PARK COUNTY BOARD OF COMMISSIONERS
AGENDA
501 Main Street
FAIRPLAY, COLORADO
**Thursday, January 26, 2017**

9:30 AM CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

APPROVAL OF VOUCHERS

CONSIDERATION AND/OR DECISION ON THE FOLLOWING ITEMS:

**.I.** APPROVE/DENY 2017 HUTF REPORT FOR SUBMISSION TO CDOT

**.II.** APPROVE/DENY UPCOMING RENEWALS & APPOINTMENTS FOR COUNTY APPOINTED BOARDS:
**Library Board**

- Donald Rocksted
- Betty McLain

**.III.** APPROVE/DENY APPOINTMENTS TO COUNTY APPOINTED BOARDS:
**Burland Equestrian**

- Bob Fariss

**.IV.** APPROVE/DENY WORK CONTRACT 17 IHGA WITH CO DEPT. OF HUMAN SERVICES FOR EMPLOYMENT VERIFICATION SERVICES (EVS) TO COLORADO COUNTIES

PUBLIC HEARING(S)

**.I.** MOORE DALE REZONING #16ZON-12:

The Park County Planning Department is applying to rezone eight parcels in Township 7 Range 73 Section 26, adjacent to the Moore Dale Ranch Resort. Each parcel will be rezoned from Planned Unit Development (PUD) to the most appropriate zone district for its size and current use.
**APPLICANT**: Park County

Documents:

16ZON-12 BOCC Staff Report 2017.pdf

PUBLIC COMMENTS

EXECUTIVE SESSION IN REGARD TO LEGAL & PERSONNEL MATTERS (CLOSED SESSION)

ADMINISTRATIVE SESSION (OPEN)

12:00 PM LUNCH

TIMES ARE APPROXIMATE. ITEMS MAY BE HEARD EARLIER OR LATER THAN SHOWN ABOVE.

NOTE: Items May Be Added To These Agendas Up To 48 Hours Before The Scheduled Time. Items May Be Deleted Or Cancelled At Any Time. Please Check Website www.parkco.us for most Updated Agendas. If You Need Further Information, please contact the BOCC Office At (719) 836-4201.

# PARK COUNTY BOARD OF COMMISSIONERS
# PLANNING DEPARTMENT STAFF REPORT

BOCC Hearing Date: January 26, 2017

To: Park County Commissioners

Date: January 17, 2016

Prepared by: Jennifer Gannon, Planning Technician
Sheila Cross, Director of Development Services

Case Number: 16ZON-12 (Continuation)

Subject: Moore Dale Area Rezoning

Request: Park County Planning & Zoning Department is requesting rezoning of eight parcels from Planned Unit Development to appropriate zone districts for their current uses.

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**Application Summary:**

| | |
|---|---|
| Applicants/Owners: | Park County/See Attachment 1. |
| Location: | Properties are adjacent to and across Highway 285 from Moore Dale Ranch Resort, all in the NW4 of Section 26, Township 7, Range 73. Addresses vary; see Attachment 1. |
| Current Zone District: | Planned Unit Development (PUD) |
| Surrounding Zoning: | Agricultural (A), Agricultural Small Lot (A-35), Residential Estate (R-20), and Residential (R). A Current Zoning Map is included as Attachment 2. |
| Lot Size: | See Attachment 1. |
| Proposed Zoning: | Various. A Proposed Zoning Map is included as Attachment 3. |

**Background:**

This case was originally brought to the BOCC in September 2016, requesting rezoning of twelve lots in the Moore Dale Ranch Resort area. A vicinity map is provided as Attachment 4. There was a resulting resolution to rezone four of the lots. The other eight were smaller than the current minimum allowable new lot size for the zone districts proposed, and the question was raised about whether the County could rezone a non-conforming-sized parcel.

Staff was asked to write a proposal for a Lot Size Variance to be added to the Land Use Regulations so that variances could be granted to these remaining eight parcels prior to approval of any rezoning. However, it has since been decided that, since the parcel size requirements for all zoning districts are under the heading "New Lot Development Standards", these rezonings would be legal, as these are not new lots, and were established prior to Park County adopted zoning regulations.

This rezoning request has been a project in the works since 2014, when two different property owners were prevented from continuing with their plans for their properties because County zoning maps showed them to be zoned PUD, with no approved PUD Plan on file. This raised many questions as to what legal use of the property actually would be.

In developing this case, staff researched the zoning history of this area. Per the original zoning map, approved by the BOCC on January 20, 1975, the entire Northwest Quarter of Township 7, Range 73, Section 26 was zoned Commercial. On June 18, 1979, a BOCC resolution was made to rezone 170 acres to PUD. The only existing PUD Sketch Plan did not include anything north of Highway 285, the restaurant property, or most of the south part of the quarter; and the stated 170 acres to be rezoned does not correlate with the plan. See Attachment 5. However, the entire northwest corner was colored in (literally, as this was the way zoning records were kept at the time) as PUD and this zoning has been brought forward to the digital zoning maps we use today.

In 1983 the BOCC voted that, since no substantial construction had taken place, the 1979 PUD Plan was no longer in effect. In 1985 a "Condominium Plat" was approved and filed and this, along with two other smaller "Condominium Plats", for lack of any other existing document, is what staff considers the PUD Plan for Moore Dale Ranch Resort. See Attachment 6. None of the properties subject to this rezoning are part of the existing plan.

## Parcel History and Proposed Zone District

1. <u>Kent and Sally Collins - Parcels #16004</u>
   This 54.06-acre parcel has been used for residential and agricultural purposes since at least the 1950s. The recommended zone district is Agricultural in order to allow all current uses and structures.

2. <u>Kent and Sally Collins – Parcel #18058 and #18314</u>
   The houses on these parcels of 1 acre and 1.52 acres were built in the 1940s and are still in use. Staff recommends rezoning both of these from PUD to the Residential (R) Zone District.

3. Dare Family Joint Trust-Parcel #17624
   This is a 0.52-acre parcel with a cabin that was built in the 1930s. Staff recommends rezoning to the Residential (R) Zone District.

4. Deborah Jalanivich – Parcel #18527
   This is a 1.5-acre parcel with a house that was built in the 1950s. Staff recommends that it be rezoned to the Residential (R) zone District.

5. Michele Brown – Parcel #17619
   This is a 0.54-acre parcel with a house built in the 1950s. Staff recommends that it be rezoned to the Residential (R) zone District.

6. R5 Properties LLC – Parcel #15979
   This is a 1.5-acre parcel with a house that was built in the 1950s. Staff recommends that it be rezoned to the Residential (R) zone District.

7. Donald and Adda Dean – Parcel #18656
   This is a 1.5-acre parcel with a house that was built in the 1950s. Staff recommends that it be rezoned to the Residential (R) zone District.

Letters explaining this case were sent to all landowners of these subject parcels and they were asked to send signed acknowledgements back. Five did sign and return the acknowledgement. Staff also phoned all the owners and talked to all but two. The owners have all agreed to the zoning recommended by staff. Though rezoning is ultimately the decision of the BOCC and does not need approval from land owners, staff felt it was important to get any feedback the owners might have had regarding the current and future use of their property.

Note that Parcel #15949, a 0.21-acre lot on the north side of Highway 285, was rezoned from Commercial to Planned Unit Development in 1997 because there were both commercial and residential uses on the property. This parcel is not part of this rezoning request. Similarly, Moore Dale Resort has an approved PUD plan and is in conformance with that plan, so that parcel is also not included in this rezoning.

**Land Use Regulations and Strategic Master Plan:**

Each of the standards for approval of a Zoning Map Amendment (LUR Section 5-202, page 9) is addressed, as summarized below.

**A. In considering any petition for amendment of the Official Zoning Map, the following standard shall govern. The applicant for the proposed amendment shall bear the burden of proof and the resolution approving the zoning map amendment shall be approved and adopted only if it is demonstrated by clear and convincing evidence presented during the public hearing that the following conditions or circumstances exist:**

1. **The property possesses the geological, physical, and other environmental conditions that are compatible with the potential uses permitted in the proposed zone district; and**
   All subject properties are compatible with the potential uses in the zone districts proposed for them. The proposed zone districts permit the existing uses.
2. **The property has a reasonably certain right of permanent legal access permitting vehicular ingress and egress from the property to the public thoroughfare; and**
   All properties have reasonably certain rights of permanent legal access.
3. **Access to the property from the public thoroughfare reasonably meets County street, road, or driveway standards or, if the property is undeveloped, such access will be established prior to issuance of a building permit; and**
   All access points have been in existence since the 1950's or earlier. Future development on these properties may prompt some driveway improvements.
4. **The potential uses of the property within the proposed zone district are compatible with other properties within the immediate surrounding area; and**
   Proposed zone district potential uses are all compatible with surrounding areas and current uses.
5. **At least one of the following:**
   **a. The rezoning, as proposed, is consistent with the advisory provisions of the Park County Strategic Master Plan; or**
   This case has more to do with following Land Use Regulations than the Strategic Master Plan. Changing the zoning of these parcels will make clear what the legal uses are for each and it will be easier for the owners to make improvements and use their land legally in the future without questions arising.
   **b. The rezoning, as proposed, is supported by circumstances and conditions within the immediate area which have changed since the adoption of the Park County Strategic Master Plan; or**
   Not Applicable.
   **c. The rezoning, as proposed, is to a Planned Unit Development**
   Not Applicable.

**Impact Analysis:**

No significant impact is anticipated to schools, parks, storm drainage or utilities.

**Public Comment:**

The Planning Commission considered this application at its September 13, 2016 meeting. The following public comments were made.

- Kent Collins spoke about the history of the area and of his parcel. He asked to be zoned Agricultural (A).
- Andy Smart came forward to tell the history of his property, Sweet Fanny Adams Restaurant. He said he has been trying to rezone this parcel to Commercial for three years, and is appreciative of this process. (This parcel was rezoned to Commercial in by Resolution #2016-44).
- Ross Bruno came forward twice to voice his support for the Collins request to be rezoned to Agricultural.
- John Rice, treasure for the Moore Dale Ranch HOA, came forward and was assured that this rezoning will not affect the Moore Dale Ranch Resort at all.

**Planning Commission Action:**

Because of the dilemma posed by the lots that do not conform to the current new lot minimum size requirements, the Planning Commission recommended to the BOCC that Section 3-100 of the Park County Land Use Regulations be revised to include a Lot Size Variance so that nonconforming lots could be considered for Lot Size Variances by the Board of Adjustment; followed by rezoning of all eight lots by the BOCC. The applicability of the variance requirement has since been vetted by staff and deemed to be unnecessary. This has also been explained to the Planning Commission.

Four properties were previously and unanimously recommended for approval by the BOCC for rezoning as recommended by staff. The recommendation to approve the rezoning of the remaining eight lots stands.

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**Recommendation:**

Based on the foregoing, staff recommends that the rezoning of the following parcels be approved as follows.

1. #16004 to be rezoned to Agricultural (A).
2. #18058 to be rezoned to Residential (R).
3. #18314 to be rezoned to Residential (R).
4. #17624 to be rezoned to Residential (R).
5. #18527 to be rezoned to Residential (R).
6. #17619 to be rezoned to Residential (R).
7. #15979 to be rezoned to Residential (R).
8. #18656 to be rezoned to Residential (R).

Options for BOCC action are to ask that the County Attorney prepare a resolution to either:

- Approve the application with no conditions,
- Approve the application with newly identified conditions, or
- Deny the application.

# Attachment 1

**HOWARD KENT AND SALLY COLLINS**
**Schedule #16004**
**354 Old Stage Coach Road**
**54.06 Acres**
**Current Use: Agricultural**
**Proposed Zone District: Agricultural (A)**

**HOWARD KENT AND SALLY COLLINS**
**Schedule #18058**
**495 Old Stage Coach Rd.**
**1.0 Acre**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

**HOWARD KENT AND SALLY COLLINS**
**Schedule #18314**
**381 Old Stage Coach Rd.**
**1.52 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

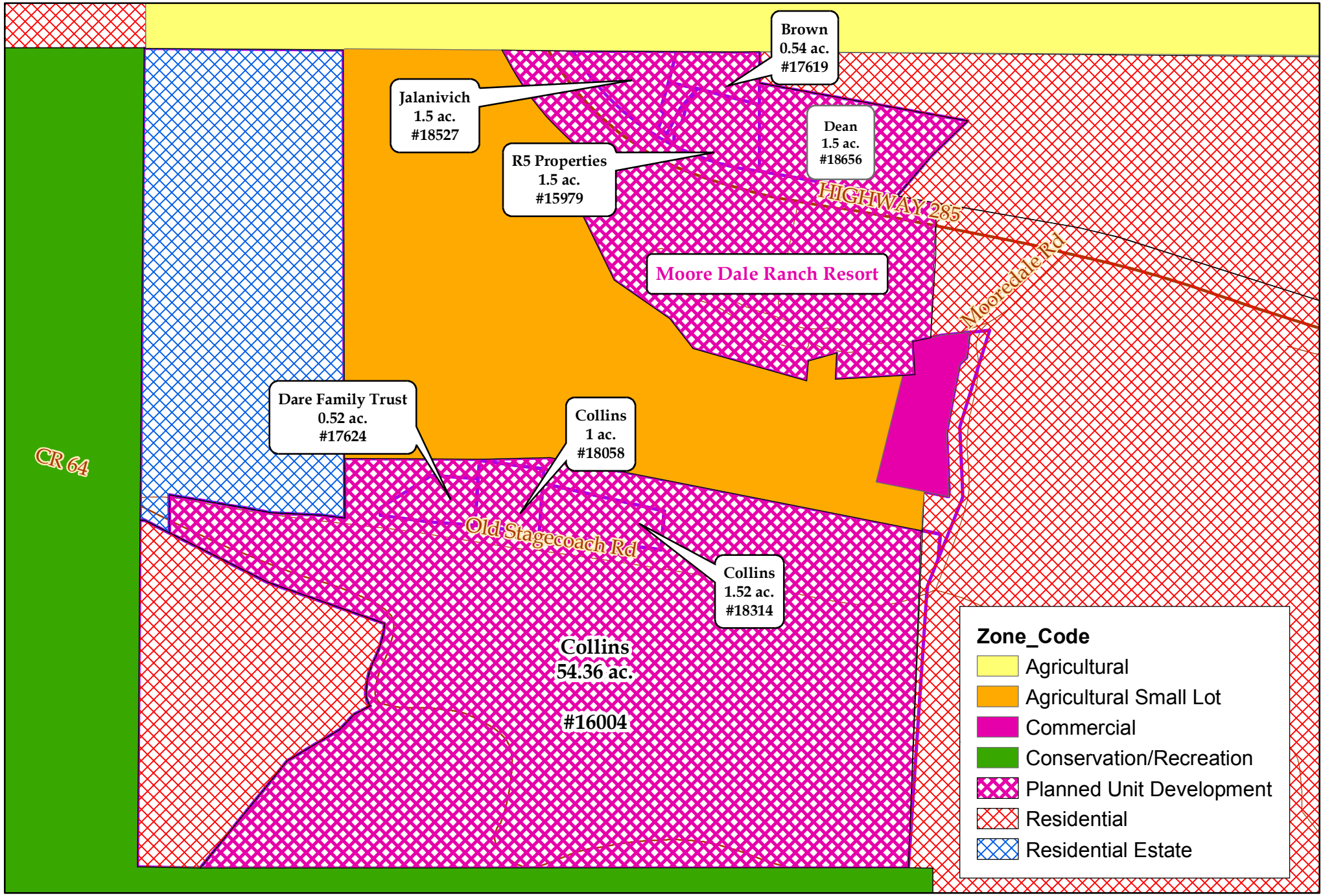
**DARE FAMILY JOINT TRUST**
**Schedule #17624**
**559 Old Stage Coach Rd.**
**0.52 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

**DEBORAH JALANIVICH**
**Schedule #18527**
**57813 Hwy 285**
**1.5 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

**MICHELE BROWN**
**Schedule #17619**
**57833 Hwy 285**
**0.54 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

**R5 PROPERTIES LLC**
**Schedule #15979**
**57837 Hwy 285**
**1.5 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**

**DONALD L. AND ADDA L. DEAN**
**Schedule #18656**
**57965 Hwy 285**
**1.5 Acres**
**Current Use: Residential**
**Proposed Zone District: Residential (R)**



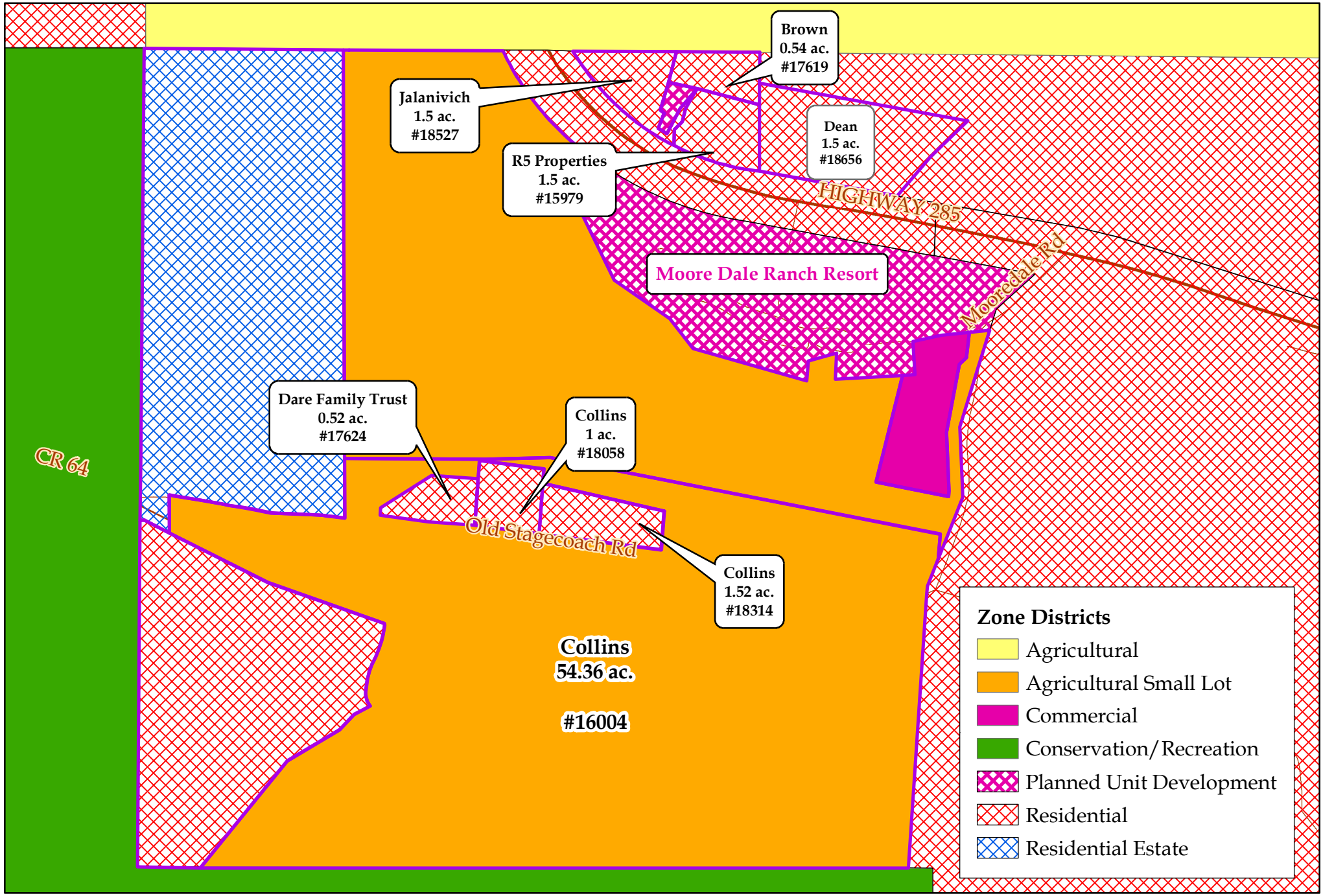

**Attachment 2**

Moore Dale Rezoning
Current Zoning Map

N

0 400 800 1,600 Feet

Park County Planning Department



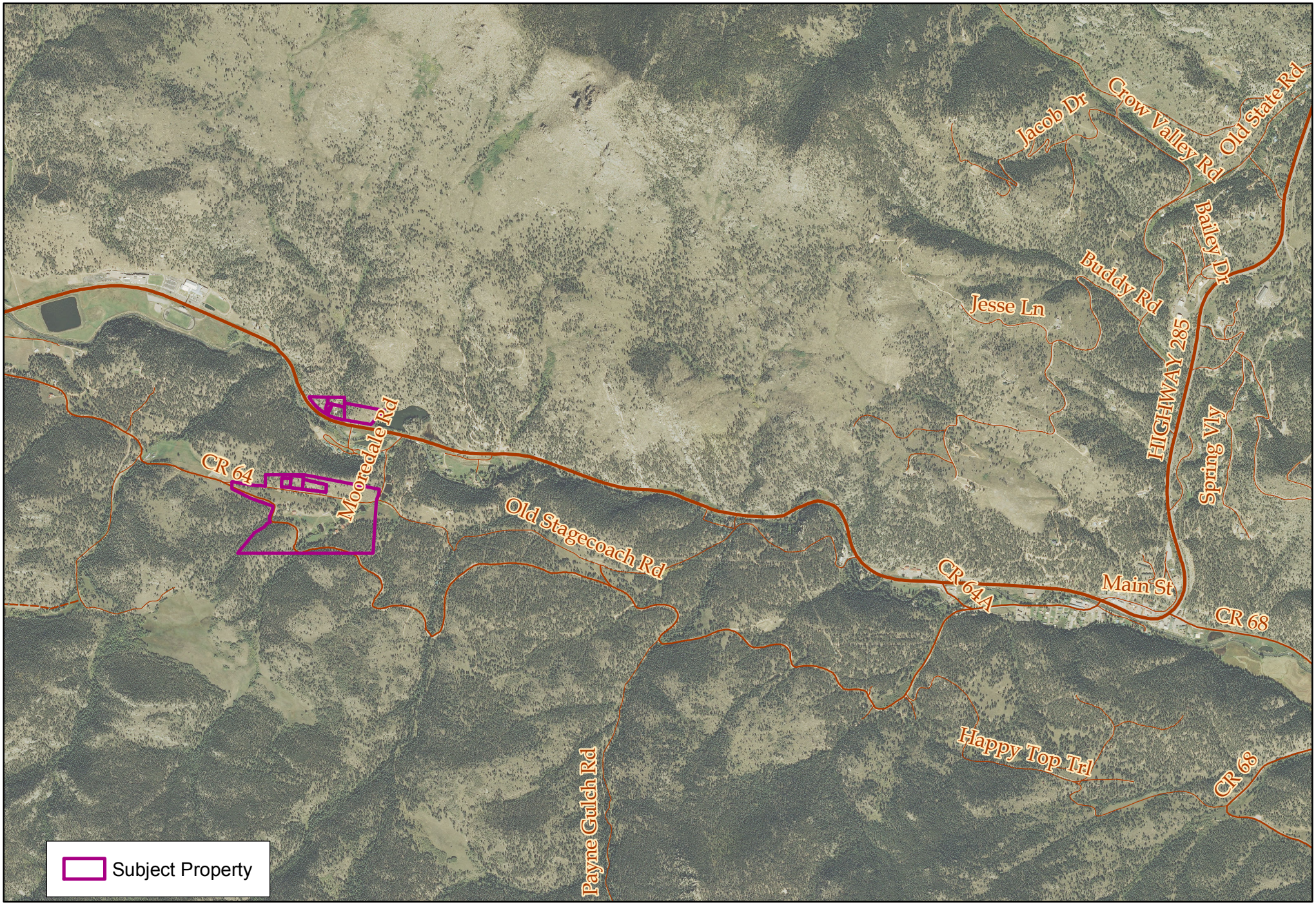

N

**Attachment 3**

Moore Dale Rezoning
Proposed Zoning Map

0 400 800 1,600 Feet

Park County Planning Department




# Attachment 4
# Vicinity Map

0 0.375 0.75 1.5 Miles

Park County Planning Department

*This map is not a survey.*

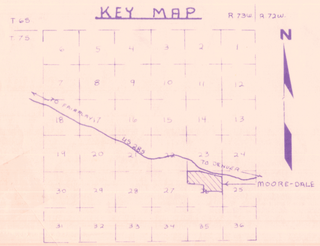
N

# Attachment 5

NOTES:

1. THE LODGE, OFFICE, CHALET, AND OFFICE WILL REMAIN AS A COMMERCIAL OPERATION, OPEN TO THE PUBLIC ON A WALK IN BASIS.
2. 33 OF THE EXISTING UNITS IN MOORE DALE WILL BE PLATTED ON TRACTS AND SOLD AS MULTIFAMILY OR INDIVIDUAL UNITS.
3. APPROXIMATELY 10 MORE UNITS WILL BE ADDED TO THE EXISTING VILLAGE, WEST OF THE TENNIS COURT.
4. APPROXIMATELY 157 ADDITIONAL MULTIFAMILY AND SINGLE FAMILY UNITS WILL BE PLATTED AND BUILT ON THE REMAINING PROPERTY.
5. ALL UNITS WEST OF THE HIGH RIDGE LINE WILL BE SERVED BY CENTRAL SEWER COLLECTION AND WATER DISTRIBUTION SYSTEMS.

KEY MAP




SCALE 1/2" = 1 MILE

SCALE 1" = 200'

200 100 0 200 400

**MASTER SKETCH PLAN**

**MOOREDALE**

LOCATED IN A PORTION OF THE N1/2 OF SECTION 26, T.7S., R.73W., OF THE 6TH P.M., PARK COUNTY, COLORADO

BY: MOUNTAIN PLANNING & DEVELOPMENT
FAIRPLAY, COLORADO 80440

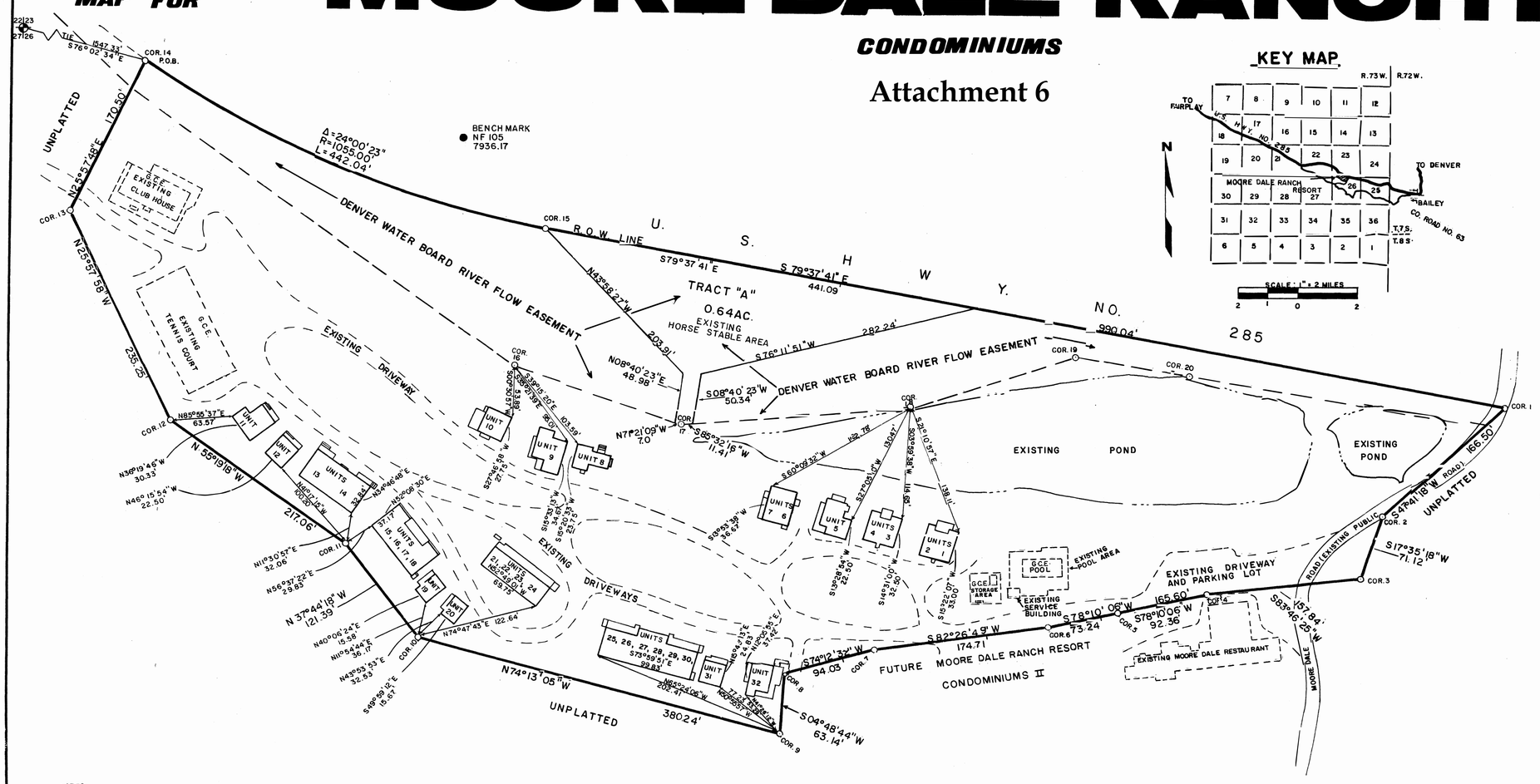
APRIL 10, 1979

Condo Book B. 574 p 247-

# CONDOMINIUM MAP FOR MOORE DALE RANCH RESORT

## CONDOMINIUMS

Attachment 6







NOTES:
1. 5/8" REBAR WITH SURVEY CAP HAVE BEEN SET AT ALL BOUNDARY CORNERS.
2. THIS PROPERTY HAS P.U.D. COUNTY ZONING.
3. THIS CONDOMINIUM MAP CONTAINS 32 UNITS.
4. THERE ARE NO COUNTY OWNED OR COUNTY MAINTAINED ROADS WITHIN THIS CONDOMINIUM MAP.
5. CONDOMINIUM DECLARATIONS ARE RECORDED AT BOOK 390 PAGE 379 OF THE PARK COUNTY CLERKS OFFICE.
6. SEE CONDOMINIUM DECLARATIONS REGARDING:
   a) UTILITY EASEMENTS, UTILITY SERVICES, OPERATIONS AND MAINTENANCE.
   b) DEFINITIONS AND DESCRIPTIONS OF "GENERAL AND LIMITED COMMON ELEMENTS".
   c) USE AND RIGHTS TO DRIVEWAYS, PARKING SPACES, AND AMENITIES.
7. N F105 IS A DENVER MUNICIPAL WATER WORKS BENCH MARK WHOSE ELEVATION IS 7936.17

### SURVEYOR'S CERTIFICATE.

I, THOMAS L. BURNETT, BEING A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS CONDOMINIUM MAP FOR MOORE DALE RANCH RESORT CONDOMINIUMS SHOWING THE SURVEY WITH BUILDING LOCATION AND IMPROVEMENTS, UNIT DESIGNATION, DIMENSIONS AND ELEVATIONS, (ALL OBTAINED AFTER COMPLETE COMPLETION), ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF BUILDINGS AND OTHER IMPROVEMENTS, EASEMENTS OR RIGHT OF WAYS OF RECORD AS ARE KNOWN TO ME, THE ELEVATIONS OF THE FLOORS AND ROOFSAS CONSTRUCTED, AND THE THICKNESS OF THE COMMON WALLS BETWEEN OR SEPERATING THE UNITS.

Oct. 7, 1985 — DATE

Thomas L. Burnett — THOMAS L. BURNETT, L.S. NO. 11844

N O T I C E: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN SIX YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

### DEDICATION.

KNOW ALL MEN BY THESE PRESENTS THAT METRO NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, BEING THE OWNERS OF THAT PORTION OF THE N1/2 OF SECTION 26, TOWNSHIP 7 SOUTH, RANGE 73 WEST, OF THE 6th P.M., LYING SOUTHERLY OF U.S. HIGHWAY NO. 285, COUNTY OF PARK, STATE OF COLORADO, TO WIT:

BEGINNING AT THE NW CORNER OF SAID SECTION 26, THENCE S76°02'34"E FOR A DISTANCE OF 1547.33 TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 285, THE TRUE POINT OF BEGINNING, THENCE CONTINUING ALONG SAID R.O.W. AND TO THE LEFT ALONG THE ARC OF A CURVE WHOSE DELTA IS 24°00'23" AND WHOSE RADIUS IS 1055.00' FOR A DISTANCE OF 442.04' AND WHOSE CHORD BEARS S67°37'29"E FOR A DISTANCE OF 438.81', THENCE S79°37'41"E CONTINUING ALONG SAID R.O.W. FOR A DISTANCE OF 990.04', THENCE S47°41'18"W LEAVING SAID R.O.W. FOR A DISTANCE OF 166.50', THENCE S17°35'18"W FOR A DISTANCE OF 71.12', THENCE S83°46'25"W FOR A DISTANCE OF 157.84', THENCE S78°10'06"W FOR A DISTANCE OF 165.60', THENCE S82°26'49"W FOR A DISTANCE OF 174.71', THENCE S74°12'32"W FOR A DISTANCE OF 94.03', THENCE S04°48'44"W FOR A DISTANCE OF 63.14', THENCE N74°13'05"W FOR A DISTANCE OF 380.24', THENCE N37°44'18"W FOR A DISTANCE OF 121.39', THENCE N55°19'18"W FOR A DISTANCE OF 217.06', THENCE N25°57'58"W FOR A DISTANCE OF 235.25', THENCE N25°57'48"E FOR A DISTANCE OF 170.50', TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF U.S. HIGHWAY NO. 285, THE TRUE POINT OF BEGINNING. CONTAINING 10.89 ACRES, MORE OR LESS. ALL BEARINGS ARE REFERENCED TO THE NORTH LINE OF SAID SECTION 26 AS BEING S89°21'07"E, BOTH SECTIO CORNERS BEING GOVERNMENT BRASS CAPS. THAT SAID OWNERS HAVE BY THESE PRESENTS LAID OUT, AND SUBDIVIDED THE SAME INTO UNITS AND AREAS AS SHOWN ON THIS MAP, UNDER THE NAME AND STYLE OF MOORE DALE RANCH RESORT CONDOMINIUMS.

EXECUTED THIS 7 DAY OF October A.D., 1985.

METRO NATIONAL BANK
A NATIONAL BANKING ASSOCIATION
BY Gary K. Crum A.V.P.
Asst. Vice Pres.

### NOTORIAL.

STATE OF COLORADO
COUNTY OF Park

THE FOREGOING STATEMENT AND DEDICATION WAS ACKNOWLEDGED BEFORE ME THIS 7th DAY OF October A.D., 1985

MY COMMISSION EXPIRES 4-1-88
WITNESS MY HAND AND SEAL

Linda J. Burnett
NOTARY PUBLIC 820 Main St. Fairplay Co. 80440

### HOLDERS-OF-DEEDS-OF-TRUST.

WILLIAM P. MOORE AND TERESA J. MOORE
BY Teresa J. Moore
Teresa J. Moore, Attorney
William P. Moore, Personal Representative

### APPROVED BY THE PARK COUNTY BOARD OF COMMISSIONERS.

APPROVED BY THE PARK COUNTY BOARD OF COMMISSIONERS, THIS 10th DAY OF December A.D., 1985.

BY Richard J. Egloff

Harriet B. Anderson
CLERK

### APPROVAL OF PLANNING COMMISSION.

APPROVED BY THE PARK COUNTY PLANNING COMMISSION, THIS 9th DAY OF JULY A.D., 1985.

BY Jarrett T. Campbell

### RECORDER'S CERTIFICATE.

THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF PARK COUNTY, AT 2:00 PM ON THE 10th DAY OF December A.D., 1985, AND DULY FILED AT RECEPTION NO. 346548

Harriet B. Anderson
COUNTY CLERK AND RECORDER

### TITLE CERTIFICATE.

a TITLE INSURANCE COMPANY HEREBY CERTIFIES THAT TITLE TO THE ABOVE DESCRIBED PROPERTY IS VESTED IN THE DEDICATORS.

October 4, 1985 — DATE

SCALE : 1" = 60'
60' 30' 0 60' 120'


Mountain Planning & Dev.
Surveying, Planning & Geology
P. O. Box 126 Fairplay, Colo. 804
Phone 836-2480