

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

Resolution 2005-11

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" and the approved and recorded Site Constraints Map;

WHEREAS, in October 2004 the Board of County Commissioners (BOCC) approved an Insubstantial First Amendment to the Subdivision Exemption Plat and Plan for the Cluster Development lots together with amendments to the Site Constraints Map;

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

WHEREAS, this Second Amended Plat proposes to further widen and expand the East Colorado Avenue Tract from what was shown on the original plat and then modified on the first Amended Plat as approved by the BOCC. Additionally, rather than including portions of the Interpretive Trail within the East Colorado Avenue Tract, as previously shown, the Second Amended Plat now identifies the East Colorado Avenue Tract and the Interpretive Trail Tract as two separate tracts or parcels. In reviewing the submitted plans it appears that the East Colorado Avenue Tract for the most part is 60' feet in width;

WHEREAS, the Interpretive Trail Tract is located south of the East Colorado Tract and the constructed and proposed alignments for the eastern and western segments of the trail are within this separate tract. This Second Amended Plat also identifies the centerline of the proposed relocation of the western segment of the Interpretive Trail, a distance of approximately a tenth of a mile, as currently staked on the ground;

WHEREAS, creating two separate tracts would facilitate the potential conveyance of the East Colorado Avenue Tract to the Town of Telluride, if or when these parties reach an agreement, and would allow the conveyance of the Interpretive Trail Tract to San Miguel County when the trail is completed;

WHEREAS, as in the past, Idarado is not offering to dedicate the East Colorado Avenue Tract to the Town of Telluride in conjunction with this Second Amended Plat at this time. This is to say that the Owner's Certificate for the East Colorado Avenue Tract has not been changed or modified from the previously approved and recorded plats. In granting

each of the previous Subdivision Exemption Plat and Cluster Plan approvals, including the First Amendment, the BOCC has made a specific finding that Idarado has 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, the Seconded Amended Plat also proposes the withdrawal of approximately twenty-three acres on the hillside from the nine (9) previously platted Liberty Bell Lots, located east of the Lone Tree Cemetery and north of East Colorado Avenue. This withdrawn area above the re-configured Liberty Bell lots together with land associated with Owl Creek would be retained by Idarado Mining Company and would be restricted from Development;

WHEREAS, as a result of the withdrawal of this land the Liberty Bell lots have been reconfigured and reduced in size from the previously approved plats. The stated reasons for these changes to the Liberty Bell lots is to reduce the area that would require excavation of tailings or mine materials and subsequently the amount of hauling of fill material to the Liberty Bell area and to reduce or minimize impacts to this hillside and Owl Creek. The revisions to the Liberty Bell lots also include a change in the proposed access that reduces the number of access points off Colorado from three to two and continues to utilize existing historical access points;

WHEREAS, although the size of the Liberty Bell lots are proposed to be reduced in size from about 2.5 acres to .6 acres (32,136 square feet) there is no proposed change in use, no increase in the number of lots, no increase in residential density and no increase in the overall coverage of structures on the land. Additionally, the lots, building sites, well locations, on-site waste-water treatment systems (OWS) and environmental mitigation structures, such as rockfall fences, would continue to comply with the zoning standards and all applicable laws, regulations and terms and conditions of the prior County approvals for this project;

WHEREAS, an exception is required from the County Road standards for the overall length of the Liberty Bell Drive proposed cul-de-sac. An exception was also required for the original access road serving some of the Liberty Bell lots;

WHEREAS, this Second Amended Plat also includes several minor adjustments to the lot lines for Bridal Veil Lots 3 and 4. These adjustments are proposed so that the most favorable well locations will be on and within the boundaries of the lot these wells are intended to serve;

WHEREAS, no changes or modifications are proposed to the twenty-four (24) Pandora lots within this project;

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, the Second Amended Site Constraint Map is intended to reflect the changes that have been made to the Liberty Bell and Bridal Veil lots on the Subdivision Exemption Plat. Idarado’s application includes a letter from Eric Krch, P.E. (Exhibit “H”) concerning the proposed modifications to the lot lines, building envelopes, well locations and OWS locations as proposed by the Second Amended Plat and as depicted on the Second Amendment to the Site Constraint Map. Mr. Krch has made several recommendations to be incorporated in the design of the proposed OWS’s and has indicated that the systems at the revised locations are expected to operate to the same standards set out in the original Cluster Plan approvals;

WHEREAS, this application also includes correspondence from Art Mears, P.E., avalanche-control engineer, Exhibits “G” and “L” concerning the changes that have been proposed and their relation to geohazard conditions and potential impacts and mitigation from potential rock fall, snow avalanche and/or debris flow. Mr. Mears in his letter dated March 15, 2005 concludes that the proposed changes are reasonable and can be accomplished (mitigated) with site-specific design for avalanche or relocated rockfall fences. Mr. Mears in a letter dated April 13, 2005 advises that the location of the rockfall fences on the Second Amended Site Constraints Map at both Bridal Veil and Liberty Bell are appropriate and suitable for the requirements as stated in his prior reports;

WHEREAS, in February 2004, the BOCC and Idarado Legacy LLC entered into a Subdivision Improvements Agreement to ensure that Idarado would initiate and complete the required subdivision improvements for this project in accordance with the terms and conditions of the various approvals granted by the BOCC. This SIA provided for “Interim Improvement Plans and Specifications” with the understanding or condition that Idarado would be required to submit and obtain County review and approval of Final Improvement Plans and Specifications by specific dates set forth in the SIA. This SIA included a cost estimate of the required subdivision improvements based on the Interim Construction Plans, which were reviewed and approved by Goff Engineering, acting as the County Engineer. This approved cost estimate was used to determine the amount of the required construction guarantee;

WHEREAS, in June 2004, the BOCC considered and approved the First Amendment to the SIA for the Idarado project that provided a phasing schedule for the completion of the required improvements. Rather than proceeding with the entire project in the first year, Idarado proposed and the BOCC approved, two development phases. Phase I included Pandora, Bridal Veil and the eastern segment of the Interpretive Trail. Phase II improvements, deferred to 2005 per this First Amendment, includes Liberty Bell and the westerly section of the Interpretive Trail. This First Amendment to the SIA included a revised Exhibit "B." To reflect the two separate phases and included cost estimates for each construction phase separately. This amendment to the SIA did not change or affect the plat restriction prohibiting the sale of lots within either phase until a financial security for the required improvements, acceptable to the County for that specific phase, has been received;

WHEREAS, in July 2004, the BOCC considered and approved a Second Amendment to the Idarado SIA, which included a change to Exhibit "B" and the estimated cost of improvements. This amendment was limited to increase the cost estimate and the commitment guarantee for Phase I improvements in response to review comments from Goff Engineering and the Planning Director or as a part of our review of the Final Construction Plans for this First Phase. San Miguel County is the beneficiary of a letter of credit in the amount of this cost estimate that will remain in force and effect until September 2006;

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 improvement plans were in compliance with the terms of the SIA and the applicable provisions of the County Land Use Code. Idarado has initiated and completed the construction of the majority, but not all, of the Phase I site improvements;

WHEREAS, this proposed Third SIA Amendment is intended to reflect the project engineer's latest cost estimate for the Phase II Improvements, Exhibit "B", that includes the Liberty Bell infrastructure (roadways & utilities) and the western segment of the Interpretive Trail into the SIA. This revised cost estimate is based on the Final Improvement Plans and Specifications for Phase II Construction plans (Liberty Bell Infrastructure, Bridal Veil Driveway, Interpretive Trail and Materials Management Plans) that have been submitted to the County for review and approval in accordance with the SIA;

WHEREAS, these construction plans are intended to replace the previously submitted and approved Interim Improvements Plans for Phase II. These engineered improvements plans include the roads, utility and drainage improvements for Liberty Bell, the driveways for the Bridal Veil lots and the western segment of the Interpretive Trail;

WHEREAS, Idarado as a part of their Cluster Development Plan and land use applications submitted in 2003 included information and evidence concerning the

rationale and need to demolish the Pandora Mill, Bridal Veil Cottages, and Liberty Bell Cottages, in order to protect the public health and safety for which appropriate mitigation or remedial measures are not reasonably available. Based on this information and Idarado's proposed plans concerning historic interpretation of this portion of the valley the BOCC authorized the issuance of Development Permits for the demolition of the aforementioned structures subject to several specific conditions. These conditions included completing an appropriate documentation of the Pandora Mill prior to demolition, completing the requisite asbestos abatement, and leaving the steel structural features of the Pandora Mill in place, if feasible;

WHEREAS, at this time Idarado is requesting a Development Permit authorizing the removal of the Stone House located on the Liberty Bell lots. The applicant is also proposing to dismantle the stone retaining wall in Liberty Bell so the hillside can be stabilized and the stone wall can be restored and replaced;

WHEREAS, the application includes Exhibit "T" which is information concerning the Liberty Bell Mill that was provided as a part of the 2003 Historic and Archaeological Resource Review together with Exhibits "J" and "K" which are reports concerning this "Rock House" prepared by Sherman Worthington, P.E. MFG Environmental Consulting and David Ballode, P.E.;

WHEREAS, Mr. Worthington's March 8, 2005 letter discusses the environmental assessment MFG performed on this building to evaluate the presence of mine or mill related materials consistent with the provisions contained in BOCC Resolution 2003-30A concerning assessing and mitigating recognized environmental conditions. Mr. Worthington's letter indicates that the lead concentrations in the sand-cement mortar and the craw space soil exceed the lead PRG of 400 ppm for residential soil as identified in the management plan and BOCC resolution. He then recommends that these materials be removed and states this will require demolition of the stone building;

WHEREAS, Mr. Ballode's states that the existing stone wall is not structurally sound and recommends that it be replaced and explains what steps could be taken to stabilize the wall and reuse the stone material to replicate the existing wall;

WHEREAS, this Land Use application and the Amended Final Plat and Amended Site Constraints Map has been 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. The County Historical Commission has also considered and commented on Idarado's request to be issued a Development Permit to demolish the Rock House in Liberty Bell;

WHEREAS, Goff Engineering and Surveying has completed its review of the Second Amendment to the Subdivision Exemption Plat and Cluster Development Plan and the Phase II Improvements Plans and provided review comments in memo's dated April 11th

WHEREAS, a revised Second Amendment to the Final Subdivision Exemption Plat and Plan for Cluster Development was considered by the Board of Commissioners, along with relevant evidence and testimony from the public at a public meeting on July 6, 2005.

WHEREAS, the purpose of the July 6, 2005 meeting was to advise the BOCC of additional minor changes that Idarado would like to include on the Second Amended Final Plat that is to be signed and recorded. The following are the proposed changes:

1. A modification to adjust the lot line between Outlot C and Liberty Bell Lots 4 and 5 so the completed (stabilized and re-built) rock wall will be located entirely on Outlot C and not on individual lots.
2. Liberty Bell Lots 8 and 9 will be reduced in size with portions of these previously platted lots being added to Outlot A to avoid further excavation of materials on the hillside.
3. Adjusting the lot line between Outlot D3 and Liberty Bell Lot 2 to avoid removing trees near Owl Creek.
4. A modified alignment for the Lone Tree Cemetery access road, to be constructed and paved by Idarado, and a possible boundary adjustment between the existing Cemetery fence line and Idarado property. This would create an additional Outlot E that would be conveyed to the Cemetery District.
5. Several minor changes to building envelopes on Liberty Bell Lot 1 and Bridal Veil Lot 3.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado unanimously approves an Insubstantial Second Amendment to the Exemption Plan and Plat for Cluster Development Lots together with an amended Site Constraints Map for the Idarado Cluster Development plan and plat, and a revised Subdivision Improvements Agreement (SIA) as it appears with this application finding that this amended Final Plat (including the Lot Line Adjustments for the Liberty Bell and Bridal Veil lots) and amended Sites Constraints Map meet Land Use Code section 5-1502 Insubstantial Amendment Standards A through H. and finding the application to consistent with the uses and standards of Land Use Code Section 5-312 Mobile Home (MH) Zone District.

BE IT FURTHER RESOLVED that this approval is subject to the following conditions:

1. Revised Plat Note 16 shall read:

The uses on the Outlots depicted on this Second Plat Amendment are restricted as follows:

- (1) **Outlot A.** No development shall occur on Outlot A without the approval of San Miguel County

- (2) **Outlot C.** There are no assigned development rights, which have been designated for Outlot C. No residential development shall occur on Outlot C. Outlot C may be used consistent with those uses and activities allowed under the definition of "Passive Open Space" in the County Land Use Code and shall be deemed to include areas for sitting. Any pre-existing uses and uses approved in connection with the Idarado Legacy Subdivision, including the installation and maintenance of the rock retaining wall and the rockfall fence, are allowed on Outlot C. This plat note shall not preclude the activities required on Outlot C to fulfill obligations of IMC under the Consent Decree and remedial Action Plan signed with the State of Colorado in 1992 in settlement of Civil Action No. 83-C-2385.
- (3) **Outlot D-1, D-2, Outlot D-3, Outlot D-4 and Outlot D-5.** No development shall occur on Outlots D-1, D-2, D3, D-4 or D-5 without the approval of San Miguel County.

2. Plat Note 20 shall read:

20. Idarado hereby grants and conveys to the Cemetery District a temporary access easement ten feet in width over the portion of Lot L-1 depicted as the centerline of a Dirt Driveway to Lone Tree Cemetery. Idarado reserves the right to relocate the temporary easement to accommodate the construction of Liberty Bell Lane, provided that the relocated temporary easement provides a reasonably similar access to the Lone Tree Cemetery. The Temporary Easement shall expire at such time as Idarado and the Cemetery District agree to an alternative location for a permanent access easement. At such time, Idarado shall grant a permanent easement to the Cemetery District on terms and conditions mutually agreeable to Idarado, San Miguel County, and the Cemetery District. In any event, Idarado agrees that it will not convey title to Lot L-1 until a permanent easement is established with the Cemetery District, provided that the Cemetery District works in good faith with Idarado to establish a permanent easement, in the event an agreement concerning a permanent easement is not reached with the Cemetery District, Idarado will provide the County with a status report regarding such negotiations prior to conveying title to Lot L.

BE IT FURTHER RESOLVED this approval includes a Road Standard Exemption for the Liberty Bell cul-de-sac finding it meets the standards pursuant to LUC Section 5-501 B.

BE IT FURTHER RESOLVED a portion of the western segment of the Interpretive Trail will allow the tread width of eight feet for approximately one-tenth of a mile as shown on the submitted map.

BE IT FURTHER 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.

BE IT FINALLY RESOLVED that the Board of Commissioners unanimously approves the revised amendments heard July 6, 2005 finding the lots will continue to meet minimum lot size requirements and the area and bulk requirements in accordance with the applicable Land Use Code standard and prior project approvals as follows:

1. A modification to adjust the lot line between Outlot C and Liberty Bell Lots 4 and 5 so the completed (stabilized and re-built) rock wall will be located entirely on Outlot C and not on individual lots.
2. Liberty Bell Lots 8 and 9 will be reduced in size with portions of these previously platted lots being added to Outlot A to avoid further excavation of materials on the hillside.
3. Adjusting the lot line between Outlot D3 and Liberty Bell Lot 2 to avoid removing trees near Owl Creek.
4. A modified alignment for the Lone Tree Cemetery access road, to be constructed and paved by Idarado, and a possible boundary adjustment between the existing Cemetery fence line and Idarado property. This would create an additional Outlot E that would be conveyed to the Cemetery District.
5. Several minor changes to building envelopes on Liberty Bell Lot 1 and Bridal Veil Lot 3.

DONE AND APPROVED by the Board of Commissioners of San Miguel County, Colorado on August 2, 2005.

SAN MIGUEL COUNTY BOARD OF COMMISSIONERS

By: 
Art Goodtimes, Chair

Vern Ebert	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay	<input type="radio"/> Abstain	<input type="radio"/> Absent
Elaine Fisher	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay	<input type="radio"/> Abstain	<input type="radio"/> Absent
Art Goodtimes	<input checked="" type="radio"/> Aye	<input type="radio"/> Nay	<input type="radio"/> Abstain	<input type="radio"/> Absent

ATTEST:

By: 
Chief Deputy Clerk

[text/Idarado/revised plans.memo#2]

