

201615R

June 21, 2016

**ARCHULETA COUNTY PROCEEDINGS
BOARD OF COUNTY COMMISSIONERS**

The Board of County Commissioners held a Regular Meeting on June 21, 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

There were none.

Approval or Adjustments to Agenda

Chairman Whiting stated that there would be an Executive Session pursuant to C.R.S. 24-6-402(4)(b) for purposes of the board to receive legal advice on all pending legal actions with the County. **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.

Chairman Whiting recessed the Regular Meeting to convene a Board of Adjustment for Hearings at 1:32 p.m.

Board of Adjustments

Chairman Whiting swore in John Shepard Planning Manager for testimony.

A. Michel Marchand dba Rocky Mountain Balloon Adventures Request for Variance from Road & Bridge Design Standards

County Planning Manager Shepard submitted a request for a Variance for the Board's consideration for Michel Marchand dba Rocky Mountain Balloon Adventures. The application allows for 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 on Lot 5, Cloman Industrial Park. The applicant had made a concurrent request for an administrative Use by Right Site Plan approval of an Outdoor Storage Use in an Industrial (I) zone. This project includes an outdoor storage. Cloman Blvd. has been clocked at 700 trips a day. Road & Bridge Regulations require pavement at this rate. In terms of not paving, this is not retail it's storage for hot air balloons. In the future this regulation could apply. The 3rd issue was turning around in the area. It's only a 40 foot area and not enough room he believes. The Regs said "shall" when it references turning area and this area did not comply. Road & Bridge Standards say if there is not an adequate turnaround, you have to adjust the design or ask for a variance. The Variance

request would be broad enough that it could cover this problem. Based on evidence provided, staff recommended the Board 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, b. The application meets the standards for variance from design standards in Section 27.6 of the Archuleta County Road & Bridge Design Standards and Construction Specifications and c. Variance is granted for specific plans proposed by Applicant. The following conditions are applied: 1. Should Cloman Blvd. be paved within 5 years of this approval the site must be brought into compliance with the access and parking standards then in effect within 2 years of paving. 2. The Site Plan and Drainage Plans shall be revised to keep the proposed earthen berm out of utility easements for approval by the County Engineer and 3. The Site Plan shall be revised to provide a turn around without backing onto Cloman Blvd., for approval by the County Engineer. Staff was also asking the Board to instruct staff to draft a resolution memorializing these Findings and Conditions of Approval at the earliest public meeting.

Chairman Whiting opened the floor for comments

Comments “In Favor of the Variance”

Mike Davis with Davis Engineering representing the owner was present as was owner Mike Marchand. The one issue is not an issue. The issue stated from LPEA is not an issue. He showed a photo regarding the turnaround. They were able to turn around on Cloman Blvd easily so don't think their property is an issue. If the applicant puts up a fence, there would be no turnaround in that area. He does have room to turnaround. Commissioner Lucero asked if Mr. Marchand was asking the turnaround portion be taken out. Mr. Davis answered, yes. The property was used for storage for his business and access was infrequent and only by himself or employees. It's not for the public. If the use changes, the issue would come back before the Board.

Commissioner Wadley asked about the paving and whether or not the owner was concerned if in the years to come he would have to pave. The discussion led to Planning Manager Shepard going over the conditions regarding the paving again. Mr. Marchand had no problems.

Chairman Whiting closed comments “In Favor of the Variance” and asked for comments “Against the Variance”

Comments “Against the Variance”

There were none.

Chairman Whiting closed public comment.

Commissioner Comments.

Commissioner Lucero stated he thought Condition #1 should come out.

Commissioner Lucero moved to approve the Marchand request for a Variance from paving as presented and instructing staff to draft a Resolution memorializing these Findings without Condition #1. Commissioner Wadley seconded the motion and it carried unanimously.

B. Appeal to an Administrative Determination for Cole's Meat Processing

County Planning Manager Shepard submitted a request to the Board. Pat Candelaria representing Cole's Meat Processing was requesting to build onto the existing building. They are currently located and zoned as a Light Industrial Use as defined in the Archuleta County Land Use Regulations. The property is located in Mountain View Subdivision, Lots 7 & 8, Block 2. Based

on evidence provided, staff recommended the Board of Adjustments find that the application did not meet the burden to overturn an Administrative Determination, as required in Section 1.2.4.5 of the Archuleta County Land Use Regulations. Planning Manager Shephard said that Mr. Candelaria had filed an appeal that Light Industry was for meat processing. This is the first time this issue of meat processing had come up. Mr. Candelaria was objecting to the decision. Planning Manager Shepard explained why Mr. Candelaria's request should be denied. In March, Mr. Candelaria submitted historical information to staff and on March 30th Planning Manager Shepard said he had made an Administrative Determination against granting the Variance. The property had been used for game processing before the zoning was adopted. It was adopted as Light Industrial Use therefor the existing use was a non-conforming use and cannot be enlarged. Meat processing doesn't show up in any area. The crux of the matter is that the applicant is asking to expand. It's a reasonable request, but is not allowed by the law. We must either change the property to Industrial Zoning or change what a Light Industrial Zone can do. Both must go through the zoning process, we can't just change. The burden of challenging is that the applicant must conclusively prove the Administrative Determination was in error. The applicant did provide a narrative which was given to the Board but did not prove error. Relief had to be granted by the Board.

Chairman Whiting opened the floor for comments

Comments "In Favor of the Appeal"

Patrick Candelaria representing Cole's Meat Processing located at 457 Hwy 84 stated the he was sure the Board was familiar with his property. When they did the zoning for his area, he and Mrs. Schofield visited the meeting and they were asked to leave. It turned out, they zoned it Commercial and should have zoned it Industrial. There have been two buildings/businesses put up since and neither is Industrial. He wanted to clarify the statement made by Planning Manager Shepard. They were not expanding the area. They were asking to enclose the area they have had a tarp around for years. He now has the money to put up walls and they (the County) are being stopping. It will look better than the tarp.

Chairman Whiting closed comments "In Favor of the Appeal" and asked for comments "Against the Appeal"

Comments "Against the Appeal"

There were none.

Chairman Whiting closed public comment and asked for Commissioner's comments.

Commissioner's Comments.

Commissioner Lucero commented that the Board talks a lot about helping people get to success. It's very difficult to not want to vote for this. Maybe the County needs to look at changing some of their Regulations, since there always seems to be things that don't work. Mr. Shepard was doing his job but we need to help these small businesses get to success. Mr. Candelaria said it's very important for all the hunters in our area as they need to refrigerate immediately or lose their meat.

Commissioner Wadley said there was a company awhile back asking for tax relief when he took office who would be competing with their business. They did not stay in business. Mr. Shepard was doing his job and he understood the applicants were trying to make a living. The County needs to find a solution to help people survive in tough times.

Commissioner Whiting asked Mr. Shepard about preparation of food products. If you are making chocolate bars, is this the same as processing wild game. Mr. Shepard answered that they look at typical distinctions. If the County allowed for butcher shops they would use that use. If you are making chocolate and serving it in a restaurant you would be preparing meals and he would be good. If they were selling it wholesale they could not. To fix this problem, the zoning would have to be changed first and the applicant reapplies. The question was asked if the Board set out to fix the problem would that delay the applicant long enough to do harm to his business. The answer was probably.

James Dickhoff Town Planning Director said that since this does influence the Town, he suggested it was easier to change the usage of the zones. He felt CUP's would be allowable here. CUP's have been utilized by the Town when some other businesses that maybe don't fit into the use but don't have an impact to any neighboring areas, would qualify for the CUP.

Planning Manager Shepard said he wanted to make a point in the other half of this question, is this is a nonconforming use. Another question is, was it an expansion of a non-conforming use? We need to clarify. When does the expansion of a structure simply become 'construction' and not 'change the use'? Mr. Candelaria did say he was replacing tarp with wall. When does it change the usage? This may be a more practical approach to this issue.

Commissioner Lucero moved that we find there is no change in the existing use and therefore we grant the appeal. Commissioner Wadley seconded the motion. The motion carried unanimously.

Chairman Whiting closed the Board of Adjustments convened an Abatement Hearing at 2:23 p.m.

Abatement Hearing

Chairman Whiting swore in Natalie Woodruff for testimony

County Attorney Starr wanted to say he did not own an interest in the parcels as owned by the bank in this request.

- A. Parcels: 5699-163-00-116**
5699-163-00-117
5699-163-00-118
5699-163-14-001
5699-163-23-006
5699-163-23-007

Petitions for Abatement or Refund of Taxes for Colorado Community Bank NKA Northstar Bank of Colorado

1 Pines Club Drive

County Assessor Woodruff presented a Petition for Abatement or Refund of taxes for Colorado Community Bank NKA Northstar Bank of Colorado on property on parcels as stated for the record and being for the tax years 2013 & 2014. This request was for a refund of taxes on the Pagosa Springs Golf Course property located at 1 Pines Club Drive. Usually, the County would address each parcel on an individual basis. However, because these are not parcels independent of each

other and only have separate parcel numbers due location or differing tax districts, the Assess was asking to address this request as a single unit. The refund amount for 2013 was \$16,782.40 and for 2014 \$16,766.88.

Chairman Whiting opened the floor for comments “for” or “against” the Abatement as presented. He then closed public comment.

Commissioner Wadley moved to approve the Petition for Abatement or Refund of Taxes as a refund for Colorado Community Bank NKA Northstar Bank of Colorado, Parcels 5699-163-00-116, 5699-163-00-117, 5699-163-00-118, 5699-163-14-001, 5699-163-23-006 and 5699-163-23-007 in the amounts of \$16,782.40 for 2013 and \$16,766.88 for 2014. Commissioner Lucero seconded the motion.

Chairman Whiting closed the Abatement Hearing and convened the Liquor Board Authority at 2:28 p.m.

Liquor Board Authority

Chairman Whiting swore in Administrative Assistant Flora Goheen for testimony.

A. Special Events Permit for Our Savior Lutheran Church of Pagosa Springs

Administrative Assistant Flora Goheen submitted a Special Events Permit for Our Savior Lutheran Church of Pagosa Springs to serve malt, vinous and spirituous liquor at the Western Heritage Event Center (Rodeo Grounds) located at 344A Hwy 84, for a fundraiser on July 2, 2016-July 4, 2016. The Sheriff’s Office had been notified of the event, the application was complete and the fees were submitted.

Chairman Whiting opened the floor for comments

Comments “In Favor of the Permit”

There were none.

Closed “For the Permit” and asked for comments “Against the Permit”

Comments “Against the Permit”

There were none.

Chairman Whiting closed public comment.

Commissioner Comments.

Commissioner Wadley moved to approve the Special Events Permit for Our Savior Lutheran Church of Pagosa Springs to sell malt, vinous and spirituous liquor at the Western Heritage Even Center (Rodeo Grounds) for a fundraiser for their school on July 2-4, 2016. Commissioner Lucero seconded the motion.

Chairman Whiting asked for Commissioner Comments.

The motion carried unanimously.

Chairman Whiting closed the Liquor Board Authority and reconvened the Regular Meeting at 2:30 p.m.

Consent Agenda

A. Payroll & Payable Warrants and Purchase Cards for June 8-21, 2016

General Fund Payable	104,782.55
Road and Bridge Fund Payable	139,461.34
Department of Human Services Fund Payable	37,365.68
1A Fund Payable	20,960.00
All Combined Dispatch Fund Payable	12,701.24
Conservation Trust Fund Payable	14,900.00
Solid Waste Fund Payable	474.61
Airport Fund Payable	1,017.22
Fleet Fund Payable	33,088.25
Total	\$ 364,750.89
General Fund Payroll	155,065.39
Road and Bridge Fund Payroll	48,707.19
Department of Human Services Fund Payroll	29,966.86
All Combined Dispatch Fund Payroll	15,328.84
Solid Waste Fund Payroll	14,484.17
Airport Fund Payroll	4,073.28
Fleet Fund Payroll	11,017.02
Total	\$ 278,642.75

B. Regular Meeting Minutes
June 7, 2016

C. Special Meeting Minutes
June 8, 2016

D. Resolution 2016-38 Lot Consolidation of lots in Pagosa Highlands Estates for owners Jonathan M. & Marlene G. Duncan

E. Resolution 2016-39 Approving the Cimarrona Ranch Water Utility Conditional Use Permit memorializing what happened in the hearing held on June 7, 2016

F. Contract for Department of Human Services for the Archuleta County Victim Assistance Program (ACVAP)

G. Contract for Department of Human Services for the Southern Ute Community Action Programs, Inc/The Training Advantage not to exceed \$55,000

H. Renewal of contract for the Department of Human Services with Teresa Campbell to provide technical assistance in various automated programs not to exceed \$5,000

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

New Business

A. Request from the Parks and Recreation, Open Space and Trail (PROST) from the Town of Pagosa Springs in the amount of \$20,000

Karin Daniels of 15 Shore Court and representing PROST made a request from the Town of Pagosa

Springs for \$20,000 of 1A Funds to go towards a climbing boulder in the Pagosa Springs Town Park. This was 50% of the cost. The Pagosa Area Tourism Board would be giving 50% for the boulder and their money comes from Lodger's Tax. The Town will put in the in-kind services to install it. It's for children from 6 to 60. **Commissioner Lucero moved to approve the request for 1A Parks and Recreation funding for a Climbing Boulder in the Pagosa Springs Town Park not to exceed \$20,000. Commissioner Wadley seconded the motion.** Chairman Whiting asked for public comment. **The motion carried unanimously.**

B. Request from the Nordic Ski Council for Parks and Recreation, Open Space and Trail (PROST) funds

County Administrator Henderson submitted a PROST request from the Nordic Ski Council. They were asking to develop 5 kilometers of trail in Cloman Park on property owned by the County. They wanted the County to commit to keeping the parking lot plowed and to continue supplying the port-a-potties. **Commissioner Wadley moved to approve the request from PROST committee on behalf of the Pagosa Nordic Council for in-kind work of plowing the parking lot and continued support of the portable toilets as they develop a 5 kilometer groomed Nordic Ski Trail at Cloman Park. Commissioner Lucero seconded the motion.** Chairman Whiting asked for public comments. **The motion carried unanimously.**

Chairman Whiting stated there would be an Executive Session and asked for a motion.

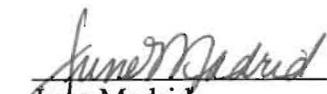
Executive Session

Commissioner Lucero moved to go into Executive Session per C.R.S. 24-6-402(4)(B) for purposes of the Board to receive legal advice on all pending legal actions against Archuleta County. Commissioner Wadley seconded the motion and it carried unanimously.

Chairman Whiting said those going into Executive Session would be all three Commissioners, County Administrator Henderson, County Attorney Starr, and Executive Assistant Tonya McCann. Attorney Mark Gruskin would be joining by phone. For the second case, County Clerk June Madrid would join the meeting.

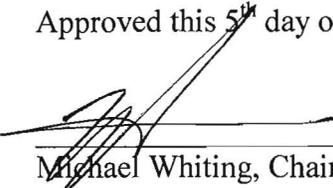
Chairman Whiting recessed the Regular Meeting at 2:48 p.m. to convene into the Executive Session. Chairman Whiting reconvened the Regular Meeting at 3:36 p.m. and stated no decisions were made in Executive Session.

With no further business coming before the Board, the meeting was adjourned at 3:36 p.m.



June Madrid
County Clerk & Recorder

Approved this 5th day of July, 2016.



Michael Whiting, Chairman



RESOLUTION NO. 2016-38

**A RESOLUTION APPROVING THE CONSOLIDATION OF CERTAIN
LOTS IN ARCHULETA COUNTY, COLORADO**

WHEREAS, the Board of County Commissioners of Archuleta County, Colorado, has heretofore adopted regulations relating to the consolidation of lots in Archuleta County, Colorado, (Resolution No. 2006-25); and

WHEREAS, the Board has received an application from Jonathan M. Duncan and Marlene G. Duncan, to consolidate certain lots in Archuleta County pursuant to the regulations heretofore adopted by the Board; and

WHEREAS, the Board has found that Jonathan M. Duncan and Marlene G. Duncan, has met all the requirements contained in said regulations for Lot Consolidations and the Board may consolidate the hereafter mentioned lots.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Archuleta County as follows: The Chair does hereby sign on authority granted by the Board of County Commissioners and approves the consolidation of Lots 3 and 4, Pagosa Highlands Estates, according to the plat thereof filed for record February 7, 1972, as Reception No. 75409, Archuleta County, Colorado, to become Lot 13X with the condition that if, at a future date, there is a request to split or re-subdivide the consolidated lots, the applicant must comply with the applicable Land Use Regulations in effect at the time the application is made.

APPROVED AND ADOPTED DURING A MEETING DULY AND REGULARLY CALLED, NOTICED, CONVENED AND HELD IN PAGOSA SPRINGS, ARCHULETA COUNTY, COLORADO, this 21 day of June 2016.

The Board of County Commissioners
Archuleta County, Colorado

ATTEST:



June Madrid by Sonya McClain
June Madrid,
Archuleta County Clerk and Recorder

[Signature]
Chairman Michael Whiting

Dated: June 21, 2016

Return copy to Planning Dept.

Rtn:
JUNE MADRID
RESOLUTIONS



**BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO
RESOLUTION NO. 2016-29**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS APPROVING
THE CIMARRONA RANCH WATER UTILITY CONDITIONAL USE PERMIT
IN SECTION 1, T35N R1W NMPM**

WHEREAS, the Board of County Commissioners has adopted the *Archuleta County Land Use Regulations*, pursuant to C.R.S. §30-28-101, *et. seq.*, C.R.S. §24-64.1-101 *et. seq.*; C.R.S. §24-67-101 *et. seq.*; and C.R.S. §29-20-101 *et. seq.*; and

WHEREAS, Cimarrona POA, represented by Ron B. Ault of Phoenix, Arizona, applied for a Conditional Use Permit for the Cimarrona Ranch Water Utility, on property owned by the Christopher S. & Lorraine M. Publow Family Trust; Parcel 2 Cimarrona Ranch being a 35-acre tract located in Section 1, T35N R1W NMPM at 285 Grouse Dr, Pagosa Springs, CO; and

WHEREAS, The proposal will permit expansion of the existing water treatment facility building to house two 2,500 gallon water storage tanks; and

WHEREAS, on March 30, 2016, Christopher S. Publow and Lorraine M. Publow, of the Amended and Restated Chistopher S. & Lorraine M. Publow Family Trust dated February 7, 2014, granted to Cimarrona Property Owners Association the right to expand the Water Treatment facility located on their property, specifically described in Exhibit A; and

WHEREAS, the property is zoned Agricultural/Ranching (AR), in which a Public Utility is permitted as a Conditional Use; and

WHEREAS, public notice of hearings before the Planning Commission and Board of County Commissioners was given by publication in a newspaper of general circulation in the County, posted on site and mailed to adjacent property owners, at least twenty-one (21) days prior to each public hearing, as required by Section 2.2.3 of the *Archuleta County Land Use Regulations*; and

WHEREAS, the Archuleta County Planning Commission conducted a public hearing on the request on May 25, 2016, recommending approval (5-0) with conditions; and

WHEREAS, the Board of County Commissioners conducted a public hearing on the request on June 7, 2016; and

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

WHEREAS, the Board of County Commissioners has taken into consideration the recommendations of the Archuleta County Planning Commission and public testimony; and

Rh:

JUNE MADRID
RESOLUTIONS



21603925
2 of 3

RES 6/22/2016 8:06 AM
R\$0.00 D\$0.00

June Madrid
Archuleta County

WHEREAS, the Board of County Commissioners voted 2-0 to approve the request.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, AS FOLLOWS:

Section 1. Findings.

- a. The application meets the review criteria for a Conditional Use Permit in Section 3.2.3.4 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

Section 2. Conditions.

- 1. Correct the structure address to 60 Grouse Drive.

MOVED, SECONDED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, by a vote of 3 in favor to 0 against, this 21 day of June, 2016.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

By: 
Chair

ATTEST:

Archuleta County Clerk and Recorder Deputy Clerk





21603925 6/22/2016 8:06 AM
3 of 3 RES R\$0.00 D\$0.00

June Madrid
Archuleta County

Exhibit A
Property Description

Parcel 2, Cimarrona Ranch, according to the plat thereof recorded February 4, 1998, as Reception No. 98000944, First Supplemental Plat of Cimarrona Ranch and Cimarrona Ranch Two Recorded January 27, 2000, as Reception No. 20000886 and Second Supplemental Plat of Cimarrona Ranch and Cimarrona Ranch Two recorded December 29, 2000, as Reception No. 20012325.