

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

Board Hearing Date: January 21, 2021

To: Planning Commissioners

Date: January 12, 2021

Prepared by: John Deagan, AICP; Planner

Case Number: 20ZON-05

Subject: Danby Rezoning

Request: The applicant is requesting a rezoning from Mining to Residential.

Application Summary:

Applicant:	Michael Florio
Owner:	John Danby and Anja Scholze
Location:	Part of the SE ¼ S20 and the SW ¼ S21, T09 R78, addressed as 6793 County Road 14, Fairplay.
Current Zone District:	Mining
Surrounding Zoning:	Conservation/Recreation, Mining, and Residential - a zoning map is included as Attachment 1.
Lot Size:	41.65 acres
Proposed Zoning:	Residential

Background:

The subject property is proposed for residential development. In 2006 a Conditional Use Permit application was approved allowing construction of a residence, but the current owner would like to take advantage of other uses allowed in the Residential zone district on lots of this size, including possible future construction of a Guest House. According to the applicant's geologist, the property does not contain potentially valuable mineral deposits and residential development will not impede nearby mining efforts. Therefore, the applicant is applying for a rezoning to Residential.

Land Use Regulations and Strategic Master Plan:

Each of the standards for approval of a Zoning Map Amendment (LUR Section 5-202) is addressed 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**

The property's geological, physical, and other environmental conditions are compatible with the potential permitted uses in the Residential Zone District. It does not contain any mapped geologic hazards or hazards due to past mining activity. Environmental constraints exist in the form of steep slopes and wetlands, but these are north and south of the proposed development area. A condition of approval addresses the mention of radon hazard from the geotechnical report.

- 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**

The property has frontage along County Road 14, a public right-of-way.

- 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**

Built access to the lot will have to meet County driveway standards.

- 4. The potential uses of the property within the proposed zone district are compatible with other properties within the immediately surrounding area; and**

Adjacent land uses by tax assessment category are vacant (Forest Service) and Residential.

- 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**

The rezoning is not inconsistent with the advisory provisions of the Park County Strategic Master Plan.

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.

6. Additional Standards for Property Currently Zoned as Mining:

a. The building envelope must be at an elevation of not more than 11,500 feet.

The building envelope is at 11,350 feet.

b. *(The BOCC shall consider)* The patent, plat, field notes and connected sheets of the mining claim of the subject property and land status maps of property located within a one-mile radius of the subject property's boundaries, all of which must be submitted with the application. (These documents may be obtained from the BLM Offices located at 2850 Youngfield Street, Lakewood, Colorado.)

The patent is included as Attachment 2. A plat, field notes, and land status maps are not available.

c. *(The BOCC shall consider)* A copy of the U.S.G.S. quadrangle (topographic) map of the area with the subject property drawn on the map.

This was provided with the application.

d. The application must include a geotechnical report prepared by a qualified geotechnical professional...

This was provided with the application.

e. If the application for rezoning is approved, then the applicant may be required to record documentation disclosing the potential for geologic hazards at the property, assuming the risk associated with non-mining use of the property and indemnifying the County from all injury and claims resulting from said use of the property.

As there are no naturally occurring geologic hazards within the lot and the lot has not been mined in the past, staff does not believe this is necessary.

f. (The BOCC shall consider) The impact, if any, the rezoning would have on present and future operations of nearby mining operations.

According to the abovementioned geotechnical report, the rezoning would not impede any nearby mining operations.

Impact Analysis:

No substantial adverse impacts are anticipated.

Planning Commission:

The Planning Commission reviewed this application at their December 15, 2020 meeting and unanimously recommended approval of the application with the following conditions:

1. That if this application is approved, Board of County Commissioners Resolution 2006-19 allowing a residence on this lot as a conditional use is rescinded.
2. Dwelling units shall be designed with features for passive radon mitigation.

Recommendation:



Staff recommends that the application be approved with the above conditions. The BOCC's options are to authorize staff to prepare a resolution to:

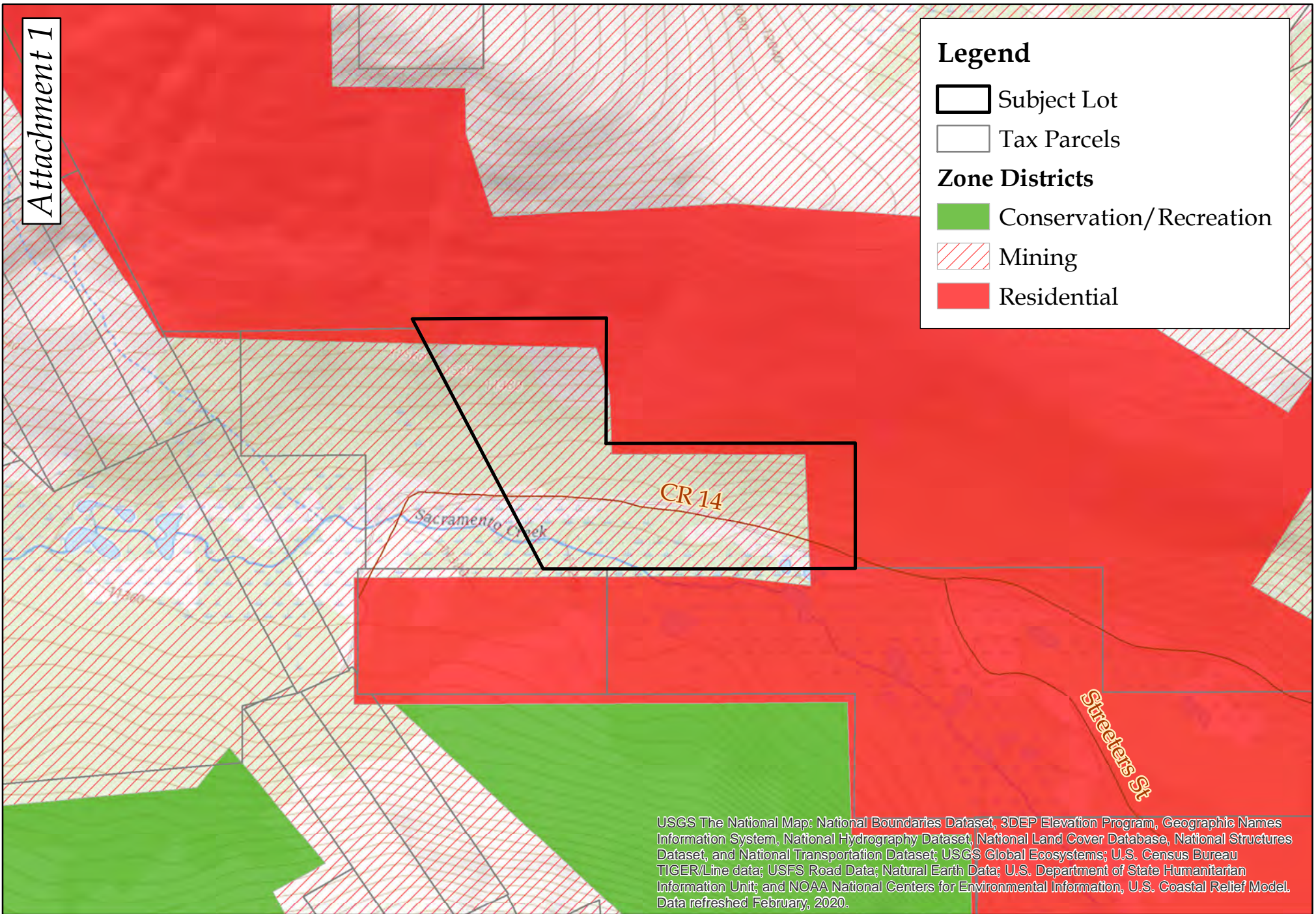
- Approve the application with the above conditions;
- Approve the application with no conditions;
- Approve the application with newly identified conditions; or
- Deny the application.

Alternatively, the hearing can be continued so that the applicant or staff can provide additional information.

Attachment 1

Legend

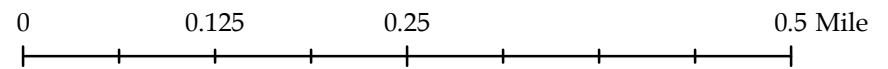
-  Subject Lot
-  Tax Parcels
- Zone Districts**
-  Conservation/Recreation
-  Mining
-  Residential



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.



Zoning Map



Park County Planning Department

This map is not a survey.

General Land Office No. 26974

Mineral Certificate No. 4815

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING.

Whereas, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two, and legislation supplemental thereto, there has been deposited in the GENERAL LAND OFFICE of the United States the Certificate, No. 4815 of the Register of the Land Office at Leadville in the State of Colorado, accompanied by other evidence, whereby it appears that William Fraser

did, on the twentieth day of February, A. D. 1907, duly enter and pay for that certain PLACER mining claim and premises known as the Gulgurry placer mining claim, and described as the southeast quarter of the northeast quarter of the southeast quarter, the north half of the southeast quarter of the southeast quarter, the south half of the northwest quarter of the southeast quarter and the southeast quarter of the southeast quarter of the southeast quarter of section twenty and the northwest quarter of the southwest quarter of the southwest quarter of section twenty-one, in township nine south of range seventy-eight west, Sixth Principal meridian, situate in the Sacramento mining district, Park County, Colorado, and containing seventy acres of land, more or less.

Now know ye, That there is therefore hereby GRANTED by the UNITED STATES unto the said Hullman

Traver

and to Hullman and assigns, the said placer mining premises herein before described:

To have and to hold said mining premises together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said grantee above named and to his heirs and assigns forever; subject nevertheless to the following conditions and stipulations:

First. That the grant hereby made is restricted in its exterior limits to the boundaries of the said mining premises, and to any veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, which may have been discovered within said limits subsequent to and which were not known to exist on the 11th day of December, A. D. one thousand 2222 hundred and 01.

Second. That should any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, be claimed or known to exist within the above-described premises at said last-named date, the same is expressly excepted and excluded from these presents.

Third. That the premises hereby conveyed may be entered by the proprietor of any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, for the purpose of extracting and removing the ore from such vein or lode, should the same, or any part thereof, be found to penetrate, intersect, pass through, or dip into the mining ground or premises hereby granted.

Fourth. That the premises hereby conveyed shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted, a right of way ~~thereof~~ for ditches or canals constructed by the authority of the United States. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

Fifth. That in the absence of necessary legislation by Congress, the Legislature of Colorado may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof.

In testimony whereof I, Theodore Roosevelt PRESIDENT OF THE UNITED STATES OF AMERICA, have caused these letters to be made PATENT, and the SEAL OF THE GENERAL LAND OFFICE to be hereunto affixed.

Given under my hand at the City of Washington the 22nd day of August in the year of our Lord one thousand nine hundred and two and of the INDEPENDENCE OF THE UNITED STATES the one hundred and twenty eighth.



BY THE PRESIDENT Theodore Roosevelt
By W. H. McLean Secretary
C. H. Bush Recorder of the General Land Office