



Archuleta County Development Services Department
ARCHULETA COUNTY PLANNING COMMISSION AGENDA
County Commissioners Meeting Room, 398 Lewis Street
Public is welcome and encouraged to attend.

REGULAR PLANNING COMMISSION MEETING FOR AUGUST 24, 2016, 6:00 PM

ROLL CALL

CONSENT:

Approval Of Minutes

Regular Meeting June 22, 2016

Regular Meeting July 27, 2016

OLD BUSINESS:

Humane Society CUP Amendment, In Section 9, T35N R2W NMPM, At 465 Cloman Blvd

Humane Society of Pagosa Springs, represented by Steve Schwartz, Spectrum Construction; has applied for a Minor Amendment to their Conditional Use Permit (CUP), approved in 2007, to add an accessory structure (PLN16-073). Applicant's property is described as the N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in S9, T35N R2W NMPM, located at 465 Cloman Blvd.

Documents:

[16-073_HUMANE_SOCIETY-CUP_AMEND_PC-20160824_STAFFREPORT.PDF](#)
[A1-PLN16-073_074_AREAMAPS.PDF](#)
[A2-PLN16-073_074_REVIEWS.PDF](#)
[A3-PLN16-073_074_HUMANE_SOCIETY-NARRATIVE.PDF](#)
[A4-PLN16-073_HUMANE_SOCIETY-BLDG_ELEVATION_SKETCH.PDF](#)
[A5-PLN16-073_074_HUMANE_SOCIETY-PILC_SCAN_NOTATION.PDF](#)

Continuation Of Public Hearing On Proposed Amendments To The Archuleta County Land Use Regulations

Continuation of Public Hearing from regular meetings on July 27, and August 10, 2016, for consideration of proposed text amendments and recommendation to Board of County Commissioners. Staff revisions, information in response to comments attached for discussion, and draft Resolution attached.

Documents:

[MEMO-AMENDMENTS_TO_LAND_USE_REGULATIONS-20160824.PDF](#)
[ACCESSORY_USE_AMENDMENTS-REVISED_20160815.PDF](#)
[PC_RESOLUTION_2016-01_DRAFT.PDF](#)

NEW BUSINESS:

Discussion On Community Plan - Economic Development And Housing

Jason Cox, Riff Raff Brewing and President of Pagosa Springs Community Development Corporation.

REPORTS, ANNOUNCEMENTS:

NEXT MEETING: September 28, 2016

Consider changing scheduled meetings:

- Add Policy Meeting on 9/14/16
- Remove Policy Meeting on 10/12/16

ADJOURN

Please Note: Agenda items may change order during the meeting; it is strongly recommended to attend the meeting at the start time indicated.



Archuleta County
Development Services—Planning Department
1122 HWY 84
P. O. Box 1507
Pagosa Springs, Colorado 81147
970-264-1390
Fax 970-264-3338

MEMORANDUM

TO: Archuleta County Planning Commission

FROM: John C. Shepard, AICP; Planning Manager

DATE: August 10, 2016; **Continued to August 24, 2016**

RE: Humane Society CUP Amendment, in Section 9, T35N R2W NMPM, at 465 Cloman Blvd (PLN16-073).

EXECUTIVE SUMMARY

Humane Society of Pagosa Springs, represented by Steve Schwartz, Spectrum Construction; has applied for a Minor Amendment to their Conditional Use Permit (CUP), approved in 2007, to add an accessory structure (PLN16-073). Applicant's property is described as the N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, all in S9, T35N R2W NMPM, located at 465 Cloman Blvd.

Applicant has also made a concurrent request for Variances from Development Standards where were approved separately by the Board of Adjustment (PLN16-074).

There are, essentially, two questions before the Planning Commission:

1. Does the application qualify as a Minor Amendment to a Conditional Use Permit?
2. Does the application meet the development standards of the *Archuleta County Land Use Regulations*?

REVIEW PROCEDURE

Archuleta County Land Use Regulations Section 3.2.3 Conditional Use Permit (CUP) provides for Conditional Uses, which require review and evaluation with respect to their effects on surrounding properties and Archuleta County at large. The Planning Commission may approve Minor Amendments to an approved CUP, including **modifications to approved site plans**, if the request does not alter the basic intent and character of the approved CUP, are consistent with the Site Development Standards (Section 5.4), are deemed necessary in light of technical or engineering considerations first discovered during actual construction, or could not have been reasonably anticipated during the initial review process (Section 3.2.3.4). The Planning Commission makes a final decision on a Minor Amendment.

Public notice is not required for this application. However, notice was scheduled to be published in the *Pagosa Springs Sun*, posted on site, and mailed to adjacent property owners for the concurrent Variance request.

DISCUSSION

A Conditional Use Permit (CUP) was approved in 2007 for the Humane Society Animal Shelter, a Conditional Use in the Agricultural Estate (AE) zone. When the current shelter was built, three storage sheds and an outdoor pet cremator were moved from the old site on Paws Court to the new location on Cloman Blvd. The proposed project will replace the three wooden sheds with a new metal building that will house a new, modern indoor pet crematorium, in addition to improved storage space.

The *Archuleta County Community Plan's* Future Land Use Map and the Joint Town/County Planning Commission map of 2010 recognize the Cloman area west of the airport as one of the few industrial areas in the county. This 11.25-acre parcel is zoned Agricultural Estates (AE). Cloman Park, located to the north, is zoned Industrial (I), as is the Airport, located nearby. The remainder of the quarter-quarter section, immediately to the south and west, is owned by Archuleta County and is zoned Agricultural/Ranching (AR). A vacant 114-acre parcel, zoned AR, is located between this parcel and the airport.

The *Archuleta County Land Use Regulations* do not provide specific standards for an Animal Shelter, which is classified as an "Other" type use (not Commercial, Industrial, etc.), and allowed as a Conditional Use in AF, AR, AE, C and I zones (Table 3). The use is subject to Development Standards in Section 5, such as drainage, paving and landscaping. These improvements were originally guaranteed by a Development Agreement, which has since expired, for construction with a proposed second phase of site development. On August 2nd, the Board of Adjustment approved Variance from paving and parking lot landscaping, rather than requiring renewal of the financial guarantee.

Reviews for both the Minor Amendment to the CUP and the Variance application were combined. Consulting agency comments included:

- County Engineering, Pagosa Fire Protection District, PAWSD and LPEA had no objections to the requests.
- The Town of Pagosa Springs Planning Director did not object, but suggested consideration for long-term impacts on air quality and the impression of substandard development on airport travelers visiting the community.
- Projects in the Airport Influence Area are routinely forwarded to the Airport Manager for their information.

Before acting on the application, the Planning Commission should confirm the Amendment is consistent with the required findings under Section 3.2.3.5:

- (1)** That the proposed location of the use, the proposed access to the site, and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- (2)** That, if required by the proposed use, there are adequate and available utilities and public services to service the proposed use, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are

not necessarily limited to, sewage and waste disposal, water, electricity, law enforcement, and fire protection.

- (3) That the proposed use will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety, etc.

Applicant discusses justification of their request in their narrative (See attached). The new building will replace existing equipment and buildings, so there will be no new impacts. The pet cremator is an important community service, and the new equipment will be more efficient, eliminating occasional smoke and odor. Colorado Dept. of Public Health (CDPHE) has also approved the required air quality permit.

There are essentially two questions to be answered for this proposal:

1. Does the Application qualify as a Minor Amendment to the approved CUP?
2. Is the proposed Minor Amendment in compliance with the development standards of the *Archuleta County Land Use Regulations*?

RECOMMENDATION AND FINDINGS

Should the Planning Commission accept that Applicants have provided sufficient evidence in support of their proposal, staff recommends the Planning Commission find that:

- a. The application meets the review criteria for a Minor Amendment to a Conditional Use Permit in Section 3.2.3.7 of the *Archuleta County Land Use Regulations*, and
- b. The application meets the required findings for a Conditional Use Permit in Section 3.2.3.5 of the *Archuleta County Land Use Regulations*, and

That the Planning Commission approves the Humane Society CUP Amendment, in Section 9, T35N R2W NMPM, at 465 Cloman Blvd., with no conditions.

PROPOSED MOTION

I move to approve the request for the Humane Society CUP Amendment, with the Findings A and B of the staff report and no conditions.

ATTACHMENTS.

- Attachment 1: Area Maps
- Attachment 2: Review Comments
- Attachment 3: Applicant's Narrative
- Attachment 4: Building Plans
- Attachment 5: Site Plan



Site Map

Humane Society
Minor CUP Amend
PLN16-073
Variances
PLN16-074

Legend

- Highway
- Primary Road
- Lakes
- Pagosa Springs
- Parcels
- Project Location



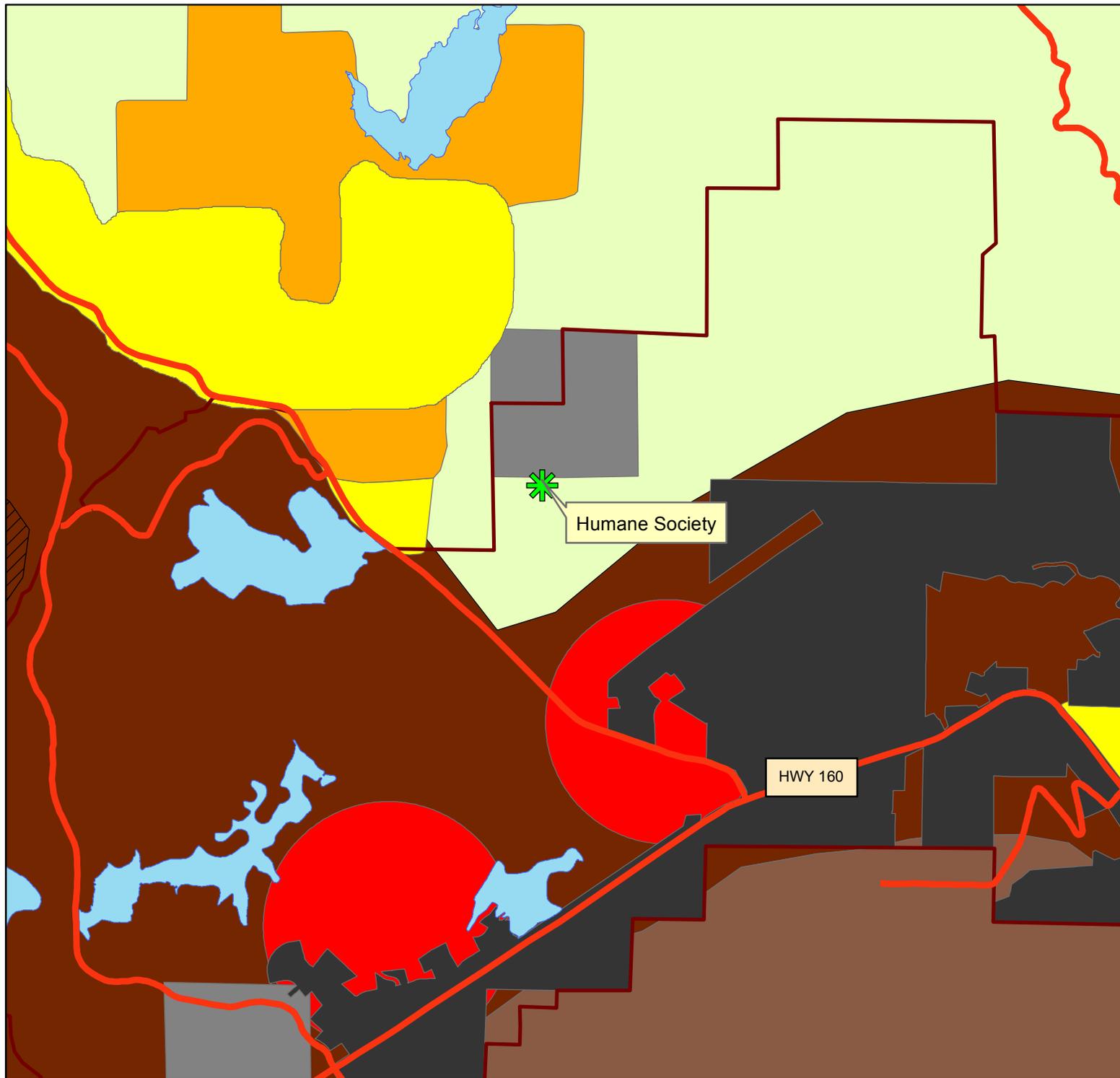
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



500 250 0 500 Feet



Archuleta County Community Plan Detail: Future Land Use



Legend

- Major Roads
- Rivers & Streams
- Lakes
- Critical Wildlife Habitat
- Migration Corridor
- Joint Planning Area
- Pagosa (2009)
- Tier 1
- Tier 2
- Industrial Park
- Commercial Area

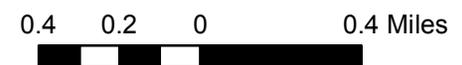
Future Landuse

- High density residential
- Medium density residential
- Low density residential
- Very low density residential
- Public land
- Village Center



Detail of map developed 21 Sept 2011

Archuleta County Development Services
1 July 2016





Site Map

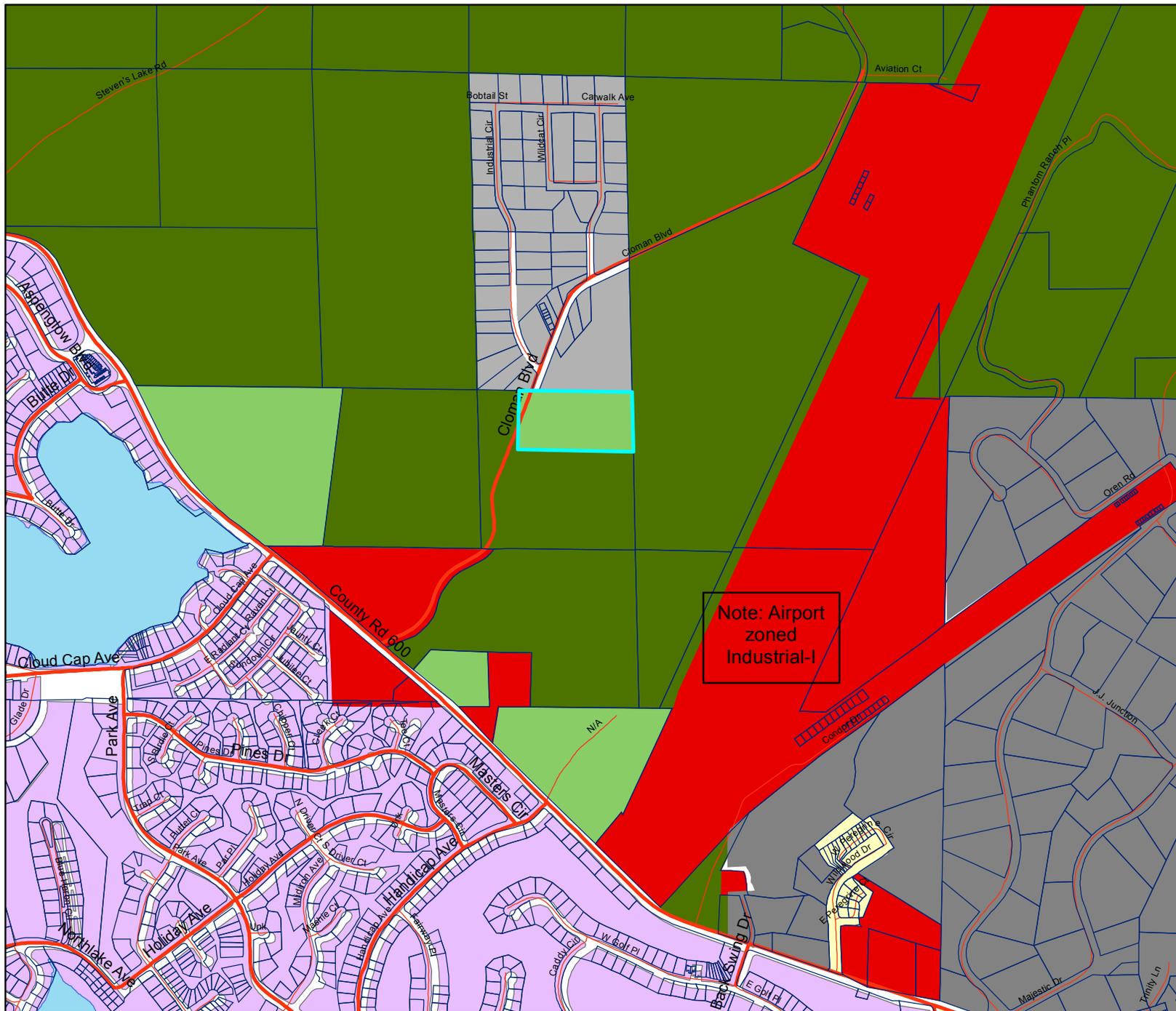
Humane Society
Minor CUP Amend
PLN16-073
Variances
PLN16-074

Legend

- Primary Road
- Lakes
- Pagosa Springs
- Parcels
- Zoning Map 2011**
- Zoning Districts**
- Agriculture Forestry (AF)
- Agriculture Ranching (AR)
- Agricultural Estate (AE)
- Rural Residential (RR)
- Residential (R)
- Mobile Home Park (MHP)
- Commercial (C)
- Industrial (I)
- PUD
- Project Location



500 250 0 500 Feet



This map has been produced using various geospatial data sources. The information displayed is intended for general planning purposes and the original data will routinely be updated. No warranty is made by Archuleta County as to the accuracy, reliability or completeness of this information. Consult actual legal documentation and/or the original data source for accurate descriptions of locations displayed herein.



Site Map

Humane Society
 Minor CUP Amend
 PLN16-073
 Variances
 PLN16-074

Legend

-  Primary Road
-  Lakes
-  Pagosa Springs
-  Parcels
-  Project Location



140 70 0 140 Feet



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



MEMO

Date: July, 06, 2016

To: John Shepard

From: Yari Davis

cc: Bob Perry

**RE: Humane Society, Road and Bridge Standards–
Variance Request.**

The Engineering Department has reviewed the variance requested by Humane Society from Archuleta County Road & Bridge Design Standards, section 27.1.7.3.F and section 27.1.7.4.C, "that requires driveway and parking serving commercial uses must be paved". The Engineering Department has no objections with the variance approval.



Pagosa Fire Protection District



July 18, 2016

Subject: Conditional Use Permit Amendment, Paving and Landscaping Variances
Owner: Humane Society
Project: Accessory Structure
Address: 465 Cloman Blvd. Pagosa Springs Colorado

Attention: John C. Shepard, AICP

Dear Sirs;

I have review the land use application provided for the proposed construction of an Accessory Structure to be located 465 Cloman Blvd. The Fire Districts has no objections to this project, we would require a plan review to insure compliance with the International Fire Code prior to construction. The District has no objection to granting the associated variances.

Thank You

David Hartman

David Hartman
Fire Marshal



551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
P: 970.264.4151
F: 970.264.4634

Town of Pagosa Springs
Planning Department

Date: July 08, 2016
To: John Shepard, Archuleta County Planning Department
Re: Western Heritage Events Center land use application, 344A, US Hwy 84

Hello John,

Thank you for forwarding the application for 465 Cloman Blvd. regarding a land use application for an accessory structure and variance requests.

I have the following comments regarding the application you and the Archuleta Planning Commission will be considering.

1) Paving Variance request:

It is reasonable to consider a variance for paving the parking lot due to the nature of the proposed application and the small accessory structure addition.

Given paving variance requests have been fairly common recently, I feel compelled to suggest that more consideration should be considered on the long term impacts and ability to require paving at a later date.

2) Landscaping Variance Request:

It is reasonable to consider the interior parking lot landscaping variance if approving a variance for paving of the parking lot, however, landscaping provides a buffer to the business and to passing motorists. Cloman Blvd is seeing increased traffic due to increased air traffic in and out of Stevens Field. Most of these air travelers are visiting our community, and Cloman Blvd is their first impression of Pagosa Springs. There is not a mechanism to require landscape improvements at a later date without a land use permit application triggering the improvements.

3) Exterior Lighting:

Though Parking Lot lighting is not proposed, all new and any existing exterior lighting should require the concealment (shielding) of light sources from off site.

Thank You for your serious consideration of the recommendations provided above,

Respectfully,

A handwritten signature in black ink, appearing to read "James Dickhoff".

James Dickhoff

Town of Pagosa Springs
Planning Department Director
Po Box 1859
551 Hot Springs Blvd.
Pagosa Springs, Co. 81147
970-264-4151 x225

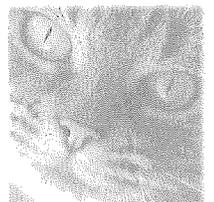
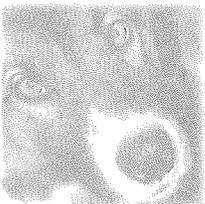
jdickhoff@pagosasprings.co.gov

Humane Society of Pagosa Springs

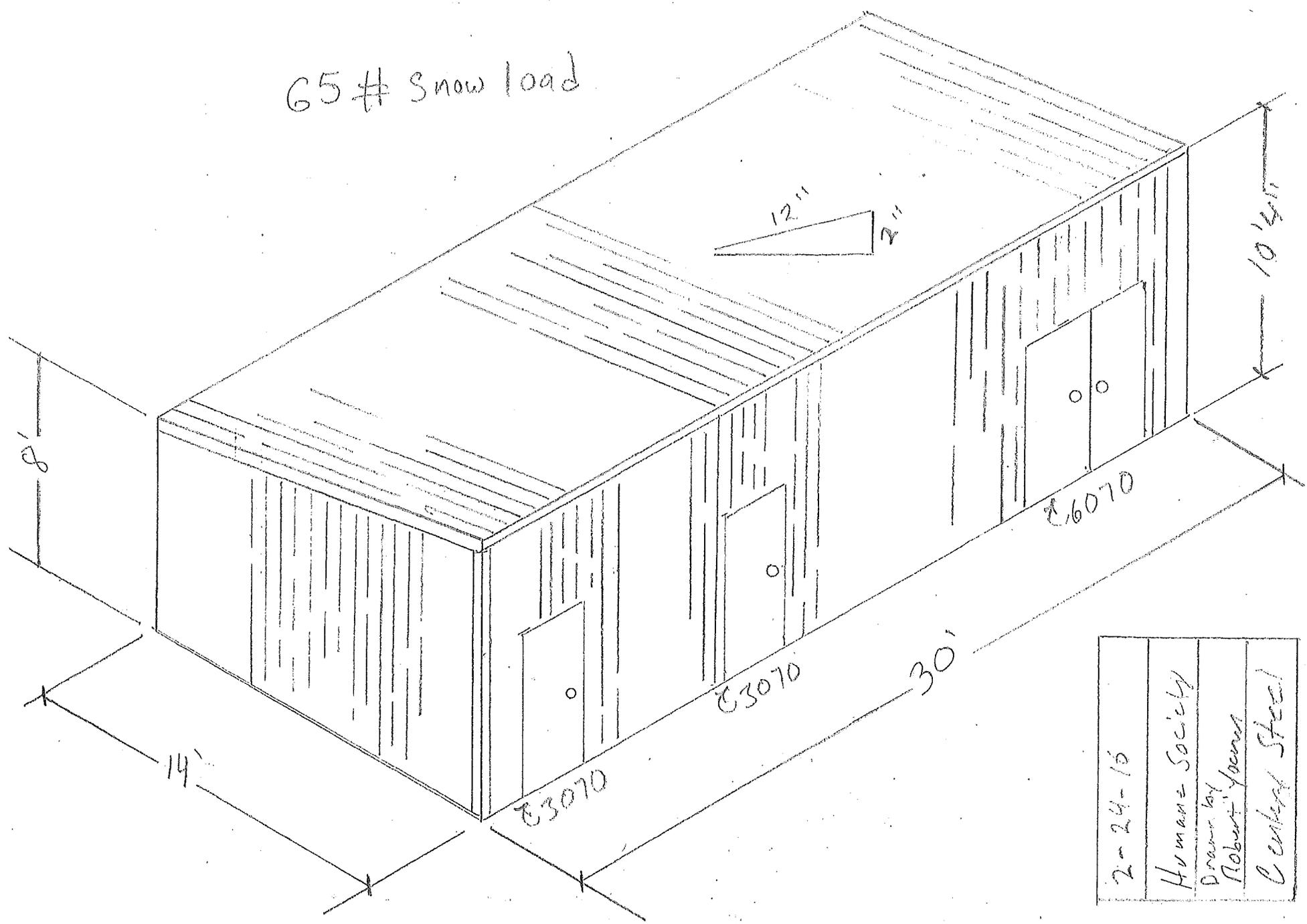
- d. The project will essentially replace an existing outdoor cremator that has reached the end of its serviceable lifetime with an indoor modern and more efficient unit. The new indoor crematorium should enhance the enjoyment of neighboring properties by eliminating the occasional smoke and odor that can be emitted by the existing outdoor unit when it requires repair and/or servicing. Additionally, most adjacent properties in the Cloman industrial area do not have paved driveways or parking areas or substantial landscaping, so this proposal by HSPS would not change the apparent character of the immediate area.

- e. Cloman Blvd is the only maintained road into the Cloman industrial area and the only access to the HSPS shelter property. Cloman Blvd is a gravel road and the area is more rural or industrial in character than residential. Very few other properties that use Cloman Blvd for access have paved driveways and parking areas; businesses that generate comparable or more traffic than the HSPS animal shelter are largely unpaved. Until whatever point in the future Cloman Blvd becomes a paved road it seems inconsistent with the existing conditions and an unnecessary financial burden to require HSPS to pave the shelter drive and parking area. Additionally, the extensive landscaping that HSPS has already voluntarily done on the shelter grounds may more than adequately offset the requirement for landscaping per number of parking spaces.

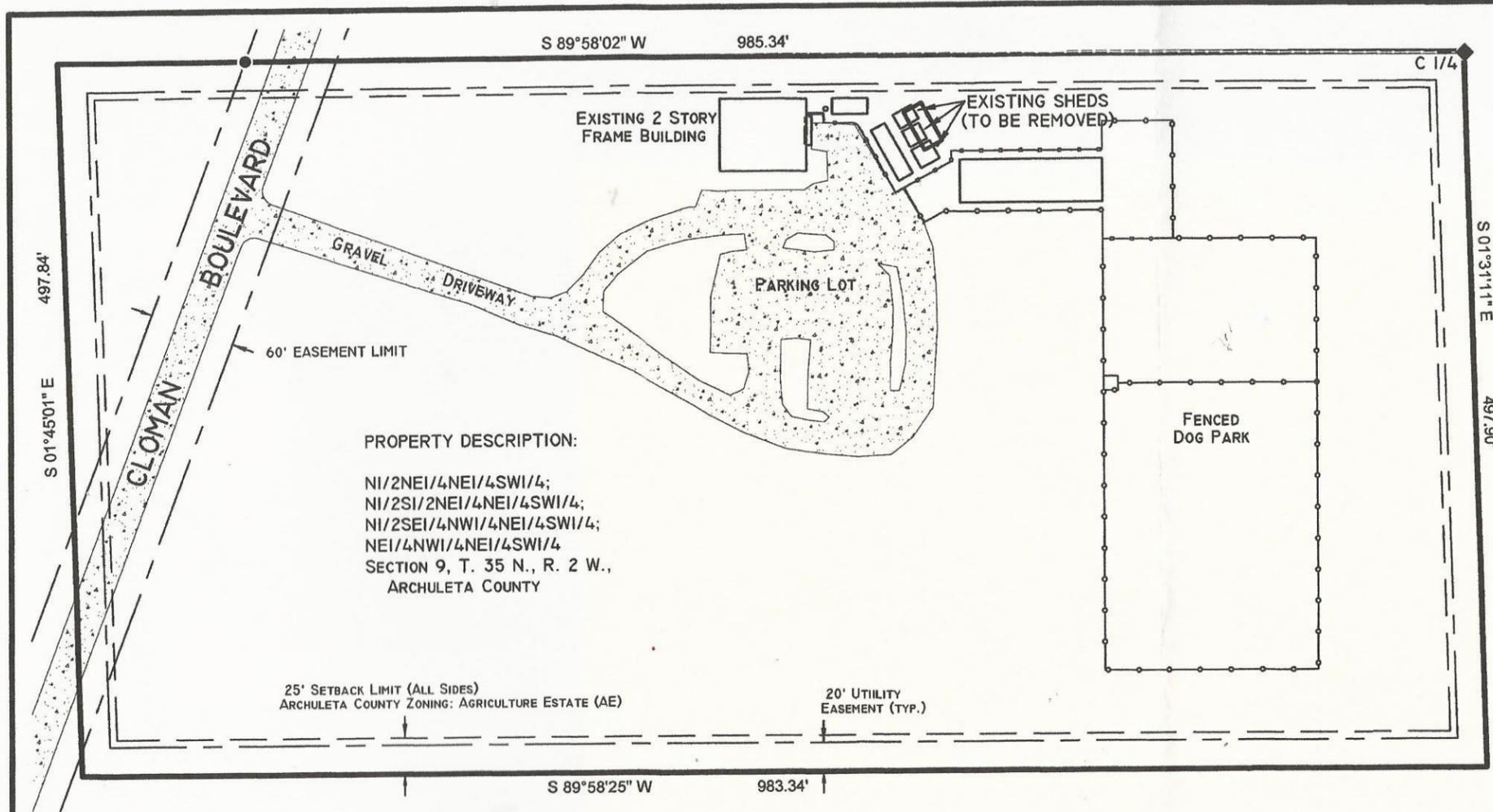
MIKE STOLL
EXECUTIVE DIRECTOR



65# snow load



2-24-16
Humane Society
Drawn by
Robert Young
Century Steel



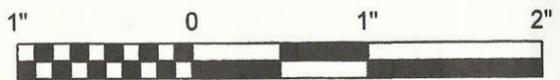
PROPERTY DESCRIPTION:
 N1/2NE1/4NE1/4SW1/4;
 N1/2S1/2NE1/4NE1/4SW1/4;
 N1/2SE1/4NW1/4NE1/4SW1/4;
 NE1/4NW1/4NE1/4SW1/4
 SECTION 9, T. 35 N., R. 2 W.,
 ARCHULETA COUNTY

25' SETBACK LIMIT (ALL SIDES)
 ARCHULETA COUNTY ZONING: AGRICULTURE ESTATE (AE)

20' UTILITY EASEMENT (TYP.)

- NOTES:
- 1) PROPERTY OWNER: HUMANE SOCIETY OF PAGOSA SPRINGS
 - 2) PROPERTY ADDRESS: 465 CLOMAN BOULEVARD
 - 3) APPROXIMATE AREA TO BE DISTURBED BY PROPOSED IMPROVEMENTS IS 0.01 ACRES.
 - 4) THERE ARE NO OIL OR GAS WELLS WITHIN 150' OF THE PROPOSED STRUCTURE SITE.
 - 5) THE GROUND AROUND THE PROPOSED STRUCTURE IS RELATIVELY FLAT.

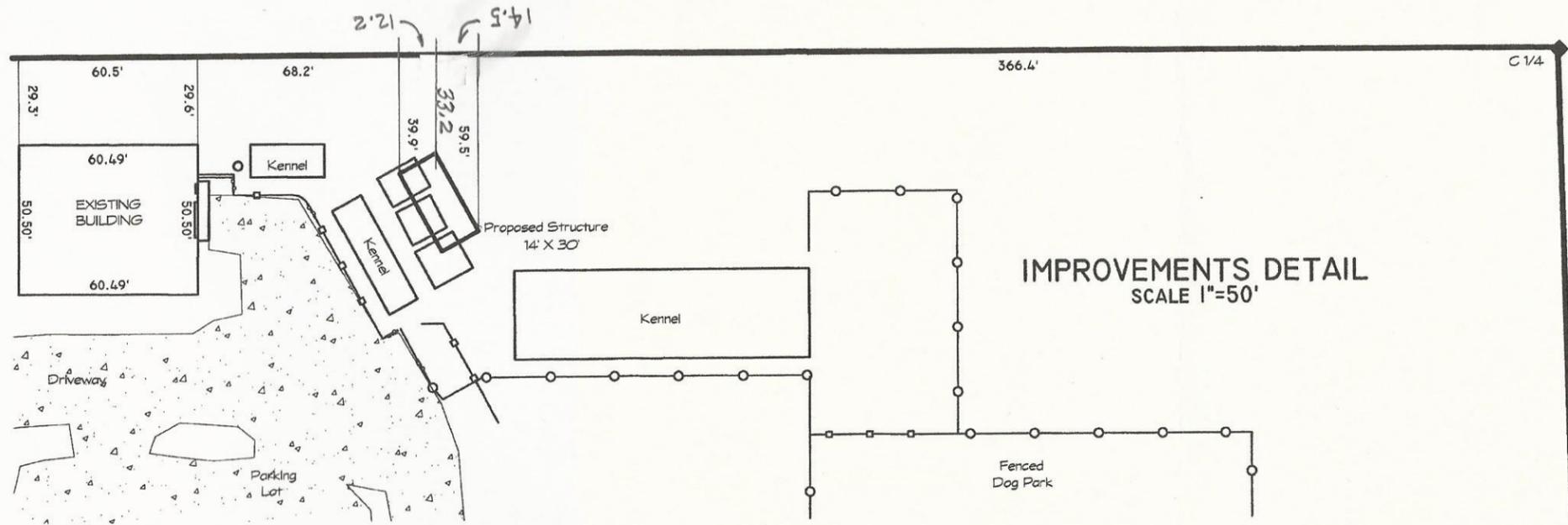
- LEGEND:
- ◆ = FOUND 2 1/2" IRON PIPE WITH 3 1/4" ALUMINUM CAP--PLS 20691
 - = FOUND 1/2" REBAR WITH 1" PLASTIC CAP--PLS 26973
 - = PROPERTY BOUNDARY



I HEREBY CERTIFY THAT THIS PROPOSED IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR LOCAL BUILDING DEPARTMENTS IN ARCHULETA COUNTY THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENT LINES. THIS CERTIFICATE IS VALID ONLY FOR USE BY LOCAL BUILDING DEPARTMENTS IN ARCHULETA COUNTY AND DESCRIBES THE PARCEL'S APPEARANCE ON 5/3/2016.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE HEREIN DESCRIBED PARCEL ON THIS DATE, 5/3/2016, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

THIS CERTIFICATE DOES NOT CONSTITUTE A TITLE SEARCH BY DAVIS ENGINEERING SERVICE, INC. TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE RECORD, DAVIS ENGINEERING SERVICE, INC. RELIED UPON THAT DEED RECORDED UNDER RECEPTION NUMBER 20008960, ARCHULETA COUNTY RECORDS



NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.



REVISIONS		PROPOSED IMPROVEMENT LOCATION CERTIFICATE THE HUMANE SOCIETY OF PAGOSA SPRINGS TRACT LOCATED IN THE NE1/4 SW1/4 SECTION 9, T. 35 N., R. 2 W., N.M.P.M., ARCHULETA COUNTY, COLORADO	
SCALE	1" = 100'	DAVIS ENGINEERING SERVICE, INC. P.O. BOX 1208 PAGOSA SPRINGS, COLORADO 81147 PHONE: (970) 264-5055 FAX: (970) 264-9210	SURVEYED BY JNS
DATE	5/3/2016		DRAFTED BY JNS
CLIENT	HUMANE SOCIETY OF PAGOSA SPRINGS		FILED P06814



Archuleta County
Development Services—Planning Department
1122 HWY 84
P. O. Box 1507
Pagosa Springs, Colorado 81147
970-264-1390
Fax 970-264-3338

MEMORANDUM

TO: Archuleta County Planning Commission
FROM: John C. Shepard, AICP; Planning Manager
DATE: 7/27/2016; **Continued 8/24/2016**
RE: Proposed Amendments to the Land Use Regulations

The *Archuleta County Land Use Regulations* may be amended when the Planning Commission certifies changes to the Board of County Commissioners, who must approve any proposed changes at a public hearing after public notice specified by CRS 30-28-116. Notice of this proposal was published in the *Pagosa Sun* as required, and posted on the County website. The public hearing was opened on July 27, 2016, and continued to August 10 and August 24, 2016.

Archuleta County Development Services is proposing amendments to *the Archuleta County Land Use Regulations*. The proposed changes:

- 1) Classify non-commercial marijuana cultivation as an Accessory Use and adopt limits and definitions,
- 2) Clarify provisions for Accessory Uses and Structures, and
- 3) Clarify cross-references and certain provisions of Table 1 and Table 4.

These changes amend portions of Sections 2.1.2, 2.2.1, 3.1.1, 3.1.4, 3.2.5, 3.2.6, 5.5.2, 11.2.1 (see attached, additions in **RED UNDERLINE**, deletions in ~~strikeout~~, commentary in *italics*).

I. Non-Commercial Cultivation

Colorado Revised Statutes (C.R.S.) §25-1.5-106(13.5) states that a county may regulate the growing of marijuana, commercially or otherwise, through local zoning regulations. Similar to other constitutionally-protected activity, local regulations can set standards for the time and manner of the activity as long as the activity is not prohibited.

The *Archuleta County Land Use Regulations* (Sec. 2.1.2.1(1)) were amended in March 2015 to provide that cultivation of marijuana for any reason requires a Land Use Permit, and classifies licensed Marijuana Establishments as Uses by Right in Commercial and Industrial zones. Concerns have been raised by neighbors of property where large numbers of marijuana plants have been grown purportedly for unlicensed personal or medical use. Also, in some places large marijuana grows have led to health and safety concerns with mold, condensation, and chemical

use making homes uninhabitable (US DEA, *Residential Marijuana Grows in Colorado: The New Meth Houses?* June 2016).

Proposed amendments are intended to clarify requirements for *non-commercial* cultivation, as an accessory use on any parcel in any zone, the same as gardening, and to clarify when a Land Use Permit is required. Amendments define the terms “marijuana”, “marijuana caregiver” and “industrial hemp”, with reference to terms of the Colorado Constitution. Hemp is not included in restrictions on marijuana cultivation.

A 12 plant count is provided for personal use. A licensed Medical Marijuana Caregiver has a 36 plant count per parcel, with performance standards. A Land Use Permit would be required for any Medical Marijuana Caregiver, meeting the Land Use Regulations’ development standards for the parcel whether residential, commercial or industrial. The proposed text does not restrict cultivation to the grower’s residence, does not require a grower to be a resident, and provides for cultivation in any zone. Limitations on home-grows have been adopted in at least 19 Colorado counties. For example:

- Eagle County allows 18 plants/9 mature for personal use, and 36 plants/18 mature for medical use, indoors only.
- Fremont County adopted more complicated provisions with 12 plants on a single-family property, 6 per unit multifamily, or 36 by a primary caregiver on a single-family property, all indoors. Outdoors, 18 plants may be grown on a single-family lot or up to 99 plants by a caregiver on parcels over 10 acres. Cultivation is restricted to residents of that particular property, and cultivation in an accessory building (like a greenhouse) is only permitted if there is a home on the property.
- Pueblo County permits 18 plants for single-family dwellings, 12 per unit multifamily, 36 per building in Industrial zones all indoors, or 36 per parcel in Agricultural zones which may be outdoors. Pueblo County also has a full-time zoning and nuisance enforcement officer.
- Summit County limits production to 12 plants, with maximum square footage, and is only allowed in a person’s primary residence/accessory structure or caregiver’s residence/accessory structure. Fairly straight-forward provisions were proposed in recognition of limited enforcement resources.

II. Accessory Uses and Structures

In response to a request from a local property owner, the proposed text allows a Greenhouse as a Conditional Use in a Commercial (C) zone or a Use by Right in an Industrial (I) zone. Since Marijuana Establishments are uses by right in these zones, this would allow cultivation facilities built for marijuana to grow other plants as well. The change also classifies licensed Marijuana Establishments as an Industrial-type use in the same table. Proposed text then provides standards for fences, to clarify the existing regulations. In response to another request from a local property owner, the proposed text modifies Table 5: Animal Regulations to allow up to 4 female fowl on any Residential (R) zone lot.

Since public notice, a local business owner brought to staff's attention a discrepancy in previous text amendments adopted in 2011. At that time, changes were considered to specifically allow Cargo Containers as Portable Accessory Structures. However, the definition of Outdoor Storage was not amended to complete the change. The Planning Commission is asked to add the following amendment to their recommendation:

Outdoor Storage: The keeping, in an unroofed area, of any equipment, goods, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.
~~Containers and semi-trailers may not be used for residential or storage uses except on construction sites.~~

Further public discussion and consideration will be necessary in the future to better clarify many of these existing conflicts in the Land Use Regulations.

III. Table 1 and Table 4

Housekeeping amendments are proposed for **Table 1: Review Process**, to note approval processes previously added to the Land Use Regulations, and clarify cross-references. Changes to **Table 4: Zone District Standards** address what appear to be typographic errors.

ATTACHMENTS.

Attachment 1: Proposed Amendments 8/15/16

Proposed Amendments to the Archuleta County Land Use Regulations

Rev. 8/15/16 Additions in RED UNDERLINE, deletions in ~~strikeout~~; commentary in italics

Classifying non-commercial marijuana cultivation as an Accessory Use, and adopting limits and definitions.

11.2.1 Definitions. The following specific words and terms are defined as follows:

Agricultural Uses: Those farm or ranch uses which primarily involve raising, harvesting, producing or keeping plants or animals, including agricultural structures which house farm or ranch implements, hay, grain, poultry, livestock or other horticultural products. An agricultural structure shall not be a place of human habitation. Agricultural uses exclude any business whose primary function is to provide on-site services or retail sales of non-agricultural products.

Agricultural Uses ~~also~~ excludes any use governed by either the Colorado Medical Marijuana Program (CRS §25-1.5-106 et seq), Colorado Medical Marijuana Code (CRS §12-43.3-101 et seq) or ~~the~~ Colorado Retail Marijuana Code (CRS §12-43.4-101 et seq).

Farm and Ranch use: The use of land for the purpose of obtaining a profit from the production and sale of agricultural products, animals or animal products, including accessory uses.

Gardening: An accessory use of land which involves raising, harvesting, producing or keeping plants or animals for personal, non-commercial use.

Industrial Hemp: As defined by the Colorado Constitution, the plant of the genus cannabis and any part of such plant, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis.

Marijuana: As defined by the Colorado Constitution, 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 marihuana concentrate; does not include Industrial Hemp.

Marijuana Caregiver: A person, other than a medical patient or the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition, as defined by CRS §25-1.5-106(2)(d.5).

2.1.2 Exemptions from Land Use Permit Requirement:

The following uses and activities are exempt from the requirement to obtain a Land Use Permit if the use or activity is proposed for areas of the County that are zoned Agricultural/Forestry or Agricultural Ranching:

2.1.2.1 Agricultural Uses operations proposed for areas of the County that are zoned Agricultural/Forestry (AF) or Agricultural/Ranching (AR) that do not require a Land Use Permit include:

- (1) Production, cultivation, growing, and harvesting of crops and plants, excluding marijuana for commercial use. ~~Provided, however, marijuana operation and activities of all types, including but not limited to cultivation, growing or harvesting, shall require a Land Use Permit.~~
- (4) Harvesting, storage, grading, packaging, ~~processing~~, distribution, and sale of agricultural commodities occurring at the point of production.

2.1.2.2 ~~One (1) single family dwelling unit associated with an agricultural operation that is established in compliance with these Regulations.~~ Uses associated with Conservation Easements.

2.1.2.3 Accessory uses and structures and one additional dwelling allowed by these Regulations ~~that are associated with the exempt agricultural and residential uses and activities herein~~ do not require a Land Use Permit.

- (1) Multiple dwelling units in conjunction with an active agricultural operation require an agricultural ~~Use By Right~~ Land Use Permit.
- (2) Approval of a Land Use Permit shall be required prior to commencing a Marijuana Caregiver use.

2.1.2.4 In any district where permitted (~~AR-Agricultural Rural/Ranching - AR, AE-Agricultural Estate - AE, RR-Rural Residential RR-Rural, and R-Residential -R, and PUD~~) one (1) single family detached dwelling is exempt from a land use permit.

2.1.2.5 In any district where permitted (~~AR-Agricultural Rural/Ranching - AR, AE-Agricultural Estate - AE, RR-Rural Residential RR-Rural~~) a second single family detached dwelling is exempt from a land use permit as long as the lot is three (3) acres or more.

~~**2.1.2.6** Uses associated with Conservation Easements~~

3.2.5 Accessory Uses:

Accessory uses shall comply with all requirements for the principal use, including obtaining a building permit, except where specifically modified by this Section, and shall also comply with the following limitations:

3.2.5.1 Gardening and raising animals for personal use, within the requirements of Sec. 5.5.2, shall be considered a customary Accessory Use with no sales from the premises.

- (1) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales from the premises-principal structure.

5.5.2 Gardening and Raising Animals as Accessory Uses

5.5.2.1 Cultivation of marijuana may be conducted as an accessory use on any legal parcel.

- (1) No more than six (6) marijuana plants may be cultivated for personal use by a Colorado resident, 21 years of age or older, as provided in Sec. 14(4) and Sec 16(3) of Article XVIII of the Colorado Constitution, with no more than 12 marijuana plants on a single parcel.
- (2) No more than 36 marijuana plants may be cultivated by a Medical Marijuana Caregiver, registered with the State licensing authority, with a Land Use Permit.
- a. Cultivation must be conducted in an enclosed, locked building, with plants screened from public view.
 - b. Caregiver cultivation facilities shall follow all health and safety requirements of Archuleta County marijuana licensing ordinances.
 - c. Caregiver operations shall comply with the Industrial Performance standards in Sec. 5.4.2, including sound, vibration, emissions, outdoor storage and water pollution. Any extraction must follow requirements of Colorado statutes.
- (3) Marijuana operations and activities are expressly prohibited as a Home Occupation.

5.5.2.2 The following chart identifies limitations on the number and type of animals permitted in each zoning district.

TABLE 5: ANIMAL REGULATIONS ^{1*}

DISTRICT	ANIMALS					
	Cats, Dogs, Potbellied (Miniature) Pigs	Horses, Cows, Llamas, Mules, Buffalo, Ostrich, Emus, Goats, Sheep, Pigs, Miniature Horses	Chickens, Ducks, Turkeys, Racing or Domestic Pigeons, Quail, Pheasant and other typically domesticated fowl	Rabbits, Chinchillas	Non-domestic exotic or native animals, birds, reptiles (except any venomous reptiles, or constricting snakes greater than 6 feet in length)	Bee Keeping
AF AR	No Limit	No Limit	No Limit	No Limit	No Limit	No Limit
AE	4 per dwelling. No limit on kittens and puppies up to 3 months old	No limit except on parcels of land less than 10 acres, then 1 per acre	No Limit	No Limit	4 per lot: Must be kept indoors	No Limit
RR	4 per dwelling. No limit on kittens and puppies up to 3 months old	No limit except on parcels of land less than 10 acres, then 1 per acre	4 per lot up to 3 acres; then 3 per acre	4 per lot up to 3 acres; then 3 per acre	4 per lot: Must be kept indoors	1 hive per acre
<u>R₁</u>	<u>4 per dwelling. No limit on kittens and puppies up to 3 months old</u>	<u>Not Allowed</u>	<u>4 female fowl per lot</u>	<u>4 per lot</u>	<u>4 per lot: Must be kept indoors</u>	<u>Not Allowed</u>
<u>R₂</u> MHP	4 per dwelling. No limit on kittens and puppies up to 3 months old	Not Allowed	Not Allowed	4 per lot	4 per lot: Must be kept indoors	Not Allowed
C	4 per dwelling. No limit on kittens and puppies up to 3 months old	Not Allowed	Not Allowed	Not Allowed	4 per lot: Must be kept indoors	Not Allowed
I	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed

^{1*} Exempt: In Platted subdivisions in existence as of the effective date of these Regulations (May 23 2006) with recorded covenants addressing animals take precedence.

Clarify provisions for Accessory Uses and Structures.

3.1.1 Zoning District Uses:

TABLE 3: USES BY ZONING DISTRICT

USE	AF	AR	AE	RR	R	MH	C	I
AGRICULTURAL								
<u>Greenhouse or Plant Nursery and Greenhouse</u>		R	C				<u>C</u>	<u>R</u>
INDUSTRIAL								
<u>Marijuana Establishment, Medical</u>							<u>R</u>	<u>R</u>
<u>Marijuana Establishment, Retail</u>							<u>R</u>	<u>R</u>
OTHER								
Marijuana Establishment, Medical							R	R
Marijuana Establishment, Retail							R	R

11.2 WORDS AND TERMS

11.2.1 definitions

Plant Nursery and Greenhouse: Any land or structure used primarily to raise trees, shrubs, flowers or other plants for sale or for transplanting.

Outdoor Storage: The keeping, in an unroofed area, of any equipment, goods, material, merchandise or vehicles in the same place for more than twenty-four (24) hours. ~~Containers and semi-trailers may not be used for residential or storage uses except on construction sites.~~

3.2.6 Accessory Structures:

3.2.6.2 No part of any accessory structure shall be located closer than ten (10) feet to any principal structures unless it is attached to, or forms a part of the principal structure.

3.2.6.3 ~~No part of any An accessory structure shall be located closer than twenty five (25) feet to any adjacent property line or shall meet recorded deed restrictions, property development by laws or~~ meet the same required setback distances for as a principal structure or as provided in subdivision covenants recorded prior to the effective date of these Regulations (May 23 2006), whichever is less.

- (1) A fence over 8' in height must meet all required setbacks.
- (2) A fence over 6' in height or a security fence as defined in Sec. 11.2.1 must meet the minimum front or corner setback, unless located in Commercial (C) or Industrial (I) zoning districts.
- (3) Fences must maintain the required Vision Clearance Area in Sec. 5.4.7.

3.2.6.5 Portable Accessory Structures...

A portable Agricultural accessory structures in Agricultural Use as exempted under Section 2.1.2 are is also exempt from the limits of this Section 3.2.6.5.

Insert section number for clarity

3.2.6.6 Accessory structures including portable accessory structures, used for Commercial and/or Industrial purposes shall be by a minor amendment to a Conditional Use Permit (CUP) or Use By Right (UBR) permit only and shall comply with all applicable Regulations and Standards thereof. There shall be no additional fee charged to amend the CUP or a UBR site plan to allow accessory structures.

Clarify cross-references and certain provisions of Table 1 and Table 4.

2.2.1 Review Process Chart:

TABLE 1: REVIEW PROCESS

Approval Requested	Pre-App	Sketch			Preliminary			Final				Notes
		Staff	PC	BCC	Staff	PC	BCC	Staff	PC	BCC	BOA	
Floodplain Development Permit	M							A ³			APP	³ Sec 10.2.2
Sign Permit	M							A ³			APP	³ Sec 7.1.3
Temporary Use Permit	M							A ³			APP	³ Sec 3.2.4
Minor O&G Permit	M	M ¹						A ³			APP	¹ Sec9.2.6.9 ³ Sec 9.2.6.10
Minor S&G Permit	M							A ³			APP	³ Sec 9.1.4
Major O&G Permit	M	M ¹						M	P	H ³		¹ Sec9.2.6.9 ³ Sec 9.2.6.11
Major S&G Permit	M							M	H	H ³		³ Sec 9.1.5

Geothermal Exploration Activity Notice	M							A³		APP		³Sec2.5.6.3
Geothermal Resources Permit	M	M¹						A³	H³	H³		¹Sec 2.5.6.4 ³Sec 2.5.6.4 Sec 2.5.6.5 Sec 2.5.6.7
Access Permit	M							M	P	HP³		³Sec 5.3.2
Use by Right Site Plan	MA							A³			APP	³Sec 3.2.2
Conditional Use Permit	M							M⁴³	H	H		³Sec 3.2.3
Concept Review	M	M		H¹				M	H	H		¹Sec 2.2.12
General Development Plan	M	M				H²		M	H	H		²Sec 2.2.13
PUD	M	M	P¹		M	H	APP	M	H	H		¹Sec 4.2.3.2 3.1.6.2
Rezoning	M							M	H	H³		³Sec 3.1.7.3
Major Subdivision	M	M	P² <u>1</u>		M	H²	APP	M	P	H³		²¹Sec 4.2.3.2 ²Sec 4.3.3 ³Sec 4.4.3
Minor Subdivision	M	M	A/ P² <u>1</u>					M	P	H³		²¹Sec 4.2.3.2 ³Sec 4.4.3
Rural Land Use Process	M	M	P² <u>1</u>		M	H	APP	M	P	H		²¹Sec 4.2.3.2 4.5
Site Specific Development Plan	M									H³		²Sec 2.3.1
Amended Plat -Major	M	M	P² <u>1</u>		M	H²	APP	M	P	H³		²¹Sec 4.2.3.2 ²Sec 4.3.3 ³Sec 4.6.4.3.1, 4.6.4.3.2
Amended Plat -Minor	M	M	A/ P² <u>1</u>					M	P	H³		²¹Sec 4.2.3.2 ³Sec 4.6.4.3.1, 4.6.4.3.2
Lot Line Adjustment	M							M	P⁴	P⁴³		⁴³Sec 4.6.4.3.3

Lot Consolidation	M							M		P ³		³ Sec 4.9.5, Sec 4.10.4
Subdivision Vacation	M							M	P	H ³		³ Sec 4.8.3
<u>VariANCES-Administrative</u>	M							A ³			APP	³ Sec 2.4.3
<u>VariANCES-General</u>	M										H ³	³ Sec 2.4.3

3.1.4 Zoning District Standards

TABLE 4: ZONE DISTRICT STANDARDS

DIMENSION	AF	AR	AE	RR	R	MH	C	I
Minimum Lot Size	160 acres	35 acres	5 acres	3 acres <u>(w/H₂O or Sewer)</u>	8,000 ft ²	2,500ft ²	10,000 ft ²	10,000 ft ²
Minimum Lot Width	500 feet	200 feet	100 feet	80 feet	60 feet	40 feet	100 feet	100 feet
Minimum Front Setback	100 feet	75 feet	25 feet	20 feet	15 feet	10 feet	25 feet	50 feet
Minimum Side Setback	100 feet	25 feet	25 feet	20 feet	15 feet	10 feet	10 feet	25 feet
Minimum Corner Setback (street side)	150 <u>100</u> feet	50 feet	50 <u>25</u> feet	40 <u>20</u> feet	25 <u>15</u> feet	25 <u>10</u> feet	25 feet	50 feet
Minimum Rear Setback	100 feet	25 feet	25 feet	20 feet	15 feet	10 feet	10 feet	25 feet

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**ARCHULETA COUNTY PLANNING COMMISSION
ARCHULETA COUNTY, COLORADO
RESOLUTION NO. 2016-01**

**A RESOLUTION OF THE ARCHULETA COUNTY PLANNING COMMISSION
CERTIFYING AMENDMENT OF THE ARCHULTA COUNTY LAND USE
REGULATIONS TO THE BOARD OF COUNTY COMMISSIONERS**

WHEREAS, pursuant to C.R.S. §30-28-101, *et. seq.*, and in particular, C.R.S. §§30-28-111 and 30-28-133, the Archuleta County Planning Commission made a comprehensive revision to the zoning plan and subdivision regulations for the unincorporated territory of Archuleta County, and pursuant to C.R.S. §30-28-112, certified the *Archuleta County Land Use Regulations* to the Board of County Commissioners by Planning Commission Resolution No. 2006-01; and

WHEREAS, pursuant to C.R.S. §30-28-112, the Archuleta County Board of County Commissioners adopted the *Archuleta County Land Use Regulations* by Resolution No. 2006-13, and as subsequently amended; and

WHEREAS, pursuant to C.R.S. §30-28-116, from time to time the Board of County Commissioners may amend provisions of the zoning resolution, when first submitted for the approval, disapproval, or suggestions of the County Planning Commission; and

WHEREAS, pursuant to C.R.S. §25-1.5-106(13.5), a county may regulate the growing of marijuana, commercially or otherwise, through the Local Government Land Use Control Enabling Act, article 20 of title 29 C.R.S., which have been implemented in Archuleta County pursuant to C.R.S. §30-28-101, *et. seq.*; and

WHEREAS, the Archuleta County Planning Commission has drafted proposed amendments to the *Archuleta County Land Use Regulations*, and

WHEREAS, the Archuleta County Planning Commission conducted a public hearing on July 27, 2016, to consider proposed amendments to the *Archuleta County Land Use Regulations*; and

WHEREAS, public notice of the hearing was given by publication in a newspaper of general circulation in the County at least fourteen (14) days prior to the public hearing, as required by C.R.S. §30-28-116; and

WHEREAS, the Archuleta County Planning Commission continued the public hearing to regular meetings on August 10, 2016, and August 24, 2016; and

WHEREAS, at the public hearings testimony was taken from all persons appearing and wishing to give testimony; and

WHEREAS, the Archuleta County Planning Commission has considered the public need, legal authority, and purpose of the land use regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE ARCHULETA COUNTY PLANNING COMMISSION, AS FOLLOWS:

Section 1. Findings.

- a. The proposed amendments, attached hereto as **Exhibit A**, are hereby certified to the Board of County Commissioners in accordance with the provisions of C.R.S. §30-28-101, *et. seq.*; and
- b. The Planning Commission recommends the Board of County Commissioners consider amendment of the Archuleta County Land Use Regulations as provided in Section 1.1.9.

Section 2. Effective Date.

- a. The Planning Commission recommends the proposed amendments take effect no sooner than _____, 2017.

MOVED, SECONDED AND ADOPTED BY THE ARCHULETA COUNTY PLANNING COMMISSION, by a vote of _____ in favor to _____ against, this ___ day of _____, 2016.

ARCHULETA COUNTY PLANNING COMMISSION

By: _____
Chair

ATTEST:

Recording Secretary

Exhibit A