

**ARCHULETA COUNTY PROCEEDINGS
BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners held a Regular Meeting on April 19, 2016 noting County Commissioners Michael Whiting, Clifford Lucero and Steve Wadley, County Administrator Bentley Henderson, County Attorney Todd Starr and June Madrid County Clerk & Recorder present.

Chairman Whiting called the meeting to order at 1:30 p.m.

The meeting began with the Pledge of Allegiance and a moment of silence.

Disclosures and/or Conflicts of Interest

Approval or Adjustments to Agenda

Chairman Whiting stated there would be no Executive Session today.

Commissioner Wadley moved to approve the agenda as amended. Commissioner Lucero seconded the motion and it carried unanimously.

Public Comments

Chairman Whiting stated that he was opening the floor to public comments for those wanting to comment on items not on this agenda. Comments were asked to be held to 3 minutes for each person who desired to speak. No response from the Board would be given.

- Mark Weiler of 7 Parelli Way asked about tomorrow's posted work session regarding the building of a new Justice Center. There was to be a private and a public presentation regarding the Justice Center. Why are you separating the public's portion? The public should be allowed through all of the session. Chairman Whiting said consultants will be here all day. It would be hard to set the agenda for just what they would be talking about to the Commissioners and staff. There was no difference. Mr. Weiler asked when their findings would be presented to the Board. No answer was given. They would be talking about all four choices previously submitted to the Board. At 1:00 p.m. will be a concise presentation for the public.

Acknowledgement

A. Recognition of 20 Years Service-Tonya Hamilton & Mitch Randall

Sheriff Rich Valdez asked to acknowledge two employees who have been working in some capacity in the Sheriff's Office for the past 20 years, one being Undersheriff Tonya Hamilton and one Mitch Randall. They had Certificates of Service for them.

- Commissioner Wadley said he knew the challenges in law enforcement and they had seen things that would forever stick with them and could have changed their lives but congratulations for sticking it out through the good, the bad and the ugly.
- Commissioner Lucero thanked them both. He had seen some fabulous efforts from them both. 20 years go by fast but he was thankful for such quality staff.
- Chairman Whiting agreed and said there are not a lot of opportunities in this organization to make these kinds of acknowledgments.

- Sheriff Valdez spoke on behalf of both employees. He was extremely proud of what they both had done over the years. There have stepped up especially since the he took office.

Chairman Whiting recessed the Regular Meeting to convene the Liquor Board Authority at 1:39 p.m.

Liquor Board Authority

Chairman Whiting swore in Tonya McCann Executive Assistant to the Board of County Commissioners for testimony.

A. Change of Location for Old West Spirits, Inc.

Tonya McCann Executive Assistant submitted a change of location for Old West Spirits, Inc. They are moving from 40 County Road 600 to 10 Solomon Drive. The proper fees and application had been submitted. There is a new owner of the property. The pizza restaurant was moving and the liquor store was moving into that premises.

Chairman Whiting opened the floor for comments

Comments “In Favor of the Change”

There were none.

Closed “In Favor of the Change” and asked for comments “Against the Change”

Comments “Against the Change”

There were none.

Chairman Whiting closed public comment.

Commissioner Lucero moved to approve the Change of Location for Old West Spirits, Inc. as presented. Commissioner Wadley seconded the motion and it carried unanimously.

B. Special Events Permit for Archuleta County Victim Assistance Program, Inc.

Tonya McCann Executive Assistant submitted a Special Events Permit for the Board’s consideration. It allowed the Archuleta County Victim Assistance Program, Inc. to sell malt, vinous and spirituous liquor at a fundraiser on May 5, 2016 at the Pagosa Lakes Property Owners’ Association Clubhouse located at 230 Port Ave. The Sheriff’s Office had been notified of the event, the application and proper fees had been submitted with the premises being posted for the 10 days prior to today’s hearing.

Chairman Whiting opened the floor for comments

Comments “In Favor of the Permit”

There were none.

Closed “In Favor of the Permit” and asked for comments “Against the Permit”

Comments “Against the Permit”

There were none.

Chairman Whiting closed public comment.

Commissioner Wadley moved to approve the Special Events Permit for the Archuleta County Victim Assistance Program, Inc. as presented. Commissioner Lucero seconded the motion and it carried unanimously.

C. Special Events Permit for Pagosa Springs Rotary Club

Tonya McCann Executive Assistant submitted a Special Events Permit for the Board's consideration. It allowed the Pagosa Springs Rotary Club to sell malt, vinous and spirituous liquor at the Kentucky Derby Gala fundraiser on May 7, 2016 being held at 3366 Highway 84 at the Winslow on the Shire. The Sheriff's Office had been notified of the event, the application and proper fees had been submitted with the premises being posted for the 10 days prior to today's hearing.

Chairman Whiting opened the floor for comments

Comments "In Favor of the Permit"

There were none.

Closed "In Favor of the Permit" and asked for comments "Against the Permit"

Comments "Against the Permit"

There were none.

Chairman Whiting closed public comment.

Commissioner Lucero moved to approve the Special Events Permit for the Pagosa Springs Rotary Club as presented. Commissioner Wadley seconded the motion and it carried unanimously.

D. Special Events for Pagosa Mountain Morning Rotary Club

Tonya McCann Executive Assistant submitted a Special Events Permit for the Board's consideration. It allowed the Pagosa Mountain Morning Rotary Club to sell malt, vinous and spirituous liquor at the "Local Vocals" on April 23, 2016 at the Pagosa Lakes Property Owners' Association Clubhouse. The Sheriff's Office had been notified of the event, the application and proper fees had been submitted with the premises being posted for the 10 days prior to today's hearing.

Chairman Whiting opened the floor for comments

Comments "In Favor of the Permit"

There were none.

Closed "In Favor of the Permit" and asked for comments "Against the Permit"

Comments "Against the Permit"

There were none.

Chairman Whiting closed public comment.

Commissioner Wadley moved to approve the Special Events Permit for the Pagosa Mountain Morning Rotary Club as presented. Commissioner Lucero seconded the motion and it carried unanimously.

Chairman Whiting closed the Liquor Board Authority and convened the Board of Adjustments for a Hearing at 1:43 p.m.

Board of Adjustment Hearing

Chairman Whiting swore in John Shepard Planning Manager for testimony.

A. Buckskin Towing & Repair Request for Variance

John Shepard Planning Manager submitted several requests of the Board. Cody & Dawn Ross were present. Cody & Dawn Ross dba Buckskin Towing & Repair (located at 1435 Highway 160) were requesting a Variance from Sections 27.1.7.3 and 27.1.7.4 of the Archuleta County Road & Bridge Design Standards and Section 5.4.5.4 of the Archuleta County Land Use Regulations requiring paving of access and parking, for the existing property (Parcels A & B) in the HIS Subdivision located on 1435 Highway 160, Pagosa Springs, CO. Applicants were also requesting the Variance from Section 5.4.2.6 of the Archuleta County Land Use Regulations requiring Outdoor Storage (as defined) to be screened from adjacent property or roads; and from Section 5.4.3.2 requiring a 40' landscape buffer for commercial development along US Highway 160. He informed the Board they could grant these variances, if the law inflicts hardship on the owners, not shared by others. The variance process is not used to avoid the rezoning process. He discussed each request and how they could be viewed according to the 5 standards adopted in the Land Use Regulations.

It was stated the applicants were a unique business in Archuleta County. The State of Colorado, during bad weather on the pass, as do other people, use their property to park large vehicles when the pass is not passable.

First Request: Paving-Section 5.4.5.4

In 2000, the applicants received a waiver from the paving on the smaller parcel which later was allowed to extend to the larger parcel. The condition over the last 15 years was not enforced. The County had allowed for no paving off of gravel roads but not off of paved roads. The applicants had made a lot of changes in their draining issues.

Second Request: Screening-Section 5.4.6(2)

This came up in the Conditional Use Permit discussion regarding the parking of vehicles parked over a 24 hour period. The applicants had said it was normal to have vehicles more than the 24 hours if they are in need of repair. There are no specific regulations in the County's standards. They were willing to screen off the portion of the parking lot where the vehicles are parked over 24 hours. The applicants said it was practical to keep the larger vehicles behind the screen and the smaller ones in sight for the 24 hours parking area. There had been concerns regarding the corridor into the Town from that direction and what the lot looks like. The applicants were willing to screen the end where the large vehicles are.

Third Request: Landscape Buffer-Section 5.4.3.2

This was a major entryway into our County whose main attraction is tourism. The first impression is important. From the east side to the Town, through the Town, towards Bayfield there is a consistent buffer requirement. Everyone else is required to follow the same guidelines. It may be perfectly reasonable to grant their request now, then at a later time, the Board could go back and make changes to the County's Regulations.

Staff's recommended conditions

It was staff's job to make findings & consider conditions. Staff thought the Board would want to direct staff to memorialize what is decided today by resolution. The following were the conditions from staff and the Planning Commission.

Paving

1. Driveway access to Hwy 160 at least 100 feet from the Right-Of-Way shall be paved.
2. The area used for short term customer parking south of a line from the driveway access to the north corner of the proposed new building shall be paved.
3. A copy of the current CDOT Access Permit must be provided prior to occupancy of new building.
4. Confirmation from the US Army Corp of Engineers that their requirements have been met prior to the occupancy of the new building must be supplied.

Screening

5. Screening was not required south of the driveway access. Proposed screening north of the driveway access shall be maintained according to the approved plans.

Landscaping buffer

6. There should be a minimum 10' landscape buffer between the parking area and any major arterial route and it must be maintained.
7. An 8' tall solid screen fence should be built on the north side of the driveway access.

Chairman Whiting asked the Rosses to speak.

Cody Ross owner of Buckskin Towing located at 1345 Hwy 160 wanted to clarify a couple of things. He showed the Board the CDOT certificate. When they were here (for the last hearing) December 3, 2015, he agreed to put up a 6' fence on the north side of the property. He wanted clarification. Now the Planning Manager had brought in the Town and said they want an 8' fence. When did the Town become involved? He agreed there could be no disabled vehicle in this lot, that's the reason they are saying this was a storage area. Where the trucks from Wolf Creek park would be behind the 6' fence. On the south side, they did not agree to fence because that's their highway side. They've already lost space due to the drainage repair. They already had a great expense in that and they are not affecting the water on the other side. In regards to the paving issue, he did not have money to pay for 8" concrete to pave that area. His money needs to be available for employees. This conversation was held the last time. It keeps going back to the CUP, when they got it they agreed to conditions but some of things wanted by County staff are not feasibly possible. He agreed he did not do everything on the CUP but he had also come back and said that he couldn't possibly do some of what the Planning Office wanted.

Commissioner Lucero asked how many employees they had and the answer was 14. The 6' fence was what the Board talked about at the last hearing and they would try and stick to that. The Town does not have any input in this issue. He asked Mr. Ross if they had had any problems with CDOT saying they were dragging mud, debris etc. onto the highway. The answer was no.

Commissioner Wadley stated that in order to meet the paving requirements it would be at 100'. Had Mr. Ross price-tagged that? Mr. Ross said he had just received the notice last week about the paving. He had not had time to price that out.

Chairman Whiting opened the floor for comments

Comments "In Favor of the Variances"

There were none.

Closed "In Favor of the Variances" and asked for comments "Opposed to the Variances"

Comments "Opposed to the granting of the Variances"

Chairman Whiting closed public comment.

Commissioner Comments

Paving:

- Commissioner Lucero said it was time to move forward. It was the Board's responsibility to help get the Rosses to success. He did not agree with the 8' fence, 6' is ok. Next was the paving issue. There have been no problems in the past with mud or gravel being transferred onto the highway. He had no issue on the paving variance.
- Commissioner Wadley wanted to speak to the paving. If you have a retail sales store it might be different, but this is a vehicle repair business. He did not have a problem with not requiring the paving.
- Chairman Whiting said anytime we are asked to grant variances to the law of the land, there is a list of criteria we are to follow in order to decide if that should be allowed. There is a reason for that. So we don't trigger problems down the line. For example if there is a paving requirement and you grant a variance then the next person coming along can ask to be treated like the Rosses. Are you going to always go around the laws you have set?
- Planning Manager Shepard said that the County had never granted a Variance from a gravel road onto a paved road. At least not since the County adopted the road standards in 2005. The discussion led to a prior issue where the County had allowed such a Variance for Tony's Taps.
- Commissioner Wadley said he was considering the large vehicles coming onto the lot. He didn't see a need for the paving. If you put 3" of paving, you'll bust it up with the heavy equipment they haul in. 8" pavement would probably cost prohibitive. You must think about the business itself, is it going to hurt them.

Screening:

Discussion led to the fact that the applicants had already agreed to fence the one end of the lot. Variance request was to not put a fence on the south side.

Buffer:

Discussion led by Commissioner Lucero regarded the taking of a 40' buffer from any business. He felt it is too large. It would be alright if they put in landscaping. Chairman Whiting said 40' was a pre-existing restriction on the ownership of this property, and the owners knew going in. The applicant bought it with this stipulation. Is it a new number? The answer was no. The understanding from the get-go was a 40' buffer. There must have been some kind of logic for the restriction to be put in place when it was. Is this property exceptional compared to Voormi or SmithCo? They are only being held to the same standards.

Commissioner Lucero said this was not comparing apples to apples. This was a totally different kind of business. Chairman Whiting said it (the 40' buffer) was already there when they (the Rosses) bought the property. Look at Crossfire, all the trees are growing up there; they followed the law. That is a similar property, right? Commissioner Lucero said "kind of". There must be a place we can meet. Commissioner Lucero said he didn't understand. There was heavy equipment involved and when you have a 40' truck hauling 40' equipment, you need space. It's more complicated than it seems. 40' is a lot of area to give up. Chairman Whiting said if 40' is an unreasonable buffer it seems logical that it's wrong for any commercial property and the Regulations should be changed. Commissioner Wadley said the Board just needs to move forward

today and maybe a change in the Regulations would need to be made in the future regarding this buffer.

Commissioner Lucero moved to approve or authorize the Variance from paving requirements in the Road & Bridge Design Standards and Land Use Regulations with Conditions #3 & #4, not #1 and not #2 per the Staff Report presented from April 19, 2016. Commissioner Wadley seconded the motion. Chairman Whiting asked for Commissioner comments. The motion carried unanimously.

Commissioner Lucero moved to approve the requested Variance from screening requirements in the Land Use Regulations with Condition #5 of the Staff Report. Commissioner Wadley seconded the motion. Chairman Whiting asked for Commissioner comments. The motion carried unanimously

Commissioner Lucero moved to approve the requested Variance from landscaping buffer requirements in the Land Use Regulations with Condition #6 as is and Condition #7 being amended from an 8' fence to a 6' fence. Commissioner Wadley seconded the motion. Chairman Whiting asked for Commissioner comments. Chairman Whiting said he was not a fan of the 6' fence. He felt this would trigger many, many issues coming forward. The motion carried with Commissioners Lucero and Wadley voting "Aye" and Commissioner Whiting voting "Nay".

County Attorney Starr said he needed a moment to research statute. He thought a Variance needed a unanimous vote of the Board to pass. There was a brief discussion. It was discovered that Land Use Regulations required a simple majority of the Board.

The Board wanted to articulate why they voted as they did for the record.

Commissioner Lucero said the reason he voted for the first motion was because he had asked Mr. Ross if they (Buckskin Towing) had had any problems with CDOT regarding them bringing trash and debris onto the highway and there had been no problems. He didn't see a problem not forcing paving from a gravel area to a paved area.

Commissioner Lucero said that in regards to the second motion about screening, he said that Mr. Ross had already agreed to fence the north side and that was fine so he voted for the Variance.

Commissioner Lucero said that in regards to the motion on the buffer; he did not agree with taking 40' from a business.

Commissioner Wadley said his reasons for voting 'for' the three motions were the same as Commissioner Lucero.

Chairman Whiting said he voted affirmatively on the first two motions. He said paving was not affecting the quality of life. He said approving the third motion regarding the screening and landscaping set precedence and was arguable that it would affect issues in the future, so voted against.

County Administrator Henderson asked the Board if it wished staff to still bring forward a resolution memorializing the motions made today. The answer was yes.

Chairman Whiting closed the Board of Adjustment Hearing and convened the Land Use Regulation Hearing at 2:52 p.m.

Land Use Regulation Hearing

Chairman Whiting swore in John Shepard Planning Manager for testimony.

A. Loma Linda Subdivision Unit 3 Corrected Plat 2016-01

John Shepard Planning Manager submitted a Plat for the Board's consideration. The plat corrected lot line errors in Loma Linda Subdivision Unit 3 on behalf of Timothy Gordon & Linda Marsh. What happened was that when the lines were drawn for the plat, the Forest Service boundaries were incorrectly shown. Now, part of this lot was owned by the Forest Service. They corrected Lot 83 at 552 Loma Vista Ct. to become 83Z. This plat was intended to remedy the error of the original Subdivision Plat to correctly locate the US Forest Service Boundary. The property was currently vacant and zoned RR-Rural Residential. Kimberly Brown of 410 Handicap Avenue spoke on the owner's behalf; there were no problems. Planning Manager Shepard stated the 3 conditions:

1. The name of the Plat was to be corrected to read "Loma Linda Subdivision Unit 3 Amendment 2016-01"
2. The road label on the Plat was to be corrected to read "Loma Vista Court"
3. The Deputy County Surveyor's technical corrections should be made and a Mylar submitted for recording within twelve (12) months of this approval.

Chairman Whiting asked for public comment for or against the approval of the plat.

Comments "For the Plat" or "Against the Plat"

- Bill Trimarco of 1252 Loma Linda Dr. stated as President of the Loma Linda Homeowners Association, he just wanted to clarify that the lot would be named 83Z with nothing else changing. The answer was 'yes'.

Chairman Whiting closed public comment.

Chairman Whiting asked for Commissioner comments.

Commissioner Comments

Commissioner Wadley asked if there would be a cost to County and the answer was no

Commissioner Wadley moved to approve the Loma Linda Subdivision Unit 3 Amendment 2016-01 plat as presented. Commissioner Lucero seconded the motion and it carried unanimously.

Chairman Whiting closed the Land Use Hearing and called for a break at 3:04 p.m. The Regular Meeting was reconvened at 3:16 p.m.

Consent Agenda

A. Payroll & Payable Warrants and Purchase Cards for April 6-19, 2016

General Fund Payable	120,560.43
Road and Bridge Fund Payable	207,737.92
Department of Human Services Fund Payable	8,754.50
All Combined Dispatch Fund Payable	7,271.09
Conservation Trust Fund Payable	18,181.91
Solid Waste Fund Payable	6,113.25
Airport Fund Payable	670.28
Fleet Fund Payable	46,304.04

Total \$ 415,593.42

General Fund Payroll	149,245.91
Road and Bridge Fund Payroll	32,646.15
Department of Human Services Fund Payroll	31,765.96
All Combined Dispatch Fund Payroll	17,190.56
Solid Waste Fund Payroll	7,733.75
Airport Fund Payroll	4,073.28
Fleet Fund Payroll	8,896.39

Total \$ 251,552.00

B. Regular Meeting Minutes

April 5, 2016

C. Special Meeting Minutes

March 10, 2016

D. Renewal of the Hotel & Restaurant Liquor License for Righteous Path, LLC dba Coyote Moon Bar & Grill

E. Resolution 2016-29 Lot Consolidation of lots in Colorado's Timber Ridge Phase 4 for owners Thomas & Lynn Jones

County Administrator Henderson read the Consent Agenda. **Commissioner Wadley moved to approve the Consent Agenda as read. Commissioner Lucero seconded the motion. The motion carried unanimously.**

New Business

C. Non-Profit Grant Awards

County Administrator Henderson submitted a request to the Board for consideration. He presented a list of non-profit agencies requesting grant money from the County for 2016. The requests were as follows: Geothermal Greenhouse Partnership in the amount of \$10,000, Justice Ministries of Pagosa at \$8,000, Tara Historical Society Community Center at \$2,000, Archuleta County Housing Authority at \$2,150, Affordable Housing Work Group at \$5,000, Seeds of Learning at \$15,000, Our Savior Lutheran School at \$5,000 and Axis Health Systems in the amount of \$35,000 making a total of \$82,150. Chairman Whiting stated the board \$48,000 decided to do 2 grant rounds doing one at the first of the year and the second towards the end of the year. This is the first year we have had money to grant to other entities. The Town and County set up some joint programs they agreed to help. They have \$24,000 to allocate to the first group of grants.

After a discussion it was agreed that the Affordable Housing Work Group and Axis Health Systems were not non-profits but the Board would consider granting funds from another fund at a later date for at least the Affordable Housing Work Group.

Commissioner Wadley moved that we remove Affordable Housing Work Group and Axis Health Systems from the pool of grant requests for today's meeting. Commissioner Lucero seconded the motion and it carried unanimously.

County Attorney Starr reminded that Board that if any Commissioner sat on any board for any of these request, they should abstain from the voting on that entity.

A discussion was held where the Board each gave the amounts they felt would be good for each respective request.

Commissioner Wadley moved to award Archuleta County Housing \$2,000. Commissioner Whiting seconded the motion. The motion carried with Commissioners Whiting and Wadley voting "Aye" and Commissioner Lucero "Abstaining".

Commissioner Wadley moved to award the \$2,000 grant request to the Tara Historical Community Center. Commissioner Lucero seconded the motion and it carried unanimously.

Commissioner Wadley moved to approve a grant in the amount of \$4,000 to Justice Ministries of Pagosa. Commissioner Lucero seconded the motion and it carried unanimously.

Commissioner Lucero moved to give the Geothermal Greenhouse Project \$6,000 as their grant award. Commissioner Wadley seconded the motion and it carried unanimously.

Commissioner Wadley moved to fund the request from Seeds of Learning in the amount of \$6,500 and the request from Our Savior Lutheran School \$3,500. Commissioner Lucero seconded the motion and it carried unanimously.

A. Wildfire Mitigation Grant

County Administrator Henderson submitted a request for the Board's consideration of the Wildfire Mitigation Grant between Archuleta County and the State of Colorado Department of Public Safety, Division of Homeland Security and Emergency Management. This grant would be used to fund wildfire mitigation work for low income residents in the Stollsteimer Creek Watershed located within the Aspen Springs area for a two year period. The total grant was \$244,631 with the Federal share being \$183,473, the State's share being \$30,578.85 and the County's share being \$30,579.15. The County would offset its share by the salary paid for the seasonal County fire crews and Emergency Operations staff. FireWise SWCO had agreed to contribute \$5,892 towards the County's share. Bill Trimarco of 1252 Loma Linda Drive talked about this being a 2½ year process in getting this grant. He had been an integral part of the grant and was happy it was moving forward. **Commissioner Lucero moved to approve the Wildfire Mitigation Grant as submitted. Commissioner Wadley seconded the motion.** Chairman Whiting asked for public comments.

- Sheriff Valdez wanted to reiterate what Commissioner Wadley said about Mr. Trimarco and the work he had done on this grant. He was anxious to get going to use the chipper they received; this would start the mitigation.

The motion carried unanimously.

B. Amendment to Contract 16 IHIA 79894 Colorado Community Response

Matt Dodson Director of the Department of Human Services submitted a request for the Board's consideration. He had been awarded a contract to provide voluntary services and become a Colorado Community Response (CCR) Program site. He was submitted an amended contract between the Archuleta County Department of Human Service and the State of Colorado acting by and through the Colorado Department of Human Services, Office of Early Childhood to continue to provide the comprehensive voluntary services for families. It extends the contract term to June 30, 2017 and increased funds for services by \$130,625 for fiscal year 2016-2017. There was no County match. **Commissioner Wadley moved to approve the Amendment to the Original Contract 16-IHIA 79894 Colorado Community Response as presented. Commissioner Lucero seconded the motion.** Chairman Whiting asked for public comment. **The motion carried unanimously.**

Public Comments

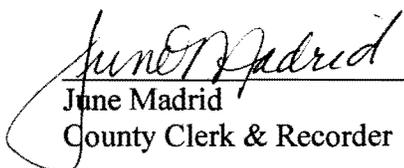
Chairman Whiting stated that he was opening the floor to public comments for those wanting to comment on items not on this agenda. Comments were asked to be held to 3 minutes for each person desiring to speak. No response from the Board would be given.

- Eric Foss with Axis Health System said he did not frequent these forums but wanted to ask if there were any other discretionary funding where he could ask for help with Axis Health System. Chairman Whiting answered yes there are the four funds discussed today were agreed to with the Town. He could talk to staff and ask for further information.
- Mr. Foss asked if it would please the Board, he would like to talk to them sometime about what it is exactly they do. Chairman Whiting said there was a work session where they would love to hear from him.

Media Questions

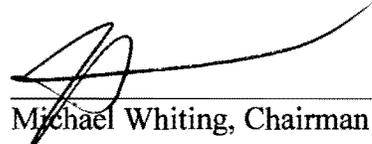
Marshall Dunham of *The Pagosa Springs Sun* wanted to clarify the statement made regarding the Affordable Work Group's support. There was a different or better fund the Board could take money from to help them? The answer was yes, because it was not a non-profit but was formed by the BoCC and Town.

With no further business coming before the Board, the meeting was adjourned at 4:02 p.m.



June Madrid
County Clerk & Recorder

Approved this 3rd day of May, 2016.



Michael Whiting, Chairman



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 Board of Adjustment

FROM: John C. Shepard, AICP; Planning Manager

DATE: April 19, 2016

RE: Buckskin Towing & Repair Requests for Variance from Paving, Screening and Landscape Buffer in the Commercial (C) zone, 1435 Highway 160

EXECUTIVE SUMMARY

Cody and Dawn Ross, dba Buckskin Towing & Repair, are requesting Variance from Sections 27.1.7.3 and 27.1.7.4 of the *Archuleta County Road and Bridge Design Standards* and Section 5.4.5.4 of the *Archuleta County Land Use Regulations* requiring paving of access and parking, for the existing parking and access on Parcels A & B, HIS Subdivision, located at 1435 Highway 160, Pagosa Springs, CO.

Applicants are also requesting Variance from Section 5.4.2.6 of the *Archuleta County Land Use Regulations* requiring that outdoor storage (as defined) to be screened from adjacent property or roads; and from Section 5.4.3.2 requiring a 40' landscaped buffer for commercial development along US Highway 160.

This Application is a follow-up to the Board of County Commissioners' approval of Conditional Use Permit 2013-035CUP on 3 December 2015.

REVIEW PROCEDURE

The *Archuleta County Land Use Regulations* (Section 1.2.4) provide for variance from the strict application of the regulations. The Board of Adjustment (at this time the Board of County Commissioners sits as the BOA) may grant relief if strict application of the Regulations would result in peculiar and exceptional practical difficulties, or exceptional and undue hardship. As noted in *Colorado Land Planning and Development Law* (Elliott, ed, 2015):

The alleged hardship generally cannot be self-inflicted and must be of a type peculiar to the property owner (that is, a hardship not generally shared by others). Moreover, the variance process is not meant to be used to avoid the typical rezoning process with all the attendant notice and public hearing requirements.

Variance is, essentially, a grant of authority for a property owner to use property in a manner forbidden by the regulations, and should be granted sparingly.

The *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides in Section 27.6 for variances from design standards, with similar criteria.

Public notice was published in the *Pagosa Springs Sun* prior to this hearing, posted on site, and mailed to adjacent property owners.

DISCUSSION

Buckskin Towing & Repair operates an auto repair and towing facility at the eastern gateway to the Town of Pagosa Springs, on Parcels A & B of HIS Subdivision. A Conditional Use Permit (CUP) was approved in the year 2000 for this use, in a 2-story 54'x105' (5,670 sq. ft.) metal building located on Parcel A. Applicants are proposing to build a new 60'x80' (4,800 sq. ft.) storage building on Parcel B. Neighbors to the north include a Pagosa Fire Protection District (PFPD) fire station and a 106-acre agricultural parcel; to the east and south there is a vacant parcel being considered for mixed use development within the Town of Pagosa Spring; parcels to the west across US Highway 160 are also within the Town limits, with lodging and a new mixed use building under construction.

The *Archuleta County Community Plan of 2001* provides guidance for future development. The Community Plan provides a foundation for evaluating development proposals, outlining goals, policies and action items. These policies include:

- “New development is encouraged, and in some cases required, to be designed so that it is visually compatible with community character and the natural environment.” Chapter 4, Policy 5
- “Encourage the design and location of new development to minimize the impacts on Archuleta County’s rural and scenic character, wildlife habitat and mountain vistas.” Chapter 5, Policy 1

The Future Land Use Map shows this property in the Tier 2 Urban Service Area, an area suited to potential growth. The *Joint Town County Planning Commission Zoning Discussion 2010* map designates the “Sawmill Center” area at US 160 and US 84 as suitable as a future Mixed Use Town Center and Mixed Use-Residential, transitioning to Mixed Use-Corridor.

Both parcels of HIS Subdivision are zoned Commercial (C) and Applicants received approval of an amended Conditional Use Permit (CUP) for Vehicle Major Repair and screened Outdoor Storage use in December 2015, with 11 conditions. As conditions of that approval, all inoperable vehicles must be stored in a secure, screened storage yard at the rear of the property, while vehicles scheduled for repair may be stored behind the Highway 160 landscape buffer. As of April 1st, these conditions have not yet been met—although with the configuration of the lot, wrecked vehicles used by the Fire District for training appeared to be stored along Highway 160 on the repair lot, but were actually on the Fire District property. Applicants have up to one year to complete required drainage and screening improvements, and up to two years to submit a building permit for the new storage building.

Paving

Section 5.4.5.4 of the *Archuleta County Land Use Regulations* provides:

All parking areas shall be paved, with the exception of those uses which are located in the more rural areas of the County, and where the County Engineer and the Planning Department have determined that paving would be unnecessary.

Section 27.1.7.3 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications* provides design standards for driveways. Section 27.1.7.3(F) requires driveways serving commercial uses must be designed and paved in accordance with County standards. Section 27.1.7.4 of the *Road and Bridge Design Standards* provides design standards for parking areas. Section 27.1.7.4(C) requires Parking areas and drives for development (other than single family homes or duplexes) must be paved.

Generally, urban-density development requires paving roads and parking areas to prevent gravel tracking onto paved roads, and reduce air and stormwater pollution.

US Highway 160 is a major arterial road under CDOT jurisdiction. CDOT only specifies that an access be paved to the right-of-way line. An updated Access Permit is required. The current Access Permit, issued in 2000, is only valid for a 4,000 square feet building, not the existing 5,670 sq. ft. building or the proposed 4,800 sq. ft. building. Additional improvements to Highway 160 may be required. CDOT has proposed that they would suggest a simple traffic count, rather than a full-fledged Traffic Study, to evaluate the situation. Typically, a current CDOT Access Permit is required prior to a Land Use Permit application (See Review Comments attached.)

Regarding stormwater pollution, Davis Engineering has designed a sophisticated drainage system which was approved with the Conditional Use Permit. A Letter of Map Amendment (LOMA) was approved by FEMA in 2015 removing both parcels from the mapped floodplain. The US Army Corps of Engineers is concerned that "It appears that the project area contains wetlands along US Highway 160" and that waters of the US may have been filled. (See Review Comments attached.)

Archuleta County Engineering noted concerns with dust generation:

The Engineering Department has reviewed the variance requested by Buckskin Towing 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 but we strongly recommend that the applicant at least pave the driveway and the parking area, as required by original permit in the year 2000... This would help to control the dust in this high traffic area. (Comments attached.)

The original Conditional Use Permit required that asphalt paving for public parking, with parking stops and tree islands. Applicants never completed the conditions of this approval, and never amended the conditions of this approval, which led to the CUP amendment only recently approved.

The Town of Pagosa Springs Planning Director also is concerned with dust generation:

The Town's Land Use Development Code also requires hard surfaced parking and accesses... areas that are used on a regular basis (main entrance and customer/employee parking areas/short term parking areas) create the majority of the dust concerns, whereas, the areas that accommodate long term storage, are not as frequently used. A variance for paving the long term storage areas seems reasonable, however, a variance from paving the main entrance access, daily customer/employee areas and short term parking areas could be considered contrary to the intent of the development code. (Comments attached.)

The Pagosa Springs area was under sanction by the US Environmental Protection Agency (EPA) for air quality (Particulate Matter or gravel dust) in the 1970s and 1980s. The Colorado Dept. of Public Health & Environment (CDPHE) Air Pollution Control Division (APCD) runs a state-wide air quality monitoring system, with a monitoring station at the Middle School in downtown Pagosa Springs currently ranked among the Top 5 sites for Particulate Matter statewide. Archuleta County and Town of Pagosa Springs control measures include paving roads, controlling sources of emissions, and applying Mag Chloride to roads exceeding 200 vehicles per day. A traffic count at the Applicants' driveway was not provided with the CUP or this Variance application.

The Board of Adjustment has not considered many applications to vary from paving requirements for commercial property on a paved road. Recent approvals in Cloman Industrial Park take access on gravel roads, with conditions to pave access if those roads were paved within five (5) years. A 2013 approval in the Aspen Springs area proposed access off a gravel road. The only recent similar approval off a paved road was in 2012, for Pagosa Brewing Company's parking lot (now overflow parking) which was originally approved in 2006.

In testimony during consideration of the CUP, Applicants stated that the large commercial vehicles towed into the lot are very heavy and would break up pavement. While there are numerous truck stops, warehouses and freeways across the country with paved parking, the particular situation with this intensive use at this location, at the base of Wolf Creek Pass, may indeed make it impractical to meet this requirement. However, at the same time it may be entirely practical to provide paved parking to daily customers in the short-term parking areas as originally required 16 years ago, reducing tracking of gravel onto the State highway and reducing the potential for stormwater and dust pollution.

Screening

Section 5.4.2.6(2) of the *Archuleta County Land Use Regulations* provides:

All outdoor storage shall be enclosed by a fence, barn, landscaping, wall, or other screening...which will minimize visual contact of such storage from adjacent properties and roads.

Outdoor Storage is defined in part as "keeping...vehicles in the same place for more than twenty-four (24) hours." Typically, short-term parking on a commercial property is available for customers to come and go during the day; long-term parking is considered Outdoor Storage, and must be screened. During consideration of the Conditional Use Permit, it was noted that as

a convenience to their customers, some vehicles are parked in the daily parking area for more than a day while waiting to be repaired or picked up.

At the CUP hearing, applicants asked to use the short-term parking for more than 24-hours; however this would be considered a use variance, and is disallowed by Sec. 1.2.4.4(3) of the *Archuleta County Land Use Regulations*. Instead, Applicants have applied for Variance from the requirement to screen the parking areas used for more than 24 hours at a time.

The Town of Pagosa Springs Planning Director expressed concerns with protecting the entryway corridor into the community:

The Town's Comprehensive plan specifically identifies the importance of the visual appearance of the approaches to the entrances to the town. This is a high priority in our adopted Comprehensive Plan. With that in mind, the request for variance to screen the outdoor storage is of concern. Reviewing the application and observing the site and the nature and height of the vehicles, trucks and trailers being stored, the original 6 foot tall screening fence along the Hwy, does not appear it be high enough to provide sufficient screening of the items stored. In addition, it would appear an extension of fencing should continue along the east side of the entrance landscaped area and both should be a solid visual screening fence installation. (Comments attached.)

This proposal would vary the requirement for the portion of the property south of the driveway access only.

Casual observation suggests storage of operating vehicles is commonplace for similar auto repair businesses in the area. Screening is also not limited to a solid fence, but may be provided by an earthen berm, shrubs, trees or a combination of landscape features (see Sec. 5.4.6 of the Land Use Regulations). However, there is nothing unique about the situation of this one particular property. The proper relief would be to amend the Land Use Regulations to address all similar businesses equally, if the request is not contrary to the intent and purpose of the Regulations and the public health, safety and welfare.

Landscape Buffer

Section 5.4.3.2 of the *Archuleta County Land Use Regulations* provides:

All commercial and industrial development located along U.S. Highways 160, 84, and 151 shall be buffered by a landscaped area a minimum of forty (40) feet wide, measured from the property line.

The Town of Pagosa Springs Planning Director expressed concerns with the entryway corridor into the community:

The 40 foot setback is a common and consistent setback requirement along Hwy 160, east of First Street and west of Eighth Street. For your consideration, given the applicant has stated their intent is to be able to maneuver vehicles, a possible scenario may include a small variance for the Hwy frontage setback, to allow for such maneuvering, without any outdoor storage within the 40 foot setback area. This would provide the same distance for storage of vehicles and trailers from the Hwy property

line, and provide the applicant with their need for maneuvering... (Comments attached.)

Communities strive to make a good impression, especially in a tourist-based economy such as Pagosa Springs and Archuleta County. The Land Use Regulations require 15% of any developed commercial or industrial site to be landscaped (in parts of the Pagosa Lakes area that increases to 20% by covenants in the PUD zone). A 5-10 foot landscape buffer is required between commercial/industrial parking areas and arterial routes, and a 40 foot landscape buffer is required for all commercial and industrial development along all CDOT highways across the entire county. The Commercial (C) zone also requires a 25' front setback between any structure and the front property line. Once again, this requirement is not being applied any differently to this property as to any other parcel along the entire highway corridor.

The combination of screening and landscape buffer is intended to protect neighboring property owners from incompatible land uses, and minimize distractions to highway travelers. Vehicle Major Repair, Servicing and Maintenance is classified in Table 3 of the *Archuleta County Land Use Regulations* as an Industrial Use (which is why the CUP is required in the Commercial zone). Landscape buffers along state highways also helps control erosion and water pollution from reaching roadside ditches. The idea that new development should mitigate its impacts weaves itself through the *Archuleta County Community Plan*, the Land Use Regulations and the Road & Bridge Standards.

In other review comments, SourceGas/Black Hills noted concerns with the depth of service lines, Pagosa Springs Sanitation and General Improvement District (PSSGID) noted concerns that no permanent structure be constructed over existing sanitation infrastructure, and Pagosa Fire Protection District noted that they will review plans with submission of a building permit.

The Board of Adjustment may grant a variance if all of the standards in Section 1.2.4.4 of the Land Use Regulations are found to exist:

- a. Peculiar and exceptional practical difficulties or an unnecessary and unreasonable hardship will be imposed on the property owner if the provisions of these Regulations are strictly enforced.
- b. Circumstances creating the hardship were created subsequently through no fault of the appellant.
- c. That the property for which a variance is requested possesses exceptional narrowness, shallowness, shape or topography or other extraordinary and exceptional situation or condition which does not occur generally in other property in the same zoning or overlay district.
- d. That the variance, if granted, will not diminish the value, use or enjoyment of the adjacent properties, nor curtail desirable light, air and open space in the neighborhood, nor change the character of the neighborhood.
- e. The variance, if granted, will not be directly contrary to the intent and purpose of these Regulations or the Community Plan.

Applicants discuss justification of their requests in their narrative (See Narrative attached). In summary:

- Paving: “The sheer size and weight of many of the vehicles, tractor trailers, etc. that we tow in make it impractical to pave our lot due to the fact that many of these loads are in excess of 250,000 pounds and would literally destroy pavement.”
- Screening Short-term Parking: “...regulation is not practical for our operation. Customer vehicles are dropped off for repair are commonly left for more than 24 hours (weekends, etc.) as well as repaired vehicles waiting to be picked up outside business hours...”
- Landscape Buffer: “Practical difficulties arise due to the extremely large and long size of the units that we tow in. We need all of the space we can get to maneuver these loads and not having use of a 40-foot swath of property along the highway edge could make it difficult for us to move these vehicles around our property.”

All five standards in Section 1.2.4.4 must be met to approve relief from the zoning regulations. It is not at all clear that Applicants face a unique hardship not faced by any other similar property owners. Circumstances were created by the Applicants expanding on the site. The conditions of this parcel do occur on other property in the same zoning district and all along US Highway 160, from Mineral County to LaPlata County. If the requirements of the Land Use Regulations are truly a hardship, the proper relief would be to amend the Land Use Regulations for all property owners in Archuleta County.

RECOMMENDATION AND FINDINGS

- I. Considering the request for Variance from **Paving**, should the Board of Adjustment accept that Applicants have provided sufficient evidence for relief, staff recommends the Board of Adjustment find that:
 - a. The application meets each of the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and
 - b. The application meets the standards for variance from design standards in Section 27.6 of the *Archuleta County Road and Bridge Design Standards and Construction Specifications*, and
 - c. Variance is granted for the specific plans proposed by Applicant, not to pave all of the required access and parking; and

That the Board of Adjustment approves the Buckskin Towing & Repair Request for Variance from Paving, in Sections 27.1.7.3 and 27.1.7.4 of the *Road and Bridge Design Standards* and Section 5.4.5.4 of the *Archuleta County Land Use Regulations*, with the following conditions:

1. The driveway access to Highway 160, at least 100' from the right-of-way, shall be paved; and
2. The area used for short-term customer parking, south of a line from the driveway access to the north corner of the proposed new building, shall be paved;
3. A copy of a current CDOT Access Permit shall be provided prior to occupancy of the proposed new building.

4. Confirmation from the US Army Corps of Engineers that their requirements have been met, prior to occupancy of the proposed new building.

And that the Board of Adjustment instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval at the earliest public meeting.

- II. Considering the request for Variance from the required **Screening**, should the Board of Adjustment accept that Applicants have provided sufficient evidence for relief, staff recommends the Board of Adjustment find that:
 - a. The application meets the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and
 - b. Variance is granted for the specific plans proposed by Applicant, not to screen short-term parking used for more than 24-hours; and

That the Board of Adjustment approves the Buckskin Towing & Repair Request for Variance from Screening, in Section 5.4.2.6 of the *Archuleta County Land Use Regulations*, with the following conditions:

5. Screening shall not be required south of the driveway access; proposed screening north of the driveway access shall be maintained according to approved plans.

And that the Board of Adjustment instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval at the earliest public meeting.

- III. Considering the request for Variance from the required **Landscape Buffer**, should the Board of Adjustment accept that Applicants have provided sufficient evidence for relief, staff recommends the Board of Adjustment find that:
 - a. The application meets the standards for a grant of variance in Section 1.2.4.4(1) of the *Archuleta County Land Use Regulations*, and
 - b. Variance is granted for the specific plans proposed by Applicant, not to maintain the required 40' landscape buffer along Highway 160; and

That the Board of Adjustment approves the Buckskin Towing & Repair Request for Variance from a Landscape Buffer, in Section 5.4.3.2 of the *Archuleta County Land Use Regulations*, with the following conditions:

6. The minimum 10 foot landscape buffer required by Section 5.4.3.3 between parking areas and any major arterial route be maintained.
7. With the reduction in the landscape buffer, an 8' tall solid screen fence shall buffer the area north of the driveway access.

And that the Board of Adjustment instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval at the earliest public meeting.

PROPOSED MOTION

- I. **I move to approve the requested variance from PAVING requirements in the Road and Bridge Design Standards and Land Use Regulations, with Conditions 1-4 of the staff report, and instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval.**
- II. **I move to approve the requested variance from SCREENING requirements in the Land Use Regulations, with Condition 5 of the staff report, and instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval.**
- III. **I move to approve the requested variance from LANDSCAPE BUFFER requirements in the Land Use Regulations, with Conditions 6-7 of the staff report, and instruct staff to draft a Resolution memorializing these Findings and Conditions for Approval.**

ATTACHMENTS.

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



COLORADO
Department of Transportation
1560 Lawrence Street
Denver, Colorado 80202

APR 04 2016

REGION 5
TRAFFIC & SAFETY

Region 5 Traffic Section
3803 N. Main Ave., Suite 100
Durango, CO 81301
(970) 385-8360 FAX (970) 385-8361

March 30, 2016

ATTN:

Ross, M. Cody & Dawn K.

P.O. Box 311

Pagosa Springs, CO 81147

RE: ACCESS PERMIT NO. 500012, LOCATED ON SH 160

Dear Permittee or Applicant

In accordance with Section 2.4(5) of the State Highway Access Code, which states:

“When necessary to amend a permit, and the Permittee is agreeable and waives the right to an administrative hearing on the amendment, a letter detailing the amendment with reasons for the amendment shall be prepared. The letter of amendment requires the approval of the issuing authority, the Department, and the Permittee.”

The subject Access permit(s) referenced above is/are hereby amended to include the following:

1. Access to provide service to: 6000 sq ft existing building on Parcel A of HIS Subdivision currently housing Buckskin Towing & Repair, LLC business since 2000; a new 8000 sq ft tow truck and equipment storage-only building for Buckskin Towing & Repair on Parcel B of HIS Subdivision; and a 100' by 250' fenced storage yard on Parcel B to be used by Buckskin Towing & Repair, LLC.
2. Access to be located on the South side of State Highway 160, a distance of approximately 1500 feet West of Milepost 145 at approximate Milepost 144.716 Right.

And/or to omit the following:

1. Access to provide service to: Buckskin Towing & Repair, a 6000 sq ft building, 400 sq ft which will be for towing and repair, 1000 sq ft which will be used for Ross Boot and Saddle Shop, 1000 sq ft which will be used for Saddle Creek Taxidermy and a fenced combination of junkyard/storage yard, approximate 75' by 155', all on Parcel B of the HIS Subdivision, consisting of approximately 3.76 acres. Parcel A of HIS Subdivision, which currently has a vacant building on approximately 0.94 acres, shall also be required to use this access. Any change of use in either parcel will require further Department review and the

CC: Mike McVaugh, R5

Kerri Neet, R5

Alex Karami, Staff Access



issuance of a new access permit for both lots.

2. Access to be located on the South side of State Highway 160, a distance of approximately 1500 feet East of Milepost 145 at approximate Milepost 145.284 Right.

CC: Mike McVaugh, R5

Kerri Neet, R5

Alex Karami, Staff Access

The undersigned agree to the permit amendment as described above. Permittee waives the right to an administrative hearing on the amendment.

There are no other forms or verbal agreement. This form and the permit documents constitute the complete agreement.

By (Print Name):	M. Cody Ross
Signature	M. Cody Ross
Title:	owner
Date:	3-30-16
By (Print Name):	Dawn K. Ross
Signature	Dawn K. Ross
Title:	owner
Date:	3-30-16
Colorado Department of Transportation (Issuing Authority)	
By (Print Name):	[Signature]
Signature	[Signature]
Title:	Assistant Engineer
Date:	4/5/16

CC: Mike McVaugh, R5

Kerri Neet, R5

Alex Karami, Staff Access



**COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ACCESS PERMIT APPLICATION**

Issuing authority application acceptance date:

Instructions:

- Contact the Colorado Department of Transportation (CDOT) or your local government to determine your issuing authority.
- Contact the issuing authority to determine what plans and other documents are required to be submitted with your application.
- Complete this form (some questions may not apply to you) and attach all necessary documents and Submit it to the issuing authority.
- Submit an application for each access affected.
- If you have any questions contact the issuing authority.
- For additional information see CDOT's Access Management website at <http://www.dot.state.co.us/AccessPermits/index.htm>

Please print or type

1) Property owner (Permittee) <i>M. Cody + Dawn K. Ross</i>		2) Applicant or Agent for permittee (if different from property owner)	
Street address <i>1435 E. Hwy 160/P.O. Box 311</i>		Mailing address	
City, state & zip <i>Pagosa Springs, CO 81147</i>	Phone# <i>970-759-8555</i>	City, state & zip	Phone# (required)
E-mail address <i>m.codyross@outlook.com</i>		E-mail address if available	

3) Address of property to be served by permit (required)
1435 + 1455 Hwy 160 E. Pagosa Springs, Co. 81147

4) Legal description of property: If within jurisdictional limits of Municipality, city and/or County, which one?
 county *Archuleta* subdivision *HIS* block lot section township range

5) What State Highway are you requesting access from? *Hwy-160* 6) What side of the highway?
 N S E W

7) How many feet is the proposed access from the nearest mile post? *1500* feet N S E W from: *145* How many feet is the proposed access from the nearest cross street?
2500 feet N S E W from: *Highway 84*

8) What is the approximate date you intend to begin construction?
Access is Already IN & IN USE

9) Check here if you are requesting a:
 new access temporary access (duration anticipated:) improvement to existing access
 Change in access use removal of access relocation of an existing access (provide detail)

10) Provide existing property use
Towing + Repair (Shop, Storage Yard)

11) Do you have knowledge of any State Highway access permits serving this property, or adjacent properties in which you have a property interest?
 no yes, if yes - what are the permit number(s) and provide copies: *#500012* and/or, permit date: *Issued 2-14-00*

12) Does the property owner own or have any interests in any adjacent property?
 no yes, if yes - please describe:

13) Are there other existing or dedicated public streets, roads, highways or access easements bordering or within the property?
 no yes, if yes - list them on your plans and indicate the proposed and existing access points.

14) If you are requesting agricultural field access - how many acres will the access serve?

business/land use	square footage	business	square footage
<i>Towing + Repair</i>	<i>5500</i>	<i>Buckskin Towing + Repair, LLC</i>	
<i>New Proposed Shop + Yard</i>	<i>8000^{sq}</i>	<i>Buckskin Towing + Repair, LLC</i>	

type	number of units	type	number of units

17) Provide the following vehicle count estimates for vehicles that will use the access. Leaving the property then returning is two counts.

Indicate if your counts are <input checked="" type="checkbox"/> peak hour volumes or <input type="checkbox"/> average daily volumes.	# of passenger cars and light trucks at peak hour volumes <i>8</i>	# of multi unit trucks at peak hour volumes <i>2</i>
# of single unit vehicles in excess of 30 ft.	# of farm vehicles (field equipment)	Total count of all vehicles <i>30-40 Per Day -</i>

18) Check with the issuing authority to determine which of the following documents are required to complete the review of your application.

- a) Property map indicating other access, bordering roads and streets.
- b) Highway and driveway plan profile.
- c) Drainage plan showing impact to the highway right-of-way.
- d) Map and letters detailing utility locations before and after development in and along the right-of-way.
- e) Subdivision, zoning, or development plan.
- f) Proposed access design.
- g) Parcel and ownership maps including easements.
- h) Traffic studies.
- i) Proof of ownership.

1- It is the applicant's responsibility to contact appropriate agencies and obtain all environmental clearances that apply to their activities. Such clearances may include Corps of Engineers 404 Permits or Colorado Discharge Permit System permits, or ecological, archeological, historical or cultural resource clearances. The CDOT Environmental Clearances Information Summary presents contact information for agencies administering certain clearances, information about prohibited discharges, and may be obtained from Regional CDOT Utility/Special Use Permit offices or accessed via the CDOT Planning/Construction-Environmental-Guidance webpage <http://www.dot.state.co.us/environmental/Forms.asp>.

2- All workers within the State Highway right of way shall comply with their employer's safety and health policies/procedures, and all applicable U.S. Occupational Safety and Health Administration (OSHA) regulations - including, but not limited to the applicable sections of 29 CFR Part 1910 - Occupational Safety and Health Standards and 29 CFR Part 1926 - Safety and Health Regulations for Construction.

Personal protective equipment (e.g. head protection, footwear, high visibility apparel, safety glasses, hearing protection, respirators, gloves, etc.) shall be worn as appropriate for the work being performed, and as specified in regulation. At a minimum, all workers in the State Highway right of way, except when in their vehicles, shall wear the following personal protective equipment: High visibility apparel as specified in the Traffic Control provisions of the documentation accompanying the Notice to Proceed related to this permit (at a minimum, ANSI/ISEA 107-1999, class 2); head protection that complies with the ANSI Z89.1-1997 standard; and at all construction sites or whenever there is danger of injury to feet, workers shall comply with OSHA's PPE requirements for foot protection per 29 CFR 1910.136, 1926.95, and 1926.96. If required, such footwear shall meet the requirements of ANSI Z41-1999.

Where any of the above-referenced ANSI standards have been revised, the most recent version of the standard shall apply.

3- The Permittee is responsible for complying with the Revised Guidelines that have been adopted by the Access Board under the American Disabilities Act (ADA). These guidelines define traversable slope requirements and prescribe the use of a defined pattern of truncated domes as detectable warnings at street crossings. The new Standards Plans and can be found on the Design and Construction Project Support web page at: <http://www.dot.state.co.us/DesignSupport/>, then click on Design Bulletins.

If an access permit is issued to you, it will state the terms and conditions for its use. Any changes in the use of the permitted access not consistent with the terms and conditions listed on the permit may be considered a violation of the permit.

The applicant declares under penalty of perjury in the second degree, and any other applicable state or federal laws, that all information provided on this form and submitted attachments are to the best of their knowledge true and complete.

I understand receipt of an access permit does not constitute permission to start access construction work.

Applicant or Agent for Permittee signature <i>M. Cody Ross</i>	Print name <i>M. Cody Ross</i>	Date <i>3-25-16</i>
If the applicant is not the owner of the property, we require this application also to be signed by the property owner or their legally authorized representative (or other acceptable written evidence). This signature shall constitute agreement with this application by all owners-of-interest unless stated in writing. If a permit is issued, the property owner, in most cases, will be listed as the permittee.		
Property owner signature	Print name	Date

**INSTRUCTIONS FOR COMPLETING APPLICATION FOR ACCESS PERMIT
(CDOT FORM NO. 137)
January 2010**

To construct, relocate, close, or modify access(es) to a State Highway or when there are changes in use of such access point(s), an application for access permit must be submitted to the Colorado Department of Transportation (CDOT) or the local jurisdiction serving as the issuing authority for State Highway Access Permits. Contact the CDOT Regional Access Unit in which the subject property is located to determine where the application must be submitted. The following link will help you determine which CDOT Region office to contact:

http://www.dot.state.co.us/AccessPermits/PDF/Region_Address_and_Map.pdf

All applications are processed and access permits are issued in accordance to the requirements and procedures found in the most current version of the State Highway Access Code (Access Code). Copies of the Access Code and the application form are available from the CDOT Headquarters, Access Unit located at 4201 East Arkansas Avenue, Denver, CO 80222 and in each of the six Regional CDOT offices. The locations of CDOT Regional Offices, the Access Code and the application form are also available from CDOT's web site at:

<http://www.dot.state.co.us/AccessPermits/index.htm>

Please complete all information requested accurately. Access permits granted based on applications found to contain false information may be revoked. An incomplete application will not be accepted. If additional information, plans and documents are required, attach them to the application. Keep a copy of your submittal for your records. Please note that only the original signed copy of the application will be accepted. Do not send or enclose any permit fee at this time. A permit fee will be collected if an access permit is issued. The following is a brief description of the information to be provided on each enumerated space on the application form (CDOT Form 137, 2010).

1. Property Owner (Permittee): Please provide the full name, mailing address and telephone number and the E-mail address (if available) of the legal property owner (owner of the surface rights). Please provide a telephone number where the Permittee can be reached during business hours (8:00 a.m. to 5:00 p.m.). Having a contract on the property is not a sufficient legal right to that property for purposes of this application. If the access is to be on or across an access easement, then a copy of the easement **MUST** accompany this application. If federal land is involved, provide the name of the relevant federal agency **AND** attach copy of federal authorization for property use.

2. Agent for permittee: If the applicant (person completing this application) is different than the property owner (Permittee), provide entity name (if applicable), the full name of the person serving as the Agent, mailing address, telephone number, and the E-mail address (if available). Please provide a telephone number where the Agent can be reached during business hours (8:00 a.m. to 5:00 p.m.). Joint applications such as owner/lessee may be submitted. Corporations must be licensed to do business in Colorado: All corporations serving as, or providing, an Agent as the applicant must be licensed to do business in Colorado.

3. **Address of Property to be Served:** Provide if property to be served has an official street address. If the access is a public road, note the name (or future name) of the road.
4. **Legal Description of Property:** Fill in this item to the extent it applies. This information is available at your local County Courthouse, or on your ownership deed(s). A copy of the deed may be required as part of this application in some situations. To determine applicability, check with the CDOT's Regional Access Manager or issuing authority staff.
5. **State Highway:** Provide the State Highway number from which the access is requested.
6. **Highway Side:** Mark the appropriate box to indicate what side of the highway the requested access is located.
7. **Access Mile Point:** Without complete information, we may not be able to locate the proposed access. To obtain the distance in feet, drive the length between the mile point and the proposed access, rounding the distance on the odometer to the nearest tenth of a mile; multiply the distance by 5,280 feet to obtain the number of feet from the mile point. Then enter the direction (i.e. north, south, east, west) from the mile point to the proposed access. Finally, enter the mile point number. It is helpful in rural or undeveloped areas if some flagging is tied to the right-of-way fence at the desired location of the access. Also, if there is a cross street or road close to the proposed access, note the distance in feet (using the same procedures noted above) from that cross street or road.
8. **Access Construction Date:** Fill in the date on which construction of the access is planned to begin.
9. **Access Request:** Mark items that apply. More than one item may be checked.
10. **Existing property use:** Describe how the property is currently being used. For example, common uses are Single Family Residential, Commercial or Agricultural.
11. **Existing Access:** Does the property have *any other legal alternatives to reach a public road* other than the access requested in this application? Note the access permit number(s) for any existing state highway access point(s) along with their issue date(s). If there are no existing access point(s), mark the "no" box.
12. **Adjacent Property:** Please mark the appropriate box. If the "yes" box is marked, provide a brief description of the property (location of the property in relation to the property for which this access application is being made).
13. **Abutting Streets:** If there are any other existing or proposed public roads or easements abutting the property, they should be shown on a map or plan attached to this application.
14. **Agricultural Acres:** Provide number of acres to be served.

15. Access Use: List the land uses and square footage of the site as it will be when it is fully developed. The planned land uses as they will be when the site is fully developed are used to project the amount of traffic that the site will generate, peak hour traffic levels and the type of vehicles that can be expected as a result of the planned land uses. There may be exceptional circumstances that would allow phased installation of access requirements. This is at the discretion of the CDOT Regional Access Unit or issuing authority staff.

16. Estimated Traffic Count: Provide a reasonable estimate of the traffic volume expected to use the access. Note the type of vehicles that will use the access along with the volume (number of vehicles in and out at either the peak hour or average daily rates) for each type of vehicle. A vehicle leaving the property and then returning counts as two trips. If 40 customers are expected to visit the business daily, there would be 80 trips in addition to the trips made by all employees and other visitors (such as delivery and trash removal vehicles). If the PDF on-line version of this application is being used, the fields for each type of vehicle will automatically be added together to populate the last field on the page.

17. Documents and Plans: The CDOT Regional Access Manager or issuing authority staff will determine which of these items must be provided to make the application complete. Incomplete applications will not be accepted. If an incomplete application is received via U.S. mail or through means other than in the hand of the Access Manager or issuing authority staff, it will not be processed. *It is the responsibility of the applicant to verify with the CDOT Regional Access Manager or issuing authority staff whether the application is complete at the time of submission.*

Signature: Generally, if the applicant is not the property owner, then the property owner or a legally authorized representative must sign the application. With narrow exceptions, proof of the property owner's consent is required to be submitted with the application (proof may be a power of attorney or a similar consent instrument). The CDOT Regional Access Manager or issuing authority staff will determine if the exception provided in the Access Code (2.3 (3) (b)) is applicable.

If CDOT is the issuing authority for this application, direct your questions to the CDOT Regional Access Manager or the issuing authority staff serving the subject property.

http://www.dot.state.co.us/AccessPermits/PDF/Region_Address_and_Map.pdf

If the application is accepted, it will be reviewed by the CDOT Regional Access Manager or the issuing authority staff. If an Access Permit is issued, be sure to read all of the attached Terms and Conditions before signing and returning the Access Permit. The Terms and Conditions may require that additional information be provided prior to issuance of the Notice to Proceed.

The CDOT Regional Access Manager (or issuing authority staff) **MUST** be contacted prior to commencing work on any Access Permit project. *A Notice to Proceed that authorizes the Permittee to begin access related construction MUST be issued prior to working on the access in the State Highway right-of-way.* The Notice to Proceed may also have Terms and Conditions that must be fulfilled before work may begin on the permitted access.