

Rico Planning Commission Memorandum

Date: September 6, 2024

TO: Town of Rico Planning Commission
FROM: Chauncey McCarthy, Rico Town Manager
SUBJECT: September Planning Commission meeting

Rico Land Use Code global revision

The Board of Trustees and the Planning Commission will continue their joint review of the Rico Land Use Code global revision. Included in the packet is a memo summarizing the last joint review. In addition to the memo, Mayor Pieterse has provided comments and additional redlines up to section 408 of the RLUC. Her redlines and comments are highlighted in yellow.

Recommendation of road vacation permit application West Soda Street and Leah Lane, McCroke Venture LLC applicant

Included in the packet is a road vacation permit application from McCroke Venture LLC to vacate the West end of Soda Street and Leah Lane. There have been quite a few public comment letters submitted in regard to this application. Those letters have been included in the packet. In addition to the application materials is a staff memo reviewing the submittals to the RLUC.



TOWN OF RICO

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RLUC Review

Date: 6.12.2024

Segment: Joint Board Review Articles 1-V

Start: Article I

Stopping point: Article II: Section 250

Notes:

- Overall, making sure there is consistency in vocabulary and interpretation.
- Staff will have legal review and reduce repetition, being clear on final approval and vested rights.
- **Article I:** pending applications, in general, the code that is in affect at the time and the application is complete is what qualifies to be complete and compliant under that LUC. This should be clarified and called out in the RLUC.
- **Article II:** Vinyl siding is looking at what are we including in vinyl siding. Might be easier to say what types are not allowed. If there is not a siding that is not allowed or listed it would have to be approved. That seems really similar to what we allow or what we prohibit. What is the “look” that the Planning and Trustees trying to maintain?
- Vinyl and composite or synthetic materials and how to maintain a look and feel and or what a review would look like in the RLUC. Really try to identify what is not wanted. Reflective metal, nontraditional materials, T-111
- *Building height: Bulk plane building height. Existing grade on survey, parallel plane above that and then the building cannot break that height. Post or preconstruction grade. That cross section at 30 feet.
- Fences: Corrugated non reflective metal not in the front yard but acceptable in other areas.
- Setbacks: lot lines have to be vacated and filed at a staff level. Single tax number. Move up to a minor subdivision to the planning commission unless only two historic lots.
- Maximum Site coverage needs to be references in Article II and in the zone districts indicate.
- There is some concern to be sure that the basement area is under 7 feet that it does not count as part of your living space. Make sure basement definition does not conflict with basement RLUC identification. Note to check this in track changes in Basement- Definitions.
- ADU: likely the ADU will need to remain separate and as long as it works under septic regulations could have shared or require separate septic.

- Roof Pitch: dominant roof form is currently 7/12 pitch. Does the Planning and or the Trustees want to maintain that look and feel or allow what engineeringly can be accomplished. There is a proposal that having roof pitch requirement removed. Flat roof on single story structures. Does this apply to the primary structure or to all structures on the lot like sheds, carports, etc.
- Off Street parking: Make sure it is clarified the required parking spaces unusable.
- Signs, if they are not attached they cannot interfere with pedestrian and traffic flow or be in bike lanes. Sounds like sandwich board sign use needs to be modified to either get a permit or be reworded in the RLUC. Not prohibited by the town in main street only. Add just a sandwich board section. Signs also need to be included in non-conforming section.
- Non-Conforming Lots: add signs
- 210 add temporary dwelling structure, also have that consistent throughout the RLUC.
- Make sure that Recreational Vehicle definition includes the word camper
- Any occupancy on a lot should follow the RLUC for Use or Occupancy. Also is one per area or more?
- Historic Commercial and Commercial request to separate them as headers and cross reference.
- Add car wash and dispensary as prohibited uses.
- To clarify in residential what you can or cannot apply for. Maybe that is what is listed in the commercial and or re-articulate what is in the definition.
- 216.2 changing the opening sentences.
- Residential District Design regulations: Tiny Homes: on foundation and have it not be burdened by additional regulations outside of the residential District Design Regulations. Also, more than two detached dwelling units would have to go through a PUD.
- Historic Commercial Zone district: Compliance is important. An addition of a development agreement at the staff level would aid in making sure there is compliance with review design requirements.
- The change at the RLUC level is the Historic Commercial review will change to review by the Planning Commission.
- Add a definition of service yard in the RLUC? Proposal to not have fences in the Historic Commercial and service yard fences in the commercial district? This will also be a review not by the Board of Trustees but by the Planning Commission.
- Minimum depth of street front is only 22 feet of the primary street front.

Worksession ended: 8:40 p.m.

Stopping point: Article II: Section 250

ARTICLE I GENERAL INFORMATION

100. INTRODUCTION

The Town of Rico Land Use Code is the codification of previous ordinances regulating land use and development as well as the enactment of revisions and new regulations intended to implement the Rico Regional Master Plan. Throughout this Rico Land Use Code, the Town of Rico may be referred to as “Town” and the Board of Trustees may be referred to as “Trustees”. These regulations shall be known, and may be cited, as the “Rico Land Use Code” or “RLUC”.

102. AUTHORITY

The RLUC is authorized by the following statutes in addition to the Town’s general police powers and other applicable state authority: C.R.S. §31-23-201 et. seq. PLANNING COMMISSION; C.R.S. §29-20-101 et. seq. Local Government Land Use Control Enabling Act; C.R.S. §24-65.1-101 et. seq. Areas and Activities of State Interest; C.R.S. §24-68-101 et. seq. Vested Property Rights; C.R.S. §24-72-101 et. seq. Planned Unit Developments

104. PURPOSE

The RLUC is adopted for the purpose of promoting the health, ~~safety~~safety, and general welfare of the citizens of the Town of Rico, and in particular to:

- 104.1. Preserve and enhance the integrity, stability and livability of residential neighborhoods;
- 104.2. extend greater opportunities for traditional community living, working, housing, and recreation to all citizens and residents of Rico;
- 104.3. promote reasonable certainty to land use and development expectations associated with property ownership;
- 104.4. promote the timely provision of public infrastructure to meet potential demand in the present and the future;
- 104.5. promote minimum consumer protection assurances for property buyers that properties can be developed for their intended use;
- 104.6. preserve the historic, ~~small-town~~small-town character of the community by minimizing the visual impact of development upon important view sheds;
- 104.7. discourage the misuse of buildings, sites, and development parcels to avoid excessive concentrations of population and traffic; to promote energy conservation; and, to facilitate the provision of adequate transportation, water, sewerage, schools, parks and other public facilities and services;
- ~~104.8.~~ provide a procedure which can relate the type, design and layout of residential development to the particular site, and achieve the Town’s goal of encouraging mixed-use development while preserving and protecting existing residential areas; and,

~~104.9.~~ manage development and establish a clear, consistent, predictable, and efficient land development process.

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106. INTERPRETATION AND APPLICATION

In the interpretation and application of these RLUC, the following regulations shall apply:

106.1. Minimum Requirements. In the interpretation and application of the RLUC, the provisions hereunder shall be regarded as the minimum requirements for the Town of Rico in regards to the protection of the public health, safety, and general welfare of the Rico community. The provisions and requirements in the RLUC shall be liberally construed to further the general purposes stated in Section 104, and as is stated in each specific code Section. Where a term or phrase is not otherwise defined in these RLUC, such term or phrase shall be defined by the latest edition of Webster's dictionary.

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106.2. Conflict of Laws. Whenever a provision in the RLUC contains any restrictions which covers the same subject matter as another provision herein, or in any law of the Town of Rico, State of Colorado, or United States of America, the provision, regulation, or law which imposes the greater restriction shall govern. The RLUC shall not supersede any private land use regulation in a deed or covenant which is more restrictive than ~~this code~~ the RLUC.

106.3. Existing Permits and Agreements. The adoption and amendments of the RLUC is ~~are~~ not intended to abrogate or annul any permits or approvals of Subdivision Plats, improvements agreements, or any conditions related to subdivisions, issued by the Town of Rico before the effective date of the RLUC.

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~~106.3.~~ 106.4. Severability. If any part of the RLUC, or the application or enforcement thereof to any person or circumstance is held invalid, the remainder of the RLUC, and its application shall not be affected thereby.

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108. APPLICATION TO PUBLIC ENTITIES

Except as provided herein the RLUC shall apply to the Town of Rico, Rico Fire Protection District, and other public service providers. The Board of Trustees shall have the authority to grant any development approval, or waive any requirement, provision, condition, or fee set forth in this RLUC for the purpose of improving public services provided by the Town of Rico, Rico Fire Protection District, or any public service provider. Such grant or waiver shall be directly related to protecting and promoting the health, safety, and general welfare of the Rico Community. The Board of Trustees shall conduct a public hearing prior to considering any waiver of any requirement for a development approval for a public entity. Notice of the public hearing should strive to comply with notice requirements for similar development applications but shall be provided at a minimum by posting notice of the hearing at the Rico Town Hall and the Rico Post Office at least 24 hours prior to the hearing, and such 24-hour prior posted notice shall be deemed legally sufficient.

110. VESTING OF PROPERTY RIGHTS

~~110.1.~~ Vesting of Property Right. A “site specific development plan” is defined as a planned unit development plan approved in accordance with Article III, a subdivision plat approved in accordance with Article V, an annexation approved in accordance with Article VI that is

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accompanied by an annexation agreement containing a subdivision plat and/or planned unit development plan, or any other land use approval designation accompanied by a development agreement that expressly states that such land use approval is a site-specific development plan for the purposes of this Section 110. A property right to undertake and

complete a site-specific development plan shall be vested upon the effective date of final approval of such site-specific development plan by the Board of Trustees or, may at the discretion of the Board of Trustees, vest upon approval of a conceptual or preliminary planned unit development plan, upon approval of a conceptual or preliminary subdivision plat, or upon approval of any other development agreement between the Town and a landowner that specifically provides a vested right. Approval by the Board of Trustees means the effective date of approval after any rights of referendum or judicial review have expired or have been finally decided. The document that evidences a vesting of property rights shall be and is limited to the following: For final subdivision plats: As a plat note on the cover page of such final subdivision plat; for all other site-specific development plans: As a specific provision in an agreement with the Town, an ordinance approving such development plan.

110.2.110.1. Period of Vesting. The period of vesting of property rights shall be at least three (3) years

from the effective date of approval of a site-specific development plan. The Board of Trustees may approve a period of vesting greater than three (3) years provided that such approval is by ordinance. The effective date of approval shall be the day after the last day to exercise any rights of referendum or judicial review, or upon the final decision of a referendum or judicial review, of the Board of Trustees' action to approve a site-specific development plan. The document evidencing a vesting of property rights shall specifically identify the date of expiration.

110.3.110.2. Publication of Vested Property Right. The Town Clerk shall post and publish a notice of vested property rights in the same manner as posting ordinances and resolutions within twenty (20) days after approval of the site-specific development plan by the Board of Trustees.

110.4.110.3. Extension of Vested Property Right. The landowner may request the extension of a Vested Property Right by submitting a written request to the Town Clerk, P.O. Box 56, Rico, CO 81332, not more than ninety (90) days, and at least forty-five (45) days, prior the expiration of the Vested Property Right. The Board of Trustees shall hold a public hearing prior to authorizing the extension of the Vested Property Right. Notice shall be posted and published at least ten (10) days prior to the public hearing. Any approval to extend a vesting of property rights shall be by ordinance and shall be no longer than three (3) years. The Town Board may grant multiple extensions of vested rights.

110.5.110.4. Revocation of Vested Property Rights: The Board of Trustees may revoke a vested property right for failure to abide by the terms and conditions of such vested property right. Prior to taking action to revoke a vested property right, the Board of Trustees shall conduct a hearing on the revocation and shall provide at least ten (10) days prior written notice mailed to the affected property owner to the property address of record in the

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County Assessor's office as well as provide notice in the same manner as the posting or publishing of ordinances and resolutions. The ~~mailed notice~~ notice mailed to the landowner shall specifically identify the terms and conditions which are not in compliance with the site-specific development plan approval. During the period of determining compliance with the terms and conditions of a site-specific development plan approval, the Town may administratively withhold any building, utility, excavation, road building, or other Town permit, and may withhold acceptance of additional development applications or processing of existing development applications for the property subject to the site-specific development plan.

~~110.6~~ 110.5. Pending Applications. A pending site-specific development plan application will be governed by the duly adopted laws and regulations in effect at the time the application is submitted and deemed complete and compliant by the Town for purposes of review by the applicable reviewing body with the exception that the Town reserves the right pursuant to C.R.S. §24-68- 102.5(2) to enforce new or amended laws or regulations to pending applications when such law or regulation is necessary for the immediate preservation of public health and safety, including but not limited to temporary development restrictions duly adopted by ordinance for the purpose of preparing planning studies and considering land use regulations related to public health and safety or for the purpose of promoting concurrency of essential public infrastructure, equipment or services with increased demand.

~~110.7~~ 110.6. State Statutes Govern. Colorado Revised Statute Title 24, Article 68, as may be amended in the future, shall otherwise govern the vesting of property rights.

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ARTICLE II ZONE DISTRICTS

200. ZONE DISTRICTS AND ABBREVIATIONS

For the purposes of the RLUC, the Town is divided into Zone Districts to be known as follows:

<u>Zone District</u>	<u>Abbreviation</u>
Residential Zone District	R
Historic Commercial Zone District	HC
Commercial Zone District	CM
Mixed Use Zone District	MU
Residential Planned Unit Development	RPUD
Commercial Planned Unit Development	CPUD
Open Space Zone District	OS
Public Facilities Zone District	PF

202. OFFICIAL ZONE DISTRICT MAPS AND PERMITTED USES

The boundaries of these districts are shown on the official Zone District Maps of the Town which accompany and are made a part of this RLUC. All property in the Town shall be included in at least one Zone District. The use regulations for each Zone District establish uses permitted by right. All uses not expressly permitted in the use regulations are prohibited unless a Special Use Permit is approved (See **420** for Special Use Permit requirements).

204. GENERAL DESIGN REGULATIONS

The following general design regulations apply to all construction and development in Town. Any violation of this Section 204 et. al et seq. is subject to RLUC Municipal violations under Section 740. REMOVE LAST SENTENCE

(Ord. No. 2008-3, § 204.1, 03-19-08)

204.1 Exterior Materials. All buildings and structures shall use designated materials according to the following table for exterior surfaces (excluding: garage doors and all other doors, window areas, antennas and non-reflective solar energy collection devices). Variance procedure outlined for exterior material in 430 et al.

- A. Foundation.** Exposed foundation will be natural stone, cement cast stone, brick, non-reflective metal, stucco, synthetic stucco, adobe, plaster, natural (painted, stained or clear) wood, and/or concrete. Exposed concrete foundation and/or retaining walls over three (3) feet in height shall be stained or color treated in a color that matches stained wood siding or a shade of brown.
- B. Siding.** Natural stone, cement cast stone, brick, synthetic stucco, adobe, plaster, natural wood (painted, stained or clear coated), and rusted metal, or any non-reflective developed siding material. All other siding materials must be approved by the Planning Commission and shall only be approved if said materials are consistent in appearance with the types of siding listed above.

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C. Roof. Non-reflective metal, wood shingle, clay tile, pre-finished modular non-reflective metal panels, slate, cement tiles, solar tiles, and sod or turf.

2042 Exterior Lighting. All exterior lighting shall be shielded. The direct source of all exterior lighting shall not be visible off the property. Minimal lighting is encouraged to prevent undue light pollution of the night sky (lighting for Signs is governed by

Section 206).

2043. Fences. Fences in the front yard setback portion of the property shall not exceed four (4) feet in height. Fences in the remainder of the property shall not exceed six (6) feet in height. Fences shall use wood, logs, bark slab, stone, wrought iron, wood wrapped hogwire, non-reflective metal or any combination of these materials. All storage and service yards associated with commercial activities or on commercially zoned properties shall be fenced so as not to be visible from any street, and such fences shall be a minimum of six (6) feet in height and a maximum of seven (7) feet in height. Fences in the Historic Commercial Zone District shall follow the design regulations in Section 243 which requirements shall supersede the fence regulations in this Section 204.3.

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2044. Lot Size. The lot size is the minimum size of a lot required to permit the uses by right designated for a Zone District.

2045. Setbacks. The setback is the minimum distance of a structure from the edgeboundary of a lot or parcel. Setbacks are measured from the edgeproperty line boundary of a lot or parcel to the exterior of a structure. Structures include decks and patios over thirty (30) inches in height (See Appendix B). Roof overhangs are permitted to encroach two (2) feet into the front yard setback area and side yard setback area.

(Ord. No. 2009-03, § 204.6, 06.24.09)

2046. Building Height. The highest point of each roof segment shall not exceed 28 feet as measured from the average height of the supporting points of that roof segment at pre-construction or post-construction grade whichever is more restrictive. The lowest exposed point of the structure to the highest point of the structure shall not exceed 35 feet of total elevation in the Public Facilities and Commercial Zone Districts and 30 feet of total elevation in the Residential Zone Districts, with the exception of church steeples in Residential Zone Districts which shall not exceed 40 feet in elevation. For structures with an irregular footprint, the Enforcement Official shall determine the reference points which meet the purpose of this RLUC. ExistingThe pre-construction grade shall be determined by the Town's two-foot contour maps, as exist or may be amended from time to time, or shall be determined by a survey prepared by a licensed surveyor prior to excavation or fill activities on the subject lot. Any property owner has the right to challenge reference points determined by the Enforcement Official for structures with an irregular footprint. This challenge must be initiated first through a Variance Application (Section 430, *et. al.*), and subsequently may be appealed to the Board of Trustees by following RLUC, Section 516.

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2047. Maximum Floor Area ("MFA"). Where the design regulations for a District indicate a maximum allowable floor area, the maximum allowable floor area shall be calculated by measuring the gross square footage from the exterior side of exterior walls of all structures. The floor area for basements shall be calculated at 50% of the area that meets the definition of basement. Decks, roof overhangs, open porches, carports and areas where the floor to ceiling height is less than four and one-half six (64.5) feet shall

not be included in the maximum floor area calculations. (See Appendix B.)^{*} For purposes of this Section 204.7, the term "open porch" means that at least 3 sides of the porch are open from at least four feet from the floor up and the term "carport" means an area used to park vehicles which is fully open on at least 1 side, has only one fully closed side and two sides that are open from at least 4 feet from the floor or ground up.

2048. Maximum Site Coverage. Where the design regulations for a District indicate, maximum site coverage is ~~the~~ the total area of a site that is permitted to be covered by buildings and impervious surfaces, including without limitation, open decks, ~~open~~ porches, carports

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stoops, patios, paved driveways, and paved off-street parking, but not including roof overhangs or roofs connecting two separate structures (See Appendix B).

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2049. Off-Street Parking. Off-street parking requirements are established as follows:

- A. **Location.** Required off-street parking shall be provided on the same lots as the principal use or on a contiguous lot. Any off-site parking area shall be under the same ownership as the principal use to which it is accessory.
- B. **Dimensions.** Each off-street parking space shall consist of an open area measuring nine (9) feet wide by eighteen (18) feet long and seven (7) feet high and shall have vehicular access to a public street or alley.
- C. **Design.** Off-street parking shall be properly drained and shall be maintained in a usable condition at all times.
- D. **Restricted Use of Parking Areas.** No automobile trailers, boats, detached campers, or any other object shall be parked or stored in off-street parking areas if it renders any of the minimum number of off-street parking spaces required for that District unusable.

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- 204.10 Minimum Roof Pitch.** The minimum roof pitch for primary structures is seven/twelve (7/12) [seven feet of rise for twelve feet of run]. Such minimum roof pitch shall apply to the dominant roof which is defined as the roof plane that covers a majority of the building footprint and shall not apply to dormers or secondary roof planes or smaller secondary structures located on the same lot (or partially on the same lot and partially on a contiguous lot in the case of lots that are 25 by 100 feet) as the primary structure. The minimum roof pitch shall not apply to structures in commercially zoned areas.

Commented [GU13]: Bulk plane is to prevent excessively large development in height sensitive areas. Rico needs to determine if a change in this area needs to move toward a description of this nature or not. Maybe we could actually have a couple of similar communities that have these in place present to the Planning commission how they work on the ground.

206. SIGNS

- 206.1 Signs.** No signs shall be allowed except as permitted by 206, and a Any sign shall be subject to the requirements of the Zone District in which they are located. Signs shall be of a permanent nature and shall be maintained in good repair or they may be removed by order of the Trustees. The following signs are exempted from the requirements of Section 206-206.2

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through 206.12:

- A. Signs painted onto or located on the interior side of a window, including neon signs (turned off when closed); and,
- B. Temporary signs such as Banners, bunting, and other similar displays temporarily erected in observance of a special event; however, temporary signs shall not be erected or displayed for a period exceeding 21 days in a 3-month period, and temporary signs must be removed if damaged or immediately following the conclusion of the particular event advertised.

2062 Off-Premises Signs Prohibited: Signs shall identify or advertise only the interests or

business conducted on the property on which they are located, unless the Planning Commission determines that the off-premises sign is necessary or appropriate to promote the interest of a use not occupying the same lot or property. ~~unless the Board of Adjustments determines that an off premises sign is necessary to promote the interest of a use not occupying the same lot or property.~~

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- 2063** Non-Conforming Signs: Non-conforming signs can be repaired but not enlarged, reconstructed, or moved in any manner without being made to comply with the provisions of the RLUC.
- 2064** Parking of Advertising Vehicles Prohibited: No person shall park any vehicle or other mobile unit or sign on the roads or alleys, or on private property, which has attached thereto or suspended there from any advertising or sign, except a vehicle which has a sign painted directly onto or permanently affixed to the body or other integral part of the structure of the vehicle for permanent decoration, identification or display, including magnetic signs.
- 2065** Traffic Safety: No sign shall be located so that the safety of a moving vehicle might be impaired by obstructing the driver's vision. No sign shall resemble or conflict with traffic signs or signals with regard to color, format, shape or other characteristics.
- 2066** Sign Illumination and Moving Parts: All signs shall be illuminated by an external lighting source. Internally illuminated signs shall not be permitted. The light from any illuminated sign shall be shaded, shielded, or directed so that the light intensity or brightness will not be objectionable to people in surrounding areas or create a traffic hazard to passing motorists. No sign with flashing or moving lights; changing light intensity, brightness, or color; or any type of moving parts shall be allowed.
- 2067** Signs on Marquees: Projecting signs or signs affixed to or located on posts or pillars supporting a marquee are prohibited. Wall signs attached to the marquee are allowed, provided they do not project above the eave or edge of the marquee roof nor project lower than eight (8) feet above grade. Such signs must meet all the requirements of this RLUC and are to be included in the computation of maximum aggregate allowable square footage in Section 206.11.
- 2068** Signs on Awnings: No sign may be attached to or suspended from an awning; however, lettering on awnings is permitted provided that other requirements of this RLUC are met and that the lettering on awnings is included in the computation of the maximum aggregate allowable square footage of sign area for the building.
- 2069** Sign Materials: Permanent Exterior signs may not be constructed of paper, cardboard, wallboard, or other light material, nor may any spinners, pendants, balloons, banners, or streamers be used as or incorporated into any signs.
- 20610** Structural Characteristics: Free-standing signs shall not exceed twelve (12) feet in height; and shall be a minimum of eight (8) feet above grade when located adjacent to or projecting over a pedestrian waypath and larger than two (2) sq. ft. in area. Projecting signs shall not be higher than the eave line or parapet wall of the principal building and shall be a minimum of eight (8) feet above grade when located adjacent to or projecting over a pedestrian way; and shall not extend more than four (4) feet from the building wall except where such a sign is an integral part of an approved canopy or awning. Each free-standing sign or projecting sign may have two faces, each with the maximum

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area allowed under **206.11**, provided the two faces are the same size and join back-to-back without any overlap.

206.11 Sign Area:

- A. Signs that advertise the sale or rental of a property shall not exceed four (4) square feet in surface area per sign in residential areas (R and RPUD), or eight (8) square feet per sign in commercial areas (HC, CM, MU and CPUD). Such signs shall not be included in the maximum aggregate calculations under paragraph B. and C. below. One sign per lot or principal building is permitted.
- B. Signs in the R and RPUD Zone Districts shall have maximum square footage of two (2) sq. ft. per sign. One sign is permitted per dwelling unit and home occupation.
- C. Signs in the HC, CM, MU and CPUD Zone Districts shall have a maximum square footage of twelve (12) sq. ft. per sign plus six (6) sq.ft. for each additional twenty-five (25) of frontage greater than twenty-five (25) feet of frontage up to a maximum of twenty-four (24) sq.ft. Signs painted directly onto a building façade may have a maximum square footage of eighteen (18) sq.ft. per sign. One sign per business shall be permitted; however, the maximum combined sign area square footage shall be twenty-four (24) sq.ft. per twenty-five foot wide lot.

206.12 Permit for ~~Special~~Non-conforming Sign Design:

Proposed signs which do not meet the standards in Section 206.1 through 206.11 must first obtain a permit for a non-conforming ~~Special~~ Sign Design from the Board of Trustees/Planning Commission.

- A. Applicants must submit eleven (11) copies five (5) printed copies and a digital copy of the following information:
 - (1) general information required for all applications;
 - (2) a graphic depiction of proposed sign drawn to a minimum scale of 1" = 1';
 - (3) a description of the materials to be used for the sign;
 - (4) a list of adjacent property owners within fifty (50) feet of the aApplicant's property; and,
 - (5) a narrative describing the requested design variances, the Aapplicant's reason for such requested design and Aapplicant's statement why such proposed design is compatible with the general purpose of the sign regulations and the review criteria set forth in Section 206.12.D.
- B. Review: The Board of Trustees/Planning Commission shall review applications for a Permit for Special Sign Design and shall conduct a public hearing prior to acting on the application.
- C. Notice: The aApplicant shall provide written notice by first class mail to all property

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owners within fifty (50) feet of the ~~s~~Applicant's property in such form as is approved by

the Town Planner at least twenty (20) days prior to the hearing. Notice shall also be posted on the subject property with the notice signage provided by the Town. Notice of a public hearing by the Board of TrusteesPlanning Commision shall be posted and published at least ten (10) days prior to such hearing.

D. Standards for Review: The Board of TrusteesPlanning Commission shall consider the following standards when considering a Permit for Special Non-Conforming Sign Design and must find that at least one of the standards listed below is met by the application:

- (1) Necessity: The location or nature of the business warrants a sign that does not meet the sign regulations in Section 206.1 through 206.11;
- (2) Public Safety: The proposed sign design does not obstruct vehicular traffic views or pedestrian travel, nor does it create any other threat to the public safety;
- (3) Compatibility: The proposed sign is compatible with the overall design and architecture of the Zone District area and does not detract from the Zone District including but not limited to through the use of florescent, bright, or obnoxious colors; offensive sexual or violent graphic depictions; or the use of lettering, shape, or construction materials or methods.
- (4) Conditions: The Board of Trustee Planning Commission may impose any conditions as deemed necessary and appropriate on any Special Sign Design; including but not limited to: requiring a performance bond, establishing a time limit for such sign, reserving the right to revoke the sign permit in the future, and approving design characteristics that differ from the application, such as size, color and use of material.

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208. GRANDFATHER CLAUSE - NON-CONFORMING USE, BStructureUILDING, OR LOT
The definitions, restrictions, and rights regarding non-conforming uses and structures, which include but are not limited to signs and fences, are established as follows:

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208.1. Non-Conforming Status of Uses and Structures. The use of land, use of a structure, or a structure itself shall be a legal non-conforming use or structure when each of the following conditions exist:

- A. The use or structure does not conform to the regulations prescribed in the District in which such use or structure is located and was in existence and lawfully constructed, located, and operating prior to, and at the time of, the event that made such use or structure non-conforming; and,
- B. the event that made such use or structure non-conforming was one of the following: annexation into the Town of Rico, adoption of this RLUC or a previous zoning ordinance, or amendment of this RLUC or a previous zoning ordinance; and,
- C. the non-conforming use or the use occupying the non-conforming structure has been operating since the time that the use or structure first became non-conforming without

abandonment, as abandonment is defined in **208.4** below.

208.2 Expansion. Non-conforming uses ~~or~~ buildings or other structures shall not be allowed to increase the non-conforming use or expand the non-conforming building or other structure without approval by the Board of Adjustments.

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208.3 Ordinary Repair and Maintenance. Normal maintenance and incidental repair may be performed on a conforming structure which contains a non-conforming use or on a non-conforming structure. This Section shall not be construed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Enforcement Official who declares a structure to be unsafe and orders its restoration to a safe condition. Any new foundation must comply with applicable setback requirements.

208.4 Abandonment. Whenever a non-conforming use is abandoned then all non-conforming rights shall cease, and the use of the premises shall henceforth conform to this RLUC. Abandonment shall involve the actual act of discontinuance, regardless of the intent of the user or owner to discontinue a non-conforming operation. Any non-conforming use that is discontinued for a period of twelve (12) months, shall be deemed abandoned. Any non-conforming structure that is moved from the premises shall be considered to have been abandoned.

208.5 Destruction. If a non-conforming structure or a structure occupied by a non-conforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of this RLUC. In the case of partial destruction (not exceeding sixty percent (60%) of replacement value) of a structure occupied by a non-conforming use not exceeding sixty percent (60%) of its replacement value, reconstruction may be permitted, subject to the following standards:

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- A. The size and function of the non-conforming use shall not be expanded; and
- B. Work on the restoration of the use must begin within nine (9) months and be completed within eighteen (18) months of the time of the calamity/casualty.

208.6 Non-conforming lots.

- A. *General.* A single-family dwelling and customary accessory buildings may be developed on a lot that has less area than the minimum required by the applicable zZone District and that was an official "lot of record" prior to the adoption of the Town's original Zoning Ordinance No. 274 [Oct. 27, 1987] for the Residential Zone District if:

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- (1) The "lot of record" is in separate ownership and not contiguous to lots in the same ownership; and
- (2) the proposed single-family dwelling can be located on the lot so that the yard setback, height, and other dimensional requirements of the applicable zZone District can be met, or a Variance is obtained.

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- B. *Contiguous lots.* If two or more lots, or combinations of contiguous lots in a

single ownership (including a legally recognized union of people as, in all cases, a single owner), are of record at the effective date of this RLUC, or become of record subsequent to said date, regardless of time of acquisition, then the lots shall be considered as a contiguous parcel, and no portion shall be used or occupied which does not meet the requirements of this RLUC.

C. Lot Reduction.

- (1) No lot or interest therein shall be transferred, conveyed, sold, or subdivided so as to create a new non-conforming lot, to avoid, circumvent or subvert any provision of this RLUC, or to leave remaining any lot in violation of the dimensional requirements of this RLUC.
- (2) No lot or portion of a lot required as a building site under this RLUC shall be used as a portion of a lot required as a site for another structure.
- (3) No Building Permit shall be issued for any lot or parcel of land which has been conveyed, sold, or subdivided in violation of this ~~s~~Subsection.

2087 Determination of non-conforming status. The burden of establishing that a non-conforming use or structure lawfully exists under this RLUC shall, in all cases, be upon the owner of such non-conforming use or structure.

210. MOBILE HOMES; ~~Temporary dwelling structures.~~

Mobile homes do not include manufactured housing as defined in Article IX. Mobile homes shall not be permitted in Rico at any time except as provided herein. Mobile homes or any temporary structure may be used for temporary residential occupancy on private property by the property owner for one year from the date of issuance of a building permit for a residential structure on such property. Mobile homes or temporary structures shall meet all setback requirements of the applicable ~~Zone~~ ~~D~~District and must include a sanitary facility during construction (a hook-up to a septic system or a ~~s~~“porta-potty” or holding tank that is pumped regularly).

212. RECREATION VEHICLES AND CAMPERS (ORD. NO. 2009-04, § 212, 06-24-09)

Recreation vehicles or campers must include or have access to sanitary facility. The discharge of grey or black water is prohibited with in Town limits. Recreation vehicles may be parked on private property and used for occupancy with the express permission of the property owner. Only one recreational vehicle may be parked and used for occupancy per Town lot. Where several adjacent Town lots are clustered under one ownership, these lots shall be considered one lot for the purposes of this Section 212 regulation. Recreational vehicles and campers may be used may be used or occupied - for occupancy for seven (7) consecutive days not to exceed twenty-one (21) (10) days total in a calendar year on private property.

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**214. PARKING RESTRICTIONS ON EXCESS WEIGHT AND RECREATIONAL VEHICLES
AND THE UNAUTHORIZED USE OF VEHICLES AS RESIDENCES
(ORD. NO. 2009-04, § 214.1, 214.2, 06-24-09)**

This Section establishes parking regulations for vehicles in excess of ten thousand (10,000) pounds (not including emergency vehicles), boats, boat trailers, tractors, trailers, semi-trailers, motor homes, buses and detached/dismounted campers, hereinafter collectively referred to as excess weight and recreational vehicles. This Section also ~~limits/prohibits~~ the use of ~~any~~ vehicles as ~~residences~~ for overnight occupancy within the public right of way ~~and/or~~ on ~~other~~ public property.

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214.1 Parking restrictions on excess weight and recreational vehicles. The owner or operator of excess weight or recreational vehicles shall not park on any public right-of-way or roadway for longer than seventy-two (72) hours and shall not be parked in a fashion that restricts normal ~~ingress, egress access~~ and use of ~~town streets~~ public rights of way. All ~~detachable trailers must be hitched to a vehicle when parked in a public right of way.~~

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214.2 Use of vehicles as residences, temporary dwelling ~~for overnight occupancy~~

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A. The unauthorized use of vehicles ~~as residences~~ for overnight occupancy within a public right-of-way ~~and/or~~ on public property is deemed to be injurious to residential and nonresidential neighborhoods alike and conducive to the creation and perpetuation of congestion, unwanted noise, sanitation problems, unsightly visual conditions and confrontations between residents and nonresidents. The intent and purpose of this Section is not to regulate vehicles or those locations where vehicles may be parked or stored, except as otherwise set forth herein, but to prohibit activities and occupancies within vehicles so as to protect the integrity of neighborhoods, preserve public streets, rights-of-way and ~~park open spaces~~ for their intended public purposes, ensure the proper use of public property in conformity with zoning and land use regulations and promote the public health and safety.

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B. Prohibitions. No person shall occupy any vehicle upon any municipal street, state highway, alley or public right-of-way or public property for the purpose of providing residence or residential living or sleeping quarters or storage, whether temporary or permanent, except as otherwise set forth herein. The type or nature of any given vehicle shall not be conclusive as to whether a vehicle is being occupied for living or sleeping quarters or other residential use.

~~C. Exemptions. The prohibitions as contained in this Section shall not apply to activities undertaken pursuant to a valid and authorized land use, building, or camping permit issued by the Town or where a vehicle is used for occupancy for less than (72) hours total within a calendar year.~~

216. Historic Commerical and COMMERCIAL USES.

216.1 Historic and COMMERCIAL USES BY RIGHT (ORD. No. 2008-3, § 216.1, 216.3, 03-19-08)

The following commercial uses are permitted by right in the Commercial Zone Districts, except where a more specific or applicable category is set forth in **216.2** Commercial Uses by Special Permit Review:

A. Accommodations, including motels, hotels, inns, lodges and bed and breakfasts and other short term dwelling units

B. Museums

~~B.C.~~ **C.** Art Studios, including galleries, craft and hobby shops, and art supplies

~~C.D.~~ **D.** Barber Shops

~~D.E.~~ **E.** Bars, including cantinas, clubs, lounges, saloons, taverns, and watering holes, except that such uses shall be subject to liquor licensing requirements.

~~E.F.~~ **F.** Beauty Salons

~~F.~~ Bookstores

~~G.~~ Grocery Store

~~H.~~ Hardware Store

~~I.G.~~ **G.** Offices

~~J.H.~~ **H.** Private social clubs and organizations

~~K.L.~~ **I.** Residential, including single family, multi-family, townhomes, apartments, and condominiums.

~~L.J.~~ **J.** Repair shops other than automotive, metalworking or woodworking.

~~M.K.~~ **K.** Restaurants, including all food service establishments where on-premises sales constitute the majority of sales.

~~N.~~ Grocery, Hardware and Retail Stores where on-premises sales constitute the majority of sales. "Retail Stores" as set forth herein shall be limited to the following and similar uses:

Antique ShopAppliance Store

BakeryCamera Shop

Candy, Tobacco, or Cigarette ShopCatalogue Store

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Clothing StoreDecorator Shop

Department StoreDrug Store

Florist ShopFurniture Store

~~Gift Shop~~~~Jewelry Store~~
~~Liquor Store~~ ~~Pet Shop~~
~~Paint and Wallpaper Shop~~~~Photography Shop~~
~~Sporting Goods Store~~

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216.2 COMMERCIAL USES BY SPECIAL USE PERMIT REVIEW

All uses not listed as a use permitted by right in 216.1 shall require a Special Use Permit. Included uses but not limited to uses such as: The following Commercial uses are not permitted unless a Special Use Permit is obtained through the Special Use Permit process (see 420.)

- A. Adult Businesses, including retail sales of adult materials and nudity shows.
- B. Day care
- C. Fire Stations and Emergency Facilities
- D. Hospitals
- E. Gasoline, fuel cell, and other stations that sell fuel and/or energy
- F. Manufacturing and/or fabrication businesses, not including art or jewelry studios
- G. Medical Centers or Clinics
- H. Religious Institutions
- I. Repair shops for Automobiles,
- J. Schools
- K. Trade Businesses, including electrical, heating, plumbing, welding, etc.
- L. Warehouses and distribution centers, where the majority of sales are off-premises or delivered.

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M. Wood Working Shops

~~M.~~ Breweries, Distilleries and Cideries

N. Food service establishments and/or liquor licensed premises where on-premises sales constitute the majority of sales, which are not operated out of a structure that meets the requirements of this RLUC

~~N.O.~~ All other uses businesses not listed as a Use Permitted by Right in 216.1 or prohibited by Section 216.3.

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216.3 PROHIBITED COMMERCIAL USES

The following commercial uses are prohibited in commercially zoned districts.

- A. Junk Yards
- B. Towing Services
- C. Motorized Recreational Vehicle Rentals or Sales, including off-road jeeps, motorcycles, motorbikes, and ATV's
- D. Marijuana dispensaries, stores and/or clinics
- E. Dollar and other deep discount or wholesale stores
- F. Car washes
- G. Public storage facilities

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220. RESIDENTIAL (R) ZONE DISTRICTS - USES PERMITTED BY RIGHT**(ORD. NO. 2022-05. § 220; 06-15-22)**

Single family dwellings, accessory dwelling units, up to two detached dwelling units, accessory buildings and uses, including home occupation, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457.

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RESIDENTIAL USES BY SPECIAL USE PERMIT REVIEW**(ORD. NO. 2022-05. § 221; 06-15-22)**

~~A. Short Daycare facilities, schools, and churches. Special use permits may not be applied to for the prohibited commercial uses referenced in Section 216.3~~

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~~B. Tiny Homes (ORD. NO. 2019-05. § 221; C, 07-17-19)~~

221. RESIDENTIAL DISTRICT DESIGN REGULATIONS**(ORD. NO. 2008-3. § 222, 03-19-08)**

DESIGN REGULATIONS	REQUIREMENTS
LOT SIZE	5,000 Square Feet, 7,500 Square Feet for Single family dwellings with Accessory Dwelling Units*
FRONT SET BACK	12 feet
SIDE SET BACK	7 feet
REAR SET BACK	5 feet**
BUILDING HEIGHT	30 feet ¹
MAXIMUM FLOOR AREA	Maximum Floor Area Formula = 50% of Lot square footage provided that in no event shall MFA exceed 3,250 sq.ft. MFA for non-conforming lots = 50% of Lot square footage
<u>MAXIMUM</u> SITE COVERAGE	70% of the lot
<u>Minimum</u> OFF-STREET PARKING	<u>Two</u> One vehicle space per dwelling unit.
PERMITTED EXTERIOR MATERIALS	Wood siding (<u>untreated</u> , stained or painted), Stone, Brick, Cementitious siding such as Hardy Plank, T1-11 with battens no more than 12" centers. <u>Materials</u> architectural elements are permitted up to a maximum of up to 40% of the exterior surface area, excluding the roof.
PROHIBITED EXTERIOR MATERIALS	Vinyl, Fiberglass, aluminum, exposed cinder block, exposed concrete block (CMU), plywood (with the exception of T1-11 <u>no more than 12" centers</u>)

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* The minimum lot size for the Atlantic Cable, Upper Atlantic Cable, Silverglance Subdivision

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¹ Church steeples may be up to 40 feet in height
January 18, 2023

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and Silverglance Subdivision Filing 2 shall be the existing platted lots because these subdivisions were platted to be single family lots, that is, ~~neither~~ further residential subdivision, ~~nor~~ the development of accessory dwelling units of existing lots shall be not permitted as a use by right.

** The rear yard setback shall be increased to 10 feet where the rear property line abuts private property rather than an alley, public right-of-way, or other public lands.

222. TINY HOME USES (ORD. NO. 2019-05, § 223, 07-17-19)

Tiny Homes must comply with all Colorado Department of Public Health & Environment (~~CDPH~~"CDPHE") rules and regulations, including daily residential wastewater flow and ~~BOD~~, load per person, per day limits. In addition, Tiny Homes must meet minimum requirements ~~as follows:~~ of the most current International Residential Code as it applies to tiny homes

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Design Regulation	Requirements
Ceiling Height	Habitable space and hallways in Tiny Homes shall have a ceiling height of not less than 6' 8" (2032mm). A bathroom, toilet room, and kitchen shall have a height not less than 6' 4" (1930mm). Obstructions including, but not limited to, beams, girders, ducts, and lighting, shall not extend below these minimum ceiling heights except ceiling heights in lofts as set forth below.
Tiny Home Loft Area and Dimensions	Lofts shall have a floor area of not less than 35-sq. Ft (3.25 mm). Lofts shall be not less than 5-feet (1524 mm) in any horizontal dimension. Portions of a loft with a sloped ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. Exception: Under-gable roofs with a minimum slope of 6 units vertical in 12 units horizontal (50 percent slope), portions of a loft with a sloped ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.
Height Effect on Loft Area	Portions of a loft with a sloped ceiling measuring less than 3' (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the

	loft. Exception: Under gable roofs with a minimum slope of 6 units vertical in 12 units horizontal (50 percent slope), portions of a loft with a sloped ceiling measuring less than 16" (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.
Loft Access	<p>Stairways accessing a loft shall not be less than 17" (432 mm) in clear width at or above the handrail. The width below the handrail shall be not less than 20" (508 mm). The headroom in stairways accessing a loft shall be not less than 6' 2" (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosing in the middle of their width. Risers for stairs accessing a loft shall be not less than 7" (178 mm) and not more than 12" (305 mm) in height. Tread depth and riser height shall be calculated in accordance with the following:</p> <ol style="list-style-type: none"> 1. The tread depth shall be 20" (508 mm) minus four thirds of the riser height. 2. The riser height shall be 15" (381 mm), minus three fourths of the tread depth.
Landing Platform	The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6' 2" (1880 mm) where the stairway meets the loft. The landing platform shall be 18" to 22" (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 to 18" (406 to 457 mm) in height measured from the landing platform to the loft floor.
Handrails and Stairway Guards	Handrails and stairway guards shall comply with the International Building Code (IBC) and International Residential Code (IRC), adopted by the Town.

Ladder	Ladders accessing lofts shall have a rung width of not less than 12" (305 mm), and 10" (254 mm) to 14" (356 mm) of spacing between rungs. Ladders shall be capable of supporting a 200 pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8" (9.5 mm).
Incline	Ladders shall be installed at 70 to 80 degrees from horizontal.
Alternating Tread Devices	Alternating tread devices shall not be used as an element of a means of egress. Alternating tread devices shall be permitted provided that a required means of egress stairway or ramp serves the same space at each adjoining level or where a means of egress is not required. The clear width at and below the handrails shall be not less than 20" (508 mm). <i>Exception:</i> Alternating tread devices are allowed to be used as an element of a means of egress for lofts, mezzanines, and similar areas of 200 gross sq. ft. (18.6 mm) or less where such devices do not provide exclusive access to a kitchen or bathroom.
Treads of alternating tread devices	Alternating tread devices shall have a tread depth of not less than 5" (127 mm), a projected tread depth of not less than 8 1/2" (216 mm), a tread width of not less than 7" (178 mm) and a riser height of not more than 9 1/2 inches (241 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projections of adjacent treads. The riser height shall be measured vertically between the leading edges of adjacent treads. The riser height and tread depth provided shall result in an angle of ascent from the horizontal of between 50 and 70 degrees (0.87 and 1.22 rad). The initial tread of the device shall begin at the same elevation as the platform, landing, or floor surface.

Ship's Ladder	Ships ladders shall not be used as an element of a means of egress. Ships ladders shall be permitted provided that a required means of egress stairway or ramp serves the same space at each adjoining level or where a means of egress is not required. The clear width at and below the handrails shall be not less than 20". Except, Ships ladders are allowed to be used as an element of a means of egress for lofts, mezzanines, and similar areas of 200 gross sq. ft. (18.6 mm) or less that do not provide exclusive access to a kitchen or bathroom.
Treads of Ship's Ladders	Treads shall have a depth of not less than 5" (127 mm). The tread shall be projected such that the total of the tread depth plus the nosing projection is not less than 8 1/2" (216 mm). The riser height shall be not more than 9 1/2" (241 mm).
Handrails of Ship's Ladders	Handrails shall be provided on both sides of ships ladders and comply with relevant sections of the IBC and the IRC, adopted by the Town of Rico. Handrail height shall be uniform, not less than 30" (762 mm) and not more than 34" (864 mm).
Loft Guards	Loft guards shall be located along the open side of lofts. Loft guards shall be not less than 36" (914 mm) in height or one half of the clear height to the ceiling, whichever is less.
Emergency Escape and Rescue Opening	Tiny houses shall meet the requirements of the IBC for emergency escape and rescue openings. Except that the Egress Roof Access Windows in lofts used as sleeping rooms shall be deemed to meet the requirements of IBC where installed such that the bottom of the opening is not more than 44" (1118 mm) above the loft floor, provided the Egress Roof Access Window complies with the minimum opening area requirements of the IBC.

240. HISTORIC COMMERCIAL (HC) ZONE DISTRICT - USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 240; 06-15-22)

Commercial, religious institution, fire house, school, and residential (except within the Street Front), including multi-family, apartments, town homes, condominiums, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All January 18, 2023

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uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

1.223. REVIEW BY BOARD OF TRUSTEES Planning Commission

The ~~Trustees~~ Planning Commission shall review all proposed structures, alteration of structures, and fences in the

-Historic Commercial Zone Districts prior to issuance of a building permit by the Building Official. Applicants for building in the Historic Commercial Zone Districts shall provide ~~eleven~~ five (544) copies and one digital copy of elevation drawings at a minimum scale of ¼ inch equals 1 foot at least ~~2043~~ days prior to a meeting of the ~~Trustees~~ Planning Commission and ~~one~~ five hard copies and one digital copy of a display rendering at a minimum scale of ¼ inch equals 1 foot, ~~at, or prior to, the meeting of the Trustees.~~ The drawings shall accurately portray the facade and architectural features of the structure facing Glasgow Avenue and the side facades for structures with a greater than 0-foot side yard setback or which face a side street and shall include existing buildings, or portion thereof, on adjacent lots for reference. The ~~Trustees~~ Planning Commission shall hold a public hearing prior to making a decision on the application. Notice of the public hearing shall be posted and published at least ~~ten~~ five (510) days prior to the date of the hearing. The ~~Trustees~~ Planning Commission shall act on the application to deny it, approve it, or approve it with conditions, or the ~~Trustees~~ Planning Commission may continue the review decision for one regular meeting upon providing specific direction to the Applicant indicating required amendments to the application.

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224. STANDARDS FOR REVIEW

The Trustees shall use the following standards when reviewing building permit applications in the HC Zone District:

1.
1.

- The application complies with the Design Regulations for the HC Zone District; the application should incorporate architectural features similar to features established by the historic commercial structures in the Town; such features include, but are not limited to: windows, doors, cornices, trim, and decorative architectural features; and,
- proposed structure or alteration of existing structure utilizes design that is practical and functional with respect to pedestrian traffic flow, parking, loading and deliveries; and,
- the design provides visual interest by avoiding long monotonous walls without windows, doors, openings, or trim detail and by using siding materials, doors, windows, and trim detail that provide visible texture, relief, and shadow lines; and,
- the overall design is compatible and complimentary to existing commercial buildings in the HC Zone District.

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225.

2-226. FENCES IN THE HISTORIC COMMERCIAL ZONE DISTRICT

2411 Purpose: Historically, most properties in the ~~H~~Historic ~~C~~Commercial ~~Z~~zone ~~D~~District did not have fences. ~~S~~Service ~~y~~yard fences that are visible from Highway 145 are highly discouraged. The purpose of the service yard fence regulations is to achieve a balance between requiring certain businesses to construct a service yard fence while maintaining a pedestrian friendly environment and preserving the historic nature of the Historic Commercial Zone District. The goal of any service yard fence constructed in the Historic Commercial Zone District shall be to obscure the service yard without building an opaque continuous façade and without having a negative visual impact on the historic nature of the Zone. Furthermore, service yard fences shall incorporate transparent elements into the fence design. Examples of acceptable service yard fence designs (including transparent elements) are provided in Appendix B of the RLUC.

22 No fence ~~can~~shall be constructed without a ~~permit~~approval from the ~~building official~~ ~~Planning Commission~~

23 It is the responsibility of the owner to construct fences within the owner's property boundaries. No fence can be constructed within any ~~T~~Town easement or right-of-way.

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Commented [GU28]: I'M NOT SEEING ANY EXAMPLES OF SERVICE YARD FENCES IN APPENDIX B

Commented [GU29]: NEED TO DEFINE SERVICE YARD

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Commented [GU30]: - Add a definition of service yard in the RLUC? Proposal to not have fences in the Historic Commercial and service yard fences in the commercial district or no fences in the commercial district so review this for a collective decision

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12 Standards For Review

2413 Service yard fences shall obscure the service yard but also include transparent elements within its design to minimize visual impacts on pedestrians. Transparent elements are such elements that provide a pedestrian a view into the yard. Service yard fences located in the Historic Commercial Zone District are not total privacy-type service yard fences that are permitted in other Zones. Examples of service yard fences with transparent elements are provided in Appendix B.

2514 Service yard fences shall be a minimum of six (6) feet in height and a maximum of seven (7) feet in height.

2615 Fences shall be constructed using rough cut or milled wood, natural stone, brick, wrought iron, and any combination of these materials.

2716 The following is an example list of prohibited fence types: chain link, wire, mesh, concrete block, plastic, fiberglass, plywood, barkslab, barb wire, razor wire, electrified fences, slatted "snow" fences, and opaque fences without transparent elements. The aforementioned list is not, nor is it intended to be, all inclusive of prohibited fence types.

2817 The use of materials native to Rico's historical character, such as railroad ties and brick, are encouraged. The use of vegetation to offset and/or screen visual impacts is also encouraged.

2918 Fences located along Highway 145 and any side street or alleys must be built along a minimum three- foot setback.

24019 All fences shall be built parallel or perpendicular to the platted lot lines.

24110 A building material variance may be requested under Section 430.1 for fences that meet the goals of these regulations but do not conform to the specific standards may be permitted upon approval of the Planning Commission.

3.2. STANDARDS FOR REVIEW

The Trustees shall use the following standards when reviewing building permit applications in the HC Zone District:

- 31** — The application complies with the Design Regulations for the HC Zone District; the application should incorporate architectural features similar to features established by the historic commercial structures in the Town; such features include, but are not limited to: windows, doors, cornices, trim, and decorative architectural features; and,
- 32** — proposed structure or alteration of existing structure utilizes design that is practical and functional with respect to pedestrian traffic flow, parking, loading and deliveries; and,
- 33** — the design provides visual interest by avoiding long monotonous walls without windows, doors, openings, or trim detail and by using siding materials, doors, windows, and trim detail that provide visible texture, relief, and shadow lines; and,

Commented [GU31]: NOT SEEING ANY SERVICE YARD FENCE EXAMPLES IN APPENDIX B

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~~34 the overall design is compatible and complimentary to existing buildings in the HC Zone District.~~

246. HC - HISTORIC COMMERCIAL DISTRICT DESIGN REGULATIONS

The design regulations for the HC Zone District require a street level, pedestrian oriented commercial space on the front of the structure, referred to as the Street Front, which shall have a minimum depth extending back from the Street Front as set forth in the Design Regulations below. For corner lots on Highway 145, the Street Front shall be that which lies along Highway 145.

*Refer to Appendix B. Graphic Design Illustrations for further explanation and guidance on these design regulations.

DESIGN REGULATIONS	Requirements
Maximum Front Setback	0 feet
Maximum Side Setback	0 feet (Two-hour fire wall is required)
Minimum Rear Setback	5 feet
Minimum Lot Size	2,500 Square Feet
Maximum Building Height	30 feet (maximum of two stories above sidewalk grade)
Permitted Exterior Materials	Horizontal wood siding (stained or painted) maximum six (6) inches in width, Stone, or Brick. Metal architectural elements are permitted up to a maximum of 20% of the exterior surface area. (for all exterior building walls visible from Glasgow Ave.)
Off-Street Parking	One vehicle space per 1,000 square feet of floor area.
Sidewalk	Sidewalk improvements are subject to review <u>by the Planning Commission.</u>
Street Level/Ground Floor Treatment	
Street Front Elevation	The floor of the Street Front shall be the same elevation as the abutting sidewalk surface.
Minimum Ceiling Height <u>within Street Front</u>	10 feet
Minimum depth of Street Front	<u>22 feet extending from the front exterior finish of the building back ("Street Front").</u>
Minimum Fenestration Area on Street Front	55%
Window Treatment on Street Front	The width of each window, excluding transom windows, shall not exceed the height.
Second Floor Treatment	
Second Floor Window Treatment	All second-floor windows shall be dimensioned so that the height of each window is at least 1.5 times the width. Second floor windows shall be evenly aligned and spaced horizontally and shall be aligned vertically. Bay windows which do not exceed the height of the facade are allowed.

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Commented [GU32]: add street front to definitions

Parapet Treatment	The parapet of the façade shall extend vertically a minimum of 4 feet and a maximum of 10 feet above the top of the window, not including window trim.
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Cornice detail	The parapet shall incorporate a cornice trim detail with at least <u>eight (8) inches of relief or overhang</u> . inches of relief or overhang.
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250. COMMERCIAL (CM) ZONE DISTRICT - USES PERMITTED BY RIGHT
(ORD. NO. 2022-05. § 250; 06-15-22)

Commercial and residential, including multi-family, apartments, town homes, condominiums, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

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252. COMMERCIAL DISTRICT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
<u>Minimum</u> LOT SIZE	2,500 Square Feet
<u>Minimum</u> FRONT SET BACK	22 feet
<u>Minimum</u> SIDE SET BACK	7 feet
<u>Minimum</u> REAR SET BACK	5 feet
<u>MAXIMUM</u> BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = Lot square footage (1:1 ratio)
<u>MAXIMUM</u> SITE COVERAGE	80% of the lot
<u>Minimum</u> OFF-STREET PARKING	One vehicle space per 350 500 square feet of floor area. Lodging facilities shall provide one vehicle space per lodging room <u>two (2) vehicle spaces for every three (3) accommodations bedrooms.</u>
SIDEWALK	Sidewalks improvements are subject to review <u>by the Building Official.</u>

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260. MIXED USE (MU) ZONE DISTRICT - USES PERMITTED BY RIGHT

Single family dwellings, duplexes and triplexes, accessory structures and uses, including home occupation, commercial, light industrial, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

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262. MIXED USE ZONE DISTRICT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
<u>Minimum</u> LOT SIZE	12,000 square feet
<u>Minimum</u> FRONT SET BACK	12 feet
<u>Minimum</u> SIDE SET BACK	12 feet
<u>Minimum</u> REAR SET BACK	12 feet
<u>MAXIMUM</u> BUILDING HEIGHT	30 feet

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MAXIMUM FLOOR AREA	Maximum Floor Area Formula = 50% of lot area, provided that in no event shall MFA exceed 5,000 sq.ft.
MAXIMUM SITE COVERAGE	50% of the lot.
Minimum OFF-STREET PARKING	Two vehicle spaces per dwelling unit, two one vehicle spaces per <u>dwelling unit with light industrial spaces by review of the Building Official</u> 1,000 square feet of light industrial space.

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270. RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ZONE DISTRICT –USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 270; 06-15-22)

Single-Family, duplex, triplex, accessory dwelling use, home occupation, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457.

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272. RESIDENTIAL PLANNED UNIT DEVELOPMENT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
Minimum LOT SIZE	22,000 sq.ft.
Minimum FRONT SET BACK	12 feet
Minimum SIDE SET BACK	7 feet
Minimum REAR SET BACK	5 feet
MAXIMUM BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = 4,500 sq.ft. (4,500 sq.ft.if a detached accessory dwelling unit is constructed)
Minimum OFF-STREET PARKING	Two vehicle spaces per dwelling unit

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280. COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) ZONE DISTRICT –USES PERMITTED BY RIGHT (ORD. NO. 2022-05. § 280; 06-15-22)

Single family dwellings, duplexes and triplexes, accessory structures and uses, including home occupation, commercial, light industrial, and short-term rental dwelling units subject to the licensing procedures and regulations in Sections 450 through 457. All uses permitted by right must be conducted primarily out of a structure that meets the requirements of this RLUC.

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282. COMMERCIAL PLANNED UNIT DEVELOPMENT DESIGN REGULATIONS

DESIGN REGULATIONS	REQUIREMENTS
Minimum LOT SIZE	2,500 sq.ft.
Minimum FRONT SET BACK	7 feet
Minimum SIDE SET BACK	7 feet
Minimum REAR SET BACK	5 feet
MAXIMUM BUILDING HEIGHT	30 feet
MAXIMUM FLOOR AREA	Maximum Floor Area = 56% of lot area
Minimum OFF-STREET PARKING	One Two vehicle spaces for every three (3) accommodations bedrooms per accommodations room or bedroom, two vehicle spaces per dwelling unit, one vehicle space per 500250

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Rico Land Use Code

ARTICLE II - ZONE DISTRICTS

	sq. ft of restaurant, retail, or office space <u>with light industrial parking review by Building Official.</u>
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290. OPEN SPACE AND PUBLIC FACILITY ZONE DISTRICTS

The Open Space and Public Facilities Zone Districts apply to land owned by the Town, County of Dolores, or other public entities, where appropriate, or where the Zone District designation is applied to private property with the consent of the property owner or as a requirement of any P.U.D., subdivision, or annexation approval. The Open Space District is intended to preserve the natural values of undeveloped land for the benefit and enjoyment of the residents of the Town of Rico. The Public Facility Zone District is intended to permit construction and installation of structures, equipment, and facilities used primarily for public purposes. Use permitted by right for the Open Space Zone District include; nature trails for walking, hiking, biking, skiing, snow shoeing, and other non-motorized activities; and structures and improvements identified in the Rico Regional Master Plan. Use permitted by right for the Public Facilities Zone District include public structures and facilities which may be identified in the Rico Regional Master Plan and may also include work force housing as an accessory use.

Commented [GU37]: Vinyl and composite or synthetic materials and how to maintain a look and feel and or what a review would look like in the RLUC

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ARTICLE III
PLANNED UNIT
DEVELOPMENTS
RPUD & CPUD

300. PUD DISTRICTS

The requirements of this **ARTICLE III** apply to the Residential Planned Unit Development Districts and Commercial Planned Unit Development Districts in addition to other requirements of this **RLUC**.

302. PURPOSE

3021 Intention. The Planned Unit Development Districts (PUD) are intended to permit the use of land with flexibility in design and without rigid application of zoning requirements applied to the historically platted portion of Town (historically platted lot size of 25 feet by 100 feet). In addition to the purposes stated elsewhere in this RLUC, the PUD Districts also have the purposes stated in C.R.S. §24-67-102, as may be amended from time to time.

3022 Multiple Zone Districts. A mixture of Zone Districts is permitted in PUD applications to permit site specific application of appropriate zoning based on the Rico Regional Master Plan, the purposes of this RLUC, the purposes of PUD and subdivisions, and site-specific development opportunities and constraints. For example, a PUD site that contains a mixture of sites suitable for residential development and sites inappropriate for development due to environmental constraints can result in a PUD that utilizes a mixture of residential and open space zoning.

3023 Multiple Property Owners. Applications by multiple property owners are permitted and encouraged where site development affects the current or planned development of multiple contiguous properties under separate ownership. Site development which may affect multiple property owners includes, but is not limited to; road improvements, utility extensions, calculation of permitted density, and assignment of permitted density to property suitable for development. The PUD District permits the transfer of development rights and development credits among separate tracts or parcels of land and among multiple property owners.

304. PROCEDURES AND SUBMITTAL REQUIREMENTS.

The Applicant shall follow the procedures and submittal requirements for Major Subdivisions in **ARTICLE V. SUBDIVISIONS**. In addition to the submittal requirements set forth in **ARTICLE V.**, Applicants shall include the following information in a PUD application:

304.1 Proposed use or Zone District classification for each lot.

304.2 A description of and site plan depicting Proposed setbacks, building heights, and other design requirements for each lot and structure which vary from the Design Regulations

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Commented [GU40]: Add in definitions what Development Credits are

Commented [GU41R40]: THIS IS THE ONLY PLACE IN THE RLUC WHERE "DEVELOPMENT CREDITS" ARE REFERENCED. IF WE ADD THIS CONCEPT WE WILL NEED TO SHOW HOW AND WHEN THEY MAY BE TRANSFERRED IN ADDITION TO DEFINING WHAT THEY ARE. COMMUNITIES WHERE THEY EXIST USUALLY DEFINE THEM IN TERMS OF DENSITY AND SET UP DENSITY BANKS. ALL REFERENCES TO DEVELOPMENT CREDITS SHOULD EITHER BE TAKEN OUT OF THE RLUC OR WE NEED TO HIRE A LICENSED PLANNER TO ADVISE US

Commented [GU42]: Currently there is not a fee schedule amount for a simple re-zone, we may want to consider adding this. Possibly to include an explanation of why the application is applicable to the area or situation.

established for the PUD district. This information shall not be required if the PUD application does not propose to vary the Design Regulations for the applicable PUD Zone District. If a property owner seeks to vary the applicable PUD District Design Regulations, they shall apply for a PUD amendment and include a description and site plan depicting the proposed variation(s).

304.3 For CPUD applications adjacent to Highway 145: Colored elevations of the project as seen from Highway 145 (adjacent to Highway 145, and approaching the project from the North and South, where applicable). This information shall not be required if the initial applicant for a combined PUD and Subdivision approval does not propose to develop the subject Property. In such case, a submission of a colored elevation as described above shall be required for review and approval of the Planning Commission prior to issuance of a building permit.

304.4 Proposed common areas, plazas, landscaping, retaining walls or other improvements. This information shall not be required if the PUD application does not propose to vary the Design Regulations for the applicable PUD Zone District. Should a developer subsequently seek to vary the applicable PUD District Design Regulations, they shall apply for a PUD amendment and include a description and site plan depicting the proposed variation(s).

304.4304.5

306. PUD DISTRICT STANDARDS

Any ~~Planned Unit Development~~ PUD Application may propose to vary ~~variances to~~ the applicable standards which ~~variations~~ may be approved in the sole discretion of the Town Board of Trustees if the Trustees determine that the overall PUD application promotes the goals of the Rico Regional Master Plan. In addition to the standards contained in **ARTICLE V. SUBDIVISIONS** and the Design Regulations applicable for the designated PUD district, the reviewing body shall use the following standards to review PUD applications:

306.1 The application substantially complies with the Rico Regional Master Plan, including but not limited to: use, pedestrian and recreation access and connections to the Town core, U.S. Forest Service lands, and other public lands.

306.2 All areas which are inappropriate for development, including but not limited to: steep slopes, areas affected by geologic or other hazards, wetlands, and other areas of state and local interest, are included in the Open Space Zone District. All areas included in the Open Space Zone District which are not dedicated to the Town are held in common ownership by an owners' association and the owners' association is responsible and liable for the maintenance and oversight of all common open space areas.

306.3 The PUD application complies with the Major Streets Plan.

A. Pedestrian access to the commercial districts of Town is provided by a sidewalk or trail on the Applicant's property, or by connection to an existing or future sidewalk, trail, or other suitable pedestrian access route, and sidewalk or trails meet the minimum requirements set forth in **550. MINIMUM SUBDIVISION DESIGN STANDARDS**.

B. Passive recreational access is provided to the existing and planned network of passive recreation trails identified in the Rico Regional Master Plan.

C. Direct access to Highway 145 will not create traffic related hazards and direct access can be created which meets the minimum access design standards set forth by the Town of Rico and the Colorado Department of Transportation (CDOT). Any necessary

Commented [GU43]: Comments 304.3 changing the CPUD to all RUD or all applications in Section III are obligated to meet this from Highway 145 and maybe a discussion about it expanding or broad. Possibly expanding to RPUD overall process and from whatever angle or possibly elevation.

Commented [GU44]: A Master Street Plan does exist and is available in the Town Clerks Hall:
306.3 The PUD application complies with the Major Streets Plan.

Commented [GU45R44]: WE NEED TO BE CONSISTENT WITH THE TITLE OF THIS DOCUMENT. IT'S REFERRED TO ABOVE AS "MASTER STREET PLAN" AND IN THE RLUC AS "MAJOR STREET PLAN" AND "OFFICIAL ROADS MAP"

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highway access permit from CDOT and the Town of Rico is obtained prior to commencement of any development activity.

306.4 ~~For CPUD applications, e~~ Off-street parking should be visually screened from Highway 145 either by parking within or behind structures or through the use of landscaping.

~~306.4~~ **306.5** Retaining walls should be visually screened from adjacent streets and Highway 145 through the use of landscaping or constructed and/or finished (with color, texture and/or stone, or other appropriate veneer) in a manner that is visually compatible with the adjacent hillsides and buildings. See Appendix B for examples.

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ARTICLE IV APPLICATION PROCEDURES AND STANDARDS

400. BUILDING PERMIT REQUIRED

It shall be unlawful to commence the excavation for, or the construction of, any building or any structure, including accessory structures, until the Building Official of the Town of Rico has issued a building permit for such work. Structures include decks and patios over thirty (30) inches in height (See Appendix B). Test pits for engineering related to foundations and septic designs are allowed permitted without a building permit or septic permit. Every building hereinafter erected or structurally altered shall be located on a lot as defined in ARTICLE IX. No building shall be erected, converted, enlarged, or structurally altered, nor shall any building or premises be used for any purpose other than permitted in the district in which such building or premises is located. No building shall be erected, enlarged, moved, or structurally altered except in conformity with the height, yard, setback, maximum floor area, maximum site coverage, or other regulations prescribed herein for the district in which such lot is located. All applicants are required to be in compliance with the most up to date building code (IBC) adopted by the Town of Rico. Every part of the permit area should be accessible and visible to the building official or inspector. a required yard shall be open to the sky, unobstructed, except as hereafter provided. The yard of any lot shall not be reduced so as to be smaller than the applicable district requirement. See 730 for enforcement and authority and 740 for penalties for violations.

401. NO LIABILITY INDEMNIFICATION FOR ISSUANCE OF BUILDING PERMIT

A grant or approval of a building permit does not constitute a representation, guarantee, or warranty of any kind or nature by the Town or any Town official or employee of the practicability or safety of any Development Activity structure or proposed use, and it creates no liability to or cause of action against the Town or any Town official or employee for any damages caused by permitting such development.

402. NULL AND VOID PERMITS

Any permit issued in conflict with the provisions of this RLUC shall be null and void and may not be construed as waiving any provision of this RLUC or other rights of enforcement by the Town.

403. RECORD KEPT BY BUILDING OFFICIAL

A record of all building permits shall be kept on file in the office of the Town of Rico by the Building Official, and copies shall be furnished on request at the expense of any person having a proprietary interest in the land or building affected by such building permit.

404. APPEAL FROM DECISIONS

The Applicant may appeal the decision of the Building Official to the Board of Adjustments by filing a notice of appeal with the Town Clerk within thirty (30) days of the certified mailing of the written order of the Enforcement Official. The Town Clerk shall notify the chairperson of the Board of Adjustments who shall schedule a meeting within forty-five (45) days of receipt by the Town of the notice of appeal.

Commented [GU47]: ARTICLE IV OR SOMEPLACE WITHIN THE RLUC WE NEED TO ADDRESS CERTIFICATES OF OCCUPANCY. FOR EXAMPLE: **Certificate of Occupancy.** No change in the use or occupancy of land nor any building shall be made, nor shall any new building be occupied for any purpose until a certificate of occupancy has been issued by the Building Official. Prior to the issuance of a certificate of occupancy, the Building Official shall examine all requirements of any development permit issued, and shall investigate the site to determine that all applicable requirements have been met and the development complies with all applicable provisions of this Title.

If permit requirements have not been completed, or if the development is not otherwise in compliance with the provisions of the RLUC, the Building Official shall withhold issuance of the certificate of occupancy until compliance is obtained.

A record of all certificates of occupancy shall be kept on file in the office of the Building Official, and copies shall be furnished on request to and at the expense of any person having a proprietary or tenancy interest in the land or a building affected by such certificates of occupancy.

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Commented [i549]: We need some technical assistance to help the Board work to an updated building code.

Commented [i550R49]: So the phrasing is correct in this section an updated ordinance needs to happen or this to be valid

Commented [i551R49]: •The exceptions will adopt whatever the most updated IBC has.

Commented [i552]: This will refer to the current building code. Permits are required for the most recent adopted code.

Commented [i553]: Need a definition for what a test pit is and that it includes an engineer. Included at a geotech is on site. Google it.

Commented [i554]: Manager to take this verbiage

Commented [GU55]: NEED TO DEFINE "DEVELOPMENT ACTIVITY" (IE, THE ACTIVITIES WHICH REQUIRE A BUILDING OR EXCAVATION PERMIT)

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Commented [GU56]: THE TERM "BUILDING OFFICIAL" NEEDS TO BE DEFINED - IT SEEMS TO BE USED INTERCHANGEABLY WITH THE TERM "ENFORCEMENT OFFICIAL". ARE THEY THE SAME?

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405. BUILDING PERMIT SUBMITTAL REQUIREMENTS

Application for a building permit shall be made to the Building Official of the Town. The Building Official shall require that every application for a building permit be accompanied by a plan drawn to scale and an elevation drawing drawn to scale showing the specified information specified in Sections 405.1 et seq., below, in sufficient detail to enable the Building Official to ascertain whether the proposed excavation, construction, reconstruction or conversion, moving or alteration is in compliance with this RLUC. Building Permits expire after two years with a Certificate of Occupancy, if the exterior has not been substantially completed.

Plans and drawings shall include the following:

- 405.1** Lot dimensions and corners. A survey of the lot prepared by a Colorado registered land surveyor (RLS) showing the corners, dimensions, and existing easements of the lot.
- 405.2** Proposed Structures. The shape, size and location of all buildings, fences, or other structures to be erected, altered, or moved and of any buildings, fences, or other structures already on the lot.
- 405.3** Use of Structure. The existing and intended uses of the building and other structures, including the number of units.
- 405.4** Existing Yards. The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of the RLUC are being observed regarding yards, areas, site-coverage, and other such requirements or standards.
- 405.5** Driveways and Parking. Any planned roads, driveways, or access routes, and off- street parking areas.
- 405.6** Other Approval Requirements. Information sufficient to address any subdivision, PUD, annexation, variance and other applicable RLUC requirements, including but not limited to those established pursuant to a subdivision improvements, PUD or development agreement, and other conditions and requirements contained in any other applicable Town approval or separately recorded instrument. Water Tap, Septic Permit and Excise Tax. Evidence of payment of the water tap fee, excise tax, and any other applicable fees, issuance of a septic permit, and compliance with any other restrictive covenants enforceable by the Town.
- 405.7** Other Permits. Evidence of approval of other required permits (such as development permits in Areas of State and Local Interest and driveway excavation permits).
- 405.8** Payment in Full. Evidence of payment in full of any amount due and owing to the Town of Rico, a special improvement district organized in the Town of Rico, any reimbursement fee required by Ordinance, and the Rico Fire Protection District.

406. STANDARDS FOR REVIEW

406.

The Building Official shall use the following standards to review building permit applications:

Commented [GU57]: - Compliance with the most up to date building code be changed. Want it to stay to the most updated building code. So that both building and engineering holds to the most updated building code. So, an updated ordinance by the town in updating the IBC needs to occur to match what the RLUC is doing.

Commented [i558]: The manager is requesting to discuss the interior lot lines in areas where there are several lots. Only where your project developed. Manager will pull some sample verbiage.

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Commented [GU59]: SINCE THE TOWN ISSUES COs, WE NEED TO ADDRESS THEM IN THE RLUC. AS OF RIGHT NOW, SEC 405 CONTAINS THE ONLY REFERENCE TO COs IN THE RLUC. THE TERM "CERTIFICATE OF OCCUPANCY (CO)" SHOULD BE DEFINED. AND WE NEED TO INCLUDE WHEN THEY MAY BE ISSUED, WHAT HAPPENS IF OCCUPANCY OCCURS WITHOUT ONE, ETC.

ALSO WE SHOULD MAKE A SEPARATE SECTION FOR DURATION OF BUILDING PERMITS

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Commented [i560]: Hold but have staff revisit. Also apply to any additional lots used to meet the site coverage. All improvements necessary for that lot need to be on the same lot and have legal access to what they are building and or do a boundary line adjustment to meet the desired development area.

Commented [GU61]: Section 405: The manager is requested to discuss the interior lot lines in areas where there are several lots. Manager will pull some sample verbiage.

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Commented [i562]: Cut this

Commented [GU63]: Need a definition for what a test pit is and that it included that a Geotech is on site. Google it? or find comparable definitions from other municipal codes

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Commented [GU65]: DO WE NEED TO ADD LANGUAGE AUTHORIZING PASS THROUGH EXPENSES FOR OUTSIDE CODE COMPLIANCE REVIEW, LEGAL REVIEW, ENGINEERS, ETC. SOMEWHERE IN THE RLUC?

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4061 If the proposed excavation, construction, moving or alteration **or other Development Activity** as set forth in the application is in conformity with the provision of this RLUC and all other ordinances of the Town, the Building Official shall issue a Building Permit.

4062 If an application for a building permit is not approved, the Building Official, shall

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state in writing his or her reason for ~~such a~~ disapproval.

407. ON-SITE WASTEWATER TREATMENT SYSTEM REGULATIONS
(ORD. NO. 2017-1, § 100.1-100.6, 10-18-17)

407.1 Authority and Title

~~These Requirements for these systems are governed by the Colorado Department of Public Health and Environment (CDPHE) Regulations 43 and Town of Rico Board of Trustees, acting as the Board of Health pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. Current on-site wastewater treatment system regulations and requirements are set forth in other ordinances and/or codes of the Town of Rico -will be known as the Town of Rico On-site Wastewater Treatment System regulations and are located within the Town of Rico. These requirements have been adopted by the Rico Colorado Board of Trustees, acting as a Board of Health pursuant to and under authority contained in the On-site Wastewater Treatment System Act, 25-10-101, et seq. C.R.S. and has designated the Town Manager, acting as the Director of Public Health to implement these regulations on behalf of the Board of Health.~~

407.2 Scope and Purpose

- ~~A. Declaration This regulation applies to On-site Wastewater Treatment Systems (OWTS) as identified in section 25-10-103(12), C.R.S.~~
- ~~B. Purpose The purpose of these regulations is to establish the minimum standards for the location, design, construction, performance, installation, alteration, and use of OWTS with a design capacity less than or equal to 2,000 gallons per day within the Town of Rico.~~
- ~~C. Jurisdiction These regulations apply to all new or altered OWTS within the territorial limits of the Town of Rico.~~
- ~~D. Prohibition of OWTS Where Public Sewer Service is Available and Feasible An OWTS permit must not be issued to any person when the subject property is located within a municipality or special district that provides public sewer service, except where such sewer service to the property is not feasible in the determination of the municipality or special district, or the permit is otherwise authorized by the municipality or special district [43.4(8)(11)].~~
- ~~E. Severability Should any section, clause, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of these Regulations as a whole, or any part thereof other than the part declared to be invalid.~~

407.3 Incorporation of Regulation 43

A. Included by Reference

- ~~1. The requirements of the Colorado Water Quality Control Commission's "On-site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43, Effective date, June 30, 2017, are made a part of these regulations and will apply except where identified as an option of the local public health agency or where~~

Commented [i566]: There is some discussion about retaining walls.

Commented [i567]: Manager is requesting that this section is cut. All of it. And to direct a few lines to go to the manager to know the ordinance requirement.

~~these regulations are more stringent than Regulation 43, 5 CCR 1002.43, and included in these regulations. All aspects of an On-site Wastewater Treatment System including, but not limited to, permits, design, performance, location, construction, alteration, inspection, maintenance, and use must be as provided in Regulation 43 and any additional requirements contained in these regulations. Copies of Regulation 43 and any amendments are available for inspection at the office of the Town Clerk.~~

- ~~2. Allowable local options identified in Regulation 43 and the designated decisions for these regulations, if any, are identified in the OWTS Town of Rico On-Site Wastewater Treatment System Regulations A is made a part of these regulations.~~

~~B. Excluded. Reductions in soil treatment area size or separation distances, and wide beds with higher level treatment units are not allowed under these regulations. All designs must be based on TL-1 parameters as defined in Regulation 43. Area or separation distance reductions and wider beds for higher level treatment can only be allowed in the future if these regulations are amended to include a program of oversight for inspection and maintenance of higher level treatment units, and this amendment is accepted by the Division.~~

407.4 Permits and Fees

A. Permits [43.4(8)]

- ~~1. Prior to installing, altering, expanding, or repairing an OWTS, the applicant must obtain a permit from the Town of Rico. All OWTS must be designed, and plans must be stamped by a professional engineer.~~
- ~~2. The permit application must include information identified in section 43.4(8)(3) of Regulation 43.~~
- ~~3. An OWTS permit expires one year after the date of issuance if construction has not commenced. After expiration, a new application must be required to begin construction.~~
- ~~4. Any change in plans or specifications of the OWTS after the permit has been issued invalidates the permit unless the permittee receives written approval from the Town of Rico. After a permit is invalidated, a new application and subsequent permit is required to begin construction.~~
- ~~5. Repair permits must identify a reasonable period of time in which the owner must make repairs prior to expiration of the permit.~~
- ~~6. Application for a product development permit may be approved by the Town of Rico consistent with requirements of section 43.4(1) of Regulation 43.~~

B. Board of Health Review [43.4(8)(9)1]

~~When an application is denied by the Town of Rico, an applicant may request review by the local board of health by filing a request for reconsideration with the Town Clerk within thirty (30) days of the date of denial. Upon receipt of the written request for reconsideration, the Town Clerk will schedule a hearing at the next regular meeting of the Rico Board of Trustees,~~

who serve as the Board of Health for the purposes of implementation of the OWTS. The applicant will have the burden of proof in demonstrating that the applicant meets all requirements of Regulation 43 and should be granted a permit. The Board of Health will make a final determination, which determination will be final agency action for the purposes of any further judicial appeal.

C. ~~Fees~~ [43.4(8)(4)]

1. ~~Permit fees and fees for other services and tests associated with OWTS will be set by the Board of Health, in conformance with section 43.4(8)(4) and (5) of Regulation 43 and 25-10-107, C.R.S. and are available from the Town of Rico upon request.~~
2. ~~Waiver of fees [43.4(8)(4)c] A waiver of a portion or all of the applicable fees may be requested for good cause shown. Such a request shall be made in writing to the Town of Rico, along with documentation supporting the request. The Town of Rico staff shall make a determination of such waiver within fifteen (15) business days of the request. An appeal to the Board of Health may be made of a denial of such request as provided in Subsection B above.~~

D. ~~Surcharge~~ [43.4(8)(5)]

~~A surcharge of \$23.00 will be collected for each permit issued by the Town of Rico. Of that fee, the Town of Rico will retain three dollars to cover administrative costs and twenty dollars must be transmitted to the state treasurer.~~

~~407.5 Inspections~~ [43.4(E)]

A. ~~Septic Tank~~ [43.9(8)(3)c]

~~The applicant must notify the local public health agency or its designee one business day prior to completing construction so the local public health agency or its designee can conduct a field inspection of the septic tank before backfilling.~~

B. ~~Soil Treatment Area and Related Components~~ [43.4(F)(3)]

~~The applicant must notify the local public health agency or its designee one business day prior to completion so the local public health agency or its designee can conduct a final field inspection of the soil treatment area and all related components of the OWTS before backfilling.~~

~~Additional Requirements~~

- ~~1. In addition to the inspection required as described in sections A and B above, the design engineer or other professional engineer engaged by the applicant shall make a final inspection of the completed OWTS and its components, prior to back filling, and shall certify that the system has been completed as designed.~~
- ~~2. This certification, stamped by the professional engineer shall be provided and filed with the Town of Rico.~~
- ~~3. Record drawings, which include a scale drawing showing all components of the OWTS including their location from known and findable points, dimensions, depths, sizes, manufactures' names, and models as available, and other information relative to locating and~~

~~maintaining the OWTS components shall be provided to the Town of Rico in both paper and electronic form.~~

407.6 Variances

~~The Board of Health may approve a variance from a requirement of this Regulation. Variances cannot be granted by staff.~~










A. Variances Allowed

- ~~1. The Board of health may approve a variance from a requirement of this Regulation. Variances cannot be granted by staff.~~
- ~~2. Approval of a variance must be based upon evidence presented by the applicant, or their designee, showing that the variance:~~
 - ~~a) would not be injurious to the public health, water quality, or environment; and~~
 - ~~b) would prevent a substantial hardship to the applicant.~~
- ~~3. Variances must not be granted under the items identified in section 43.4(N)(S) of Regulation 43.~~

B. Variance Procedures

- ~~1. Variance seekers must request review by the local board of health by filing a request for consideration with the Town Clerk. Upon receipt of the written request for a variance, the Town Clerk will schedule a hearing at the next regular meeting of the Rico Board of Trustees, who serve as the Board of Health for the purposes of implementation of the OWTS. The applicant will have the burden of proof in demonstrating that there would be no injury to public health, water quality or the environment and should be granted a variance.~~
- ~~2. Variance requests must include all items identified in section 43.4(N)(2)(d) of Regulation 43.~~
- ~~3. The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting these Regulations. The Board of Health must determine if this item has been addressed prior to granting a variance.~~
- ~~4. The Board of Health has the authority to impose site specific requirements and conditions on any variance granted.~~

OWTS Town of Rico On-Site Wastewater Treatment System Regulations:**Local Public Health Agency:** 

CROSSWALK				
ITEM	REQUIREMENTS See Check Box for Decision Chosen.		Citation- Reg #43	Citation Local Reg
Occupancy—Residential	Bedrooms: 1 through 3—2 people per bedroom All- additional Bedrooms: 1 person per bedroom	X	43.6. A.2e	
	All bedrooms: 2 persons per bedroom		43.6. A.2.f	
How the number of bedrooms in a home will be defined for flow requirements	Bedrooms: flow estimates will be determined from the number of bedrooms originally finished.	X		
	If unfinished area is present in house, system must also be sized for 1 or 2 more bedrooms based on an assumption that 150 square feet of unfinished space can be converted into a bedroom, if the space can meet applicable code requirements for a bedroom.		43.6. A.2.h	
Effluent Screen	May be used (<i>owner's option</i>)		43.9. J.1	
	Required in all new septic tanks	X	43.9. J.1	
Length of Distribution Laterals (e.g., trenches or beds)	Limit the length of distribution lines to a maximum of 100 feet.		43.10. E.2.e	
	100 feet maximum for gravity fed from one end, and up to 150 feet if pressure dosed or effluent applied at center of lateral or chamber	X	43.10.E.2.b & c	
Inspection ports at initial (front) end of distribution line (e.g., lateral or chamber)	Not required	X		
	Required		43.10. F.6.d	
Vault Privies—new	Allow new vault privies:		43.12. D.1.a	
	Prohibit new vault privies	X	43.12. D.1.a	
Vault Privies—existing	Allow continued use of existing vault privies	X	43.12. D.1.b	
	Require abandonment of existing vault privies		43.12. D.1.b	
Pit Privies—new	Allow new pit privies		43.12. D.2.e	
	Prohibit new pit privies	X	43.12. D.2.a	
Pit Privies—existing	Allow continued use of existing pit privies	—X	43.12. F	
	Require abandonment of existing pit privies		43.12. D.2.b	
Slit trenches	Allow slit trenches		43.12. F	
	Prohibit slit trenches	X	43.12. F	
Reductions in STA size or separation-	Allow reductions for higher level treatment		43.14. D.2	



TOWN OF RICO
INCORPORATED OCTOBER 11, 1879
2 North Commercial Street
Post Office Box 9
Rico, Colorado 81332
Office # 970.967.2861
Fax # 970.967.2862
www.ricocolorado.gov

To: Rico Planning Commission
From: Chauncey McCarthy, Town Manager
Subject: West Soda Street and Leah Lane road vacation application permit review

9/5/2024

McCroke Venture LLC is proposing the vacation of the west termination of West Soda Street and Leah's Lane a sixteen-foot plated alley starting at West Soda Street and running north. The Rico Land Use Code sections 480, 482, 484 address road vacation applications in addition to Colorado Revised Statutes 43-2. The RLUC does not provide required submittal materials although certain materials are necessary to have a complete application. These items include:

- A statement by the applicant describing how the vacation meets applicable standards set forth in the Rico Land Use Code
Submittal requirement met
- Vacation Plat prepared by Registered Land Surveyor showing the location and dimensions of areas to be vacated.
Exhibit provided
- Written legal description of the proposed vacation
Submittal requirement met.
- Easements and legal documents
Submittal requirement not met
- Certificate of public hearing notice mailing to all property owners within 200 feet.
Submittal requirement met

In addition to the submittal requirements the applicant provided two exhibits titled, Block 18, Alley Vacation and Post Alley Vacation Property Configuration. Block 18, Alley Vacation depicts owner Milstead receiving 1275 Sqft of land, which may be incorrect. C.R.S 43-2-302 (1)

(c) "In the event that a roadway bounded by straight lines is vacated, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking to the center of the roadway"

Post Alley Vacation Property Configuration shows a replat of the block 18. It assumes that owner Chmielewski would be willing to vacate an interior property line creating one parcel from the two that she currently owns. It also assumes that owner Milstead would be willing to grant a 7.5' access easement.

480. VACATION OF ROAD RIGHTS-OF-WAY

The following sections establish procedures and standards for Vacation of public rights-of-way by the Town of Rico. The Board of Trustees shall approve or deny vacation requests after conducting a public hearing. A request to vacate a public road right-of-way shall be reviewed first by the Planning Commission after conducting a public hearing. Notice of the public hearing shall be posted and published at least ten (10) days prior to the hearing and shall be mailed to all property owners within 200 feet of the proposed vacated road right-of-way at least twenty (20) days prior to the hearing.

482. STANDARDS FOR REVIEW OF VACATION REQUEST

The Planning Commission and Board of Trustees shall consider the following standards when reviewing a request to vacate a public right-of-way in addition to the statutory requirements of C.R.S. sec. 43-2-301 et seq. as may be amended from time to time:

482.1. The topography of the public right-of-way does not allow road building to meet the design standards in 478;

RLUC Section 478.4 states roads shall be constructed with a maximum grade of 10%. The maximum grade of roads thirty (30) feet from intersections, on either side of a proposed driveway access, and on curves with a radius of less than 250 feet shall not exceed 8%. Both right of ways being proposed to be vacated are below 10% grade.

482.2 the public right-of-way does not provide any public benefit, including but not limited to: pedestrian access, recreational access, off-street parking, and open space buffer lot between developable lots; or, the requested vacation is part of an application which would result in the Town acquiring property or rights-of-way which has a greater public benefit than the vacated public right-of-way; and,

Standard not met. Leah Lane provides access to owners Kendrick and Chmielewski. C.R.S. 43-2-303(2)(a) "no platted or deeded roadway or part thereof or unplatted or undefined roadway which exists by right of usage shall be vacated so as to leave any land adjoining said roadway without an established public road or private-access easement connecting said land with another established public road." This proposed vacation would leave adjoining owners Kendrick and Chmielewski without a public road or private access easements to their properties.

482.3. sufficient easements or rights-of-way for utilities are retained or provided.

Standard not met. Applicant provided a statement that easements would be granted but did not provide a vacation plat map depicting easements or location of.

484. MINIMUM REQUIREMENTS FOR VACATION OF RIGHT-OF-WAY

484.1. The Trustees shall enact a public right-of-way vacation by ordinance;

484.2. the ordinance shall specifically amend the Present Road Status Map and Designated Road Use Map;

484.3. the vacated right-of-way shall be divided at the midpoint and title shall pass to the adjoining property owners;

484.4. vacated rights-of-way shall be subject to the provisions of this RLUC and shall be included in the same Zone District as the adjoining property, unless otherwise determined by the Trustees; and

484.5. the Town may not receive any monetary compensation in return for any vacated public right-of-way

Recommendation:

Staff recommend denying this application as it is in violation of C.R.S 43-2-303(2)(a) and would eliminate access to both Kendrick and Chmielewski's lots. Although the Post Alley Vacation Property Configuration exhibit shows Chmielewski property as one contiguous lot running east to west, Chmielewski is not required to vacate her interior lot line as shown on the exhibit.

Road & Right-of-way Vacation
Request



Applicant Name McCROCKE VENTURES LLC Phone Number 970-708-7747
Address PO BOX 8, RLD, CO-81332 Cell Phone Number _____
Email JVCROCKE@YAHOO.COM Fax Number _____
Description of right-of-way See Attached

Zone District of Subject Property RESIDENTIAL

Attachments Required:

☒ Statement by the applicant describing how the vacation meets applicable standards set forth in the Rico Land Use Code

☒ Vacation Plat prepared by Registered Land Surveyor showing the location and dimensions of the areas to be vacated. Include and identify all adjacent parcels of land adjacent to and affected by the proposed vacation;

☒ Written legal description of the proposed vacation

☐ Easements and legal documents

☐ Letter of agency if applicant is representing another party

☒ An application fee in the amount of \$350.00

☒ A Certificate of Mailing with names, addresses, and property owned of property owners within 200 feet of subject property.

☐ A copy of the deed for the adjoining property/properties.

*Final approval is not valid until the final Plat, Map and ordinance are signed by the Board of Trustees and all are recorded with the County Clerk and Recorder

I swear that the information provided in this application is true and correct and that I am the owner of the property or otherwise authorized to act on behalf of the owner of the property.

Signature: _____

[Signature], JOE CROKE FOR
McCroke Ventures and Kathy McToynt

Date

7/22/24

Date Application Received _____

Application Reviewed by _____

Application Fee Received _____

Date of Hearing _____

Application Complete _____

Rico Planning Commission Action _____

Mailing Notice Complete _____

Approval Subject to Conditions _____

Other comments:

AFFIDAVIT OF MAILING PUBLIC NOTICE
LETTER

Date: 7/23/24

Town of Rico
Rico Planning Commission
PO Box 9
Rico, Colorado, 81332

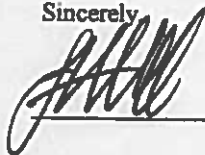
Re: Certification and Affidavit of Mailing Public Notice Letter for INSERT LOT,
ADDRESS ETC. **LEGAL DESCRIPTION ATTACHED**

I hereby declare that I, *Insert name of person that mailed letter*, mailed a copy of the Town approved, enclosed public notice letter via U.S. First Class Mail, postage prepaid thereon on *Insert date* that letter was dropped in the mail, to the attached list of property owners. The public notice letter was prepared and mailed in accordance with the public noticing requirements of the Rico Land Use Code. The public notice letter was placed in the mail on *insert date of mailing* which was at least 20 days prior to the public hearing(s) to be held on *Insert dates of public hearing(s)*. The list of property owners includes all lot and condominium property owners located within 200 feet of the boundary of the existing or proposed lot(s). The adjacent property owner list was compiled from the Dolores County GIS Website or Assessors Office.

Attached is a copy of the noticing letter, list of all property owners noticed, including their lot number and mailing address, a copy of the vicinity map mailed with the noticing letter, and a map showing all lots that were included within the 200 foot noticing area.

I declare that under penalty of perjury under the laws of the State of Colorado that the foregoing is true and correct.

Sincerely



JOSEPH CROOK

Insert Printed Name

Insert Title



AFFIDAVIT OF MAILING PUBLIC NOTICE
LETTER

4725102001	CHAMBERLAIN LEAH FRIDCH		PO. BOX 151	1217	STATE	22P7
4725102018	STACK VINCENT J. & HUDSON, SARAH E. (JT)		7630 MEADOWLARK LANE	CO	CO	8133
4725102002	MULDOON CORNELIUS F. & BARBARA D. MULDOON (JT)(50%) (50%)(JT)	MULDOON DOW REAL	3418 REDHILL DRIVE	CO	CO	8138
4725102002	ROBERTSON DYLAN I.		PO. BOX 67	CO	CO	8140
4725102007	ROBERTS MARIA G.		2900 S. PALO VERDE LANE, UNIT 18	CO	CO	8133
4725102001	SMITH KIPLYNN I. TRUST DATED 8/12/00		P.O. BOX 152	CO	CO	8136
4701100002	SAN JUAN NATIONAL FOREST	DEPT. OF AGRICULTURE	15 HERMITAS COURT	CO	CO	8133
4725100518	DRS LLC		PO. BOX 8	CO	CO	8136
4725102014	MILSTEAD JAY & MARY LOU MILSTEAD VOCABLE TRUST DATED 5/16/19		1420 SOUTH 6TH AVENUE	CO	CO	8133
4725102010	CHAMBERLAIN LEAH FRIDCH		PO. BOX 151	CO	CO	8136
4725102007	BUTCHER JAMES W.		PO. BOX 26	CO	CO	8133
4725102008	ROBERTSON DYLAN J. & JESSE E. ROBERTSON (JT)		PO. BOX 87	CO	CO	8133
4725102017	MC JOYNT KATHLEEN A. & JOSEPH V. CROCK (JT)		PO. BOX 8	CO	CO	8133
4725102008	KENDRICK GARY		832 CROSSMEERS DRIVE	CO	CO	8133
4725102013	KICO TOWN OF		PO. BOX 9	CO	CO	8133
4725102006	ANDERSON GREGORY E. & BENNETT, MONIQUE D. (JT)		PO. BOX 2171	CO	CO	8133
4725104012	ELLERSE RABGAN		PO. BOX 87	CO	CO	8133
470128-11	SAN JUAN NATIONAL FOREST		15 BURNETT COURT	CO	CO	8133
						81

July 15, 2024

SUMMARY OF ROAD VACATION APPLICATION

A PORTION OF SODA STREET AND ALLEYWAY SEPARATING LOTS 21-30 AND LOTS 1-20

BLOCK 18, AND LOT 40 BLOCK 25 AND BLOCK 18 LOT 21

APPLICANT: MCCROKE VENTURES LLC, KATHY MCJOYNT AND JOE CROKE

This application for road vacation is made in accordance with RLUC 484.5 and meets the standards for review set forth in RLUC 482 et seq.

RLUC 482.1: The road building and disturbance permit granted to Leah Chmielewski (lots 26-28, block 18) does not meet the design standards of RLUC 478, et seq. Wetland, flood plain and disturbance issues have not been met. To wit, the permit does not address the 90 degree intersection requirements (Soda St. and the alley in question), the requirements for Cul du Sac streets, and the impacts of the road building on the abutting property owners and the natural state of the neighborhood. (Disturbance Permit)

RLUC 482.2: The right of way in question (alley way, block 18) provides no public benefit for pedestrian, recreation, open space, or open space buffers. The requested vacation is a public benefit resulting in the town acquiring additional property (3000 square feet) adjacent to Lot 40, Block 25 presently owned by the Town. In addition, the Town will be relieved of maintenance, snow removal, grading and drainage issues associated with the roads proposed for vacation.

RLUC 482.3: The proposed vacation will provide for rights of way easements for future sewer, water service, electrical and fiber optic services.

RLUC 484 et seq: The application meets all requirements of this application for a right of way vacation.

CRS sec. 43-2-301 et seq: The application meets the statutory requirements of State Law.

ATTACHMENTS:

Vacation Plat

Legal Description

Alley Vacation and Post Vacation Property Configuration

Topographic map

Rico Town Plat

Relevant sections of the RLUC

Town Street Map

List of owners to be notified

Proposed Vacation Ordinance

NOTICE OF PENDING ROAD VACATION APPLICATION

Date: 8/14/24

RE: Public Hearing on Road Vacation Application

Dear Property Owner,

You are receiving this public notice as required by the Town of Rico Land Use Code because you own property within 200 feet of a proposed road vacation application.

Name of Applicant: *The Croke Ventures LLC, Joseph Croke, Kathleen McJoynt*
Type of Development Application(s): *Road and right of way vacation application*
Legal Description: *affected - previously sold*
Road Location and Intersection: Rico, Colorado
Review Authority: Rico Planning Commission and Board of Trustees
Rico Planning Commission Hearing Date: *9/11/24*
Rico Board of Trustees Hearing Date: *10/16/24*
Location of Public Hearing: Rico Town Hall, 2 Commercial Street, Rico Colorado, 81332

Send emailed comments addressed to the townmanager@ricocolorado.gov

Or by surface mail to:
Chauncey McCarthy
Town of Rico
PO Box 9
Rico Colorado, 81332

Sincerely,

Joseph Croke
Kathleen McJoynt
The Croke Ventures LLC.

JULY 22, 2024

Dear Property Owner;

The enclosed Notice of a Public Hearing for a Road Vacation Application concerns the alley which divides lots on Block 18 and 25. Block 25 contains 6 lots owned by the Town which are separated from lots in Block 18 by the 60' Soda Street extension. Vacation of this dead end roadway will result in the addition of 30' x 100' to the Town's holdings and relieve the Town of its maintenance obligations of the entire 60' ROW and add to snow storage in Winter months.

Vacation of the alley dividing Block 18 would relieve the Town of its obligation to maintain road and drainage conditions, provide utility easements on the vacated ROW property, and eliminate the need for disturbing existing conditions.

The proposed vacation does not deny the Town of a public benefit or access to developable Property. Rather, all affected owners will obtain an additional 8' x 25' , (200 square feet) for each lot owned and adjacent to the alley. As a further benefit to the neighborhood is the avoidance of the inevitable disturbance and realignment of existing roads (Soda and Hancock Streets) and the preservation of wetlands and old growth conifer and cottonwood trees in and adjacent to a floodplain.

In summary, the Application For Vacation meets all the standards of the RLUC Section 480 Et seq., and therefore warrants Town approval.

Thank you for your consideration and support.

Joe Croke and Kathy McJoynt individually, and representing McCroke Ventures LLC
Soda

NOTE: BOUNDARY GRAPHICALLY
SHOWN ACCORDING TO PLAT OF
TOWN OF RICO REC. 110119,
OCTOBER 10, 1978

SEE NOTE
ABOVE

UNPLATTED
RIVERSIDE LODE

DOLORES
RIVER

UNPLATTED
SMUGGLER LODE

UNPLATTED
SHAMROCK
LODE

UNPLATTED
TRACT A
RICO TOWNSITE

LOT 28

LOT 27

LOT 26

LOT 25

LOT 24

LOT 23

LOT 22

LOT 21

LOT 10

LOT 11

LOT 12

LOT 13

LOT 14

LOT 15

LOT 16

LOT 17

LOT 18

LOT 19

LOT 20

BLOCK 18 ALLEY

16.0'

HANCOCK STREET

SODA STREET

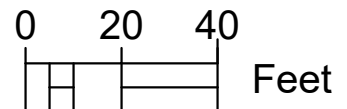
LOT 40

LOT 39

BLOCK 25
ALLEY

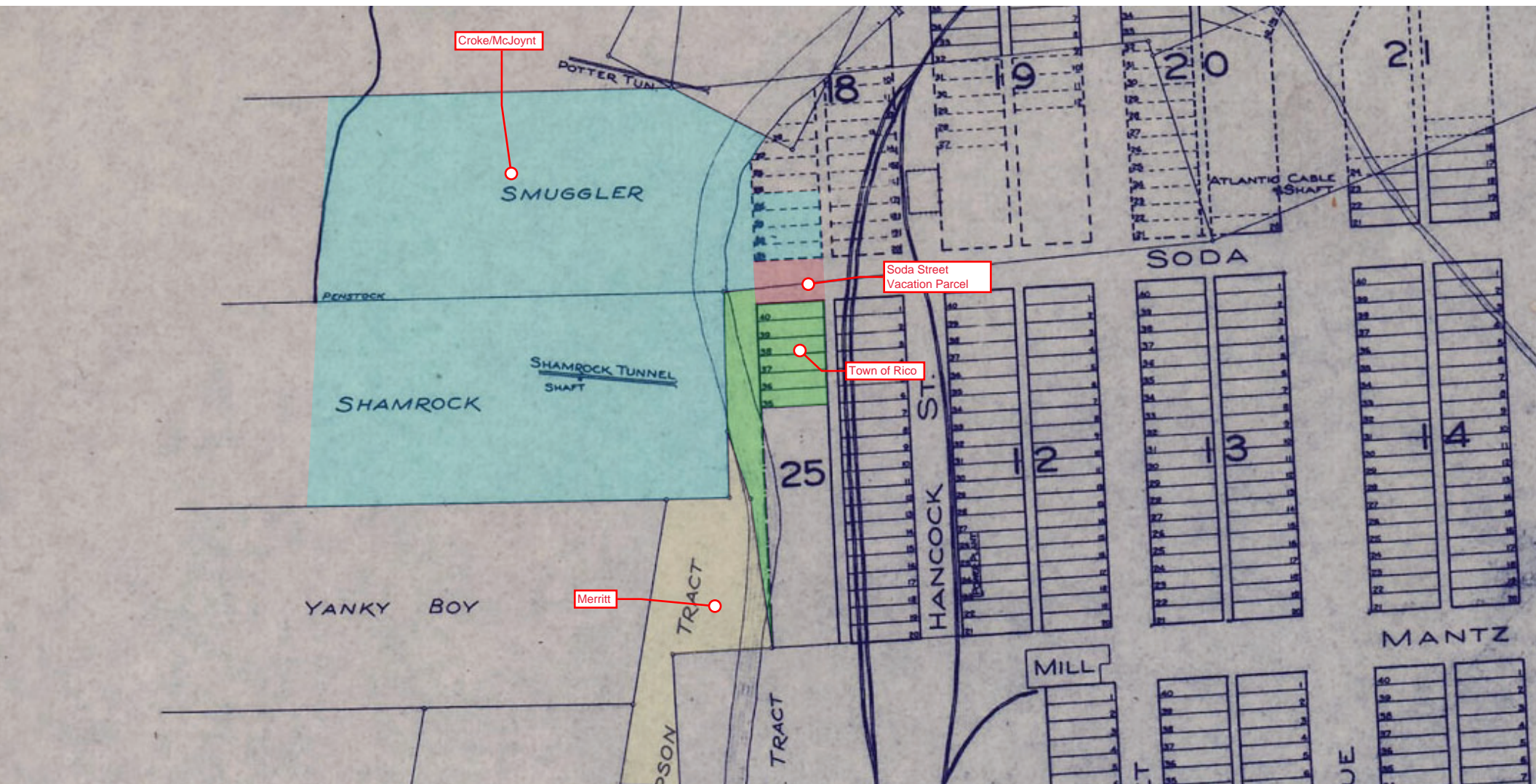
LOT 1

LOT 2



**ROW VACATION EXHIBIT
BLOCKS 18 AND 25, RICO
(THIS IS NOT A SURVEY)**

 **BULSON
SURVEYING**



**ROW VACATION
BLOCKS 18 AND 25, RICO**



166 Alexander Overlook
Telluride, CO 81436
telephone: 970-318-8887
www.bulsonsurveying.com

**ROW VACATION
Blocks 18 and 25, Town of Rico**

The 16' alley lying within Block 18, Town of Rico as the same is depicted on the official plat of the Town of Rico recorded in reception number 110119 on October 10, 1978 with the Clerk and Recorder of Dolores County, State of Colorado ("**BLOCK 18 ALLEY**")

TOGETHER WITH

That portion of the Soda Street Right of Way described as follows;

BEGINNING at the southeast corner of Lot 21, Block 18, Town of Rico according to the official plat of the Town of Rico recorded in reception number 110119 on October 10, 1978 with the Clerk and Recorder of Dolores County, State of Colorado;

Thence Southerly to the northeast corner of Lot 40, Block 25, Town of Rico according to the official plat of the Town of Rico recorded in reception number 110119 on October 10, 1978 with the Clerk and Recorder of Dolores County, State of Colorado;

Thence westerly along the northern boundary of said Lot 40 to the northwest corner of said Lot 40;

Thence northerly to the southwest corner of said Lot 21, Block 18, Town of Rico;

Thence easterly along the southern boundary of said Lot 21, to the southeast corner of said Lot 21, being the **POINT OF BEGINNING** ("**PORTION OF SODA STREET**")

ORDINANCE NUMBER _____

TOWN OF RICO

AN ORDINANCE VACATING AN EXTENTION OF SODA STREET
AND AN ALLEY SEPARATING BLOCK 18

WHEREAS, the Rico Land Use Code Section 480 et seq. and CRS Section 43-2-301 authorizes the Town to vacate rights of way;

WHEREAS, the Board of Trustees finds that the portions of Soda St. and the alley dividing Block 18 to be vacated is not necessary for the future road improvements and reserves an easement for future utilities to serve developable adjacent properties;

WHEREAS, the Board finds the vacation will not deny rights of way access to any property;

WHEREAS, the Board of Trustees finds that the Town owns property adjacent to vacated property (Block 25, Lot 40) and;

WHEREAS, The Board of Trustees finds that the vacation will promote the health, safety and the general welfare of the Rico community;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RICO, COLORADO, the following:

SECTION 1: VACATION OF PORTIONS OF SODA STREET AND THE ALLEY DIVIDING BLOCK 18, The portions of said rights of way as described in the Road Vacation legal description, as set forth in the ROAD VACATION BLOCKS 18 AND 25, prepared by Bulson Surveying is hereby vacated.

SECTION 2: ZONING, The properties located in the surveyed area by this ordinance are included in the Residential Zone District.

SECTION 3: SAFETY CLAUSE, The passage of this ordinance is necessary for the preservation of the public health, safety, morals and welfare of the Town of Rico community.

SECTION 4: Following adoption, the Town clerk shall cause this ordinance to be published in full in the publication of legal notices, as selected by the Town, as required by Ordinances of the Town of Rico, Colorado.

SECTION 5: The town clerk shall cause a copy of this ordinance to be recorded with the Dolores County Clerk and Recorder after final adoption.

**READ, APPROVED AND ADOPTED AFTER CONDUCTING A SECOND READING OF THE
BOARD OF TRUSTEES, following a public hearing held on the ____ day of ____, 2024.**

By : Nicole Pieterse, Mayor

Attest: Anna Wolf, Town Clerk

Approved as to Form: Town Attorney

TOPOGRAPHIC MAP OF LOTS 25, 27 AND 28, AND LOTS 29 AND 30, BLOCK 18,
TOWN OF RICO, SECTION 35, T40N, R11W, N.M.P.M., DOLORES COUNTY, COLORADO.

ALL POINTS LAND SURVEY L.L.C.
PO BOX 754 CHIEF, COLORADO 81435 (970) 709-9804

DATE	2024
BY	2024
FOR	2024
BY	2024
FOR	2024

CONTOUR INTERVAL=1'



SODA STREET

HANCOCK STREET

21



DATE	2024
BY	2024
FOR	2024
BY	2024
FOR	2024

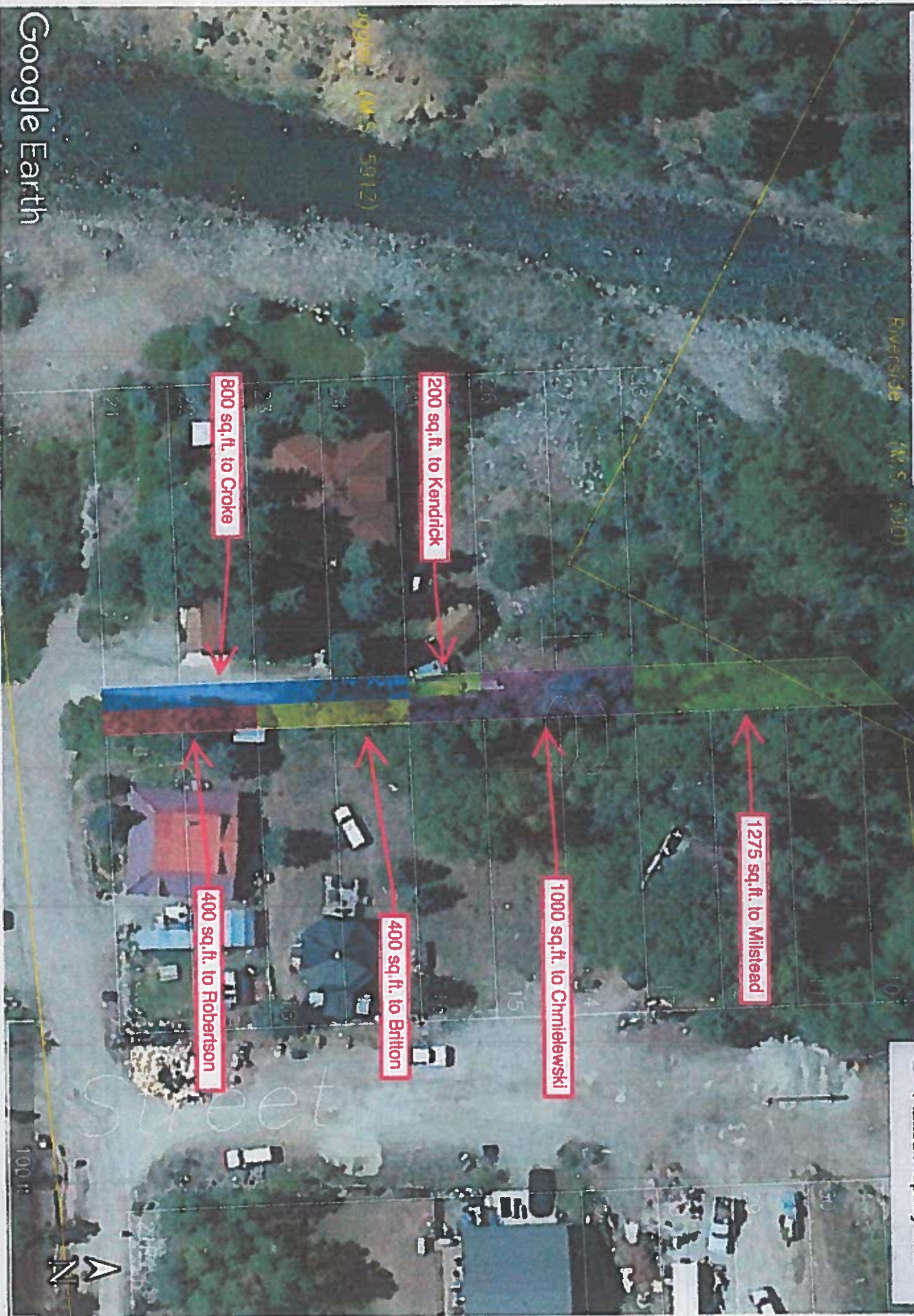


ALL POINTS LAND SURVEY L.L.C.
PO BOX 754 CHIEF, COLORADO 81435 (970) 709-9804

Block 18, Alley Vacation

Exhibit to accompany Memorandum of Understanding

- Legend**
- Mining Claim Boundary
 - Platted Property Line



Post Alley Vacation Property Configuration

Block 18, Town of Rico

Legend

- Adjusted Ownership Boundaries
- 7.5' Access Easement



Chauncey McCarthy
Town Manager
Town of Rico
P.O. Box 9
Rico, Colorado 81332

Re: McCroke Ventures, LLC, Kathleen McJoynt, Joseph Croke, Road + ROW Vacation Request

Date: 08-26-24

Dear Mr. McCarthy, Town of Rico Planning Commission, and Rico Town Trustees:

As a co-owner of a single-family home located at 39 N. Hancock and being within 200' of the requested vacation, I request that the Town of Rico Planning Commission and The Rico Board of Trustees reject and deny this requested vacation. I have the following comments:

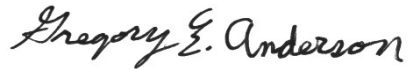
1. If the vacation of the alley was approved it would eliminate legal access to Lot 25, Block 18 (Kendrick property). Is it legal for the Town to approve a vacation that eliminates legal access to a private property owner? Even if this lot is not developable, per the current Land Use Codes, doesn't it still have a right to public access?
2. The lands to the North of the existing alley right-of-way will also have legal access eliminated. An existing legal access option to all the lots to the East will also have a legal access option eliminated. Is this acceptable per current Rico Land Use Code, Colorado Statue, fairness, and common sense?
3. Does the Town have documentation that it owns a portion of the unplatted Tract A Rico Townsite which might be possibly part of the old Thompson Tract per the Bulson Surveying exhibit included in the application? If this is Town of Rico Property, why would the Town vacate any portion of Soda Street which will limit future public connections to the river. As an owner in the area, I believe it is important that the Town of Rico obtain a clear understanding of the ownership in this area by having a boundary survey completed of this river front area. If Soda Street is not vacated and the Town owns the adjoining property why is it OK for a private owner to continue to utilize this property and block off public access? Please see the attached exhibits of the area in question.
4. The alley proposed to be vacated was approved for a Road Building Permit in March of 2024. How can the alley be vacated while there is an approved building permit? If the applicant believed that the Road Building and Disturbance Permit granted did not meet the design standards, why did they not attend the Rico Board of Trustee Meetings when it was being approved to express their concerns at that time? Isn't that when objections to an application are to be presented and not almost 5 months later.

5. Why would the Town of Rico trade existing right-of-way for utility easements when there is not a clear understanding of the existing or possible future utility locations in the alley or road right-of-ways? The Revised Preliminary Engineering Report, Town of Rico, Central Wastewater Collection & Treatment, Collection System drawing, dated 04-05-05, prepared by Basin Engineering, Inc., depicts a collection main in the alley that is being requested to be vacated. These right-of-ways should not be vacated until a central sewer is constructed as there may be a need at the time of construction for those right-of-ways. The submitted application states that utility easements will be provided but no exhibit or legal description provided depicting these proposed utility easements prepared by a Colorado licensed Land Survey is included in the application.
6. There is a 7.5' Access Easement proposed over the Milstead property. Is this for access for the Chmielewski property? Is this approved by the Milstead property owner? Did the applicant have a wetlands study to determine if this property is feasible for construction of a driveway. 7.5 feet is narrow for a driveway per the current Rico Land Use Code. Why would the owner of property on both sides of the alley want to utilize part of the existing property for access when currently there is access by the provided by the platted alley?
7. Why aren't the other adjoining property owners part of this application? Are these adjoining property owners in favor of these vacations?
8. There is currently a public benefit provided by both existing right-of-ways, as they allow the public to locations where they can see the river and creek, plus possibly access to property adjoining the river that may be owned by the Town. By vacating the alley and the street the public will no longer be able to enjoy either of these natural water ways, which in my opinion is a great loss to the citizens of Town of Rico.
9. Currently the Town can utilize the ends of Soda Street and the Alley as snow storage while maintaining access to the existing and proposed homes. This application should be denied if only for maintaining these snow storage areas.
10. Until the town has a clear understanding of the proposed drainage improvements being discussed it isn't in the Public's interest to vacate the Soda Street right-of-way. This right-of-way could possibly be utilized to access a Town pocket park and/or drainage improvements on the lots it currently owns and possibly the property as discussed above in item 3 above.
11. Per a discussion with a Board Member of Colorado State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors, Colorado Department of Regulatory Agencies, Division of Professions and Occupations the legal description that is provided is not considered valid until it is sealed by a Colorado Licensed Land Surveyor. Why was the legal description that was provided to the Town as part of this application not sealed by a Colorado Licensed Land Survey working with Bulson Surveying?

12. I request that the Town require the applicant to provide a legal boundary survey, prepared a Colorado licensed Land Surveyor, of this area with final replated lots and easements representing final ownership of both right-of-ways and adjoining properties to clear up all property line and easement questions.

Due to the reasons and questions listed above I request that the Town reject and deny this right-of-way vacation request. Due to the unknown nature of a future sanitary sewer system and drainage improvements, I request the Town not vacate any right-of-ways now or in the near future that may be requested anywhere in the Town of Rico.

Respectfully,

A handwritten signature in cursive script that reads "Gregory E. Anderson".

Gregory E. Anderson

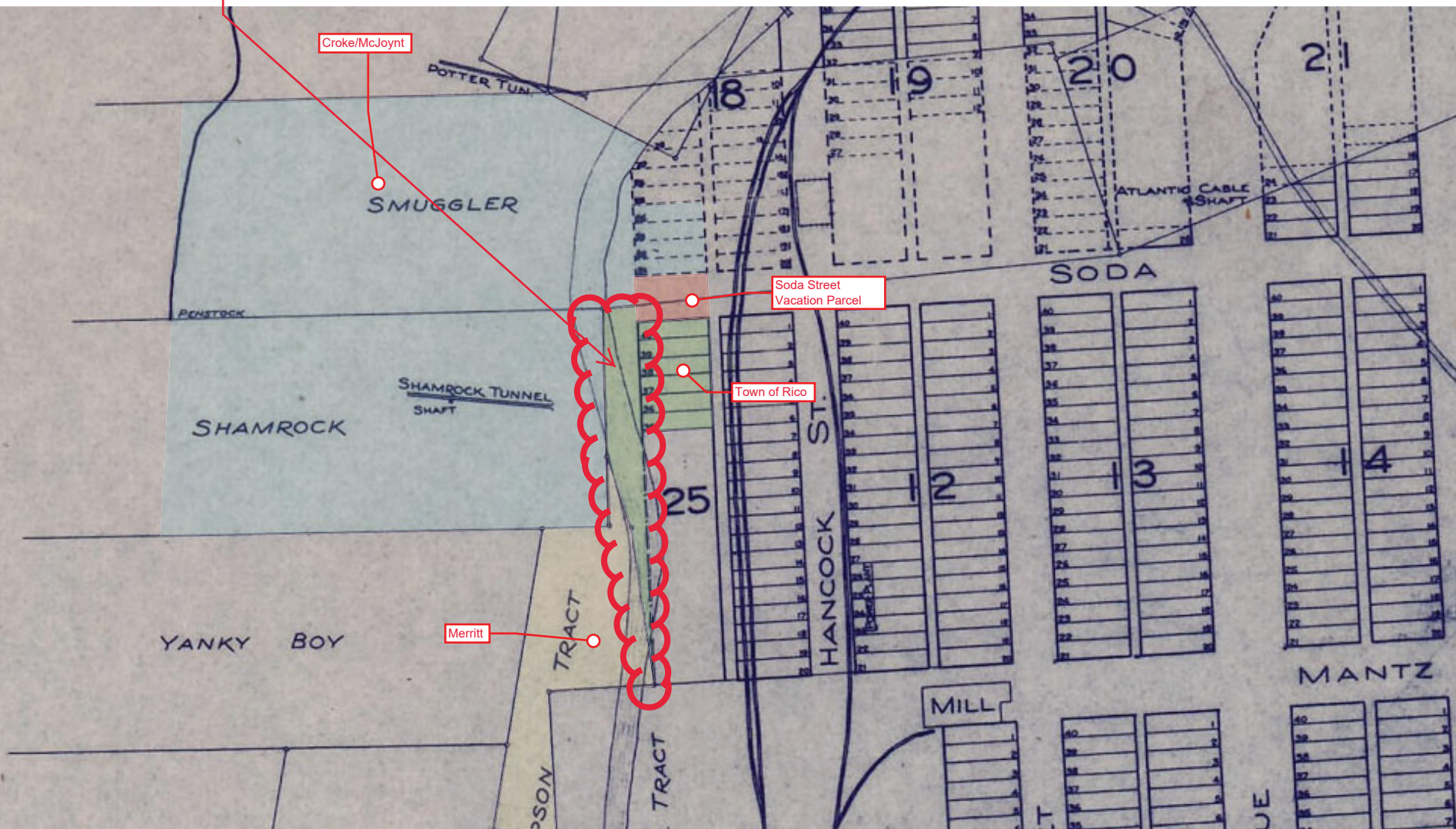
Co-owner Lots 1 and 2, Block 25
(39 N. Hancock)

Encl:

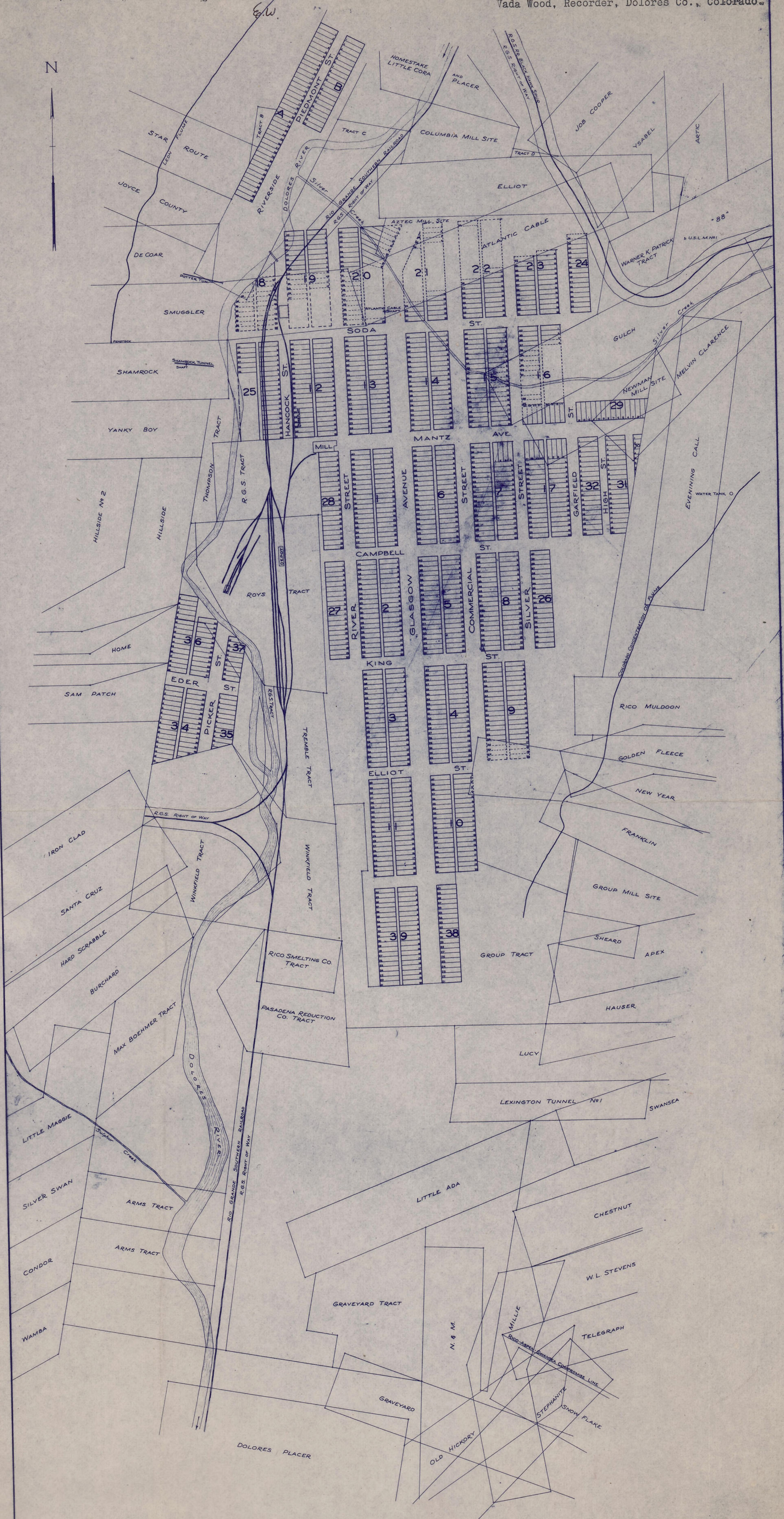
Rico Exhibit

1977/1979 Rico Plat

Area in question
about Town of Rico
Owership



INDEXED



MAP OF THE
TOWN OF RICO
DOLORES COUNTY
COLORADO

SCALE: 1 IN. = 400 FT.



Chauncey McCarthy <townmanager@ricocolorado.gov>

McCroke Ventures Land Vacation Request

1 message

Molly Crowe <molly.crowe2@gmail.com>

To: townmanager@ricocolorado.gov

Hi there! Below I have included my response as well as concerns regarding the McCroke Ventures Land Vacation Request.

8/8/24

Upon reading through "Road and ROW Vacation Request" by applicant "McCroke Ventures LLC, Kathleen McJoynt, Joseph Croke," I see no impact besides the request, I find the request to be boldly screaming of one household attempting to seize both land and power in a manner which benefits no other entity. The vacation approval is inaccurate. It is additionally nearly fictional to believe that the applicant values town land when they have blocked public use of this land. At the end of Soda street, they are met with a chain barrier which was not approved by the town, and does nothing but prevent our residents and our visitors from

Reaching further than violating town standards and the according formalities, this request is threatening to the very culture which makes Rico a community effort to request a vacation until another Rico resident began planning the development of lots nearby. Considering the timing of this request, and its basic seize opportunity from other residents as well as their endeavors. As a young adult who jumped directly into the deep end of the Rico community, I can say that a resident of our town holds an incredible value of what Rico is, and what it could be. If approved, this request would slaughter the potential of multiple future applicants.

Sincerely,
Molly Crowe

Chauncey McCarthy
Town Manager
Town of Rico
PO Box 9
Rico, CO 81332

Re: McCroke Ventures, LLC, Kathleen McJoynt, Joseph Croke Road and ROW
Vacation Request

Dear Mr. McCarthy and to Whom it May Concern,

As an owner of property within 200 feet of the "Road and ROW Vacation Request" by applicant "McCroke Ventures LLC, Kathleen McJoynt, Joseph Croke" and as a town of Rico citizen, I request the town to reject the application. The vacation request clearly does not meet the vacation standards outlined in Section 480 of the Rico Land Use Code, and would result in ultimate detriment to the public.

The proposed ordinance denies rights of way access to my property on the west side of the alley. It also denies access to Kendrick's property. The alley is the only public right of way that allows access to these properties.

The town just approved a road building permit for roadwork improvements of both the Soda Street and alley rights of way, area which the applicant is requesting to vacate. Thousands of dollars have already been spent in the approval process, which completed October 2023 - March 2024. The vacation applicants had six months during the road building approval process to address concerns - the road building permit was approved. It seems a waste of town resources to even consider such an application in direct conflict with recent town approvals and while an active permit exists. The vacation application appears to be a last ditch attempt by the applicants to seize control of town land and prevent neighbors' access to property. Note also that the area proposed includes both already developed right of way area in both Soda street and the alley, as well undeveloped area currently used by pedestrians, as well as area recently approved for improvement in order to provide access to lots.

Additionally, I would like to point out that the below standards required for vacation of Town property are not met:

482.1. STANDARD NOT MET. The topography of the public right-of-way does allow road building to meet the design standards in 478. The topography of the alley ROW is only approximately 1-4% grade. Part of the SODA street ROW in the proposal has already been developed and is used for parking, snow storage, vehicular turn around at the dead end, and access to the alley. ROW improvements also already exist in the alley ROW, which is used by the town for snow storage and provides access to utilities.

Additionally, the town has already approved additional ROW improvements in the alley and Soda street in March 2024, which provides access to multiple private properties as well as creates more snow storage for the town. Approval of this ROW vacation request

would also violate the Town's recent approval and issuance of active road building permit for road improvement in the both alley and Soda street.

The claims by McJoynt and Croke that road building permit standards have not been met are false - the road building permit for improvements was approved by the town. Applicants Kathy McJoynt and Joe Croke had every opportunity to address any concerns with the road building permit application during the 6 month long road building permit application process. These new and false claims appear to be another instance of Croke and McJoynt attempting to create costly delays and in circumventing town processes.

482.2 STANDARD NOT MET. The public right of way provides public benefit to include pedestrian access, recreational access, and off-street parking. The existing area proposed to be vacated in the application provides public benefit that would be lost if vacated. Cars use the existing ROW in Soda street to both turn around and as off-street parking within the platted ROW. The area proposed in both ROWs to be vacated is also used for public benefit such as snow storage. Pedestrians use the ROWs as well. I and companions regularly walk as pedestrians along the ROW. The applicants use it as well. The Soda Street area in question is also historically used by the public to access the river - it is only due to the McCroke installment of a chain across the ROW without Town approval that the entire extent of the public area is of late less frequented by pedestrians than before. The Soda street area also provides direct access to the alley, to include the drainage/culvert diagonally across Soda street from the alley that already exists and is required for access to property owners along the alley. I depend on the public ROWs in question to access my personal property. Town approval to make further improvements in these ROWs was recently granted. These ROWs are the only access to my property on the west side of the alley and my direct neighbor's, Kendrick. Imagine if someone made a request to remove the only access to your property - and my property would not be the only lots affected.

The proposed vacation would also put the town in legal liability by dissolving sole legal access to private property owners along the west side of the alley, which is a violation of Colorado statutes (C.R.S.).

If the town approves the vacation request, it would make my west alley lots inaccessible and therefore not developable, devaluing my property to practically zero.

The proposed 7.5ft access easement on the Milstead property does not address the devaluation of west side alley properties, AND the proposed access easement goes through wetlands, with no plans to address a wetlands disturbance or permit.

I recommend the town receive legal counsel on implications of approving the vacation request and denying property owners legal access. I believe it would also be helpful for the town to officially survey its land and river access along and adjacent to Soda Street, so as to more accurately be able to assess additional public benefit potential.

482.3 STANDARD NOT MET. Sufficient easements are not retained or provided. Utility Lines are in the process of being installed and updated in the area in accordance with ROW development plans approved by the town in March 2024. There is not a clearly defined utility easement plan by the ROW vacation applicants.

484. The application does not meet the minimum requirements for vacation of Right-of-Way. In addition to the standards not being met, the lots and areas depicted in the application are falsely portrayed and allocated. I have deeds to lots 29-32, the area which the applicants falsely mark as “unplatted Riverside Lode” - their claim does not match the 110119 plat and they omit the actual plat in their application, using the false depiction instead. The application then goes on to dedicate the entirety of the town platted alley north of lot 28 to property owners on the west side of the alley, instead of splitting it down the middle, in conflict with the RLUC. The depiction of ROW vacation among property owners in the alley area does not meet the RLUC 484. Lots north of lot 28 are on the Rico Town Plat - see attached plat 110119.

The applicants do not meet statutory requirements of State Law - the applicants' plans would put the town in legal liability by denying legal access to personal property owners.

With regards to the Soda Street portion of the request, there is also no public benefit to the vacation, but rather a public detriment, if approved.

The applicant falsely claims that vacation of the west end of Soda Street would result in an addition to town holdings of 30' x 100', when in fact the town already owns that land as part of its Soda street ROW.

In fact, the town would lose 30'x100' by giving half of the Soda Street public ROW away to McCroke Ventures, if approved. The town would only retain 30'x100' of the 60'x100' in question, because the town owns adjacent property to the Soda ROW. The town already has current purview over the entire 60' x100' in question. This is a net loss for the town. Additionally, were the town ever to sell the adjacent property, there would be no snow storage at the west end of soda street. Even if the town retains the adjacent property, the town would lose current snow storage. Currently, undeveloped Soda Street ROW is used by the town for snow storage. The area is also identified in snow storage plans of the ROW improvement plans recently approved with the granted road building permit.

There is no addition of snow storage with this proposal, but rather a significant LOSS of snow storage if approved.

Additionally, as many know, there has been historical contention among the applicants and neighbors over parking in the area. The proposal would essentially seize off-street parking within the platted ROW for personal use for the ROW vacation applicants. I am concerned the town would be setting a precedence for residents to claim public off-street parking within ROWs for personal property.

If approved, the town would be setting a precedence to encourage private seizure of town land, as in this case, McJoynt and McCroke have placed chains across the town right of way, without town approval, at the west end of Soda Street in attempt to prevent other citizens from using and accessing the ROW. They have historically made false claims that the public property is theirs, and when that didn't work they are asking the town to give it to them through this vacation request. The town needs to stand up for what is right - the town needs to keep the land to continue to provide the public access and for snow storage, parking, and the newly granted road building permit.

Relinquishing the land limits the towns ability to adapt to future changes and impairs current operations. The McCroke behaviors and practices, such as blocking public ROWs with chains and vehicles, highlight the need for a town ordinance addressing ROW obstruction and emergency vehicle access. Can Croke/McJoynt finally legally be held responsible for their violations of town Ordinance 275 and Ordinance 315 that were made when they illegally made improvements in the Soda Street and alley ROWs? Can they be held responsible for their trash and obstructions in the ROWs?

Beyond the notable amount of town property at risk in the tens of thousands of dollars range, approval would set a precedence for citizen financial loss. I personally have invested over \$30,000 in prep work for the town, in addition to the cost of my properties, without yet having broken any ground for lot or ROW improvements.

Instead of the town ceding land to McCroke Ventures, the town could instead consider dedicating the part of the Soda Street ROW that is not in approved plans or current use for snow storage for the town as an open space buffer lot between developable lots (McCroke and town owned lots), with the town maintaining ownership of the entire area (Town lot and McCroke lot are developable lots both adjacent to existing west end portion of Soda ROW that is not yet developed). This idea protects current ROW development and recently approved ROW development, and could provide additional public benefit.

The McCroke ROW vacation request, if approved, is detrimental for residents, visitors, and the town in general. I request the McCroke ROW vacation application be denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leah', with a stylized, flowing script.

Leah Chmielewski
22 August 2024





Chauncey McCarthy <townmanager@ricocolorado.gov>

ROW vacation application Block 18

Thomas Clark <allpointslandsurvey@gmail.com>

Thu, Aug 22, 2024 at 11:31 AM

To: Chauncey <townmanager@ricocolorado.gov>

Hi Chauncey,

I noticed that there is an application to vacate the alley in Block 18 and the end of Soda Street.

I do not see any reason that this would be any benefit to the Town of Rico. The plated streets and alleys have been public Right of Ways for over 100 years; it is not clear why this would need to change at this point. This is going to create properties with no access and I think that may be the point of the application. Approval of this application is likely to trigger legal action against the town. I strongly encourage the Board to reject this application.

Thank you for your consideration in this matter.

Tom Clark

--

Thomas A Clark

All Points Land Survey, LLC

LICENSE NOTICE

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By opening this file(s), you agree to the terms of this license

8-6-24
Jim Britton

To Whom it may concern,

I do not want
to ally directly to
the west of me abandoned.
It gives me access to
my back yard.

It also gives other
property owners access
to their land. It
may be needed in a
emergency.

James W Britton

September 11, 2024

Town of Rico Planning Commission

Town of Rico Board of Trustees

Re: Vacation Application, Alleyway and West Soda Street

Blocks 18 and 25

Dear Commissioners and Trustees,

This application is filed in hopes that, if approved, the neighborhood affected in the alleyway portion of the application would retain its natural state. The neighborhood consists of few property owners. Leah, Big Jim, the Milsteads, Robertsons, and Crokes, our house was the 4th house built following Big Jim, the Milsteads and the Robertson's. We all strived to maintain privacy and protect all native habitats. My proposal would not affect the current nature of the area, rather, it would prevent the disturbance and destruction of old growth trees, leave unaffected the wildlife habitat, preserve existing wetlands, and leave the Dolores River active waterway as it exists. The vacation is not only a benefit to the Town, it benefits all adjacent owners with additional land without the necessity of radically disturbing the native surroundings and character of the neighborhood.

In addition to the adjacent property owners acquiring additional land, the Town would secure legal easement to install and maintain utilities for water line repair and future sewer service and town responsibility for winter maintenance is eliminated. Leah's property would be contiguous from Hancock St. to her lots in Block 18. All properties, (other than ours) contiguous to the vacated ROW already have access to their properties either from Hancock St. or West Soda St. Snow removal and storage would not be affected, and the Town would be relieved of maintenance obligations in the vacated area.

The other part of this application involves the "dead end" portion of West Soda, SEE ATTACHED MAP. This "dead end" is the only access to the Smuggler and Shamrock claims. The vacation will provide access to the claims as well as to our home at 216 W Soda St. and will not affect how the town currently plows and maintains snow removal in the area.

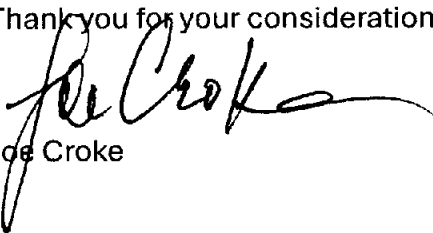
The Town purports to own a small portion of property, yet surveyed, which is an island east of the Shamrock Claim and west of Town lots in Block 25 (see attached map). This property does not access the river. There is no benefit of ownership to the public. However, as a part of the vacation discussion, we would entertain the possibility of creating an easement for

utilities and non-motorized access in favor of the Town on the trail connecting West Rico and Piedmont, through the Shamrock and Smuggler Claims. Currently, the trail crosses through private property which includes the Shamrock and Smuggler claims. In exchange, the Town would quitclaim any interest it may have in said "island" which are located west of the Town's lots in Block 25 and east of the Shamrock as described above.

Finally, as we drafted and considered the inclusion of a Vacation provision in the RLUC in 1998-99, as a committee, decided that it was a useful planning tool for the growth of a Townsite platted in the 1800's to adapt to current and future planning and growth goals of the community.

This application is not intended to "grab land", to the contrary, it is made in the hope that the common sense of our elected and appointed officials will prevail over the wishes of a few and make sound decisions that benefit the community as a whole for its future vs benefiting one at the expense of many. It accomplishes many positives, by cleaning up property issues, allowing permanent access for the public over existing trails, allows for potential access for future utility lines between piedmont and west rico and eliminates maintenance responsibilities for the Town, all without denying access to property owners properties.

Thank you for your consideration,

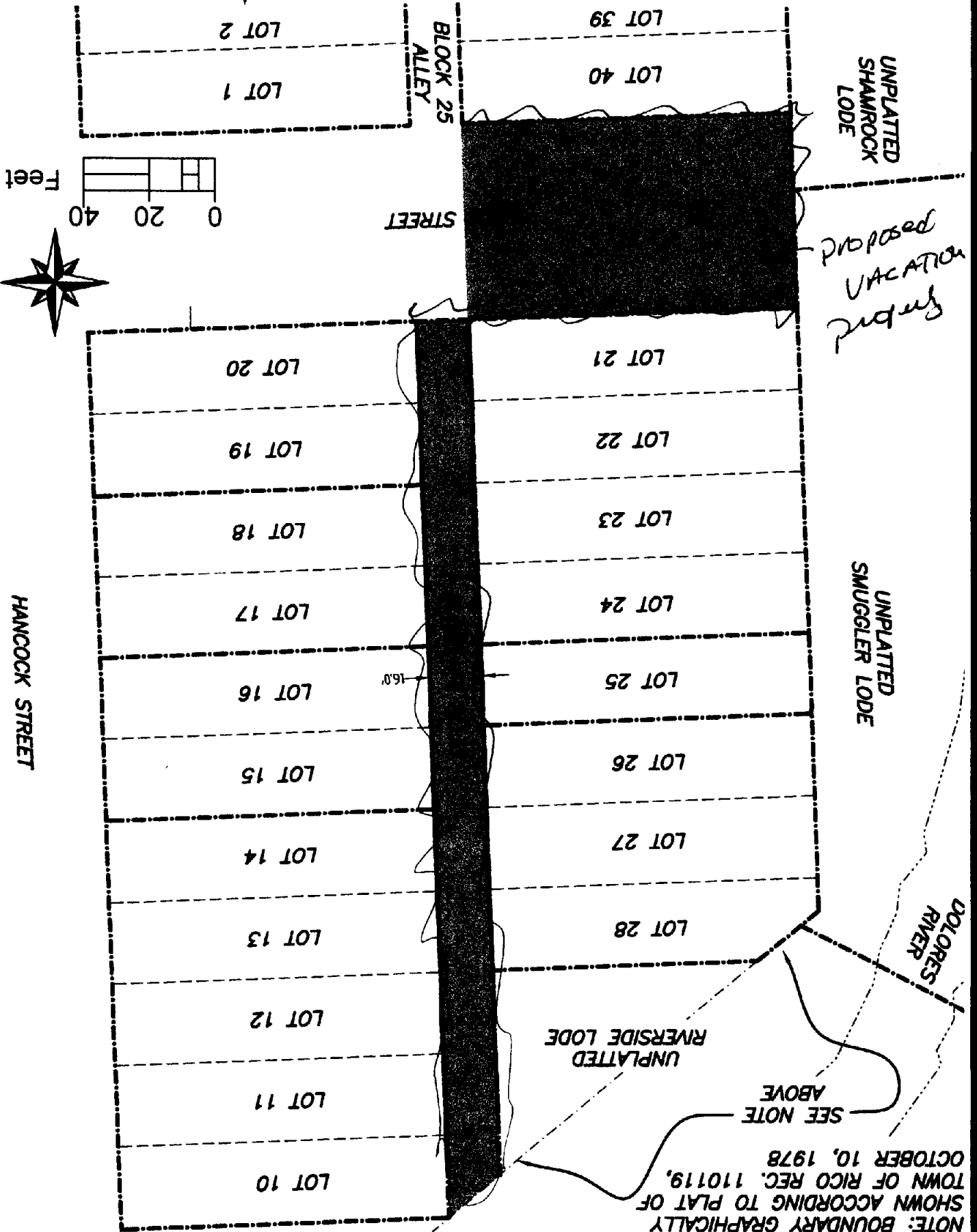
A handwritten signature in black ink, appearing to read "Joe Croke", with a stylized, flowing script.

Joe Croke

**BULSON
SURVEYING**

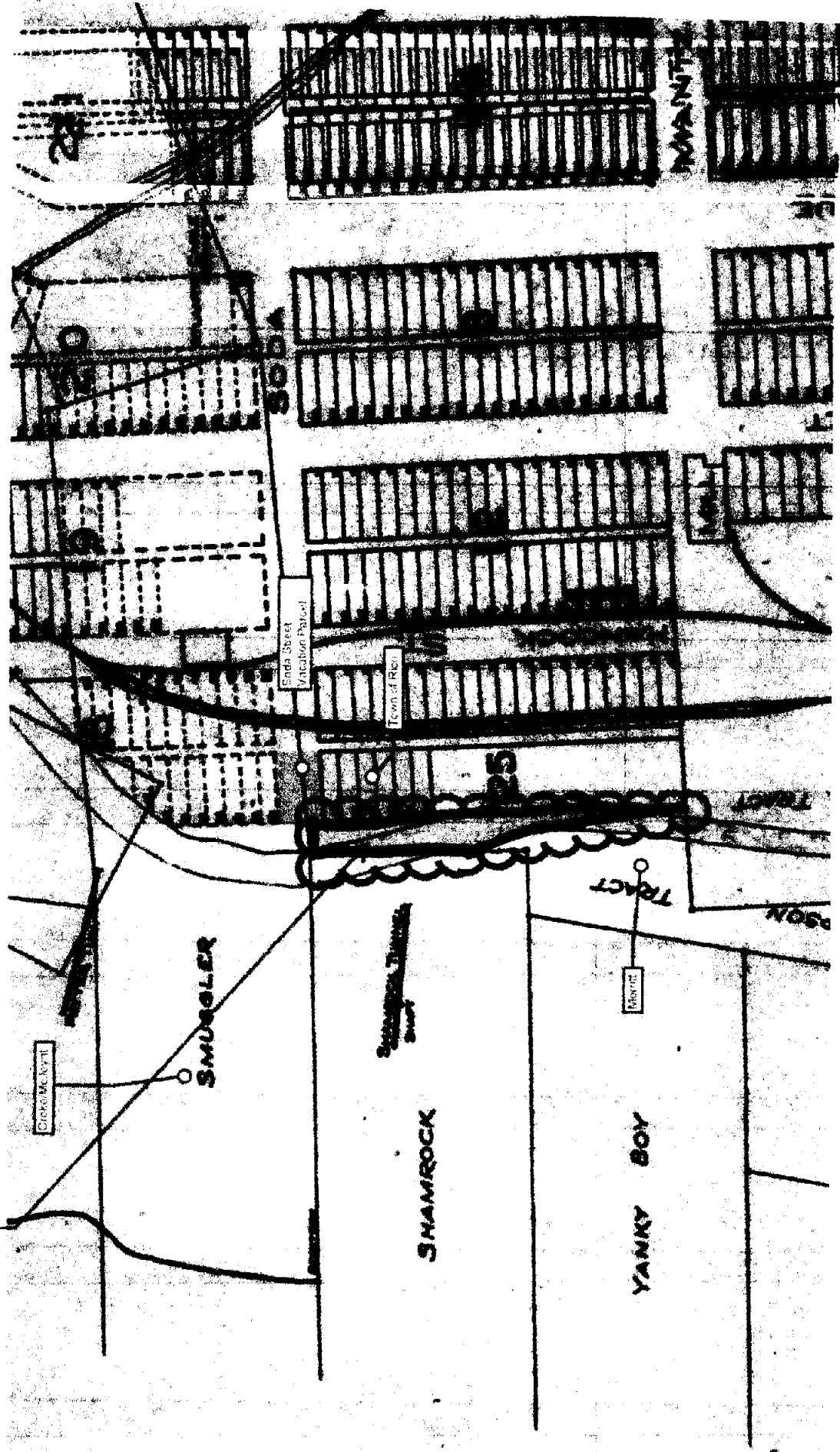


**ROW VACATION
BLOCKS 18 AND 25, RICO**



Area in question
about Town of Fido
Overship

"ISLAND"



As a homeowner and resident of lot 19,20 on block 18 of Rico Colorado for over thirty five years I find the proposal brought forth by McCroke Ventures LLC for a road vacation to be rather odd. It is not as simplistic as proposed, due to the assumed land I would be granted would be a ditch that was in part installed by the applicants for this road vacation proposal. This ditch is engineered to divert groundwater/surface water flows away from the property of the applicants. Being how the applicants installed this ditch and the ditch is to prevent potential risk of damage for the applicants property, how would I assume to take that over as my land? Would I then be responsible if this ditch failed and the applicant's property flooded? Would the applicants have to install a new ditch? What if I wanted to use that land how I see fit, perhaps planting trees or installing a new fence that could potentially make a narrow space rendering parking a car in the applicant's garage nearly impossible, how does that apply in this equation? What about emergency vehicles and access for the neighborhood? If the proposal is granted, suddenly my neighbors north of me would lose an access route to their property. Due to the history of the town snow plowing the alley of block 18 for decades, at the towns expense, at our expense as a community through tax revenue, I do not see why the alley cannot just remain as is.



Chauncey McCarthy <townmanager@ricocolorado.gov>

Re: McCroke V2

1 message

ellease@proton.me <ellease@proton.me>

Tue, Sep 10, 2024 at 10:25 AM

To: Chauncey McCarthy <townmanager@ricocolorado.gov>

Hi Chauncey,

Please include these comments in the P&Z and Board of Trustees meeting packets regarding the pending road vacation for Blocks 18 and 25 submitted by McCroke Ventures (Kathleen and Joseph Croke).

As a noticed neighbor within 200 feet of this proposed road vacation application, I request that P&Z and the Board of Trustees reject this request unanimously for the following reasons:

- Existing permits issued to Chmielewski for alley realignment and extension to access buildable platted residential lots and associated needs for snow storage at the end of Soda St - both locations where this road vacation is requested. This agenda item should be unanimously rejected with no further discussion unless the town is considering revoking already issued permissions to Chmielewski which took a lot of time and energy from both the applicant and P&Z/Board of Trustees in addition to thousands of dollars from Chmielewski.
- McCroke's application inaccurately claims that the Town of Rico will be gaining an additional 30' x 100' area of land that the town does not already own but that is incorrect as the town already owns the entire 60' x 100' of the Soda St ROW and this application is actually requesting that 30' x 100' of said ROW be gifted to McCroke leaving the town with only 50% of the ROW currently in the town's possession. I would argue that this application does not benefit the general public, the neighborhood or the town and instead only stands to benefit the applicant by gaining 30' x 100' of the Soda St ROW for their own private uses (presumably for personal parking needs for McCroke's residence and access to the Smuggler/Shamrock mining tracts also owned by McCroke's) and prevents Kendrick and/or Chmielewski from building a single family residence with drivable access on the west half of block 25. This would result in McCroke's single family residence being the only house on the west half of block 25 indefinitely which would surely be nice and private for McCroke's but is not reasonable or fair to the other property owners on that block who also have the right to build single family residences.
- The application requests the removal of any legal drivable access to Kendrick's platted single residential lot which would remove the ability to develop as a single family residence which could be challenging as a single lot with the septic requirements but is not impossible particularly with a tiny house and pressurized one bedroom leach field system. In addition, this request to vacate the alley also removes

reasonable drivable access to Chmielewski's lots between the alley and the river. This application also reduces potential legal drivable access from two streets to only one street for Milstead's lots, Chmielewski's Hancock St lots and Britton's lots which is not ideal from an emergency/fire rescue response perspective. The town does not need an easement for utilities down this alley as they already own the 16' alley ROW and can install utilities there already, in fact there is already a water main in this alley that provides water to McCroke's house.

- Additional single family residences built on existing platted residential lots provide greater benefit to the town and community than a slight reduction of snow removal responsibilities. It seems impractical and unnecessary to reduce the number of drivable access residential lots in a town of this size which this application would accomplish with removing drivable access to Kendricks and Chmielewski's alley only accessed lots.

Thank you,

Raegan Ellease

[135 W Soda St](#)
[Rico, CO. 81332](#)

Sent with [Proton Mail](#) secure email.

On Wednesday, September 4th, 2024 at 2:06 PM, Chauncey McCarthy <townmanager@ricocolorado.gov> wrote:

Yes, very similar. Please see the attached application.

On Wed, Sep 4, 2024 at 12:14 PM <ellease@proton.me> wrote:

Hi Chauncey,

Is V2 McCroke Road Vacation essentially the same as V1?

Thanks,
Raegan

Sent with [Proton Mail](#) secure email.

--

Chauncey McCarthy
Town Manager - Rico Colorado
O: 970-967-2863

September 10, 2024

Chauncey McCarthy
Town Manager
Town of Rico
PO Box 9
Rico, CO 81332

Re: McCroke Ventures, LLC, Kathleen McJoynt, Joseph Croke, Road and ROW Vacation Request

Dear Mr. McCarthy:

I'm just wondering how many times these people need to hear NO and how many times they get to resubmit this request?

Thank you for your consideration,

A handwritten signature in cursive script, appearing to read "Susan Gerstenkorn".

Susan Gerstenkorn

Sept. 10, 2024
August 8, 2024

Chauncey McCarthy
Town Manager
Town of Rico
PO Box 9
Rico, CO 81332

Re: McCroke Ventures, LLC, Kathleen McJoynt, Joseph Croke, Road and ROW Vacation Request

Dear Mr. McCarthy:

I live at 131 N Hancock, (Blk.18, Lots 19 and 20) in the town of Rico, Colorado. I have lived at this location for over forty years. I was living there when Joe and Kathy purchased their property and started building their home. I watched as they literally ripped the willows and wetland plants right out of the ground. So, believe me when I say Joe and Kathy had no regard to the wetlands then as they seem to have now. They followed no EPA guidelines at all that I am aware of. I think at that time, the town did not have much in place for our wetlands. So, they basically did what they wanted to do and got away with it.

I believe I am correct in saying that Joe and Kathy put in the road that is there now in what is being called Block 18 alley. I'm sorry that it was not done correctly in the first place. It just seems that had they gone a few more feet to the west with their driveway, we would not be talking about all of this again. But they did not. So here we go again.

I understand that Joe and Kathy do not want traffic going in front of their house. But it is alright for them to drive between my place of residence and the Anderson's residence **many** times a day. I am not exaggerating that between the two residents (Joe and Kathy) and their company, they sometimes drive by 10 to 20 times a day.

My family and I are not interested in gaining 8' of more property. Especially with the liability that could go with it. What we would gain is a ditch that fills up with water in early summer when the ground warms up enough. This ditch protects property owners, such as ourselves and Jim Britton, from their land becoming thoroughly saturated. We would gain a huge liability if water would travel to Joe and Kathy's property from ours. No, do not even want to go there.

I know things will change and look different and I will admit I do not do well with change. I will be sad to see the old growth of trees get cut down, but I am totally in favor of seeing things done right and Leah and Mr. Kendrick having access to there property. The property owners that this would affect the most will just have to watch the change and deal with it. But it will be done correctly and we can move on.

There has been an issue with parking for a while with the alley towards Block 25. Seems where we were told that we could not park, Joe and Kathy's guests or hired help park there frequently.

I will be happy to see the double standards stopped. A "No Parking" sign may help. I would also appreciate it if the town could tell Joe and Kathy to take down their signage blocking Soda Street. They have used saw horses, dog ties, chain and different hanging things to block Soda Street to the west. They hang Keep Out signs, Private Property signs blocking a public road. I have gone to three different town managers only to have my feelings fall on deaf ears. No one cared what happening in my neck of the woods. I have been blocked from the river right behind my house for years before Joe and Kathy purchased their property by the river. Now I do not have the right to cross on their land. But I and many others were kept from enjoying the river at all because they want their private haven and wanted no others down there except who they say can cross that invisible line they came up with.

I would also like to entertain the thought that Lot 25, Block 18 has a garage/shed building that Joe and Kathy built on Mr. Kendrick's property. I would like to see a letter or something stating that Mr. Kendrick gave them permission to build the building on his property. I'm wondering if he even knows that the building exists. If the vacation is approved, Mr. Kendrick would be land locked with no access to his property. Does not seem right, does it?

It just seems there is a lot going on down by me that I admit I do not fully understand and I'm sure I have not covered all of what I am thinking and wondering about. But I do know right from wrong and the vacation proposal is just plain wrong. Joe and Kathy seem to not care about who they step on to get what they want. Afterall, there was a Road Building Permit issued and now we're back saying **NO** again. I am asking the Town of Rico to do the right thing. I am asking the Town of Rico Planning Commission and The Rico Board of Trustees to deny this requested vacation.

Thank you for your consideration,

A handwritten signature in cursive script that reads "Susan Gerstenkorn".

Susan Gerstenkorn