

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO,
APPROVING A FIRST AMENDMENT TO THE FINAL SUBDIVISION
EXEMPTION PLAT AND PLAN FOR CLUSTER DEVELOPMENT LOTS, THE
"ASSOCIATION" PARCEL AND AN AMENDED SITES CONSTRAINTS MAP
FOR THE IDARADO CLUSTER DEVELOPMENT PLAN**

Resolution 2004-35

WHEREAS, Idarado Legacy, LLC, has submitted a Land Use Application requesting approval of certain amendments to the previously approved and recorded Final Subdivision Exemption Plat and Cluster Development Plan for the "Cluster Lots", the Subdivision Exemption Plat for the Association Parcel, and the approved and recorded Site Constraints Map;

WHEREAS, the Board of County Commissioners (BOCC) at their public meeting on September 19, 2003 conditionally approved Idarado's Subdivision Exemption Plat and Cluster Development Plan. The findings and terms and conditions of the approval are set forth in Resolution 2003-30A. This conditionally approved Subdivision Exemption Plat and Cluster Development Plan created thirty-seven (37) residential lots on those portions of the "valley floor" owned by Idarado commonly referred to as Liberty Bell, Pandora, and Bridal Veil. This Subdivision Exemption Plat also included an "Association Parcel". These plans were submitted, reviewed, and approved by the BOCC pursuant to the rural land use process for cluster development set forth in BOCC Resolution # 2003-23. In approving this Subdivision Exemption Plat and the Cluster Development Plan the BOCC made a specific finding at that time that Idarado had demonstrated to the BOCC's reasonable satisfaction that each of the Valley Lots proposed in Idarado's plan can and will have adequate legal access to the public road system;

WHEREAS, in February 2004, the BOCC considered and approved certain specific amendments to the terms and conditions of approval pertaining to the Final Plat and Final Plat Documents that implemented the Subdivision Exemption Plat and the Cluster Development Plan;

WHEREAS, these modifications included alterations to the boundaries, dimensions and area/size of the Valley Lots; the creation of the East Colorado Avenue Tract containing a public right-of-way that traverses the subject property; two non-developable outlots, Outlot A and Outlot B, which are adjacent to the Lone Tree Cemetery; and clarifications to Final Plat Documents concerning the projects Subdivision Improvements Agreement (SIA). Again in approving Idarado's proposed modifications to the Subdivision Exemption Plat and Cluster Development Plan in February 2004, the BOCC made a finding that Idarado has demonstrated to the BOCC's reasonable satisfaction that each of the Valley Lots and the Association Parcel in Idarado's Plan can and will have adequate legal access to the public road system;

WHEREAS, at the time the Subdivision Exemption Plats were submitted for review and approval Idarado also submitted, and the BOCC considered and approved, a Site Constraints Map for the Idarado Subdivision and Cluster Development Plan. This "Constraints Map" depicts and describes various conditions that may affect some or all of the lots included within the Cluster Development Plan. The depicted conditions include areas on some lots in which rockfall, avalanche or debris flow may be present and may require mitigation during design and construction;

WHEREAS, the Constraint Map also depicts "no build lines", building envelopes, well and On-site Wastewater Systems (OWS) locations, floodplains, wetlands, easements, roads, trails and conditions that may affect the use and development of these "Cluster" lots. The BOCC's approval indicates that the County and Idarado may modify the Constraints Map;

WHEREAS, locations of OWS and wells may be relocated with the approval of the Home Owners Association, Idarado and the County, provided that the relocated facility continues to comply with all dimensional setback limitations and requirements established in the Resolutions, Replat, the Idarado CCR's and by applicable law;

WHEREAS, in June 2004 the Town of Telluride staff in reviewing the Final Improvement Plans and Specifications for Phase I of the Idarado Cluster Development Plan presented comments and concerns regarding the Subdivision Exemption Plat that had been previously approved by the BOCC and was recorded on February 10, 2004;

WHEREAS, in July 2004, the County Planning staff conditionally approved a Development Permit for construction of Phase I Subdivision Improvements for the Pandora and Bridal Veil lots based on our finding that the submitted improvements plans were in compliance with the terms of the SIA and the applicable provisions of the County Land Use Code. Idarado has initiated and has been proceeding with the construction of these site improvements over the past several months;

WHEREAS, this Land Use application is being processed as an Insubstantial Amendment to a Final Plat, pursuant to LUC Section 5-1502 Insubstantial Amendment, that is referred to the BOCC. The specific standards for Insubstantial Plat Amendments (IPA's) are set out in LUC Sections 5-1502 A. thru H.;

WHEREAS, the proposed amendments to the approved and recorded plat include an expansion or widening of the East Colorado Avenue Tract from forty (40) feet in width, twenty (20) feet on either side of centerline of the existing roadway to an approximately sixty (60) foot width, or greater, where East Colorado Avenue extends through the Idarado Cluster Development Plan. This widening of the East Colorado Avenue Tract is intended to coincide with the area that the Town of Telluride may claim and to include the Interpretive Trail. As a result of the widening of this tract, the lot lines for those lots adjoining Colorado Avenue have been modified and these lots have been reduced slightly in size;

WHEREAS, in order to achieve a wider East Colorado Avenue Tract between the Employee Housing Parcel A and the Pandora Lots on the south side of this roadway, additional property owned by Idarado has been added to the Subdivision Exemption Plat and the Cluster Development Plan;

WHEREAS, the Town of Telluride, as part of their referral comments in August 2003, requested that the County require the construction of a transit stop and associated turnaround at the west end of the Idarado Cluster Development. A Public Easement Agreement (Bus Turnaround) between Idarado and the BOCC was recorded on April 1, 2004;

WHEREAS, the amended plat that has been submitted does not change or reduce the physical size of the proposed Bus Turn-around. A portion of this turnaround easement as depicted on this amended plat extends into the East Colorado Avenue Tract. It is anticipated that the County will assign its rights to the Bus Turn-around Easement to the Town of Telluride;

WHEREAS, the amended plat does not widen that portion of the East Colorado Avenue Tract, adjacent to Employee Housing Parcel A, a portion of the Gold Run Placer that is intended to be deeded to San Miguel County, from the forty (40) foot width that is presently shown on the approved and recorded plat;

WHEREAS, the proposed Plat amendments also include adjusting the lot lines by withdrawing land and reducing the size of various Pandora Lots located along the San Miguel River. The Amended Plat identifies both the revised Pandora lots and the withdrawn lands, which will be retained by Idarado Mining Company and "merged" with their adjacent larger land holdings. The intent of this change is to avoid excavation of tailings in close proximity to the river, manage environmental issues and avoid impacts to the San Miguel River. The Amended Plat depicts a River Access Easement over these "withdrawn lands" which are proposed as private easements to allow the adjoining lot owners access to the river;

WHEREAS, Lots P19 and Lot P20 have been modified to include existing wells within the lot area of these two lots. Idarado is granting an easement for the Interpretive Trail access on Lot 20. The location of the proposed OWS on Lot 19 has been moved on the amended Site Constraints Map to meet the applicable separation requirements;

WHEREAS, as part of the Cluster Development Plan approval, Idarado agreed to make a good faith effort to relocate the Interpretive Trail from the platted alignment along East Colorado Avenue to the existing railroad grade alignment to provide a greater separation between the Interpretive Trail and East Colorado Avenue. Phase I or the "eastern" portion of the trail alignment has been adjusted in the field. The improvements for this section of the trail are substantially complete. The amended Plat depicts the alignment of Phase I of the Interpretive Trail as constructed on the ground. The BOCC approved an Amendment to the SIA earlier this summer to provide additional time to consider an appropriate alternative alignment for the westerly section of this Interpretive Trail;

WHEREAS, the Amended Plat and Amended Site Constraint Map also include "minor" adjustments to the proposed locations for OWS's, wells, drainage & utility easements, a driveway and Pandora Lane. Most of these changes are related to or the result of site conditions encountered during the clean up of the property and the actual construction of the infrastructure;

WHEREAS, this Land Use application and the Amended Final Plat and Amended Site Constraints Map were referred to Goff Engineering & Surveying, acting as the County Engineer, the County Attorney, the County Environmental Health Director, the County Open Space, Recreation and Trails Coordinator and the Town Manager for the Town of Telluride;

WHEREAS, Goff finds the revised plat and constraints map to be acceptable subject to several minor technical revisions that are identified in their memo of October 8, 2004;

WHEREAS, County Environmental Health Director Dave Schneck's review of the Site Constraint Map included questions and comments concerning the new well locations and the location and size of the revised OWS areas. The size of the OWS areas has not changed or been modified from what is shown on the previously approved and recorded Site Constraint Map. Greg Anderson, P.E. the project engineer has provided a memorandum dated October 5, 2004 responding to Mr. Schneck's comments regarding the size of drain field sites for the Liberty Bell lots;

WHEREAS, the Town of Telluride delivered a letter from Town Manager Jay Harrington to the members of the BOCC dated October 12, 2004. This letter expresses Town staff's opinion that the submitted application fails to comply with several requirements of the County Land Use Code and includes information and comments concerning the Colorado Avenue Tract, Access to the Employee Housing Parcels and the Bus Turnaround and County Road K 69. The Town Manager also requests that the BOCC require five (5) specific items as conditions of approval for this First Plat Amendment and Amendment to the Site Constraints map, as set forth in his letter;

WHEREAS, concerning the items the Town of Telluride staff has requested as conditions of approval, the County staff has advised the BOCC at this public meeting that:

1. The BOCC has previously made a finding that Idarado has demonstrated to the BOCC's reasonable satisfaction that each of the "Valley Lots" proposed in Idarado's Subdivision Exemption Plat and Cluster Development Plan, can and will have adequate legal access to the public road system. Additionally the amended Final Plan now depicts the location of the centerline of the existing road within the East Colorado Avenue Tract and includes a Plat Note that refers to the Colorado Department of Transportation (CDOT) deed that conveyed an interest in this existing road to the Town of Telluride. Idarado has not offered to dedicate a sixty-foot (60') right-of-way to the Town of Telluride as a part of this Insubstantial Plat Amendment.

2. County Road K69 is not a part of this Idarado Subdivision Exemption Plat and Cluster Development Plan.

3. Idarado granted San Miguel County a bus turnaround easement, which was recorded in April 2004 at Reception Number 365092. This bus turnaround easement together with its dimensions is now depicted on Sheet 5 of 8 "Easement Revisions" on this amended Final Plat.

4. Idarado has included an easement note on this amended plat for an East Colorado Avenue Tract Access Easement that is intended to allow for vehicular and pedestrian access to and from roads and driveways within the Idarado Cluster Plan "Community" to and from the paved portion of the existing road within the East Colorado Avenue Tract. Idarado has also offered to grant a similar access easement, by separate instrument, to provide access to and from the bus turnaround easement granted to San Miguel County, and to and from the Employee Housing Parcel A and Employee Housing Parcel B to and from the paved portion of the existing road within the East Colorado Avenue Tract.

5. San Miguel County does not at present own Employee Housing Parcels A and B.

WHEREAS, the Board of Commissioners of San Miguel County, Colorado considered this application, along with referral agency comments and relevant evidence and testimony from the public, at a public meeting on October 20, 2004.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado unanimously approves an Insubstantial First Amendment to the Exemption Plan and Plan for Cluster Development Lots and for the "Association" Parcel, together with the Amended Site Constraints Map for the Idarado Cluster Development plan as it appears with this application and finds that this amended Final Plat and amended Site Constraints Map meet Land Use Code Section 5-1502 Insubstantial Amendment, Standards A-H;

BE IT FURTHER RESOLVED that the Board of Commissioners finds this application to be consistent with the BOCC's previous approval of the Subdivision Exemption Plat, Cluster Development Plan and Site Constraints Map as set forth in BOCC Resolutions 2003-23, 2003-30A, and 2004-4.

BE IT FURTHER RESOLVED that the Board of Commissioners finds this application to be consistent with the uses and standards of Land Use Code Section 5-312 Mobile Home (MH) Zone District.

BE IT FURTHER RESOLVED that the Board of Commissioners finds that the facilities as identified on this amended Site Constraints Map continue to comply with all limitations and requirements pursuant to the approved Cluster Development Plan.

BE IT FINALLY RESOLVED that all representation made by the applicant in writing, as part of this application are conditions of approval unless specifically modified by this resolution.

DONE AND APPROVED by the Board of Commissioners of San Miguel County,
Colorado on October 29, 2004.

SAN MIGUEL COUNTY BOARD OF COMMISSIONERS

By: *Vern Ebert*
Vern Ebert, Chair

Vern Ebert Aye Nay Abstain Absent
Elaine Fisher Aye Nay Abstain Absent
Art Goodtimes Aye Nay Abstain Absent

ATTEST:

By: *Marisa A. Thomas*
Chief Deputy Clerk

[text/Idarado/revised plans.memo]

