

**RESOLUTION OF THE BOARD OF COMMISSIONERS
OF SAN MIGUEL COUNTY, COLORADO,
APPROVING A THIRD 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 2006-23

WHEREAS, Idarado Legacy, LLC, has submitted a Land Use Application requesting approval of certain amendments to the previously approved and recorded First and Second Amended Final Subdivision Exemption Plat and Cluster Development Plan for the "Cluster Lots" and the approved and recorded Site Constraints Map. In May 2005 the Board of County Commissioners (BOCC) approved an Insubstantial Second Amendment to the Subdivision Exemption Plat and Plan for the Cluster Development lots together with amendments to the Site Constraints Map;

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

WHEREAS, Idarado is proposing changes as a result of new information obtained during construction of the project since the Second Amended Plat was recorded in August 2005;

WHEREAS, the Second Amended Plat identified several Outlots where no development is to occur without County approval. The recorded plat identified Outlot D-1 adjacent to Owl Creek. Idarado has completed its excavation and removal of mine and mine related material from this area and would now like to incorporate Outlot D-1 into the adjoining lot, Liberty Bell Lot 2. This enlarges the size of Liberty Bell Lot 2 but does not increase the number of lots.

A number of the lot lines and dimensions of the Liberty Bell lots have been modified slightly in response to the as-built location of the wells that have been drilled and established for all of the lots in Liberty Bell. These revised lots will continue to comply with area and bulk requirements of the underlying zoning, allow structures to meet setback requirements and provide the required separation between wells, OWS and drainage easements. The utility easements have also been modified to reflect the as-built location of utilities that have been installed within the subdivision;

WHEREAS, the Site Constraint Map is also being amended as a result of the as-built location of individual wells and the subsequent adjustments to the OWS locations. These changes and modification are consistent with the original approvals and meet the established criteria for modifying these well and OWS locations;

WHEREAS, a drainage easement has been added to Liberty Bell Lot 7 to allow access to manage drainage and mitigate wetlands associated with a seep located on Lot 7. The U. S. Army Corps of Engineers has authorized some minor filling associated with this hillside seep to return the spring fed runoff to its original channel under a Nationwide General Permit. County Staff has administratively issued a Wetland Special Use Permit for this activity;

WHEREAS, the Interpretive Trail Tract and the lot line for Pandora Lot 1 has been modified so that the as-built location of the constructed Idarado Trail is incorporated into and entirely within the Interpretive Trail Tract. It is intended that Idarado will deed this Interpretive Trail Tract to San Miguel County in the near future;

WHEREAS, the lot line and building envelope for Pandora Lot 1 are also being modified as a result of the drilled well location and as-built improvements. A small area, approximately 2,135 square feet of land owned by Idarado Mining company is being added to the southern portion of the lot in order to provide a better or more useable building area on this lot. The southerly lot line coincides with the "elevated area". The building envelope will then be set back 10 feet from this new lot line as identified on the Site Constraints Map. This "elevated area" is one of the "hard building lines" shown on the Final Plat and Site Constraints Maps. It is intended as a building limit to prevent development from occurring in a delineated wetland area, flood hazard area, or in manner that would adversely affect the river;

WHEREAS, development may occur in the Wetland Buffer Zone subject to administrative review where it is demonstrated that during construction, good management and protection practices will be utilized to protect and avoid disturbances to the wetland associated with the wetland buffer zone;

WHEREAS, a utility and drainage easement on Pandora Lots 1 and 2 have also been modified to reflect as-built conditions in this area;

WHEREAS, the lot line common to Bridal Veil Lots 3 and 4 is being adjusted slightly in order to allow flexibility in designing a driveway to access the designated building envelope on Lot 3;

WHEREAS, this Third Amended Plat and Site Constraints Map has been referred to Goff Engineering & Surveying Acting as the County Engineer, the County Attorney, the County Environmental Health Director, the Open Space and Recreation Coordinator and the Town of Telluride;

WHEREAS, Goff Engineering advised that the plat submitted for review appears to meet the applicable requirements of the Colorado Revised statutes pertaining to Land Surveyors. They also provided Engineering Review comments advising that all OWS

sites must be a minimum of 100 feet from the potable water wells, and commented that there were several utility easements over the building envelopes. David Foley, surveyor,

has responded to these referral comments in a letter dated May 2, 2006, and Chris Chaffin, Idarado, has responded concerning the easements within the building envelopes;

WHEREAS, County Environmental Health Director Dave Schneck has commented concerning the proposal to return the spring fed drainage on Liberty Bell Lot 7 to its original channel, about the need for the OWS sites to meet setbacks from drainage easements (the Constraints Map includes a chart for setbacks for OWS components, which is 25 feet from an unlined drainage swale and 10 feet if the drainage ditch is lined). Mr. Schneck has also advised that he has looked at the proposed relocated and expanded building envelope as proposed for Pandora Lot 1 and agrees that the proposal is consistent with the designated "bench area" (elevated area) per the approved resolutions and plat;

WHEREAS, Jay Harrington, Telluride Town Manager, has advised in a May 2, 2006 E-mail that the Town of Telluride has reviewed the Third Amended Plat and has no comment at this time;

WHEREAS, the County Attorney in consultation with the Planning Director and the Open Space and Recreation Coordinator has drafted proposed modifications to Easement Note 3 pertaining to the Interpretive Trail Tract, which in the near future is to be conveyed to the County for public, non-motorized, multi-use, recreational trail uses as specified in this note and a subsequent deed. The proposed note revisions are intended to clarify the relationship between Idarado's reserved easement rights set forth in Note 3 for the installation, repair and /or maintenance of utilities and wells serving the development, and the right to use the Interpretive Trail that Idarado is to convey to the County;

WHEREAS, there is no proposed change in use, no increase in the number of lots, no increase in residential density and no substantive increase in the overall coverage of structures on the land. Additionally, the lots, building sites, well locations, on-site wastewater 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, 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 Constraints 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 development’s 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 Third Amended Site Constraints Map is intended to reflect the changes that have been made to the Liberty Bell, Pandora and Bridal Veil lots on the Subdivision Exemption Plat;

WHEREAS, there is no proposed change to the previously approved Third Amendment to the Subdivision Improvements Agreement (SIA);

WHEREAS, a revised Third 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 May 24, 2006.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of San Miguel County, Colorado unanimously approves an Insubstantial Third 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 finding that the proposed amendments and the revised Subdivision Exemption Plat and Cluster Development Plan meets the standards for an Insubstantial Plat Amendment as set forth in LUC Section 5-1502 A. thru H.; that the changes to the plat and plan are consistent with the BOCC’s previous approvals as set forth in BOCC Resolutions, 2003-23, 2003-30A, 2004-4, and 2005-11; and that the proposed amendments and modifications to the lots are consistent with the requirements, lot size and uses prescribed in the underlying Mobile Home (MH) Zone District;

BE IT FURTHER RESOLVED that the Board of Commissioners finds that the constraints and facilities as identified on this Third Amended Site Constraint Map continue to comply with all limitations and requirements and standards applicable to and pursuant to the approved Cluster Development Plan.

BE IT FINALLY RESOLVED that all representations made by the applicant in writing both with the original submittal and amendments are considered as part of this approval unless specifically modified by the Resolution.

DONE and APPROVED by the Board of Commissioners of San Miguel County, Colorado, on May 31 2006.

SAN MIGUEL COUNTY BOARD OF COMMISSIONERS

By: Elaine R.C. Fischer
Elaine R.C. Fischer, Chair

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

ATTEST

By: John Huebner
Chief Deputy Clerk

[text/Idarado/Idarado 3rd amendment plat.memo]

