

APPLICATION

Smuggler Mine

8 June 2007

Applicant: New Smuggler Mine Corporation

Location: Smuggler Mine Parcel, Smuggler Road
(Parcel ID #273707100007)

*An application for Conceptual Subdivision, Code
Amendment, Special Review, Subdivision Exemption,
GMQS Exemption, Historic Designation, Activity
Envelope & Site Plan, and Scenic Review*

Represented by:

STAN CLAUSON ASSOCIATES, INC

Planning • Landscape Architecture

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8 June 2007

Mr. Ezra Louthis
Pitkin County Community Development
130 South Galena Street
Aspen, CO 81611

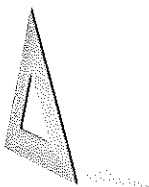
RE: Submittal for 1041 Hazard Review – Smuggler Mine Subdivision

Dear Ezra:

On behalf of our client, New Smuggler Mine Corporation, we are writing to request that Pitkin County conduct the necessary reviews to provide for a Conceptual Subdivision, Code Amendment, Special Review, Subdivision Exemption, GMQS Exemption, Historic Designation, Activity Envelope & Site Plan, and Scenic Review. This application is in conformance with your Pre-application Conference Summary, dated 8 May 2007. The applicant requests subdivision and vested rights approval to develop a three-lot subdivision on the Smuggler Mine property. Two lots would each contain one detached single family residence, and the other lot would contain the 9.7-acre Smuggler Mine conservation parcel.

Located within both the AR-10 and the TR-2 zone districts, the proposed project will utilize the zoning requirements of the AR-10 zone district via a PUD as allowed by Section 3-40-113, III. 4 (Ordinance 004-2005). The subject property is within the Urban Growth Boundary, where maximum floor areas up to 15,000 s. f. are allowed for single family homes with the use of TDRs in the AR-10 zone district. It is proposed to develop the two detached residences by using one development right associated with the parcel and a second development right obtained through the Historic Preservation incentives enacted with the new Pitkin County Land Use Code.. Over nine acres will be protected as a conservation area to preserve the Smuggler Mine site, a historic landmark and an important part of Aspen's mining history. Limited public access to the mine will be maintained in a manner similar to current operations. Given below is a summary of the proposed subdivision:

- | | |
|--|-----------------|
| • Total Area of Existing Parcel | 29.719 acres |
| • Proposed Historic Preservation Parcel
(Smuggler Mine site) | 9.719 acres |
| • Two (2) Proposed Residential Lots
(2 detached single-family residences) | 10.0 acres each |

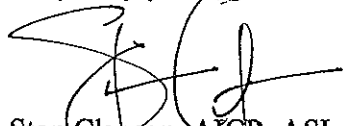


Ezra Louthis, Pitkin County Community Development Department
8 June 2007
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Attached are twenty-six (26) copies of the application. It is our understanding that the prior unexpended deposit may be credited to the application fee of \$10,893, leaving a balance of \$5118.00.

Please let me know if you require any additional information as part of this application. Thank you very much for your assistance with this request.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Stan Clauson', with a stylized flourish extending from the end.

Stan Clauson, AICP, ASLA
STAN CLAUSON ASSOCIATES, INC.

Attachments:

1. Application Copies
2. Additional Application Fee in the amount of \$5118.00

Project Overview

The applicant requests subdivision and vested rights approval to develop a three lot subdivision on the Smuggler Mine property, which will include two residential lots of 10 acres and one 9.7-acre historic/open space parcel. Located within the Urban Growth Boundary, the property is a 29.719 acre parcel which lies in both the AR-10 and TR zone districts. Approximately, 13 acres are zoned AR-10 and 16.5 acres TR-2.

The vicinity to the south and west of the subject parcel consists of well-established subdivisions and residential developments along Park Circle, and including the Silverlode and Centennial Subdivisions. Larger homes in the area include those located off Smuggler Road, North Spruce Street, and Hunter Creek Road. The two proposed single family homes will complement these existing properties, yet at the same time, preserve the rural quality of the area by maintaining low density development. The subdivision layout will preserve a substantial amount of visible open space and an historic resource parcel for the community.

The subdivision will provide two residential lots of ten acres and an open space lot of 9.719 acres for conservation of the Smuggler Mine Site. It is proposed to develop the two detached residences by using one development right associated with the parcel and a second development right obtained through the historic preservation incentive process. The lots will be located on that part of the parcel that is zoned AR-10, which allows one homesite per ten acres. In exchange for expenditures to upgrade and enhance the mine site, additional TDRs are requested to allow 15,000 s. f. in floor area for the single family residences, as allowed in the AR-10 Zone District. Because slopes of 45% encumber more than thirty percent of the fathering parcel, the applicant is proposing a code amendment to allow a density bonus on constrained lots as a benefit of historic designation.

Almost 10 acres of the site will be preserved as a conservation site for the historic Smuggler Mine. This parcel will provide the area with the preservation of a valuable cultural amenity, the Smuggler Mine, and preserve an important part of Aspen's mining history. The Smuggler Mine was one of the most productive mines in the Aspen area in the late 1800s, producing silver and lead. As the last active hard rock mine in the State, the site operates under a state permit which allows not only for mining operations where up to 25 tons of ore may be extracted, but also walking tours for the public (see Attachment: Permit No. M-1995-097). Since 1978, the walking tours have been given on site by appointment, where numerous underground tunnels, early tailings, and old wood-frame and metal buildings still remain. The New Smuggler Mine Corporation intends to place the site, which is currently on the Pitkin County Historic Inventory, on the Pitkin County Historic Register and restore certain features of the site based on historical information from archival records dating back to 1918, as well as providing needed visitor amenities.

The building envelopes for the single family homes will be located on slopes less than 30% to the northeast of the Smuggler Mine site. This area proves to be most appropriate

for residential development, because it clusters the proposed residences near existing development, presents the flattest area outside the Smuggler Mine site, and preserves the greatest portion of the wildlife habitat. No mine activity has ever occurred within the residential building envelopes. The upper portions of the residential property will be free from development and could be subject to a conservation easement, if desired by the County.

In summation, this proposed development benefits the community because it:

- preserves and enhances a cultural resource for future generations,
- keeps residential growth within the urban growth boundary, and
- serves as an effective transition from an urban area to a rural landscape.

Land Use Code Standards

Section 2-30-20: ADMINISTRATIVE REVIEW PROCEDURE

(g) Criteria for Approval

(2) SITE PLAN

A Site Plan shall be approved if it complies with (a) all applicable provisions of this Land Use Code, (b) any Activity Envelope previously approved for the property pursuant to Sec. 7-10-50, and (c) all prior development approvals applicable to the subject property. Where the property contains Constrained Areas, the Community Development Department staff shall follow those Priorities for Locating New Activity or Development listed in Sec. 7-10-60. If an Activity Envelope has not been previously established for the property pursuant to Sec. 7-10-50, one shall be established as part of the Site Plan Review process.

This application is requesting Site Plan and Activity Envelope approvals. The fathering parcel is slightly less than 30 acres, which lies in both the AR-10 and TR zone districts. Approximately, 13 acres are zoned AR-10 and 16.5 acres TR-2. The Smuggler Mine is a designated landmark on the National Register of Historic Places, and it has a permit to operate as a legal mine (see Attachment: Permit No. M-1995-097). No building envelopes have been established in prior approvals.

The subdivision will provide two residential lots of ten acres each and a deed-restricted parcel of 9.719 acres for conservation of the Smuggler Mine Site. The proposed activity envelopes for the two single family homes will be located on slopes less than 30% to the northeast of the Smuggler Mine site. This area proves to be most beneficial, as it orients the proposed residences near existing development, presents the flattest area outside the Smuggler Mine site, and preserves the greatest portion of the wildlife habitat. No mine activity has ever occurred within the residential building envelopes. The upper portions of the residential property will be free from development and could be subject to a conservation easement, if desired by the County.

It is proposed to develop the two detached residences by using one development right associated with the parcel and a second development right obtained through historic preservation incentives. The lots will be located on that part of the parcel that is zoned AR-10, which allows one homesite per ten acres. Additional TDRs are requested as historic preservation incentives in exchange for the Smuggler Mine improvements and site development. These would allow 15,000 s. f. in floor area for each of the single family residences, as permitted in the AR-10 Zone District and similar to residential development on adjacent properties.

An activity envelope will also be established for the Smuggler Mine site to bring all disturbed areas into conformance with current land use regulations. The activity envelope for the Smuggler Mine is proposed to encompass the entire 9.719 acre parcel, in order to fully permit mine operations and reclamation activities. The Smuggler Mine owners will place the site on the Pitkin County Historic Register to facilitate future restoration of the mine.

Section 2-30-30: ONE-STEP REVIEW PROCEDURE

(h) Criteria for Approval

(2) SPECIAL REVIEW USES OR ACTIVITIES

(a) The special review use shall be consistent with the applicable County Master Plan.

The request for an additional development right and TDRs to provide for additional floor area is consistent with the East of Aspen/Independence Pass Master Plan. The locations of the proposed residences are in AR-10 Zone District within the Urban Growth Boundary. The underlying zone district encourages the use of TDRs, while the Urban Growth Boundary permits the utilization of TDRs—or in this case, historic incentives—for a development right. The two proposed residences are consistent with the goal of development within the Urban Growth Boundary.

(b) The special review use shall not conflict with any applicable sections of the Pitkin County Land Use Code, including the County Land Use Policies in Chapter 1.

The Special Review for the TDRs does not conflict with the Pitkin County Land Use Code. The use of TDRs for additional floor area is permitted per the AR-10 Zone District within the Urban Growth Boundary. This application is requesting TDRs as a benefit of preserving the historic Smuggler Mine. The Historic Preservation section of the land use code permits a broad range of incentives to facilitate and encourage historic preservation.

(c) The proposed development must not materially endanger the public health, safety or welfare.

The proposed two single family homes will not in any way endanger the public health, safety, or welfare. Rather, additional benefits will accrue to the public from the proposed development.

(d) The proposed development must not substantially injure the value of adjoining or abutting property.

The proposed development will not injure the value of adjoining or abutting property. The preservation and restoration of the historic Smuggler Mine will enhance the values of surrounding properties, while the proposed residences are consistent with existing residential development.

(e) The special review use shall be consistent with the intent of the zone district in which it is proposed to be located.

The special review for the utilization of TDRs is consistent with the underlying zone district. The locations of the proposed residences are in AR-10 Zone District within the Urban Growth Boundary. The underlying zone district allows the use of TDRs for additional floor area. The construction of the two proposed residences on such a large parcel is consistent with the goal of development within the Urban Growth Boundary.

(f) The special review use shall be compatible with the character of the immediate vicinity of the parcel proposed for development and surrounding land uses, or shall enhance the mixture of complimentary uses and activities in the immediate vicinity of the parcel proposed for development.

The utilization of TDRs for the proposed single family homes is compatible with surrounding land uses. The vicinity to the south and west of the subject parcel consists of well-established subdivisions and residential developments, including Park Circle, Silverlode, and Centennial Subdivisions. Adjacent development of larger homes already is present. The activity envelopes for the proposed homesites are higher in elevation than those of existing development and will preserve a considerable amount of the parcel as open space. The two proposed single family homes will complement these existing properties, yet

at the same time, preserve the rural quality of the area by maintaining low density development and preserving valuable open space parcel for the community.

(g) The location, size, design and operating characteristics of the proposed special review use must be in harmony with the surrounding area and minimize adverse effects, including visual impacts, impacts on pedestrian and vehicular circulation, traffic generation, parking, trash, service delivery, air/water pollution or other impacts on natural resources, noise, vibrations and odor on surrounding properties.

The two additional single family residences will not increase adverse impacts on surrounding properties. The activity envelopes for the single family homes will be oriented near established homes on the flattest area outside the Smuggler Mine site. This location preserves the greatest portion of the wildlife habitat. Through architectural design and landscaping the property will blend with the natural landscape to minimize any visual impacts.

(h) There must be adequate public facilities and services to serve the special review use, including but not limited to roads, potable water, sewer, solid waste, parks, police, fire protection, emergency medical services, hospital and medical services, drainage systems, and schools.

Adequate public facilities and services already serve the adjacent development. These include roads, including access off of Smuggler Mountain Road, water and sewer, shallow utilities, and access to public services. No additional public costs will be required to bring these utilities and services to the site. The proposed use of TDRs for this subdivision will reduce development in remote County areas and locate it near to an existing urban center which should have a positive impact on the County's service demands.

(i) The proposed special review use must comply with any additional standards or requirements stated for such use in Sec. 4-30 and/or Sec. 2-40-20.

The project will comply with any additional standards or requirements per the Pitkin County Land Use Code. Please see below the responses for the additional standards to become a TDR Receiver Site.

(4) SUBDIVISION EXEMPTION TO CREATE PARCELS FOR COMMUNITY OR PUBLIC FACILITIES OR OPEN SPACE

The proposed subdivision includes the creation of the Smuggler Mine site parcel to be provided as a historic resource. The Smuggler Mine will be designated as a Pitkin County Historic Landmark with a master plan for restoration and educational opportunities for the enjoyment of the community.

2-40-10: LAND USE CODE TEXT AMENDMENTS AND REZONINGS

(a) Initiation

This applicant Smuggler Mine Corporation proposes a land use code amendment allowing a density bonus of one (1) additional unit on parcels where density is reduced due to steep slopes, for the purposes of preserving significant historic sites. Two code sections will be affected by this proposed code amendment:

- *Section 5-10-20 on Reduction in Density for Steep Slopes*
- *Section 7-20-100 on Historic Preservation*

(c) Criteria for Approval

(1) In addition to the provisions of Sec. 2-30-40(i), the following shall apply to applications for Land Use Code text amendments.

(a) Each Land Use Code text amendment shall be consistent with the Pitkin County Comprehensive Plan.

The text amendment is consistent with the Pitkin County Comprehensive as it serves to provide an additional incentive of preserving historic sites and landmarks within the County.

(b) Land Use Code text amendments shall be drafted in a form consistent with the organizational format and style of this Land Use Code.

The applicant will provide the text amendment in the required format and style.

(c) Code text amendments shall repeal and reenact entire Code sections rather than just specific sentences or sub-sections.

It is understood that the entire Code section needs to be repealed and reenacted. Proposed text changes for the specific sections are underlined and shown below:

Amendment to Section 5-10-20, Pitkin County Land Use Code REDUCTION IN DENSITY FOR STEEP SLOPES

(e) Historic Landmark Variances

1. Purpose and Applicability

Under exceptional circumstances, historic landmark properties may have special consideration in allowing greater density on parcels to construct one (1) additional house notwithstanding that more than thirty (30) percent of the total land area of a project is encumbered by slopes of forty-five (45) percent or greater and may therefore be subject to a reduction in density for steep slopes.

These historic sites for these specially issued density bonuses may be located anywhere within the County, with the exception of the Rural/Remote Zone District.

2. Growth Management Implications

Each density bonus would count for one development right which would not be deducted from the respective annual development allotments established in relevant sections of the Pitkin County Land Use Code.

3. Standards and Criteria for Issuance in addition to Section 7-20-100

Criteria for exceptional circumstances permitting the issuance of a density bonus may include:

- a. Strategic nature of the parcel to facilitate historic preservation objectives of retaining notable historic site and landscape features;
- b. Extent that the site is returned to its historic appearance;
- c. Proximity to the historic site to urban development and population centers;
- d. Visibility of the parcel from urban areas;
- e. Significant size of the parcel;
- f. A history of litigation regarding development, which would be resolved through this action; and
- g. The proposed location for the preservation site is consistent with the applicable Pitkin County Land Use Plans, the Aspen Area Community Plan, or other relevant planning documents.

Amendment to Section 7-20-100, Pitkin County Land Use Code
HISTORIC PRESERVATION, BENEFITS

(f) Benefits

(3) OPTIONAL INCENTIVES

(e) Density Bonus

- 1. The ability to construct one (1) additional house notwithstanding the existence of a historic building on the property and the failure of the lot or parcel to meet the minimum size otherwise required to accommodate both the historic and the new building.
- 2. The ability to construct one (1) additional house notwithstanding that the density on the lot or parcel containing a significant historic site would otherwise be reduced due to steep slopes or other reasons.

2-40-30: TRANSFER OF DEVELOPMENT RIGHTS

(c) Relationship to GMQS Scoring System

This application requests that the two proposed lots become TDR Receiver Sites to allow additional floor area. The lots are in the Urban Growth Boundary and the underlying zone district AR-10 allows TDRs to be used for additional floor area.

(d) Relationship to Other Approvals

This application also seeks approval of Conceptual Subdivision, Code Amendment, Subdivision Exemption, Historic Designation, Activity Envelope & Site Plan, and Scenic Review in addition to the utilization of TDRs for the two proposed lots.

2-40-50: SUBDIVISION AND PUD REVIEW PROCEDURES

(i) Criteria for Approval

A conceptual or detailed subdivision or PUD application may be recommended for approval and may be approved only if the Board finds that all of the following criteria have been met:

(1) The application complies with all applicable provisions of this Land Use Code;

The proposed PUD will comply with all applicable provisions of the Pitkin County Land Use Code. This request for two residential lots per AR-10 Zone District standards complies with Section 3-40-70 (c)(1) of the Pitkin County Land Use Code which allows density be based on the area of the entire property, including the portion zoned TR-2, according to the density allowed in the area to be developed, pursuant to a PUD approval.

(2) The application complies with all applicable Land Use Policies listed in Sec. 1-60;

The PUD project of two residential lots and the open space parcel conserving the historic Smuggler Mine will comply with all applicable Land Use Policies listed in sec. 1-60.

(3) The application complies with all prior development approvals applicable to the subject property;

This request complies with the permit for the operation of the Smuggler Mine. No prior development approvals exist for this parcel. As part of the State of Colorado operating permit requirements, a relocated watchman's quarters will be constructed on the mine preservation site.

(4) The proposed subdivision is consistent with and implements the intent of the zone district(s) in which it is located;

The proposed PUD is consistent with the underlying zone district of AR-10. The two single family lots will consist of 10 acres each, while the Smuggler Mine site will be 9.7 acres serving as a historic preservation resource for community benefit.

(5) The general layout of lots, roads, driveways, utilities, drainage facilities, and other services within the proposed subdivision or PUD is designed in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this Land Use Code;

The building envelopes for the single family homes will be located on slopes less than 30% to the northeast of the Smuggler Mine site. This area proves to be most beneficial, as it orients the residences near established homes, presents the flattest area outside the Smuggler Mine site, and preserves the greatest portion of the wildlife habitat and native vegetation. No mine activity has ever occurred within the proposed residential building envelopes. The upper portions of the residential property will be free from development and could be subject to a conservation easement, if desired. The access drive skirts along the northern property line following contours to minimize grading.

(6) The proposed subdivision or PUD will not result in significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation, or such impacts will be substantially mitigated;

The proposed PUD will not result in significant adverse impacts on the natural environment. The two single family residences will be adjacent to existing residential development. They will be at or below the contour elevation of existing development and will not intrude on any pristine wilderness. Only two (2%)

percent of the parcel will be developed, and the upper portions of the parcel could be subject to a conservation easement, if desired.

(7) The proposed subdivision or PUD will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated;

The proposed PUD will not incur significant adverse impacts on adjacent properties. In fact, the preservation and restoration of the historic Smuggler Mine will enhance the character of the area.

(8) Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the property, while maintaining sufficient levels of service to existing development;

Adequate services and facilities serve the area, as the subject parcel is adjacent to existing development, which has a full complement of available utilities and services.

6-30-50: EXEMPTION FOR DEVELOPMENT USING TRANSFERABLE DEVELOPMENT RIGHTS ("TDRS")

(b) Additional Floor Area for Lots/Parcels

(1) ASPEN URBAN GROWTH BOUNDARY

The two proposed single family houses are located in the AR-10 Zone District within the UGB. Through the use of TDRs, these residences may be constructed up to 15,000 s. f. in floor area, per zone district standards.

7-10-50: SITE PLAN AND ACTIVITY ENVELOPE

(b) The Site Plan process incorporates an "Activity Envelope" approach in which the County staff works with the applicant to determine which portions of the site (if any) would permit the proposed activity or development to be conducted in compliance with this Land Use Code and in conformity with the Comprehensive Plan for the area. In general, this process will involve both a determination of (i) which portions of the site are not available for development because of the existence of Constrained Areas, and (ii) of the remaining portions of the site, which areas would accommodate the activity or development so as to minimize impacts on surrounding properties, maximize compliance with the requirements of the development standards in this Chapter 7, and maximize compliance with the Comprehensive Plan goals and objectives.

The proposed development occurs on the flattest portion outside the Smuggler Mine Site. The subdivision will provide two residential lots of ten acres and a parcel of 9.719 acres for conservation of the Smuggler Mine Site. The proposed activity envelopes for the two single family homes will be located on slopes less than 30% to the northeast of the Smuggler Mine site. The two single family homes will consist of 15,000 s. f. as allowed in the AR-10 Zone District. This area proves to be most beneficial, as it orients the residences near existing residential development, presents the flattest area outside the Smuggler Mine site, and preserves the greatest portion of the wildlife habitat. The upper portions of the residential property will be free from development and could be subject to a conservation easement, if desired.

An activity envelope will also be established for the Smuggler Mine site to bring all disturbed areas into conformance with current land use regulations. The Smuggler Mine will be designated as a Pitkin County Historic Landmark to facilitate future restoration of the mine.

Adequate public services and utilities serve the area already, and the proposed family residences will not incur any significant adverse impact. The two residences will be included into the Aspen Consolidated Sanitation District given the lots proximity to the City of Aspen.

(c) In general, the defined Activity Envelope for development of primary uses shall be large enough to accommodate the proposed principal use of the property and traditional permitted accessory structures, infrastructure (roads and septic systems), and uses, but should not be significantly larger than the area needed for such structures. In the case of a site with few Constrained Areas, the defined Activity Envelope may include more than one potential building site for a new single family home. The defined Activity Envelope may include non-contiguous areas (including separate areas for septic fields, landscaping, driveways to public roads, mitigation measures required in connection with any provision of this Chapter 7, and/or areas to be disturbed only during construction on the property – including staging areas and materials storage areas). Construction of trails will not require an Activity Envelope analysis except as required by Sec. 7-20-50.

Located along the northern lot line, the defined activity envelopes will be able to accommodate residences of 15,000 s. f., accessory structures, and associated infrastructure. The activity envelope on Lot 1 is approximately .703 acres and the one on Lot 2 is 1.268 acres. The activity envelope for the Smuggler Mine will encompass the Development Envelope (9.719 acres) established by state mining operations permit, No.M-1995-097. The two residences will have access to the Aspen Sanitation Consolidated District, so no septic systems will be required.

(d) Clearing, grading, grubbing, earthmoving that exceeds fifty (50) cubic yards, or changes in the natural drainage of the site shall occur only after an Activity Envelope has been defined and all applicable local, state and federal permits have been obtained. In addition, Site Plan Approval is required if these activities will occur on a property within a Scenic View Protection Area.

All grading and other disturbance will comply with Pitkin County regulations.

(e) Once an Activity Envelope has been defined, the natural grade, topography, vegetation and drainage of areas outside the defined areas shall not be disturbed except as specifically permitted in this Land Use Code. Prior to any development activity on the parcel, the boundaries of the Activity Envelope shall be identified with construction fencing, and such fencing shall remain in place until development has been completed.

Disturbance will only occur within the activity envelope.

(f) While it is preferable to obtain approval of an Activity Envelope as part of the Site Plan approval process, applicants who are not prepared to submit a Site Plan for a specific structure may request approval of an Activity Envelope separately. Prior to the issuance of a Development Permit, the applicant shall be required to apply for and obtain approval of a Site Plan confirming that the proposed development is consistent with the defined Activity Envelope and with other standards in this Land Use Code not considered at the time the Activity Envelope was defined.

This request is for both an Activity Envelope and Site Plan Review.

7-20-20: STEEP AND POTENTIALLY UNSTABLE SLOPES

(a) Slope Delineation

The applicant proposes a 3-lot subdivision, allowing two residential lots of ten acres and an open space lot of 9.719 acres preserving the Smuggler Mine. The proposed residences and Smuggler Mine operations are located on areas where the majority of slopes are less than 30% gradient. Slopes averaged 23% for Lot 1 and 21% for Lot 2. Slopes of 45% encumber more than thirty percent of the fathering parcel, but for minor slope anomalies, the Activity Envelopes consist of slopes less than 30%.

(b) Forty-five (45) Percent or Greater Gradient

No development is proposed on slopes over 45% gradient.

(c) Thirty (30) Percent or Greater Gradient

Development is prohibited on slopes with a slope gradient of thirty (30) percent or more, except as follows:

(2) PARCELS WITH SOME AREAS OF LESS THAN THIRTY (30) PERCENT SLOPES

The Smuggler Mine Parcel does contain areas with less than thirty (30) percent slopes that are accessible by a road or driveway that meets the requirements of this Land Use Code. The two single family homes are sited on the lowest area of the property, north of the Smuggler Mine Site, where the majority of slopes are less than 30% gradient except for minor slope anomalies. Likewise, the watchman's quarters for the Smuggler Mine will be sited on slopes less than 30%. Any development or disturbance occurring on slopes over 30% will be minimized to the greatest extent possible.

(3) MINOR SLOPE ANOMALY

Small sections of minor slope anomalies do occur within the Activity Envelopes. Per the report by Geological and Natural Resource Consultants, the building sites are not prone to instability as long as the proper construction methods are utilized, which are well established within Pitkin County. (See Attached Geologic Hazards Report)

(4) EXISTING ROADS AND DRIVEWAYS

A new access driveway is proposed for project. Defunct portions of the existing driveway serving the Smuggler Mine will be revegetated to Pitkin County standards.

(5) SHORT DRIVEWAY ENCROACHMENTS

The proposed road alignment takes advantage of level topography to minimize cut and fill slopes. The drive will cross very small sections that are over 30% slopes. The parcel does not include any avalanche zones, landslide areas, or rockfall areas.

(d) Less Than Thirty (30) Percent Gradient

The proposed residences and Smuggler Mine operations are located on areas where slopes are less than 30% gradient except for minor slope anomalies.

(e) Additional Standards

(1) DENSITY SLOPE REDUCTION

Slopes of 45% do encumber more than thirty percent of the fathering parcel, although these are not part of the proposed residential activity envelopes. Thus, this application requests approval of a code amendment granting a density bonus on constrained lots as a benefit of historic designation. Please refer to responses for Section 2-40-10, Code Amendment.

(2) LIMITS ON CHANGING NATURAL GRADE

Grading for the project will comply with Pitkin County standards.

(3) GRADING FOR ACCESSORY BUILDING PADS DISCOURAGED

No grading for accessory building pads are proposed at this time

(4) LIMITS ON GRADED, EXCAVATED, OR FILLED MAN-MADE SLOPES

Grading for the project will comply with Pitkin County regulations. The proposed road alignment takes advantage of level topography to minimize cut and fill slopes. Grading for the development will take place on areas that have slopes less than 30% except for minor slope anomalies.

(5) GUIDELINES FOR RETAINING WALLS

The project will comply with all Pitkin County guidelines for retaining walls. No new retaining walls are proposed at this time, but the Applicant does propose a "facade renovation" for the existing concrete retaining wall at the mine site.

(6) STANDARDS FOR RETAINING WALLS

The project will comply with Pitkin County standards for retaining walls. Existing retaining walls on the Smuggler Mine site will be improved and aesthetically enhanced.

(7) WATERWAYS PROHIBITED

No waterways will be filled or dredged.

(8) DETENTION/STORMWATER FACILITIES

No detention or stormwater facilities are proposed for this development. An existing detention facility exists on the Smuggler Mine site which will be retained and improved with new landscaping.

(9) UTILITY CUTS

Utility cuts will comply with Pitkin County regulations. No significant utility cuts are proposed as part of this application.

(10) REVEGETATION REQUIRED

All disturbed slopes will be revegetated as required by Pitkin County conservation standards.

7-20-30: WATER COURSES AND DRAINAGE

(b) Encroachment or Channeling

No encroachment or channeling activities are proposed.

(c) Drainage

No disturbance of natural drainage patterns will occur. The applicant commits to maintain natural drainage patterns and to provide adequate provisions for drainage within the proposed subdivision and along the access road. The large land area will minimize drainage impacts.

(d) Groundwater

The proposed subdivision is not expected to cause any undue interference with any critical recharge area. No land clearing and grading activities will occur during periods of maximum water runoff, as required by this Section.

(e) Irrigated Areas

The subdivision is located outside of any irrigated area.

(f) Irrigation Ditches

The proposed development is not located near any irrigation ditches.

(g) Sedimentation

The development will provide for sediment control as part of any grading or construction activities. Planned improvements will minimize erosion. The proposed road alignment takes advantage of level topography to minimize cut and fill slopes while the building sites will be located on slopes less than 30% on the flattest portion of the property outside the Smuggler Mine site. Disturbed areas will be revegetated with native plants to further decrease erosion issues.

(h) Water Quality

Response: The proposed development will not interfere with the designated uses of water resources in the relevant portions of the Water Quality Management Plan for the Roaring Fork River Basin, the 208 Water Management Plan, or the State regulations.

(i) Efficient Water Use

The development will utilize the most efficient water practices to the greatest extent possible. Xeriscaping will be employed wherever appropriate.

7-20-50: GEOLOGIC HAZARDS

(a) Avalanche Areas

The area is not mapped as high or moderate avalanche hazard zones on Pitkin County and USGS geologic hazard maps.

(b) Landslide Areas

The area is not included in landslide hazard areas on Pitkin County, USGS, or Colorado Geologic Survey geologic hazard maps. The proposed development will not occur on slopes greater than 30%, except for minor slope anomalies.

(c) Rockfall Areas

The area is not included in rockfall hazard areas on Pitkin County geologic hazard maps. There are no significant exposures of rock cliffs or ledges above the property, and thus, rockfall hazard is minimal.

(d) Alluvial Fans

Response: The proposed building envelopes are located within an area that is categorized as an alluvial fan hazard on the Pitkin County, Colorado Geological Survey, and USGS geohazard maps. However, upon close investigation, it has been deemed that standard mitigation techniques, such as foundation reinforcement and backfill, can be used to minimize the hazards. Please refer to the attached geologic report.

(e) Talus Slope

The property is not mapped in a talus slope hazard area on Pitkin County, CGS, or USGS geologic hazard maps.

(f) Mancos Shale

The property is not mapped in a Mancos Shale hazard area on Pitkin County, CGS, or USGS geologic hazard maps.

(g) Faults

The site is not included in a faults hazard area on Pitkin County geologic hazard maps.

(h) Expansive Soil and Rock

The area is not mapped as expansive soil and rock hazard on Pitkin County, CSG, and Bryant geologic hazard maps.

(i) Ground Subsidence

There is the potential for ground subsidence caused by voids created in both alluvial fan deposits and glacial till. This hazard can be mitigated through adequate soil testing and foundation design. Please refer to the attached the geologic report.

(j) Exceptions

No non-motorized, public trails are proposed.

7-20-60: WILDFIRE HAZARDS

(a) Wildfire Hazards Map

Both building sites are considered "Moderate Hazard: Brush," due to the fact that the slopes were greater than 20% and the fuels were discontinuous. Slopes averaged 23% for Lot 1 and 21% for Lot 2.

(b) Wildfire Hazard Area Delineation and Activity Envelope

The proposed building sites are mapped as "Moderate Hazard: Brush" areas. Defensible Space around the developments and specific building techniques to mitigate any wildfire danger will be implemented as recommended by the wildfire consultant, Eric Petterson, and as required by Pitkin County. The Wildfire Report is attached.

(c) Standards Applicable to All Wildfire Hazard Areas

(1) DEFENSIBLE SPACE

The proposed building sites are mapped as Moderate Hazard: Brush areas. Defensible Space around the developments to mitigate any wildfire danger will be implemented.

(2) ACCESS

The access driveway will comply with County standards to the greatest extent possible. No fuel breaks were recommended.

(3) WATER SUPPLY FOR FIRE SAFETY

Fire hydrants are located near the property. The two proposed single family residences of 15,000 s. f. will also have in-house sprinkler systems installed as required by Pitkin County regulations.

(4) ROOFING MATERIALS, ROOFING VENTS AND PROJECTIONS AT AND BELOW ROOF LINE

The project will comply with all building requirements per Pitkin County regulations and the wildfire consultant's recommendations.

(5) MAINTENANCE AND MISCELLANEOUS REQUIREMENTS

The owners will maintain roofs, gutters, and roof vents per County rules.

(e) Recommendations of Wildfire Expert

The project will comply with the recommendations of Wildfire Expert. See attached report.

7-20-70: WILDLIFE HABITAT AREAS

(a) Wildlife Habitat Maps

The area is not mapped as any specific wildlife habitat as it is located at the base of Smuggler Mountain. The residences will comply with all necessary regulations to minimize negative impacts upon wildlife in the area.

(b) General Principles

(1) Maintain large, intact areas of native vegetation and habitat area by preventing fragmentation of those patches by development.

The proposed development is sited on the lowest area of the property outside of the Smuggler Mine Site to preserve as much wildlife habitat as possible. The most sensitive upper portions of the property will remain undeveloped to avoid any unnecessary wildlife impacts. The two building envelopes encompass less than 2 acres, leaving over nine acres for the Smuggler Mine resource and eighteen acres undeveloped, preserving important wildlife habitat. While disturbed areas will be revegetated with native plants, the proposed development will also conserve existing vegetation to the greatest extent possible, including aspen trees, serviceberry, chokecherry, and shrub oak.

(2) Protect rare landscape elements such as locally rare vegetation, unique rock formations, sheltered draws or drainageways, or other features, and guide development towards areas of landscape containing more common elements.

No rare or unique features exist on site.

(3) Maintain connections among wildlife habitats by identifying and protecting corridors for movement.

No migration corridors exist on the property.

(4) Contribute to the regional protection of rare species by protecting their habitat locally.

No rare species exist on the property, but over nine acres will remain undeveloped for the Smuggler Mine resource and eighteen acres undeveloped, preserving important wildlife habitat. While disturbed areas will be revegetated with native plants, the proposed development will also conserve existing vegetation to the greatest extent possible, including aspen trees, serviceberry, chokecherry, and shrub oak.

(5) Minimize the combined and cumulative impacts of activities and development on wildlife species, wildlife habitat, wildlife movement, and unique landscape elements.

The proposed development is sited on the lowest area of the property outside of the Smuggler Mine Site to preserve as much wildlife habitat as possible. The most sensitive upper portions of the property will remain undeveloped to avoid any unnecessary wildlife impacts. Construction activities will be managed to have the most minimal impact on wildlife.

(c) General Standards

The area is not mapped as any specific wildlife habitat as it is located at the base of Smuggler Mountain. The project will comply with CDOW and County standards that are necessary to protect wildlife on the property. While disturbed areas will be revegetated with native plants, the proposed development will also conserve existing vegetation to the greatest extent possible, including aspen trees, serviceberry, chokecherry, and shrub oak.

(d) General Buffer Standards

No specific wildlife habitat is mapped on this property.

(e) General Livestock and Domestic Animals

No specific wildlife habitat is mapped on this property, including wetland or riparian areas. The developments will comply with all applicable County regulations to protect wildlife that occurs on and near the property.

(f) Additional Species-Specific Standards

No specific wildlife migration corridors, production areas, and/or habitats are mapped on the subject parcel.

(g) Timing of Construction

Construction of the two single family residences and restoration of the Smuggler Mine will comply with any applicable County standards to mitigate any impacts on surrounding wildlife.

(b) Recognition of Historic Resources – Three-Tiered System

(2) PITKIN COUNTY HISTORIC REGISTER

The Smuggler Mine is one of four major properties in the East of Aspen/Independence Pass planning area that have been included in the Pitkin County Historic Inventory. The mines were designated as a historic place on the National Register of Historic Properties on 18 May 1987, and the site is also listed on the Colorado State Register Properties and the National Register of Historic Resources of the Aspen Multiple Resource Area. It is the intention of the applicant to comply with all necessary County regulations that will allow the Smuggler Mine be designated on the Pitkin County Historic Register.

The Smuggler Mine would continue to function as an historic site in much the same way it has for many years. Specifically, it would be available on an appointment basis for groups and individuals to tour the mine and associated structures. It would be available for school groups and researchers to visit the mine as well as conduct research in the mine library. Trip generation and conflicts with recreational users of Smuggler Road would be minimized by the appointment program for visiting the mine. It is understood that the mine operations fall under the Special Review provisions of the Land Use Code.

The ownership of the mine would be retained by the New Smuggler Mine Corp., or its successors and assigns, and would not become a property owned by the County. The property would, however, have an agreement and conservation easement with Pitkin County relative to the operation and preservation of the mine site. Additional conservation easements may be executed with a suitable land trust for purposes of ensuring the continued preservation and availability of the historic resource.

(a) Criteria for Designation to the Historic Register

1. Importance of the historic theme to which the resource is related to the County's history.

The Smuggler Mine played a key role in the area's silver boom during the late 1800's. The Smuggler Mine was discovered in July, 1879 by silver prospectors from Leadville. The mine produced the world's largest silver nugget in 1894, weighing 2,054 pounds and consisted of more than 93% pure silver.

The Smuggler Mine contributed to the area's population and economic boom. By the early 1880's, Aspen was economically wealthy, with a population of 15,000 by 1887. As one of the top silver and lead producers in the Aspen area, the mine was among the few that continued to operate after the Silver Crash of 1893 until 1918. Mining resumed after World War II and still remains in operation.

2. The number of other historic properties that this resource represents and how it is exemplary.

This resource is a single historic property. The Smuggler Mine dumps alone are designated historical on the National Register. No structures or other features on the property are listed, as most of the wood frame and metal buildings now on the site were constructed after 1950. The substantial wood frame buildings associated with the operation were dismantled when active mining ceased in 1918.

Even though no structures of historical significance still exist on the property, the mine dumps and the mine itself represent the mining boom in Aspen during the late 1800's. It is one of few remaining mines where early tailing piles remain visible on the site in addition to numerous underground tunnels. It is still considered as having been one of the most productive silver mines in the world.

3. The resource's level of integrity of location, setting, design, materials, workmanship, feeling and association.

The Smuggler Mine played a key role in the area's silver boom during the late 1800's. The Smuggler Mine was discovered in July, 1879 by silver prospectors from Leadville. It was one of the top silver and lead producers in the Aspen area and continued to operate after the Silver Crash of 1893 until 1918. The mining dumps are historically designated because of its amazing silver production, and early tailing piles and numerous underground tunnels remain visible on the site. Old wood-frame and metal buildings still remain from the 1950's when mining operations resumed after World War II. The New Smuggler Mine Corporation intends to undertake certain improvements to restore the site to conditions that are consistent with those in 1918, utilizing restored and reproduced trestles and other mining structures.

4. The qualities of singularity such as rarity, uniqueness, and age.

After its discovery in July, 1879, the Smuggler Mine contributed to the rapid boom of the Aspen area. The mine produced the world's largest silver nugget in 1894, weighing 2,054 pounds and consisted of more than 93% pure silver. This silver nugget is still the largest in the world. The Smuggler Mine became one of the top silver and lead producers in the Aspen area, and continued to operate after the Silver Crash of 1893 until active mining ceased in 1918. Mining operations resumed after World War II.

It is one of few remaining mines where early tailing piles remain visible on the site in addition to numerous underground tunnels. It is still considered as having been one of the most productive silver mines in the world. As one of the last active hard rock mines in the State, the site operates under a state permit which allows not only for mining operations where up to 25 tons of ore may be extracted per day, but also permitting walking tours for the public.

5. Visual prominence.

The Smuggler Mine has been the subject of numerous research papers. The mine produced the world's largest silver nugget in 1894, and it is still considered as one of the most productive silver mines in the world.

6. Role in community events and celebrations.

Again, the Smuggler Mine contributed to the rapid silver boom of the late 1800's in the Aspen area after the mine's discovery in July, 1879. It continued to contribute to the local economy even after the Silver Crash of 1893. Operations finally ceased in 1918 but resumed again after World War II.

Today, walking tours are given on-site, where numerous underground tunnels, early tailings, and old wood-frame and metal buildings still remain. Tours are offered year-round through advance registration.

7. If the work of a notable architect, builder or craftsman, how this property compares with the body of work produced by the individual or firm.

The mine is an example of industrial uses of the late 19th century and as such is not associated with any notable architect or craftsman. The mine is an exemplary resource as it depicts the ambitions of ordinary people during the silver boom times of the late 1800's.

8. If associated with a notable individual, how the property illustrates their contribution to the county, state or nation.

In 1879, the Smuggler was among the first strikes made by Hopkins, Clark, Bennett when they and other Leadville miners first came to the Roaring Fork Valley, and the Smuggler Mining Company was incorporated in November 1881. The discovery of silver ore at the Smuggler Mine by Charles Bennett and other Leadville miners initiated the population and economic boom of the Aspen area in the late 1800's. In 1880, David Hyman, B. Clark Wheeler, and Charles Hallam obtained full interest on the Smuggler Mine claim.

(f) Benefits

(1) APPLICABILITY

(b) Properties that are subsequently designated to the Historic Register or listed on the Historic Inventory may be eligible for the following benefits subject to the specific provisions for participation.

The East of Aspen/Independence Pass Master Plan urges that Pitkin County provide incentives to property owners to protect historic resources of the Smuggler Mine property, as it is pertinent to the history of Pitkin County. It is the applicant's intention to comply with Pitkin County regulations to list the Smuggler Mine on the Pitkin County Historic Register.

(2) BASE INCENTIVES

All properties designated to the Pitkin County Historic Property Register or listed on the Pitkin County Historic Inventory are eligible for:

(a) Alternative Building Code Compliance

To preserve and maintain the historic and architectural character of listed and designated properties the International Existing Building Code (IEBC) may be utilized to provide alternative approaches to the requirements of the International Building Code (IBC). These modifications may not change the goals of the applicable safety and permit requirements and must follow the procedures provided for modification set forth in the IEBC. The Chief Building Official may also grant exemption from the Energy Code and Efficient building program for listed or designated historic properties.

Recognizing that the existing Smuggler Mine and some of its features may not conform to current building codes, modifications may be required in order to permit these features to be accessible to the public. All new non-historic structures will conform to all aspects of adopted building codes.

(b) Variances

The Board of Adjustment may approve variances from the dimensional requirements of this Land Use Code as permitted pursuant to Sec. 2-40-110 if it is demonstrated that these variances assist in the preservation and maintenance of the listed and designated historic properties.

No dimensional variances are requested as part of this application. The existing Smuggler Mine may contain features that encroach upon setbacks. These historical elements would be retained.

(c) Priority for Participation in County Programs

Listed or designated properties will be eligible and have priority to participate in other County programs related to financial, developmental, technical, and promotional assistance that will serve to maintain, preserve, and/or enhance their historic and architectural character.

The Smuggler Mine Restoration Plan will be fully developed in conjunction with requested technical support from the County Historic Preservation Officer and County Open Space and Trails staff.

(3) OPTIONAL INCENTIVES

Properties designated to the Pitkin County Historic Register may be granted the following incentives by the Board of County Commissioners on a discretionary basis:

(a) Expedited Review

A project involving a designated property may be brought before the Board of County Commissioners for consideration of its merits and the circumstances needed for the preservation of the historic site, structures or buildings, without the completion of all the necessary application materials. Completion of the necessary reports may be required for final approval but an initial review may be scheduled if the Community Development Director determines that the proposed project's preservation accomplishments should be the overriding consideration.

Expedited review has been provided through the Community Development Department by scheduling an initial Worksession with the Board of County Commissioners.

(b) Transfer of Development Rights

Transfer of Development Rights may be allowed.

As a benefit of designation to the Pitkin County Historic Register, this application is requesting eight TDRs to be granted to allow additional floor area of for both residences.

(c) Extended Vesting Period

An extended vesting period may be granted.

An extended vesting period of five years is requested in order to provide for the implementation of the Smuggler Mine Preservation Master Plan.

(d) Exemptions

The following exemptions may be granted by the Board of County Commissioners on a discretionary basis.

1. Growth Management Quota System exemptions are available pursuant to Sec. 6-30 and/or development may be fully or partially exempt from the Growth Management Quota System;

The requested exemptions fall under the Density Bonus provisions of this Section as proposed to be amended.

2. Subgrade space may be exempted from floor area calculations; and/or

Exemption of subgrade space from floor area calculations is requested, as originally provided for a parcel with the Urban Growth Boundary.

3. Exemption from affordable housing mitigation requirements.

Exemption from affordable housing mitigation requirements is requested as part of the preservation of the Smuggler Mine.

(e) Density Bonus

The ability to construct one (1) additional house, notwithstanding the existence of a historic building on the property and the failure of the lot or parcel to meet the minimum size otherwise required to accommodate both the historic and the new building.

The Density Bonus provision under Section 7-20-100(f)(3)(e) will be utilized to provide one additional residential site on the property. It is also the subject of a minor code amendment to clarify that the density bonus may be available without being subject to the density reduction for steep slopes as provided in Section 5-10-20 of the Code. The almost 30-acre parcel that is the subject of this proposal falls just slight short of allowing two residential units owing to the steep slopes on the upper portion of the parcel. Please refer to Section 2-40-10: Land Use Code Text Amendments and Rezonings in this application.

(4) ELIGIBILITY

The granting of any of the optional incentives is not a matter of right but is at the sole discretion of the Board of County Commissioners based on the Board's assessment of the merits of the proposed project, its ability to advance the County's preservation goals, and its demonstration of exemplary historic preservation practices. Any benefits that are awarded by the Board of County Commissioners will be subject to recordation of a covenant in a form acceptable to the County Attorney and the Historic Preservation Officer, to ensure that anticipated historic preservation benefits accrue to the County and are maintained over time. To be granted an optional incentive, the applicant must demonstrate that:

(a) The design of the project meets all applicable historic preservation design guidelines and is in conformance with the Pitkin County Comprehensive Plan, and

The New Smuggler Mine Corporation intends to restore the site with improvements consistent to those existing in 1918, utilizing restored and reproduced trestles and other mining structures, along with a new structure housing a visitors' reception area, library, and watchman's quarters. As part of this application, a master plan is proposed to direct the funded and future improvements to the mine site.

(b) The benefits provided are proportional to the significance of the historic resource and

The significance of the historic resource of the Smuggler Mine is proportional to the benefits requested as it represents the mining era of the late 1800's and the founding of Aspen. After its discovery in July, 1879, the Smuggler Mine contributed to the rapid economic and population boom of the Aspen area in the late 1800's. The mine produced the world's largest silver nugget in 1894, weighing 2,054 pounds and consisted of more than 93% pure silver. The Smuggler Mine became one of the top silver and lead producers in the Aspen area, and continued to operate after the Silver Crash of 1893 until active mining ceased in 1918. Mining operations resumed after World War II, and it is still considered as one of the most productive mines in the world.

(c) The historic building remains a key element of the property and the new development does not compromise the visual integrity of the historic property; and

The new development does not compromise the visual integrity of the historic property. The mine dumps, consisting of numerous underground and early mine tailings, provide the most authentic historical value to the site. The site will be restored to as it existed in 1918, utilizing restored and reproduced trestles and other mining structures. The design of the single family residences will complement the historic property, and landscaping will screen the properties from the Smuggler Mine as not to detract from the site's historical significance. This restoration and improvements will actually improve the visual integrity of the historic property.

(d) The new construction is reflective of the proportional patterns found in the historic building's form, materials and openings, or the work removes later alterations and restores the historic building to its appearance during its period of significance; and

The New Smuggler Mine Corporation intends to undertake certain improvements to restore the site as it existed in 1918, utilizing restored and reproduced trestles and other mining structures. The substantial wood frame buildings associated with the operation were dismantled when active mining ceased in 1918. The existing wood frame and metal buildings now on the site were constructed after 1950 and will be removed or improved upon for mine operations.

The architectural style of the two residences will complement the historic mine and landscaped screenings will further enhance the historic site's appearance. The sale of the two single family residences will help fund the improvements that are estimated to have a value of one million dollars for new and restored structures, along with an equivalent amount for landscaping, roadways, and site improvements.

(e) The project is compatible with the character of the neighborhood in which it is located, and

The proposed PUD project is compatible with neighborhood character. The Smuggler Mine has operated since 1897, except for part of the early twentieth century. The two proposed residences will be sited above existing residential development on Silverlode Drive, but below other existing development accessed off North Spruce Street or Smuggler Road. In this way, the proposed residences will continue the development pattern in a uniform manner in the Smuggler area, without extending development into upper elevations. The two single family homes will be consistent with these other residences. The landscape plan will mimic native vegetation patterns to buffer buildings from view. The restoration and improvements to the Smuggler Mine will enhance the neighborhood character.

(f) Historic outbuildings, site and landscape features are retained and stabilized and restored, as appropriate.

A Mine Improvements and Operations Plan is proposed for the restoration of the Smuggler Mine. The owners are proposing to devote a substantial sum of money to the construction and installation of the following improvements:

- 1. Construction of a finished parking area for visitors to the mine and service personnel;*
- 2. Construction of a reception building adjacent to the parking area, which would contain the Mine Office, Library, and required Watchman's Quarters;*
- 3. Construction of a new stairway to the mine portals for public access;*
- 4. Reconstruction and stabilization of the two mine portals and associated rail facilities;*
- 5. Reconstruction of the Shop and Lamp House outbuildings;*
- 6. Construction of a new access road to the mine portals that would provide for handicapped access and parking;*
- 7. Rock-facing the existing impoundment area to improve aesthetics; and*

8. *Landscape and screening improvements to the Retention Pond and entire area of the mine site.*

These improvements are estimated to have a value of one million dollars for new and restored structures, along with a similar amount for landscaping, roadways, and site improvements.

7-20-120: SCENIC VIEW PROTECTION

(d) Standards for Development Within Scenic View Protection Areas

(1) The proposed development shall utilize existing topography and natural vegetation, such as ridges, hills, and existing trees, to screen buildings to the maximum extent practicable when viewed from those right-of-way listed in subsection (b) above.

The property is located within the mapped Scenic View Protection Area as seen from Highway 82. The proposed envelopes will be sited on the lowest area of the property north of the Smuggler Mine Site. The home sites are placed in an area that contains varied natural terrain of rolling hills, aspen groves, and shrubs that will lessen visual impacts and are located at an adequate distance from Highway 82 to insure that visual impacts will be minimized. The access road and driveways are expected to have minimal visual impact because the proposed road alignment takes advantage of level topography to minimize cut and fill slopes. Besides preserving existing vegetation, including aspen trees, chokecherry, serviceberry, and shrub oak, to screen the property from view planes to the greatest extent possible, the applicant will create a landscape plan to further buffer the building. Prior to the submission of a Building Permit application, storey poles will be placed at key building elevations to allow for a final determination of no significant impact.

(2) The proposed development shall avoid the location of structures within the Scenic View Protection Areas, and shall avoid the location of structures within any Viewplane identified in the State Highway 82 Corridor Master Plan and Down Valley Comprehensive Plan if possible. If location outside the Scenic View Protection Area and defined Viewplanes is not practicable, then the proposed development shall not be located on the highest ground or most visible portion of any site as viewed from those corridors listed in subsection (b) above.

The proposed development has avoided the location of uses on the highest ground and has avoided the most visible portions of the site as viewed from Highway 82. The proposed building footprints are to be sited below the elevation of 8190 on the lowest area north of the Smuggler Mine site.

(3) The proposed development's height and bulk shall be designed to avoid, to the maximum extent practicable, the visibility of buildings from those corridors listed in subsection (b) above. This may include, but shall not be limited to, breaking the mass of the building down into a series of smaller forms, articulation of the building façades to avoid a wall or row effect, and staggering rooflines to avoid a long unbroken plane.

Architectural design reducing height and bulk and landscaping utilizing screening have been provided which will minimize impact on views, including those along Highway 82 to the greatest extent possible. The residences will not be visible from any designated public view-planes.

(4) The proposed structure shall be placed so it does not project above a ridgeline such that a structure silhouettes against the sky when viewed from those corridors listed in subsection (b), unless there are no alternate building sites on the lot or parcel.

The development envelopes are located near the base of Smuggler Mountain below the ridgeline and will not break the ridgeline.

(5) The proposed development shall be designed to complement the natural topography of the land through the use of techniques such as earth-sheltered design, the use of natural materials and coloring, the use of low-reflectance materials, or clustering of structures on the least visible

portions of the site. When a building is proposed near a ridgeline, then its form (particularly its roof form) shall replicate, parallel, or complement the natural form of the ridgeline so that it appears to be an element of the natural ridgeline.

The access road, development envelopes, and driveway alignments are dictated by topographical constraints, particularly steep slopes. The proposed development avoids alterations to the higher elevation areas of the property which have the highest visual vulnerability and are the most significant to public view areas. The building sites will be located on slopes less than 30% on the lowest portion of the property outside of the Smuggler Mine site. The access road and driveways are expected to have minimal visual impact because the proposed road alignment takes advantage of level topography to minimize cut and fill slopes. The proposed architectural plan will be compatible with both the historic mine property and adjacent developments while non-reflective building materials and natural colors will be used to blend the buildings with the landscape.

(6) The proposed development shall preserve natural vegetation and avoid development within irrigated meadows, to the maximum extent practicable.

The proposed development preserves existing vegetation to the greatest extent possible, including aspen trees, chokecherry, and shrub oak. Disturbed areas will be revegetated with native plants. The landscape plan will mimic native vegetation patterns to buffer buildings from view.

(7) The proposed development shall install utilities in locations and through procedures that minimize visual impacts to the maximum extent practicable.

The utilities will be installed along the driveway corridor to minimize site disturbance. The road design balances cut and fill slopes as much as possible to minimize visual impacts.

(8) All satellite dishes in the proposed development shall be located to minimize visibility from those rights-of-way listed in subsection (b), and shall use earth tone colors and/or screening to minimize their visual impact.

No satellite dishes are planned.

(9) The proposed development shall not use earth moving and berms as the primary means of compliance with these regulations, but earth moving may be utilized in conjunction with other techniques to comply with standards in this section. Where earth moving techniques are necessary, man-made forms should be undulating and natural in appearance.

No manmade landforms are proposed.

(10) In the Rural Areas only, development shall be located so that activities and development occur in at least one of the locations specified in subsection (f) as they may apply to the particular property.

The subject parcel is located in the Urban Growth Boundary, and not in the Rural Area.

(11) EARTH TONE MATERIALS

The exterior of all development, except development located and designed in the form of a ranch compound, shall be built or painted with indigenous earth tone materials or colors. The exterior of a ranch compound should be built or painted with indigenous earth tone materials, or shall be painted or stained using local, traditional ranch colors, which shall include shades of red, brown, or white. Paints or stains that simulate weathered barn wood also shall be permitted.

The proposed architectural design will use earth tone materials to blend the buildings with the landscape.

(12) ROOFS

All roofs shall have a non-reflective color or composition. Reflective roof materials shall not be used unless the materials are treated prior to installation to eliminate reflection, with the exception of materials associated with solar or photovoltaic equipment.

Roof materials and colors will comply with Pitkin County regulations.

(13) REVEGETATION OF DISTURBED AREAS

Lands disturbed by earth moving or berms should be revegetated using native species that are already growing on or near the site. Topsoil shall be stockpiled and placed on disturbed areas. Irrigation shall be provided to the revegetated areas if it is necessary to ensure survival of planted native species.

The proposed development incorporates designs to preserve the natural landscape visible by surrounding areas. While all disturbed areas will be revegetated with native plants, the proposed development will also conserve existing vegetation to the greatest extent possible, including aspen trees, chokecherry, and shrub oak.

(14) DRIVEWAYS AVOID DIVIDING MEADOWS AND PASTURES

To the maximum extent practicable, roads and driveways shall be located to skirt the edge of and avoid dividing meadows and pastures and to avoid major road cuts. Roads and driveways should take advantage of the screening potential of natural topography and existing vegetation. Existing roads and driveways shall be used where practical. To enhance screening, a row of trees may be planted along the roads or driveways. To the maximum extent practicable, roads and driveways located around the edge of or in meadows shall be laid out with soft, curving edges and shall avoid straight line corridors that are incongruous with the natural setting.

No meadows or pastures exist on the property. The access road and driveways are expected to have minimal visual impact because the proposed road alignment takes advantage of level topography to minimize cut and fill slopes.

(e) Rural Character Guidelines for Building Location

In addition to complying with the standards of subsection (d) above (if applicable), all development in Rural Areas should be located so that activities and development occur in one or a combination of the following locations as they may apply to the particular property: (1) at the edge of an open meadow or pasture; (2) behind an existing stand of vegetation; (3) behind or built into a change in natural topography; or (4) within a pasture or meadow, clustered in the form of a ranch compound, or adjacent to or integrated into an existing ranch compound.

The proposed development is located within the Urban Growth Boundary and not within any Rural Areas, so these Guidelines are not applicable.

Located along the northern lot line, the lots are sited above existing residences along Silverlode Drive, and thus, continue the development pattern in a uniform manner in the Smuggler area. These two single family residences will be located adjacent to the existing Smuggler Mine to the northeast.

The proposed development is sited on the lowest area of the property outside of the Smuggler Mine Site to preserve as much wildlife habitat as possible. The most sensitive upper portions of the property will remain undeveloped to avoid any unnecessary wildlife impacts. The two

building envelopes encompass less than 2 acres, leaving over nine acres for the Smuggler Mine resource and eighteen acres undeveloped, preserving important wildlife habitat. While disturbed areas will be revegetated with native plants, the proposed development will also conserve existing vegetation to the greatest extent possible, including aspen trees, serviceberry, chokecherry, and shrub oak. A landscape plan and lighting of the proposed developments will comply with Pitkin County standards. Please see the attached Conceptual Site and Landscape Plan.

7-20-130: LANDSCAPING AND VEGETATION PROTECTION

(b) General Provisions

(1) PROTECTION OF NATURAL VEGETATION

In order to protect the rural character of Pitkin County, natural vegetation should be preserved to the maximum extent practicable, and any installed landscaping shall use the species plant materials naturally occurring on the site or on neighboring properties (except for flower gardens). Restrictions on removal of natural vegetation, and requirements for revegetation, are set forth in other portions of this Chapter 7.

Response: Less than 2% of the parcel will be developed. These disturbed areas will be revegetated with native plants while existing vegetation will be preserved to the greatest extent possible, including aspen trees, chokecherry, and shrub oak.

(2) CONFORMANCE WITH WILDFIRE REGULATIONS

In the event the provisions of this Sec. 7-20-130 conflict with any provisions of Sec. 7-20-60, as those requirements may be varied by a wildfire expert approved by the County, the provisions of Sec. 7-20-60 shall govern.

The developments will comply with required wildfire regulations. In-house sprinklers will be provided for each 15,000 s. f. residence. Defensible Space around the developments and specific building techniques to mitigate any wildfire danger will be implemented as recommended by the wildfire consultant, Eric Petterson and as required by Pitkin County.

(3) BERMS

Berms may be incorporated into any required landscaping, buffering, or screening area, provided that the County determines, during the development approval process, that the proposed berms will not cause drainage or erosion problems. No installed berm shall have a slope of greater than four-to one (4:1), nor a height greater than four (4) feet above grade.

No berms are proposed for this project.

(4) LANDSCAPE ENCLOSURES

Landscaping shall not be used to mark or enclose the boundary of a parcel, or to privatize an otherwise public viewplane. Use of indigenous shrubs or trees to enclose a portion of the property immediately surrounding a dwelling, barn, and/or accessory buildings (as opposed to the entire property or a large area of the property) are permitted if made to resemble similar windbreaks located near older properties in Rural Areas of the County.

The landscape plan will not include any enclosures. The proposed landscaping will primarily screen the residences and the Smuggler Mine Site from public views and for privacy. Evergreen specie, such as spruce and pine species, lilacs, and aspen trees among other indigenous shrubs or trees will be utilized in order to preserve the rural character of the County.

(5) VISIBILITY CLEARANCE

All landscaping shall be installed and maintained so that it does not interfere with the ability of drivers to see nearby traffic at the intersection of any driveway with a public road, or at the intersection of two public roads.

The proposed landscaping will not impede the views of traffic along any roads. In fact, the proposed landscaping clusters will enhance the view by screening unwanted protrusions onto the landscape.

(6) UTILITY EASEMENTS

Whenever the provisions of this Sec. 7-20-130 would require the installation of trees or shrubs over or on utility easements, where branches or roots might interfere with utility lines or pipes, the required location for such trees and shrubs shall be modified to require installation at the closest location that would avoid potential conflicts with utilities and would enable the trees and shrubs to serve the same landscaping purpose

Landscaping will consider all utility easements, and design will be in accordance to Pitkin County regulations. The landscaping will comply with County standards. All parking and service areas will be screened from views with evergreen varieties, aspen, and lilacs. Disturbed areas will be revegetated with indigenous plant species. Please refer to the attached Conceptual Site and Landscape Plan.

7-30: ROADS, DRIVEWAYS, AND PARKING

7-30-10: ROADS

(b) Consistency with County Plans

All new roads and right-of-ways are consistent with County plans. One road will provide access to the watchman's quarters and another to the two residential lots. Another new access road to the mine portals will provide for handicapped access and parking.

(c) Design and Construction Standards

The access road and driveway alignments will comply with those standards and specifications applicable within the City of Aspen since the proposed subdivision is located within the Aspen Urban Growth Boundary. The access road and driveway alignments are dictated by topographical constraints, particularly steep slopes, but they will have minimal visual impact because the proposed road alignment takes advantage of level topography to minimize cut and fill slopes.

(d) Subdivision Access

All access points and road designs to the three lots will comply with the necessary Pitkin County standards. Please see the attached Preliminary Plans for Access Roads and Alignments.

(e) Completion of Road Improvements

The applicant agrees to complete the road improvements as mandated by the development approval.

(f) Traffic Volumes in Excess of Existing Road Capacities

No traffic volumes in excess of existing road capacities will occur from this development. The proposed project incorporates two residential lots and an open space parcel with the Smuggler Mine site. The level of Smuggler Mine tours and operations will remain relatively the same. Proposed improvements to the Smuggler Mine include construction of a new access road to the mine portals that would provide for handicapped access and parking. A road improvement plan for this new access road will be provided with the Detailed Subdivision submission.

7-30-20: PARKING REQUIREMENTS

(b) Design Standards

All off-street parking spaces shall conform to the following standards:

- (1) Each space shall be at least eight and one-half (8-1/2) feet wide, eighteen (18) feet long; if covered shall be at least seven (7) feet high; and shall have unobstructed back out space of twenty-four (24) feet.
- (2) Each space shall have vehicular access to a street or alley, and be located on the same lot as the principal use, unless otherwise provided on an approved development plan.
- (3) Parking lots for businesses, commercial, or multi-family developments shall be suitably screened and concealed from the arterial highways, major roads, or collector streets by landforms and/or landscaping.

All parking spaces will comply with Pitkin County standards. The spaces will be accessed from Smuggler Mountain Road. One proposed improvement is the construction of a finished parking

area for visitors to the mine and service personnel. All disturbed areas will be revegetated with native plants, and all parking and service areas will be screened from views with evergreen varieties, aspen, and lilacs.

(c) Quantity of Off-Street Parking

The proposed preservation site will not incur additional affordable housing, transportation, or emergency service demands, since the Smuggler Mines is still actively used, including walking tours for the public. Parking spaces currently on the mine site are far in excess of what is required for mine employees and visitors. Proposed parking for the Visitor Center and Watchman's Quarters is seven spaces, including two handicapped parking spaces. Additionally, the upper parking area will provide two handicapped-accessible parking spaces, intended only for handicapped accessibility and service vehicles. The Hunter Creek bus route runs along Park Circle Road, which is located within walking distance of the proposed development.

The two single-family residences will have adequate off-street parking, including garages for each residence.

7-50: PUBLIC SERVICES AND UTILITIES

7-50-10: LOGICAL EXTENSION OF UTILITIES

(b) Consistency with Land Use Policies, County Master Plans and Utility Service Plans

The utility extensions will be consistent with Pitkin County goals and regulations. The development will not generate any service and facility demands in advance of the County or districts ability to provide within their budgets because this is a privately financed development of modest size that will construct its own roads and utility systems. Adequate public facilities and services already serve the adjacent development. These include roads, including access off of Smuggler Mountain Road, water and sewer, shallow utilities, and access to public services. No additional public costs will be required to bring these utilities and services to the site.

(c) No Adopted Master Plan or Utility Service Plan

All utility extensions will be consistent with Pitkin County policies and standards. Adequate public facilities and services already serve the adjacent development. Mining operations have occurred since the late 1800s and the walking tours since 1978. Because of this long history of active use, public services such as police and emergency medical services are already available to the site. These include roads, including access off of Smuggler Mountain Road, water and sewer, shallow utilities, and access to public services. No additional public costs will be required to bring these utilities and services to the site.

(d) Sizing of Utility Lines

The proposed buildout of the property will not generate any significant impact to existing public facilities. All utility line extensions will be sized correctly per Pitkin County regulations.

(e) One-Time Installation

All utility lines for the development will adequately serve the three lot subdivision with no future upgrades.

(f) Coordinate Utility Line Extensions

A full range of public facilities and services already serve area. All utility lines for the development will adequately serve the three lot subdivision per Pitkin County regulations. Because of this long history of the mine's active use, public services such as police and emergency medical services are already available to the site.

(g) Avoid System Overloads

The new utility extensions will not cause overloads within the same system.

(h) State and County Standards

All utility lines for the development will comply with Pitkin County engineering standards.

(i) Utility Company Service Commitments

Prior to the final plat approval, the developer will provide written commitments from the necessary utility companies that arrangements have been made for installation of utilities.

(j) Colorado Public Utility Commission Approval

If applicable, the Applicant will obtain approval from the Colorado Public Utility Commission for the extensions prior to installation.

(k) Location of Service Lines

Location of service lines will comply with Pitkin County regulations. The utilities will be installed along the driveway corridor to minimize site disturbance. The access road and driveways are expected to have minimal visual impact because the proposed road alignment takes advantage of level topography to minimize cut and fill slopes.

7-50-20: WATER SUPPLY AND DISTRIBUTION SYSTEMS

(b) New Water Rights

On-lot wells will serve each residential site. One well is currently drilled under State Engineer's Office exempt Well Permit #208666 associated with the Trueworthy Mining Claim 3740 which encompasses one of the building envelopes. A second exempt well permit associated with the Emma Mining Claim 2120 will serve the second residence. Please see the attached letter and well permit from Patrick, Miller, & Kropf, P.C.

(c) Adequate Water Provision

(1) COMMUNITY AND NON-COMMUNITY PUBLIC WATER SYSTEMS

N/A

(2) CONNECTION TO PUBLIC SYSTEMS

The Applicant intends to drill on-lot wells which will serve the two residences for which permits have been acquired.

(d) Water Distribution Systems

Water distribution systems will comply with all applicable standards.

(e) Adequate Water Quality

(1) SUBDIVISIONS

The Smuggler Mine site already has adequate water service. On-lot wells will serve each residential site. One well is currently drilled under State Engineer's Office exempt Well Permit #208666 associated with the Trueworthy Mining Claim 3740 which encompasses one of the building envelopes. A second exempt well permit associated with the Emma Mining Claim 2120 will serve the second residence. Please see the attached letter and well permit from Patrick, Miller, & Kropf, P.C.

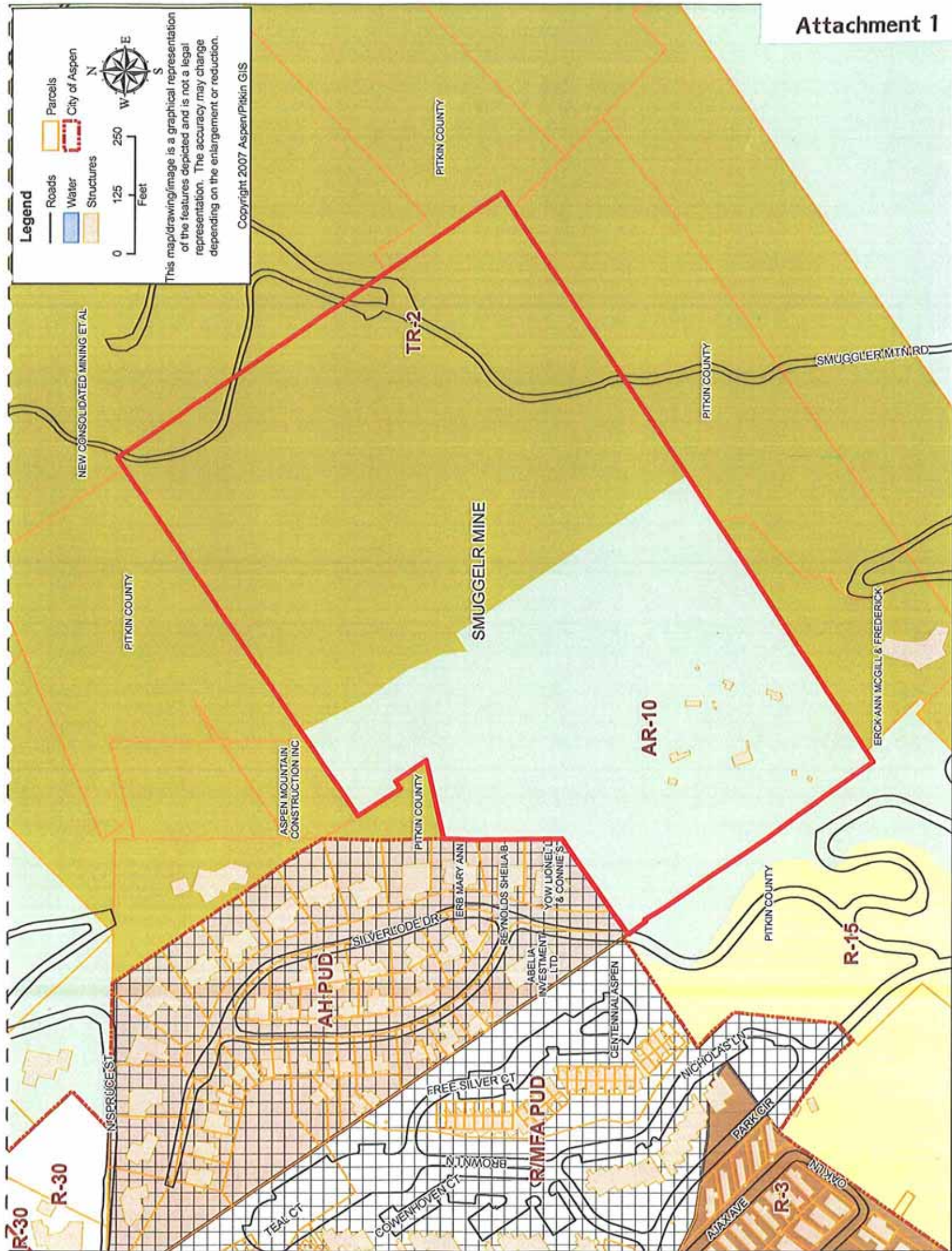
7-50-30: SEWAGE TREATMENT AND COLLECTION

(b) Connection to Public Systems Required, Where Available

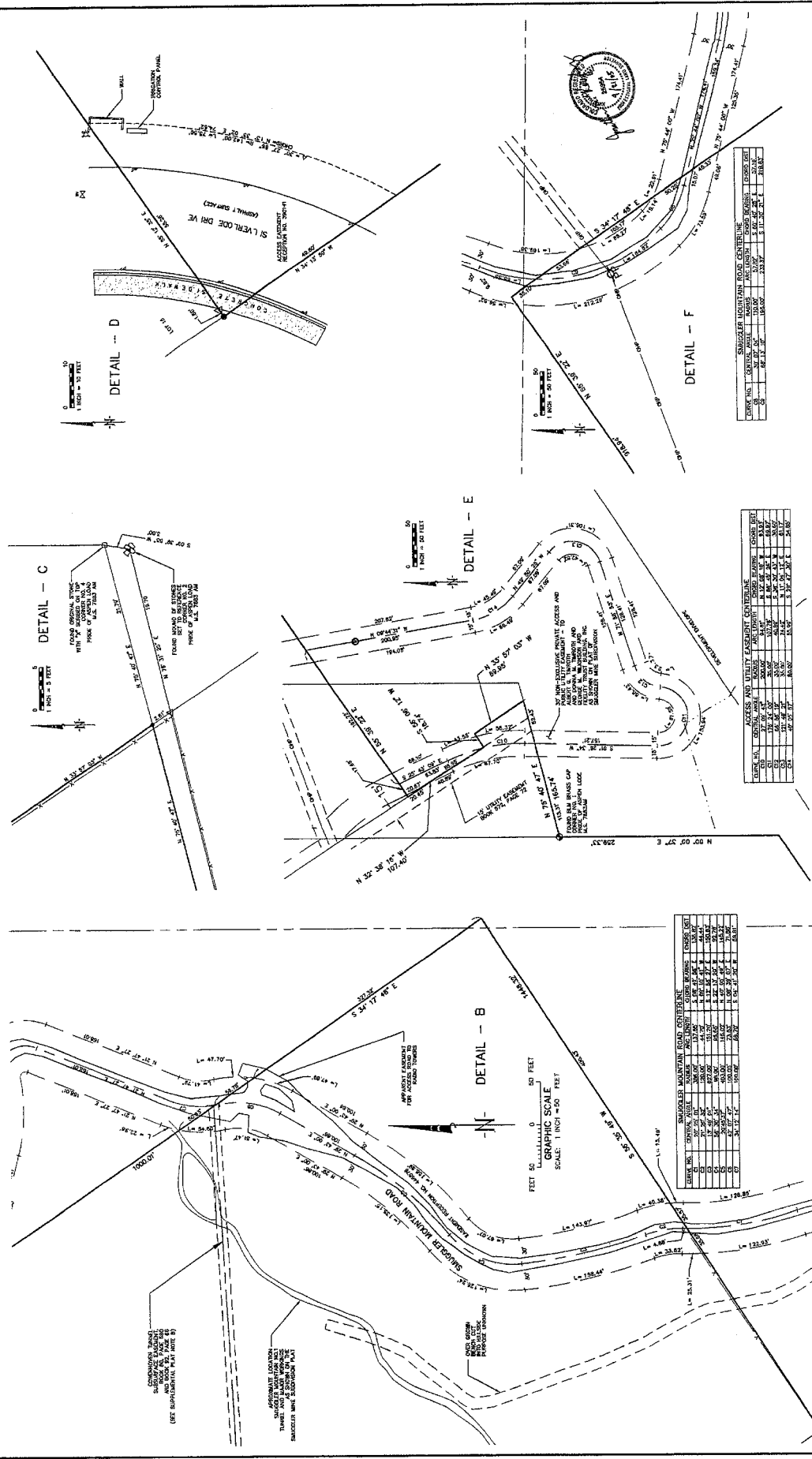
The Aspen Consolidated Sanitation District (ASCD) has sufficient wastewater collection and treatment capacity to serve this project. It is proposed that the new residences and the new facilities at the Smuggler Mine site will be connected to the ASCD. Please see the attached letter from ASCD.

(c) Design Standards

The public and private sewage disposal systems and connections to such systems shall comply with the sewage disposal regulations of the County's Environmental Health & Natural Resources Department.



IMPROVEMENT SURVEY PLAT OF
 SMUGGLER MINE PARCEL OF THE SMUGGLER MINE SUBDIVISION
 (LOCATED IN THE NE1/4 AND SE1/4 OF SEC. 8, T. 10 S., R. 84 W., 6TH P.M.)
 PITKIN COUNTY, COLORADO



[illegible]

DRAW BY J.M.K.		JOSEPH M. ROBYLAK, P.L.S. CONSULTING LAND SURVEYOR P.O. BOX 4583, GRAND JUNCTION, CO 81504 P.S.T. (970) 454-009 - email: jmr@broadband.net	NEW SMUGGLER MINE CORPORATION IMPROVEMENT SURVEY PLAT OF SMUGGLER MINE PARCEL OF THE SMUGGLER MINE SUBDIVISION PITKIN COUNTY, COLORADO	SCALE 1" = 20'	JOB NO. 2012031	DATE 9/26/05
DRAWN BY J.M.K.-M.E.B.				SHEET NO. 2 OF 3		
CHECKED BY 						

STAN CLAUSON ASSOCIATES, INC.
300 E. MAIN STREET
ASPEN, CO 81611
Tel: (970) 925-1234
Fax: (970) 925-1235
www.stanclauson.com

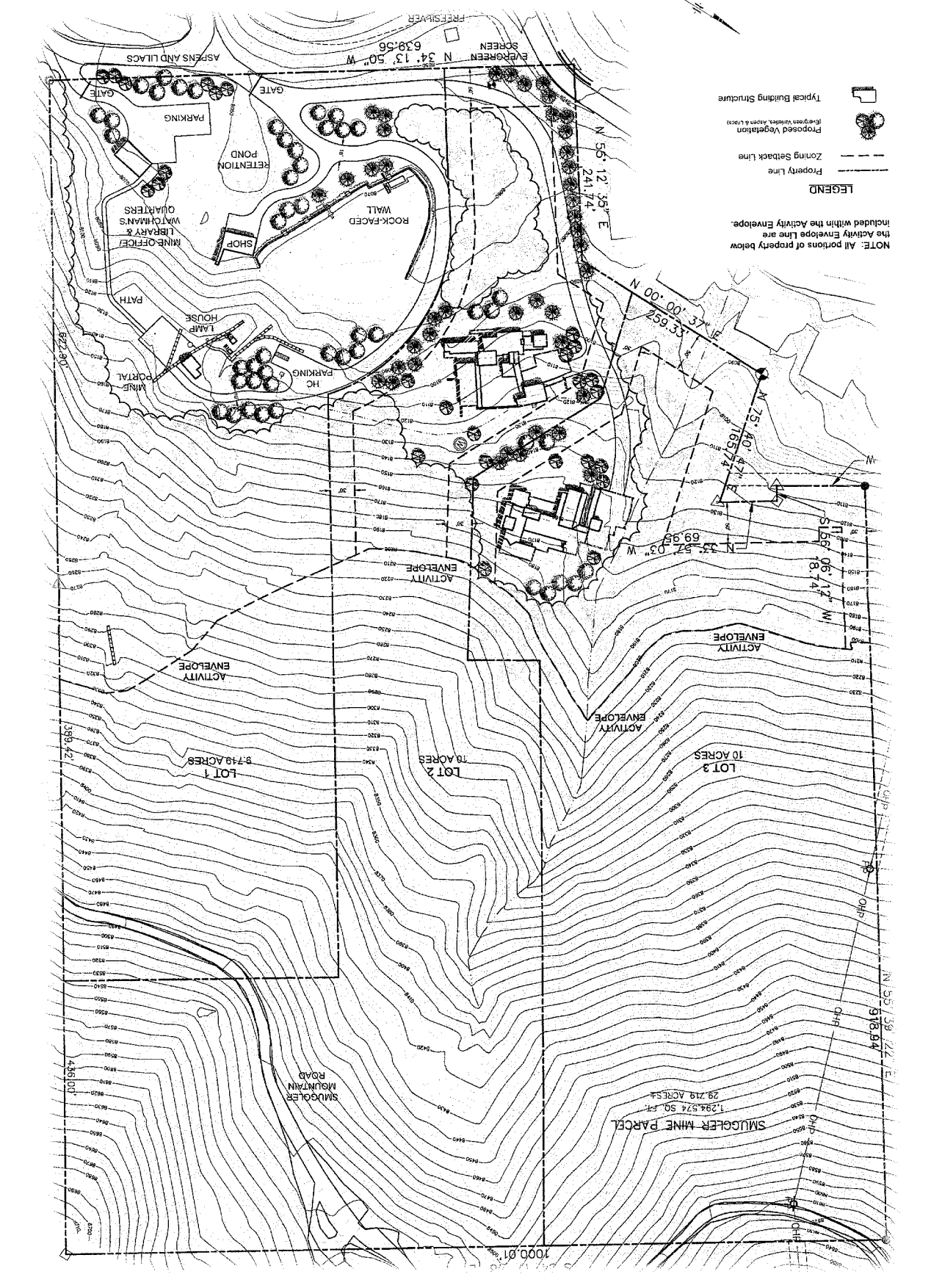
Smugler Mine Subdivision
Pitkin County
Aspen, Colorado

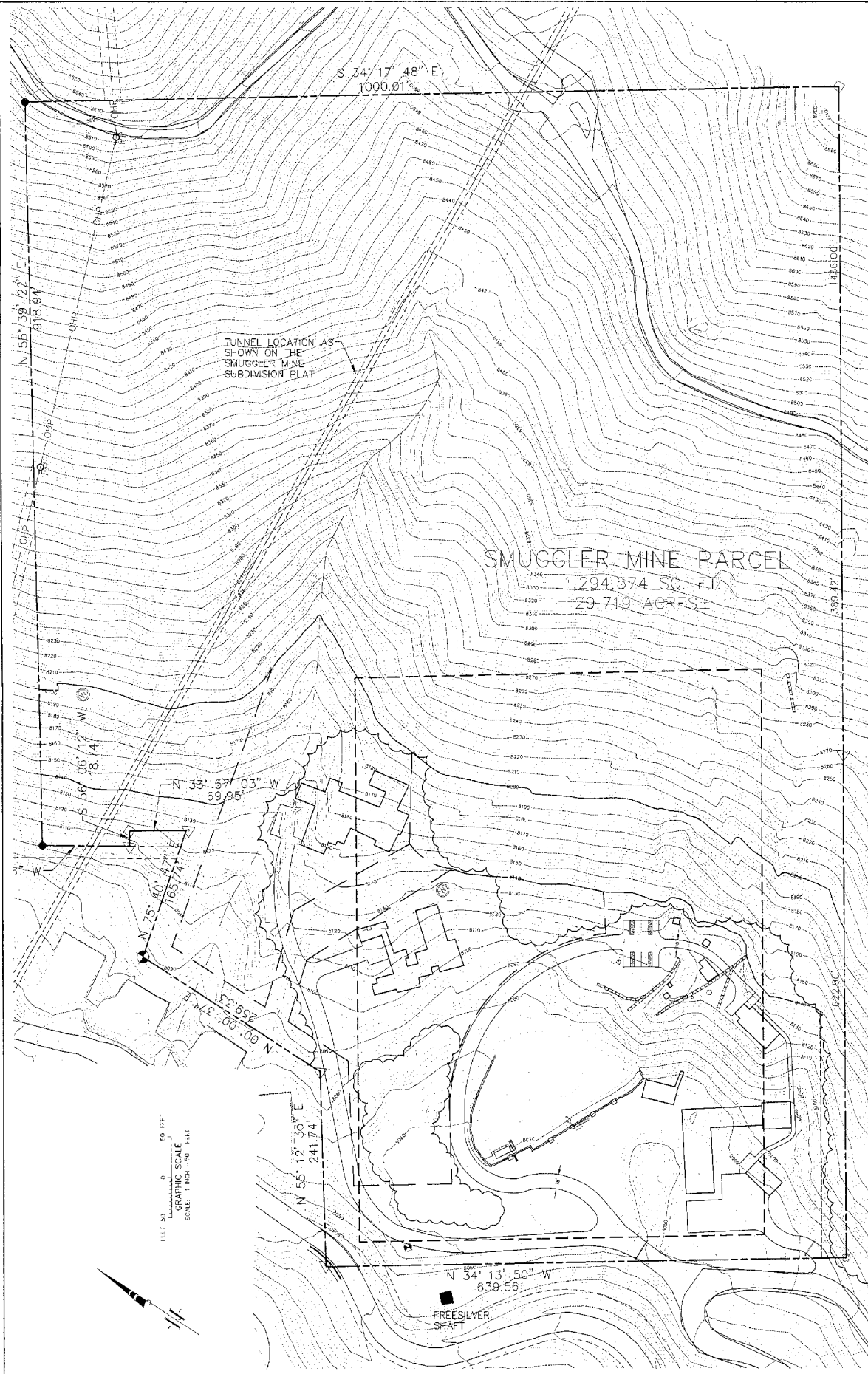
Conceptual Site and
Landscape Plan

DATE: 8 March 2007
REVISIONS:
12/15/06, 2/20/07
4 April 2007

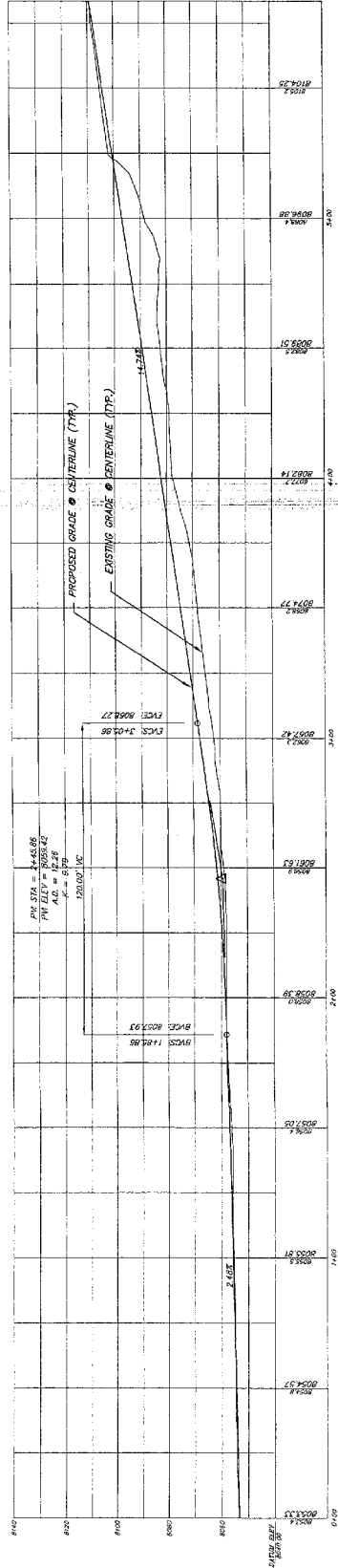
L.2
SHEET:

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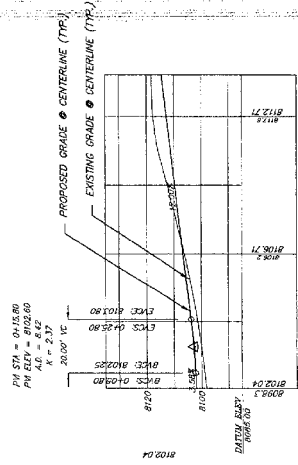


NEW SMUGGLER MINE CORPORATION		ASPER, CO	
TOPOGRAPHY OF		DATE: 04/14/2011	
SMUGGLER MINE PARCEL OF THE SMUGGLER MINE SUBDIVISION		SHEET NO. 1 OF 1	
PITKIN COUNTY, COLORADO			
KONA IAHAN M. KOBYI ARZ, P.L.S. CONSULTING LAND SURVEYOR BOX 40893, CHAND JUNCTION, CO 80641 (970) 431-3109 ~ email: pmk_pls@bgsnail.com			
DATE: 04/14/2011	BY: K.M.	DATE: 04/14/2011	BY: K.M.



ACCESS ROAD "C" CENTERLINE PROFILE

SCALE: H: 1" = 20' V: 1" = 20'



ACCESS ROAD "B" CENTERLINE PROFILE

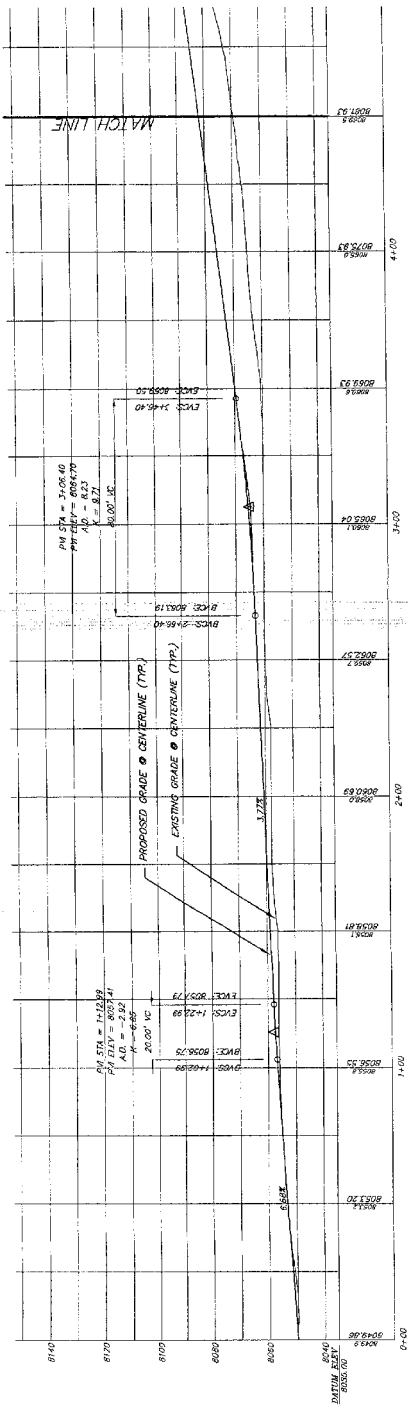
SCALE: H: 1" = 20' V: 1" = 20'

PRELIMINARY: FOR REVIEW AND COMMENT

DATE: 3-15-06	BY: JF	NEW SAUGUER MINING CORP.	ASPER, COLORADO	SCALE: H: 1" = 20' V: 1" = 20'	DATE: 3-15-06	BY: JF	SMUGGLER MINE DEVELOPMENT	ASPER, COLORADO	SCALE: H: 1" = 20' V: 1" = 20'	DATE: 3-15-06	BY: JF	2 OF 3
PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT	PROJECT: SMUGGLER MINE DEVELOPMENT
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PINNACLE DESIGN CONSULTING GROUP, INC.
CONSULTING ENGINEERS • 8803 BUCKEYE ROAD
CARLSBAD, CA 92008 • (760) 933-2178

REVIEW BY: _____
DATE: _____
CHECKED BY: _____
DATE: _____

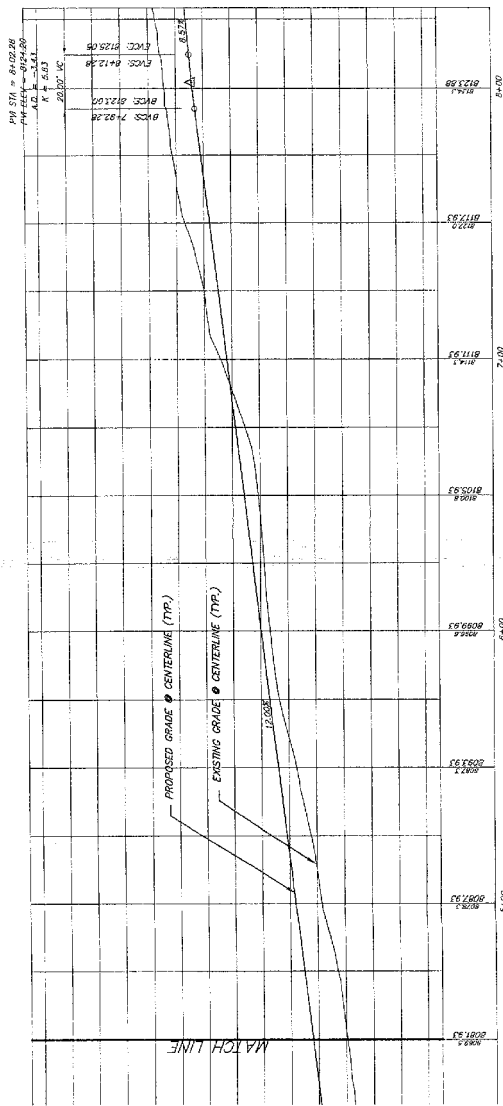


ACCESS ROAD "A" CENTERLINE PROFILE

SCALE:
H: 1" = 20'
V: 1" = 20'

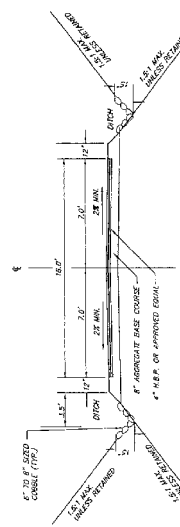
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2	1000.00	157.08	157.08	157.08	108.43	157.08	108.43
3	1200.00	188.49	188.49	188.49	129.16	188.49	129.16
4	1400.00	214.18	214.18	214.18	143.74	214.18	143.74
5	1600.00	235.62	235.62	235.62	161.07	235.62	161.07
6	1800.00	253.61	253.61	253.61	180.00	253.61	180.00
7	2000.00	269.27	269.27	269.27	199.91	269.27	199.91
8	2200.00	282.88	282.88	282.88	219.91	282.88	219.91
9	2400.00	294.79	294.79	294.79	239.91	294.79	239.91
10	2600.00	305.34	305.34	305.34	259.91	305.34	259.91
11	2800.00	314.79	314.79	314.79	279.91	314.79	279.91
12	3000.00	323.34	323.34	323.34	299.91	323.34	299.91
13	3200.00	331.18	331.18	331.18	319.91	331.18	319.91
14	3400.00	338.49	338.49	338.49	339.91	338.49	339.91



ACCESS ROAD "A" CENTERLINE PROFILE

SCALE:
H: 1" = 20'
V: 1" = 20'



TYPICAL ACCESS ROAD SECTION

N.T.S.

PRELIMINARY: FOR REVIEW AND COMMENT

DESIGNED BY	DATE	PROJECT NO.	ASPHEN, COLORADO
CHECKED BY	DATE	PROJECT NO.	2006-05
IN CHARGE	DATE	PROJECT NO.	2006-05
Pinnacle Design Consulting Group, Inc.		SMUGGLER MINE DEVELOPMENT	
CONSULTING ENGINEERS • 1805 BUCKEYE ROAD		ROAD "A" CENTERLINE PROFILE	
CARMON, CO 81623 • (970) 963-9170		2 OF 3	

SCOT BROUGHTON Archite

PO Box 4096 / 23780 Two Rivers Rd, Unit 3 / Breckenridge, CO 81621
[t] 970/937-0552 [f] 9554 / [e] sbroughton@scotbroughton.com

GENERAL



SMUGGLER MINE DEVELOPMENT

Smuggler Mountain
Pitkin County, Colorado

ISSUED FOR

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PROJECT DATA

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DRAWN BY: [initials]

CHECKED BY: [initials]

DATE DATE: 10/01/00

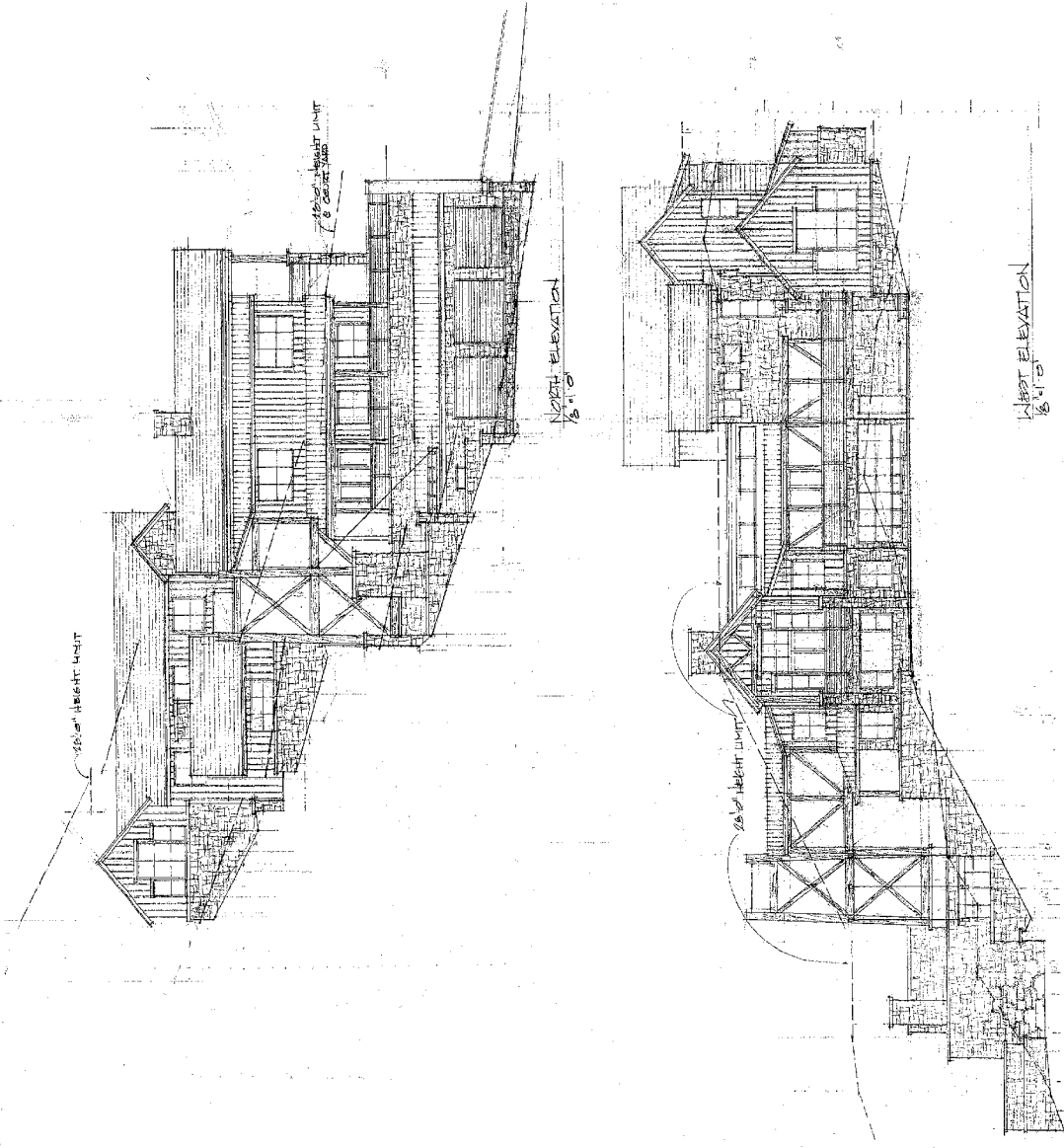
SHEET: 11 OF 11

SHEET TITLE

Exterior Elevations

SHEET NO.

A-201



SHEET NO.

SHEET TITLE
Exterior Elevations

STREET 14400

ISSUE DATE 11/15/10

CHECKED BY: JULES

DRAWN BY: J

PROJECT NO. 1000615

PROJECT DATA

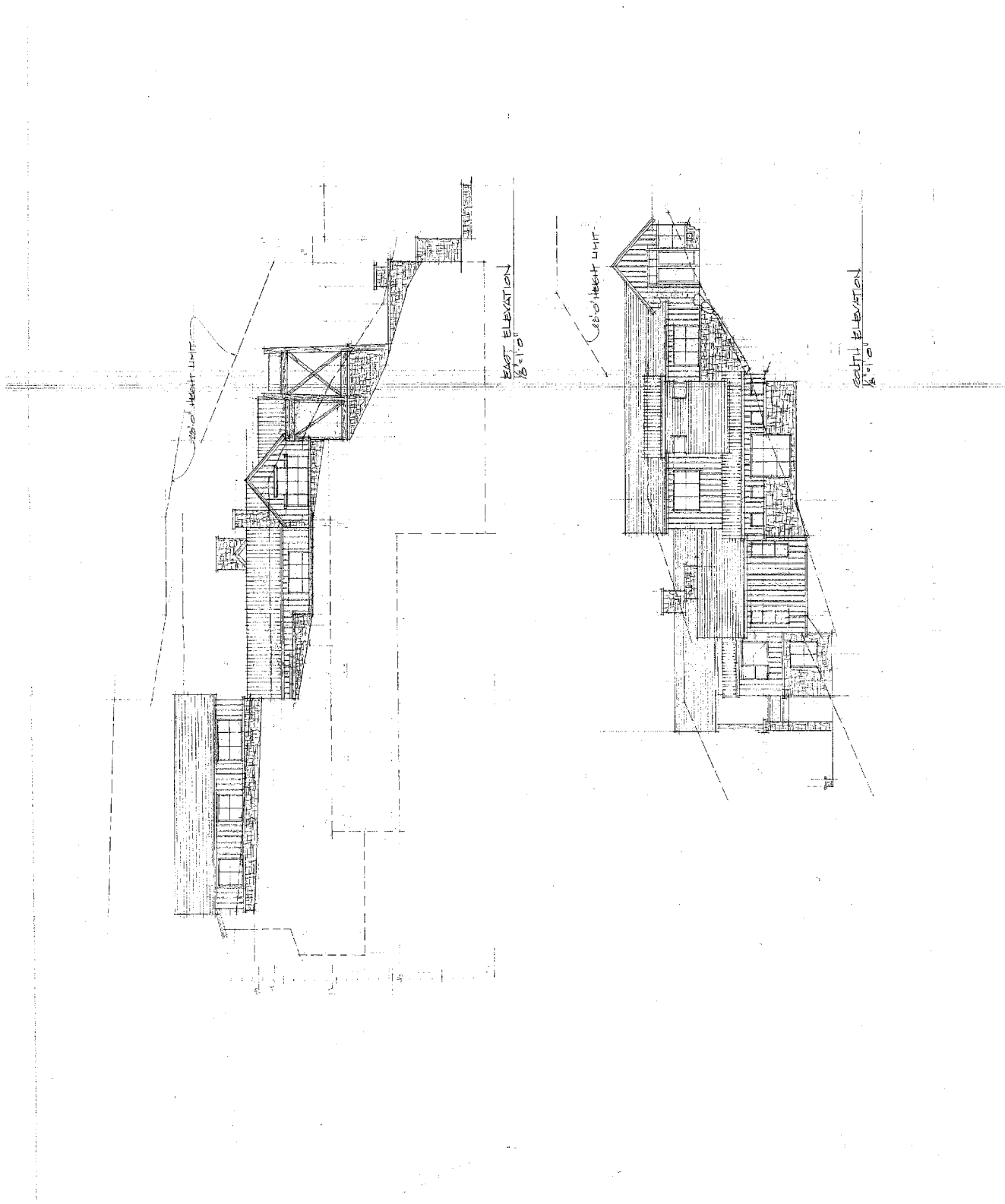
ISSUED FOR

SMUGGLER MINE DEVELOPMENT

Smuggler Mountain Pitkin County, Colorado

GENERAL

SCOT BROUGHTON Architects
PO Box 4096 / 2200 Two Rivers Rd. Unit 3 / Basalt, CO 81621
[t] 970/927-0552 [f] 9554 / [e] sbroughton@scotbroughton.com



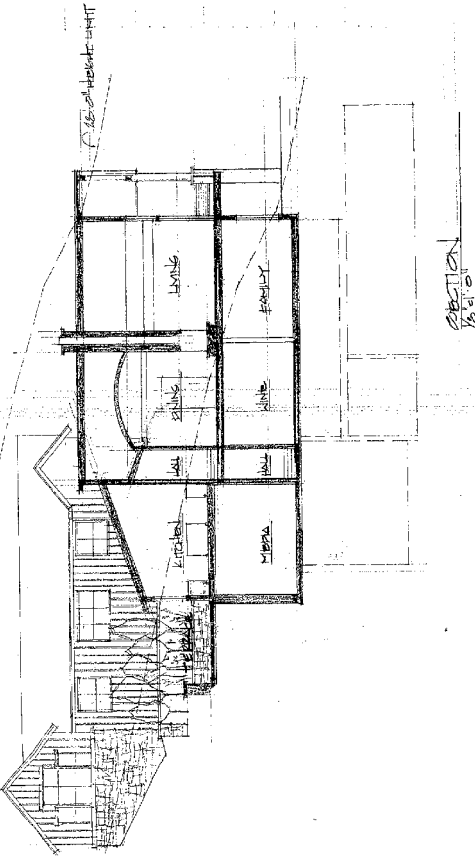
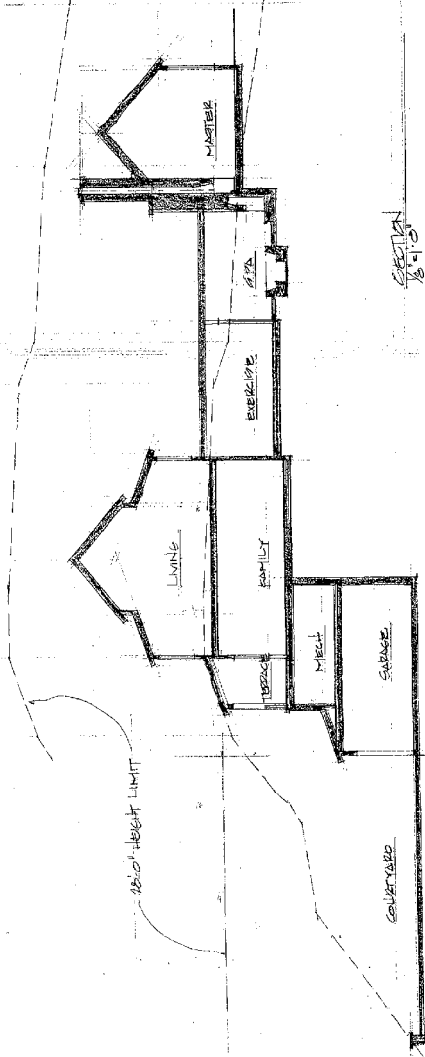
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Smuggler Mountain
Pitkin County, Colorado

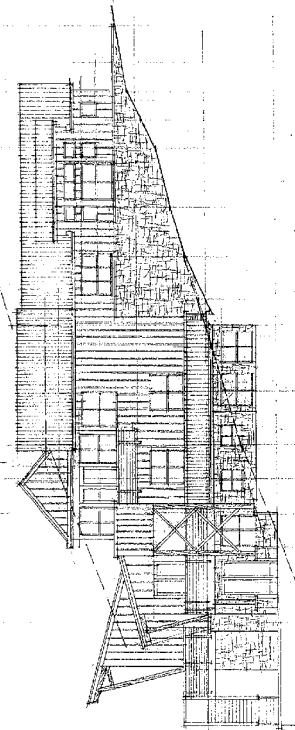
SMUGGLER MINE DEVELOPMENT

SCOTT BROUGHTON Architects

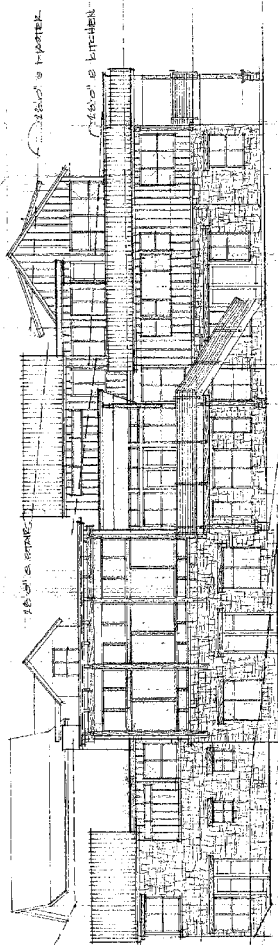
PO Box 4096 / 22280 Two Rivers Rd, Unit 3 / Basalt, CO 81621
(970) 977-0552 / [a] sbroughton@scottbroughton.com



25'0" height unit

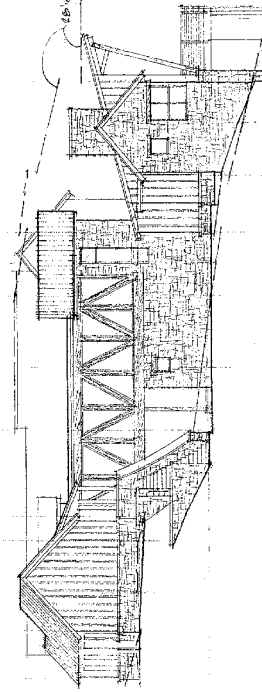


EAST ELEVATION
1/8" = 1'-0"



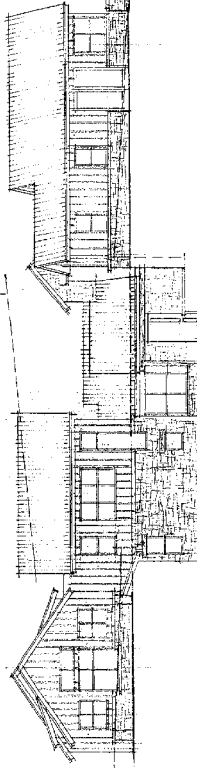
SOUTH ELEVATION
1/8" = 1'-0"

25'0" height unit

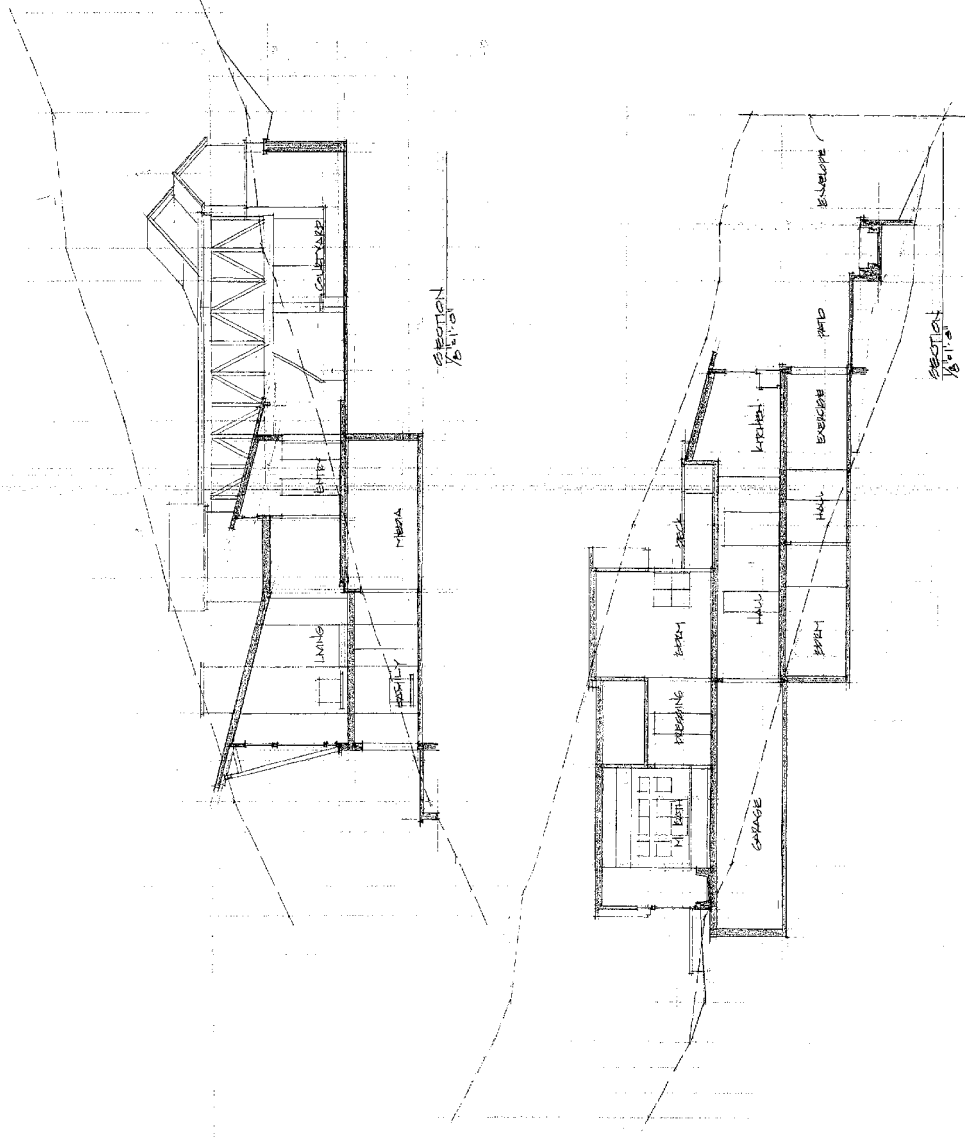


WEST ELEVATION
1/8" = 1'-0"

25'0" height unit



NORTH ELEVATION
1/8" = 1'-0"



New Smuggler Mine Corporation
c/o Mr. Chris Preusch, President
2755 Lower River Road
Snowmass, CO 81654

5 June 2007

Mr. Lance Clark, Assistant Director
Pitkin County
Community Development
130 S. Galena St.
Aspen, CO 81611

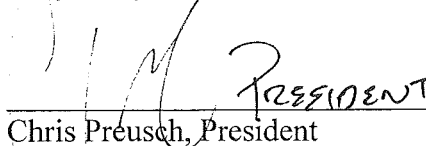
Dear Lance:

This letter is to certify that I, Chris Preusch, representing the New Smuggler Mine Corporation which owns the twenty-nine acre Smuggler Mine Parcel, give Stan Clauson Associates, Inc. and its staff permission to represent us in discussions with Pitkin County regarding the application for a Conceptual Subdivision, Code Amendment, Special Review, Subdivision Exemption to Create Parcels for Community Facilities, Growth Management Exemption, Historic Designation and Benefits, Activity Envelope/Site Plan Review, and Scenic Review for the Smuggler Mine Parcel. We have retained this firm to represent us in the application for this project. If you should have any questions regarding this matter, please contact me.

Their contact information is as follows:

Stan Clauson, AICP, ASLA
Stan Clauson Associates, Inc.
412 N. Mill Street
Aspen, CO 81611
Tel (970)925-2323
Fax (970)920-1628

Very Truly Yours,


Chris Preusch, President

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED, is made this 20th day of February 2002 between:

WRIGHT & PREUSCH MINING, LTD., (the "GRANTOR") a Colorado corporation, whose legal address is: 201 North Mill Street, Suite 106, Aspen, Colorado 81611, and NEW SMUGGLER MINE CORPORATION, (the "GRANTEE") whose legal address is: 0100 Smuggler Mountain Road, Aspen, Colorado 81611.

WITNESSETH, That the GRANTOR for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee, its successors and assigns forever, all of the parcel of real property together with improvements, if any, situate, lying and being in the County of Pitkin, State of Colorado described as follows:

The following real property described by metes and bounds, also known as: 0100 Smuggler Mountain Road, Pitkin County, Colorado, to wit:

A Parcel of Land East 1/2 of Section 7, Township 10 South, Range 84 West, 6th Principal Meridian, Pitkin County, State of Colorado, more particularly described as follows:

Beginning at a point, being the Northeasterly corner of said parcel, a 5/8 inch diameter rebar with an aluminum cap 1 1/2 inches in diameter mounted thereon and marked Banner Inc 20632. The line between the Center 1/4 of said Section 7 and Center-East 1/16 of said Section 7 is assumed to have a bearing of S 88 Degree 8 53' 34" E and is the Basis of Bearings for this description and plat. Whence the center 1/4 corner of said Section 7 bears N 89 Degrees 13' 31" W, 2076.76 feet;

Thence S 34 Degrees 16' 31" E, 999.70 feet as measured along the Della S. - Smuggler Compromise Line to an original marked stone, found in place, an angle point on the Della S. - Smuggler Compromise line;

Thence S 56 Degrees 36' 26" W, 1447.96 feet as measured along the southerly side line of Smuggler, MS 1656 to a 5/8 inch diameter rebar found in place with a 1 1/4 inch diameter yellow plastic cap mounted thereon and marked TRI-CO, LS 9184, said corner is Corner Number 2 of said Smuggler and is located N 34 Degrees 13' 56" W, 10.00 feet from an original marked stone found in place for Corner Number 1 of Mollie Gibson, MS 4281 AM:

Thence N 34 Degrees 13' 57" W, 640.02 feet as measured along the Della S. Compromise Line.

Thence N 55 Degrees 14' 43" E, 241.60 feet as measured along the dividing line between the two parcels to an angle point;

Thence N 00 Degrees 00' 56" E, 259.42 feet as measured along the western boundary of the Pride of Aspen, MS 7883 AM which was extended southerly to the southwesterly corner of said Pride of Aspen, a Bureau of Land Management brass cap monument, said corner being located on the northerly side of Trueworthy MS 3740 AM and also N 76 Degrees 30' 15" E, 22.97 feet from the northwesterly corner of Trueworthy, MS 3740 AM which is an original marked stone;

Thence N 76 Degrees 30' 51" E, 166.58 feet as measured along the northerly side line of Trueworthy, MS 3740 AM, said point being N 76 Degrees 30' 51" E, 22.97 feet from an original marked stone, to a point of intersection of the northerly side line of said Trueworthy with the south-westerly end line of Glendale, MS 6859 which is S 76 Degrees 30' 51" E, 19.70 feet from the southeasterly corner of the Pride of Aspen, MS 7883 AM, an original marked stone, found in place;

Thence N 33 Degrees 50' 52" W, 72.49 feet as measured along the southwesterly end line of said Glendale to the northwesterly corner of said Glendale, said corner, an original marked stone, found in place, being located on the southerly side line of General Jackson, MS 3941;

Thence S 56 Degrees 19' 40" W, 19.00 feet as measured along the southerly side line of said General Jackson to the southwesterly corner of said General Jackson from this point a marked stone was found in 1988, disturbed from its original position and lying on its side; this same stone was found reset at the disturbed location during this survey in 1994. Because the stone was known to be disturbed, it was rejected for use in this survey;



CERTIFICATE OF OWNERSHIP

Pitkin County Title, Inc., a duly licensed Title Insurance Agent in the State of Colorado hereby certifies that NEW SMUGGLER MINE CORPORATION is the owner in fee simple of the following described property:

SMUGGLER MINE PARCEL, SMUGGLER MINE SUBDIVISION, according to the Plat thereof recorded March 15, 1995 in Plat Book 36 at Page 77 as Reception No. 379740.

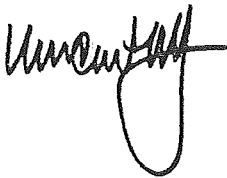
ADDRESS ACCORDING TO THE PITKIN COUNTY ASSESSORS OFFICE:

ENCUMBRANCES: NONE

This certificate is not to be construed to be a guarantee of title and is furnished for informational purposes only.

PITKIN COUNTY TITLE, INC.

BY:

A handwritten signature in black ink, appearing to be "K. M. Smith", written over a horizontal line.

authorized signature

CERTIFIED TO: February 13, 2006 at 8:00 A.M.

BRUCE A. COLLINS, PH.D.

GEOLOGICAL AND NATURAL RESOURCE CONSULTANTS
P.O. BOX 23 • 1116 MINEOTA DRIVE
SILT, COLORADO 81652
PHONE/FAX (970) 876-5400
bacol@rof.net

ENVIRONMENTAL,
EXPLORATION,
AND MINING
GEOLOGY

March 14, 2006

Frances X. Krizmanich
79 Light Hill Road
Snowmass, CO 81654

RE: LOTS 1 AND 2, SMUGGLER MINE PARCEL,
SMUGGLER MINE SUBDIVISION, PITKIN COUNTY

Dear Mr. Krizmanich:

I have completed my geologic investigation, as required by H.B. 1041 and Pitkin County Land Use Code § 3-80-050, of the above-referenced property on the lower slopes of Smuggler Mountain, just east of the Aspen city limits. The property consists of two lots, each containing a single building envelope, immediately north of the Smuggler Mine, 0.53 miles northeast of the Pitkin County Courthouse and just northeast of the center of the Aspen 7.5' quadrangle, in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of sec. 7, Township 10 South, Range 83 West, 6th Principal Meridian, Pitkin County, Colorado. Lot 1 consists of 19.71 acres and includes the surface workings of the Smuggler Mine, a permitted tourist mine on the National Register of Historic Sites. Lot 2 lies north of Lot 1 and contains 10 acres. Proposed envelopes in the western parts of the lots lie on moderately-sloping land below the steeper slopes of Smuggler Mountain, just southwest of the apex of the alluvial fan developed at the break in slope of informally-named Johnson Gulch, with both lots extending further up the mountain. According to the site plan provided,¹ elevations on the Lot 1 building envelope range from 8,043 to 8,518 ft, on Lot 2 from 8,001 to 8224 ft.

Geologic Setting. The envelope is located on alluvial fan deposits (mapped as Qf by Bryant, 1971²), which thicken from the apex of the fan in the extreme northeast corner of the Lot 3 envelope downslope to the southeast through southwest. The Johnson Gulch channel passes through the Lot 3 envelope from near the northeast corner to the west boundary north of and below the tentative building site indicated on the site plan. There are no drainages on or directly affecting the Lot 2 envelope. Bryant describes the fan deposits as "generally poorly-sorted material ranging from silt to boulders." The fan overlies and probably interfingers with glacial moraine deposits of intermediate age (Qmc). Thickness of the glacial material, described as poorly sorted and varying in size from silt to boulders, is unknown but probably thin. Both the moraine and alluvial fan deposits consist of mostly-Precambrian quartz monzonite, gneiss, and schist pebbles, cobbles,

¹ Preliminary topo, Smuggler Mine parcel of the Smuggler Mine Subdivision, Pitkin County, Colorado, Jonathan M. Kobylarz, PLS, Consulting Land Surveyor/Scott Broughton Architects Project No. 2005.05, Sheet No. G-001, dated 12/2/05.

² Bryant, B., 1971, Geologic map of the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Geologic Quadrangle Map GQ-933.

§ 3-80-050-B. Landslide Hazard. The area is not included in landslide hazard areas on Pitkin County, USGS, or Colorado Geological Survey geologic hazard maps. Bedrock in the area consists of bedded sedimentary rocks dipping steeply (35° to 75°) northwest, roughly parallel to surface slopes dipping somewhat less-steeply to the west, covered by a veneer of alluvial fan and glacial till of unknown thickness. Site-specific soil testing prior to foundation design should be sufficient to establish either depth to bedrock or that sufficient unconsolidated material is present to prevent potential slippage of thin alluvial cover against dipping bedrock. While alluvial fan and moraine materials are generally stable, cuts on slopes greater than 10% and more than four feet high should be supported by engineered retaining walls, and any foundation cut into such a slope should be designed as a retaining wall.

§ 3-80-050-C. Potentially Unstable Slopes Hazard. The property is not included in potentially unstable slope categories on either Pitkin County or USGS hazard maps. The property is mapped in the 10% to 30% category by Bryant (1972⁷), and building site slope angles appear to be in the 20% to 30% range. Keeping in mind the soil testing and design limitations regarding the bedrock-surficial material contact that are dependant thereon as discussed above, the nature of the unconsolidated materials is such that construction on such slopes is possible so long as all excavations, including foundations, are adequately supported with or designed as retaining walls, with appropriate drainage on the upslope side(s). Artificial irrigation of landscaping should be avoided completely unless subgrade drains to a natural unobstructed drainage, evaporative catch basin(s), or other method(s) to prevent uncontrolled infusion of irrigation water can be installed. Foundation design and construction must distribute weight sufficiently over the cut-and-fill area so as to assure stability. Cuts, fills, and other excavations should be minimized, steepening of existing slopes should be avoided, and all disturbed areas not covered by construction should be graded so that they can be revegetated, keeping in mind that such revegetation must be subject to the restrictions on irrigation discussed above. Slopes present on the property are similar to those found in many Pitkin County locations that have been approved for development, and excavation, foundation, grading, and landscaping design and construction techniques for such locations are well-established.

§ 3-80-050-D. Rockfall Hazard. The area is not included in rockfall hazard areas on Pitkin County geologic hazard maps. As previously noted, on the basis of slope angles in excess of 25% most of Smuggler Mountain is included in "Areas of potential avalanches and/or areas of rock fall" by the Colorado Geological Survey (Olander, *et al.*, 1974). There are no significant exposures of rock cliffs or ledges above the property, and no indication of rockfall in recent time in the immediate area. Rockfall hazard to the property is therefore considered minimal. However, considering the semirounded shape of many of the glacial boulders exposed on the surface of Smuggler Mountain above the property, as on similar slopes elsewhere in the Aspen area there is the slight risk of such rocks being dislodged by freeze-thaw action or precipitation, wildlife, or human activities. Since these conditions are found in areas of Pitkin County that have been previously approved for

⁷ Bryant, B., 1972, Slope map of the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Folio of the Aspen Quadrangle Map I-785-E.

relationship between these faults, extensively exposed and mapped in the Smuggler Mountain mines, and the building envelopes is not known. While there has been no known movement on these faults in historic time and probably none for thousands or even millions of years, earthquakes of up to Mercalli Intensity VI⁹ have occurred in the Aspen area within the last few decades; therefore, new structures should be designed and constructed according to the Uniform Building Code provisions for Seismic Zone 2A.

§ 3-80-050-I. Expansive Soil and Rock Hazard. The area is not included in an expansive soil and rock hazard area on Pitkin County, State of Colorado, or Bryant geologic hazard maps.

§ 3-80-050-J. Ground Subsidence Hazard. As previously noted, there is the potential for voids created in both alluvial fan deposits and glacial till by piping, hydrocompaction, or differential compaction. Detection of such voids can be accomplished by adequate soil testing, and mitigated if necessary by proper foundation design. While substantial portions of Smuggler Mountain have been undermined, subsidence events have been rare, even directly above shallow major stopes. In many cases such larger mined-out areas were backfilled with barren material from drifts, raises, winzes, and other openings driven for haulage, ventilation, and prospecting. Subsidence effects on the envelopes due to underground mining are therefore unlikely, although site-specific soil testing should be sufficient to detect voids within their depth of influence on foundation design. It should also be noted that all of these workings are flooded up to the Cowenhoven Tunnel level, approximately 7,950 feet, or between 60 and 275 ft beneath the envelopes.

General. Access to the proposed envelope is by subdivision roads and driveways from Smuggler Mountain Road. Driveways may require a qualified engineer to design grades, cuts, fills, and support structures in accordance with § 3-80-050-C. Unconsolidated materials present on the property are derived from rocks known to occasionally contain radioactive minerals, and therefore all inhabited spaces should be designed and constructed to prevent the accumulation of radon as well as other noxious or toxic gases. Domestic water will be provided from an existing well, with waste disposal via typical septic ISDS; the surficial materials present are adequate for such an installation, although the Pitkin County Sanitation Engineer should be consulted for specific recommendations. As always, irrespective of other recommendations contained herein, final grading and landscaping should be designed and constructed in such a manner as to convey water, including snowmelt, away from structures, and properly integrated into the subdivision drainage system.

Conclusions. The most significant geologic hazards which affect the Lot 1 and 2 building envelopes are related to the nature of the alluvial fan surficial deposits. These hazards can be addressed by proper soil testing and foundation design as well as the installation of retaining walls or other structures to support excavations and fills. To minimize the already-slight rockfall hazard I would suggest final grading and landscaping to prevent rolling rocks from striking the structure, as well

⁹ Roughly equivalent to magnitude 5 on the more-familiar Richter scale. Earthquakes of this magnitude are felt by all, with damage from minor to moderate.



ROCKY MOUNTAIN ECOLOGICAL SERVICES, INC.
 NEPA•WILDLIFE•VEGETATION•WILDFIRE MITIGATION•WETLANDS•PLANNING

March 26, 2006

Francis Krizmanich
 79 Light Hill Road
 Snowmass CO, 81654

RE: New Smuggler Mine Corp Property

Dear Francis,

Please submit this letter with your application to Pitkin County.

I visited the New Smuggler Mine Corp lots with Francis Krizmanich, the owner's representative, on March 24, 2006. The owner would like to construct two residences on the property. The property is divided into two separate building sites. Both sites are considered "Moderate Hazard: Brush", due to the fact that the slopes were greater than 20% (actual slopes averaged 23% for Lot 1, and 21% for Lot 2) and the fuels were dis-continuous, and of generally short stature.

Therefore the Conditions of Approval relating to Sec. 3-80-070, **Wildfire Hazard Areas**, for the provision of Defensible Space surrounding development (including main residence and any outbuildings) for **Moderate Wildfire Hazard** areas include the following:

Mitigations Common to both sites:

I. Vegetation-

1. Brush, debris, and non-ornamental vegetation shall be removed within a minimum ten-foot (10') perimeter around all structures.
2. Vegetation shall be reduced to break up the vertical and horizontal continuity of the fuels at a minimum of 40' perimeter around proposed structures (or to property boundaries). Any aspen trees may remain.
 - a. Clumps of shrubby fuels must be separated by at least 2 times the height of

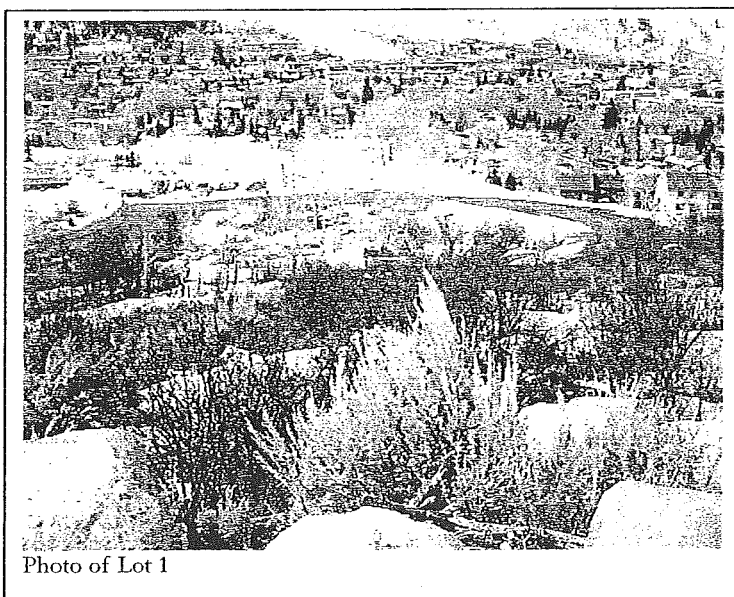


Photo of Lot 1

if wood, made out of heavy log construction. The underside of any porch, deck or projection shall be sheathed in 1 hour fire resistive materials, or with fire-retardant treated wood.

3. An alternative for a deck or porch is use of non-flammable hardscaping (flagstone, cement pad, etc.) that is at least 18' wide. Some planters may be in this area, but cannot contain trees (except aspen) or shrubby species.

III. Foundations and Stilt Construction

1. Foundations, skirting and crawl space openings shall be fully enclosed and constructed with materials approved for 1 hour fire-resistive construction on the exterior side of the walls and shall extend from the top of grade to the underside of the floor decking or walls.
2. Stilt foundations shall be fully enclosed and constructed with materials approved for 1 hour fire-resistive construction on the exterior side of the walls and shall extend from the top of grade to the underside of the floor decking or walls (not including porches, patios, etc.).

IV. Roofing

1. Any new roofs shall be constructed with a Class A roof assembly (see IBC Section 1505.2).
2. Vents shall be screened with corrosive resistant wire mesh, with mesh 1/4" maximum on any new or existing roofs.

V. Maintenance

1. Roofs and gutters shall be kept clear of debris.
2. Yards shall be kept clear of all litter, slash and flammable debris.
3. All flammable materials (including firewood) shall be stored on a parallel contour a minimum of 30' from any structure, or within a separate structure.
4. Vegetation within a 30'-foot perimeter shall be maintained to a height not more than six inches, or if ornamental, shall be irrigated and kept free of dead materials.
5. Litter and other flammable materials (including brooms, newspaper, old wood, flammable mulches, etc.) shall not be left adjacent to any structure.

VI. Miscellaneous

1. Fences shall be kept clear of brush and debris, and must have at least a 3" gap between the fence and the main structure. Non-flammable, or treated wood fencing material is recommended within 30' of the house. Fences shall be kept clear of vegetation.
2. Any outbuildings or additional structures shall adhere to the same standards as the main house.
3. Each structure shall have a minimum of one ten-pound ABC fire extinguisher.



The above standards have been- modified from the Pitkin County Code 3-80-070 Wildfire Hazard Areas, for the situation at the property.

Thank you for this opportunity to comment on this property. Please feel free to call if you have any questions.

Sincerely,



Eric Petterson

Digitally signed by
Eric Petterson
DN: cn=Eric
Petterson, o=Rocky
Mountain Ecological
Services, Inc., c=US
Date: 2006.03.26
21:15:59 -0700

Eric Petterson
Rocky Mountain Ecological Services, Inc.



Aspen Consolidated Sanitation District

Paul Smith * Chairman
Michael Kelly * Vice- Chair
John Keleher * Sec/Treas
February 27, 2006

Frank Loushin
Roy Holloway
Bruce Matherly, Mgr

Francis Krizmanich
79 Light Hill Road
Snowmass, CO 81564

RE: Smuggler Mine-Commitment for Sanitary Sewer Service

Dear Francis,

The Aspen Consolidated Sanitation District currently has sufficient wastewater collection and treatment capacity to serve this project. Service is contingent upon compliance with the district's rules, regulations, and specifications, which are on file at the District office. There are downstream constraints in the Districts Outfall line that will be corrected through a system of proportionate impact fees.

If the applicant proposes to serve the property with a main sanitary sewer line extension, the applicant will be required to complete a "Line Extension Request" to serve the property and execute a "Collection System Agreement, each of which will be reviewed by the district's board of directors at their next regularly scheduled meeting. Easements must be granted the District for the main line extension on standard District form. Additional access and sanitary sewer line easements will be required form the applicant to be able to serve this property.

Funds must be placed into escrow with the District to cover the District's cost to construct the main sanitary sewer line, to televise the completed line extension, and the cost of the District's engineer to design an approved plan and profile of the line extension as well as for construction observation expenses.

The above course of action will allow the newly installed sanitary sewer main line to be dedicated to the district for future ownership and maintenance.

A tap permit must be completed at our office when detailed plans become available. Fees will be estimated at that time. The total connection charges due the District must be paid prior to the issuance of a building permit.

Sincerely,



Thomas R. Bracewell
Collection Systems Superintendent

CC Bruce Matherly, ACSD District Manager

New Smuggler Mine Corporation
c/o Mr. Chris Preusch, President
2755 Lower River Road
Snowmass, CO 81654

5 June 2007

Mr. Lance Clark, Assistant Director
Pitkin County
Community Development
130 S. Galena St.
Aspen, CO 81611

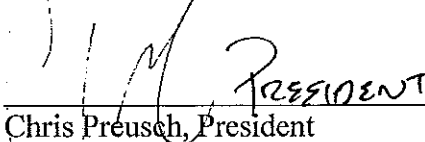
Dear Lance:

This letter is to certify that I, Chris Preusch, representing the New Smuggler Mine Corporation which owns the twenty-nine acre Smuggler Mine Parcel, give Stan Clauson Associates, Inc. and its staff permission to represent us in discussions with Pitkin County regarding the application for a Conceptual Subdivision, Code Amendment, Special Review, Subdivision Exemption to Create Parcels for Community Facilities, Growth Management Exemption, Historic Designation and Benefits, Activity Envelope/Site Plan Review, and Scenic Review for the Smuggler Mine Parcel. We have retained this firm to represent us in the application for this project. If you should have any questions regarding this matter, please contact me.

Their contact information is as follows:

Stan Clauson, AICP, ASLA
Stan Clauson Associates, Inc.
412 N. Mill Street
Aspen, CO 81611
Tel (970)925-2323
Fax (970)920-1628

Very Truly Yours,


Chris Preusch, President

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED, is made this ~~20th~~ day of February 2002 between:

WRIGHT & PREUSCH MINING, LTD., (the "GRANTOR") a Colorado corporation, whose legal address is: 201 North Mill Street, Suite 106, Aspen, Colorado 81611, and NEW SMUGGLER MINE CORPORATION, (the "GRANTEE") whose legal address is: 0100 Smuggler Mountain Road, Aspen, Colorado 81611.

WITNESSETH, That the GRANTOR for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee, its successors and assigns forever, all of the parcel of real property together with improvements, if any, situate, lying and being in the County of Pitkin, State of Colorado described as follows:

The following real property described by metes and bounds, also known as: 0100 Smuggler Mountain Road, Pitkin County, Colorado, to wit:

A Parcel of Land East 1/2 of Section 7, Township 10 South, Range 84 West, 6th Principal Meridian, Pitkin County, State of Colorado, more particularly described as follows:

Beginning at a point, being the Northeasterly corner of said parcel, a 5/8 inch diameter rebar with an aluminum cap 1 1/2 inches in diameter mounted thereon and marked Banner Inc 20632. The line between the Center 1/4 of said Section 7 and Center-East 1/16 of said Section 7 is assumed to have a bearing of S 88 Degrees 53' 34" E and is the Basis of Bearings for this description and plat. Whence the center 1/4 corner of said Section 7 bears N 89 Degrees 13' 31" W, 2076.76 feet;

Thence S 34 Degrees 16' 31" E, 999.70 feet as measured along the Della S. - Smuggler Compromise Line to an original marked stone, found in place, an angle point on the Della S. - Smuggler Compromise line;

Thence S 56 Degrees 36' 26" W, 1447.96 feet as measured along the southerly side line of Smuggler, MS 1656 to a 5/8 inch diameter rebar found in place with a 1 1/4 inch diameter yellow plastic cap mounted thereon and marked TRI-CO, LS 9184, said corner is Corner Number 2 of said Smuggler and is located N 34 Degrees 13' 56" W, 10.00 feet from an original marked stone found in place for Corner Number 1 of Mollie Gibson, MS 4281 AM:

Thence N 34 Degrees 13' 57" W, 640.02 feet as measured along the Della S. Compromise Line.

Thence N 55 Degrees 14' 43" E, 241.60 feet as measured along the dividing line between the two parcels to an angle point;

Thence N 00 Degrees 00' 56" E, 259.42 feet as measured along the western boundary of the Pride of Aspen, MS 7883 AM which was extended southerly to the southwesterly corner of said Pride of Aspen, a Bureau of Land Management brass cap monument, said corner being located on the northerly side of Trueworthy MS 3740 AM and also N 76 Degrees 30' 15" E, 22.97 feet from the northwesterly corner of Trueworthy, MS 3740 AM which is an original marked stone;

Thence N 76 Degrees 30' 51" E, 166.58 feet as measured along the northerly side line of Trueworthy, MS 3740 AM, said point being N 76 Degrees 30' 51" E, 22.97 feet from an original marked stone, to a point of intersection of the northerly side line of said Trueworthy with the south-westerly end line of Glendale, MS 6859 which is S 76 Degrees 30' 51" E, 19.70 feet from the southeasterly corner of the Pride of Aspen, MS 7883 AM, an original marked stone, found in place;

Thence N 33 Degrees 50' 52" W, 72.49 feet as measured along the southwesterly end line of said Glendale to the northwesterly corner of said Glendale, said corner, an original marked stone, found in place, being located on the southerly side line of General Jackson, MS 3941;

Thence S 56 Degrees 19' 40" W, 19.00 feet as measured along the southerly side line of said General Jackson to the southwesterly corner of said General Jackson from this point a marked stone was found in 1988, disturbed from its original position and lying on its side; this same stone was found reset at the disturbed location during this survey in 1994. Because the stone was known to be disturbed, it was rejected for use in this survey;



SPECIAL WARRANTY DEED



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Page: 2 of 2
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R 11.00 D 0.00

WRIGHT & PUEUSCH MINING, LTD TO NEW SMUGGLER MINE CORPORATION

Thence N 32 Degrees 32' 35" W, 107.32 feet as measured along the southwesterly end line of said General Jackson to an angle point in the Della S. - Smuggler Compromise Line, said point being located on the southwesterly end line of said General Jackson;

Thence N 55 Degrees 42' 45" E, 919.05 feet as measured along the Della S. - Smuggler Compromise Line through the interior of said General Jackson to the northeasterly angle point in the Della S.- Smuggler Compromise Line to The Point of Beginning.

And, except as hereinafter stated, together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever, of the Grantors, either in law or equity, of, in and to the above bargained premises with the hereditaments and appurtenances.

TO HAVE AND TO HOLD, the above bargained premises and described with the appurtenances, unto the Grantee, its successors and assigns forever, free and clear of all liens and encumbrances except: taxes for 2001 and any exceptions or subjections of record in the Office of the Clerk and Recorder for Pitkin County, Colorado.

EXCEPT as limited above, the Grantors, for themselves and for their heirs, personal representatives, successors and assigns covenant and agree to and with Grantee, its successors and assigns the above bargained premises in the quiet and peaceable possession of Grantee against all and every person or persons lawfully claiming or to claim the whole or any part thereof, by, through or under Grantors, to WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the grantor has executed this deed on the date set forth above.

WRIGHT & PREUSCH MINING, LTD.

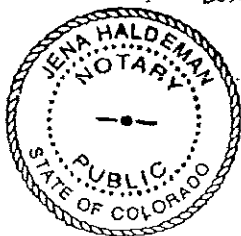
By: [Signature]
Gary A. Wright, President

By: [Signature]
Chris Preusch, Secretary-Treasurer

State of Colorado)
) ss
County of Pitkin)

The foregoing Special Warranty Deed was duly executed and acknowledged before me this 28th day of February 2002, by Gary A. Wright, as the President and Chris Preusch as the Secretary-Treasurer of Wright & Preusch Mining, Ltd., a Colorado corporation.

Witness My Hand and Official Seal.
My Commission Expires: 26 March 2005



[Signature]
Notary Public

CERTIFICATE OF OWNERSHIP

Pitkin County Title, Inc., a duly licensed Title Insurance Agent in the State of Colorado hereby certifies that NEW SMUGGLER MINE CORPORATION is the owner in fee simple of the following described property:

SMUGGLER MINE PARCEL, SMUGGLER MINE SUBDIVISION, according to the Plat thereof recorded March 15, 1995 in Plat Book 36 at Page 77 as Reception No. 379740.

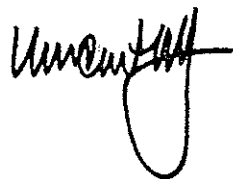
ADDRESS ACCORDING TO THE PITKIN COUNTY ASSESSORS OFFICE:

ENCUMBRANCES: NONE

This certificate is not to be construed to be a guarantee of title and is furnished for informational purposes only.

PITKIN COUNTY TITLE, INC.

BY:



authorized signature

CERTIFIED TO: February 13, 2006 at 8:00 A.M.

NON-MERGER CERTIFICATE

PITKIN COUNTY TITLE, INC., A DULY LICENSED TITLE INSURANCE AGENT IN THE STATE OF COLORADO HEREBY CERTIFIES THAT THE PROPERTY DESCRIBED AS :

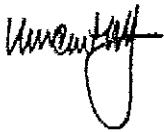
SMUGGLER MINE PARCEL, SMUGGLER MINE SUBDIVISION, according to the Plat thereof recorded March 15, 1995 in Plat Book 36 at Page 77 as Reception No. 379740.

IS AN APPROVED SUBDIVISION BY VIRTUE OF THE RECORDED PLAT ON MARCH 15, 1995 IN PLAT BOOK 36 AT PAGE 77 AS RECEPTION NO. 379740.

AND HAS ALREADY COMPLIED WITH THE REQUIREMENTS OF THE NON-MERGER REGULATIONS OF PITKIN COUNTY LAND USE CODE.

PITKIN COUNTY TITLE, INC.

BY:

A handwritten signature in black ink, appearing to read 'Vincent Hill', written over a horizontal line.

AUTHORIZED OFFICER

DATED: FEBRUARY 21, 2006

BRUCE A. COLLINS, PH.D.

GEOLOGICAL AND NATURAL RESOURCE CONSULTANTS
P.O. BOX 23 • 1116 MINEOTA DRIVE
SILT, COLORADO 81652
PHONE/FAX (970) 876-5400
bacol@rof.net

ENVIRONMENTAL,
EXPLORATION,
AND MINING
GEOLOGY

March 14, 2006

Frances X. Krizmanich
79 Light Hill Road
Snowmass, CO 81654

RE: LOTS 1 AND 2, SMUGGLER MINE PARCEL,
SMUGGLER MINE SUBDIVISION, PITKIN COUNTY

Dear Mr. Krizmanich:

I have completed my geologic investigation, as required by H.B. 1041 and Pitkin County Land Use Code § 3-80-050, of the above-referenced property on the lower slopes of Smuggler Mountain, just east of the Aspen city limits. The property consists of two lots, each containing a single building envelope, immediately north of the Smuggler Mine, 0.53 miles northeast of the Pitkin County Courthouse and just northeast of the center of the Aspen 7.5' quadrangle, in the NW¼SE¼SE¼ of sec. 7, Township 10 South, Range 83 West, 6th Principal Meridian, Pitkin County, Colorado. Lot 1 consists of 19.71 acres and includes the surface workings of the Smuggler Mine, a permitted tourist mine on the National Register of Historic Sites. Lot 2 lies north of Lot 1 and contains 10 acres. Proposed envelopes in the western parts of the lots lie on moderately-sloping land below the steeper slopes of Smuggler Mountain, just southwest of the apex of the alluvial fan developed at the break in slope of informally-named Johnson Gulch, with both lots extending further up the mountain. According to the site plan provided,¹ elevations on the Lot 1 building envelope range from 8,043 to 8,518 ft, on Lot 2 from 8,001 to 8,224 ft.

Geologic Setting. The envelope is located on alluvial fan deposits (mapped as Qf by Bryant, 1971²), which thicken from the apex of the fan in the extreme northeast corner of the Lot 3 envelope downslope to the southeast through southwest. The Johnson Gulch channel passes through the Lot 3 envelope from near the northeast corner to the west boundary north of and below the tentative building site indicated on the site plan. There are no drainages on or directly affecting the Lot 2 envelope. Bryant describes the fan deposits as "generally poorly-sorted material ranging from silt to boulders." The fan overlies and probably interfingers with glacial moraine deposits of intermediate age (Qmc). Thickness of the glacial material, described as poorly sorted and varying in size from silt to boulders, is unknown but probably thin. Both the moraine and alluvial fan deposits consist of mostly-Precambrian quartz monzonite, gneiss, and schist pebbles, cobbles,

¹ Preliminary topo, Smuggler Mine parcel of the Smuggler Mine Subdivision, Pitkin County, Colorado, Jonathan M. Kobylarz, PLS, Consulting Land Surveyor/Scott Broughton Architects Project No. 2005.05, Sheet No. G-001, dated 12/2/05.

² Bryant, B., 1971, Geologic map of the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Geologic Quadrangle Map GQ-933.

and subrounded to subangular boulders up to 5 ft in maximum dimension, with a few larger, in a matrix of mostly sand derived from the same materials. Fan and moraine deposits cannot be easily differentiated except by variation in form. Bedrock beneath the unconsolidated materials is unknown, but either Belden Shale (Pb) or Gothic Formation (Pg), both of Pennsylvanian age. The Belden consists of dark-gray to black limestone, dolomite, shale, and carbonaceous shale with a few thin sandstone beds, while the Gothic is mostly gray, tan, and brown calcareous sandstone, siltstone, shale, silty limestone, and limestone. The sedimentary beds dip northwest between 35° and 55°. Bedrock in the area of the property is broken by components of the Della-Smuggler fault complex, a group of northwest-southeast trending normal faults which dip southwest at 30° to 40° and which were significant in localizing the ore deposits of Smuggler Mountain. A splinter of the generally southwest-northeast-trending Aspen Mountain fault system passes about 300 ft southeast of the Lot 1 envelope. The principal mine openings in the area, the Smuggler shaft and tunnels, the Free Silver shaft, and the Molly Gibson shaft, are close by, with near-surface workings confined to the northern (upslope) ends of the lots and to that part of Lot 1 immediately east of the Smuggler tunnel portals. The portal of the Cowenhoven Tunnel is well to the west-northwest, although the tunnel itself, which was driven almost west-to-east, is projected to pass less than 100 ft from the northeast corner of the Lot 2 envelope. The entire area is undermined by the tunnels, drifts, and stopes of the Smuggler, Free Silver, and Mollie Gibson mines, at unknown but probably significant depth; a detailed determination of the extent of mining beneath the envelopes is beyond the scope of this study.³ Although examined with significant snow cover on the ground, vegetation on the property appears to consist primarily of serviceberry or snowberry, with Gambel oak, mountain big sagebrush, and a variety of grasses.

§ 3-80-050-A. Avalanche Hazard. The area is not included in high or moderate avalanche hazard zones on Pitkin County (Colorado State University, 1974⁴) and USGS (Bryant 1972⁵) geologic hazard maps. On the basis of slope angles in excess of 25%, most of Smuggler Mountain is included in "Areas of potential avalanches and/or areas of rock fall" on generalized maps published by the Colorado Geological Survey (Olander, *et al.*, 1974⁶). Avalanche hazard recognition, evaluation, and mitigation is a highly specialized field that is not my area of expertise, and if an accurate assessment of the risk and recommendations for mitigation are desired you should seek the opinion of a qualified professional.

³ Additional information can be provided on request.

⁴ Colorado State University (CSU), 1974, Pitkin County, Colorado – Lower Roaring Fork Valley: unpublished environmental resources analysis maps.

⁵ Bryant, B., 1972, Map showing avalanche areas in the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Folio of the Aspen Quadrangle, Map I-785-G.

⁶ Olander, H.C., Lamm, N.B., and Florquist, B.A., 1974, Roaring Fork and Crystal valleys, an environmental and engineering geology study, Eagle, Garfield, Gunnison, and Pitkin Counties, Colorado: Colo. Geol. Survey Environmental Geol. No. 8; 30 p.

§ 3-80-050-B. Landslide Hazard. The area is not included in landslide hazard areas on Pitkin County, USGS, or Colorado Geological Survey geologic hazard maps. Bedrock in the area consists of bedded sedimentary rocks dipping steeply (35° to 75°) northwest, roughly parallel to surface slopes dipping somewhat less-steeply to the west, covered by a veneer of alluvial fan and glacial till of unknown thickness. Site-specific soil testing prior to foundation design should be sufficient to establish either depth to bedrock or that sufficient unconsolidated material is present to prevent potential slippage of thin alluvial cover against dipping bedrock. While alluvial fan and moraine materials are generally stable, cuts on slopes greater than 10% and more than four feet high should be supported by engineered retaining walls, and any foundation cut into such a slope should be designed as a retaining wall.

§ 3-80-050-C. Potentially Unstable Slopes Hazard. The property is not included in potentially unstable slope categories on either Pitkin County or USGS hazard maps. The property is mapped in the 10% to 30% category by Bryant (1972⁷), and building site slope angles appear to be in the 20% to 30% range. Keeping in mind the soil testing and design limitations regarding the bedrock-surficial material contact that are dependant thereon as discussed above, the nature of the unconsolidated materials is such that construction on such slopes is possible so long as all excavations, including foundations, are adequately supported with or designed as retaining walls, with appropriate drainage on the upslope side(s). Artificial irrigation of landscaping should be avoided completely unless subgrade drains to a natural unobstructed drainage, evaporative catch basin(s), or other method(s) to prevent uncontrolled infusion of irrigation water can be installed. Foundation design and construction must distribute weight sufficiently over the cut-and-fill area so as to assure stability. Cuts, fills, and other excavations should be minimized, steepening of existing slopes should be avoided, and all disturbed areas not covered by construction should be graded so that they can be revegetated, keeping in mind that such revegetation must be subject to the restrictions on irrigation discussed above. Slopes present on the property are similar to those found in many Pitkin County locations that have been approved for development, and excavation, foundation, grading, and landscaping design and construction techniques for such locations are well-established.

§ 3-80-050-D. Rockfall Hazard. The area is not included in rockfall hazard areas on Pitkin County geologic hazard maps. As previously noted, on the basis of slope angles in excess of 25% most of Smuggler Mountain is included in "Areas of potential avalanches and/or areas of rock fall" by the Colorado Geological Survey (Olander, *et al.*, 1974). There are no significant exposures of rock cliffs or ledges above the property, and no indication of rockfall in recent time in the immediate area. Rockfall hazard to the property is therefore considered minimal. However, considering the semirounded shape of many of the glacial boulders exposed on the surface of Smuggler Mountain above the property, as on similar slopes elsewhere in the Aspen area there is the slight risk of such rocks being dislodged by freeze-thaw action or precipitation, wildlife, or human activities. Since these conditions are found in areas of Pitkin County that have been previously approved for

⁷ Bryant, B., 1972, Slope map of the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Folio of the Aspen Quadrangle Map I-785-E.

development, site-specific design and construction techniques for mitigating the hazard in such locations are well-established.

§ 3-80-050-E. Alluvial Fan Hazard. Both envelopes, and more particularly the tentative building sites within them, are included in alluvial fan hazard categories on Pitkin County (1974), Colorado Geological Survey (1974), and USGS (Bryant, 1972⁸) geohazard maps, related to the fan developed at the mouth of Johnson Gulch. Alluvial fans present two principal types of hazards, mud and debris flows, which are actually the mechanisms by which alluvial fans are formed in the first place, and soil stability problems resulting from swelling or shrinking (hydrocompaction) when wet, both dependant on soil composition; differential compaction of soft, loose soil around included boulders or the result of other variations in soil materials; and piping, the formation of subsurface voids due to erosion by running underground water. A third hazard, potential high groundwater, can be a problem where fans are crossed by permanent or frequently-flowing intermittent streams or other sources of surface recharge, not present on or in the vicinity of the property. The drainage area of Johnson Gulch is small, and Smuggler Mountain Road, which crosses the upper gulch at the J.C. Johnson Tunnel site, provides significant diversion of debris from above that point. Elevation difference between the gulch itself and the Lot 2 building site essentially eliminates any further hazard. Design and construction activities related to the proposed structure on Lot 2 should be conducted in such a manner as to avoid reducing the existing elevation difference between the channel and the improvements. Considering the nature of the rocks from which the fan has been derived, swelling or shrinking soils are unlikely. Differential compaction around boulders is quite possible, so soil testing within the potential zone of influence on foundations should be sufficient to detect voids due to both differential compaction and piping which, considering the absence of flowing water, is considerably less likely. Boulders exposed during excavations for foundations, utility trenches, etc., should be stabilized or removed and the resulting void adequately backfilled. Alluvial fans construct themselves by plugging existing channels during flood events, with debris flows spreading out over the fan until the path of least resistance is found and a new channel is cut; although the present fan was almost certainly formed hundreds or thousands of years ago when the climate was considerably wetter than at present, the current channel, as may be modified by construction related to Lot 2, should be inspected and cleaned as necessary after significant drainage events.

§ 3-80-050-F. Talus Slope Hazard. The area is not included in a talus slope hazard area on Pitkin County, CGS, or USGS geologic hazard maps.

§ 3-80-050-G. Mancos Shale hazard. The area is not included in a Mancos Shale hazard area on Pitkin County, State of Colorado, or Bryant geologic hazard maps.

§ 3-80-050-H. Faults hazard. The area is not included in a faults hazard area on Pitkin County geologic hazard maps. The property is located in a complexly-faulted area although the exact

⁸ Bryant, B., 1972, Map showing areas of selected potential geologic hazards in the Aspen quadrangle, Pitkin County, Colorado: U.S. Geological Survey Folio of the Aspen Quadrangle Map I-785-A.

relationship between these faults, extensively exposed and mapped in the Smuggler Mountain mines, and the building envelopes is not known. While there has been no known movement on these faults in historic time and probably none for thousands or even millions of years, earthquakes of up to Mercalli Intensity VI⁹ have occurred in the Aspen area within the last few decades; therefore, new structures should be designed and constructed according to the Uniform Building Code provisions for Seismic Zone 2A.

§ 3-80-050-I. Expansive Soil and Rock Hazard. The area is not included in an expansive soil and rock hazard area on Pitkin County, State of Colorado, or Bryant geologic hazard maps.

§ 3-80-050-J. Ground Subsidence Hazard. As previously noted, there is the potential for voids created in both alluvial fan deposits and glacial till by piping, hydrocompaction, or differential compaction. Detection of such voids can be accomplished by adequate soil testing, and mitigated if necessary by proper foundation design. While substantial portions of Smuggler Mountain have been undermined, subsidence events have been rare, even directly above shallow major stopes. In many cases such larger mined-out areas were backfilled with barren material from drifts, raises, winzes, and other openings driven for haulage, ventilation, and prospecting. Subsidence effects on the envelopes due to underground mining are therefore unlikely, although site-specific soil testing should be sufficient to detect voids within their depth of influence on foundation design. It should also be noted that all of these workings are flooded up to the Cowenhoven Tunnel level, approximately 7,950 feet, or between 60 and 275 ft beneath the envelopes.

General. Access to the proposed envelope is by subdivision roads and driveways from Smuggler Mountain Road. Driveways may require a qualified engineer to design grades, cuts, fills, and support structures in accordance with § 3-80-050-C. Unconsolidated materials present on the property are derived from rocks known to occasionally contain radioactive minerals, and therefore all inhabited spaces should be designed and constructed to prevent the accumulation of radon as well as other noxious or toxic gases. Domestic water will be provided from an existing well, with waste disposal via typical septic ISDS; the surficial materials present are adequate for such an installation, although the Pitkin County Sanitation Engineer should be consulted for specific recommendations. As always, irrespective of other recommendations contained herein, final grading and landscaping should be designed and constructed in such a manner as to convey water, including snowmelt, away from structures, and properly integrated into the subdivision drainage system.

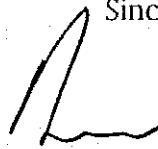
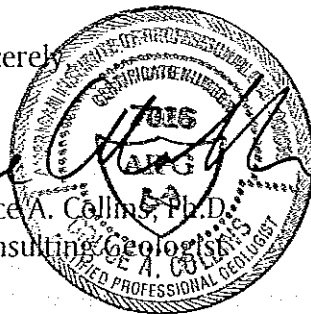
Conclusions. The most significant geologic hazards which affect the Lot 1 and 2 building envelopes are related to the nature of the alluvial fan surficial deposits. These hazards can be addressed by proper soil testing and foundation design as well as the installation of retaining walls or other structures to support excavations and fills. To minimize the already-slight rockfall hazard I would suggest final grading and landscaping to prevent rolling rocks from striking the structure, as well

⁹ Roughly equivalent to magnitude 5 on the more-familiar Richter scale. Earthquakes of this magnitude are felt by all, with damage from minor to moderate.

as stiffening the first three feet of the structure that extends above grade and limiting openings in this interval. Angling the structure so that significant portions thereof are not perpendicular to the slope would further limit this hazard.

Geologic hazards affecting Lots 1 and 2, Smuggler Mine Parcel of the Smuggler Mine Subdivision, are not significantly different from those affecting many sites in Pitkin County previously approved for development. The property is in a geologically sensitive area, but with mitigation the hazards to which the property is exposed can be minimized; nothing in this report, however, should be construed as suggesting that mitigations recommended herein can or will eliminate such hazards in their entirety. If you have any questions or require any further information, please do not hesitate to contact me.

Sincerely,

Bruce A. Collins, Ph.D.
Consulting Geologist

IMPORTANT NOTICE: This report concerns natural processes that are unpredictable and in large measure poorly understood. It is intended to identify potential observable hazards within the scope of work to which the subject property is exposed and to suggest mitigating measures in compliance with applicable regulations. Nothing in this report should be construed or interpreted as suggesting the absence of the described hazards, or that the recommended mitigations will protect the subject property from the described hazards under all circumstances, foreseen or unforeseen. Nothing in this report should be construed or interpreted as suggesting that additional unidentified hazards are not present. It must also be understood that "mitigation" does not mean either the elimination of the hazard(s) or prevention of the consequences of a hazard event or events, only the reduction to the extent reasonably possible of the latter. By accepting this report all present and subsequent parties thereto agree to indemnify and hold harmless the preparer for any and all damages, direct, indirect or consequential, including personal injury or loss of life, above and beyond the original cost of this study, caused by or resulting from any occurrence of the described or other hazard(s), whether or not such damages may result from failure to identify said hazard(s) or from failure or inadequacy of properly engineered, constructed, and maintained recommended mitigations. The preparer of this report cannot and will not be responsible in any way or manner whatsoever for the proper engineering, construction, and/or maintenance of recommended mitigations, or the inadequacy or failure of improperly engineered, constructed, and/or maintained recommended mitigations, or mitigations that have been altered in any way whatsoever from those recommended by the preparer. This report may be amended or withdrawn without notice at any time prior to receipt of payment therefor.



ROCKY MOUNTAIN ECOLOGICAL SERVICES, INC.

NEPA•WILDLIFE•VEGETATION•WILDFIRE MITIGATION•WETLANDS•PLANNING

March 26, 2006

Francis Krizmanich
79 Light Hill Road
Snowmass CO, 81654

RE: New Smuggler Mine Corp Property

Dear Francis,

Please submit this letter with your application to Pitkin County.

I visited the New Smuggler Mine Corp lots with Francis Krizmanich, the owner's representative, on March 24, 2006. The owner would like to construct two residences on the property. The property is divided into two separate building sites. Both sites are considered "Moderate Hazard: Brush", due to the fact that the slopes were greater than 20% (actual slopes averaged 23% for Lot 1, and 21% for Lot 2) and the fuels were dis-continuous, and of generally short stature.

Therefore the Conditions of Approval relating to Sec. 3-80-070, **Wildfire Hazard Areas**, for the provision of Defensible Space surrounding development (including main residence and any outbuildings) for **Moderate Wildfire Hazard** areas include the following:

Mitigations Common to both sites:

I. Vegetation-

1. Brush, debris, and non-ornamental vegetation shall be removed within a minimum ten-foot (10') perimeter around all structures.
2. Vegetation shall be reduced to break up the vertical and horizontal continuity of the fuels at a minimum of 40' perimeter around proposed structures (or to property boundaries). Any aspen trees may remain.
 - a. Clumps of shrubby fuels must be separated by at least 2 times the height of

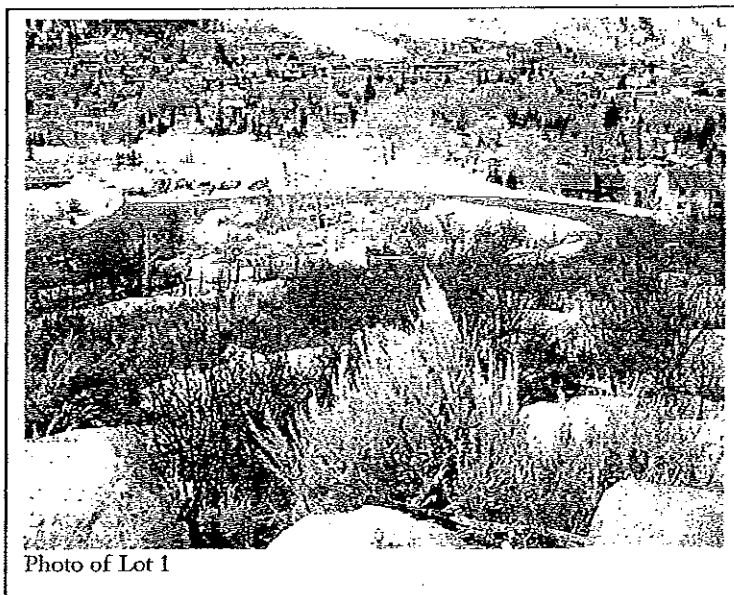
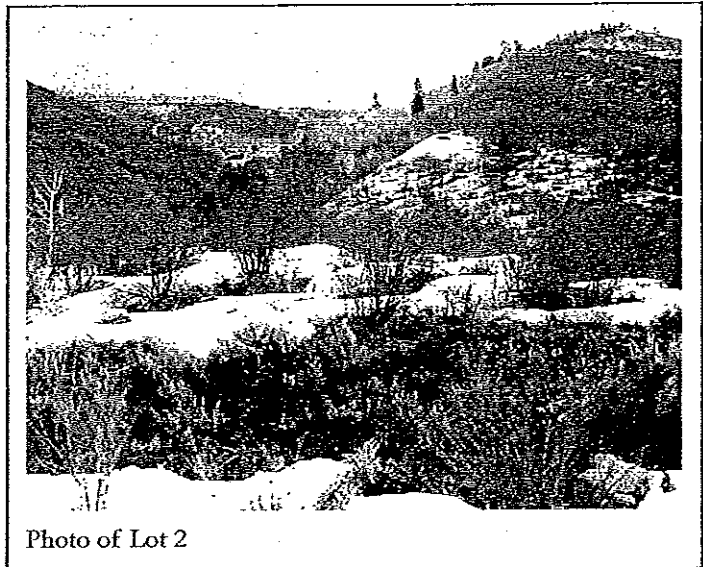


Photo of Lot 1

the fuel. Clumps should not be larger than 5-7' in diameter.

3. No branches shall be within 15' of chimneys.
4. All thinned snowberry, serviceberry, or chokecherry stumps must be painted with Garlon® (or equivalent) herbicide to prevent aggressive re-sprouting.
5. All deadfall and dead branches/stems within a 50' radius of the home shall be removed.
6. No coniferous vegetation may be planted within 20' of the house, due to flammability of coniferous trees and shrubs. Only deciduous vegetation is allowed, with aspen trees being the most suitable tree species.
7. Within 15' of the structure, vegetation should be less than 12" tall, except for aspen trees or installed shrubs that are surrounded by irrigated lawns.
8. Within a 10' perimeter of the house, vegetation shall be kept to less than 6" tall, unless it is widely scattered small planters, forbs, and other irrigated ornamental species. Shrubs within a 30' perimeter shall be installed so that they do not form a continuous fuels profile.
9. The property owner shall be responsible for the continued maintenance of the defensible space vegetation requirements.



The following **Structural Design and Construction Standards** are required for construction:

II. Projections:

1. For projections below the roofline (including, but not limited to: exterior balconies, decks, porches, and bay windows which extend over a flat or sloped surface), the open space between grade and the underside of projections below the roofline shall be enclosed by solid, vertical walls. These walls shall be constructed with materials approved for one-hour fire-resistive construction on the exterior side of the wall, and shall extend from the top of grade to the underside of the floor decking or walls of the projection, OR:
2. Any porch or deck or projection shall be void of vegetation below it, and areas below such projections shall be protected from accumulation of vegetation materials by placement of a vegetation barrier covered with rocks or gravel, or by coverage with concrete or stone. Walls underneath projections shall be constructed with materials approved for 1 hour fire-resistive construction on the exterior side of the wall. Pillars or columns shall be of non-flammable materials, or



if wood, made out of heavy log construction. The underside of any porch, deck or projection shall be sheathed in 1 hour fire resistive materials, or with fire-retardant treated wood.

3. An alternative for a deck or porch is use of non-flammable hardscaping (flagstone, cement pad, etc.) that is at least 18' wide. Some planters may be in this area, but cannot contain trees (except aspen) or shrubby species.

III. Foundations and Stilt Construction

1. Foundations, skirting and crawl space openings shall be fully enclosed and constructed with materials approved for 1 hour fire-resistive construction on the exterior side of the walls and shall extend from the top of grade to the underside of the floor decking or walls.
2. Stilt foundations shall be fully enclosed and constructed with materials approved for 1 hour fire-resistive construction on the exterior side of the walls and shall extend from the top of grade to the underside of the floor decking or walls (not including porches, patios, etc.).

IV. Roofing

1. Any new roofs shall be constructed with a Class A roof assembly (see IBC Section 1505.2).
2. Vents shall be screened with corrosive resistant wire mesh, with mesh $\frac{1}{4}$ " maximum on any new or existing roofs.

V. Maintenance

1. Roofs and gutters shall be kept clear of debris.
2. Yards shall be kept clear of all litter, slash and flammable debris.
3. All flammable materials (including firewood) shall be stored on a parallel contour a minimum of 30' from any structure, or within a separate structure.
4. Vegetation within a 30'-foot perimeter shall be maintained to a height not more than six inches, or if ornamental, shall be irrigated and kept free of dead materials.
5. Litter and other flammable materials (including brooms, newspaper, old wood, flammable mulches, etc.) shall not be left adjacent to any structure.

VI. Miscellaneous

1. Fences shall be kept clear of brush and debris, and must have at least a 3" gap between the fence and the main structure. Non-flammable, or treated wood fencing material is recommended within 30' of the house. Fences shall be kept clear of vegetation.
2. Any outbuildings or additional structures shall adhere to the same standards as the main house.
3. Each structure shall have a minimum of one ten-pound ABC fire extinguisher.



4. Addresses shall be clearly marked with 2" non-combustible letters and shall be visible at the primary point of access from the public or common access road and installed on a non-combustible surface.
5. Propane tanks shall be installed according to NFPA 48 standards and on a contour away from the structure with standard defensible space vegetation mitigation around any aboveground tank. Any wood enclosure around the tank shall be constructed with materials approved for two (2) hour fire-resistive construction on the exterior side of the walls.
6. Fuel or propane tanks shall be installed underground with an approved container.

VII. Access

1. No shrubs or conifers are allowed within 10' of the driveway. Aspen are permitted within 10' of the driveway. Some intermittent native shrubs may remain, but must be separated by at least 10'.
2. Low vegetation (grasses, forbs and low shrubs) shall be kept mowed to less than 6" within 10' of either side of the driveway.

VIII. Water Supply

1. Any fire department recommendation for individual structure water supply and storage shall be accessible to fire department vehicles from the exterior of the structure through a Fire Department approved mechanism (such as a fire hydrant). The amount of storage capacity shall be determined by the fire protection district with a minimum of one thousand (1,000) gallon storage capacity per structure.
2. All structures greater than 5,000 square feet in size shall be required to install in-house sprinkler systems that meet the standards of the local fire protection district and the IBC. At building permit submittal, the local fire protection district may require smaller structures to be sprinkled due to hazard considerations, emergency access difficulties and lack of proximity to fire protection services.

IX. Utilities

1. Utility lines shall be buried.

X. Review Process

1. All development shall be reviewed for compliance with this section. Along with a building permit application, the property owner shall submit a site plan that shows the mitigation set-backs detailed in this document, at the time of a building permit submittal.



The above standards have been- modified from the Pitkin County Code 3-80-070 Wildfire Hazard Areas, for the situation at the property.

Thank you for this opportunity to comment on this property. Please feel free to call if you have any questions.

Sincerely,



Eric Petterson

Digitally signed by
Eric Petterson
DN: cn=Eric
Petterson, o=Rocky
Mountain Ecological
Services, Inc., c=US
Date: 2006.03.26
21:15:59 -0700

Eric Petterson
Rocky Mountain Ecological Services, Inc.



[illegible]

Aspen Consolidated Sanitation District

Paul Smith * Chairman
Michael Kelly * Vice- Chair
John Keleher * Sec/Treas
February 27, 2006

Frank Loushin
Roy Holloway
Bruce Matherly, Mgr

Francis Krizmanich
79 Light Hill Road
Snowmass, CO 81564

RE: Smuggler Mine-Commitment for Sanitary Sewer Service

Dear Francis,

The Aspen Consolidated Sanitation District currently has sufficient wastewater collection and treatment capacity to serve this project. Service is contingent upon compliance with the district's rules, regulations, and specifications, which are on file at the District office. There are downstream constraints in the Districts Outfall line that will be corrected through a system of proportionate impact fees.


If the applicant proposes to serve the property with a main sanitary sewer line extension, the applicant will be required to complete a "Line Extension Request" to serve the property and execute a "Collection System Agreement, each of which will be reviewed by the district's board of directors at their next regularly scheduled meeting. Easements must be granted the District for the main line extension on standard District form. Additional access and sanitary sewer line easements will be required from the applicant to be able to serve this property.

Funds must be placed into escrow with the District to cover the District's cost to construct the main sanitary sewer line, to televise the completed line extension, and the cost of the District's engineer to design an approved plan and profile of the line extension as well as for construction observation expenses.

The above course of action will allow the newly installed sanitary sewer main line to be dedicated to the district for future ownership and maintenance.

A tap permit must be completed at our office when detailed plans become available. Fees will be estimated at that time. The total connection charges due the District must be paid prior to the issuance of a building permit.

Sincerely,



Thomas R. Bracewell
Collection Systems Superintendent

CC Bruce Matherly, ACSD District Manager

PATRICK, MILLER & KROPF, P.C.
Attorneys at Law

Main Office
730 E. Durant Ave.
Suite 200
Aspen, CO 81611
970.920.1028 Tel
970.925.6847 Fax

www.waterlaw.com

Arizona Office
2415 E. Camelback Rd.
Suite 700
Phoenix, AZ 85016
480.921.4044 Tel
480.921.8688 Fax

March 21, 2006

Lance Clark, Planning Director
Pitkin County Community Development
130 S. Galena Street
3rd Floor
Aspen, CO 81611

RE: New Smuggler Mine Corporation PUD Application; (our file 836a)

Dear Lance:

We represent New Smuggler Mine Corporation ("New Smuggler") with respect to legal water matters associated with the proposed New Smuggler PUD. This letter is for purposes of providing supporting information and documentation for the proposed water supply for the development.

A. *Water Supply:*

1. *Domestic, In house:*

New Smuggler will serve each of the proposed residential sites with on-lot wells drilled in the respective building envelopes. One well is currently drilled under State Engineer's Office exempt Well Permit #208666 associated with the Trueworthy Mining Claim 3740 which encompasses one of the building envelopes. See attached well permit. New Smuggler has an application pending for a second exempt well permit associated with the Emma Mining Claim 2120 encompassing the other building envelope. See attached well permit application. It is our understanding this second well permit will issue within the next 2-3 weeks. Upon the requisite subdivision referral to the State Engineer's Office, it is our opinion the State will approve the legal water supply based on these two exempt well permits for in-house uses only, pursuant to State Engineer Policy 95-7.

PATRICK, MILLER & KROPF, P.C.

Pitkin County
3/21/2006
Page 2 of 2

If you have any questions in this regard, please do not hesitate to contact me.

Very truly yours,

PATRICK, MILLER & KROPF, P.C.
A Professional Corporation

By: 

Scott C. Miller
miller@waterlaw.com

SCM/jag
Enclosure

cc: Mr. Chris Preusch
Mr. Francis Krizmanich

Form No.
GWS-25

OFFICE OF THE STATE ENGINEER
COLORADO DIVISION OF WATER RESOURCES

818 Centennial Bldg., 1313 Sherman St., Denver, Colorado 80203
(303) 866-3581

OWNER'S COPY

1095

RECEIVED

APPLICANT

APR 15 1998

APPROVED

Lot: Block: Filing: Subdiv:

WELL PERMIT NUMBER **208666**

DIV. 5 CNTY. 49 WD 38 DES. BASIN MD

WRIGHT & PREUSCH MINING LTD.
201 N. MILL ST. STE #106
ASPEN, CO 81611

APPROVED WELL LOCATION

PITKIN COUNTY

NE 1/4 SE 1/4 Section 7
Twp 10 S Rng 84 W 6th P.M.

DISTANCES FROM SECTION LINES

1500 Ft. from SOUTH Section Line
900 Ft. from EAST Section Line

(970)925-5625

PERMIT TO CONSTRUCT A WELL

ISSUANCE OF THIS PERMIT DOES NOT CONFER A WATER RIGHT

CONDITIONS OF APPROVAL

- 1) This well shall be used in such a way as to cause no material injury to existing water rights. The issuance of the permit does not assure the applicant that no injury will occur to another vested water right or preclude another owner of a vested water right from seeking relief in a civil court action.
- 2) The construction of this well shall be in compliance with the Water Well Construction Rules 2 CCR 402-2, unless approval of a variance has been granted by the State Board of Examiners of Water Well Construction and Pump Installation Contractors in accordance with Rule 18.
- 3) Approved pursuant to CRS 37-92-602(3)(b)(III)(A) as the only well on a residential site of 2.19 acres described as that portion of the NE 1/4, SE 1/4, Sec. 7, Twp. 10 S, Rng. 84 W, 6th P.M., Pitkin County, more particularly described on attached exhibit A. Also known as the Trustworthy Mining Claim # 3740.
- 4) The use of ground water from this well is limited to ordinary household purposes inside a single family dwelling. The ground water shall not be used for irrigation or other purposes.
- 5) The maximum pumping rate shall not exceed 15 GPM.
- 6) The return flow from the use of this well must be through an individual waste water disposal system of the non-evaporative type where the water is returned to the same stream system in which the well is located.
- 7) This well shall be constructed not more than 200 feet from the location specified on this permit.

SAP
4/8/98

APPROVED
SAP

State Engineer

DATE ISSUED

APR 09 1998

By

EXPIRATION DATE

APR 09 2000

Receipt No.

STATE OF COLORADO

DIVISION OF MINERALS AND GEOLOGY

Department of Natural Resources

1313 Sherman St., Room 215

Denver, Colorado 80203

Phone: (303) 866-3567

FAX: (303) 832-8106



May 14, 2003

Mr. Gary A. Wright
Wright & Preusch Mining Ltd
C/O Wright & Adger, LLP
715 W. Main St., Ste 201
Aspen, CO 81611-

Bill Owens
Governor

Greg E. Walcher
Executive Director

Ronald W. Cartano
Division Director
Natural Resource Trustee

Re: Smuggler Mine, Permit No. M-1995-097, Succession of Operators Approval, Revision No. SO-1

Dear Mr. Wright:

On May 14, 2003, the Division of Minerals and Geology approved the succession of operators from Wright & Preusch Mining Ltd to New Smuggler Mine Company for the Smuggler Mine, Permit No. M-1995-097. New Smuggler Mine Company is now the permitted operator of the Smuggler Mine, and as such, is responsible for all provisions in Permit No. M-1995-097, as well as those specified in the Rules and Regulations.

Enclosed is Norwest Bank Colorado N.A. Certificate of Deposit No. 610462003, in the amount of \$56,200.00, and the Performance Warranty you originally provided. These have been released as of the April 28, 2003 Division approval for the succession of operators. You should advise your bank of this release by copy of this letter.

If you have any questions, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Barbara D. Chiappone".

for Carl B. Mount
Senior Environmental Protection Specialist

Enclosures

CERTIFIED MAIL NO. 7001 2510 0004 2146 0777
Return Receipt Requested

RECEIVED

JUL 03 1995

SMUGGLER MINE SITE

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EXHIBIT A
LEGAL DESCRIPTION AND LOCATION MAP

A-1.0 Legal Description

The 9.9 acre permit area is a part of the *Smuggler* Lode (U.S. Mineral Survey No. 1656), the *Emma* Lode (U.S. Mineral Survey No. 2120), the *Accident* Lode (U.S. Mineral Survey No. 5835), and the *Trueworthy* Lode (U.S. Mineral Survey No. 3740) in the Roaring Fork Mining District, Pitkin County, Colorado. It occupies portions of all quarter-quarter (40 acres) sections of the Southeast (SE $\frac{1}{4}$) quarter of Section 7, Township 10 South (T. 10 S.), Range 84 West (R. 84 W.), Sixth Principal Meridian (6th P.M.), Pitkin County, Colorado, and is more particularly described as follows:

All of the ground lying within the following boundary description known as the Smuggler mine site, situate in parts of the NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 7, Township 10 South, Range 84 West of the Sixth Principal Meridian, Pitkin County, Colorado, Pitkin County, State of Colorado, to-wit:

Beginning at the southernmost corner, Corner No. 2, of the *Smuggler* Lode mining claim, U.S. Mineral Survey (USMS) No. 1656, whence a red sandstone monument for Corner No. 1 of the *Mollie Gibson* Lode mining claim, USMS No. 4281 AM, bears S. 34°27'11" E. 10.0 feet;

Thence N. 34°27'11" W. 293.17 feet along the westerly endline of the *Smuggler* Lode mining claim (line 2-1) to Corner No. 1 of the *Smuggler* Lode mining claim, coincident with the southwesterly line of the *Della S.-Smuggler* compromise and known as the *Della S.-Smuggler* compromise westerly endline.

Thence N. 34°18'25" W. 299.00 feet along the southwesterly line of the *Della S.-Smuggler* compromise westerly endline (which line is described as bearing N. 34°17' W. in that certain deed between the Della S. Consolidated Mining Company, grantor, and the Smuggler Mining Company of West Virginia, grantee, recorded July 12, 1892 as Reception No. 48127 in Book 97 at page 80, Office of the Clerk & Recorder, Pitkin County, Colorado) to a point that is coincidental with the northwesterly sideline (line 3-4) of the *Accident* Lode mining claim, USMS No. 5835 AM;

Thence N. 56°14'00" E. 729.19 feet along the northwesterly sideline (line 3-4) of said *Accident* Lode mining claim;

Thence S. 34°17'00" E. 595.50 feet to a point which is coincidental with the southeasterly sideline (line 3-2) of the said *Smuggler* Lode mining claim, being also the southeasterly line of the *Della S.-Smuggler* compromise westerly endline;

Thence S. 56°29'46" W. 728.24 feet along the southeasterly sideline of the said *Smuggler* Lode mining claim (line 3-2) to the point of beginning.

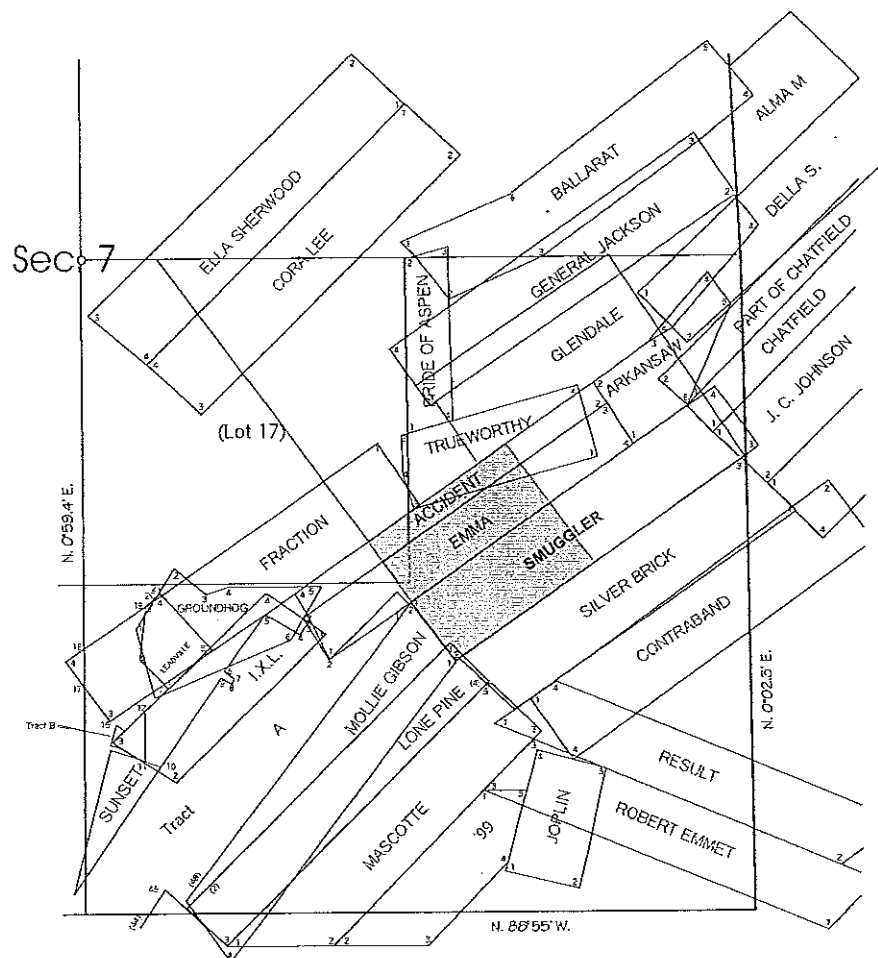
The foregoing parcel contains 9.9 acres of land, more or less and contains parts of the *Smuggler*, USMS No. 1656, the *Emma*, USMS No. 2120, and the *Accident* Lode, USMS No. 5835 AM, mining claims.

The foregoing legal description is based upon a survey performed by Alpine Surveys, Inc., Aspen, Colorado, for Smuggler-Durant Mining Corporation, dated 4 December 1980. The bearings for the foregoing legal description are based upon a bearing of S. 08°22'08" E. from U.S. Coast & Geodetic Survey triangulation station "Aspen," Quad 391063, Station 1001, to the "Aspen Azimuth Mark" as described in the published recovery notes of the U.S. Coast & Geodetic Survey.

A-2.0 Location Maps

A-2.1 U.S. Dependent Resurvey

The legal description of the Smuggler Mine Site is dependent, in part, on other mineral claims. Accordingly, a copy of a portion of the plat of the 1980 dependent resurvey performed by the U.S. Cadastral Surveyor and depicting the mine site within the SE¼ of Sec. 7, T. 10 S., R. 84 W., 6th P.M., is reproduced:



2.2 Site Sketch

To better understand the principal site features description in this permit application, an illustration of the Smuggler Mine Site is reproduced from Application Exhibit E to avoid the necessity of constant referral to a large map.

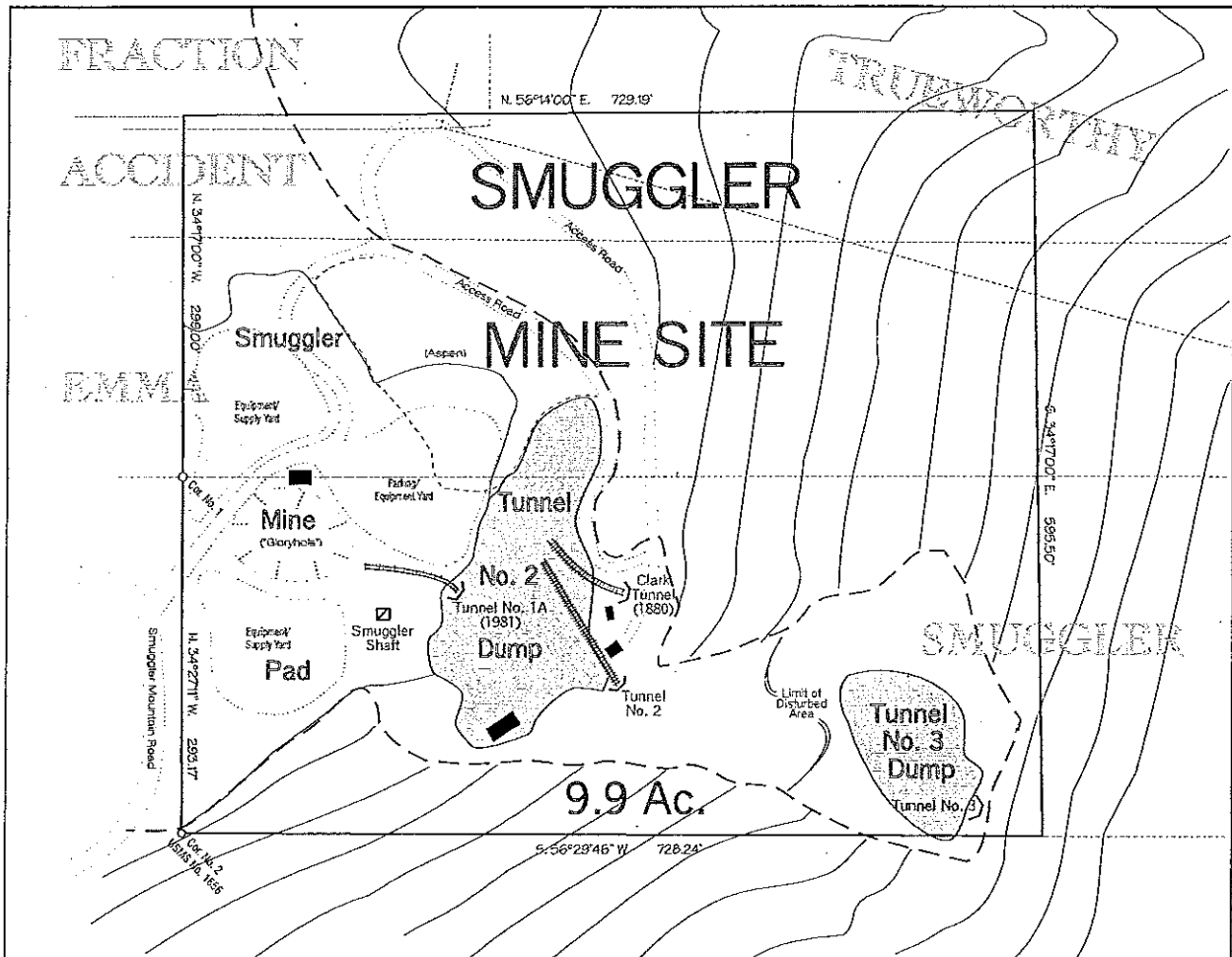


Illustration of Smuggler Mine Site, 9.9 Acres

2.3 USGS Quad Sheet

As required by the regulations, the location map is a portion of the Aspen U.S.G.S. Quadrangle map (dated 1960 and photorevised in 1987). The map shows the location of the Smuggler Mine and access to the mine.

[Insert section from USGS Quad Sheet]

EXHIBIT B SITE DESCRIPTION

B-1.0 History¹

The historical aspects of the Smuggler Mine are particularly notable because the history of the mine is closely intertwined with the history of Aspen. The mine is significant because it is one of the earliest silver mining claims staked on Smuggler Mountain in 1879. Today the site, overlooking the town of Aspen, possesses an integrity of setting that has seen little change since the 1879-1920 mining period. The site still retains many essential physical features dating from its significant mining period, *i.e.*, five tunnel openings, 38 levels of tunnels, mine dumps, *etc.* The Smuggler Mine was one of the top ten silver mines in the U.S. in the amount of high grade ore produced. It is significant for its association with pioneer mining men and Aspen promoters such as Charles B. Hallam and Professor B. Clark Wheeler. Hallam and Wheeler came to Aspen in 1880 with the mine's owner, David M. Hyman, who was one of the first eastern capitalists to invest in Aspen's mining future. The Smuggler is the only remaining mine site in the Aspen area associated with these pioneers.

The Smuggler Mine was among the first strikes made by Charles Bennett in 1879 when he and other Leadville miners first came to the Roaring Fork Valley. Early in 1880, Charles A. Hallam and B. Clark Wheeler came to the valley looking for investment opportunities for their Cincinnati partner, David M. Hyman. They took an option on some of Bennett's claims, including the Smuggler Mine, as well as Bennett's two ranch sites in the valley where had Wheeler laid out a plat for a town and named it Aspen.

In late 1881, The Smuggler Mining Co. was incorporated with Bela M. Hughes of Denver as president, David M. Hyman of Cincinnati as vice-president, and S.W. Keene as secretary. Later, Hyman's friend and attorney, Charles J. Hughes, Jr. of Denver, served as president and Charles Hallam became the general manager.

By 1884, the Smuggler Mine and other mines in the area were extensively developed. Production reached a total value of over \$7 million. By 1889, the mining output in the Aspen area was \$10 million and the Smuggler Mine was one of the major producers. In 1892, the Smuggler Mine alone produced 29,967 tons of ore amounting to 572,524 ounces of silver. The Smuggler Mine even remained open following the 1893 silver crash when most silver mines were shut down. The mine was sold to the Smuggler Leasing Company in 1911 and continued to operate until 1920.

¹ The Smuggler Mine Site is listed on the National Register of Historic Places as Site No. 5PT 479. It was the first mine site in Colorado to be put on the National (and Colorado) Registers of Historic Places. Much of the following description was extracted from the National Register of Historic Places Inventory-Nomination Form prepared by the Colorado Historical Society in 1986.

In 1894 the largest silver "nugget" ever mined was found 800 feet below the surface in the Smuggler Mine. It was 93 percent silver and reportedly weighed 2,060 pounds. The nugget had to be reduced in size to be hauled to the surface.

In 1910 the lower levels of the Smuggler Mine flooded, and deep sea divers were hired at \$100 per day to repair the steam pumps. More modern electric pumps were installed after regaining access to the lower levels. The Smuggler Mine continued operation until 1920 and was a major source of employment in the Aspen area. During the 1920s and 1930s, when the mine was not operating, the mine structures and buildings deteriorated and the lumber was scavenged for other uses. Areas in the mine were leased and mined by individual "leasers" from 1920 up to World War II. During World War II, the Smuggler and its mine waste dumps, as well as other mine dumps on Smuggler Mountain, were partly reclaimed for lead and zinc for the war effort under the control of the federal War Production Board. After World War II, the Smuggler was subject to exploration work by the U.S. Bureau of Mines and the Atomic Energy Commission with further reclaiming work done on mine waste dumps.

Stefan Albouy, now deceased, leased the Smuggler Mine in 1978. Mr. Albouy rehabilitated some of the accessible upper levels of the mine — he reopened the Clark and No. 2 Tunnels, mucked-out entries, re-laid track, replaced rotten timber, *etc.* The wooden work shop building near the No. 2 Tunnel was reconstructed by Mr. Albouy in 1979 utilizing lumber from the original Kit Carson Stage Stop in Aspen. Lumber for the Stage Stop was milled in 1885.

The mine is unquestionably an historic attribute to Aspen and to Colorado.

B-2.0 Vegetation

The limit of disturbance shown on Application Exhibit E within the permit boundary supports very little vegetation because it is actively used on a day-to-day basis. The undisturbed area within and outside the permit boundary supports native mountain shrubland vegetation. There is nothing particularly unique about the vegetation of the site or the surrounding area. No threatened or endangered species are known to inhabit the site.

The permit area is located near the base of Smuggler Mountain. The undisturbed vegetation both in and around the permit area changes as the mountain side changes to valley bottom. The vegetation type of the higher elevations of the permit area is Oak, which changes to Serviceberry/Oak and Sage/Serviceberry vegetation types lower on the hillside. Aspen trees occupy the more moist and protected areas and the vegetation type (prior to extensive suburban development) of the area below the permit boundary on the alluvial valley floor was Sagebrush.

As required, the vegetation types found in and around the permit area are shown on Application Exhibit E, the Mining/Reclamation Map. The common names of some of the more prominent plant species are presented in TABLE 1.

TABLE 1. VEGETATION OF THE AREA

<u>Grasses & Forbs</u>	<u>Shrubs</u>	<u>Trees</u>
Bluebunch wheatgrass	Serviceberry	Aspen
Indian ricegrass	Big sage	Cottonwood
Needlegrass	Antelope bitterbrush	
Elk sedge	Buffalo berry	
Mutton-grass	Scrub oak	
Spike trisetum	Chokecherry	
Miner's candle	Rocky Mtn. maple	
Mullein	Willow	
Indian paintbrush	Creeping holly grape	
Bottlebrush squirreltail	Rose	
Gilia		
Yellow sweet clover		
Yarrow		
Thistle		
Fireweed		
Orchardgrass		
Salsify		
Cheatgrass		
Gumweed		
Lupine		
Western wheatgrass		
Beggar's lice		
Penstamon		

B-3.0 Soils

There is little soil within the disturbed area of the permit boundary at the mine because of intermittent mining activity at the site for the past 112 years. The undisturbed area within and outside the permit boundary contains natural, mostly undisturbed soils. The Soil Conservation Service's Soil Reconnaissance, SURVEY OF THE ASPEN-GYPSUM AREA, COLORADO (MAY 1992), names the native soils of the area as the "Uracca Series" and the "Mine Series". The Uracca, moist Mergel Complex occupies the more gentle side slopes of the valley at the base of Smuggler Mountain and the Mine Loam occupies the steeper slopes of the mountain.

The SCS Survey indicates that the Uracca soil is deep and well drained. The soil formed in alluvium derived dominantly from mixed igneous and metamorphic material. About 3 to 15 percent of the surface is covered with boulders, stones, cobbles, and gravel. Typically, the surface layer is

brown cobbly sandy loam about 3 inches thick. The upper 5 inches of the subsoil is cobbly sandy loam. The lower 7 inches is very cobbly sandy clay loam. The substratum to a depth of 60 inches or more is extremely cobbly loamy sand. The content of coarse fragments ranges from 35 to 85 percent, by volume, in a major part of the surface layer and subsoil. Permeability is moderately rapid and the available water capacity is low. The effective rooting depth is 60 inches or more. Runoff is medium, and the hazard of water erosion is slight.

Characteristics of the Mergel soil are similar to the Uracca except that it contains more rock and was formed from glacial outwash.

The Mine loam is a deep, well-drained soil on fans and valley side slopes. It formed in moderately coarse textured alluvium and colluvium derived dominantly from metamorphic rocks. Typically, the surface layer is very dark grayish brown loam about 4 inches thick. The upper 33 inches of the substratum is gravelly sandy loam over cobbly sandy loam. The next 8 inches is very cobbly loamy sand. The lower part to a depth of 60 inches is very gravelly sandy loam. The effective rooting depth is 60 inches or more. Permeability is rapid to very rapid and the available water capacity is low. Runoff is rapid and the hazard of water erosion is moderate.

The commitment to soil salvage is presented in Exhibit C, the Mining Plan. The commitment to the provision of an adequate depth of suitable growth medium to assure successful revegetation in the Alternate Reclamation Plan is presented in Section D-4.0.

B-4.0 Permanent, Man-made Structures Outside Permit Area

The only permanent, man-made structures within 200 feet of the permit boundary are the Smuggler Mountain County Road (Smuggler Mountain Road), the Centennial-Aspen Apartments parking lot, and the Salvation Ditch.

The Salvation Ditch carries irrigation water from the Roaring Fork River east of the town along the base of Red Mountain. The ditch is owned by The Salvation Ditch Company. The ditch has been placed in buried concrete pipeline where it passes to the west of the permit boundary. A short segment of the buried pipeline is about 200 feet from the western boundary of the permit area.

The Centennial-Aspen Apartments parking lot is about 140 feet from the northwest corner of the permit boundary.

There is no reasonable probability that the mining will adversely affect the stability of the Salvation Ditch pipeline, the Centennial-Aspen Apartments parking lot, or the County Road.

B-5.0 Hydrology

As illustrated in Application Exhibit E, the Mining/Reclamation Map, the permit area occupies the lower slopes of Smuggler Mountain. There are no surface water resources in or flowing through the permit area nor are there any significant gullies entering or leaving the permit area. As described in Section B-3.0, *ante*, the soils are permeable and because of the southern exposure of the site the amount of run-on from the slopes above is slight. The only significant surface water entering the site is direct precipitation. The site has withstood the test of time (110 years) without interceptor or diversion channels and very little erosion has occurred. The site has been maintained in recent years and easily handles runoff due to direct precipitation.

There are two or three nominal, old erosion gullies down the face of the No. 2 Dump to the main mine bench where thunderstorm events and/or spring thaw have created sufficient runoff through the years to concentrate waters. The top of the No. 2 Dump will be regraded to drain back into the hill to minimize the quantity of water flowing over its face.

Water also tends to puddle on the main mine bench which has been compacted by vehicular traffic through the years. This situation is more nuisance to visitors than an environmental problem. It will be resolved by grading the area to drain it into the large depression in the main mine bench.

The elevation of ground water in the Smuggler Mine is approximately 105 feet below the collar of the Smuggler shaft. The elevations of the Clark and No. 2 Tunnels are 65 to 70 feet above the collar of the Smuggler shaft. Therefore, these mine entrances are approximately 170 to 175 feet above the phreatic surface.

The Smuggler mine is dry above the flooded levels. At present, there is no plan to reopen the levels of the mine that are flooded. Mine development will be restricted to the levels above the water table.

There is no record of the water in the lower levels of the mine being analyzed. The quality of the off-site ground and surface waters is quite good as reported in the FRED C. HART & ASSOCIATES, INC., **REMEDIAL INVESTIGATION/FEASIBILITY STUDY** (1986). This is consistent with the findings and classification of the Water Quality Control Commission, Colorado Dept of Health, acting under the state and federal Clean Water Acts, of "High Quality Waters - Class 2" for the upper reaches of the Roaring Fork River. See **CLASSIFICATIONS & NUMERIC STANDARDS FOR UPPER COLORADO RIVER BASIN & NORTH PLATTE RIVER (PLANNING REGION 12)** (WATER QUALITY CONTROL COMM'N, COLO. DEPT. OF HEALTH, 1993).

B-6.0 Wildlife

Wildlife use of this site is typical of sites immediately adjacent to populated areas on the outskirts of other Colorado mountain towns. Deer, fox, coyote, woodchuck, various bird species, elk, and raccoon are common, and the occasional mountain lion and bear surely pass through the site.

No threatened or endangered species are known to inhabit the area. Deer and elk use of the site is common which demonstrates that these species are not bothered by the existing level of activity at the site.

It is now accepted that mining activities do not stress wildlife. Land disturbances (mining, residential, *etc.*) impact wildlife habitat by destroying vegetative cover, but mining activities, *per se*, do not bother wildlife. Threatening activities, such as hunting, do cause stress but mining activities are not threatening and hunting is not allowed on or around the mine site. It takes only a few hours or days for wildlife to become accustomed to equipment and mine activities to realize they are not threatening. As a result, wildlife are common in active mining areas. In some instances wildlife use mining areas as refuges from stressful pressures outside the mining area.

The type and level of activity, and the amount of physical disturbance, at the Smuggler Mine will not increase appreciably in the foreseeable future. There is no reason to believe that the wildlife will be bothered in any way by the mining activities proposed in this application.

The Colorado Division of Wildlife has been contacted and requested to review and comment on the application. Correspondence received from the Division of Wildlife by the date of filing (if any) is attached.

B-7.0 EPA - Smuggler Mountain Superfund Site

The U.S. Environmental Protection Agency ("EPA") investigated Smuggler Mountain for excessive concentrations of lead (Pb) and cadmium (Ca) in the 1980s. Pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), as amended, 42 U.S.C. §§ 9601 *et seq.*, and by publication in the Federal Register on June 10, 1986, 51 FED. REG. 21073, a 110 acre site on Smuggler Mountain was placed on the National Priorities Lists set forth at 40 C.F.R. Part 300, Appendix B (1994). On October 16, 1989, the United States filed a complaint in Civil No. 89-C-1802, United States District Court, District of Colorado, pursuant to Sections 107 and 113(g)(2) of CERCLA, 42 U.S.C. §§ 9607 and 9613(g)(2), to recover its response costs incurred in connection with what became known as the Smuggler Mountain Superfund Site.

EPA divided the Smuggler Mountain Superfund Site into two units. Operable Unit 1 (OU1) consisted primarily of the improved real property on the lower reaches of Smuggler Mountain, including the Smuggler Mountain Mobile Home Park, numerous residences and several condominium developments on Smuggler Mountain including the Centennial Condominiums. Operable Unit 2 (OU2) consisted principally of upland unimproved lands owned by Smuggler-Durant Mining Corporation ("SDMC"), approximately 42 acres, and included the Smuggler Mine Site. The demarcation or boundary between OU1 and OU2 is the so-called *Della S.-Smuggler*

compromise westerly endline.²

SDMC's CERCLA obligations are addressed in a PARTIAL CONSENT DECREE between the United States and SDMC now lodged with the court and to be entered in Civil No. 89-C-1802. By this partial consent decree, SDMC paid the United States an agreed upon sum for past and present response costs incurred in connection with OU1, and the CERCLA action was dismissed as to OU2. EPA's concerns about OU2 are addressed in an ADMINISTRATIVE ORDER ON CONSENT FOR REMOVAL ACTION ("AOC"), entered May 8, 1995 in EPA Docket No. CERCLA VIII-95-07. Except for general institutional controls affecting the entire 110 acre Smuggler Mountain Superfund Site, the AOC dismissed the proceedings as to all lands in OU2 except the 9.9 acres in the Smuggler Mine Site. The Smuggler Mine Site is the subject of a "removal action", 40 C.F.R. § 415(b)(2) (1995), undertaken by Wright & Preusch Mining, Ltd., described in its Work Plan (EPA AOC - Exhibit 3) and evaluated and approved in an EPA Action Memorandum, dated April 19, 1995 (EPA AOC - Exhibit 1).

² This boundary is identical to the bearings contained in the second and third courses (the westerly boundary) of the Smuggler Mine Site legal description, Application Exhibit A, *ante* p. 3.

EXHIBIT C MINING PLAN

C-1.0 Land Use

The Smuggler Mine is uniquely different from most mines. The site is on the edge of a town with some of the highest residential land values in the country. The site has been a mine since the arrival of civilization to the area. The land use of much of the surrounding area has changed from farming, ranching and mining to recreation and tourism.

C-1.1 Mining and Mine Tours

Mining activity at the Smuggler Mine for the past 15 years has consisted essentially of, rehabilitation, reconstruction, repair, and maintenance of existing mine workings. However, a peripheral activity at the mine for the past 10+ years has been mine tours for tourists desirous of seeing and learning something of the industry that founded Aspen.

The mine tours are popular because the Smuggler Mine is virtually the last vestige of mining history in the area. With little or no marketing, an average of about 500 people per year tour the mine. The enterprise is promising and additional marketing will be done to increase interest in the tours. It has never been the operator's intention to limit the activities at the Smuggler Mine to tours, but the tours help pay overhead expenses to aid the ultimate goal of seeing the mine become productive. Tour participants relate that these tours of an active mine are far more interesting than a tour of an inactive mine because it brings them closer to sharing a little of the history and romance that goes with small scale silver mining.

In conjunction with additional marketing, No. 2 Tunnel has been rehabilitated in anticipation of larger tour groups. Plans call for continually expanding the tour into more areas of the mine workings as those portions of the mine are rehabilitated and made safe. Structures have been constructed to match the appearance of buildings of the late 1800s, two tunnels have been reopened, track has been relayed, and timbers have been replaced as necessary. As more surface buildings are reconstructed, the tours will be expanded to include explanations and demonstrations of the various support functions the buildings provide. Tours will be conducted in a fashion that does not interfere with the use of the workings for exploration, mining and haulage.

C-1.2 Residential

✓ Wright & Preusch Mining, Ltd. is the owner of the Smuggler mine site. It succeeded to the interests of Stefan Albouy, who took his life in 1994. Wright & Preusch intend to follow through on and perpetuate the plans of Albouy to restore the Smuggler mine site to a historic condition, conduct mine tours, construct a home on the site, and operate the mine.

unbroken's guide

C-2.0 Geology

The Smuggler Mine workings are located principally along a series of steeply dipping shale and dolomite beds. The principal ore host is the Red Cliff Dolomite member of the Mississippian Leadville Limestone, which forms the footwall of most of the mine workings. The Belden Formation (sometimes erroneously referred to as Weber Shale) forms the hanging wall of most of the mine workings. Ore was deposited in shoots and beds (mantos) along the contact of these two formations. It is now evident that faulting played an important role in the localization of the ore bodies. Intersections of the contact and pre-mineral age cross faults have been the most productive zones. There are several other zones, however, that show promising mineralization.

The Smuggler orebody is contained in a sedimentary breccia at the top of the Red Cliff Dolomite member of the Mississippian Leadville Limestone. The breccia represents a significant erosional event of early Mississippian age (approximate 345 million years ago). Smaller amounts of primary base-metal (Pb-Zn) ore are present in a much younger solution collapse breccia at the base of the Pennsylvanian Belden Formation, which overlies the Leadville, and in unbrecciated calcareous and carbonaceous shales and limestones of the Belden itself. Fragments of the Laramide Aspen mountain sill are present in the second breccia, so this breccia is younger than the sill, which is between 69 and 74 million years old. The *Della S.-Smuggler* fault system, a series of normal faults that strike northwesterly and dip to the southwest at 30° to 55° and which cut the Aspen mountain sill, is frequently mineralized. The Smuggler orebody is thickest at the intersection of these faults and the earlier breccia at the top of the Red Cliff Dolomite.

C-3.0 Mine Plan

Wire Silver / Mineral Samples

Mining activity on the property in the foreseeable future will consist of nominal mine rehabilitation, development and exploration. The intent in obtaining this permit for the immediately foreseeable future is to allow for a minimal increase in mine development. The planned development will serve the dual purpose of opening more of the mine for public tours.

The primary metal available for extraction is silver. Lead and zinc are secondary metals that might be produced. Small quantities of gold may be encountered.

C-3.1 Mining Methods

Mining will be done by conventional underground drilling and blasting techniques. There are several horizons from which ore will be mined. Although there are vast quantities of low grade ore available, the operator intends to explore for and mine higher grade ores from narrow, high-grade veins. Typically, drifts will be established or existing drifts rehabilitated along targeted ore zones. Ore passes will be established at appropriate intervals and stoped up. Stopping methods (either open or square set) will depend on the condition of the hanging wall.

Current plans call for rehabilitation of the major mine levels above the water level. This

includes the First Level, Tunnel No. 1A, the 75 foot level, the Clark Tunnel, the No. 3 Tunnel, and the No. 2 Tunnel. Some of these workings are in a good state of repair; some are not. The First Level and the No. 3 Tunnel need further work to bring them up to safe operating standards. Reconditioning the Smuggler shaft to the First Level is also planned. In addition to mining existing workings, exploration of favorable areas on all levels is anticipated.

Mining methods will include drifting, crosscutting and raising. Longholing and core drilling will be conducted underground when appropriate. Air for drilling and underground equipment will be provided by one or two permanently installed compressors. Diesel fuel will be used initially but the compressors will be converted to electricity when power capacity becomes available. Although there is considerable natural ventilation, current mine conditions require some forced ventilation on certain levels. It is hoped that as more mine openings are re-established, greater natural convection will occur and the need for forced ventilation will decrease. Historically 18-inch gauge rail haulage was used in all levels. The operator intends to stay with this throughout the mine. Trimming will be by hand or electric mine locomotives.

All necessary explosives for the mine are kept on site in an approved surface explosives magazine. The magazine is located and maintained in accordance with federal regulations. Explosives are used in accordance with safety standards of the Colorado Division of Mines and the Colorado Department of Labor. All blasting and explosives work is performed by a certified blaster or qualified personnel under supervision of a certified blaster.

Mine water has never been encountered in the upper levels of the mine and is not expected to be encountered in the future. Therefore, there will be no discharge of mine water and a discharge permit will not be required.

Blasting may or may not be heard or felt on the surface depending on the location of the blasting in the mine. Blasting will not be of such a magnitude that it will threaten the integrity of structures on or off the mine permit area.

C-3.2 Production Rate

Smuggler Mine production is not projected to begin until the price of silver increases significantly. The price of silver reached a high of \$52 per ounce in 1980, but quickly dropped back to around \$18 per ounce a few months later. The price of silver today is in the range of \$3.50 to \$4.00 per ounce. Because it is impossible to project when the price of silver will increase, it is impossible to predict when the production at the Smuggler Mine may begin. Mining activity will expand beyond maintenance and minimal development only when the economics are conducive to such an expansion. The expansion plan is referred to as the Master Plan (see, discussion Section C-3.3).

By modern standards the Smuggler Mine is a "small mine", and the rate of mining for the foreseeable future will continue to be small. Any production rate will vary widely depending on

underground conditions and economics. When realistic production begins, a normal average rate of production might be, say, 10 tons per day (2,600 tons per year). At a maximum, production might be as high as 20 to 25 tons per day (5,200 to 6,500 tons per year). The anticipated normal production scenario could be accomplished by 2 or 3 skilled underground people. The maximum production rate might require as many as five workers. Appropriately skilled persons are presently living in Aspen and available for hire, although presently working in other "non-mining" occupations.

Significant quantities of high grade ore are developed in the mine, therefore, the waste-to-ore ratio will not be as high as an undeveloped mine. The waste-to-ore ratio for this operation is projected to be approximately 2:1. Production of 10 tons of ore per day could create up to 20 tons of waste, that equals 3,200 tons (2,100 cubic yards) of waste per year. Mine waste or "country rock" will be placed on existing mine waste dumps in a manner that will perpetuate the historical character of the site.

The majority of mine waste added to Dump No. 2 will be deposited straight-out from the Clark and No. 2 Tunnel portals. The existing mine waste dumps can accommodate projected quantities of waste for the life of the mine without significantly changing the character of the dumps. At 3,200 tons of waste per year, there is sufficient room to extend the existing waste dump straight-out for approximately 25 to 35 years. However, the main face of Dump No. 2 cannot be extensively enlarged because waste materials could cover the portal of Tunnel No. 1A and could eventually cover the Smuggler Shaft. The main mine bench has a large depression ("gloryhole") that may hold some waste materials.

The configuration of the existing mine waste dumps is stable. This is evidenced by the fact that none have slumped since the mine ceased major operations in 1920. Slowly extending the mine dumps in the same manner as they were constructed will provide stable areas consistent with the proposed future land use.

C-3.3 Master Plan

The Master Plan is the long range architectural goal for the mine — the goal toward which all surface construction work will be directed but may never be reached. The intent is that all buildings, landscaping, *etc.*, will flow toward the creation of an authentic 1890s mining site. As with all long range goals, the Master Plan is in the formative stages, will take time to complete, and will change with time.

In addition, if and when the negotiations for purchase of the property are completed, a home will be constructed in the northeast corner of the permit area and a watchman's quarters will be constructed in an aspen grove off of the access road to the Clark Tunnel.

The Master Plan contemplates construction of the following mine support buildings:

- Shaft House (Smuggler Shaft)

- Assay Office/Laboratory (Smuggler Shaft)
- Sawmill Building (Smuggler Shaft)
- Compressor Houses (Smuggler Shaft and No. 2 Tunnel)
- Dry Room/Lamphouse (Clark Tunnel)
- Dry Room/Locomotive shop (No. 2 Tunnel)
- Ore house/Ore bins (No. 2 Tunnel - Clark Tunnel)
- Fan Shed (No. 2 Tunnel)
- Powder Magazine (No. 2 Tunnel)
- Ore house/Dry room (No. 3 Tunnel)

Other structures necessary to the operation of the mine will be built as needed including but not limited to a home for the owner and a watchman's quarters. All buildings constructed on the property will be designed and constructed in keeping with the historic character of the property.

C-3.4 Ore Processing

No significant ore processing will be done on-site for the foreseeable future. No milling facilities are anticipated at this time. Current economics dictate that ore be trucked off-site to an as yet to be determined processing facility not associated with Wright & Preusch Mining, Ltd., accordingly, minor crushing and screening to render the ore more transportable is a possibility. A small experimental assay furnace may be constructed and used to extract silver for local sale. This furnace will be located in the assaying and laboratory area. Air emission permits will be obtained for the furnace, as necessary.

~~No crushing or screening will be done on site.~~ The only chemicals will be those associated with the assay laboratory. Small quantities of diesel and gasoline used on site are stored in above-ground storage tanks and will continue to be stored and used on site.

When, if ever, it becomes advantageous to process ores on site, appropriate approvals will be applied for and the financial warranty for reclamation will be increased accordingly, as may be necessary.

C-3.5 Water Use and Quality

Small quantities of water are required for drilling and dust control in the mine. Water requirements for mining average approximately 10 gallons per ton of ore mined. For example, mining 10 tons of ore per day will require approximately 100 gallons of water per day. Water rights potentially attached to the mine are being researched. If no rights exist, application for appropriation of water in the lower levels of the mine is being contemplated as well as obtaining city water. In the meantime water will be purchased and trucked to the site. All applicable water laws and regulations governing injury to existing water rights will be followed.

Only those portions of the Smuggler mine above the water table will be mined and the mine

above the water table is dry. The small quantities of water used in the mine are mostly absorbed by the ore and removed from the mine with the ore and will not contaminate the surface or ground water. And, only experimental processing will be done on-site. Mining in this fashion and at this scale very effectively minimizes any potential impact to the hydrologic balance.

The top of Dump No. 2 will be regraded to drain runoff from the top of the dump away from the face of the dump and back into the natural slope. Portions of the toe of Dump No. 2 will be cribbed to contain the small amount of sediment from the face of the dump. The parking lot (surface of the main mine bench) will be graded to drain into the large depression in the main mine bench. The configuration of the existing mine waste dumps is stable as evidenced by the fact that none have slumped since the Smuggler mine ceased operations in 1920. Continuing to slowly expand the dumps in the same manner as they were constructed will provide a stable area consistent with the proposed future land use.

C-3.6 Security

The Smuggler mine site is currently fenced on the two sides most available to the public. The Master Plan and the Work Plan (EPA AOC – Exhibit 3) call for extending the fence to surround the entire lower portion of the Smuggler Mine Site and improving signage around the entire site. All existing mine openings have locked gates that meet or exceed agency standards for mine security. This practice will be followed for any additional openings created as the mine is rehabilitated. Public access to the property is prohibited and enforced. All roads entering the property have locked gates with warning signs. It is the intention that there be no public right-of-way or public access to any of the permit area except for guided, supervised tours.

C-3.7 Disturbed Area

The Smuggler mine is and will continue to be a small mine. The disturbed area within the permit boundary is presently 4.3 acres in extent. At a sustained rate of production of 10 tons of ore per day, the disturbed area is not projected to increase by more than 1 acre through the life of the mine. Disturbance associated with future construction of the mine is not considered to be mine related.

C-4.0 Life of the Mine

The regulations require an estimate of the date mining will commence and the number of years mining will continue. Within the framework of the above discussion, our response to that requirement is that mining will begin immediately upon issuance of the permit and last, it is estimated, for 50 years or as long as the site provides a viable land use and home site to the owner.

C-5.0 Soil Salvage

The disturbed area within the mine permit area is shown on Application Exhibit E, the Mining/Reclamation Map. The area disturbed has been so for the past 110 years with no significant alteration, except for mine waste removal, since the early 1920s. Historic photographs show the area of disturbance to be significantly greater than at present. All parts of the site except the active mining area have healed over the years. Historically no soil was salvaged and stockpiled, and no soil exists in the presently disturbed area.

The topsoils of the undisturbed area within the proposed 9.9 acre permit boundary (described in Application Exhibit B) are shallow and poorly developed, but the soil in the undisturbed area is the only on-site material available for salvage if and when it is disturbed. As indicated, the disturbed area is not projected to increase appreciably. When, and if, the mine expands into presently undisturbed areas within the proposed permit boundary, an average of one foot of soil will be stripped and stockpiled on site for future use in reclamation of the site.

The commitment to obtaining and applying an adequate depth of suitable growth medium for revegetation is discussed in more detail in Section D-4.0, Alternate Reclamation Plan.

EXHIBIT D RECLAMATION PLAN

Proposed reclamation of the Smuggler Mine is no less unique than the mine itself. The proposed reclamation will preserve the site in the public interest for future generations, allow continuation of public tours of the site, and provide for complete remedial action reclamation, if and when preservation and tours are no longer feasible.

The historic land use of the Smuggler Mine and its surrounding area was mining. More recently, the surrounding area land use has changed to residential and recreation. The primary land use of the Smuggler Mine has continued to be mining for the past 110 years, but an important secondary land use has been the mine tours.

D-1.0 Definition of Reclamation

One of the fundamental requirements of the Colorado Mined Land Reclamation Act is to reclaim mined land to a beneficial use. The beneficial use might be agricultural, residential, commercial/industrial, water storage, recreational, wildlife habitat, *etc.* Some beneficial uses include revegetation; some do not. When reclamation includes revegetation to a natural system it is defined as the activity implemented on a disturbed area that artificially initiates and accelerates the natural continuous trend toward ecological recovery (BROWN, 1982).

Mother Nature will reclaim a disturbed site, in time, without man's intervention. Some sites recover faster than others but all sites recover. Much of the mine-related disturbance around Aspen has recovered naturally. Man's intervention in the form of reclamation simply speeds up the recovery process. In most cases, a site will not return to the exact ecological composition it was before disturbance because slopes and other physical aspects have been changed by mining. The area will, however, recover and function in a manner ecologically similar to that prior to its disturbance.

The natural, continuous trend toward ecological recovery is initiated and accelerated by stabilizing the physical and biological aspects of disturbed land. Regrading and revegetation are the two basic reclamation activities that serve to stabilize the physical and biological aspects of the ecosystem.

D-2.0 Near Term Reclamation Measures

As indicated in Section C-3.5, some reclamation related activities will be implemented in the near term, *i.e.*, within the next 3 years. These measures will include: regrading the top of Dump No. 2 to drain back into the hill rather than over the face of the dump, and grading the parking lot on the main mine bench to drain into the large depression or "gloryhole" in the main mine bench.

D-3.0 Primary Reclamation Plan

The primary reclamation plan for the Smuggler Mine is to reclaim to the existing secondary land use of the site — a commercial historic attraction — reclamation to an historic attraction requires that the site be left as a mine although mining activities will cease. Fundamentally, reclamation will entail simply making the site more attractive to and hospitable for visitors. Following cessation of mining, unnecessary mining supplies on the site will be removed to improve site appearance. In the meantime, some peripheral revegetated areas will be enlarged, the fence will be extended around the entire permit area, and the driveway and parking lot will be graveled and dust suppressed by an EPA-approved allaying agent (Magnesium chloride). Mine tours will be conducted through accessible portions of the underground workings and certain of the buildings.

The Smuggler Mine was one of the most famous silver mines in Colorado and it remains as one of the few mines in the Aspen District not destroyed by change to residential or recreational uses. Because of this historic quality, the intent has long been to preserve and restore the mine. Much of the character of the surface features of the mine remains intact as well as many of the underground workings above the water table.

Small scale active mining and historic preservation are compatible at the site. Mining and rehabilitation activities will be conducted in a manner that will enhance the historic value of the property. The architecture of site buildings is representative of the late 1800s, and the architecture of new buildings will be the same. Where possible, period machinery will be installed and used. For example, a working steam engine may be installed to power a sawmill. Alternate energy sources will be solar, diesel or electric.

The fundamental objective of the primary reclamation plan is to preserve the Smuggler Mine site so it can remain as a monument to Colorado's hardrock mining industry. Reclamation to a commercial historic attraction will achieve that objective.

D-4.0 Alternate Reclamation Plan

When, and if, tourism is no longer a viable use of the property, the mine will be reclaimed in the conventional manner. This alternate commitment provides the state with a conventional reclamation plan for the entire site. The Alternate Reclamation Plan Costs (Section D-4.7) provide the basis for the financial warranty to ensure that reclamation will eventually be carried out.

The Alternate Reclamation Plan goal is to reclaim the site to Wildlife Habitat. One reason for selecting Wildlife Habitat is because this land use is conducive to any of a number of other potential future (*post* reclamation) uses of the property such as residential.

In reclaiming to Wildlife Habitat, all disturbed areas associated with the mine site will be physically stabilized, and all areas except the roads will be revegetated. Reclamation to Wildlife Habitat will entail the establishment of a stabilizing herbaceous (grass and forb) stand throughout

the site, for wildlife forage. Shrubs also will be planted in low densities throughout the site. Trees will not be planted because the site is mountain shrubland habitat.

As required by the Colorado Mined Land Reclamation Act, the vegetation will achieve a cover equal to or greater than that of the surrounding area. Grasses, and a properly inoculated nitrogen fixing legume, provide the foundation for accelerating the natural process of recovery, *i.e.*, reclamation. Specific species to be planted are discussed in Section D-4.3, Revegetation.

D-4.1 Grading, Erosion Control and Structure Removal

✓ Generally, final grading of cuts and fills in unconsolidated material will be to an undulating average slope of 2.0(h):1.0(v) or less steep to minimize erosion and facilitate establishment of vegetation. Sharp edges will be rounded and straight lines softened to provide contours visually and functionally compatible with the surrounding terrain. The portals will be backfilled, and where possible the dumps will be graded to 2:1 slopes.

The face of Dump No. 2 is at the angle of repose (approximately 1.2 or 1.3:1). Insufficient material exists on Dump No. 2 to reduce the slope beyond 2:1. Additional waste deposited on the dump over the next 10 or 20 years may allow the slope of the dump to be reduced to 2.5 or 3:1. Much of the material in Dump No. 3 has been regraded to the natural slope of the hill, which is approximately 2:1. The remainder of Dump No. 3 material can be readily regraded to similar contours leaving a relatively gentle hump extending down the hill.

The buildup of sediment loads and transport runoff from the reclaimed dumps will be minimized by the construction of interceptor ditches at intervals on the faces of the dumps. The objective is to allow for a reduced flow rate coming from any one drainage point. It is important that flow velocities during a major precipitation event not exceed ± 2 feet per second. Scouring of soil particles begins to occur at runoff velocities exceeding 2.5 to 3.0 feet per second. Interceptor ditches constructed at a grade of one-percent (1%) maintain velocities below scour velocity. Areas with slopes exceeding 40 percent (2.5:1) should have ditches spaced approximately every 25 vertical feet.

Interceptor ditches will be installed at a grade of one-percent (1%) on the faces of Dumps No. 2 and No. 3 to collect and route sheet runoff waters off of the dumps. Six interceptor ditches will be required across the face of Dump No. 3, and two ditches will be required across the face of Dump No. 2. The ditches will be constructed in a herring-bone pattern so each successive ditch will drain to an opposite side of the dump for dispersal into the naturally vegetated hillside.

Structures with no useful future function will be removed from the site. It is anticipated that some of the structures will have some salvage value.

D-4.2 Growth Medium

All of the area disturbed at the Smuggler Mine was disturbed years ago at a time when no soil was salvaged. The value of saving soil to aid reclamation was not recognized until recent years. Indeed, reclamation was not even recognized as advantageous until relatively recently — long after the disturbance had occurred at the Smuggler Mine.

Most areas can be revegetated with or without soil. Most barren, sterile, mine waste rock can be revegetated by amending with fertilizer, sewage or manure, *etc.*, and by providing relatively intensive maintenance. Although not present at the Smuggler Mine, bare acid tailings can be revegetated by liming, fertilizing, protecting from the wind, protecting against erosion, amending, and relatively intensive maintenance.

The principal ingredient that makes the most difference in the quality of vegetation produced by a revegetation effort is soil. Generally, any soil will provide two or three times the quality of vegetation achieved than when no soil is used. As little as three to four inches of soil makes a significant difference in the quality of vegetation, and the relative benefit of additional soil depth is a diminishing return. Better vegetation would be produced if 18 inches rather than 12 inches of soil were used in an ecosystem such as that at Smuggler Mine, but the difference in vegetative quality would be difficult to measure.

If future mining on the Smuggler Mine Site proceeds into presently undisturbed ground, soil will be salvaged from that land to a minimum depth of one foot. Salvaged soil will be stockpiled on site for future use in reclamation and salvaged soil stockpile(s) will be located separate from other stockpiles out of drainage ways and out of the way of mine related disturbances. Salvaged soil stockpiles will be revegetated temporarily to minimize loss due to wind and water erosion. No salvaged soil stockpiles are shown on Application Exhibit E, the Mining/Reclamation Map, because the anticipated amount of additional disturbance is minimal and the timing for expansion to presently undisturbed areas within the permit boundary is distant and uncertain.

Applicant realizes the importance of soil to the success of revegetation. As indicated, there is no on-site soil available to reclaim the presently disturbed area. Therefore, Applicant will obtain sufficient soil from off-site to cover the existing disturbed area to a depth of one foot. That depth of soil will provide good quality vegetation within the limits of economic reasonableness.

The soil will be of an equivalent quality to that which presently exists in the undisturbed areas of the permit. As discussed in Section B-3.0, the undisturbed soils are not quality topsoils. The existing soils are rocky glacial, alluvial, and colluvial derived soils. If, for example, at the time of reclamation, glacial till subsoil can be obtained, but is not of the same quality as the undisturbed soils in the permit area, 11 inches of till might be amended with one inch of topsoil to effect a quality equivalent to the existing undisturbed soils on site. Alternatively, a glacial till material might be amended with compost such as that being produced by Pitkin County.

D-4.3 Revegetation

Revegetation to Wildlife Habitat will be initiated as quickly as practical after regrading. Revegetation as described below will stabilize the growth medium and provide a permanent, self-sustaining vegetative community within two to three years. The resulting vegetation will be appropriate for use by wildlife and will provide for natural invasion and succession through time.

The aspect of the site is generally west-southwest, and the seed mix (TABLE 2) was selected for this aspect, slope, ecosystem and post-mining land use.

All but two of the species in the mix are natives. The value of Alsike clover is its soil building properties. During its longevity, the clover will fix nitrogen and accelerate the re-establishment of the nutrient cycle in the soil. The fescues are included in the mix because both are adapted to this ecosystem and some of the leaves remain green through the winter months for wildlife. The wheatgrass, ricegrass, and needlegrass are common to the surrounding area and provide excellent cover and forage.

TABLE 2. SEED MIX

<u>Common Name</u>	<u>Scientific Name</u>	<u>Variety</u>	<u>Lbs pls¹/Ac</u>
Sheep fescue	<i>Festuca ovina</i>	Covar	4
hard fescue	<i>Festuca longifolia</i>	Durar	3
Western wheatgrass	<i>Agropyron smithii</i>	Arriba	8
Indian ricegrass	<i>Oryzopsis hymenoides</i>	Nezpar	9
Sandberg bluegrass	<i>Poa sandbergii</i>	Newport	4
Mountain brome grass	<i>Bromus Marginatus</i>	Bromar	6
Letterman needlegrass	<i>Stipa lettermanii</i>		7
Alsike clover ²	<i>Trifolium hybridum</i>		4
		Total	45

¹ "pls" means "pure live seed".

² The legume will be properly inoculated.

The seed mixture will be broadcast at the above pure live seed (pls) rate per acre on all areas to be revegetated. Should any of the species not be commercially available at the time, other appropriate species will be substituted. If an initial seeding fails, the area will, of course, be reseeded.

Shrub seedlings to be out-planted will include Serviceberry (*Amelanchier alnifolia*), Buffaloberry (*Shepherdia canadensis*), Antelope bitterbrush (*Purshia tridentata*), and Red elderberry (*Sambucus racemosa*). Sage is expected to reinvade the area fairly rapidly. No trees will be planted.

The mixture of shrub seedlings will be planted in clumps of 40 on about 5 foot centers, at a density of 5 clumps per acre. Approximately 50 percent survival of the shrubs is anticipated in this ecosystem. Seedlings will be planted by clearing the immediate area of other potentially competing growth and by creating a depression to collect water.

D-4.4 Fertilization

Fertilizer requirements will be determined by laboratory analysis of the growth medium. As with other similar areas in the Rockies, the fertilizer requirement of the soils is expected to be 20-20-10 (N-P-K) or equivalent, to be applied at the approximate rate of 100 pounds per acre at the time of seeding. One application of maintenance nitrogen fertilizer may be necessary, depending on the overall quality of the growth medium. The most appropriate form of nitrogen fertilizer in this environment is 33-0-0 (N-P-K) applied at the approximate rate of 100 pounds per acre.

D-4.5 Seedbed Preparation, Mulching and Planting Times

The growth medium will be left rough to provide a suitable seedbed. Compacted areas will be ripped or scarified (as necessary) prior to seeding. Straw or hay mulch, jute mesh, excelsior blanket, or other similar products will be used as an aid to revegetation on steep slopes. Flat areas may be planted without mulch. The mulching rate (if hay or straw) will be 2 tons per acre. Weed control is not anticipated to be a problem. However, if weeds do become dominant, they will be sprayed or otherwise controlled in accordance with county and state requirements and recommendations. Seeding during the spring or fall is preferred, but may be done any time during the growing season in this ecosystem.

D-4.6 Site Specific Reclamation

The site is small but can be divided into three separate reclamation components:

- No. 3 Portal and Dump,
- No.2 Portal and Dump (including the Clark Tunnel), and
- Main mine bench.

General reclamation activities were discussed in Sections D-4.0 through D-4.5 and are reiterated below on a site specific basis.

No. 3 Tunnel Portal and Dump – 1.3 acres

The only "structure" on Dump No. 3 is the water tank. The water tank will be removed from the site. The tank will probably be pulled down to Dump No. 2, loaded on a truck, and trucked off the site. Ample material exists on Dump No. 3 to backfill the No. 3 Tunnel portal to near natural contours. Dump No. 3 will be regraded. No significant slope reduction will be necessary because the grade of most the dump is already similar to the natural slope of the hill. The final configuration of the dump will be a hump extending down the hill.

It is anticipated that a backhoe will be used around the fringe of the disturbed area on Dump No. 3 because a backhoe can pull material back with a minimum of additional disturbance. A dozer will be used for the remainder of the work to smooth and grade the dump to blend with the natural hillside within the limits of the material. Access to the top of the Dump No. 3 is available from the Smuggler Mountain Road and a sufficient amount of material to cover the mine waste with one foot of growth medium will be hauled and spread downward from the top of Dump No. 3. Six interceptor ditches will be installed as described in Section D-4.1 and the area will be revegetated and fertilized as described in Sections D-4.3, D-4.4, and D-4.5. The road to No. 3 Tunnel portal will be left intact for access.

No. 2 Tunnel Portal and Clark Tunnel, and Dumps – 0.8 acres

Structures without a proven future use will be salvaged and removed from the site. Material from the dumps will be used to backfill the portals to near natural contours. The dumps will then be graded off to an average of 2:1. A dozer is appropriate for this work because most of this material simply must be moved downward onto the main mine bench. As with Dump No. 3, the existing access road can be used to haul one foot of soil material to the tops of the dumps and the material can be pushed down the regraded dump faces. Two interceptor ditches will be installed and the area will be revegetated as described in Sections D-4.3, D-4.4, and D-4.5. The road to the top of Dump No. 2 will be left intact for access.

Main mine bench – 2.2 acres

The structures occupying the main mine bench will be salvaged and removed; the Smuggler Shaft will be capped; a sufficient quantity of soil material will be hauled and distributed to a depth of one foot throughout the unvegetated portions of the site; and, the site will be revegetated as described in Sections D-4.3, D-4.4, and D-4.5. No additional grading of the main mine bench will be required because drainage will be routed to the depression in the bench. The driveway into the site will be left intact for access to the site and to the road accessing upper portals.

D-4.7 Alternate Reclamation Plan Costs

Cost estimates of the major reclamation activities are calculated and presented in Spreadsheets 1 through 5, below, and site specific costs are compiled and totaled in Spreadsheet 6.

The cost calculations provide an estimate of the cost to reclaim all mining related disturbances assuming a worst case situation wherein the reclamation is contracted to an independent third party. The calculations are illustrated in the following series of spreadsheets.

SPREADSHEET 1 details the cost of reducing the slopes of the Clark and No. 2 Tunnel mine dumps;

SPREADSHEET 2 details the cost of purchasing, transporting, and distributing growth medium on the disturbed area;

SPREADSHEET 3 estimates the cost of the seed mix for revegetation;

SPREADSHEET 4 estimates the cost of revegetating;

SPREADSHEET 5 estimates the cost of ripping the main mine bench prior to revegetating; and

SPREADSHEET 6 compiles the activities and costs on a site by site basis, and totals all costs.

The estimate is the cost in 1993 dollars to reclaim all mine related disturbances, except roads which will be left in place for access throughout the site. Most of the equipment production values, etc., are taken from the latest edition of the CATERPILLAR PERFORMANCE HANDBOOK. The equipment costs are estimated unit contract costs including operator, fuel, supervision, fringe benefit, insurance, maintenance, supervision, and profit costs for the Aspen area.

Slope Reduction

The only significant slope reduction necessary during reclamation will be reducing the slopes of the dumps below the No. 2 Tunnel and the Clark Tunnel. As discussed, the slopes will be reduced from the existing approximately 1.3:1 to an average grade of 2:1. The existing dump cannot be reduced to a slope gentler than 2:1 because the quantity of material is not sufficient. More waste added to the dump through the years will allow the slope to be reduced to 2.5 or 3:1.

In slope reduction, the volume of material to be moved is the area of a slice multiplied by the length of the slope. The costs presented in Spreadsheet 1 assume the use of a D8N with a straight blade. A U-blade would be more efficient, but the costs assume that a U-blade will not be available. Other cost factors have also been rounded upwards to provide a liberal cost estimate.

SPREADSHEET 1. SLOPE REDUCTION, CLARK AND NO. 2 DUMPS

	<u>D8N-S</u>
Avg. height	60 ft.
Avg. dozing distance	80 ft.
Base production	650 cu yd/hr
Correction factors:	
Avg operator	0.75
Blasted rock	1.2
Slot dozing	1.0
Efficiency	0.8
Grade	1.7
Corrected production	796 cu yd/hr
Length of dump	240 ft
cu. yd./lineal ft.	12.6
Volume of material	3,024 cu yd
Dozer time	3.8 hrs.
Dozer (Hourly rate)	<u>\$135</u>
Slope Reduction Total	\$513

As indicated, the above estimate is liberal. However, this value is rounded up in Spreadsheet 6 to cover the cost of backfilling the portals and to assure that the overall bond is more than adequate to cover the cost of reclamation.

Regrading

Dump No. 3 is the only area that will require regrading. Dump No. 3 is already at the approximate slope of the hillside and will therefore be regraded rather than reduced. It is anticipated that most of the work will be done with a medium sized tracked backhoe such as the Cat 213B LC. Pulling in Dump No. 3 and backfilling Tunnel No. 3 are liberally estimated to require 2 days of backhoe work at \$90 per hour (all costs) and 1 day of D8 dozer aid at \$135 per hour for a total cost of approximately \$2,520. This value has also been rounded upward in Spreadsheet 6.

Interceptor Ditches

Dumps No. 3 and No. 2 will require the installation of approximately 1,000 feet and 480 feet (respectively) of interceptor ditches. The ditches initially will be surveyed and staked. Installation will be done by hand because of the relatively steep slopes. The ditches will be about 2 feet wide

and 6 inches deep. It is estimated that a laborer can comfortably install 300 feet of ditch per day because the material will not be compacted. Dump No. 3 interceptor ditches are estimated to cost \$700, and Dump No. 2 interceptor ditches are estimated to cost \$400, including surveying and staking. These values also have been rounded up in Spreadsheet 6.

Shaft Capping

The Smuggler Shaft, located on the main mine bench, will be capped, covered with growth medium, and revegetated in the same fashion as the remainder of the site. The shaft is too deep for backfilling to be effective. Therefore, a reinforced concrete cap will be designed and constructed in accordance with specifications acceptable to the Mined Land Reclamation Division. In its present configuration, slope reduction of Dump No. 2 will not extend to and cover the shaft. If additional material is added to the dump through the life of the mine such that slope reduction will cover the shaft, the cap will be designed to handle the weight of the material placed over it.

Capping this type of shaft typically costs in the range of \$2,500 to \$6,000. \$6,000 is allocated for this item in Spreadsheet 6.

Growth Medium

The off-site source of material to cover the site will not be selected until The Alternate Reclamation Plan is initiated. The cost estimate presented in Spreadsheet 2 assumes that the material will be purchased four miles from the mine. The growth medium will be hauled to the site, dumped, and spread down the slopes with the aid of a dozer.

SPREADSHEET 2. GROWTH MEDIUM (PER ACRE)

	<u>Value</u>	<u>Unit</u>
Purchase Growth Medium	\$0.70	/cu yd
Quality @ 1 foot depth	1.613	cu yd/ac
Purchase	\$1,129	/ac
Haul Growth Medium		
Avg haul distance, one way	4	miles
Avg capacity	10	cu yds
Wait & load time	3.0	min.
Travel time loaded	15.0	min.
Maneuver & dump time	3.0	min.
Travel time empty	12.0	min.
Cycle time	33.0	min.
Cycle time @ 80% efficiency	41.3	min.

SMUGGLER MINE SITE

EXHIBIT D

Avg. depth	1.0	ft
Material/acre	1,613	cu yds
Loads/acre	161	
Truck time/acre	111	hrs/ac
Truck	<u>\$65</u>	<u>/hr</u>
Haul	\$7,208	/acre
Load Material		
Loader time/acre (5 trucks)	22.2	hrs/acre
Loader rate	<u>\$75</u>	<u>/hr</u>
Load	\$1,663	/acre
Distribute Growth Medium (D8)		
Dozer time/acre	22.2	hrs/acre
Dozer rate	<u>\$135</u>	<u>/hr</u>
Distribute	\$2,994	/acre
Growth Medium Total	\$12,995/ac = \$8.06/cu yd	

Seed Mix

Current costs of the species in the seed mix discussed in Section D4.3 are presented in Spreadsheet 3.

SPREADSHEET 3. SEED MIX

Species		pls lbs <u>/acre</u>	Total lbs <u>/acre</u>	<u>\$/lb.</u>	<u>\$/acre</u>
Sheep fescue	<i>Festuca ovina</i>	4.0	4.8	\$3.45	\$16.56
Hard fescue	<i>Festuca longifolia</i>	3.0	3.6	\$2.30	\$8.28
Western wheatgrass	<i>Agropyron smithii</i>	8.0	9.6	\$4.00	\$38.40
Indian ricegrass	<i>Orzopsis hymenoides</i>	9.0	10.8	\$8.70	\$93.96
Sandberg bluegrass	<i>Poa sandbergii</i>	4.0	4.8	\$4.50	\$21.30
Mountain brome grass	<i>Bromus marginatus</i>	6.0	7.2	\$1.65	\$11.88
Letterman needlegrass	<i>Stipa lettermani</i>	7.0	8.4	\$5.75	\$48.30
Alsike clover	<i>Trifolium hybridum</i>	<u>4.0</u>	<u>4.8</u>	\$0.70	<u>\$3.36</u>
Total (broadcast rate)		45.0	54.0		\$242.00

The conversion from total to "pls" (pure live seed) pounds per acre assumes an overall average for all species of 83 percent germination.

Revegetation Costs

The average cost (per acre) to revegetate this site is presented in Spreadsheet 4.

SPREADSHEET 4. REVEGETATION (PER ACRE)

	<u>Labor</u>	<u>Equip</u>	<u>Material</u>	<u>Total</u>
Seedbed preparation	\$50			\$50
Mulch @ 2 Ton/acre	\$100	\$60	\$200	\$360
Initial fertilization (100 lbs)	\$15	\$10	\$60	
Seeding	\$15	\$10	\$242	\$267
Maint. fertilization (100 lbs)	\$15	\$10	\$35	\$60
Weed control	\$40	\$20	\$50	\$110
Shrubs	\$100	\$10	\$200	\$310
Cost per acre				\$1,217

Ripping

The main mine bench will be ripped because of the compaction caused by cars through the years.

SPREADSHEET 5. RIPPING (24" DEPTH±)

	<u>Value</u>	<u>Unit</u>
D8N, 3 shank, gauge	7.1	Ft
Ripping width	10.0	Ft
Avg speed 1 mph	8.8	Ft/min.
Length of avg pass	200	Ft
Travel time	2.3	Min.
Maneuver time	0.4	Min.
Total Cycle time	2.7	Min.

@ 80% efficiency	3.3	Min/pass
Passes per acre	21.8	passes/ac.
2 passes required	43.6	passes/ac.
Time per acre	2.4	hours/ac.
Dozer rate	<u>\$135</u>	/hr
	\$327	/acre

Site Specific and Total Reclamation Costs

The cost of each activity is compiled on a site by site basis and totaled in the following spreadsheet.

SPREADSHEET 6. SITE SPECIFIC AND TOTAL RECLAMATION COSTS

<u>Direct Costs</u>	<u>Acres</u>	<u>Amount</u>	<u>Totals</u>	<u>\$/Acre</u>
No. 3 Dump & Portal:				
Tank removal		\$1,000		
Reshape		\$3,000		
Growth medium	1.3	\$16,893		
Interceptor ditches		\$1,000		
Revegetate	1.3	<u>\$1,583</u>	\$23,476	\$18,058
No. 2 Dump & Portals:				
Structure removal		\$2,000		
Slope reduction		\$1,000		
Growth medium	0.8	\$10,396		
Interceptor ditches		\$500		
Revegetate	0.8	<u>\$974</u>	\$14,870	\$18,587
Main mine bench:				
Structure removal		\$4,000		
Cap shaft		\$6,000		
Rip	2.2	\$720		
Growth medium	2.2	\$28,588		
Revegetate	2.2	<u>\$2,678</u>	<u>\$41,987</u>	<u>\$19,085</u>
Subtotal Direct Costs			\$80,332	\$18,682
Indirect Costs:				
Mobilization		\$2,000		

Administration, etc. (16%)	\$12,853		
Contingency (10%)	<u>\$8,033</u>	<u>\$22,886</u>	
Total Reclamation Costs		\$103,219	\$24,004

The above estimated reclamation cost is the cost to reclaim the mine to wildlife Habitat as described in the Alternate Reclamation Plan. A financial warranty of this amount will be submitted to the Colorado Mined Land Reclamation Board after approval of the application and prior to issuance of the Reclamation Permit. The financial warranty will be updated if the area of disturbance expands or if reclamation economics change.

EXHIBIT E
MINING/RECLAMATION MAP

The Mining/Reclamation Map is located in a pocket at the end of the application.

The names of the adjacent property owners and owners of surface rights within 200 feet of the permit boundary are shown on Application Exhibit E.

The addresses of the adjacent property owners, owners of surface rights within 200 feet of the permit boundary, and the owner of the substance to be mined (Smuggler-Durant Mining Corporation), as shown on Exhibit E, are:

Wright & Preusch Mining, Ltd.
c/o Gary A. Wright, Esq.
201 North Mill St., Suite 106
Aspen, CO 81611

Centennial-Aspen Apartments
100 Luke Short Court
Aspen, CO 81611

Pitkin County
Attention: John M. Ely, Esquire
Assistant Pitkin County Attorney
530 E. Main Street, 3rd Floor
Aspen, CO 81611

Grafton and Phyllis Smith
0187 Lupine Drive
Aspen, CO 81611

Salvation Ditch Co.
Attention: Mr. Michael Craig
P.O. Box 18
Woody Creek, CO 81656

[Markel/Williams Ranch entity]

EXHIBIT F
LIST OF OTHER PERMITS AND LICENSES REQUIRED

Clean Water Act

As explained in Exhibit C, there will be no discharge of fluids from the site, therefore, no discharge permit will be required.

Clean Air Act

If necessary, an air emissions permit will be applied for when and if an experimental assay furnace is set up.

NRA License

Ores produced from the Smuggler Mine are not significantly radioactive, therefore, a Radioactive Source Materials license will not be necessary.³

Sec. 404 Permit

There are no wetlands within the proposed permit boundary, therefore, a U.S. Army Corps of Engineers' Section 404 permit will not be necessary.

Dam Permit

No dams or impoundments are proposed, therefore, a dam permit will not be required.

Well Permit

Water requirements at the mine are minimal. Depending on the results of the search for valid water rights associated with the mine, application may be made for a well permit (or other water rights) for use of the ground water deep in the mine. Until use of the ground water is validated or approved, water will be obtained (without jeopardizing the water rights of any other entity) from off-site and hauled to the mine.

Access Permit

Access to and from the Smuggler Mine site is via the Smuggler Mountain Road (County

³ The Smuggler Mine was studied and reported on in F. S. BOYD, JR. & C. P. BROMLEY, RECONNAISSANCE OF THE ASPEN AEA, INCLUDING THE SMUGGLER MINE, PITKIN COUNTY, COLORADO, REPORT NO. RME-4031 (U.S. ATOMIC ENERGY COMMISSION 1953). This 1953 AEC Report is summarized in the COLLINS BIBLIOGRAPHY.

Road) which abuts the property. This is presently authorized and no other access permits will be required.

BLM/Forest Service Permits

All of the land in the Smuggler Mine site is private. Therefore, no U.S. Forest Service or Bureau of Land Management permits or plans of operations will be required.

Zoning

Pitkin County has zoned this private land AF-1. The mining and related uses of the Smuggler Mine site ante-date Pitkin County zoning regulations by decades. Significant new mining activities in this zone district may be governed by the Pitkin County's Land Use Code at § 3-3.36. Mining is a use permitted only by special review under the Land Use Code. Since the Limited Impact Permit does not seek to change or increase the present, pre-existing uses no permits or approvals are now required from Pitkin County.

EXHIBIT G
SOURCE OF LEGAL RIGHT-TO-ENTER

Wright & Preusch Mining, Ltd. is the sole owner of all mineral to be mined and all surface lands to be affected within the permit boundary shown on Exhibit E, the Mining/Reclamation Map. The basis of Wright & Preusch Mining, Ltd.'s source of legal right-to-enter and conduct mining and reclamation on the site is a general warranty deed, between Smuggler-Durant Mining Corporation, as grantor, and Wright & Preusch Mining, Ltd., as grantee, dated January 25, 1995, and recorded January 26, 1995 as Reception No. 378435 in Book 772 at page 660 in the Office of the Clerk and Recorder, Pitkin County, Colorado. The following statement, acknowledged by a notary public, attests that Wright & Preusch Mining, Ltd. has the legal right-to enter and conduct mining and reclamation on the Smuggler Mine Site.

I hereby attest that Wright & Preusch Mining, Ltd., as the owner of the Smuggler Mine Site, has the legal right to enter and mine all lands within the permit boundary shown on Exhibit E, the Mining/Reclamation Map, by virtue of the foregoing general warranty deed.

Gary A. Wright — ST
~~President~~, Wright & Preusch Mining,
Ltd., a Colorado corporation

Subscribed and sworn to before me this _____ day of _____, 1995.

Witness my hand and official seal.
My commission expires:

Notary Public

EXHIBIT H
MUNICIPALITIES WITHIN A TWO-MILE RADIUS

The Smuggler Mine Site is adjacent to the city limits of the City of Aspen, Colorado. The address, telephone number and suggested contact for the City of Aspen is:

Tom Dunlop
Environmental Health Department
130 South Galena Street
Aspen, CO 81611
303-925-2020

EXHIBIT I
PROOF OF FILING WITH COUNTY CLERK

The attached receipt shows the date on which the application was filed with the local county clerk and recorder.



EXHIBIT J
PROOF OF MAILING NOTICES OF PERMIT APPLICATION

The Notices of Filing Permit Application forms were completed and sent to the following entities, and date stamped receipts for each are attached.

Pitkin County Board of Commissioners
Attention: John M. Ely, Esquire
Assistant Pitkin County Attorney
530 E. Main Street, 3rd Floor
Aspen, CO 81611

Board of Supervisors
Bookcliff Soil Conservation District
P.O. Box 1302
Glenwood Springs, CO 81602

The names and addresses of the adjacent property owners and owners of surface rights within 200 feet of the permit boundary, as shown on Exhibit E, are:

Pitkin County
Attention: John M. Ely, Esquire
Assistant Pitkin County Attorney
530 E. Main Street, 3rd Floor
Aspen, CO 81611

Grafton and Phyllis Smith
0187 Lupine Drive
Aspen, CO 81611

Gary A. Wright, Esq.
Wright & Preusch Mining, Ltd..
201 North Mill St., Suite 106
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Centennial-Aspen Apartments
100 Luke Short Court
Aspen, CO 81611

Salvation Ditch Co.
Attention: Mr. Michael Craig
P.O. Box 18
Woody Creek, CO 81656

[Markel/Williams Ranch entity]

A copy of the Permit Application has also been sent to the following contact person at the Colorado Historical Society for review.

Ms. Barbara Norgren
Colorado Historical Society
1300 Broadway
Denver, CO 80203

REFERENCES

- BROWN, LARRY F., RECLAMATION AND TOPSOIL USE, 68 AMERICAN MINING CONGRESS JOUR. 48-52 (1982).
- FRED C. HART & ASSOCIATES, INC. REMEDIAL INVESTIGATION/ FEASIBILITY STUDY, SMUGGLER MOUNTAIN SITE, ASPEN, PITKIN COUNTY, COLORADO (1986).
- CLASSIFICATIONS & NUMERIC STANDARDS FOR UPPER COLORADO RIVER BASIN & NORTH PLATTE RIVER (PLANNING REGION 12) (WATER QUALITY CONTROL COMM'N, COLO. DEPT. OF HEALTH, 1993).
- PITKIN COUNTY CODE, as amended, Pitkin County, Colorado, Title II, Land Use, 250 pages.
- U.S.D.A. Soil Conservation Service Soil Reconnaissance, SURVEY OF THE ASPEN-GYPSUM AREA, COLORADO (MAY 1992). 260 pages.
- U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII, RECORD OF DECISION, SMUGGLER MOUNTAIN, PITKIN COUNTY, COLORADO (SEPT. 1986).
- U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII, SOIL CLEANUP OF SMUGGLER MOUNTAIN SITE, EXPLANATION OF SIGNIFICANT DIFFERENCES (MARCH 1989).
- U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII, SOIL CLEANUP OF SMUGGLER MOUNTAIN SITE, ASPEN-PITKIN COUNTY, COLORADO, EXPLANATION OF SIGNIFICANT DIFFERENCES (MAY 16, 1990).
- U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII, EXPLANATION OF SIGNIFICANT DIFFERENCES, SMUGGLER MOUNTAIN OPERABLE UNIT 1, ASPEN, PITKIN COUNTY, COLORADO (JUNE 1993).
- U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII, ACTION MEMORANDUM, REQUEST FOR NON-TIME CRITICAL REMOVAL ACTION APPROVAL AT THE SMUGGLER MOUNTAIN SUPERFUND SITE OPERABLE UNIT 2 (OU2) IN PITKIN COUNTY, COLORADO (APRIL 19, 1995).
- ADMINISTRATIVE ORDER ON CONSENT FOR REMOVAL ACTION, between U.S. Environmental Protection Agency, Region VIII, and Wright & Preusch Mining, Ltd., entered in EPA Docket No. CERCLA VIII-95-07, May 8, 1995.

NATIONAL HISTORIC PRESERVATION ACT, 16 U.S.C. §§ 470 *et seq.*

COLORADO REGISTER OF HISTORIC PLACES ACT, 10B COLO. REV. STAT. §§ 24-80.1-101 through -108 (1988 Repl. Vol.).

RULES & PROCEDURES, STATE REGISTER OF HISTORIC PLACES (COLORADO), 8 CCR 1504-5.

COLLINS, BRUCE A., **SUMMARIZED & ANNOTATED BIBLIOGRAPHY OF GEOLOGY & DEVELOPMENTAL HISTORY OF ASPEN MINING DISTRICT, ASPEN, COLORADO, WITH PARTICULARLY EMPHASIS ON THE SMUGGLER MINE** (UNPUBLISHED 1994). ("COLLINS BIBLIOGRAPHY").

CATERPILLAR PERFORMANCE HANDBOOK [etc.]



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PITKIN COUNTY PRE-APPLICATION CONFERENCE SUMMARY

PROJECT: Smuggler Mine Conceptual Subdivision Submission, Code Amendment, Special Review, Subdivision Exemption to Create Parcels for Community Facilities, GMQS Exemption, Historic Designation and Benefits, Activity Envelope and Site Plan and Scenic Review

LOCATION: Smuggler Mine

PID# 273707100007

OWNER: New Smuggler Mine Corporation

Phone: 925-2323

REPRESENTATIVE: Clauson & Assoc.

PLANNER: Ezra Louthis, 920-5092

DATE: May 8, 2007

Type of Application: Conceptual Subdivision Submission, Code Amendment, Special Review, Subdivision Exemption to Create Parcels for Community Facilities, GMQS Exemption, Historic Designation and Benefits, Activity Envelope and Site Plan and Scenic Review

Description of Project/Development: The Applicant is requesting a Code Amendment in order to exempt the Historic Site from the density reduction for slopes in excess of 45% in order to allow the parcel to be subdivided into three parcels; two residential parcels and one historic parcel to preserve the mine. The Applicant is also requesting 9 TDRs from the site via the Historic Benefits Section of the Code and use the TDRs on the two residential parcels in order to build two 15,000 square foot residences.

Land Use Code Sections to be addressed in letter of request (application):

Sec. 2-30-20(g): Activity Envelope Criteria for Approval;
 Sec. 2-30-20(g)(2): Administrative Review Procedure – Site Plan Criteria for Approval;
 Sec. 2-30-30(h): One-Step Special Review Criteria for TDR Receiver Site (new development);
 Sec. 2-30-30(h)(4): Subdivision Exemption to Create Parcels for Community Facilities;
 Sec. 2-40-10: Code Amendment;
 Sec. 2-40-30: TDR;
 Sec. 2-40-50: Subdivision and PUD Review;
 Sec. 6-30-50: GMQS Exemption for use of TDRs (new development);
 Sec. 6-30-100: GMQS Exemption for legally created parcels;
 Sec. 7-10-50: Activity Envelope;
 Sec. 7-20-20: Steep and Potentially Unstable Slopes;
 Sec. 7-20-20(e) 2-10: Grading;
 Sec. 7-20-30: Water Courses and Drainage;
 Sec. 7-20-60: Wildfire Hazard;
 Sec. 7-20-70: Wildlife Habitat;
 Sec. 7-20-100(b)(2): Pitkin County Historic Register;
 Sec. 7-20-100(f): Historic Benefits;
 Sec. 7-20-120(d and e): Standards for Scenic View Protection Areas;
 Sec. 7-20-130: Landscaping and vegetation Protection;
 Sec. 7-30: Roads, Driveways and Parking
 Sec. 7-50: Public Services and Utilities

Staff will refer the application to the following agencies: City of Aspen, AFPD, Historic Officer, CDOW, Planning Engineer, Environmental Health & Natural Resources, Geologic Survey, Zoning, East of Aspen Caucus, ACSD, City Water

Review by: P&Z, BOCC

Public Hearing: Yes, at the BOCC. The Applicant shall post a public notice sign on the property at least 15 days prior to the date specified pursuant to Sec. 2-20-100(a)(3) of the Land Use Code. In addition, the Applicant shall mail notice (by certified mail) to all adjacent property owners and mineral estate owners with the return address of the Community Development Department (form of notice to be obtained from the Community Development Department). The names and addresses shall be those on the current tax records of Pitkin County, as they appear no more than 60 days prior to the date of the public hearing. A property owner receiving the public notice shall have 2 weeks from the date the notice was postmarked to submit comments or objections to the Community Development Department.

FEES: \$10,893 (make check payable to "Pitkin County Treasurer")

- Planning Office flat fee: **\$9,471** (non-refundable; based on 41 hours of staff time; if staff review time exceeds 49.2 hours, the Applicant will be charged for additional time above 41 hours at a rate of \$231/hour)
- Planning Engineer Fee: **\$462**
- Env. Health: **\$600**
- Clerk Fee: **\$310**
- **\$50** Publication Fee
- **There will be a separate fee for the Geologic Survey**

To apply, submit 26 copies of the following information, unless noted otherwise:

1. Summary letter explaining the request, providing background on prior approvals and permits, and addressing compliance with the Code sections listed above.
2. 24" by 36" Site Plan as designated in Section 2.1.1 and 2.1.12 of the Pitkin County Land Use Application Manual;
3. Designation to the Historic Register as provided in Section 2.2.2 of the Pitkin County Land Use Application Manual;
4. Written statement for the Code Amendment as designated in Section 2.3.3 of the Pitkin County Land Use Application Manual;
5. Conceptual Subdivision requirements as designated in Section 2.6.1 of the Pitkin County Land Use Application Manual;
6. Wildfire Hazard Analysis and Mitigation Report from a County certified wildfire expert (optional);
7. Specific plan for the preservation and enhancement of the mine site;
8. Scenic View Protection Exhibits as designated in Section 2.1.12 of the Pitkin County Land Use Application Manual;
9. How and when parcel was created;
10. Certificate of non-merger;
11. Proof of ownership of subject property;
12. Parcel description, including legal description and vicinity map;
13. Total fee for review of the application;
14. Signed fee agreement (1 copy);
15. Consent from owner(s) to process application and authorizing the representative, if applicable (1 copy);
16. List of all adjacent property owners (1 copy);
17. Copy of this preapp form.

NOTES:

- *PLEASE SUBMIT ONE UNBOUND AND ONE-SIDED COPY OF YOUR COMPLETE APPLICATION.
PLEASE SUBMIT TWO-SIDED COPIES OF ALL REMAINING COPIES OF YOUR APPLICATION (IF*

POSSIBLE). THE PARCEL IDs SHOULD BE INCLUDED ON ALL DOCUMENTS INCLUDED IN YOUR APPLICATION.

- ALL MAPS SHALL BE FOLDED.
- ONE COPY SHALL HAVE ALL DOCUMENTS AT NO GREATER THAN 8 1/2" BY 11".
- *This pre-application conference summary is advisory in nature and not binding on the County. The information provided in this summary is based on current zoning standards and staff's interpretations based upon representations of the applicant. Additional information may be required upon a complete review of the application.*