



RECEPTION#: 663618, R: \$0.00, D: \$0.00

DOC CODE: RESOLUTION

Pg 1 of 9, 01/24/2019 at 02:12:30 PM

Janice K. Vos Caudill, Pitkin County, CO

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY,
COLORADO, APPROVING THE CRYSTAL BASIN HOLDINGS LLC ACTIVITY ENVELOPE
AND SITE PLAN REVIEW FOR TRAILS AND RESTORATION**

Resolution No. 138-2018

RECITALS

1. Pursuant to Section 2.8.4 (Actions) of the Pitkin County Home Rule Charter (“HRC”), all matters not required to be acted upon by ordinance or formal resolution may be acted upon by informal resolution.
2. Crystal Basin Holdings LLC (“Applicant”) has applied to the Pitkin County Board of County Commissioners (“BOCC”) to designate a series of Activity Envelopes and obtain Site Plan Review approval to establish a 4.5 mile system of mountain bike trails on the property that will be open to the public open to the public free of charge with a recorded easement held by the County. The Applicant is also proposing to restore areas at the entrance to the property (northeast corner, near the barn and to the west), including native seeding and plantings in riparian and upland areas.
3. The Applicant describes the intent of the trail system as follows:
 - A. *To provide recreation and access to the surroundings of the Coal Creek and Dutch Creek forested areas on the private property for the general public. Trail system will provide optimized experiences for mountain bikers ranging from beginner to expert skill levels.*
 - B. *To provide access and opportunities for educational groups to teach skills, associated responsibilities, and ethics to the next generation of riders.”*
4. The property is located at 4180 Coal Creek Road, and is more specifically described in Exhibit A.
5. The property is zoned RS-30 and contains 221 acres.
6. Mid-Continent Resources operated a complex of underground coal mines in Coal Basin from early 1950s to 1991. More than 5,800 acres of lands previously owned by Mid-Continent Resources have been transferred into the ownership of the National Forest Service (NFS) as part of the White River National Forest (WRNF). The subject property is the remaining portion of the holdings of Mid-Continent Resources, and is surrounded by NFS land. The property was heavily impacted by the former industrial operation. Since the mines were closed, the property has been reclaimed, which included elimination of surface facilities, backfill, grading, drainage and seeding. Even with the reclamation work that has occurred, evidence of the mining operation remains. The lamphouse is the only remaining mining structure on the property. The property is traversed by old mining roads. The public is allowed to use Coal Basin Road for pedestrian, bicycle and equestrian access to the adjacent NFS lands; there are no seasonal restrictions on public use of the road, nor any restrictions on dogs.
7. The Hearing Officer granted 1041 Hazard Review approval pursuant to Determination No. 08-2002 to establish principal and accessory envelopes for a single family residence and a barn. The 1041 Site Plan was recorded in Plat Book 65 at Pages 95-96. The barn was built. The residence was not built, and the 1041 approval for the single family residence has lapsed.

8. The BOCC heard this application at a duly noticed public hearing on October 24, 2018, at which time evidence and testimony were presented with respect to this application.
9. The BOCC finds that the proposal is consistent with the Crystal River Master Plan, which encourages expansion of recreational opportunities for residents and visitors, while maintaining the integrity of the Valley's ecosystems, and that the proposed restoration work will benefit wildlife and the public.
10. The BOCC further finds that the Applicant has committed to continue to work with the WRNF Ranger District to steward the surrounding NFS lands, to ensure that user-created trails do not appear on NFS lands adjacent to this private land project through signage and education, and to help the Ranger District increase trail signage on NFS lands surrounding the private parcel.
11. The BOCC further finds that the Applicant has voluntarily offered a trail easement to the County to ensure public access to the trails.
12. The BOCC further finds that the proposed Activity Envelopes and Site Plan for the trails and restoration work comply with the applicable provisions of the Land Use Code, as follows:
 - A. Portions of the trails will be located within the riparian and wetland buffer of Coal Creek, which may be permitted pursuant to Sec. 7-20-80(c)(1) of the Land Use Code (Code). The trails proposed in this area take advantage of flat terrain that was previously disturbed by mining activity, and will not create any adverse impacts.
 - B. Restoration work is permitted in the riparian and wetland buffer of Coal Creek, pursuant to Sec. 7-20-80(c)(2). The Applicant proposes to seed and plant in the riparian area to restore disturbed areas, enhance existing riparian vegetation, and reduce erosion. No work is proposed within Coal Creek.
 - C. Portions of the trail alignments encroach on slopes in excess of 30%. The proposed non-motorized trails will be located on land held in easement by the County, therefore, development of the trails may occur on slopes in excess of 30%, pursuant to Sec. 7-20-20(f). The trails will be built in accordance with sustainable trail design standards, and will not subject users to hazardous conditions. In some areas the trails will be used to mitigate erosion and stabilize slopes.
 - D. The property is not within any mapped wildlife habitat areas.
 - E. The property is proximate to mapped elk production areas. The Applicant's consultant, Colorado Wildlife Science LLC, field verified the elk production habitat and Colorado Parks and Wildlife concurred that the steep slopes to the south of Dutch Creek provide an adequate buffer between the production habitat and the closest trail. Therefore, the trail complies with Sec. 7-20-80(d) and a seasonal use restriction is not required.
 - F. Given the CPW concurrence above regarding the steep slopes providing an adequate buffer between the production habitat and the trail, the Code would not require a dog prohibition or kenneling/leashing requirement. In addition, the public easement on Coal Basin Road through the property and the surrounding NFS lands do not prohibit dogs or require that dogs be leashed.
 - G. The property is within the scenic view protection area as seen from Coal Creek Road. The trails will have limited visual impact as seen from Coal Creek Road. In some areas the trails will utilize previously disturbed areas. In undisturbed areas, the trails will be constructed to meander through existing vegetation, which will screen the trails. The restoration work at the entrance to the property will improve the visual impact by reintroducing native vegetation.
13. The BOCC finds that it is in the best interests of the citizens of Pitkin County to approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Pitkin County Board of County Commissioners that it does hereby approve the Crystal Basin Holdings LLC Activity Envelope and Site Plan Review, subject to the following conditions, which shall run with the land and be binding on all successors in interest:

1. The Applicant shall adhere to all material representations made in the current or prior applications or in public meetings or hearings and shall consider those representations to be conditions of approval, unless amended by other conditions. These representations include the Coal Basin Trails Operations and Management Plan, which is attached as Exhibit B.
2. Prior to submission of an Earthmoving/Clearing/Grubbing permit application, the Applicant shall be required to submit for approval by the County Attorney and Community Development an Activity Envelope and Site Plan in accordance with Land Use Code Section 2-30-20(g) and Application Manual Section 2.1.12. The above referenced approvals shall be a condition precedent to finalization and recordation. The Activity Envelope and Site Plan shall be amended as follows, prior to recordation:
 - A. Include the Restoration Plan with the Site Plan.
 - B. Include a note that actual disturbance to construct the trails within the Trail Envelopes shall be limited to 5' on each side of the established centerline of the trail.
3. Within 90 days after completion of construction of the trails, the Applicant shall submit to Community Development for recordation an amended Site Plan that identifies the as-built location of the trails.
4. Concurrent with recordation of the Activity Envelope and Site Plan, the Applicant shall record an easement for public use of the trails. The Easement shall run to the benefit of the County, shall be enforceable by the County, and may not be released or amended without the consent of the County. Prior to recordation, the Easement shall be submitted to the County Attorney and the Open Space and Trails Land Officer for review; accepted by the Open Space and Trails Board as an asset; and accepted by the Board of County Commissioners by Ordinance.
5. With the Earthmoving/Clearing/Grubbing permit application, the Applicant shall:
 - A. Submit a drainage and erosion control plan for review and approval by the Planning Engineer. The Applicant shall apply for and obtain a State Stormwater Permit, if applicable. All historic and natural drainage patterns shall be maintained. Stormwater shall be detained onsite and allow infiltration of runoff prior to discharge.
 - B. Submit a detailed restoration and revegetation plan with appropriate native materials.
 - C. Submit a tree mitigation plan if any trees with larger than 6" DBH are to be removed.
 - D. Submit the 1996 Environmental Site Assessment by Harlan & Associates, Inc., including information regarding soils testing, and the August 27, 2007 Summary Report Coal Basin Mine Reclamation Projects by Steve Renner, Colorado Divisions of Reclamation, Mining and Safety to Environmental Health to review.
 - E. Demonstrate that the trail construction will avoid areas where a soil cap has been placed as part of the reclamation, or, if a cap will be breached, then the Applicant shall provide a plan to replace the cap.

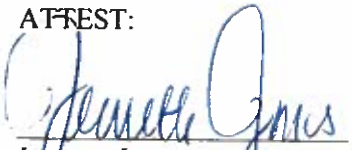
6. All plants used for landscaping and revegetation shall be native species. Areas disturbed by construction shall be re-vegetated within one growing season of the project's completion.
7. Users of the trails may keep dogs off-leash, but shall keep dogs under sight and voice control at all times.
8. Trash/garbage shall be kept in an approved bear resistant container or enclosure.
9. No development shall occur outside of the approved Activity Envelopes.
10. The ponds shall be available for fire-fighting.
11. Any new fencing on the property shall comply with the following standards:
 - A. Wood rail fencing shall employ three (3) rails or less, be the round or split rail type, shall not exceed fifty-four (54) inches in height above ground level, and twelve (12) inches in width (top view), and shall have at least eighteen (18) inches between the lower two (2) rails.
 - B. Wire fencing must be three (3) strands or less. The top wire should be a twelve-point-five (12.5) gauge twisted barbless type at a maximum height of forty-two (42) inches. The middle strands (which may be barbed) should be located a minimum twelve (12) inches apart and from the top wire preventing entanglement when mule deer jump over. The bottom strand should be sixteen (16) inches from the ground.
 - C. Mesh or woven wire fences are prohibited, except when used for protection around isolated trees or clumps of trees.
12. By October 31, 2020 the Applicant shall submit a report to the Community Development Department providing information on trail usage and any issues identified in the first year that the trails are in use. Community Development shall forward the report to the BOCC for consideration at a public meeting. The BOCC can decide at that time if any amendments to the conditions of approval are warranted, and can determine if future reporting to the County shall be required.
13. Failure to comply with the conditions of this approval may result in revocation of this approval, or any subsequent permit(s) or approval(s) related to this property, or vested rights associated with this property.
14. Statutory vested rights for the approval contained herein are granted pursuant to the Pitkin County Land Use Code and Colorado Statutes, subject to the exceptions set forth in Pitkin County Land Use Code, § 2-20-170 and C.R.S., § 24-68-105. The statutory vested rights granted herein shall expire on Oct. 24, 2021.

PUBLIC NOTICE PUBLISHED IN THE ASPEN TIMES WEEKLY on the 15th day of March, 2018.

APPROVED AND ADOPTED on the 24th day of October, 2018.

PUBLISHED AFTER ADOPTION FOR VESTED REAL PROPERTY RIGHTS in the Aspen Times Weekly on the 24th day of January 2019.

ATTEST:



Jeanette Jones,
Deputy Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
OF PITKIN COUNTY, COLORADO


Patti Clapper, Chair

Date: 01-15-2019

APPROVED AS TO FORM:


John Ely, Richard V. Neiley
Asst. County Attorney

APPROVED AS TO CONTENT:

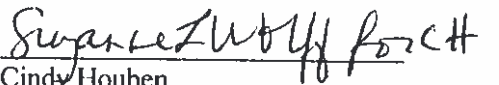

Cindy Houben,
Community Development Director

EXHIBIT A

LEGAL DESCRIPTION

The Land referred to in this policy is described as follows:

A parcel of land situated in Sections 10, 11, and 15 all within Township 10 South, Range 89 West of the Sixth Principal Meridian, County of Pitkin, State of Colorado, being more particularly described as follows:

Section 10:

SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SE $\frac{1}{4}$,
S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$,

Section 15:

N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$,
N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,

Section 11:

SW $\frac{1}{4}$ SW $\frac{1}{4}$

Excepting therefrom a parcel of land described as Reception No. 409040 on 1st of October 1997 in Pitkin County, being more particularly described as follows:

Beginning at the Southwest 1/16 Corner of Section 11;

thence South 00°06' East 1310.10 feet to the West 1/16th Corner of Sections 11 and 14;

thence North 89°44' West along the Section line 475.00 feet;

thence North 00°11' West 710.00 feet;

thence West 50.00 feet;

thence North 602.00 feet to the North line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$;

thence along said North line of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ South 89°31' East 525.00 feet, to the Point of Beginning.

County of Pitkin, State of Colorado

EXHIBIT B

COAL BASIN TRAILS, OPERATIONS & MANAGEMENT PLAN

Intent: The trails at Coal Basin at 4180 Coal Creek Road are intended to provide recreation and access to the surroundings of the Coal Creek and Dutch Creek forested areas on the private property for the general public through the dedication of trail easements for the benefit of Pitkin County (see recorded easement documentation for specifics and parameters). Trail system will provide optimized experiences for mountain bikers ranging from beginner to expert skill levels.

Allowed Uses: Most of the trails will be designed for mountain bike experiences, but open to use by runners and hikers. Directional descent-only trails may be signed as open to use by mountain bikers only. Equestrian use will be prohibited on these private land trails but shall remain an allowable use on the U.S. Forest Service Easement that crosses through the property. No motorized uses will be allowed on trails specified for mountain biking, although Class 1 E-Bikes may be allowed on a trial basis. Trails will include motion cameras to monitor usage for compliance with the allowed uses previously stated.

Winter hiking, fat-tire mountain biking, and Nordic skiing may be allowed on some system trails and may be supported through traditional Nordic grooming techniques.

Camping for the general public will not be authorized on the property. Picnic facilities including tables may be provided at the discretion of the property owner but must be located outside of any delineated flood plain areas.

In alignment with US Forest Service policy and USFS Easement through the property, dogs will be allowed on the Coal Basin trails if kept under constant sight and voice control. Dogs may be disallowed in the future if evidence arises of wildlife disturbance.

Hours/Days of Operation: Sun-up to sun-down, year-round. Annual closures during shoulder seasons will occur in the Spring and Fall at the discretion of the landowner to lessen impacts to wildlife and minimize deterioration of the trails during wet runoff months and pre-winter conditions.

Trail Construction: The trails as designed and depicted in the attached site plan (Attachment A) shall be constructed by Progressive Trail Design utilizing best management practices and methods that assure safety, proper drainage and minimize erosion as described in the Construction Management Plan provided with the subsequent Earth Moving Permit submission. All revegetation of newly constructed trails shall occur within one-year from the completion.

Trail Maintenance: The trails will be maintained by the Coal Basin management team utilizing various volunteer labor as typically facilitated and organized through the Roaring Fork Mountain Bike Association (RFMBA) or other local non-profit organizations. In addition to any public volunteer efforts, landowner may engage a professional trail crew

for any major maintenance needs, as they arise. Trails will be maintained in accordance with Title 12 of the Pitkin County Code.

Noxious weed management will occur seasonally by specialists to control and prevent the spread of invasive species throughout the Coal Basin property.

Facilities and Parking: In accordance with U.S. Forest Service policy, Coal Basin management will not provide trash receptacles in effort to encourage packing-out trash and minimize conflicts with wildlife. Coal Basin will provide port-a-potties during the mountain biking season (May to October) and will maintain/replace these amenities as needed for the general public and remove them seasonally.

Coal Basin will provide access and means for organized and scheduled educational trail user groups to contact Emergency Medical Services (EMS) via a 45 watt Motorola Radio Base Station providing a direct link to EMS services in Redstone and Carbondale.

Coal Basin will collaborate with the White River National Forest to further develop the parking plan for all users that encompasses potential for parking on the Coal Basin property as well as continued use of the existing WRNF parking lot.

Any water resources including Dutch Creek, Coal Creek, and future ponds may be accessed by local and Federal authorities for firefighting purposes in the vicinity.

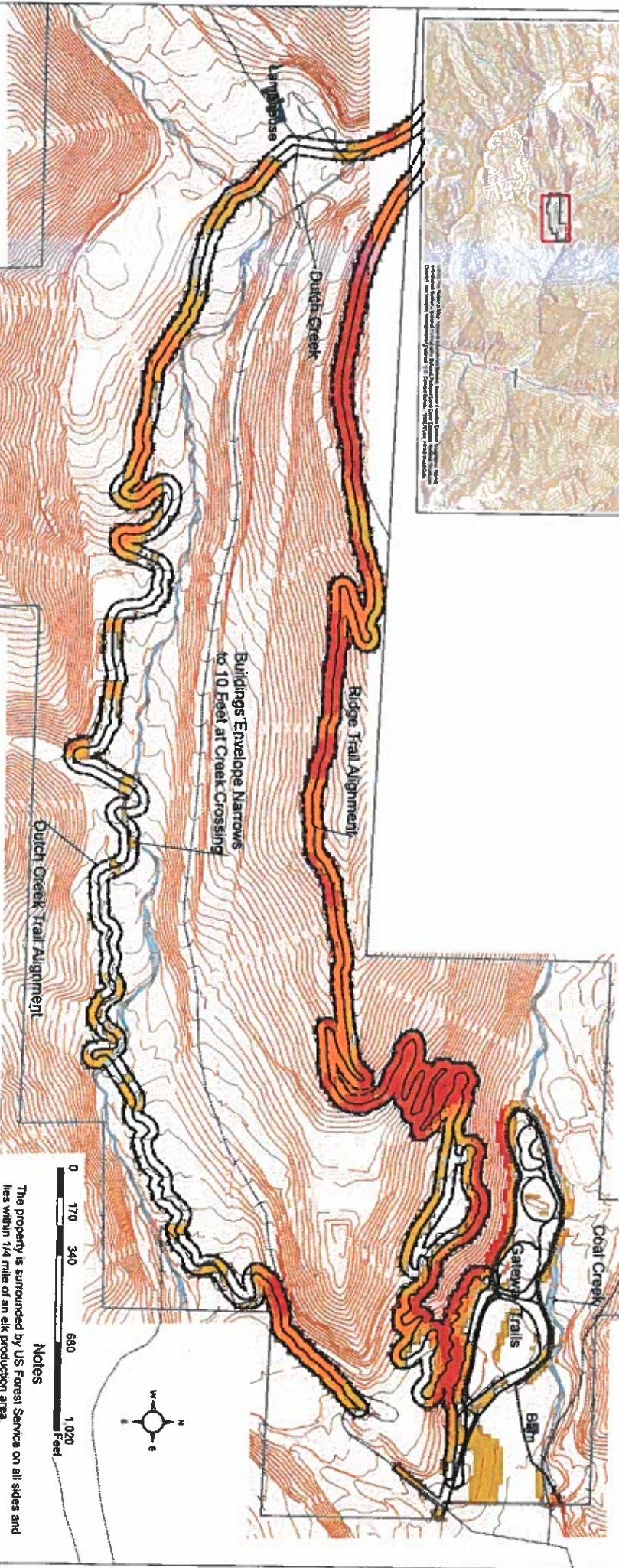
All fencing shall comply with the fencing standards specified in the Pitkin County Land Use Code.

Signage : Coal Basin will provide on-site maps/directional signage at trailheads and along routes that describe level of difficulty of each trail, etc. Coal Basin will collaborate with WRNF to appropriately indicate where users leave private property and enter public lands. Signs shall prohibit the proliferation and expansion of non-system trails on WRNF property. Rules, expectations, and a "Code of Mountain Biking Ethics" for trail use will be posted at the trailheads as well as a contact phone number and email for Coal Basin management team and the nearest available public phone location. Trailhead signage shall include a statement requiring users to respect wildlife and the cattle grazing by maintaining control of dogs at all times and keeping fencing in place and "as is" on Coal Basin and adjacent WFNF lands. A sign specifying the liability of the users (relieving responsibility of the property owner, Pitkin County, and the U.S. Forest Service) will also be included at the trail head in a highly visible location.

Attachment A - Operations & Management Plan

COAL BASIN ACTIVITY ENVELOPE & SITE PLAN

PID# 272710400004



Legend

- Property Boundary
- Trail Envelope
- Roads
- Trail System
- Buildings
- River
- Trail & Restoration Envelope
- Slope %
- 0-15
- 15-30
- 30-45
- >45

CLERK AND RECORDER'S CERTIFICATE

This 4180 Coal Creek Property Activity Envelope Site Plan has been accepted for recording in the office of the clerk and recorder of Pitkin County, Colorado this _____ day of _____, 20____ in Plat Book _____ Page _____ as Reception No. _____

PITKIN COUNTY COMMUNITY DEVELOPMENT DIRECTOR APPROVAL

This 4180 Coal Creek Property Activity Envelope and Site Plan has been reviewed and approved by the Community Development Director of Pitkin County this _____ day of _____, 20____ and is subject to administrative determination. No. _____ Recorded as reception No. _____

Notes

This property is surrounded by US Forest Service on all sides and lies within 1/4 mile of an elk production area.

Trail disturbances shall not exceed 10 feet in width.

Trail envelopes are 70 feet wide (35 feet each side of centerline).

Owner's Acknowledgement

The owner acknowledges being informed by Pitkin County of the existence of Environmental Hazard Areas that might affect the Property, and any improvements, and the usage thereof; the provisions of any Pitkin County regulations do not in any way assure or imply that the areas outside of designated hazard areas will be free from hazards or that approved mitigation measures will guarantee the safety of the property.

Owner's Signature _____

Community Development Director

Owner's Signature

Clerk and Recorder

Deputy