his immediate family, and one Spitfire employee. Only certain single-engine fixed wing aircraft are permitted and limited to a maximum of five (5) flights in and out per calendar year. Flights shall follow “flight path protocols” and are prohibited before 7 am or after 8 pm and during Elk-calving season, as determined by Colorado Parks and Wildlife. An annual review is required of this Special Use Permit by the San Miguel County Planning Commission and Board of County Commissioners after the first full calendar year of operation in February 2020.

**Vicinity Map (Spitfire’s properties are highlighted in yellow, subject property is identified)**



## Spitfire Flight Cones Map



### Permittee Report

A flight log book, as required for the annual review of the Spitfire Aircraft Landing Areas SUP, (see attached) was submitted by Brad Switzer, Attorney on behalf of Spitfire Realty LLC. Two (2) aircraft landings and (2) takeoffs were conducted on October 14, 2019 by Spitfire's project manager, and was the only flight activity recorded.

A memorandum was also submitted by the permittee (see attached) intending to illustrate that the conditions of approval set forth in BOCC Resolution #2019-005 (see attached) were satisfied by Spitfire in their first year of flight activities at the two airstrips authorized by the SUP.

### Public Noticing

Planning Staff provided notice of the annual review of Spitfire Realty LLC's SUP. An email notice was sent on January 22, 2020 to neighbors and individuals who had commented on this SUP application regarding the Planning Commission annual review to be held on March 11, 2020. Those contacted were requested to make known their support, questions, comments or concerns regarding Spitfire's first year of operations following approval of the SUP.

Paul Talmey, Lot 12 West Hastings Mesa, commented there has been no perceivable increase in air traffic or other detrimental effects at his ranch at 395 Flying Husky Trail or nearby properties at the southern end of Hastings Mesa since the granting of the SUP.

Patrick Kelly and Nancy Heritage, 2930 County Road 56V re-iterated their continued opposition to the granting of the SUP.

Peter Kingman, 560 Little Lake Ranch Drive, aka Tract 4, Little Lake Ranches, asked if Spitfire had submitted the flight activity logbook and indicated that he would like the Little Lake Ranch Association to be included in this notice

A Notice of the March 2, 2020 CPC Public Meeting was published in the Telluride Daily Planet and in the Norwood Post on Wednesday, March 4, 2020.

### **Referral Agencies**

The notice of the Spitfire SUP annual review was sent to the Telluride Regional Airport and Colorado Parks and Wildlife for their review and comment.

Kenny Maenpa, Telluride Regional Airport Manager, commented that the Airport had not had any issues with the Spitfire aircraft landing areas over the past year under the SUP.

Kelly Crane, Colorado Parks and Wildlife, Ridgway Division Manager, stated that she didn't have any recommendations for changes nor any concerns or comments related to the permit.

### **Planning Comments**

Planning received a maintenance plan for the two turf airstrips that was submitted by Brad Switzer, Attorney on behalf of Spitfire Realty LLC on March 27, 2019 (see attached). A maintenance plan was required as a condition subsequent to approval (condition #12 of BOCC Resolution 2019-005). After consulting with the Telluride Airport Manager, Kenny Maenpa, regarding the proposed maintenance plan, the plan was approved by the Planning Director.

Planning staff has reviewed the flight log book and memorandum submitted by Spitfire Realty LLC for this review and the comments received from the review agencies and the public. The memorandum reflects that Spitfire's flight and maintenance activities at the two airstrips during the past year met the substantive requirements and conditions of the Aircraft Landings Areas Special Use Permit approved by the BOCC in Resolution #2019-005. Comments received by referral agencies and the public were generally in support of the continued limited private use of the airstrips by the permittee, or offered no constructive statements regarding flight operations.

### **Recommendation**

Staff recommends that no changes be made to the Spitfire Realty LLC Aircraft Landing Areas Special Use Permit.

### **Sample Motion:**

I move to recommend to the Board of County Commissioners that no changes be made to the Spitfire Realty LLC Special Use Permit, based on the finding that Spitfire has complied with the Special Use Permit terms and conditions of approval.

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John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

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**Memorandum for Annual Review of Spitfire Realty Airstrips per BOCC Resol. No. 2019-005**

1 message

**Brad Switzer** <bns@montrose.net>

Tue, Jan 21, 2020 at 9:56 AM

To: Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;, John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

Cc: Paul Panther &lt;panther.rms@gmail.com&gt;

Hi, Kaye and John:

Attached hereto are a Memorandum and an Airstrip Log Book relating to, and intended to satisfy, the General and Specific Conditions of BOCC Resolution No. 2019-005. If you determine any information is lacking, please let me know and I will attempt to provide that to you asap.

I have the March 11, 2020 Planning Commission meeting on my calendar as the first phase review of this SUP. Please let me know what time on 3/11 the CPC will take this matter up.

Best, Brad S.

Bradley N. Switzer, Esq.

400 South 3<sup>rd</sup> Street

P.O. Box 816

Montrose, CO 81402

(970) 249-8749

[bns@montrose.net](mailto:bns@montrose.net)

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**2 attachments****MEMORANDUM FOR ANNUAL REVIEW OF S.U.P. FOR TRUE GRIT SOUTH AIRSTRIPS.docx**

15K

**TGS Airstrip Log Book .pdf**

279K

MEMORANDUM REGARDING ANNUAL REVIEW OF  
SPECIAL USE PERMIT FOR AIRCRAFT LANDING STRIPS ON PROPERTY OWNED BY SPITFIRE REALTY, LLC  
PER SAN MIGUEL COUNTY BOARD OF COMMISSIONERS RESOLUTION NO. 2019-005

TO: SAN MIGUEL COUNTY PLANNING DEPT., PLANNING COMMISSION AND BOARD OF COMMISSIONERS

FROM: BRADLEY N. SWITZER, ESQ.

RE: ANNUAL REPORT PER BOCC RESOLUTION NO. 2019-005 (ADOPTED FEB. 20, 2019)

Re: TRUE GRIT SOUTH PRIVATE AIRSTRIPS; F.A.A. CO 95

DATE: JANUARY 21, 2020

General Conditions:

1. The S.U.P. not been transferred to another owner. Spitfire Realty, LLC retains record ownership of the real property upon which the airstrips are located.
2. All written representations contained in the SUP application and supplements have been adhered to.

Specific Conditions:

1. The airstrips have been used only by Paul Panther, Projects Manager for Spitfire Realty. Mr. Panther resides in Montrose, Colorado.
2. From February 20, 2019, to even date herewith, there have been four (4) operations at the True Grit South lower private airstrip. Paul Panther conducted two landings and two take-offs on October 14, 2019.
3. Mr. Panther was operating a single-engine "Maule" aircraft; Tail No. N3217V; Model M7-260. All operations took place during daylight hours.
4. Paul observed the flight path protocol submitted to the Planning Department; he maintained a flight level of no less than 500 ft. over Hastings Mesa, except on landing and take-off. Paul landed coming in from the south, and take-off was heading out toward the south.
5. A copy of the "log book" which has been maintained regarding use of the True Grit South airstrips is submitted herewith.
6. There has been no fuel stored on the site and no re-fueling of aircraft has taken place on the site.

7. No expansion of the airstrips has taken place and no expansion of the existing aircraft hangar has taken place.
8. The 418-acre parcel has not been reduced in size nor subdivided.
9. A Maintenance Plan was submitted to the Planning Department by Brad Switzer on March 27, 2019, via e-mail at 10:05 a.m.
10. There is no request to increase the number of operations, at this time.

Respectfully submitted, Bradley N. Switzer, Attorney for Spitfire Realty, LLC

TRUE GRAPT SOUTH  
FAA 'CO 95'

DATE	TIME	ACTIVITY	INITIALS
9/21/19	7 AM	FLY OVER RECONNAISSANCE OF AIRSTRIPS (BOTH)	PAULY.
9/26/19	ALL DAY	MOWING OF LOWER AIRSTRIP	BNS
9/28/19	1-3 PM	INSTALLED WIND SPEED / DIRECTION TELL-TALES ON LOWER & UPPER AIRSTRIPS - DOCUMENTED w/ Pic.s	
10/14/19	9 AM	LAND-TAKE OFF - RUNWAY 18	PAULY.
10/14/19	9:45 AM	LAND-TAKE OFF - RUNWAY 18	PAULY.

MAULE  
MAULE  
M7-260

To: San Miguel County Planning Dept.

From: Bradley N. Switzer, Counsel for Spitfire Realty, LLC

Date: March 27, 2019

Re: BOCC Resolution No. 2019-005; Maintenance Plan for Two Turf Airstrips

In accordance with the above-referenced Resolution No. 2019-005, Spitfire Realty, LLC submits the following "Maintenance Plan" for the two (2) turf airstrips located on a 418-acre parcel of land located within T44N, R10W, N.M.P.M.

1. The airstrips will be repaired, as necessary. This may include filling (with dirt) and smoothing any ruts that have been caused by rain and/or snow run-off
2. The airstrips will be rolled and/or raked, as necessary
3. The airstrips will be seeded (e.g. drought-tolerant grass or other appropriate seed), as necessary
4. The airstrips will be mowed, as necessary
5. The airstrips may be aerated, if necessary
6. The windsocks will be repaired and/or replaced

In consultation with Kelly Crane, Colorado Parks and Wildlife District Wildlife Manager, it has been determined that, due to the minimal use of the airstrips, cording/fencing off the airstrips would be more detrimental to wildlife than beneficial.

The above-referenced maintenance can be accomplished with a backhoe and a small tractor with the proper attached implements.



John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

---

**Re: FW: Airstrips Maintenance Plan**

1 message

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**Kenny Maenpa** <kenny@tellurideairport.com>

Mon, Apr 29, 2019 at 10:55 AM

To: Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;

Cc: John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;, Mike Rozycki &lt;miker@sanmiguelcountyco.gov&gt;

Kaye,

I reviewed the Maintenance Plan, all seems to be routine and normal expectations for a safe operating environment. I am so sorry for the delayed response. Let me know if you need anything else.

Best,

Kenny

Kenneth E. Maenpa, CM | Airport/FBO Manager  
Telluride Regional Airport (KTEX)  
D 970.728.8601 | C 303.435.4685

A small icon representing a missing image, followed by the text "Image result for Telluride Airport Logo".

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On Fri, Mar 29, 2019 at 11:04 AM Kaye Simonson <kayes@sanmiguelcountyco.gov> wrote:

Kenny,

I am forwarding the Spitfire maintenance plan for the airstrip to you. I think it looks like it pretty much covers everything, but if you have any insight, we'd appreciate your input. Thanks.

Kaye Simonson

----- Forwarded message -----

From: **Brad Switzer** <bns@montrose.net>

Date: Thu, Mar 28, 2019 at 8:27 AM

Subject: FW: Airstrips Maintenance Plan

To: &lt;kayes@sanmiguelcountyco.gov&gt;

Hi, Kaye... FYI. Couldn't find your e-mail address yesterday.

Regards, Brad S.

Bradley N. Switzer, Esq.

400 South 3<sup>rd</sup> Street

P.O. Box 816

Montrose, CO 81402

(970) 249-8749

[bns@montrose.net](mailto:bns@montrose.net)



John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

---

## Fwd: FW: Airstrips Maintenance Plan

1 message

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**Kaye Simonson** <[kayes@sanmiguelcountyco.gov](mailto:kayes@sanmiguelcountyco.gov)>

Fri, Mar 29, 2019 at 11:04 AM

To: Kenny Maenpa <[kenny@tellurideairport.com](mailto:kenny@tellurideairport.com)>

Cc: John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>, Mike Rozycki <[miker@sanmiguelcountyco.gov](mailto:miker@sanmiguelcountyco.gov)>

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Hi, Kaye... FYI. Couldn't find your e-mail address yesterday.

Regards, Brad S.

Bradley N. Switzer, Esq.

400 South 3<sup>rd</sup> Street

P.O. Box 816

Montrose, CO 81402

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[bns@montrose.net](mailto:bns@montrose.net)

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**From:** Brad Switzer <[bns@montrose.net](mailto:bns@montrose.net)>

**Sent:** Wednesday, March 27, 2019 3:06 PM

**To:** 'Mike Rozycki' <[miker@sanmiguelcountyco.gov](mailto:miker@sanmiguelcountyco.gov)>; 'John Huebner' <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

**Subject:** Airstrips Maintenance Plan

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**RESOLUTION OF THE BOARD OF COMMISSIONERS,  
SAN MIGUEL COUNTY, COLORADO,  
CONDITIONALLY APPROVING AN AIRCRAFT LANDING AREAS SPECIAL USE  
PERMIT, IN THE FORESTRY, AGRICULTURE AND OPEN ZONE DISTRICT,  
FOR SPITFIRE REALTY, LLC ON HASTINGS MESA**

**Resolution 2019-005**

**WHEREAS**, the San Miguel County Board of Commissioners (BOCC) approved a Special Use Permit in 1993 (BOCC Resolution #1993-35, Reception #284842) issued specifically to Todd Wilson, authorizing his personal, non-commercial use of two airstrips on his property on Hastings Mesa that existed prior to the March 4, 1993 adoption of County Land Use Code Section 5-307 F. IX., Aircraft Landing Areas, requiring special use permit (SUP) approval. The 1993 approval allowed four flights per day, between sunrise and sunset only, and no expansion of the airstrips or the existing single-plane hangar. In 1994 (BOCC Resolution #1994-64, Reception #295889), the SUP was amended to allow for the use of the airstrips by Todd Wilson *and his invitees*. In 2004 (BOCC Resolution 2004-25, Reception #369242), the Permit was transferred from Todd Wilson, individually, to a limited liability company, Hastings Landing, LLC to reduce his personal liability exposure. The Special Use Permit was non-transferrable and did not run with the land;

**WHEREAS**, on December 28, 2015 Todd Wilson sold the subject property to Julie Morrison effectively terminating the SUP for the airstrips. On July 3, 2018 Spitfire Realty, LLC acquired the subject approximately 418-acre (as identified by the San Miguel County Assessor) parcel from, Julie Morrison;

**WHEREAS**, Bradley Switzer, Attorney, on behalf of Spitfire Realty, LLC, (Applicant), owner of a 418-acre parcel in the Forestry, Agriculture & Open (F) Zone District, located off CR 59T and CR 58P (Last Dollar Road) on Hastings Mesa and more particularly described as shown on Exhibit A, Legal Description, submitted an application on October 8, 2018 seeking an Aircraft Landing Areas Special Use Permit to allow Spitfire Realty LLC to use two existing natural vegetation-covered airstrips for limited personal use only on the subject property, limited to the "day light" hours between 7 a.m. and 8 p.m.;

**WHEREAS**, Aircraft Landing Areas are specifically listed in LUC Section 5-307 F. VIII. as a Use Allowed Subject to Two-step Special Use Permit Review, i.e. review and recommendation by the Planning Commission and review and action by Board of County Commissioners. Special Uses are subject to the review standards contained in LUC Section 5-10 Special Uses. The standards include reviewing the proposed use(s) to determine if they are consistent with and compatible with the Character of the Neighborhood and surrounding land uses. The Special Use review standards also include the minimization of adverse impacts on the neighboring properties, e.g. traffic, noise, trash or other impactful activities;

**WHEREAS**, the SUP application was referred to the County Attorney, the County Road & Bridge Director, Colorado Parks and Wildlife (CPW), the Telluride Regional Airport Authority (TRAA), the Federal Aviation Administration (FAA), San Juan Vista Landowners Association,

Hastings Mesa Estates Homeowners Association, Old Elam Ranch Homeowners Association, and Telluride Pines Homeowners Association for review and comment;

**WHEREAS**, the Applicant sent Notice of the application and the County Planning Commission (CPC) Public meeting to be held on November 14, 2018 to all property owners within 500 feet of the subject parcel, and signs were posted on the property near CR 58P noticing the proposed use and the CPC meeting to be held on November 14, 2018;

**WHEREAS**, at its regular meeting held on Wednesday, November 14, 2018 following its review of this application, referral comments, and public comments provided prior to and during this public meeting, the County Planning Commission (CPC) continued its consideration of this SUP to its regular meeting on December 12, 2018;

**WHEREAS**, at its regular meeting held on Wednesday December 12, 2018 following its consideration of this application, referral comments and public comments provided prior to and during this public meeting, the County Planning Commission (CPC) recommended approval (Vote 4-1) of the application and use of the Aircraft Landing Areas as proposed in the application and supplements subject to specific recommended terms and conditions. In making its motion the CPC made finding that the Spitfire Realty LLC Aircraft Landing Areas Special Use Permit application is consistent with and complies with the review standards in LUC Section 5-1002 A. I. thru VI. Consistency with Master Plan, Land Use Policies, Zone District and Neighborhood and 5-1002 B. Impacts on the surrounding area. The CPC also stated that it's finding that this is a compatible use with the neighborhood as the conditions currently stand is not meant to imply that future increase in use or further development of the airstrips would be compatible because of having found it compatible at this point with LUC Section 5-1002 A. I. thru VI.

**WHEREAS**, the CPC's recommended terms and conditions of approval of the Spitfire Realty LLC Aircraft Landing Areas Special Use Permit application are set forth in the minutes from the December 12, 2018 CPC meeting;

**WHEREAS**, the Applicant sent Notice of the proposed application and the Board of County Commissioner (BOCC) Public Hearing to be held on Wednesday, February 20, 2019 to all property owners within 500 feet of the subject parcel and to additional property owners on Hastings Mesa that were identified by the Planning Department, and signs were posted near the property on CR 58P noticing the proposed use and the BOCC Public Hearing to be held on February 20, 2019;

**WHEREAS**, a Public Hearing Notice for the proposed SUP application and the Board of County Commissioners meeting to be held on February 20, 2019 was published in the Norwood Post and the Telluride Daily Planet on January 30, 2019;

**WHEREAS**, a list of the items included in the Public Hearing Record is attached to this resolution as Exhibit "B";

**WHEREAS**, the Board of Commissioners of San Miguel County, Colorado, considered this application, along with relevant evidence and testimony, at a public hearing in Telluride on Wednesday, February 20, 2019.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of San Miguel County, Colorado, approves the Spitfire Realty LLC Special Use Permit to authorize use of the two Aircraft Landing Areas on a 418-acre Parcel within T44N, R10W, on Hastings Mesa and making the finding that the SUP application and supplements and use of the aircraft landing areas as proposed in the application and supplements are consistent with and comply with the review standards in LUC Section 5-1002 A. I. thru VI. Consistency with Master Plan, Land Use Policies, Zone District and Neighborhood and 5-1002 B. Impacts on the surrounding area, subject to the following terms and conditions (the terms Aircraft Landing Areas, & airstrips have been used interchangeably) and to state for the record that the Board of County Commissioners in making the finding that this is a compatible use with the neighborhood as the conditions currently stand is not meant to imply that future increase in use or further development of the airstrips would be compatible because of having found it compatible at this point with the statement of finding.

**General Conditions:**

1. This SUP is granted specifically to the applicant and/or owner, does not run with the land, and is not transferable to another owner.
2. The SUP approval is subject to all written representations in the SUP application to include all written supplements unless modified or made more restrictive by the BOCC terms and conditions of approval.

**Specific Conditions:**

3. Only private use of these airstrips shall be allowed. There shall be no public use of these airstrips. The use of these airstrips shall be limited to Mr. Lewis, a single Spitfire Realty LLC, employee residing in Montrose/San Miguel County and Mr. Lewis's immediate family (Mr. Lewis has 2 daughters who are pilots).
4. The Owner shall limit total use of the two airstrips to a maximum number of five (5) flights in and out (ten [10] total operations), per calendar year. Use of the airstrips is prohibited during Elk-Calving season [May 20<sup>th</sup>-June 10<sup>th</sup>] as determined by Colorado Parks and Wildlife.
5. The type of single-engine, fixed wing aircraft that is allowed to fly in and out of these airstrips shall be limited to FAA Category F "Small Aircraft" weighing less than 12,500 lbs. e.g. Cessna 185, Pilatus PC6, Carbon Cub, Cessna Caravan, and Aviat Husky). These Aircraft Landing Areas shall not be used to fly vintage military aircraft or helicopters in and out of these airstrips.
6. Flight Operations to and from these Aircraft Landings Areas shall not occur before 7 a.m. or after 8 p.m. and at no time of the year shall flights take place prior to sunrise or after sunset. Any use of these airstrips will be limited to "daylight" hours, and not after 8 p.m.
7. All aircraft using these airstrips shall follow the revised "flight path protocol" submitted by the Applicant on November 26, 2018. All aircraft using these Aircraft Landings Areas

shall maintain a minimum flight level of five hundred (500) feet over Hastings Mesa, except on take-off and landing.

8. The owner shall keep and maintain a "log book" of all flights into and out of these airstrips. The owner shall provide the San Miguel County Planning office a copy of the log book information annually to confirm that the persons using these airstrips, the type of plane(s) and the number of operations comply with the terms and conditions of the SUP approval. The log book shall be submitted to the County by January 31 of each year or within thirty (30) days of the tenth (10th) flight operation, whichever comes first. The information in the log book shall include but is not limited to date, time, name of pilot and type of plane for each operation.
9. There will be no fuel stored at the site and there will be no refueling of aircraft at these Aircraft Landing Areas. Re-fueling shall be confined to Montrose or Telluride regional airports or other FAA recognized/regulated airports.
10. No expansion of either of these two Aircraft Landing Areas or the existing single-plane hangar is allowed.
11. The subject 418-acre parcel owned by Spitfire Realty shall not be reduced in size or subdivided while the SUP allowing the use of these two (2) Aircraft Landing Areas is in force and effect.
12. A maintenance plan to bring the airstrip(s) back to working condition shall be presented to the Planning Department for review and approval.
13. Any request to increase the number of flight operations or modify the conditions of this approval shall be considered a Substantial Amendment and shall be reviewed subject to the Land Development Code requirements and process for an Aircraft Landing Area in effect at the time of the application for such amendment.
14. The Applicant may terminate this Special Use Permit by submitting written notification to the Planning Director. The Notice of Termination shall be recorded in the records of the San Miguel County Clerk and Recorder. The Planning Director shall transmit a copy of the notice to the Board of County Commissioners. Upon Notice of Termination, the airstrips will cease to be used and there will be no further flight operations, whereupon the limitation on subdivision or reduction in the size of parcels shall no longer be in effect.

**Review Period:**

There shall be an annual review after the first full calendar year of operation (February 2020). Prior to this annual review by the Planning Commission, Notice will be provided to the neighbors and individuals who have commented on this SUP application, to include the San Juan Vista Landowners Association, Hastings Mesa Estates Homeowners Association, Old Elam Ranch Homeowners Association, and Telluride Pines Homeowners Association, prior to the scheduled public meeting so they may make their support, questions or concerns known to the CPC and BOCC. The CPC shall then make its recommendation to the BOCC as to any recommended changes to the approved SUP, if any.

The BOCC may then take action to allow the uses to continue as approved, add conditions, reduce the allowed uses/frequency of uses, or even revoke the SUP for non-compliance with

terms and conditions of approval or if there are unintended substantial impacts to residential areas on Hastings Mesa. As a part of its consideration the BOCC may make a determination in its discretion if there is a need for additional on-going annual reviews, or periodic reviews of the terms and conditions of the SUP in the future or not.

**DONE AND APPROVED** by the Board of County Commissioners of San Miguel County, Colorado, on Feb. 27, 2019.

**SAN MIGUEL COUNTY, COLORADO  
BOARD OF COUNTY COMMISSIONERS**

By: Kris Holstrom  
Kris Holstrom, Chair

Vote:	Hilary Cooper	<u>Aye</u>	Nay	Abstain	Absent
	Kris Holstrom	Aye	<u>Nay</u>	Abstain	Absent
	Lance Waring	<u>Aye</u>	Nay	Abstain	Absent

ATTEST:

By: Carmen L. Warfield  
Carmen Warfield, Chief Deputy Clerk

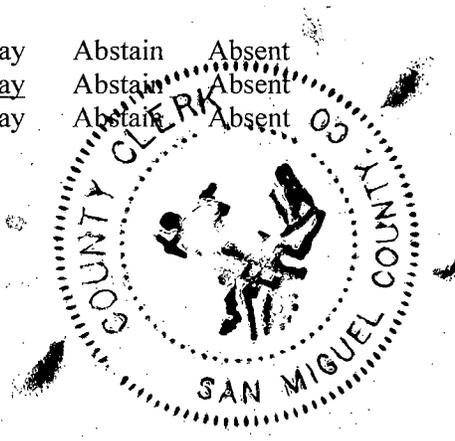


EXHIBIT "A" Legal Description, and

EXHIBIT "B"- Public Hearing Record list are attached to this resolution

[text/word/ spitfire.realty.aircraft.landing.areas.sup.reso]

EXHIBIT "A"

Property in Township 44 North Range 10 West of the New Mexico Principal Meridian described as Follows:

Section 17: SE1/4SE1/4;

Section 20: NE1/4, NE1/4SE1/4 and a Tract of land in the NW1/4SE1/4 described as follows:

Beginning at the Northwest corner of said NW1/4SE1/4,

Then running East along the North Boundary line of said NW1/4SE1/4 1320 feet to the Northeast corner of said NW1/4SE1/4,

Then South along the East boundary line of said NW1/4SE1/4 1050 feet,

Then Northwesterly to a point on the West boundary line of said NW1/4SE1/4, which point is 427 feet South of the Point of Beginning,

Then North along the West boundary line of said NW1/4SE1/4 427 feet to the Point of Beginning;

Section 21: W1/2NW1/4, NE1/4NW1/4 and the NW1/4SW1/4;

All in the County of San Miguel, State of Colorado



John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

## Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit

1 message

John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

Wed, Jan 22, 2020 at 11:02 AM

To: John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

Bcc: Brad Switzer <bns@montrose.net>, Paul Panther <panther.rms@gmail.com>, Kenny Maenpa <kenny@tellurideairport.com>, nathan worswick <unicasbuyer@hotmail.com>, kristenhughes@gmail.com, Frank & Joann Ames <basilames@sbcglobal.net>, Deb and Dalen Stevens <debwhitestevens@gmail.com>, Sarah Center <sfc1121@earthlink.net>, Karen Barnett <ksbarnett67@gmail.com>, Ron Benson <bensonron@yahoo.com>, Mary Bartko <entwife8@yahoo.com>, Dan Elder <dbelder1@gmail.com>, Paul Talmey <talmey@flyinghusky.com>, Nancy Talmey <nancytalmey@talmey-drake.com>, Alan Bradbury <alan81435@gmail.com>, rtpsales@tellurideskiresort.com, Cande Grogan <candegrogan@gmail.com>, Mark Nicholson <markaroni1@yahoo.com>, JERRY C P YIN <jcyin@wisc.edu>, suzhuz@yahoo.com, Steve Dunn <sjdunn2447@hotmail.com>, Frederick Stemmler <fjstemmler14@gmail.com>, Thomas Miller <az4millers@comcast.net>, Scott Carson <scott@smilinglake.com>, kit.page@state.co.us, Fin Font <drew@villagevetcenter.com>, Hugh Simon <hasimon@hamon.com.hk>, Bonnie Carson <bonnie@smilinglake.com>, Dave & Carla Mackown <carla.bouthillier@gmail.com>, chandlernt@gmail.com, Kelly Crane <kelly.crane@state.co.us>, Diane Downs <downsranch@montrose.net>, Ann Siner <annsiner@aol.com>, Myriam Dietrich <mmdietrich512@gmail.com>, Thelma Starner <jatstarner@aol.com>, Joe Ryan <joe@sanjuanhuts.com>, thenwhatfilms@aol.com, Cathy Carlson <cathy@telluridecolorado.net>, Joseph Sohm <joseph@visionsofamerica.com>, Robert Newman <newman2980@gmail.com>, humphreysjanet@ymail.com, orlodietrich@ansleycapitol.com, lpboflondon@aol.com, Kent Karber <kkarber@hollandhart.com>, glenpihl@gmail.com, badgertam@gmail.com, Sally Cruikshank <funonmars@gmail.com>, John Uribe <juribe@bellsouth.net>, pfagen3@gmail.com, Mark Carlson <mtnbuilders@telluridecolorado.net>, tonyl@pbpenick.com, Frank Ruggeri <frank@telluride.com>, talbotwilt@hotmail.com, Dianne Muntean <cyberdianne@aol.com>, Diane Hooper <mtwoman812@aol.com>, Bryan Dow <dow.bryan@gmail.com>, jonathanfike@telluridegravel.com, denise2frank@yahoo.com, Alan Heath <a.heath@bresnan.net>, hhastings@me.com, Bettie Hastings <bettie.hastings@gmail.com>, erika.a.bush@gmail.com, "Jeffrey J. Conklin" <jjc@mountainlawfirm.com>, jnwolfcattle@gmail.com, Steven Guidorzi <sguidorzi@gmail.com>, Janet Humphreys <humphreysjanet@gmail.com>, Spike&Myriam Dietrich <orlodietrich@ansleycapital.com>, Tony Lee <tonyl@tbpenick.com>, jonathan.fike@telluridegravel.com, Fred & Lanier Begeman <begemandds@aol.com>, MARSHA <mraeber@comcast.net>, bobb643@yahoo.com, tlflight@aol.com, Trevor James <Trevor@fusearchitect.com>, karjames@gmail.com, RUSSELL <RKMONTGOMERY8@msn.com>, Janice Zink <jumpinjan1127@gmail.com>, "Susie St. Onge" <sstonge1@hotmail.com>, Rita Robinson <rita.marie.robinson@gmail.com>, Damerel <damerel@yahoo.com>, Erik Fallenius <telluridebroker@gmail.com>, sherry brieske <sabrieske@googlegmail.com>, Lexi Tuddenham <lexi@sheepmountainalliance.org>, johnholstrom7@gmail.com, Mary Hart Harris <maryhartharris84@gmail.com>, kory cornum <koryf15@hotmail.com>, Lucas Price <lucas@lacocinatelluride.com>, Peter Kingman <pkingman@gmail.com>, Bill Burgess <burgesspm@gmail.com>, Hastings Padua <hastingspadua@gmail.com>, JODY STEVE <jvanstratt5@msn.com>, Tim McGrady <timj.mcgrady@gmail.com>, kshugars@yahoo.com, jdallasdivide@hotmail.com, Bob Hennessy <bob.f.hennessy@gmail.com>, Kurt Shugars <kurt@shugarscompany.com>

All,

San Miguel County Planning staff is providing you Notice of the annual review by the San Miguel County Planning Commission (CPC) and the Board of County Commissioners (BOCC) of the Spitfire Realty, LLC (Spitfire) Aircraft Landing Areas Special Use Permit (SUP). This notice is being sent to the neighbors and individuals who commented on this SUP application, and includes the San Juan Vista Landowners Association, Hastings Mesa Estates Homeowners Association, Old Elam Ranch Homeowners Association, and Telluride Pines Homeowners Association. We welcome you to make known your support, questions, comments or concerns regarding Spitfire's first year of operations following the SUP's approval by the BOCC. Please send your comments to Planning staff via email to [planning@sanmiguelcountyco.gov](mailto:planning@sanmiguelcountyco.gov) or by US Mail to SMC Planning Department, PO Box 548, Telluride CO 81435 by Monday, February 17, 2020.

The CPC at its March 11, 2020 meeting will make their recommendation to the Board as to any recommended changes to the conditions of the approved SUP, if any. The BOCC will then consider this recommendation afterward at a regular meeting at a date to be determined.

Attached for your information is the list of terms and conditions of the conditional approval of the Spitfire SUP application as approved by the BOCC in February 2019, and contained in the recorded Resolution 2019-005, and recorded February 28, 2019 in the Office of the County Clerk and Recorder, recording No. 456158.

If you have any questions regarding this notice or any related matter please do not hesitate to contact me, or Kaye Simonson, County Planning Director, at 970-728-3083 or [kayes@sanmiguelcountyco.gov](mailto:kayes@sanmiguelcountyco.gov).

Regards,  
John

**John Huebner**  
Senior Planner  
San Miguel County  
P:970-728-3083  
333 W Colorado Ave, 3rd Flr  
Telluride, CO 81435

[www.sanmiguelcountyco.gov](http://www.sanmiguelcountyco.gov)



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 **2019.Spitfire.Realty.BOCC.Approval.Conditions FINAL.pdf**  
122K

**San Miguel County Board of County Commissioners (BOCC) Terms and Conditions of Approval for the Spitfire Realty LLC Special Use Permit application to authorize use of the two Aircraft Landing Areas on a 418-acre Parcel within T44N, R10W, on Hastings Mesa.**

Based on the recommended terms and conditions identified below the BOCC found that the Spitfire Realty LLC (Spitfire) Special Use Permit (SUP) application and supplements and use of the aircraft landing areas as proposed in the application and supplements is consistent with and complies with the review standards in LUC Section 5-1002 A. I. thru VI. Consistency with Master Plan, Land Use Policies, Zone District and Neighborhood and 5-1002 B. Impacts on the surrounding area, and stated for the record that the Board of County Commissioners in making the finding that this is a compatible use with the neighborhood as the conditions currently stand is not meant to imply that future increase in use or further development of the airstrips would be compatible because of having found it compatible at this point with the statement of finding. The BOCC approval of the Spitfire SUP application is based upon the above findings and is subject to the following terms and conditions (the terms Aircraft Landing Areas, & airstrips have been used interchangeably):

**General Conditions:**

1. This SUP is granted specifically to the applicant and/or owner, does not run with the land, and is not transferable to another owner.
2. The SUP approval is subject to all written representations in the SUP application to include all written supplements unless modified or made more restrictive by the BOCC terms and conditions of approval.

**Specific Conditions:**

3. Only private use of these airstrips shall be allowed. There shall be no public use of these airstrips. The use of these airstrips shall be limited to Mr. Lewis, a single Spitfire Realty LLC, employee residing in Montrose/San Miguel County and Mr. Lewis's immediate family (Mr. Lewis has 2 daughters who are pilots).
4. The Owner shall limit total use of the two airstrips to a maximum number of five (5) flights in and out (ten [10] total operations), per calendar year. Use of the airstrips is prohibited during Elk-Calving season [May 20<sup>th</sup>-June 10<sup>th</sup>] as determined by Colorado Parks and Wildlife.
5. The type of single-engine, fixed wing aircraft that is allowed to fly in and out of these airstrips shall be limited to FAA Category F "Small Aircraft" weighing less than 12,500 lbs. e.g. Cessna 185, Pilatus PC6, Carbon Cub, Cessna Caravan, and Aviat Husky). These Aircraft Landing Areas shall not be used to fly vintage military aircraft or helicopters in and out of these airstrips.
6. Flight Operations to and from these Aircraft Landings Areas shall not occur before 7 a.m. or after 8 p.m. and at no time of the year shall flights take place prior to sunrise or after sunset. Any use of these airstrips will be limited to "daylight" hours, and not after 8 p.m.
7. All aircraft using these airstrips shall follow the revised "flight path protocol" submitted by the Applicant on November 26, 2018. All aircraft using these Aircraft Landings Areas shall maintain a minimum flight level of five hundred (500) feet over Hastings Mesa, except on take-off and landing.

8. The owner shall keep and maintain a “log book” of all flights into and out of these airstrips. The owner shall provide the San Miguel County Planning office a copy of the log book information annually to confirm that the persons using these airstrips, the type of plane(s) and the number of operations comply with the terms and conditions of the SUP approval. The log book shall be submitted to the County by January 31 of each year or within thirty (30) days of the tenth (10th) flight operation, whichever comes first. The information in the log book shall include but is not limited to date, time, name of pilot and type of plane for each operation.
9. There will be no fuel stored at the site and there will be no refueling of aircraft at these Aircraft Landing Areas. Re-fueling shall be confined to Montrose or Telluride regional airports or other FAA recognized/regulated airports.
10. No expansion of either of these two Aircraft Landing Areas or the existing single-plane hangar is allowed.
11. The subject 418-acre parcel owned by Spitfire Realty shall not be reduced in size or subdivided while the SUP allowing the use of these two (2) Aircraft Landing Areas is in force and effect.
12. A maintenance plan to bring the airstrip(s) back to working condition shall be presented to the Planning Department for review and approval.
13. Any request to increase the number of flight operations or modify the conditions of this approval shall be considered a Substantial Amendment and shall be reviewed subject to the Land Development Code requirements and process for an Aircraft Landing Area in effect at the time of the application for such amendment.
14. The Applicant may terminate this Special Use Permit by submitting written notification to the Planning Director. The Notice of Termination shall be recorded in the records of the San Miguel County Clerk and Recorder. The Planning Director shall transmit a copy of the notice to the Board of County Commissioners. Upon Notice of Termination, the airstrips will cease to be used and there will be no further flight operations, whereupon the limitation on subdivision or reduction in the size of parcels shall no longer be in effect.

**Review Period:**

There shall be an annual review after the first full calendar year of operation (February 2020). Prior to this annual review by the Planning Commission, Notice will be provided to the neighbors and individuals who have commented on this SUP application, to include the San Juan Vista Landowners Association, Hastings Mesa Estates Homeowners Association, Old Elam Ranch Homeowners Association, and Telluride Pines Homeowners Association, prior to the scheduled public meeting so they may make their support, questions or concerns known to the CPC and BOCC. The CPC shall then make its recommendation to the BOCC as to any recommended changes to the approved SUP, if any.

The BOCC may then take action to allow the uses to continue as approved, add conditions, reduce the allowed uses/frequency of uses, or even revoke the SUP for non-compliance with terms and conditions of approval or if there are unintended substantial impacts to residential areas on Hastings Mesa. As a part of its consideration the BOCC may make a determination in its discretion if there is a need for additional on-going annual reviews, or periodic reviews of the terms and conditions of the SUP in the future or not.



John Huebner <johnh@sanmiguelcountyco.gov>

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## Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit

1 message

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Paul <talmey@flyinghusky.com>

Tue, Jan 28, 2020 at 12:42 PM

To: planning@sanmiguelcountyco.gov

Thank you for requesting comment from Hastings Mesa residents regarding Spitfire Realty's landing strip SUP. I am unaware of any violations of the terms of Spitfire's SUP, and there has been no perceivable increase in air traffic over our ranch located at the southern end of the Mesa, or over nearby properties since the granting of the SUP. Moreover, I know of no other detrimental effects of aircraft taking off or landing at the airstrips covered by the SUP.

The opportunity to comment is appreciated.

Paul Talmey



John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

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**Re: Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit**

1 message

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**thenwhatfilms@aol.com** <thenwhatfilms@aol.com>  
To: johnh@sanmiguelcountyco.gov

Sat, Feb 8, 2020 at 2:50 PM

Hey John. Appreciate the heads up. Here's my thoughts, and my wife's thoughts, on this invasive thing that I thought was put to bed. Same thoughts as before...

Best,  
Pat Kelly

**Dear San Miguel County Planning Commission,**

**We are property owners with close proximity and line-of-sight views of the acreage involved in the land-use application to operate two airstrips on Hastings Mesa. We would also be well within the noise-pollution envelope of propeller aircraft taking off and landing.**

**With all due respect to the owners of the 418 acres who want to fly in and out of their property, we believe this application, if approved, would be hard on wildlife, harmful to property values, and diminish the tranquility of the Mesa. The latter being the main reason we purchased our home here 21 years ago.**

**Airfields, by definition, violate peace and quiet for a great distance. And the only people benefiting from that violation would be the folks in the aircraft. And limiting flights to between sunrise and sunset is a pretty flimsy limitation, since sunset is well after 9PM in high summer.**

**We oppose the land-use application regarding two airstrips located off CR 59T and CR58P.**

Sincerely,

**Patrick Kelly  
Nancy Heritage**

**2930 RD 56V**

-----Original Message-----

From: John Huebner <johnh@sanmiguelcountyco.gov>

To: John Huebner <johnh@sanmiguelcountyco.gov>

Sent: Wed, Jan 22, 2020 10:02 am

Subject: Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit

All,

San Miguel County Planning staff is providing you Notice of the annual review by the San Miguel County Planning Commission (CPC) and the Board of County Commissioners (BOCC) of the Spitfire Realty, LLC (Spitfire) Aircraft Landing Areas Special Use Permit (SUP). This notice is being sent to the neighbors and individuals who commented on this SUP application, and includes the San Juan Vista Landowners Association, Hastings Mesa Estates Homeowners Association, Old Elam Ranch Homeowners Association, and Telluride Pines Homeowners Association. We welcome you to make known your support, questions, comments or concerns regarding Spitfire's first year of operations following the SUP's approval by the BOCC. Please send your comments to Planning staff via email to [planning@sanmiguelcountyco.gov](mailto:planning@sanmiguelcountyco.gov) or by US Mail to SMC Planning Department, PO Box 548, Telluride CO 81435 by Monday, February 17, 2020.

John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

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**Re: Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit**

1 message

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**Peter Kingman** <[pkingman@gmail.com](mailto:pkingman@gmail.com)>  
To: John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

Wed, Jan 22, 2020 at 3:10 PM

John,

I left out an important blank to be completed by you relating the annual review.

"Spitfire's annual compliance report providing the related flight activity as certified by (aviation authority tracking, reporting and certifying pertinent flight activity) to send to affected residents"?

Thank you,  
Peter Kingman

On Wed, Jan 22, 2020 at 2:00 PM Peter Kingman <[pkingman@gmail.com](mailto:pkingman@gmail.com)> wrote:

John,

Your report is thorough and helpful to maintaining the terms of the Spitfire Realty, LLC ("Spitfire") Aircraft Landing Areas Special Use Permit ("SUP"). Do you have and are you expecting to send Spitfire's annual compliance report providing the related activity certified by to send to affected residents? Have I noted correctly that the Little Lake Ranch Association, of which my property is a part, was not included in the SUP application despite my communications in opposition to the SUP application at the time when it was considered by the San Miguel County Planning Commission (CPC) and the Board of County Commissioners (BOCC). Why not?

Thank you,  
Peter Kingman  
702-541-1449

On Wed, Jan 22, 2020 at 10:02 AM John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)> wrote:

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John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

---

**Re: Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit**

1 message

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**Kenny Maenpa** <[kenny@tellurideairport.com](mailto:kenny@tellurideairport.com)>  
To: John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)>

Wed, Jan 22, 2020 at 11:43 AM

Hi John,

Telluride Regional Airport has not had any issues with the Spitfire Realty LLC, Aircraft landing areas over the past year under the SUP. Please let me know if you would like to discuss the SUP further from the Airport's perspective.

Best regards,

Kenneth E. Maenpa, CM | Airport/FBO Manager  
Telluride Regional Airport (KTEX)  
D 970.728.8601 | C 303.435.4685

A small icon of a document with a red 'x' over it, indicating a missing image.

On Wed, Jan 22, 2020 at 11:02 AM John Huebner <[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)> wrote:

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Regards,  
John

**John Huebner**  
Senior Planner  
San Miguel County  
P:970-728-3083  
[johnh@sanmiguelcountyco.gov](mailto:johnh@sanmiguelcountyco.gov)  
[333 W Colorado Ave, 3rd Flr](mailto:johnh@sanmiguelcountyco.gov)  
[Telluride, CO 81435](mailto:johnh@sanmiguelcountyco.gov)

[www.sanmiguelcountyco.gov](http://www.sanmiguelcountyco.gov)



John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

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**Re: Notice of Annual Review: Spitfire Realty, LLC Aircraft Landing Areas Special Use Permit**

1 message

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**Crane - DNR, Kelly** <kelly.crane@state.co.us>  
To: John Huebner <johnh@sanmiguelcountyco.gov>

Mon, Jan 27, 2020 at 8:43 AM

John-

We don't have any recommendations for changes to the permit nor do we have any concerns or comments.

Thanks,

Kelly Crane  
DWM Ridgway  
970-209-2369

On Wed, Jan 22, 2020 at 11:02 AM John Huebner &lt;johnh@sanmiguelcountyco.gov&gt; wrote:

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Regards,  
John**John Huebner**  
Senior Planner  
San Miguel County  
P:970-728-3083  
[333 W Colorado Ave, 3rd Flr  
Telluride, CO 81435](http://333.W.Colorado.Ave,3rd.Flr.Telluride.CO.81435)[www.sanmiguelcountyco.gov](http://www.sanmiguelcountyco.gov)



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Kelly Crane  
District Wildlife Manager - Ridgway



P 970.209.2369 | F 970.252.6053  
2300 S. Townsend Ave., Montrose, CO 81401  
[kelly.crane@state.co.us](mailto:kelly.crane@state.co.us) | [cpw.state.co.us](http://cpw.state.co.us)



## MEMORANDUM

TO: San Miguel County Planning Commission  
FROM: Kaye Simonson, AICP, Planning Director  
DATE: March 11, 2020  
RE: Workshop Discussion Regarding Allowing Outdoor Marijuana Cultivation

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On January 8, 2020, Nolan Murphy of Alpine Wellness emailed County Planning regarding the possibility of amending the Land Use Code to allow outdoor cultivation of marijuana for commercial marijuana facilities. Currently, the Land Use Code requires all growing to occur inside a "substantial greenhouse." On Tuesday January 28, the BOCC, staff and Nolan Murphy discussed potentially amending the Land Use Code. The BOCC directed staff to prepare a Code amendment. It was also recommended that staff include outreach to the Norwood community. Advertisements for this workshop have been placed in the Norwood Post and in the Telluride Daily Planet, and posted at key Norwood locations.

Nolan Murphy's email with supporting information is attached. The State provides regulations regarding fencing and other security measures for licensed outdoor growing operations. Planning staff reached out to a number of other counties regarding how outdoor cultivation is regulated. We found that most counties focus on the licensing of marijuana businesses. San Miguel County is somewhat unique in that we have very specific development standards.

A draft Land Use Code Amendment for Section 5-29 has been prepared for your review and discussion. The amendment would only affect commercial production on parcels greater than 35 acres. It would not apply to smaller parcels, and there would be no changes to the restrictions on growing personal recreational or medical marijuana.

Currently, commercial marijuana cultivation (recreational and medical) on parcels greater than 35 acres are allowed to have up to three 3,000 s.f. greenhouses. As proposed, operators would be permitted to have up to three outside growing areas of 20,000 s.f. each, or a combination thereof so there are no more than three growing areas. About 200 plants can be grown in a 3,000 s.f. greenhouse. Plants grown outside require greater spacing than in a greenhouse, with each plant occupying a 10-foot by 10-foot square, or 100 square feet each. (Outside plants do grow bigger than greenhouse-grown plants.) Hence, 200 outdoor plants would require 20,000 s.f. The State of Colorado issues licenses for a total number of plants; as an example, Alpine Wellness is licensed for up to 1,800 plants. The Code amendment would not increase permitted plant counts beyond that specified in the State License. Outdoor growing operations would not be permitted on parcels less than 35 acres in size. It would establish setbacks to property lines and existing residences in the surrounding area. Key concerns with outdoor marijuana cultivation are odors and security. The latter is substantially addressed in the state regulations.

The proposed draft would also allow Non-substantial Greenhouses, or hoop houses, as a temporary measure (two years). This would allow operators to ramp up their business rather than make a significant financial outlay at the start. The draft would also allow operators to propose phasing plans, so that after the initial SUP approval, only development permits would be needed for expansion, provided it was within the parameters of the original approval. Finally, the proposed amendment clarifies that structures for the storage of equipment and supplies that are not specific to marijuana growing or processing are not included in the size limits.

**SECTION 5-29 MEDICAL AND RETAIL MARIJUANA FACILITIES & ESTABLISHMENTS – INCLUDING PLANT COUNT LIMITS FOR BOTH PERSONAL USE/RECREATIONAL AND MEDICAL MARIJUANA CULTIVATION ON RESIDENTIAL AND NON-RESIDENTIAL PROPERTIES IN ALL ZONE DISTRICTS IN UNINCORPORATED SAN MIGUEL COUNTY**

**5-2903 Department of Revenue Marijuana Enforcement Division (DOR MED) and Local Licensed Medical and Retail Marijuana Facilities and Establishments**

These general standards are intended to cause such licensed establishments to be located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public. This is proposed to be accomplished by requiring a Two-Step Special Use Permit Review process, requiring increased noticing requirements, including specific time, place and manner, restrictions limiting the location, prescribing distance requirements from Schools, and residential areas, setting size and scale limits on the operations, prohibiting signage, and potentially limiting the number of allowed marijuana establishments within the unincorporated areas of the county. Section 5-29, with the exception of Section 5-2910 Definitions, does not apply to licensed marijuana establishments within the Ilium Industrial Park where Marijuana Facilities and Establishments are allowed by right subject to the applicable provisions in the Lawson Hill PUD Land Use Matrix and Section 5-2910 Definitions.

**5-2904 General**

Medical Marijuana Optional Premises Cultivation Operations, Medical Marijuana Infused Products Manufacturing, Medical Marijuana Centers and Retail Cultivation Facility, Retail Production Manufacturing, Retail Testing Facility and Off Premises Storage of Retail Marijuana Facility are uses allowed in the Low Intensity Industrial (I) Zone District in the Ilium Valley portion of the Lawson Hill PUD by Administrative Review.

Medical Marijuana Optional Premises Cultivation Operations Medical Marijuana Infused Products Manufacturing and Retail Cultivation Facility and Retail Production Manufacturing may be allowed subject to approval of a Two-step Special Use Permit application in the Forestry, Agriculture and Open (F) Zone District, the Wright’s Mesa (WM) Zone District and the Wright’s Mesa Rural Agricultural (WMRA) Zone District.

Marijuana Facilities/Establishments are not allowed within the Wright’s Mesa Master Plan Norwood Future Land Use Plan area.

A Medical or Retail Marijuana establishment may not operate until it is duly licensed by the state licensing authority and approved and licensed by San Miguel

County.

The County Retail and Medical Licensing Standards, which are separate documents, shall establish the number of marijuana facilities allowed in the F, WM, and WMRA at any given time.

#### **5-2905**

##### **Review Procedures**

All applications for Facilities or Establishments to be located within the Forestry, Agriculture and Open (F), Wright's Mesa (WM) and Wright's Mesa Rural Agricultural (WMRA) Zone Districts are subject to a Two-step Planning Commission and Board of County Commissioner review. The process will consider the zoning, type, location, size and scale, the proximity to a Residential Area, and will be reviewed for compliance with the provisions and the standards set forth herein, as well as the standards of the applicable Zone District. Future phases of cultivation, either outdoors or indoors, may be approved administratively through a development permit, provided the initial (SUP) identified conceptual future phases.

#### **5-2906**

##### **Application Requirements**

###### **A. Pre-application Conference with Staff**

Prior to the submittal of an application for a marijuana facility the applicant shall schedule a pre-application conference with the Planning Department staff. The applicant will provide information on the proposed facility, including the location. Staff may conduct a site visit to the proposed location to determine what specific issues may need to be addressed in addition to the following General Requirements.

###### **B. General Requirements**

1. The use must comply with all applicable county and state regulations including but not limited to state and local licensing regulations for Facilities and Establishments.
2. Retail Marijuana Stores and Medical Marijuana Centers are prohibited within the unincorporated areas of the County, except as an Accessory Use to a permitted and licensed Retail Marijuana or Medical Cultivation facility or Retail or Medical Production Manufacturing facility within the Ilium Industrial Park.
3. The use shall be located within a building or Substantial Greenhouse, or in an approved outdoor cultivation area, and shall be designed to blend into the surrounding rural landscape. Non-substantial greenhouses, i.e. "hoop-houses," may be allowed on a temporary basis. Such structures will be reviewed on an annual basis to ensure proper maintenance. These structures will have a two (2) year maximum life. Non-substantial structures shall be subject to all requirements and limitations of this

Section 5-2906.

4. Storage of Equipment. All equipment must be stored inside the structure or within an enclosed fenced area.
5. Water. The applicant must demonstrate a legal and physically adequate water supply for the proposed use. Applicant must complete the State of Colorado, Office of the State Engineer Water Supply Information Summary form and submit this form with the application for a Special Use Permit. This completed form will be referred by staff to the Office of the State Engineer, Division of Water Resources for review and comment.
6. The following must be addressed as part of any application:
  - a. Site Plan: The site plan shall show the location of the building containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways. If the applicant proposes an outdoor cultivation area, the site plan shall provide distances from the cultivation area to property lines and also from property lines to surrounding residences.
  - b. Location Plan. The location plan shall show all uses located within one-half (½) mile of the property boundary line of the premises on which the Retail or Medical Marijuana Establishment is located, including, but not limited to: any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or residential child care facility; or a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring lot or parcel containing the specified use.
  - c. Building Plan. The plans for the interior of the Marijuana Establishment shall include a detailed floor plan layout and information needed to demonstrate compliance with the Local Licensing standards and the applicable requirements of the County's adopted Building Code(s).
  - d. Location of existing residential structures within ½ mile.
  - e. Number of proposed employees, both permanent and temporary.
  - f. A waste disposal plan.
  - g. A noxious weed control plan.
  - h. An odor abatement plan designed to keep all odors from the proposed use from emanating beyond the subject property lines to prevent impacts on adjacent properties.

**C. Scenic Quality Mitigation Plan**

1. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed access, structure(s), fencing, landscaping, and ancillary site improvements and use to achieve the goal set forth in Section 5-2101 A. Purpose.

2. Visual mitigation techniques such as coloring, screening and landscaping. Use of natural colors and native vegetation is encouraged. If an outdoor cultivation area is proposed, an exterior fence shall be erected that shall be transparent (i.e. a chain link fence or the like) and complies with state standards.
3. Provide a lighting plan. All exterior lighting shall be either directed toward the ground or the surface of a building. Lighting shall be shielded to prevent direct visibility of light bulbs from off-site. Motion detector security lighting may be approved if the lights are fully shielded and down lighted. High intensity sodium vapor and similar lighting is prohibited.
4. Signs. No advertising or business identification sign is permitted anywhere upon or attached to the facility or property. Warning or advisory signs related to security may be allowed.
5. The level of mitigation required will depend on the location of the proposed facility in relation to topographic features, important visual features, proximity to residential neighborhoods and other sensitive visual areas. Placement of structures in treed or screened areas rather than open meadow areas is preferred in order to reduce the visibility of such facilities to the public to the maximum extent reasonably feasible.

#### **D. Area and Bulk Requirements**

1. Minimum Lot Area: 5 acres. The minimum lot area requirement for a Medical Marijuana Infused Product Manufacturer and/or a Retail Marijuana Products Manufacturing Facility shall conform to the Area and Bulk requirements of the underlying zone district. Marijuana Product Manufacturing may also be considered through a Two-step SUP Review process on legally created substandard sized parcels if the application meets all other applicable Land Use Code requirements.
2. Maximum Size for a Proposed Building or Greenhouse: Three thousand (3,000) square feet. The maximum square footage includes all marijuana related uses whether a single use or combined uses. Parcels 35 acres or larger may be allowed to house up to three (3) separate three thousand (3,000) square feet structures depending on the parcel location, size and the applicants ability to comply with all applicable standards. Additional structures may be allowed for the storage of materials and equipment related to the cultivation and operation business, but not for the storage or processing of any marijuana or related products.
3. Maximum Size for a Proposed Outdoor Cultivation Area: On parcels 35 acres and above, a maximum of three (3) twenty thousand (20,000) square feet outdoor cultivation areas are allowed. Any combination of 20,000 square foot outdoor cultivation areas and 3,000 square foot greenhouses may be applied for, equaling three (3) maximum cultivation areas and/or structures.
  - a. The designated area shall be properly fenced for security with a minimum eight (8) foot chain-link fence or six (6) feet of chain-

link material with two (2) foot security arms with barb wire or razor wire or equivalent type of fencing for security, excluding field fence or wood fence.

4. Setbacks:

- a. A minimum setback for an indoor marijuana cultivation facility is fifty (50) feet from all property lines regardless of zone district. Outdoor cultivation areas shall have a minimum setback of one hundred (100) feet from the property line, and shall be at least five hundred (500) feet from the closest dwellings existing on neighboring properties at time of application.
- b. In addition the following setbacks shall also apply:
  - (i) Any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or licensed residential child care facility; or a drug or alcohol rehabilitation center must be located a minimum of one-half ( $\frac{1}{2}$ ) mile from the nearest property line of the parcel. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
  - (ii) Setbacks from a private camp or recreational facility frequented by minors: a minimum of 1,000 feet from the nearest property line of the land. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
  - (iii) Setbacks from Residential Areas: New facilities may not be located within one-half ( $\frac{1}{2}$ ) mile of a Residential Area,
- c. Setbacks may be increased or decreased during the review and evaluation of the Special Use Permit.

**5-2907 Noticing Requirements**

Two-step reviews require that the notice to adjacent and affected property owners include the date, location and contact information for the time of the public meeting. The notice shall also include a provision that encourages the adjacent and affected property owners to provide written comments no later than one-week prior to the meeting date in order to be included in the meeting packets, although comments will be accepted up to the public meeting date.

The following noticing procedures shall apply:

1. The owners, as recorded in the records of the county, of any land adjacent to or located within one-half (½) mile of any portion of the boundary of the parcel or tract containing the subject site and owners of each parcel of real property adjacent to or through which the designated Access Road extends from the nearest public road. Such notice shall be sent by the applicant or Planning Department at the applicant's expense at least 20 days prior to the scheduled meeting date. Email notice to adjacent and affected property owners is encouraged if Email addresses are available from the County Assessor's Office. Persons notified and the distance of notice may be increased at the discretion of the County based upon size and scale of the proposed Facility, surrounding land use pattern and perceived impacts.

In addition to the required written notice under this provision, the applicant shall make a good faith effort (at a minimum contacting the County Planning Department and checking the records of the County Clerk and Records Office) to ascertain if any of the landowners required to be provided written notice, as part of an application, are also members of a condominium association or homeowner's association. If the result of the good faith examination identifies the existence of such condominium association or homeowner's association, the applicant shall provide written notice to these associations in the same manner as other landowners. Email notice to these associations is encouraged if Email addresses are available from the County.

2. The public notice shall include the following:
  - (a) A description of the location of the facility (including a legal and practical locational description and a vicinity map), a general site plan, a vicinity map which includes the designated Access Road to the facility, and the proposed activity under review.
  - (b) Time and place of the public meeting.
  - (c) The name and address of the applicant and/or its designated agent, and a statement that additional information may be obtained from the Planning Department.
3. Posting of notice shall be made by the applicant by posting a sign (to be obtained from the County) in a conspicuous place on the property or closest public roadway at least 20 days prior to the scheduled meeting date.
4. The applicant shall present proof of such notice by submitting a copy of the letter and a list of the landowners notified, together with an affidavit attesting to the mailing of such notice executed by the person responsible for providing such written notice, to the Planning Department.

**5-2908 Commencement, Duration and Modification of Special Use Permit**

The Special Use Permit shall become effective on the date of written approval by the County.

Special Use Permits are issued to the applicant and do not run with the land.

If an applicant desires to modify the subject Facility by changes to equipment, site layout, approved operating plan, etc. an amendment to the original application shall be submitted for review and approval. The Planning Department shall determine whether the modification has substantial impacts or is considered a minor amendment pursuant to County adopted standards for Medical and Retail Marijuana uses.

Special Use Permit approval shall only be valid as long as the applicant holds a current State and County License for the approved use.

**5-2909 Disposal of Marijuana**

Marijuana waste shall be stored, secured, and managed in accordance with applicable state laws, including but not limited to rules promulgated by the Colorado Medical Marijuana Enforcement Division and the Colorado Department of Revenue-Marijuana Enforcement Division (DOR-MED) in effect and as amended from time to time hereinafter.

**5-2910 Definitions**

**Enclosed**

Means a permanent or semi-permanent area covered and surrounded on all sides. Temporary opening of windows and doors or the temporary removal of a wall or ceiling panels does not convert the area into an unenclosed space.

**Extended Plant Count**

Means County approval given to either a Medical Marijuana Patient or a Primary Caregiver to allow a plant count over twelve (12) marijuana plants but not more than twenty-four (24) plants on a Residential property, which shall only be applicable for Patients whose physicians have recommended such an extended plant count as being medically necessary to address the Patient's debilitating medical condition.

**Local Licensing Standards**

Means Local Licensing Standards as adopted and amended by the Board of County Commissioners.

**Locked Space**

Means secured at all points of ingress or egress with a locking mechanism designed to limit

access, such as a key or combination lock.

**Medical Marijuana**

Means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

**Medical Marijuana Business**

Means a Medical Marijuana Center, a Medical Marijuana Infused Product Manufacturer, or an Optional Premises Cultivation Operation.

**Medical Marijuana Center**

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402 C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

**Medical Marijuana Infused Product**

Means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

**Medical Marijuana Infused Product Manufacturer**

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

**Medical Marijuana Patient (Patient)**

Means a person who has applied for and is entitled to receive a registry identification card with the Colorado Department of Public Health and Environment.

**Non-residential Property**

Means all other property than Residential Property as defined herein.

**Non-substantial Greenhouse**

A hoop house, high tunnel or other similar structure that is covered or uses a membrane or a soft pliable sheet, i.e. plastic sheeting, visqueen, tarps, canvas, polyethylene films or similar materials, to be used on a short-term basis with the intent that is to be replaced by a Substantial Greenhouse within two (2) years.

**Optional Premises Cultivation Operation**

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

**Outdoor Cultivation Area**

A designated and approved outdoor area to grow cannabis.

**Primary Caregiver**

Means a person who is 18 years of age or older who has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. Primary caregivers who cultivate medical marijuana for their patients must register with CDPHE and the DOR-MED. In order to be a primary caregiver who cultivates medical marijuana for his or her patients or transports medical marijuana for his or her patients, he or she shall also register with the state licensing authority and comply with all local laws, regulations, and zoning and use restrictions.

### **Personal Use/Recreational Marijuana**

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated and/or consumed by a person twenty-one years of age or older for personal use by persons twenty-one years of age or older, but not for resale to others. Such Marijuana does not include industrial hemp.

### **Residential Area**

Means an area as depicted on the maps attached as Exhibit I to this Section. These mapped areas may be amended as necessary by the County. New licensed marijuana facilities may not be located within one-half (1/2) mile of a Residential Area. A Residential Area may be zoned something other than WM, WMRA and F.

### **Residential Property**

Means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. "Residential Property" also includes the real property surrounding a structure, owned in common with the structure that includes one or more single units providing complete independent living facilities.

### **Retail Marijuana**

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. "Retail Marijuana" does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

### **Retail Marijuana Cultivation Facility**

Means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

### **Retail Marijuana Establishment**

Means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

### **Retail Marijuana Product**

Means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

**Retail Marijuana Products Manufacturing Facility**

Means an entity licensed to purchase Retail Marijuana, manufacture, prepare, and package Retail Marijuana Product, and sell Retail Marijuana and Retail Marijuana Product to other Retail Marijuana Products Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

**Retail Marijuana Store**

Means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

**Retail Marijuana Testing Facility**

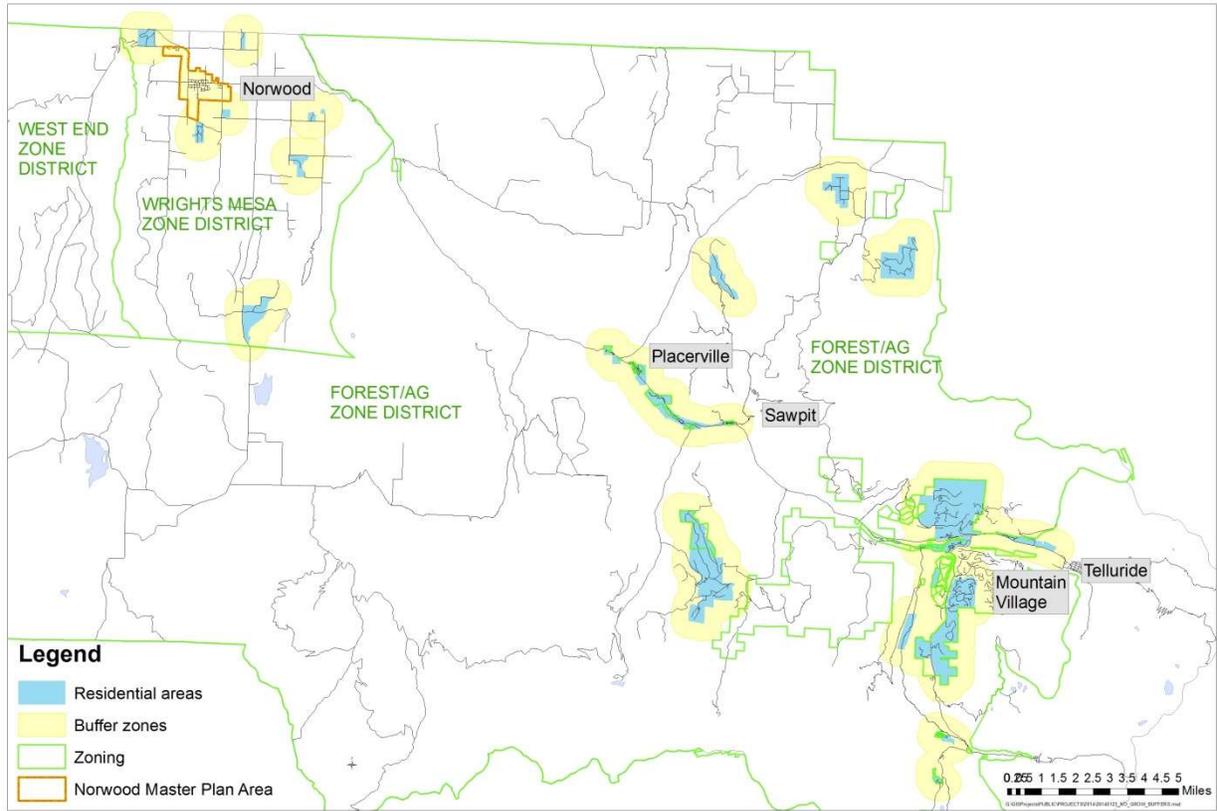
Means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

**Substantial Greenhouse**

A solid, secured structure constructed to the design requirements for imposed loads (e.g., wind, snow, seismic activity) as required by the International Building Code. The exterior wall and roof coverings must be materials such as concrete, glass, metal, wood, polycarbonates or any such material that is tested and approved for such use.

# EXHIBIT 1

## Residential Areas and Residential Area Buffer Zones



A full size version of this map may be viewed on the County webMap at [www.sanmiguelcounty.org](http://www.sanmiguelcounty.org)



Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;

## Outdoor Cannabis

1 message

**NOLAN MURPHY** <NOLANMURPHY1@msn.com>

Wed, Jan 8, 2020 at 4:08 PM

To: Kaye Simonson <kayes@sanmiguelcountyco.gov>, John Huebner <johnh@sanmiguelcountyco.gov>

Hi Kaye and John, Happy New Year!

I have a few questions about our grow site in Norwood. When we spoke back in October you said that the county commissioners may be willing to amend the land use code to allow for outdoor growing without all of the two step hearings as long as they have the information to make a universal decision. I have started a list of information to gather to present but I wanted to touch base with you two first. Here is what I am gathering based off our conversation, some you can answer and some I am reaching out on. I am looking at the pros and cons of it being allowed and will submit to you once everything is accumulated. If you can give me any more items to consider adding in while I prepare this that would be awesome

- With hemp production being allowed without any state required security measures enacted, we feel that allowing us to cultivate outdoors would be less of a risk for attempted break ins than the hemp fields that are popping up all over the western slope. You can't tell the difference between the two in most cases and I believe we are not even going to be noticed at the rate hemp is going. We have to follow the many strict guidelines set forth by the MED which I will attach (Cliff Notes Below).
- Inside of our current 5 Acre 8' tall elk fencing we would have to install an additional 8' tall 9 gauge chain link fence around the outdoor site along with an 8' gate that meets the states lock standards. The fence would need to obscure the public view if prompted to, i.e. vinyl strips through fence or green privacy screening. Security system on gate entrance to outdoor monitored by alarm company and motion detectors throughout. Security cameras at each ingress and egress as well as each corner of fence and throughout interior. 40 days of security footage needs to be on site for the area at all times. Motion sensed lighting at ingress and egress with a 20' radius. (this could be avoided with written request to state to waive this rule due to our Night Sky ordinance).
- Hemp production has already been affecting our industry with the travel of pollen seeding the buds. This is an issue that we feel we are not going to be able to avoid as new hemp fields are popping up all over. But we do think we should have the same opportunity to be out in the open if we feel we want to take that risk.
- I have reached out to the Pueblo County Sheriffs Office to get any information from them about any break ins and/or public danger that outdoor cultivation has created. I called this morning and have not heard back. Is there any other municipality I should reach out to?
- I can reach out to Dan Covalt and/or Bill Masters and get a letter from them with any concerns as well as the Norwood Fire Department.
- I can reach out to the MED and see if they have any reports of outdoor cultivation issues
- The only negative thing I have found online about Pueblo is that they did not put their setbacks from houses far enough and the neighbors complained of smell. In Pueblo County they only have a 250' buffer from house to house. I know we can make that a large distance and be good. Here is the link

<https://www.chieftain.com/news/20191116/couple-challenges-buffer-for-pot-cultivation>

- The actual odor is only abundant 6 weeks a year and our wind direction up here tends to blow away from our neighbors (due east wind on the average)
- The cost comparison between the two is wild. We put almost 250,000 into this greenhouse and haven't been able to expand it because of the up front cost and we are still paying this one off. Outdoor infrastructure would be a minuscule amount in comparison with a higher payout.

1/21/2020

San Miguel County Mail - Outdoor Cannabis

- Once we have the wells drilled I feel confident in having more than adequate water, especially with lone cone ditch irrigation season.
- Do we need to go through a two step hearing if we want to put a 3000 sq ft out building up there? We would need somewhere to hang and process plants if outdoor becomes a possibility. As well as bathroom in there...much needed
- Would any outdoor acreage approved conflict with our current 9000 sq ft greenhouse limitation? Or is that strictly greenhouse space?
- Should I e-mail the county commissioners personally once I have everything together or is this something you would bring to their attention?

Alright, that'll do for now. I don't want to bombard you two but I feel this is the step forward that we need in order to stay in business

Thanks for taking the time to read and let me know how I should proceed. Talk soon

Nolan Murphy  
Alpine Wellness-Owner  
970-708-7784



**MED Outdoor Rules.pdf**

165K

- G. Shared Licensed Premises Marijuana Research and Development Facility. A Marijuana Research and Development Facility that has obtained an R&D Co-Location Permit pursuant to Rule 5-705(C) may share a single Licensed Premises and operate at the same location as another Regulated Marijuana Business to the extent permitted by the R&D Co-Location Permit and otherwise in compliance with all applicable rules. See 5-700 Series Rules.
- H. Violation Affecting Public Safety. Violation of this Rule may be considered a license violation affecting public safety.

### **Basis and Purpose – 3-220**

The statutory authority for this rule includes but is not limited to sections 44-10-202(1)(c), 44-10-203(1)(j), 44-10-203(2)(e), and 29-2-114(8)(a), C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(IV). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule establishes the minimum guidelines for security requirements for alarm systems and commercial locking mechanisms for maintaining adequate security. This rule also establishes fencing and lighting requirements for outdoor cultivations. This Rule 3-220 was previously Rules M and R 305, 1 CCR 212-1 and 1 CCR 212-2.

### **3-220 – Security Alarm Systems and Lock Standards**

- A. Security Alarm Systems – Minimum Requirements. The following Security Alarm Systems and lock standards apply to all Regulated Marijuana Businesses, unless stated otherwise by these rules.
1. Each Licensed Premises shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.
  2. Each Licensee must ensure that all of its Licensed Premises are continuously monitored. Licensees may engage the services of a Monitoring Company to fulfill this requirement.
  3. A Licensee shall maintain up-to-date and current records and existing contracts on the Licensed Premises that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company. See Rule 3-905 – Business Records Required.
  4. Upon request, Licensees shall make available to agents of the Division or relevant Local Licensing Authority or Local Jurisdiction or state or local law enforcement agency, for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.
  5. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility is a Limited Access Area and must meet all of the requirements for Security Alarm Systems described in this Rule. An outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals. It shall be the responsibility of the Licensee to maintain physical security in a manner similar to a Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility located in an indoor Limited Access Area so it can be fully secured and alarmed. The fencing requirements shall include, at a minimum, perimeter fencing designed to prevent the general public from entering the Limited Access Areas and shall meet at least the following minimum requirements:

- a. The entire Limited Access Area shall be surrounded by a fence constructed of nine gauge or lower metal chain link fence or another similarly secure material. The fence shall measure at least eight feet from the ground to the top, or in the alternative, the fence may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands along the entire fence. All support posts shall be steel and securely anchored.
- b. All gates of ingress or egress shall measure at least eight feet from the ground to the top of the entry gate, or in the alternative, the gate may measure six feet from the ground to the top with a 1 foot barbed wire arm with at least three strands, and shall be constructed of nine gauge or lower metal chain link fence or a similarly secure material.
- c. The fence shall obscure the Limited Access Area so that it is not easily viewed from outside the fence.
- d. All areas of ingress and egress of the fence shall be illuminated including a 20 foot radius from the point of ingress or egress. The required lights may be, but are not required to be, motion sensing. See Rule 3-225(C).
- e. A Licensee or Applicant for initial licensure may, in writing, request that the Division waive one or more of the security requirements described in this subparagraphs (a) through (d) of this Rule, by submitting on a form prescribed by the Division a security waiver request for Division approval. The Division may, in its discretion and on a case-by-case basis, approve the security waiver if it finds that the alternative safeguard proposed by the Licensee or Applicant for initial licensure meets the goals of the above security requirements or that the security requirements are in conflict with a local ordinance of general applicability. Approved security waivers expire at the same time as the underlying License and may be renewed at the time the License renewal application is submitted. The Licensee's or Applicant for initial licensure's request for a waiver shall include:
  - i. The specific rules and subsections of a rule that is requested to be waived;
  - ii. The reason for the waiver;
  - iii. A description of an alternative safeguard the Licensee will implement in lieu of the requirement that is the subject of the waiver; and
  - iv. An explanation of how and why the alternative safeguard accomplishes the goals of the security rules, specifically public safety, prevention of diversion, accountability, and prohibiting access to minors.

**B. Lock Standards – Minimum Requirement**

1. At all points of ingress and egress, the Licensee shall ensure the use of a commercial-grade, non-residential door locks.
2. Any outdoor or Greenhouse Medical Marijuana Cultivation Facility or Retail Marijuana Cultivation Facility must meet all of the requirements for the lock standards described in this Rule.

### Basis and Purpose – 3-225

The statutory authority for this rule includes but is not limited to sections 44-10-203(2)(h), 44-10-203(1)(j), 44-10-203(2)(e), and 44-10-1001, C.R.S. Authority also exists in the Colorado Constitution at Article XVIII, Subsection 16(5)(a)(VI). The purpose of this rule is to ensure adequate control of the Licensed Premises and Regulated Marijuana contained therein. This rule also establishes the minimum guidelines for security requirements for video surveillance systems for maintaining adequate security. This Rule 3-225 was previously Rules M and R 306, 1 CCR 212-1 and 1 CCR 212-2.

### 3-225 – Video Surveillance

- A. Minimum Requirements. The following video surveillance requirements shall apply to all Regulated Marijuana Businesses, unless stated otherwise in these rules.
1. Prior to exercising the privileges of a Regulated Marijuana Business, an Applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Rule.
  2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Licensee's management staff.
  3. Video surveillance records and recordings must be made available upon request to the Division, the relevant Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose.
  4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the Division, except that the Division may provide such records and recordings to the Local Licensing Authority or Local Jurisdiction, or any other state or local law enforcement agency for a purpose authorized by the Marijuana Code, or for any other state or local law enforcement purpose.
- B. Video Surveillance Equipment
1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this Rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.
  2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.
  3. Licensees are responsible for ensuring that all surveillance equipment is properly functioning and maintained, so that the playback quality is suitable for viewing and the surveillance equipment is capturing the identity of all individuals and activities in the monitored areas.
  4. All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage. Licensee must notify the Division of any loss of video surveillance capabilities that extend beyond four hours.

C. Placement of Cameras and Required Camera Coverage.

1. Camera coverage is required for all areas identified as Restricted Access Areas or Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Regulated Marijuana is displayed for sale, and all points of ingress and egress to the exterior of the Licensed Premises.
2. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the Licensed Premises.
3. At each point-of-sale location, camera coverage must enable recording of the patients, caregivers or consumer(s), and employee(s) facial features with sufficient clarity to determine identity.
4. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.
5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Licensed Premises has a Regulated Marijuana cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.
6. Areas where Regulated Marijuana is grown, tested, cured, manufactured, researched, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
7. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or tagging activities occur.
8. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment.

1. The surveillance room or surveillance area shall be a Limited Access Area.
2. Surveillance recording equipment must be housed in a designated, locked, and secured room or other enclosure with access limited to authorized employees, agents of the Division, and the relevant Local Licensing Authority or Local Jurisdiction, state or local law enforcement agencies for a purpose authorized by the Marijuana Code or for any other state or local law enforcement purpose, and service personnel or contractors.
3. Licensees must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the Licensed Premises. Licensees must keep a surveillance equipment maintenance activity log on the Licensed Premises to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

4. Off-site Monitoring and video recording storage of the areas identified in this Rule 3-225(C) by the Licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site Monitoring.
5. Each Regulated Marijuana Business Licensed Premises located in a common or shared building, or commonly owned Regulated Marijuana Businesses located in the same Local Jurisdiction, must have a separate surveillance room/area that is dedicated to that specific Licensed Premises. Commonly-owned Regulated Marijuana Businesses located in the same Local Jurisdiction may have one central surveillance room located at one of the commonly owned Licensed Premises which simultaneously serves all of the commonly-owned Licensed Premises. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in this section apply to the review station.
6. Licensed Premises that combine both a Medical Marijuana Business and a Retail Marijuana Business may have one central surveillance room located at the shared Licensed Premises. See Rule 3-215 – Regulated Marijuana Businesses: Shared Licensed Premises and Operational Separation.

E. Video Recording and Retention Requirements.

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day. The use of motion detection is authorized when a Licensee can demonstrate that monitored activities are adequately recorded.
2. All surveillance recordings must be kept for a minimum of 40 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.
3. The Licensee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the areas identified in this Rule 3-225(C).
4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.
5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: <http://www.time.gov/timezone.cgi?Mountain/d/-7/java>.
6. After the 40 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to: sale or transfer of the facility or business to another Licensee; or being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Licensee knows or should have known of a pending criminal, civil, or administrative investigation, or any other proceeding for which the recording may contain relevant information.

For purposes of discussion, key sections are **highlighted**. Other sections may apply.

## **SECTION 5-29**

### **5-2905 Review Procedures**

All applications for Facilities or Establishments to be located within the Forestry, Agriculture and Open (F), Wright's Mesa (WM) and Wright's Mesa Rural Agricultural (WMRA) Zone Districts are **subject to a Two-step Planning Commission and Board of County Commissioner review**. The process will consider the zoning, type, location, size and scale, the proximity to a Residential Area, and will be reviewed for compliance with the provisions and the standards set forth herein, as well as the standards of the applicable Zone District.

### **5-2906 Application Requirements**

#### **A. Pre-application Conference with Staff**

Prior to the submittal of an application for a marijuana facility the applicant shall schedule a pre-application conference with the Planning Department staff. The applicant will provide information on the proposed facility, including the location. Staff may conduct a site visit to the proposed location to determine what specific issues may need to be addressed in addition to the following General Requirements.

#### **B. General Requirements**

1. The use must comply with all applicable county and state regulations including but not limited to state and local licensing regulations for Facilities and Establishments.
2. Retail Marijuana Stores and Medical Marijuana Centers are prohibited within the unincorporated areas of the County, except as an Accessory Use to a permitted and licensed Retail Marijuana or Medical Cultivation facility or Retail or Medical Production Manufacturing facility within the Ilium Industrial Park.
3. **The use shall be located within a building or Substantial Greenhouse and shall be designed to blend into the surrounding rural landscape.**
4. **Storage of Equipment. All equipment must be stored inside the structure or within an enclosed fenced area.**
5. Water. The applicant must demonstrate a legal and physically adequate water supply for the proposed use. Applicant must complete the State of Colorado, Office of the State Engineer Water Supply Information Summary form and submit this form with the application for a Special Use Permit. This completed form will be referred by staff to the Office of the State Engineer, Division of Water Resources for review and comment.
6. The following must be addressed as part of any application:
  - a. **Site Plan: The site plan shall show the location of the building**

containing the licensed premises and provide distances from the building to adjacent buildings, describe all existing uses within the building and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, driveways, and roadways.

- b. Location Plan. The location plan shall show all uses located within one-half (½) mile of the property boundary line of the premises on which the Retail or Medical Marijuana Establishment is located, including, but not limited to: any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or residential child care facility; or a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the premises' boundary and the closest point on the neighboring lot or parcel containing the specified use.
- c. Building Plan. The plans for the interior of the Marijuana Establishment shall include a detailed floor plan layout and information needed to demonstrate compliance with the Local Licensing standards and the applicable requirements of the County's adopted Building Code(s).
- d. Location of existing residential structures within ½ mile.
- e. Number of proposed employees, both permanent and temporary.
- f. A waste disposal plan.
- g. A noxious weed control plan.
- h. An odor abatement plan designed to keep all odors from the proposed use from emanating beyond the subject property lines to prevent impacts on adjacent properties.

### C. Scenic Quality Mitigation Plan

1. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed access, structure(s), fencing, landscaping, and ancillary site improvements and use to achieve the goal set forth in Section 5-2301 A. Purpose.
2. Visual mitigation techniques such as coloring, screening and landscaping. Use of natural colors and native vegetation is encouraged.
3. Provide a lighting plan. All exterior lighting shall be either directed toward the ground or the surface of a building. Lighting shall be shielded to prevent direct visibility of light bulbs from off-site. Motion detector security lighting may be approved if the lights are fully shielded and down lighted. High intensity sodium vapor and similar lighting is prohibited.
4. Signs. No advertising or identification sign is permitted anywhere upon or attached to the facility or property.
5. The level of mitigation required will depend on the location of the proposed facility in relation to topographic features, important visual features, proximity to residential neighborhoods and other sensitive visual areas. Placement of structures in treed or screened areas rather than open

meadow areas is preferred in order to reduce the visibility of such facilities to the public to the maximum extent reasonably feasible.

#### **D. Area and Bulk Requirements**

1. Minimum Lot Area: 5 acres. The minimum lot area requirement for a Medical Marijuana Infused Product Manufacturer and/or a Retail Marijuana Products Manufacturing Facility shall conform to the Area and Bulk requirements of the underlying zone district. Marijuana Product Manufacturing may also be considered through a Two-step SUP Review process on legally created substandard sized parcels if the application meets all other applicable Land Use Code requirements.
2. Maximum Size for a Proposed Building or Greenhouse: 3,000 square feet. The maximum square footage includes all marijuana related uses whether a single use or combined uses. Parcels 35-acres or larger may be allowed up to three separate 3,000 sq. ft. structures depending on the parcel location, size and the applicants ability to comply with all applicable standards.
3. Setbacks:
  - a. A minimum setback for a marijuana cultivation facility is 50 feet from all property lines regardless of zone district.
  - b. In addition the following setbacks shall also apply:
    - (i) Any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or licensed residential child care facility; or a drug or alcohol rehabilitation center must be located a minimum of one-half ( $\frac{1}{2}$ ) mile from the nearest property line of the parcel. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
    - (ii) Setbacks from a private camp or recreational facility frequented by minors: a minimum of 1,000 feet from the nearest property line of the land. The distance measurement shall be a direct line between the closest point of the structure and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
    - (iii) Setbacks from Residential Areas: New facilities may not be located within one-half ( $\frac{1}{2}$ ) mile of a Residential Area,
  - c. Setbacks may be increased or decreased during the review and evaluation of the Special Use Permit.



Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;

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**Re: Outdoor Cannabis**

1 message

**Sheriff Bill** <sheriffbillmasters@gmail.com>

Tue, Jan 14, 2020 at 12:54 PM

To: Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;

Cc: Dan Covault &lt;danc@sanmiguelsheriff.org&gt;, Mike Bordogna &lt;mikeb@sanmiguelcountyco.gov&gt;, Amy Markwell &lt;amym@sanmiguelcountyco.gov&gt;, John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;, Nancy Hrupcin &lt;nancyh@sanmiguelcountyco.gov&gt;, Carmen Warfield &lt;carmenw@sanmiguelcountyco.gov&gt;

I guess I dont have a problem with it if:  
Fenced in a manner designed to exclude intruders.  
Security and documentation provided by a proper full coverage camera system.  
Guarded by pit-bulls?

Respectfully

Sheriff Bill Masters  
San Miguel County  
Telluride, CO  
970-728-7948 Direct Line  
970-728-1911 Dispatch

**UNDER THE COLORADO OPEN RECORDS ACT (CORA) ALL MESSAGES SENT BY OR TO ME ON THIS EMAIL (sheriffbillmasters@gmail.com) ACCOUNT MAY BE SUBJECT TO PUBLIC DISCLOSURE.**

On Mon, Jan 13, 2020 at 9:56 AM Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt; wrote:

Good morning. Nolan Murphy of Alpine Wellness has been asking about amending the Land Use Code to allow marijuana growing outside of buildings. I asked him to do some research on it, which is attached. We are looking at scheduling a Tuesday morning discussion with the BOCC to gauge their feelings on it and would like you there as well. We haven't set the date yet, but wanted to bring you into the conversation. Thanks, and let me know if you have any questions.

Kaye

----- Forwarded message -----

From: **NOLAN MURPHY** <NOLANMURPHY1@msn.com>

Date: Wed, Jan 8, 2020 at 4:08 PM

Subject: Outdoor Cannabis

To: Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;, John Huebner &lt;johnh@sanmiguelcountyco.gov&gt;

Hi Kaye and John, Happy New Year!

I have a few questions about our grow site in Norwood. When we spoke back in October you said that the county commissioners may be willing to amend the land use code to allow for outdoor growing without all of the two step hearings as long as they have the information to make a universal decision. I have started a list of information to gather to present but I wanted to touch base with you two first. Here is what I am gathering based off our conversation, some you can answer and some I am reaching out on. I am looking at the pros and cons of it being allowed and will submit to you once everything is accumulated. If you can give me any more items to consider adding in while I prepare this that would be awesome



Kaye Simonson &lt;kayes@sanmiguelcountyco.gov&gt;

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**Re: Inside/Outside grow comparisons**

1 message

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**NOLAN MURPHY** <nolanmurphy1@msn.com>  
To: Kaye Simonson <kayes@sanmiguelcountyco.gov>

Mon, Feb 3, 2020 at 11:40 AM

Hi Kaye, I was planning on one plant in a 10' x 10' square because they grow so much bigger outside so 100 sq. ft. per plant. We typically do 200 or more in the greenhouse so that would be 20,000 sq. ft. or 100' x 200' fenced in. Hope that helps. Our state license allows us to grow up to 1800 plants at once so we would be less than 1/4 of our allowable plants. Let me know if you need anything else, I am planning on getting some drawings together this afternoon I can send over as well as some other back up plans if the timeline for this extends past our spring planting deadline. Thanks so much,

Nolan Murphy  
Alpine Wellness-Owner  
970-708-7784

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**From:** Kaye Simonson <kayes@sanmiguelcountyco.gov>  
**Sent:** Monday, February 3, 2020 9:45 AM  
**To:** NOLAN MURPHY <NOLANMURPHY1@msn.com>  
**Cc:** John Huebner <johnh@sanmiguelcountyco.gov>; Troy Hangen <troyh@sanmiguelcountyco.gov>  
**Subject:** Inside/Outside grow comparisons

Nolan,

In your estimation, how much area would an outside grow cover that would have an equivalent number of plants to a 3,000 s.f. greenhouse? Thanks.

--

Kaye Simonson, AICP  
Planning Director  
San Miguel County Planning Department  
Phone: (970)369-5436  
[www.sanmiguelcountyco.gov](http://www.sanmiguelcountyco.gov)

