

**PARK COUNTY BOARD OF COUNTY COMMISSIONERS
PLANNING DEPARTMENT STAFF REPORT**

Board Hearing Date: March 22, 2022

To: Board of County Commissioners

Date: March 17, 2022

Prepared by: John Deagan, AICP; Senior Planner

Case #: 21CUP-04

Subject: Mosquito Creek Project Conditional Use Permit

Request: A Conditional Use Permit to allow an Outdoor Recreational Facility (Backcountry Huts) on a Residentially zoned parcel.

Application Summary:

Applicant/Owner:	Dirk Long/John Ireland
Location:	Part of the SW ¼ S9 T9 R78 addressed as 4455 County Road 12, Alma. A vicinity map is included as Attachment 1
Current Zone District:	Residential
Surrounding Zoning:	Conservation/Recreation, Residential, and Mining – a zoning map is included as Attachment 2.
Lot Size:	10.33 acres
Existing Use:	Vacant
Proposed Use:	Backcountry Huts

Background:

The subject lot is on County Road 12, four and a half miles west of Highway 9. It is a former mining claim that was rezoned from Mining to Residential in 2019. The owner now wishes to develop it as a Backcountry Hut, which falls under the definition of Outdoor Recreation Facility. Outdoor Recreation Facilities are a conditional use on Residentially zoned lots of all sizes.

The lot is cut roughly in half by County Road 12. The southern portion contains part of Mosquito Creek and associated wetlands, and no development is proposed there. The northern half contains areas of steep slopes which are north of the proposed development. The lot does not contain any mapped geologic hazards. A 2019 geologist's report prepared for the rezoning application confirmed this, although it mentioned two avalanche chutes to the west of the lot, roughly one quarter mile and one half mile away. The lot was not mined and does not contain any man-made hazards from such activity.

The proposal is for four backcountry huts, each capable of containing four guests. There would also be a lodge with kitchen and living areas, also capable of containing eight guests. Bathrooms would be in another building that would also contain a garage and storage space. The site plan includes seven parking spaces, one of which is intended for handicapped use. A preliminary septic system design has been completed and is included on the site plan.

The project narrative mentions use by four-wheel drive vehicle enthusiasts. It should be noted that the use of off-highway vehicles on county roads is not allowed. The Forest Service District Ranger's referral response mentioned concerns about the effect the proposal might have on wildlife. In order to address these concerns, a 1041 wildlife hearing was held and a permit was issued for the proposed development on January 25. The resolution approving the permit is included as Attachment 3. The 1041 permit administrator made a finding of no significant impact regarding mining activity.

Land Use Regulations and Strategic Master Plan:

Each of the standards for approval of a Conditional Use Permit (LUR Section 5-503) is addressed, as summarized below.

- A. The use proposed is an authorized Conditional Use for the zone district in which the property described in the application is located.**
Outdoor Recreational Facilities are a conditional use on Residentially zoned lots of any size.
- B. The property described in the application for Conditional Use Permit possesses geological, physical, and other environmental conditions that are compatible with the proposed conditional use.**
The lot contains areas with slopes over 30%, but these are not near the proposed building area. The lot also contains wetlands, but setback requirements are met.
- C. The Conditional Use will conform to all applicable requirements of the zone district and these Land Use Regulations and does not create a substantial safety concern for anticipated visitors to the property.**
Staff believes this standard of approval is met.
- D. The property has a reasonably certain right of permanent legal access permitting vehicular access from the property to the public thoroughfare.**
The lot has frontage on County Road 12, a public right-of-way.
- E. 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.**
Access to the property meets driveway standards. The driveway was permitted and approved.

F. The proposed Conditional Use is compatible with the uses and zoning for other properties within the neighborhood or immediately surrounding area.
Conditions regarding possible external effects of the proposal are necessary to ensure that this standard of approval is met.

G. In making this determination, conflicts with any enforceable covenants, conditions and restrictions of record will be considered.
No such restrictions exist.

Impact Analysis:

With the imposition and enforcement of conditions necessary to ensure that Conditional Use Permit Standard of Approval F is met, no adverse impacts to nearby land uses are anticipated.

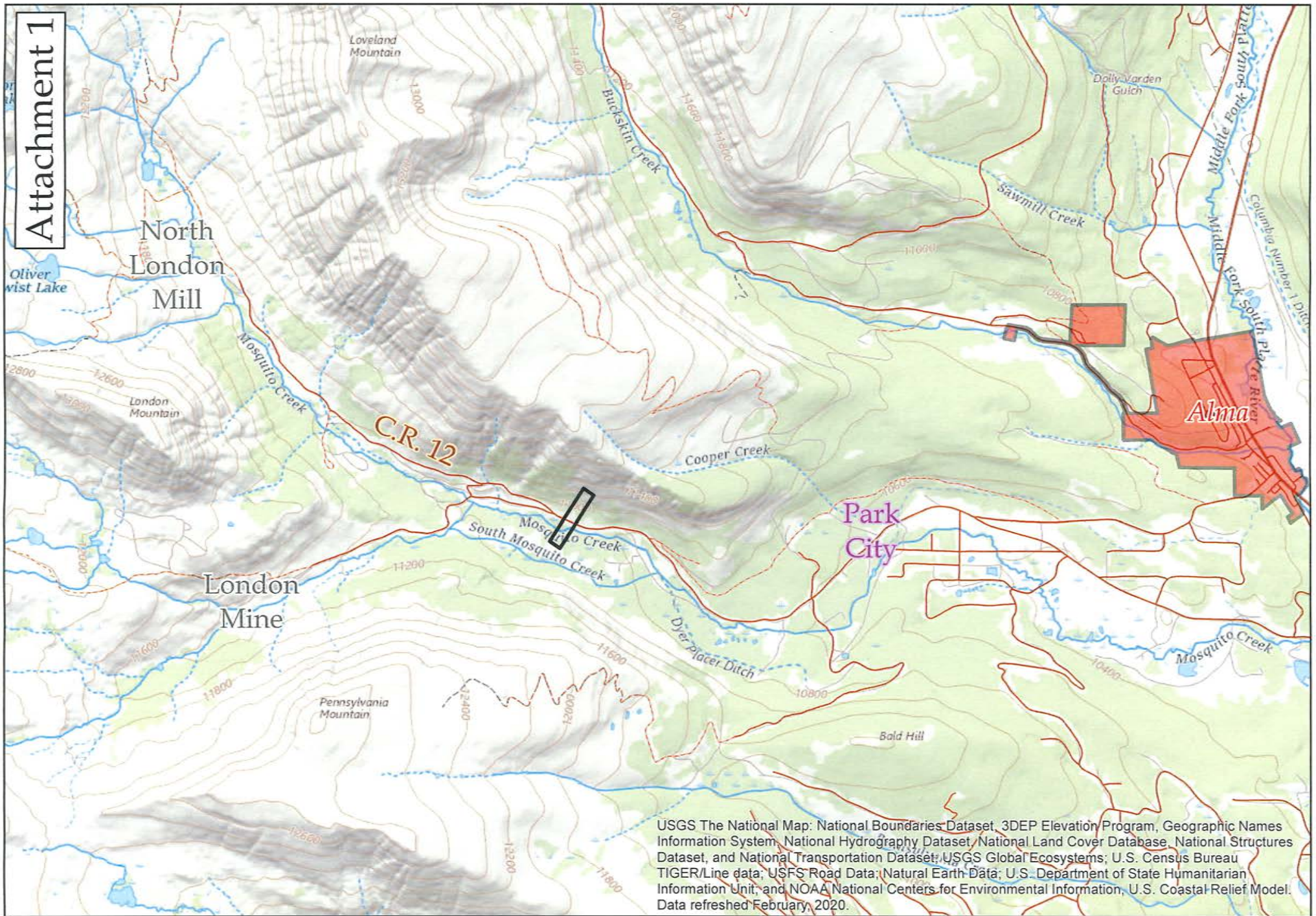
Planning Commission:

The Planning Commission reviewed this application at their December 15, 2021 meeting and recommended approval of the application with the following conditions.

1. Prior to hearing of this application by the Board of County Commissioners, 1041 Wildlife and Mining permits are approved if deemed necessary by the permitting authority. *(This condition has been met.)*
2. Prior to issuance of any building permits, any necessary approvals for the proposed use are granted by the United States Forest Service.
3. No campfires or bonfires of any kind are allowed.
4. No off-highway vehicle use on public streets, roads, or highways is allowed.
5. The conditional use permit shall expire three years after issuance, but may be renewed by an application procedure as described in Park County Land Use Regulations Section 5-502. The approval of this renewal may be for perpetuity if deemed appropriate by the Board of County Commissioners.

Recommendation:

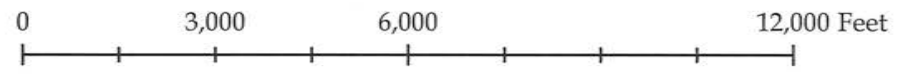
Based on the foregoing, staff recommends that the Conditional Use Permit be approved with conditions two through five above.



USGS The National Map: National Boundaries Dataset, 3DEP Elevation Program, Geographic Names Information System, National Hydrography Dataset, National Land Cover Database, National Structures Dataset, and National Transportation Dataset; USGS Global Ecosystems; U.S. Census Bureau TIGER/Line data; USFS Road Data; Natural Earth Data; U.S. Department of State Humanitarian Information Unit, and NOAA National Centers for Environmental Information, U.S. Coastal Relief Model. Data refreshed February, 2020.

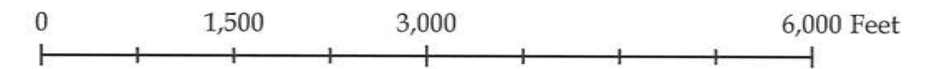


Vicinity Map





Zoning Map



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PARK COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS
Resolution No. 2022-10

A RESOLUTION GRANTING A SIGNIFICANT WILDLIFE HABITAT AREAS PERMIT WITH CONDITIONS FOR THE STEPHENS LODGE MINERAL SURVEY, CONSISTING OF 10.33 ACRES IN SECTION 9, T09 R78 ADDRESSED AS 4455 COUNTY ROAD 12, ALMA.

WHEREAS, the Park County Board of County Commissioners (“BOCC”), pursuant to C.R.S. §24-65.1-101 *et seq.*, have designated Significant Wildlife Habitat Areas as a matter of Statewide Interest; and

WHEREAS, the BOCC has adopted guidelines for the regulation of these designated matters of Statewide Interest known as Significant Wildlife Habitat Areas (“Regulations”); and

WHEREAS, Dirk Long has applied for a Significant Wildlife Habitat Areas Permit for the Mosquito Creek Project, an Outdoor Recreational Facility consisting of Backcountry Huts (the “Project”); and

WHEREAS, at a regularly scheduled public meeting of the Park County Board of County Commissioners, preceded by the required public notice, the Board of County Commissioners conducted a public hearing on the application at which it reviewed the application and supporting documentation, the recommendations of the Planning Department and Colorado Parks and Wildlife, and considered the testimony of the Applicant.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR PARK COUNTY, COLORADO:

Section 1. Findings. The BOCC finds that the Project, with conditions, will satisfy the Approval Standards and Criteria in Chapter 2, Article 4 of the Regulations. The BOCC further finds that the applicant has consented to the conditions of Approval.

Section 2. Permit Approval. The BOCC hereby approves the Significant Wildlife Habitat Areas Permit for the Project, subject to the following conditions:

1. That all Proposed Mitigation Measures contained in Section 7.0 of the Wildlife Impact Report dated November 29th, 2021 and attached as Exhibit A are implemented and complied with for the duration of the use, except where they are superseded by more restrictive Colorado Parks and Wildlife recommendations listed below.
2. That in addition to the above measures, the following recommendations of Colorado Parks and Wildlife staff are implemented and complied with for the duration of the use:
 - a. All pets shall be leashed whenever outdoors.
 - b. Bird feeding is prohibited.

- c. Bear-proof dumpsters shall be of metal construction and locked unless being actively filled or emptied.
- d. Occupancy other than by the owner shall not be allowed between April 15th and June 30th, unless Colorado Parks and Wildlife gives the owner written permission allowing such occupancy within a particular year.

Moved, seconded, and passed this 22nd day of February, 2022.

PARK COUNTY BOARD OF COUNTY COMMISSIONERS



Richard Elsner, Chairperson

ATTEST:



~~County Clerk~~
County

Exhibit A

7.0 PROPOSED MITIGATION MEASURES

The following mitigation measures will be implemented to avoid take under the ESA or Bald and Golden Eagle Protection Act (BGEPA), avoid violations of the Migratory Bird Treaty Act (MBTA), and to avoid or minimize the degree or severity of adverse effects to other wildlife and sensitive habitats.

Wetlands and Aquatic Species

- Disturbance to the wetlands in the southern portion of the Property will be avoided, and no fences will be installed around the wetlands. A buffer area of at least 100 feet will be maintained and/or established around Mosquito Creek within which no construction activity or development will occur.
- Best Management Practices, such as small temporary check dams made of straw bales or temporary silt fences, will be used to minimize erosion and the potential for introduction of sediments to aquatic habitat during and after construction.
- Visitors will not be permitted to fuel vehicles or equipment on the Property to avoid spills into waterways or sensitive habitats.

Vegetation and Noxious Weed Management

- Vegetation removal will be limited to the minimum necessary. Grading will be limited to the minimum necessary to construct the project.
- Imported fill dirt will be from a weed-free source to ensure that it is free of noxious weeds.
- If revegetation is needed, Natural Resources Conservation Service's seed mix recommendations will be followed.
- All ground disturbance will be revegetated with a native seed mix and application rate approved by Park County within 21 days of the completion of grading, except if conditions make revegetation impractical such as when the ground is covered with snow or frozen, to minimize erosion and noxious weed infestation.

All Wildlife

- Wildlife will not be harassed, captured, domesticated or fed. Intentional or inadvertent feeding is the major cause of most wildlife problems, and it is illegal to feed deer, bighorn sheep, mountain goats, pronghorn, and elk in Colorado.
- Wildlife feeding will be prohibited. Feeding big game animals in Colorado is prohibited, it can also be extremely harmful to wildlife and people alike.

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- Visitor restrictions will include no use of, parking or storage of OHVs on the property, including while on trailers. Other recreational restrictions for visitors will include prohibiting fireworks, outdoor burning, and encouraging visitors to limit outdoor night time noise levels below 30 dbA (consistent with a quiet urban night time noise levels).
- Signage and printed materials will be provided in the huts and lodge to educate users on the potential impacts of their activities and how to mitigate them.
- All pet owners will be required to bring pets inside the huts or lodge from sunset to sunrise, unless on a leash being held by the owner. No unattended and unleashed pets will be allowed outside at night.
- Bar-B-Q grills will be stored indoors when not in use, and cleaned and stored indoors after every checkout.
- Caretaker will check on huts and clean and remove garbage as necessary after every checkout.
- Waste systems will be installed according to best practices and low-impact designs.

Bighorn Sheep

Mapping of the Property relative to these bighorn sheep habitat indicates that the sheep winter range and lambing season occurs outside the Property area. However, recreational activities could occur in surrounding areas, which are within winter concentrations and lambing ranges. The Property owner will educate users about avoiding sensitive areas where there are bighorn sheep and encourage visitors to avoid those areas in winter and lambing months (November 1 – June 30). The Property owner will also work with CPW to stay current on wildlife ranges and status and area restrictions for visitors.

Other wildlife mitigation measures that are also applicable to bighorn sheep include waste management and pet control. These mitigation measures will avoid impacts to bighorn sheep by avoiding nuisance activities, minimizing the potential for predators and other animals to be attracted to the site, and minimizing harm to sheep caused by interactions with pets.

Black Bears

- The presence of black bears will be respected. All visitors during the summer months will be required to keep all trash in bear-proof containers or inside.

- Bear proof dumpsters will be provided on site at all times for users to properly dispose of their garbage.
- Feeding of pets will be required to occur indoors.
- Other waste management practices as described for wildlife will help discourage bear attraction to the Property.
- Visitor education will include information on potential damage to cars and handling of food and garbage to discourage bear contact.

Migratory Birds and Raptors

- Habitat-disturbing activities (e.g., tree removal, grading, scraping, and grubbing) should be conducted in the nonbreeding season to avoid disturbing active nests, or to avoid a “take” of the migratory bird nests within the project area.
- If construction occurs during active breeding and nesting seasons, nest clearance checks will be conducted immediately prior to construction activities. If active songbird nests are found on the Property, a 300 foot buffer will be established around the nests. If active raptor nests are found, buffers will be established around the nests per CPW guidelines for raptors (CPW 2020). Note that non-eagle nests can be removed during the nonbreeding season (see Table 4), to preclude future nesting and avoid violations of the MBTA.
- Visitor education and signage placement will be implemented to prevent feeding of birds or other activities that could attract birds or their predators.

Table 4. Active Nesting Seasons for Migratory Birds and Non-Eagle Raptors

Bird Species	Active Nesting Season
Migratory Birds	April 1 – September 1
Ferruginous Hawk	February 1 – July 15
Red-tailed Hawk	February 15 – July 15
Swainson’s Hawk	April 1 – July 31

Bird Species	Active Nesting Season
Peregrine Falcon	March 15 – July 31
Prairie Falcon	March 15 – July 15
Northern Goshawk	March 1 – September 15
Osprey	March 15 – August 15
Bald Eagle	December 1 – July 31
Golden Eagle	December 15 – July 15