551 Hot Springs Boulevard
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TOWN COUNCIL SPECIAL MEETING
AGENDA
FRIDAY, MARCH 27, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
7:30 a.m.

I. CALL MEETING TO ORDER

II. PUBLIC COMMENT

III. NEW BUSINESS

1. **Approving State Historic Fund Grant Applications Submissions for Historic Water Works Property Located at 96 1st Street and Possibly Appropriating Funds from Reserves**
2. **Awarding Contract for 200 Block Sidewalk Project and Possibly Appropriating Funds from Reserves**
3. **Approval of Types of Marijuana Establishments (Retail / Medicinal)**
4. **Approval of Dual Operations (Retail and Medicinal Marijuana at Same Location)**
5. **Approval of Location of Retail and/or Medicinal Marijuana Cultivation Operations**
6. **Approval of Retail and/or Medicinal Location Restrictions**

IV. OLD BUSINESS

1. **Consideration of Providing Enhanced Economic Development Incentives to Potential Downtown Retail Establishment**
   - **Potential Executive Session pursuant to C.R.S Section 24-6-402(4)(e) Determining Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators Regarding Providing Enhanced Economic Development Incentives to Potential Downtown Retail Establishment**
   - **Consider Approval of Economic Development Agreement**
2. **Resolution No. 2015-06, A Resolution of the Geothermal Heating Utility Enterprise Approving the Costs Associated with the Installation of Geothermal Energy Facilities and Service as Contained in the Economic Development Agreement**

V. PUBLIC COMMENT

VI. COUNCIL IDEAS AND COMMENTS

VII. NEXT TOWN COUNCIL MEETING APRIL 7, 2015 AT 5:00PM

Public comment and agenda comment item sign-up sheets are available at meeting
Copies of proposed Ordinances and Resolutions are available to the public from the Town Clerk

VIII. ADJOURNMENT

Don Volger
Mayor

AGENDA DOCUMENTATION

NEW BUSINESS:III.1

PAGOSA SPRINGS TOWN COUNCIL
MARCH 27, 2015

FROM: JAMES DICKHOFF, PLANNING DIRECTOR

PROJECT: APPROVE STATE HISTORICAL FUND GRANT APPLICATIONS SUBMISSIONS FOR THE HISTORIC WATER WORKS PROPERTY LOCATED AT 96 1ST STREET AND POSSIBLY APPROPRIATING FUNDS FROM RESERVES.
ACTION: DISCUSSION AND POSSIBLE ACTION

BACKGROUND

In 2014, the Town Building Official raised a concern over the sutural integrity and safety issues of the historic water treatment facility and stone bridge located at 96 1st Street. This property is owned by the Town and leased to the San Juan Historical Society Museum. The Town Manager at the time approved the streets department to install a fence as a means to keep youth from accessing the property. This issue has also been a concern of some of the local residents in the neighborhood for many years.

In 2014, Town Council approved a request from the Historic Preservation Board regarding proceeding with applying for a State Historical Fund (SHF) Grant for restoring the historic water treatment facility and stone bridge located at 96 1st Street. Town Council also approved the 2015 expenditure of $25,000 in matching funds for such grant application.

On March 26, 1999, Town Council approved Ordinance 519, designating the former water works facility as a "Local Historic Landmark", due to its significance to Pagosa Springs' history.

ANALYSIS

The Water Works Property complex contains three structures:

1) The Stone Arch Bridge (late 1800's).
2) The Original Water Plant Building (1935-1938).
3) The Water Storage Tanks (1935-1938).

In late February 2015, Planning Department staff solicited 3 written bids for providing an assessment for the subject property and bridge, which assessment is needed for the SHF grant application submission. Staff awarded the project to "The Collaborative, Inc." out of Boulder Colorado (the low bidder at $10,500) and most experienced relative to our project. "The Collaborative, Inc." completed their assessment on March 23, 2015 and forwarded their report to staff. The report is a detailed assessment of the historic property and bridge and provides estimated costs for restoration efforts to ensure further deterioration is prevented. The team has estimated approximate cost for the three elements on the Water Works property and town staff has added grant management expenses (Town Staff Time) as well as a 20% contingency above the estimates provided:
1) The original Water Plant Building, $23,690 (Minimum 25% Town cash match = $5,925)
2) The water storage tanks, $134,212 (Minimum 25% Town cash match = $33,553)
3) The stone masonry arch bridge, $151,700 (Minimum 25% Town cash match = $37,950)

Condition Assessment Report EXECUTIVE SUMMARY from The Collaborative, Inc.
The complex of the historic Water Works includes: the Water Plant, the Tanks in which sedimentation occurred, and the Stone Arch Bridge and associated retaining walls. The critical condition issues for each of these are as follows:

1. *Water Plant: Existing roof is leaking on the collections of the Museum and a new roof is recommended for immediate installation. Drainage around the building should be enhanced as reverse slope is causing water to enter at the double doors of the south elevation, and at other locations, is causing basal erosion of the exterior masonry.*
2. *The Tanks: Stone loss is considerable in quantity on the west walls outer face and the area of stone loss will continue to grow in size, threatening the stability of walls #12 and #18. The courses above are therefore not supported and the resultant hole in the face allows water to enter the wall's interior. The east wall of tank three, at its eastern face, has a significant bulge, an outward deflection of 6 inches effecting an area thirty feet long by five feet high. It is in incipient collapse mode. The four courses of the bulge can complete their rotation at any time and the majority of the remaining portions of the wall will follow. Removal of loose stucco, pointing the joints currently exhibiting loose mortar, and preservation of the top surface of each wall is recommended to reduce water inflow into the walls internal structure and the associated freeze thaw problem.*
3. *The Stone Masonry Arch Bridge and Associated Retaining Walls: The bridge is a real gem; a true stone arch bridge. Its current condition is perilous and collapse in the very near term, one month, is of concern and quite likely. A number of emergency stabilization methods are strongly recommended for immediate implementation. The associated high retaining walls to the east of the bridge are in similar perilous conditions with the top half overhanging the bottom half, six inches or more out of plumb. Emergency stabilization is recommended for immediate implementation. The methods for full stabilization and redevelopment of structural integrity are fully set forth for both the bridge and the retaining walls.*

As you can see from the summary above, the stone arch bridge should receive some stabilization in the very near future prior to grant award notification. Last year's 1st Street flood event eroded the banks of the downstream creek channel and further eroded the base of the stone arch, which now appears to be suspended in air. The creek channel is also recommended to receive some stabilization work. There is a potential serious developing issue with the creek channel erosion along 1st Street which is now a shear drop to the creek and bank erosion along the remaining downstream channel. These issues need to be taken care of outside of this grant application and should occur in 2015 as soon as possible. We have budgeted some funds for Drainage improvements, some of which was specified for Rumbaugh Creek at 1st Street, due to the 2014 storm event. Staff will be looking into initiating these efforts in the very near future.

Based on guidance from SHF staff and the 3rd party analysis team, we are preparing two grant applications, one application for the original water plant building and the water storage tanks and a second application for the stone arch bridge. Grant applications are due by April 1st with grant award notification in August 2015, at which time we will consider accepting the award and signing a contract with SHF. After awarded, we would then solicit bids for construction for the projects. Construction would most likely not begin until October 2015 at the earliest. We have two years after grant award to spend the grant funds. Staff suggests prioritizing the stone arch bridge in 2015-2016 and then the original water plant building and the water storage tanks in 2015-2016.

Planning Staff member Margaret Gallegos has been busy preparing these two grant applications.
Future public discussions are needed to determine the best re-purpose of this facility in the future. The current effort is a stabilization / restoration project to ensure the structures are restored to enable their future reuse and repurposing. There is much pedestrian activity planned for this area once the river walk trail system extends under the Hwy bridge. The Stone Arch Bridge can easily be part of the pedestrian river walk trail system, providing a connection with Lewis Street.

ATTACHMENT(S)

~ Assessment Report from "The Collaborative, Inc."
~ History Piece on the property from the San Juan Historical Society's "Remembrance" publications.

FISCAL IMPACT

Staff recommends the Town apply for up to $200,000 for the Stone Arch Bridge restoration and up to $150,000 for the water storage tanks and water plant building restoration. These two grants would require $50,000 and $37,500 respectively for a total match requirement of $87,500.

The Town has budgeted $125,000 for total expenses and a total of $100,000 in total revenue for **two** HPB projects proposed for 2015, which included the Water Works project and the Mary Fisher statue project. As previously reported, there are no historic preservation grant funds available for statue projects thus staff is beginning efforts to seek potential local donors for the project. We are currently only budgeted for a $25,000 match in 2015.

The fiscal impact expected if awarded and accepting both SHF grants is a total of $87,500 in cash matching funds, or an additional $62,500 above the $25,000 already budgeted in 2015..

If considering approving only the Stone Arch Bridge project, the matching funds required are $50,000 or an additional $25,000 from reserves budgeted in 2015.

Since the project can be extended over the course of two years, Staff suggests allocating an additional $25,000 from reserves for 2015 to accommodate the bridge restoration ASAP, and allocating $37,500 in 2016 for the original water plant building and the water storage tank restoration portion of the property.

RECOMMENDATION

Staff and our consultants recommend that if a priority grant application/project needs to be considered, the stone arch bridge should be prioritized since it is in imminent danger of collapsing.

Staff recommends that Town Council consider approving the submission of both SHF grant applications and consider appropriating additional funding from reserves for the required grant cash match for the bridge in 2015.

Below are three potential actions for Town Council's consideration. **Staff Recommends option #1.**

#1. APPROVE the submission of two State Historical Fund grant applications for the restoration of the Historic Water Works property including the Water Plant Building, Water Storage Tanks and Stone Arch Bridge, and appropriating $25,000 from reserves in 2015 for the required cash matching funds for the State Historical Fund Grant application, and further approving the allocation of $37,500 in cash matching funds in the 2016 budget for the State Historical Fund grant, if awarded.

#2. APPROVE the submission of two State Historical Fund grant applications for the restoration of the Historic Water Works property including the Water Plant Building, Water Storage Tanks and Stone Arch Bridge, and appropriating $25,000 from reserves in 2015 for the required cash matching funds for the State Historical Fund Grant application, and further approving the allocation of $37,500 in cash matching funds in the 2016 budget for the State Historical Fund grant, if awarded, with the following conditions…...

#3. DENY the submission of two State Historical Fund grant applications for the restoration of the Historic Water Works property including the Water Plant Building, Water Storage Tanks and Stone Arch Bridge.

Condition Assessment Report

Water Plant Building * 96 North 1st Street * Pagosa Springs, CO

and

Rumbaugh Creek Bridge

Prepared on March 20, 2015

The COLLABORATIVE Inc. 303.442.3601 2080 Pearl Street Boulder, CO 80302	**Atkinson Noland & Associates, Inc.** 303.444.3620 2619 Spruce Street Boulder, CO 80302

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Appendix—Photographs and and Wall Elevation Diagrams

Executive Summary

The complex of the historic Water Works includes: the Water Plant, the Tanks in which sedimentation occurred, and the Stone Arch Bridge and associated retaining walls. The critical condition issues for each of these are as follows:

1. Water Plant: Existing roof is leaking on the collections of the Museum and a new roof is recommended for immediate installation. Drainage around the building should be enhanced as reverse slope is causing water to enter at the double doors of the south elevation, and at other locations, is causing basal erosion of the exterior masonry.
2. The Tanks: Stone loss is considerable in quantity on the west walls outer face and the area of stone loss will continue to grow in size, threatening the stability of walls #12 and #18. The courses above are therefore not supported and the resultant hole in the face allows water to enter the wall's interior. The east wall of tank three, at its eastern face, has a significant bulge, an outward deflection of 6 inches effecting an area thirty feet long by five feet high. It is in incipient collapse mode. The four courses of the bulge can complete their rotation at any time and the majority of the remaining portions of the wall will follow. Removal of loose stucco, pointing the joints currently exhibiting loose mortar, and preservation of the top surface of each wall is recommended to reduce water inflow into the walls internal structure and the associated freeze thaw problem.
3. The Stone Masonry Arch Bridge and Associated Retaining Walls: The bridge is a real gem; a true stone arch bridge. Its current condition is perilous and collapse in the very near term, one month, is of concern and quite likely. A number of emergency stabilization methods are strongly recommended for immediate implementation. The associated high retaining walls to the east of the bridge are in similar perilous conditions with the top half overhanging the bottom half, six inches or more out of plumb. Emergency stabilization is recommended for immediate implementation. The methods for full stabilization and redevelopment of structural integrity are fully set forth for both the bridge and the retaining walls.

Introduction

The purpose of this Condition Assessment is to evaluate the current condition of the historic Old Pagosa Springs Water Plant and the Rumbaugh Creek Bridge, to determine the extent of deterioration of building materials, to describe the causes of the deterioration, to set forth remedial treatments to arrest or reverse deterioration and reduce the underlying causes as practical, and to estimate the probable costs of the treatments. All of the recommended treatments have been put forth after review for compliance with the Secretary of The Interior's Standards for Rehabilitation of historic properties.

Research Background

The history of the building and its occupants has been developed by the City of Pagosa Springs and limited new research was a part of this report effort.

Participants

John Feinberg, APTI, overall project principal, Architectural Conservator, Dean Brookie, Historic Architect, both of the Collaborative inc. of Boulder, Colorado, and Dave Woodham, structural engineer, of Atkinson Noland and Associates also of Boulder, Colorado.

Client

The client representative is Margaret Gallegos, Building and Planning Department, City of Pagosa Springs, Colorado.

Site Visit

Date (Time): March 16, 2015 (11:00 AM) to March 17, 2015 (8:30 AM)
Weather Conditions: Sunny, 65 degrees

Building Location/Vicinity Plan/Site Plan

Water Plant : Block 25, Pagosa Springs Townsite Plat

History

In the 1930s, following the Great Depression, came several New Deal relief and recovery programs, which were designed to put people to work. Most of the projects, particularly in Colorado, aimed to spend funding on labor wages, so mostly only local materials and few power machines were used for projects. Most of the labor began as unskilled, but as workers gained experience, so did the quality of the projects, which included masonry structures such as bridges, water plants, and retaining walls.

The subject structures of this report were built by the Works Progress Administration (WPA), beginning in 1938. According to an article by Ann Oldham, *The Pagosa Springs Waterworks*, the stone and masonry building had a "wooden roof supported by massive steel beams, to enclose the metal paddle wheel. Three water-settling tanks with stone and masonry foundation and walls were attached to this structure. … Water from the San Juan River flowed into the first of the settling tanks where sand and dirt settled to the floor of the tank. Clear water flowed over gaps in the tops of the walls to fill the second and third tanks, with more particles settling out each time. Water from the third tank was pumped (through the Waterworks Building) through a pipeline to a water tower on the west side of town." (p. 23) On p. 24 of this same document, "The original 'hourly-wage schedule' … is on display in the museum. This beautiful rustic building with settling tanks still stands at the corner of First and Pagosa Streets beside the river. A picturesque stone bridge spans Rumbaugh Creek to the east of the settling tanks. The skill of the workmen can still be viewed and appreciated in the second room of the San Juan Historical Society's Pioneer Museum and the Rumbaugh Bridge. … The total cost of this WPA project to provide domestic water to the Pagosa Springs was $4,630.00." According to the web site http://www.historycolorado.org/oahp/wpa-modernist, typical projects of the WPA in Colorado had these elements in common:

1. Use of local materials
2. Simple building forms
3. Lack of ornamentation
4. Flat or barrel roofs
5. Smooth exteriors
6. Vertical orientation- tall windows grouped in sections
7. Linear building elements
8. Sharp, angular square corners

A Brief History of the WPA Projects in Colorado[1]

Although the early programs of President Roosevelt's New Deal relieved the suffering of some Americans, as 1934 ended the economic depression and problems of unemployment continued. The Roosevelt administration proposed to create a broader relief and recovery program known as the "Second New Deal." Central to this new phase was a work relief program for the unemployed, established as the Works Progress Administration (WPA) on May 6, 1935. The WPA modified and expanded previous federal work relief to become the major source of public jobs for the unemployed during the latter part of the thirties.

The WPA sought to put the unemployed to work and remove them from the relief rolls. "Small useful projects" provided employment for a maximum number of needy "employable" workers in the "shortest time possible." The WPA construction projects were intended to provide employment to a large number of unskilled workers, but they also used skilled and semi-skilled workers. The WPA called for the majority of project costs to be wages rather than construction materials. The federal government paid virtually the entire expense of WPA projects, with relatively small sums supplied by

[1] http://www.historycolorado.org/sites/default/files/files/OAHP/Guides/Builders_WPA.pdf

sponsors making up the difference. The WPA eventually grew into the largest provider of work relief in the nation during the remainder of the Depression. The construction projects brought about the most widespread and significant change in public capital improvements ever witnessed by the state and nation.

The WPA provided temporary jobs for thousands of Colorado residents, both rural and urban, and resulted in the construction of public works projects in every county and virtually every community across the state. The agency formed the single largest construction and employment program in the state during the thirties.

By early November 1936, 9,000 Coloradans labored in WPA projects, and by late December more than 40,000 had received jobs. The numbers of WPA employed rose to 43,200 by March 1937, the peak of its working force in Colorado. Budget cuts brought periodic retrenchments, forcing the state program to cut back the number of jobs. Many of these occurred when Colorado experienced economic recession, such as in the summer of 1937. By early 1938, the unemployment and relief situation in Colorado nearly reached that of the desperate times of early 1933. With one in five people in the state on relief, Colorado WPA administrator Paul D. Shriver initiated an emergency work program and rehired 15,000 workers in early 1938. When the WPA finally received additional federal funds, the program expanded again, particularly in southern Colorado, which had the highest percentage of unemployed in the state.

WPA construction projects made the greatest impact on reducing depression unemployment and on the improvement of the state's public infrastructure. Highways, roads and streets consumed 35 percent of WPA funds in Colorado. Other expenditures included 12 percent for buildings; 8 percent to water, sewer systems and other utilities; 6 percent on conservation projects and a similar percentage for airports and runways; 4 percent on recreational facilities (excluding buildings); 1.3 percent for sanitation; just under 1 percent used on engineering surveys; and 2.1 percent on all other projects. Roads and public buildings constituted the bulk of WPA construction projects in Colorado. New and better roads allowed the state to take advantage of its tourist and recreational potential. Eastern Colorado came to depend on an essential network of WPA enhanced "farm to market" roads for the recovery of its agricultural and ranching economy. Statewide, WPA workers built or improved over 9,400 miles of highways, roads or streets, nearly 3,400 bridges and viaducts, and more than 21,000 culverts.

Schools constituted another major category of WPA construction projects in Colorado. Schools in eastern Colorado were in particularly poor shape. Many districts had been unable to keep up with the enrollment growth of the first three decades of the twentieth century. The Depression halted all hopes of new construction and existing schools fell into disrepair. Many rural schools were crowded, outdated and unsafe. Throughout the state, the WPA newly built or expanded 113 schools. Additionally, the agency "reconstructed or improved" 381 schools.

The WPA erected or expanded a total of 583 public buildings across the state, and 764 other public buildings experienced reconstruction or improvements. WPA laborers built

or improved 119 Colorado parks, 195 playground and athletic fields, and 32 swimming or wading pools. Public utility enhancement also constituted important WPA projects, particularly in smaller communities. The WPA constructed or improved 78 utility plants, 279 miles of water mains or distribution pipes, and 224 miles of new storm and sanitary sewers. Associated with the issue of sewage sanitation, but often constructed on private properties, the agency built an astounding 31,991 sanitary privies across the state.

While construction made up a large portion of WPA activities, non-construction service projects constituted wide variety of efforts providing employment women as well as white-collar professionals. Projects relating to adult education and the arts (including writing, music, performance, and the visual arts), as well as records and research projects provided jobs to people who had lost related work in similar professions. Rural women were given jobs sewing, gardening, canning, distributing commodities, and serving school hot lunches – thereby providing project employment for women while distributing the goods produced to the needy.

By the time it dismissed its last 1,700 employees in December 1942, the Colorado WPA program had given jobs to approximately 150,000 people statewide generating 195,518,207 worker hours. The federal government expended $120,102,731 in Colorado, 89 percent going directly to wages. About 15 percent of the $33,489,704 contributed by the sponsors went to wages. Colorado WPA workers received the highest wages paid by the agency nationwide, ranging from $40 a month for non-skilled workers, to $94 for skilled labor.

Statewide, the WPA expended $1,644,458 for non-construction projects, the products and services produced went to needy Coloradans. WPA workers produced 6,730,092 garments and over 5 million quarts of preserved food. Others served over 22 million school hot lunches, placing Colorado in the top five in the nation. The majority of these service occurred in existing buildings, but occasionally a WPA construction project built a special purpose facility.

Of all the New Deal work relief programs resulting in the construction of public facilities, the WPA most impacted the built environment of the cities, towns, and small communities in hard hit eastern Colorado. While other New Deal programs assisted with soil conservation, farm subsidies, and loans – all of which helped the residents of the plains region to survive the decade – the WPA built the region's schools, roads, and public utilities. A majority of these resources remain in use – marking the many achievements made during a most difficult period of Colorado's history.

The Water Plant in Pagosa Springs, Colorado, was built in 1938 as one of the projects built under the auspices of the federal New Deal's Works Progress Administration. The rustic stone building and its three associated water-settling tanks, which cost $4,630.00, provided domestic water to the residents of the town from the San Juan River. "Water … flowed into the first settling tank where sand and dirt settled to the floor.... Clear water flowed over the gaps in the tops of the walls to fill the second and third tanks…. Water from the third tank was pumped (through the Waterworks Building) through a pipeline to

a water tower on the west side of town. Then it moved by the force of gravity through pipes into the homes and businesses of the town."[2]

Water Plant Complex Description

The complex has three structures: the stone arch bridge to the northeast and the associated retaining walls, three stone masonry settlement basins or called in this report "tanks," and the stone masonry water plant. The stone arch bridge construction date pre-dates the water treatment plant construction dates of 1935-1938. Based upon materials of the bridge (lime mortar), and its construction typology (stone arch), the bridge construction date is likely attributed to the late 19th century.

3630: Bridge Overview

3652: Bridge and Retaining Wall

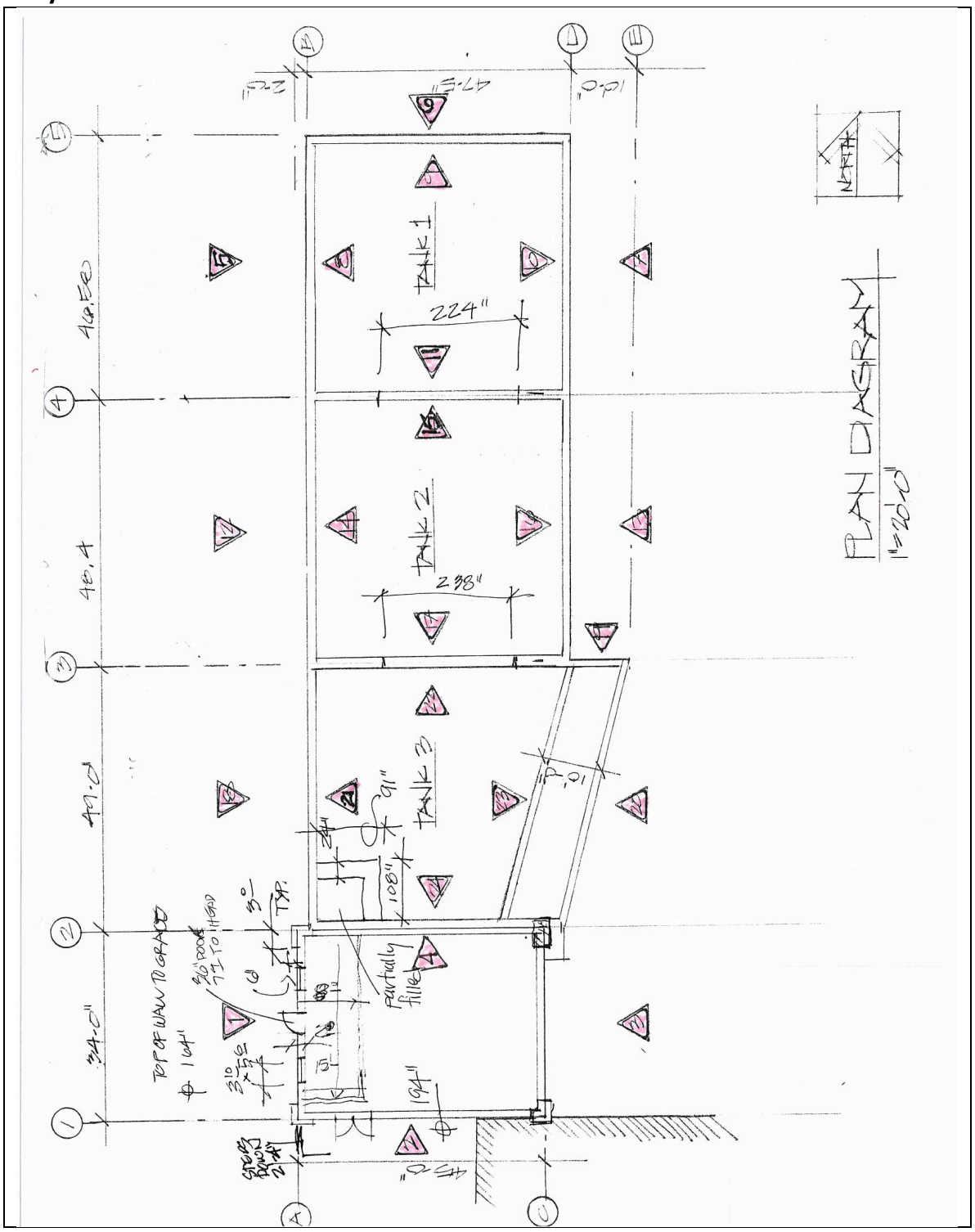
[2]Oldham, Ann. The Pagosa Springs Waterworks, pp. 23-25.

463: Overview of tanks looking north from roof of water plant

446: Water Plant

The north wall of the water plant is also the south wall of tank three. The construction sequence would be assumed as the water plant being first constructed, with its quite regular dressed stone ashlar walls, and then the tanks following later. The overall plan of the water plant and three tanks, with designations for each wall face, is seen on the Key Plan below. The tanks are numbered in the order of their receipt of raw water, Tank number one is the upstream tank, the furthest from the treatment plant toward the north. It was expected that in this tank the majority of the sediments would settle out. As the water moved progressively closer to the treatment plant, the cleanest water would flow over each weir so that the water in tank two was cleaner than tank one, and the cleanest water flowed into tank three from tank two. At this final arrival, the water was adjacent to the water plant where pumping and advanced filtration could then be used to finish the process.

Key Plan


PLAN DIAGRAM
1"=20'-0"
NORTH
TANK 1
224"
TANK 2
238"
TANK 3
91"
108"
partially filled
TOP OF WALL TO GRADE
40'-0"
40'-4
40'-0"
34'-0"
47'-5"
10'-0"
22'-1"
10'-0"
45'-0"

Materials Descriptions, Conditions and Treatments

Water Plant

Water Plant Description

The plant is constructed from ashlar coursed stone masonry set on a stone foundation. At each of the four corners there is an expressed pilaster that wraps the corner, extends above the parapet and is set out from the wall 4 to 5 inches (Image #506). The course heights differ, ranging from 12 to 15 inches. The stones vary in length and are generally between 10 and 16 inches but stones as long as 23 inches are present. The joints between the stones is fairly tight, 1 inch or less. The mortar surfaces of the joints have an incised groove down the center to accentuate the joint and create additional regularity. The mortar is quite hard, consistent with a Portland cement based mortar. The stones have visible void pockets and appear to be of a local sandstone of moderate hardness in a buff color.

506: Wall 2

The west elevation is the primary entrance with a centered steel door, and two flanking window openings now covered over with plywood. The window openings of the interior of this wall exhibits unglazed sash of six-over-six double-hung configuration. The south wall has two overlarge wood doors at the west portion, likely used for equipment installation and removal operations. These doors are constructed of horizontal wood lap siding boards over an interior series of "Z" braces (Image #486). To the east of the oversized double doors is a paired window opening exhibiting similar covering with

plywood on the outside and on the inside remnants of the double hung sash. At this south elevation is an addition housing the local history museum. From this addition, access is gained into the majority of the interior of the old water plant by an open doorway. Both the east and the north elevations have a single window, both of which have been in-filled with stone masonry. All of the wall openings have reinforced concrete lintels.

486: Interior view of door; note "Z" bracing.

The north elevation window is a further indication of sequence; the water plant being constructed before tank three. This window may have been part of a standard set of plans used by the WPA where larger sites allowed a distance between the tanks and the plant, rather than being joined as in this case.

The plant is seen as a flat roofed one-story building above grade, and the sub-grade portion, which housed treatment and pumping equipment, is not apparent from the exterior. The flat roof is contained by parapets on the west, south, and east elevations, and the roof slopes toward to the north, draining over the north elevation that has no parapet. The roofing is composed of sheet goods, likely rolled felt with hot tar, now exhibiting a silver colored bituminous coating. Some galvanized metal flashing is visible at the roof edge along the north terminus (Image #465).

465: Water plant roof from southwest corner looking northeast

A water wheel can be seen as part of the site in photographs taken prior to water plant construction. Later photographs indicate the water wheel as being enclosed. Its location has yet to be determined. Beyond the east wall of tank two are remnants of a spillway constructed of stone masonry similar to the tanks. The tanks have numerous gate valves, through-wall pipes (some of which are filled with concrete), and a supply pipe that is partially buried. The details of the plant operation will reveal how all of the piping worked as an integrated system. This operations research is continuing.

Water Plant Conditions

Site Gradients: The site has reverse flow conditions with water running toward the building particularly apparent at the south elevation west end by the double doors. The site generally drains from north to south and west to east with a four percent average gradient. The area between the museum addition and the west edge of the site at the curb at First Street will require slope adjustments to create and maintain flow away from the building. The gradients of the site adjacent to the east elevation were not visible due to the snow piles.

502: Water Plant, grade change at southwest corner, of consequence is backslope toward doors

495: Water Plant, basal erosion at northwest corner

Site Vegetation: For the entire site, vegetation is in many locations too close to the walls of the water plant, and the tanks. The trees growing near the bridge are also an issue. In all three cases, it is the root systems that are causing damage to the wall foundations. For the retaining walls associated with the bridge and its context, the trees above and behind the area are the source of pressure from wind-induced trunk movement.

499: Wall 1, vegetation at wall base

495: Water Plant, basal erosion at northwest corner

Water Plant, Wood Doors: These utilitarian doors remain serviceable, and the paint is largely intact. The doors are in good condition. The primary issue with these doors is that there is a reverse slope to the adjacent ground, channeling water toward the doors instead of away. The ground should be regraded as described under "Site" above.

Water Plant, Wood Plywood Window Coverings: These are in good condition, although paint would assist in maintaining the unpainted panels.

Water Plant, Roofing: The roofing is in poor condition. It exhibits loose joints, holes, and an alligatored surface. It leaks.

489: Roof leak area at north wall (Wall 4)

485: Water Plant, roof structure

Water Plant, Roof Flashing: Flashing is seen at the north edge where it is not covered by roofing. The flashing is rusted and loose. As the roof treatment is recommending total replacement, the flashing should also be replaced at the same time.

498: Water Plant, loosing flashing and note crack

Water Plant, Stone Masonry: The only visible stones showing signs of deterioration are on the west elevation at the base of the wall where freeze/thaw is a particular problem. The stone units are in good condition. The mortar is in good condition; no significant pointing is required. There are several cracks. Above the door on the west elevation, the crack runs diagonally between the lintel and the parapet. On the south elevation, no cracks were discernible. On the east elevation, there is a crack emanating from the upper right (north) corner of the concrete lintel, up to the parapet. On the north elevation, for the short few feet of exposure at the northwest corner of the building, there is a significant crack that parallels the face of the adjacent wall batter, indicative of the release of pressure resultant from water no longer being in tank three. There are some minor drip tracings of roofing tar.

501: Crack above concrete lintel at Wall 2, radiating up

504: Wall 3, crack radiating upwards from upper right corner of window through lintel to the parapet

508: Water Plant, diagonal minor crack at Wall 1

496: Crack at northwest corner where it joins Wall 18

Water Plant Treatments

1. Regrade the earth that is adjacent to all walls to maintain a minimum 5% slope draining away from the building for 10 feet. A shallow swale will be required at the site's west boundary south of the building.
2. Remove woody vegetation (shrubs and trees) within 5 feet of the building walls.
3. Paint exposed wood elements.
4. Reroof the building: complete tear-off, inspect and replace any deteriorated roof sheathing with in-kind, install Dens Deck or equivalent to achieve Class A fire rating, install new white membrane roofing and associated flashing.
5. Repair cracks by pin and fill techniques: install diagonally across the crack 1/4-inch stainless steel all-thread set in epoxy mortar, point end of holes, point up gap at crack using mortar specified to match historic per laboratory analysis and masonry conservator/structural engineer specifications.
6. Clean off tar drip tracings from previous roofing using dry ice to freeze it off. Minor amounts are scattered at several locations on the tops of elevations.

Tanks

Tanks Walls, Floors, and Appurtenances Description

The elevation drawings of 19 walls, numbered 5 to 24, are presented in the Appendix. The plan views are indicated in the Key Plan. The photographs of each of these walls are also presented in the Appendix, as are photographs of all three tanks taken from the water plant roof, each tank floor, and appurtenances as well as pipes and gate valves. The construction of the three tanks are quite similar, and tank three has some additional details that will be described.

General Tank Wall Construction Description

1. Stone masonry in ashlar construction.
2. Sandstone from the area.
3. Top course is 10 inches in height and has a vertical face.
4. Wall faces below the top course have a batter of 2-7/8 inches in 12 inches on both the interior and exterior.
5. The overall height of the perimeter walls are the same, as related to the tank floors, and are level.
6. The top of wall to ground level varies at the exterior face as ground level drops from north to south and west to east.
7. The width of the top of wall varies between 16 and 18 inches.
8. Two cross walls divide the tanks and the overall height is the same as the perimeter walls but the center section is cut down to form weirs.
9. The height of the individual courses varies.
10. The surface of the original mortar has been scored at its center point to enhance the regularity of the masonry's appearance.
11. The mortar appears to be Portland cement based.

12. Sometime after original construction, the interior surface of the walls (water side) was coated with a cementitious mix.
13. The exterior surface was coated similarly, being lapped at the top of wall.
14. Still later, gunnite was applied over the previous renderings and over areas where the previous renderings had failed.
15. In some places on the walls, there are three layers of coating, some have two, some one, and some areas have failed totally.
16. Where the renders have failed, the underlying stone appears intact, but the mortar has variable deterioration.
17. Where the mortar loss has exposed the joint, joint width is variable, ranging from 3/4 inch to 3 inches.
18. Where mortar joints are greater than 3 inches in width, chink stones have been used.
19. Where outer stones have fallen out, the core is seen to be loose rubble with voids.
20. All face stones do not have a continuous lower surface back from the face for bedding and these exhibit the use of poorly adhered and shaped filler stones, as seen at the area of outer face stone loss.

448: stone foundation exposed at the northeast corner of wall #6

Tanks Floors Description

The tanks floors are concrete slabs. The floor in tank one is covered with earth, in tank two it is partially covered with earth. For tank three snow obscured the south 6 feet in the shadow of the water plant. Similarly located but smaller, snow piles were on the tank

floors on the north side of the cross walls dividing the tanks. Vegetation in the tanks included small shrubs and small aspen trees, particularly in tank one.

Tanks Appurtenances Description

The two primary types of appurtenances were through-wall pipes and valves. The through-wall pipes varied in size, location, and estimated purpose. Pipes appeared high on the outer walls, low on these walls, and between the tanks at the cross walls. Some pipes were controlled by valves, some were not, and still others were filled with concrete. A major pipe is visible in only a few locations along the east boundary and may have provided the source water to tank one. It also seems to have continued on to tank three entering at the north end of a sluice built up inside the tank along the east wall. This same east wall has evidence of guide rails for a vertical sluice gate some ten feet wide. This is in wall #20/23, adjacent to which on the nearby site are located remnants of a masonry spillway. Control of this water inflow to the sluice is not seen today. Many of the pipes do have control valves, vertical gate type, controlled by a wheel at the top of the valve stand.

473: Evidence of metal guide rails for vertical gate at upper end of this photograph of top of wall #20

Tank three has, in addition to the above sluice, two enclosures of masonry, one at the southeast corner and one at the southwest. The purpose of these enclosures is unknown. These both appear to have been later additions as does the sluice, or the sluice pre-dates the tank construction and may have served as the water source for the water wheel. Its construction differs as to the masonry (coursing and stone size principally), its walls being vertical, and without having even vestiges of render.

Tank Wall Conditions

The conditions of the walls are tabulated in the following table.

Summary of Tank Wall Conditions

			Description				Condition			
		Stone		*Stone Size*			Render Missing	Render Loose	Repoint in exposed area	
Wall #	**Other side**		**L**	**H**	**D**	**Sq Ft**	(%)	(%)	(%)	Comments on Condition
5	8	Sandstone	16	16-18	8	356.57	12	15	10	ashlar coursing; top 10, vertical course
6	9	Sandstone	Unk	Unk	Unk	344	0	0	0	ashlar coursing; Nearby trees; unk due to intact render, stucco
7	10	Sandstone				180.6	0	5	Unk	Unk due to intact render
8	5	Sandstone	12 to 24	14 to 15	?	550.04	0	20	0	Small tree; Cracks are present in stucco, unk in substrate
9	6	Sandstone				546.25	0	20	0	Small tree; Cracks are present in stucco, unk in substrate
10	7	Sandstone	12 to 24	14 to 15	?	553.84	25	70	20	Exfoliating metal is likely from brackets for gate valve stand; small trees too close at south portion
11	15	Sandstone				483	0	20	0	Small tree; Cracks are present in stucco, unk in substrate
12	14	Sandstone	12 to 24	14	8	427.32	25	5	15	ashlar coursing; Top course 10 inches, vertical; internal effluorescence, random rubble fill
13	16	Sandstone	24	15	?	211.64	15	35	5	ashlar coursing; one weed is present; no effluorescence
14	12	Sandstone				538.54	0	?	Unk	Unk due to intact render
15	11	Sandstone	12 to 24	14 to 15	?	483	50	50	15	ashlar coursing; Exfoliating metal is likely from brackets & pipe penetration to #1
16	13	Sandstone	12 to 24	14 to 15	?	530.84	15	20	100	no cracks except for along tope of wall surface; Exfoliating metal from brackets for gate valve
17	22	Sandstone	12 to 24	14 to 15	?	479	70	10	45	pipe at west end, concrete filled between tanks 2 and 3
18	21	Sandstone	12 to 32	14 to 15	8	505.86	25	?	20	ashlar coursing; one through-wall pipe, concrete filled; effluorescence at the exposed interior … minor; old roots are present in several spots
19	23	Sandstone	12 to 15	15	?	47.5	30	20	35	ashlar coursing; cracks are diagonal from the top; exfoliating metal is present 36% through wall CMP
20	23	Sandstone	12 to 18	15	12	390.87	50	40	50	ashlar coursing; Exfoliating metal "C" channels embedded; shrubs are too close; bulging
21	18	Sandstone				627	0	0	0	Unk due to intact render
22	17	Sandstone				548	50	45	100	36 inch CMP, pipe west; cracks at cut away
23	20	Sandstone				609.5	10	40	100	Exfoliating metal is possible for gate valve stand brackets; longitudinal cracks whole length halfway up; small trees in flume below; flume wall is excellent
24	4	Sandstone				546	10	10	Unk	Bottom third was under snow

Specific significant wall deterioration problems are seen at three walls: 18, 12, and 20. Numbers 18 and 12 exhibit a single course at about mid-wall height of the exterior face, from which stones have fallen.

405: Wall 12 and north of 18

409: Area of stone loss, wall 18 and Wall 12

There are many possible causes for the observed failure at this particular zone. One or more of these causes is possible.

1. This height is likely to have been close to the height of the water in the tank. The top of the water is an area of maximum erosion potential due to wave action. Although

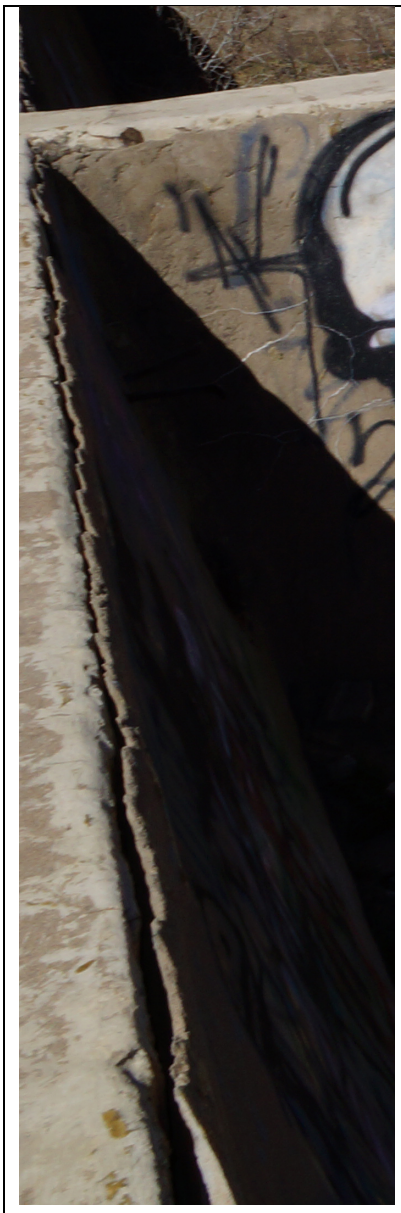
the waves are small in size, over many years they can affect the wall, particularly at the mortar joints. Only later was the stucco rendering applied, perhaps in part because this zone showed the most leaks.

2. There may have been times in the history of the plant when ice formed. Short periods may have occurred overnight. The ice would have exerted sidewall pressure. In the switchover to a new plant, depending on the time of year, more extensive ice build-up may have occurred.
3. Below the top of the water, pressure increases with depth. Above, the pressure remains fairly constant, fluctuating minimally with changes in barometric pressure. This difference in pressure on the wall would concentrate at this zone, pushing outward on the stones differentially.
4. Even with the application of the stucco coating and its intended purpose of waterproofing the wall, cracks in the coating were likely to have occurred and water would then enter the wall. Freeze/thaw cycles would occur where the tempering effect of the fairly constant temperature of the water in the tank was not present above the water level.
5. As the top of the wall coatings have multiple cracks, rainwater and snowmelt water can enter through the cracks and travel down through the wall. This water may settle in the internal voids and during cold months, freeze/thaw will have occurred. The water from above would freeze at this zone in the wall due to the same tempering effects.
6. The mortar used in the original construction was weaker for this batch.
7. The stone units in this section of wall were not as expertly cut and selected as in other locations; less square on at least five of the six faces, particularly the bottom or bed face.
8. The masons working on this section of wall were not as experienced as the others and did not fit the stones as tightly together, used more mortar as a result.

Again, failure zones are typically the result of multiple problems. Evaluation of patterns of deterioration and failure assist in connecting the potential causes to a specific area or zone. If the same forces are applied to each of the walls, why one section of wall fails versus another, such as in this case, may be related to materials and construction weaknesses (see #s 6, 7, and 8 above) and/or exposure. By example, the exterior face of the north wall of basin one has comprehensive retention of the stucco render. This is an area with minimal exposure to solar heat gain. The west wall's exterior faces have the most solar exposure and resultant heat gain. (The south face is covered by the adjacent building.)

The exposure of the stone for viewing is only possible where the overlying render has fallen off. Understanding the condition of the underlying masonry in areas with retained stucco renderings is mostly a matter of looking for bulges in the stucco and reading the crack patterns. Team member Dave Woodham used radar to determine sub-surface conditions, one of the most effective nondestructive methods to evaluate the walls for internal conditions such as voids. Even where the stucco rendering has fallen off, only the surface conditions are normally observable without the use of radar. The critical internal conditions are voids. The internal and external wall faces were completed with cut and

partially dressed stone units, executed with care. The space between the two faces was filled with significantly less strength masonry, random rubble with no fitting and mortar fill. This is the area of the wall's masonry with numerous voids. In essence, these are small collection basins that may hold water that can freeze, exerting outward pressure. The wall's exposure to solar gain is part of the calculation of the number of freeze/thaw cycles. The north wall's north face temperature will rise in temperature based upon ambient temperatures, naturally tempered by its substantial mass. The west wall's west face responds to ambient temperature plus solar heat gain. In addition, a wall with a large percentage of voids has less thermal mass for tempering the temperature swings.



453: Showing area of wall 14 where render is separating from wall, which is typical of the interior faces of the tanks.

	479: Stucco render, with wire reinforcement seen here after falling off the face of Tank 1

Surface Penetrating Radar: Surface penetrating radar, also known as ground penetrating radar or GPR, was used to image the interior of the walls. A Geophysical Survey Systems SIR-3000 radar unit with a 1500 MHz antenna was used to collect several traces on the tank walls. The purpose of the radar scanning was to evaluate the interior construction of the masonry. Voids produce strong reflections due to the large change in relative dielectric permittivity (RDP) between masonry (RDP typically 6 to 10) and air (RDP of 1). The radar images show that the wall has frequent voids, especially near the center of the wall where the rubble fill is present.

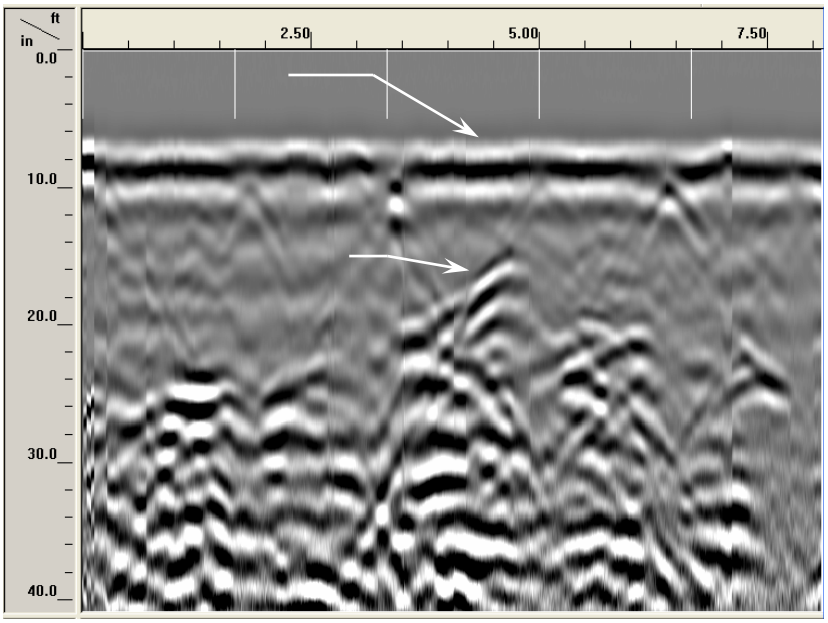


Figure GPR-1. Radar trace 4 is a vertical radar scan on west elevation of Tank 3 wall. The horizontal scale at the top of the image is the height of the wall scanned, in this case approximately 8 feet. The vertical scale at left is the depth into the wall in inches. The first reflection (at the 8 inch mark on the left scale) is the coupling reflection at the face

of the wall. The multiple reflections below the 20-inch mark on the left are voids within the rubble core of the masonry wall.

Figure GPR-2. Location of radar traces 3 and 4. Traces 1 and 2 were horizontal scans conducted to the left (North) of the image above.

Beyond looking at just the freeze/thaw-induced pressures, there are thermal pressures: materials expand with heat and shrink when cooling. The large thermal mass of the walls, with the additional buffering of the retained water in the tank, was the situation in the days of water plant operation. Without the water plant in operation, there is no water to buffer temperature changes. The peaks in high and low temperatures are greater and with both walls exposed, the differentials are greater between the “backside” and “frontside.” This differential creates internal stresses that can expose weaknesses in the wall over time. For thin materials, like stucco renders that have become partially detached, the differential stresses between the back and front can result in relatively fast cracking. The stucco coats respond differently than the substrate and separation at the adhesion zone is exacerbated by the solar heat gain. Therefore, stucco is a good indicator of thermal differential issues.

Assembling the condition issues of each wall face in the conditions summary chart above is particularly valuable for seeking patterns. Below are listed some of the various ways this data has been evaluated.

1. Comparison by tank. Is there one tank more deteriorated than the other two?

2. Comparison, by cardinal direction. Are the north-south axis walls in better condition than the east-west walls? The latter walls have a greater potential differential in exposure to heat gain.
3. By comparison between wall faces that share an orientation, such as to all of the south facing wall faces.
4. By looking at all the data. Are their any other patterns that arise?

In trying to understand the reasons for the loss of stone at walls 18 and 12, the question arises if any of these causes could initiate the significant bulge (5 to 6 feet high by 30 feet long) at the exterior face of wall 20. The answer was that all of these causes were deemed to be potentially at play. There are two other possible contributing factors. The slope beside the area of the bulge is near the river and its steep riverbank, so bank erosion and settlement could be a factor. With settlement, the top of the wall would have exhibited a sag, which it did not. However, the top of the wall had remnants of what was possibly a gate (see the discussion under tank appurtenances above) to allow water to be removed from tank 3. The area is now filled with stone. There is evidence of a stone masonry spillway to the east leading toward the river. This spillway is mostly gone, the stones scattered about. This gap in the wall and its subsequent closing up may not have been executed quite as well as the rest of the walls masonry and/or the metal channel irons may be rusted and the consequent exfoliation causing rust bursting; in essence, an increase in the size of the metal. This is less likely as a cause as the channel irons' top surface did not exhibit any exfoliation and the metal is most likely well embedded in mortar with its highly alkaline pH inhibiting rusting (plus 13 pH). The mortar may have initially been at a high pH, but is likely carbonated, thus reducing the pH where corrosion would not be inhibited.

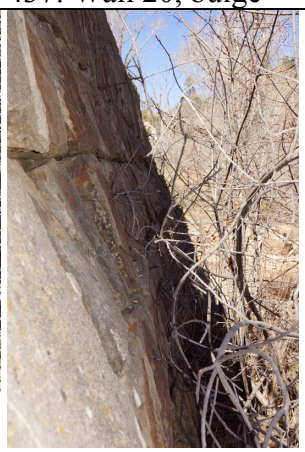
434: Wall 20, looking south

435: Wall 20, face

436: Wall 20, bulge

437: Wall 20, bulge

439: Wall 20, south corner, note distress



442: Wall 20, view from south along face toward the north

443: Wall 20, view from south along face toward the north

444: Detail of Wall 20 south corner distress

Another theory is that this was a location of leakage from which the mortar would have become deteriorated, causing the bulge, making the wall section into loose stacked masonry.

Tank Wall Stucco Renderings Condition

Overall the condition of the stucco renderings is poor. As seen in the table that summarizes conditions by wall, losses range from 50% to 0%. Loose renderings are also significant in scope, at 50% to 0%. Detachment from the substrate was determined by physical and visual inspection techniques: a hollow sound when tapped with a mason's hammer, and visible gaps between the render and the substrate as viewed from above and from the sides. The detached renders are capable of trapping water in the gap, exacerbating mortar and stone unit deterioration.

Tank Concrete Floors Condition

There are some minor cracks in the exposed portions of the concrete floors as seen for tanks two and three. All of the floor in tank one is covered with earth and the condition of the concrete is not observable. This tank was the first tank for settling raw water and would have had the largest amounts of particulates. Currently, in this tank small shrubs and small aspen trees are growing, indicative of the depth of soil and that these trees may be penetrating the concrete at cracks to put down deeper roots.

Tank Appurtenances Condition

All of the appurtenances are of metal. Elements of each valve assembly are embedded in the walls and the concrete floor. The valve stand is a metal framework that supports the valve stem and wheel that opens and closes the valve. The two bottom legs of the stand are placed in the concrete floor and two metal brackets support the upper portion by extension over to the nearby wall. These four points of contact have some potential for rust bursting, but none was observed. However, the attachment points in the walls were often obscured by stucco and in the floors by earth and snow.

Pipes passing through the walls were in some locations filled with concrete. These locations were primarily visible in the west walls west face. Other pipes may be present under the stucco rendering. The concrete-filled pipes exhibit a moderate amount of rust but no rust jacking. Other through-wall pipes not filled with concrete were in fair to good condition with surface rust. Cast iron appears to be the dominant material. Ductile iron is commonly used for waterworks piping, but was not introduced until the 1950s.

Tank Wall Treatments

1. Remove woody vegetation (shrubs and trees) within 10 feet of the tank walls. Remove all vegetation from the interior of the tanks.
2. Regrade earth adjacent to all walls to maintain a minimum 5% slope draining away from the building for 10 feet. A shallow swale may be required at some locations to direct the water further away from the walls.
3. Remove all of the earth from the interior tank floors.
4. Remove all of the stucco coatings where they have fallen off the walls.
5. Remove all loose stucco coatings from the walls. Do not attempt to remove those portions of the stucco still adhered.

6. Complete an inspection by masonry conservators of the areas of wall now exposed to determine stone units condition, mortar condition, and out of plane conditions. Examine areas of embedded metals now exposed for rust jacking. Document any features previously obscured by stucco coating, such as changes in masonry type, changes in coursing, changes in stone units, and the like.
7. Remove loose mortar and install new pointing as specified as process by masonry conservators and per the results of mortar analysis.
8. Reinstall stones on west face of west walls, eight now on ground, and reset stones to three over to the north and three over to the south in the same course. Install per masonry conservators specification and mortar mix.
9. Rebuild area of the bulge in wall 20, approximately 6 feet high by 30 feet in length, at minimum. The objective is to bring the wall back in plane with the adjacent. Process to include photo documentation of the current stones and their placement, labeling of individual stones, and placing the stones on pallets to allow reinstallation to match the existing as to placement. Follow the specifications of the masonry conservator and the mortar formulation resulting from the mortar analysis. Please note that the reconstruction includes the placement of masonry ties.
10. Remove and replace the multiple layers of coatings from the top of the walls. Examine the wall under the coatings for cracks, voids, and deteriorated mortar. These layers have obscured the most likely paths for water entering the wall and causing damage. Grout injection may be specified to fill the voids prior to installation of a new cap keyed to the two outer face stone courses and to the rubble core.

Stone Masonry Arch Bridge

Stone Masonry Arch Bridge Description

During the on-site investigations on March 16, 2015, engineer David Woodham from Atkinson-Noland & Associates and John Feinberg from the Collaborative measured and inspected the stone masonry bridge over Horse Gulch in Pagosa Springs. The bridge is a semicircular arch bridge with a span of 7 ft. 10 in. and a width of 23 ft. 8 in. at the stream level. The voussoirs are 14 to 16 in. deep and are typically between 8 and 12 inches in width. The barrel vault appears to be the same depth of approximately 16 in. The spandrel walls are 10 ft. 8 in. wide and are 2 ft. 5 in. above the extrados at the arch crown on the west elevation and 3 ft. 3 in. above the arch crown on the east elevation (Figures 1 and 2).

Figure 1. Bridge as viewed from the West.

Figure 2. Bridge and adjacent retaining wall (image left) as viewed from the East. The spandrel wall is partially collapsed at the south abutment and has collapsed beyond the north abutment. The north wing wall and retaining walls have also collapsed and masonry fragments are visible in the bushes (image right).

Stone Masonry Arch Bridge Conditions

Both the north and south bridge abutments have been undermined, resulting in complete loss of vertical support for the barrel vault (Figures 3 and 4). This is the most serious threat to the bridge and will likely lead to total collapse if not mitigated in the near future (1 to 6 months). Without support, the barrel vault is not in compression and hangs from the remaining masonry by the weak tensile strength of the mortar, perhaps an occasional bond stone between the vault and the abutments and some friction produced by the arch thrust. Stabilization is required to save what is left of the barrel vault and prevent collapse.

The ring and spandrel wall on the east elevation are separating from the vault. The separation is minor at the north spring line and propagates over the crown to a width of 2 to 3 in. in width. The voussoirs on the south spring line are missing as is the remainder of the spandrel wall at this location. A crack has developed between the voussoirs and the spandrel wall on the west elevation which reportedly was not present last summer.

Figure 3. South abutment is completely undermined and lower portion of the vault has fallen into the streambed.

Figure 4. Undermined South and North abutments.

The retaining walls on the east elevation of the bridge have either failed or are in danger of failing. The South retaining wall is founded on a battered stone wall below but from the bearing on the lower wall to the top of the wall, the upper wall is out of plumb by as much as 2 ft. over the 8 ft. height of the wall (Figure 5). As a result, the center of gravity of the retaining wall is outside the exterior face of the wall – a condition that is highly unstable.

Figure 5. South retaining wall on east elevation of the bridge.

Stone Masonry Arch Bridge Treatments

The following recommendations are prioritized beginning with those requiring immediate implementation to repairs that can be conducted in the longer term (next several years).

1. Emergency shoring of the barrel vault to prevent collapse: It is recommended to first place protection under the bridge to allow for workers' safety. Envisioned is a series of timber beams and columns to prevent the collapse of the vault. Further, wooden 4 x 4 in. posts should be placed between the shale streambed and the lowest courses of the vault at a spacing not to exceed 2 feet. The posts should be cut carefully to length and secured with opposing wedges that can be driven tight to eliminate any play in the supports. Estimated costs for the emergency shoring are $6,000.

2. Confine the flow to the center of the channel: In the near term, remove failed masonry pieces from the creek bed, as one large masonry element is currently directing water flow toward the north abutment. In addition, use sandbags to protect the north and south abutments from further scour and confine the flow to the center of the creek bed and prevent debris from impacting the shoring. Estimated costs for emergency scour prevention are $1,500.

3. Shore the large retaining wall South of the east spandrel wall of the bridge. A series of diagonal steel braces attached to a steel whaler that is placed horizontally

against the wall is needed. The whaler would have to be shimmed with wood wedges to ensure even bearing over the irregular surface of the wall. The diagonal braces will require pilings, small caissons or some other means of anchorage to provide sufficient reaction to resist the horizontal loads. Shoring of the retaining wall is estimated at $4,500.

4. Remove vegetation from the top and sides of the bridge: Roots from small trees and shrubs are damaging the masonry and should be removed. Use root killer to prevent regrowth. Estimated costs for vegetation removal are $1,500.

5. Rebuild failed portions of the bridge: Rebuild the masonry abutments to support the barrel vault and restore the original appearance of the bridge. Rebuilt the failed portion of the west spandrel wall. Rebuild the east spandrel wall and voussoirs. The costs for rebuilding the failed portions of the stone masonry bridge are estimated at $78,100.

6. Deconstruct and rebuild stone retaining wall emanating from the southeast corner of bridge and the wing wall and retaining wall beyond the northeast corner of the bridge. The top eight feet of the south wall is severely out of plumb and should be documented, photographed and stones numbered prior to deconstruction to the level of the battered wall below. Excavation of the soil behind the wall is recommended and a retaining structure such as a mechanically stabilized earth (MSE) wall should be built to retain the soil. The masonry retaining wall would then be rebuilt, essentially facing the MSE wall. The remnants of the northeast wing and retaining walls should be used to rebuild the walls at this location. Photographs or other documentation should be consulted to determine the configuration of these walls. Estimated costs to deconstruct and reconstruct the walls are $57,400.
7. Permanent scour mitigation and bank stabilization: Consult with a hydraulic engineering firm to develop methods of preventing future scour from damaging the reconstructed stone masonry bridge. Develop a plan for stabilizing the stream banks to prevent erosion of the banks. Scour and stabilization methods should consider the historic nature of the site and be compatible in appearance. Estimated costs for scour mitigation and bank stabilization are $4,200.00.

Costs

Water Plant Costs

Water Plant Treatments Summary

1. Remove woody vegetation (shrubs and trees) within five feet of the building walls.
2. Regrade earth adjacent to all walls to maintain a minimum 5% slope draining away from the building for ten feet. A shallow swale will be required at the sites west boundary south of the building.
3. Paint exposed wood elements.

4. Reroof the building; complete tear-off, inspect and replace any deteriorated roof sheathing with in-kind, install Dens Deck or equivalent to achieve Class A fire rating, install new white membrane roofing and associated flashing.
5. Repair cracks by pin and fill techniques: Install diagonally across the crack 1/4 inch stainless steel all-thread set in epoxy mortar, point end of holes, point up gap at crack using mortar specified to match historic per laboratory analysis and masonry conservator/structural engineer specifications.
6. Clean off tar drip tracings from previous roofing using dry ice to freeze it off. Minor amounts are scattered at several locations on the tops of elevations.

Construction Cost Estimate for Water Plant

1. $600
2. $1650
3. $450
4. $13,000
5. $2,400
6. $850

_____

Subtotal= $18,950

Tanks Costs
Cost Coefficients and Application Formulas

1. Loose render removal: Per square foot cost estimate includes removal from wall and removal from site. The removal from the interior of the tank will be more difficult than for the exterior, however a blended cost coefficient is used to reflect both circumstances. $3 per square foot.
2. Pointing: Lineal feet of joint per square foot of wall varies with stone sizes. Average is 1.6 lf/sf. At $6 per lf times 1.6 equals $9.60 per sf. Thus a 500 square foot wall with 20% pointing requirement as indicated by exposed area where render is lost (by example 30%), and assuming the same conditions under the loose render by example 10%) to be removed., and the resultant total area is equal to 40% of 500 square feet or 200 sf times the 20% pointing or 40 square feet at $9.60=$384.
3. Wall masonry reconstruction: This cost includes existing wall documentation, deconstruction, and reconstruction. $300 per face square foot.
4. Top of wall preservation: This cost is on a linear foot basis and includes removal of stucco remnants, cleaning out deteriorated mortar, and creating a replacement thickened coat that is keyed to all top of wall interior surfaces: back side of face stones, and random rubble fill. $45 per lineal foot.

Construction Cost Estimate for Tank Walls
1. Loose Render Removal, square feet 1,975 at $3 per sf.=$5,925
2. Pointing, estimated at 1,608 square feet at $9.60 per sf. = $15,437
3. Wall Masonry Reconstruction, 196 square feet of face=$58,800
4. Top of wall treatment, 480 linear feet at $45=$21,600
4. Vegetation removal, soil removal, slope adjustment to 5%=$5,600
5. Subtotal=$107,362

Stone Masonry Arch Bridge Treatment Summary and Costs

1. Emergency shoring of the barrel vault to prevent collapse: It is recommended to first place protection under the bridge to allow for workers' safety. Envisioned is a series of timber beams and columns to prevent the collapse of the vault. Further, wooden 4 x 4 in. posts should be placed between the shale streambed and the lowest courses of the vault at a spacing not to exceed 2 feet. The posts should be cut carefully to length and secured with opposing wedges that can be driven tight to eliminate any play in the supports. Estimated costs for the emergency shoring are $6,000.

2. Confine the flow to the center of the channel: In the near term, remove failed masonry pieces from the creek bed, as one large masonry element is currently directing water flow toward the north abutment. In addition, use sandbags to protect the north and south abutments from further scour and confine the flow to the center of the creek bed and prevent debris from impacting the shoring. Estimated costs for emergency scour prevention are $1,500.

3. Shore the large retaining wall South of the east spandrel wall of the bridge. A series of diagonal steel braces attached to a steel whaler that is placed horizontally against the wall is needed. The whaler would have to be shimmed with wood wedges to ensure even bearing over the irregular surface of the wall. The diagonal braces will require pilings, small caissons or some other means of anchorage to provide sufficient reaction to resist the horizontal loads. Shoring of the retaining wall is estimated at $4,500.

4. Remove vegetation from the top and sides of the bridge: Roots from small trees and shrubs are damaging the masonry and should be removed. Use root killer to prevent regrowth. Estimated costs for vegetation removal are $1,500.

5. Rebuild failed portions of the bridge: Rebuild the masonry abutments to support the barrel vault and restore the original appearance of the bridge. Rebuilt the failed portion of the west spandrel wall. Rebuild the east spandrel wall and voussoirs. The costs for rebuilding the failed portions of the stone masonry bridge are estimated at $78,100.

6. Deconstruct and rebuild stone retaining wall emanating from the southeast corner of bridge and the wing wall and retaining wall beyond the northeast corner of the bridge. The top eight feet of the south wall is severely out of plumb and should be documented, photographed and stones numbered prior to deconstruction to the level of the battered wall below. Excavation of the soil behind the wall is recommended and a retaining structure such as a mechanically stabilized earth (MSE) wall should be built to retain the soil. The masonry retaining wall would then be rebuilt, essentially facing the MSE wall. The remnants of the northeast wing and retaining walls should be used to rebuild the walls at this location. Photographs or other documentation should be consulted to determine the configuration of these walls. Estimated costs to deconstruct and reconstruct the walls are $57,400.
7. Permanent scour mitigation and bank stabilization: Consult with a hydraulic engineering firm to develop methods of preventing future scour from damaging the reconstructed stone masonry bridge. Develop a plan for stabilizing the stream banks to prevent erosion of the banks. Scour and stabilization methods should consider the historic nature of the site and be compatible in appearance. Estimated costs for scour mitigation and bank stabilization are $4,200.

Construction Cost Estimate for Stone Masonry Arch Bridge
1. $4,500
2. $1,500
3. $4,500
4. $1,500
5. $78,100
6. $57,400
7. $4,200
Subtotal = $151,700

The above cost estimates do not include contingencies, A&E fees, material testing, owner's fees, nor general contractor overhead, profit, and general conditions.

Appendix—Photographs and Wall Elevation Diagrams

404: Wall 18

405: Wall 12 and north of 18

406: wall 12

407: Wall 5

408: Blocked up through-wall pipe at Wall 18

409: Area of stone loss, wall 18 and Wall 12

410: Partially crushed and concrete filled through-wall pipe at base of Wall 12

411: Wall 5, area of render loss, indicates underlying stone masonry was originally exposed given decorative treatment of mortar joints

412: Upstream face of bridge

413: Upstream face of bridge

414: Upstream face, north face, stone units lost at arch spring point

415: View through bridge arch looking from upstream face east, north face is at photo left

416: North face at upstream end. See photo 415

417: Whole arch from midpoint east

418: South face, east half

419: South face upstream portion at base

420: South face upstream portion at base

421 Roof of arch looking upstream

422: North face looking upstream

423: Shelf over bedrock at north face by downstream elevation

424: Typical collapse

425: Upstream of bridge creek view

426: Wall 6

427: Wall 7, north portion

428: Wall 7, south portion

429: Wall 13, left of shrub, north portion

430: Wall 16, middle

431: Wall 16, south

432: Wall 16 joint with Wall 19

433: Wall 19

434: Wall 20, looking south

435: Wall 20, face

436: Wall 20, bulge

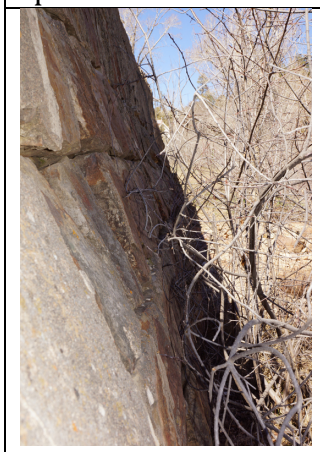
437: Wall 20, bulge

438: Wall 20, south portion

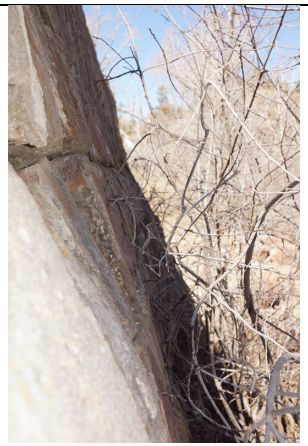
439: Wall 20, south corner, note distress

440: Wall 20 and Wall 3, random rubble masonry wall formed special sub-tank enclosure

441: Wall 3



442: Wall 20, view from south along face toward the north



443: Wall 20, view from south along face toward the north

444: Detail of Wall 20 south corner distress

445: Wall 2

446: Wall 1

447: Wall 1, [select]

448: Basal erosion at Wall 1

449: Interior of tank, Wall 8

450: Wall 9

451: Wall 10

452: Wall 11

453: Wall 15

454: Wall 16

455: Wall 16 [select]

456: Wall 15

457: Top of dividing wall between tanks 1 and 2 (Wall 22 and Wall 17), looking east

458: Wall 14

459: Wall 21

460: Wall 24

461: Wall 22

462: Wall 23

463: Overview of tanks looking north from roof of water plant

464: Water plant roof from southwest corner looking east

465: Water plant roof from southwest corner looking northeast

466: Water plant roof from southwest corner looking north

467: Water plant roof, looking west from east edge

468: Water plant roof parapet. Note open joint of roofing felt

469: Water plant, hole in roof membrane

470: Wall 20, view of bulge from Water Plant roof

471: Wall 23, sluice, gate valve, stand, and attachments

472: Wall 23, sluice, gate valve, stand, and attachments

473: Sluice entry pipe at north wall (back of Wall 19)

474: Tank 1, concrete floor

475: Wall 20, bulge from above

476: Typical

477: Wall 15, east end. Missing gate valve, stand remains. Note crack between top of wall and through-wall pipe.

478: Close-up of concrete floor

479: Stucco render, with wire reinforcement seen here after falling off the face of Tank 1

480: Wall 5

481: Wall 5 and Wall 12

482: Wall 12 and Wall 18, part of

483: Water plant interior, as accessed from the garage doors

484: Water plant interior, as accessed from the garage doors, west wall original window sash still in place, 6 over 6

485: Water Plant, roof structure

486: Water plant, south wall

487: Water plant, north wall (Wall 4)

488: Wall 4 at photo left, Wall 3 at photo right

489: Roof leak area at north wall (Wall 4)

490: Wall 3 interior block in window at photo right

491: Wall 3, interior face

492: Wall 4, from museum interior

493: History (Same photo as in article)

494: Water Plant, southwest corner, note face dressing of stone and joint treatment

495: Water Plant, basal erosion at northwest corner

496: Crack at northwest corner where it joins Wall 18

497: Wall 18, characteristic open joint

498: Water Plant, loosing flashing and note crack

499: Wall 1, vegetation at wall base

500: History, WPA Bronze plaque at Water Plant, Wall 1, north pilaster

501: Crack above concrete lintel at Wall 2, radiating up

502: Water Plant, grade change at southwest corner, of consequence is backslope toward doors

503: Wall 3 [select]

504: Wall 3, crack radiating upwards from upper right corner of window through lintel to the parapet

505: Wall 20, bulge as seen from south

506: Wall 2

507: Water Plant, stone differs from that of tank walls, note void pocket

508: Water Plant, diagonal minor crack at Wall 1

509: Overview along 1st Street

3601

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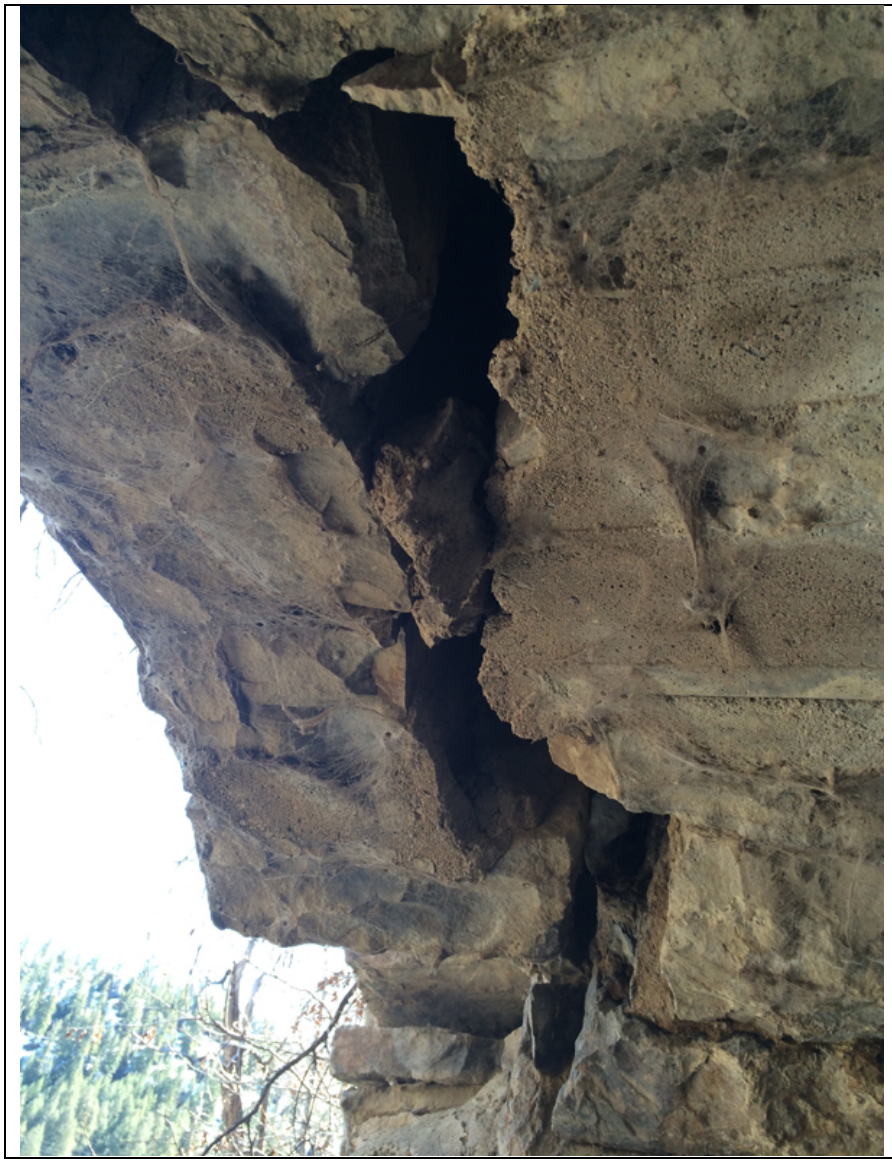		3623

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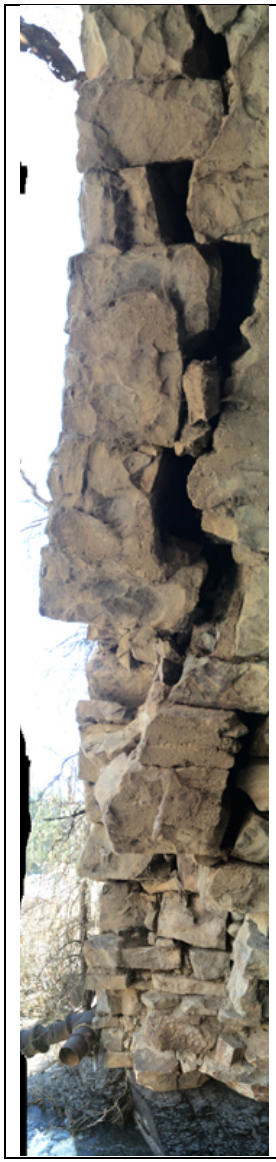		3628

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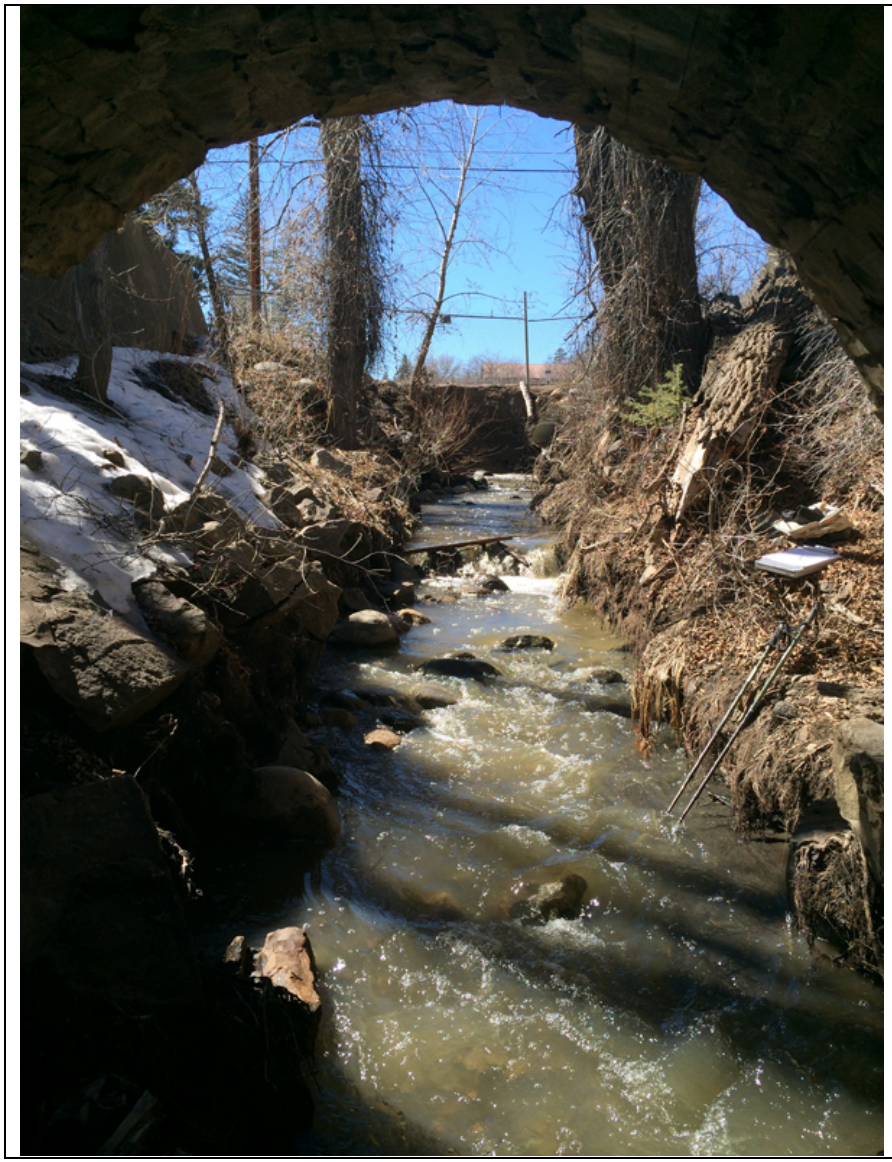		3655

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ERECTED·THROUGH THE·COOPERATION·OF FEDERAL·STATE·AND LOCAL·GOVERNMENTS BY·WORKS·PROGRESS ADMINISTRATION DEDICATED·TO·THE ENRICHMENT OF·HUMAN·LIVES *A·RECORD·OF* *PERMANENT* *ACHIEVEMENT*		3661

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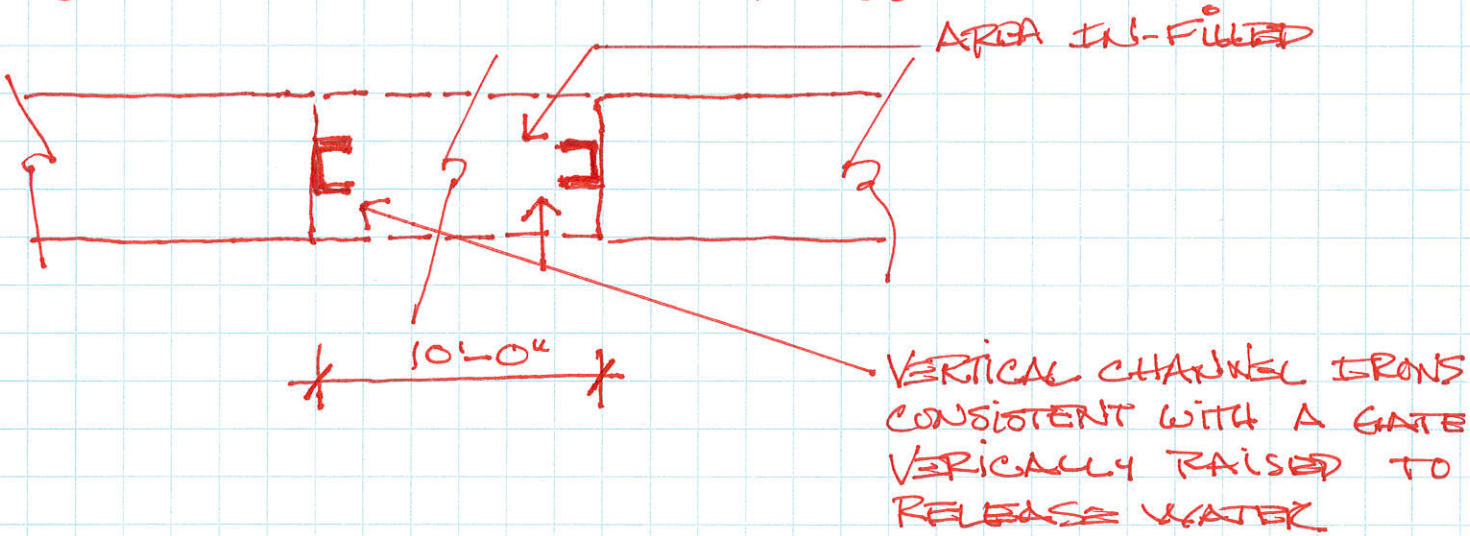
Fourteen year old, U. S. Chambers,
shot and wounded this deer with his
last bullet. He roped and tied the
back to a tree. He then rode home
for more ammo and help. During
his 95 years of life, his hat and
rifle hung on these antlers.

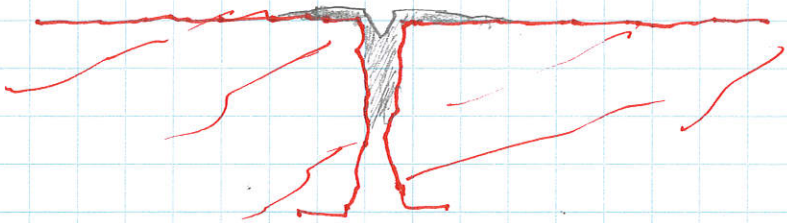
3669

DETAILS

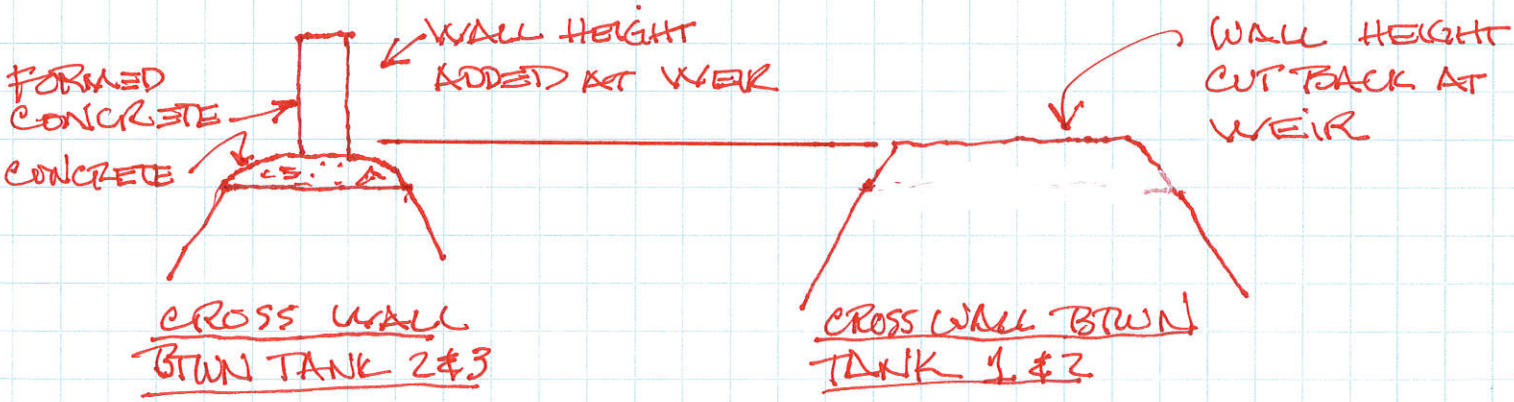
1. SPECIAL CONDITION AT WALL 20

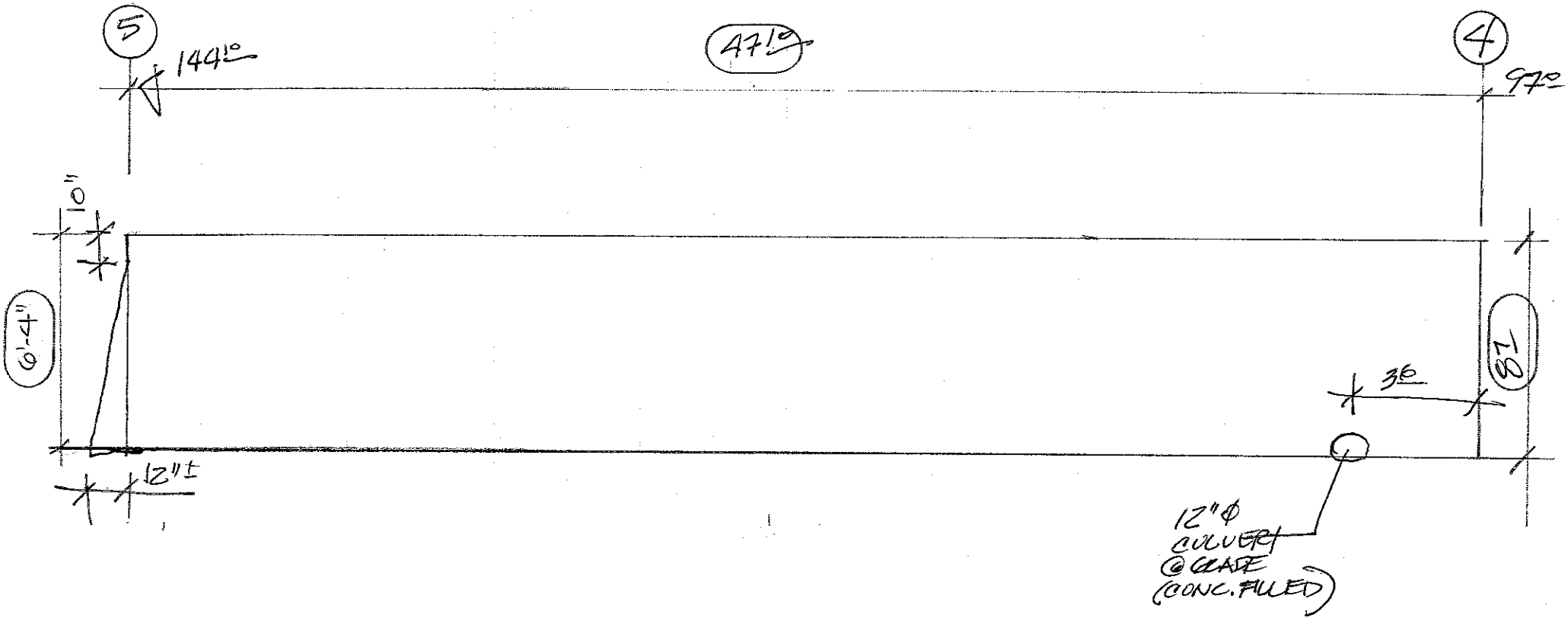


2. TYPICAL MORTAR JOINT PROFILE AT WALL FACE



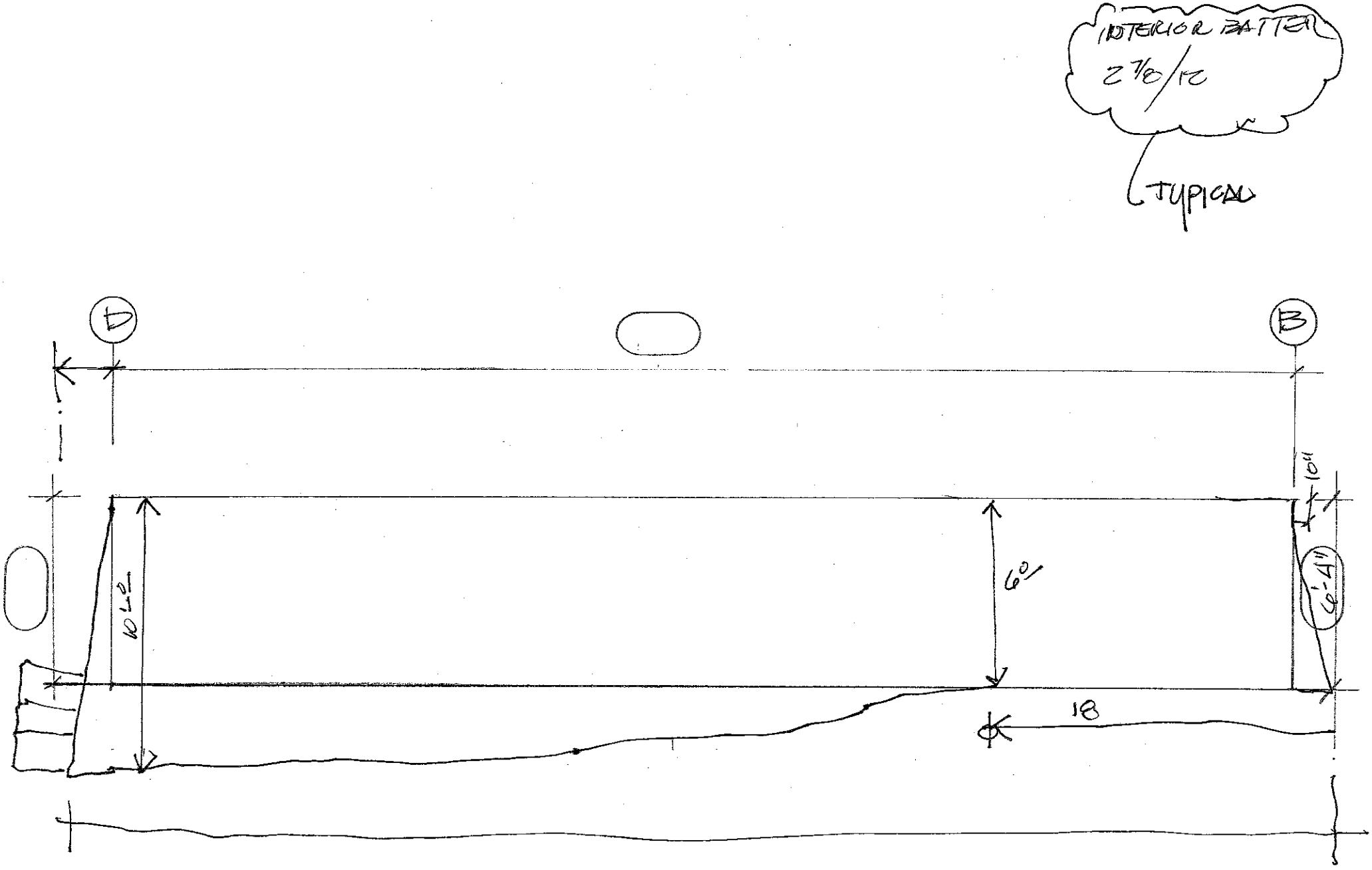
3. RELATIVE HEIGHT OF WEIRS, CROSS WALLS BTWN "TANKS" 1 & 2, and 2 & 3





144.0
97.0

ELEVATION 3/16" = 1'-0"



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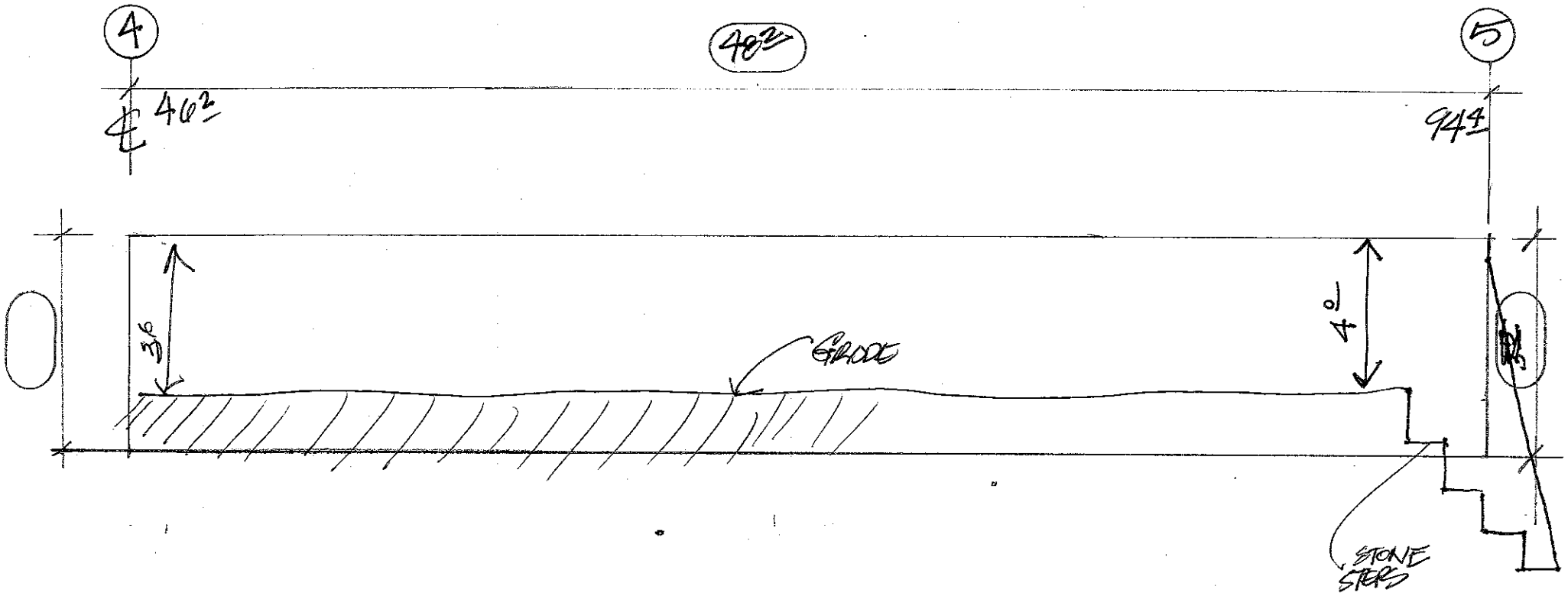
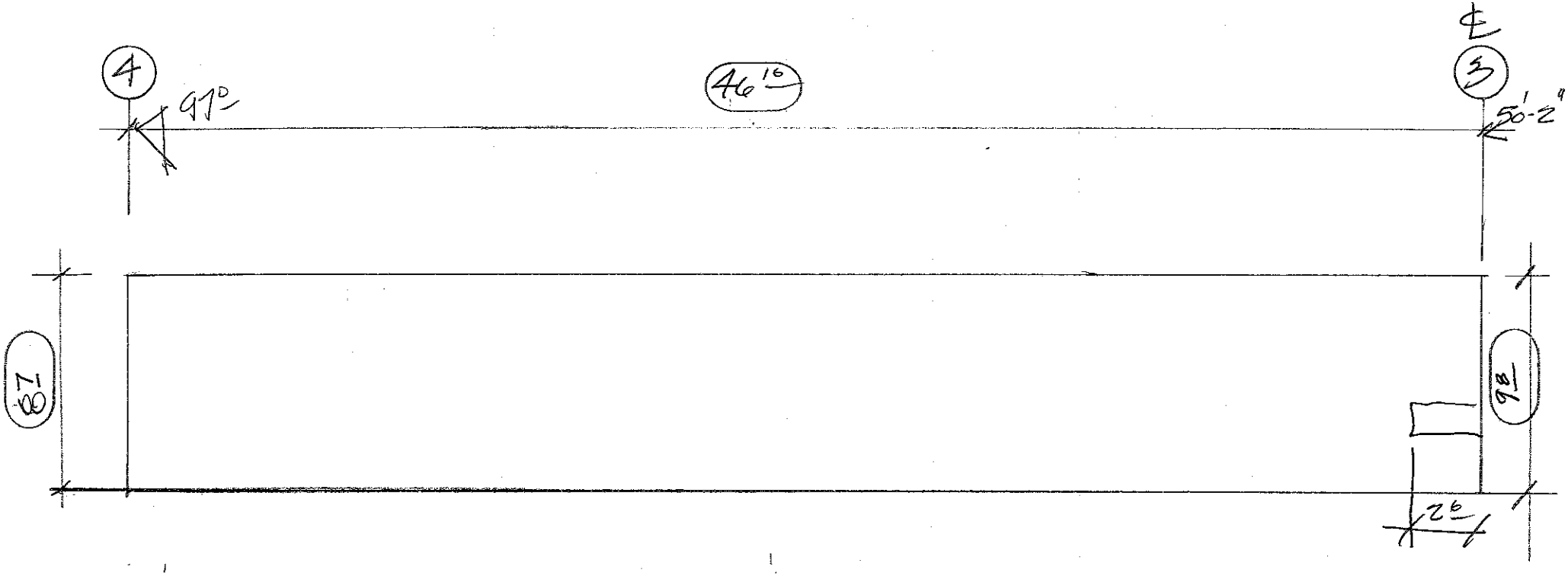


8'4¼
4'6½
4'8½

7

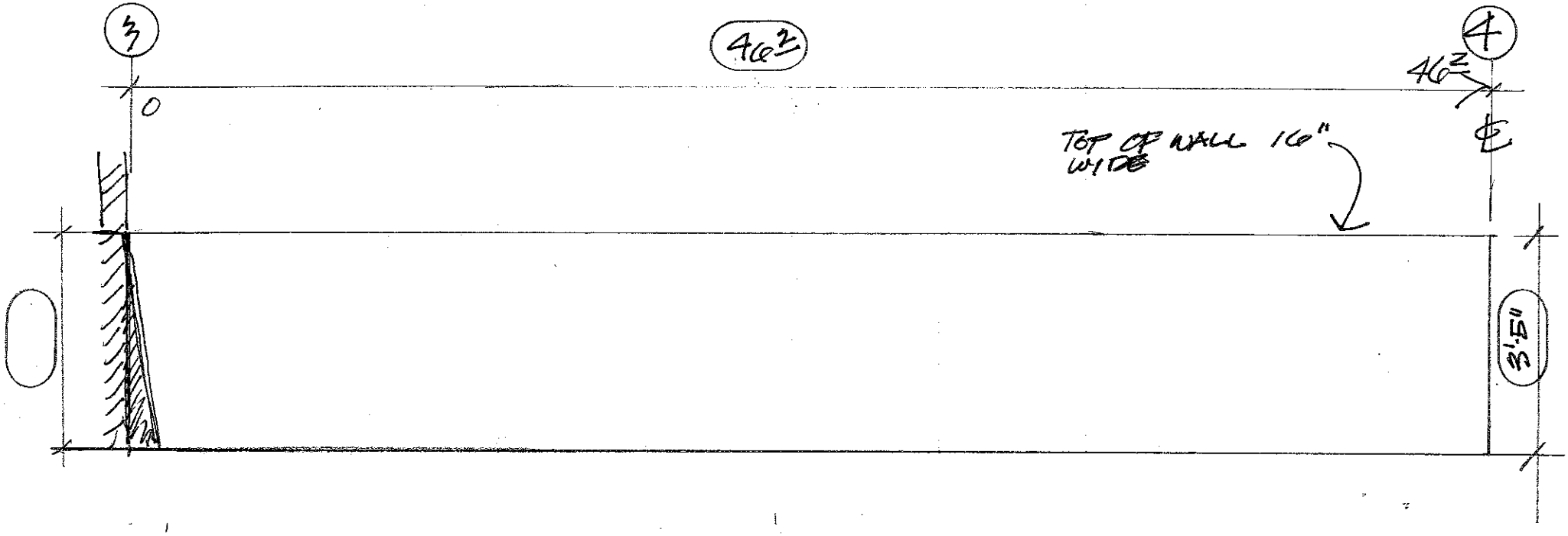
ELEVATION 3/16" = 1'-0"



12

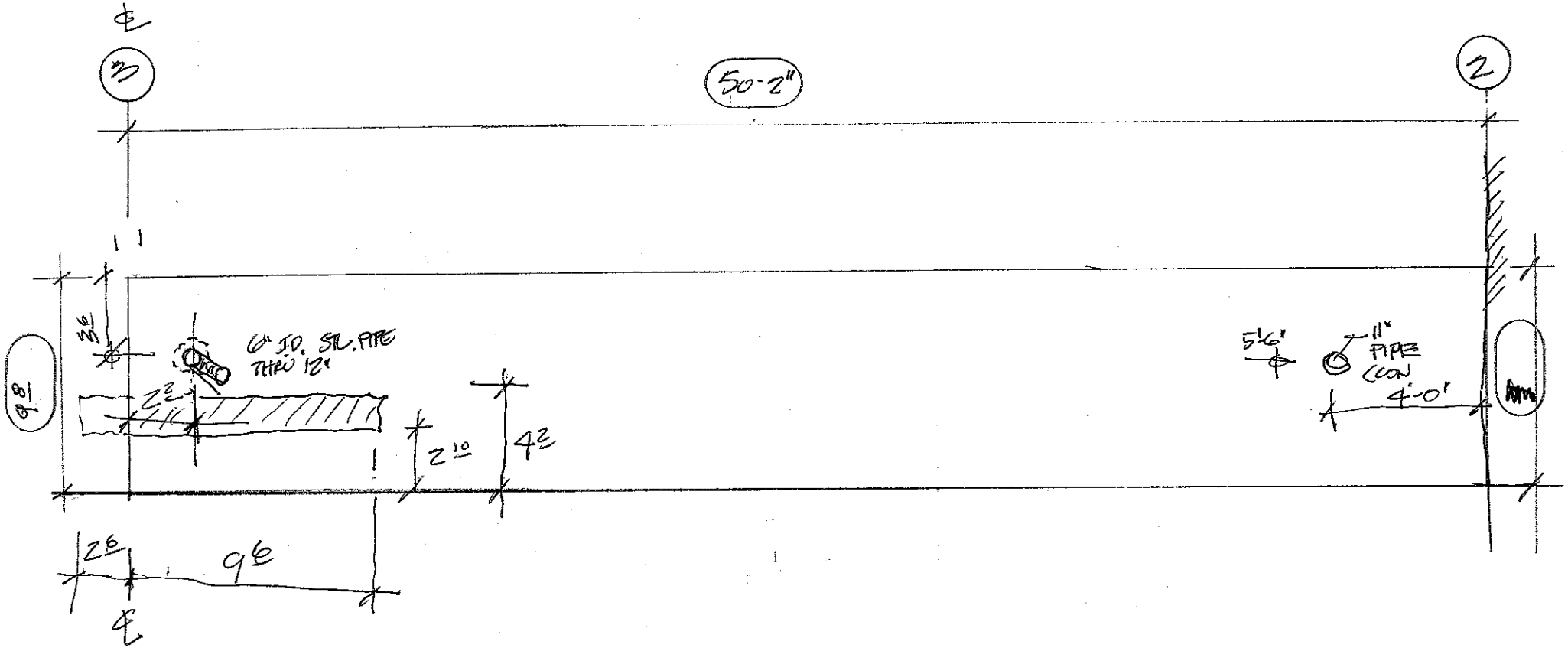
ELEVATION 3/16" = 1'-0"

96'-12
50'-2
46'-10



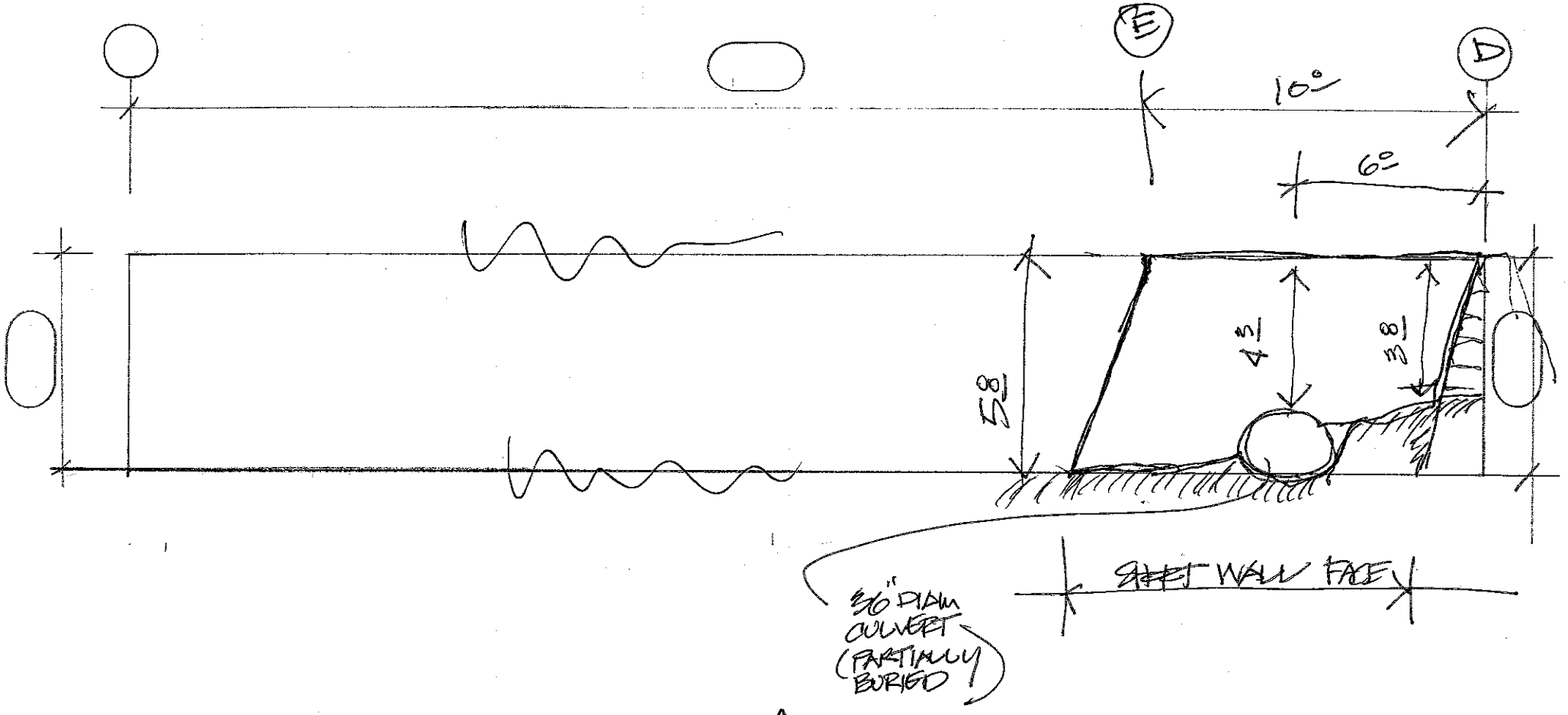
13

ELEVATION 3/16" = 1'-0"



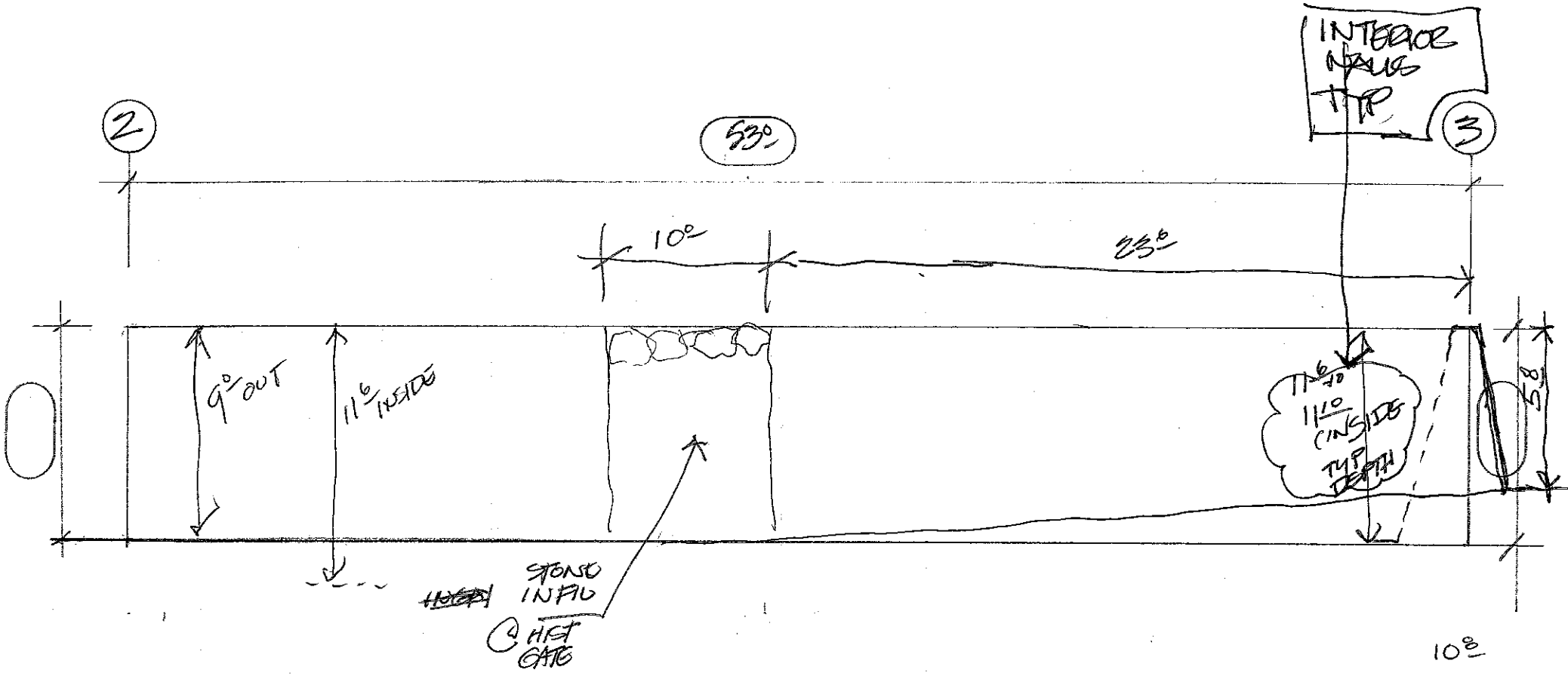
18

ELEVATION 3/16" = 1'-0"



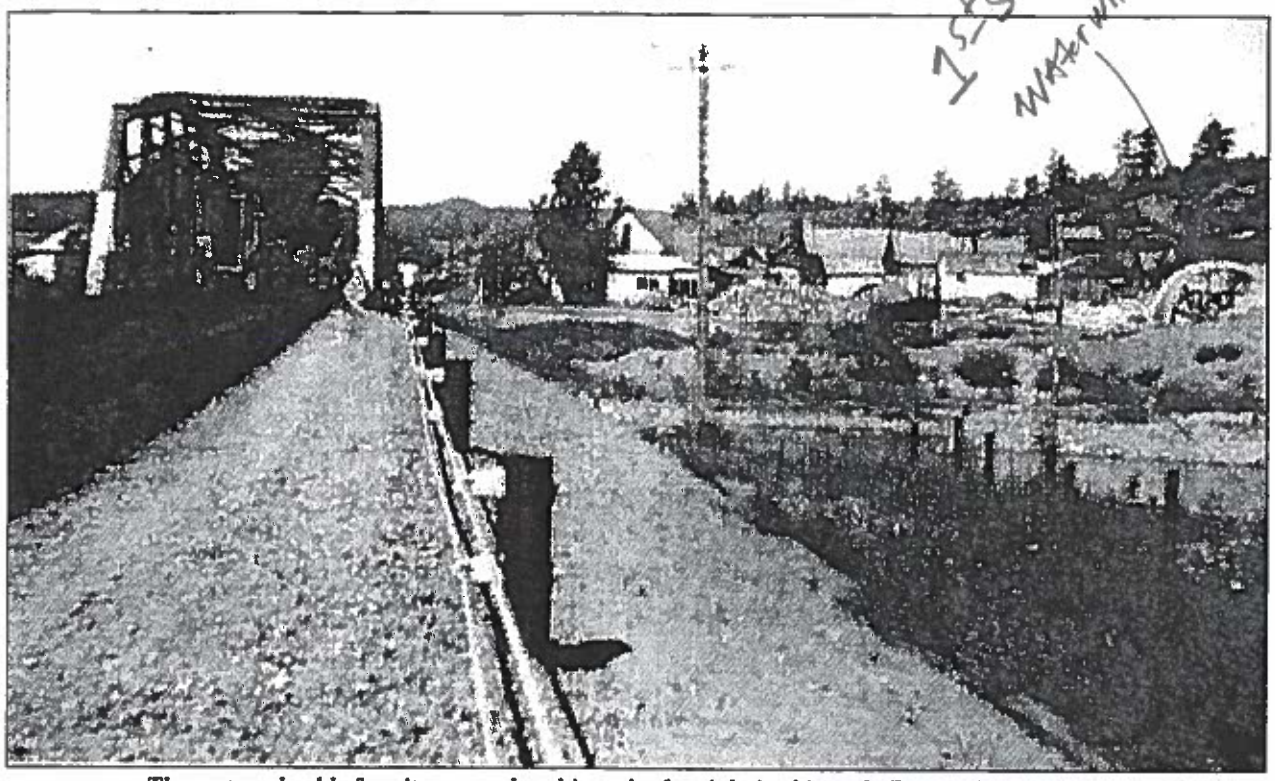
19

ELEVATION 3/16" = 1'-0"



20 SKEWED WALL

ELEVATION 3/16" = 1'-0"



The water wheel before it was enclosed is at the far right in this early Pagosa Springs photo.

The Pagosa Springs Waterworks

by Ann Oldham

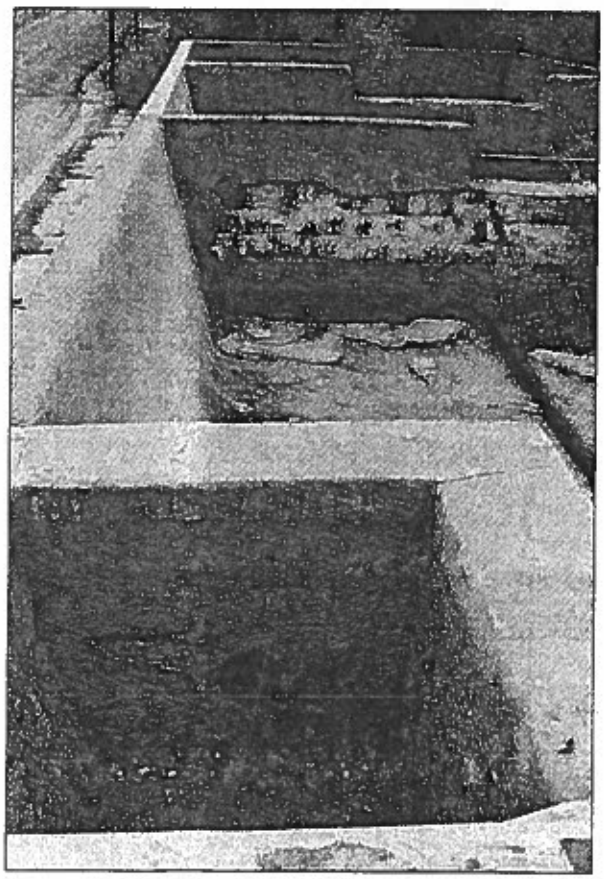
A SOLITARY metal-paddle water wheel stood out in the open near the bridge spanning the San Juan River on the east side of Pagosa Springs. In 1938, men working for the Works Progress Administration (WPA) began construction of a stone and masonry building with a wooden roof supported by massive steel beams, to enclose the metal paddle wheel. Three water-settling tanks with stone and masonry foundation and walls were attached to this structure.

Roy McCullough, who first homesteaded west of Pagosa Springs near the Charley Johnson place and later moved to Pagosa Springs, was hired as overseer of the water works construction. He boarded with Raymond and Faye (Teeson) Brown at their home on the corner of Second and Hermosa Streets. They purchased the two-bedroom house from Roy; he had built it for himself. He also had a butcher shop and worked on road construction in the area. Roy was much respected in the area and a "jack of all trades, but he was the master of none", according to Raymond Brown.

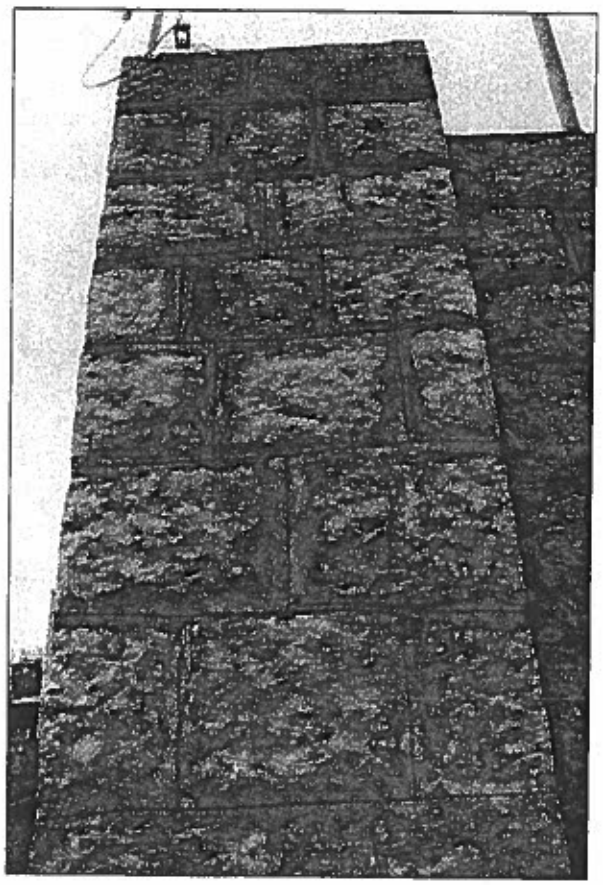
Water from the San Juan River flowed into the first of the settling tanks where sand and dirt settled to the floor of the tank. Clear water flowed over gaps in the tops of the walls to fill the second and third tanks, with more particles settling out each time. Water from the third tank was pumped (through the Waterworks Building) through a pipeline to a water tower on the west side of town. Then it moved by the force of gravity through pipes into the homes and businesses of the town.

During the FDR Administration the following hourly-wage schedule was in use. This schedule was compiled in 1941 by Wm. H. Trujillo, Timekeeper, for the preparation of payrolls during the construction of the settling basins and water-

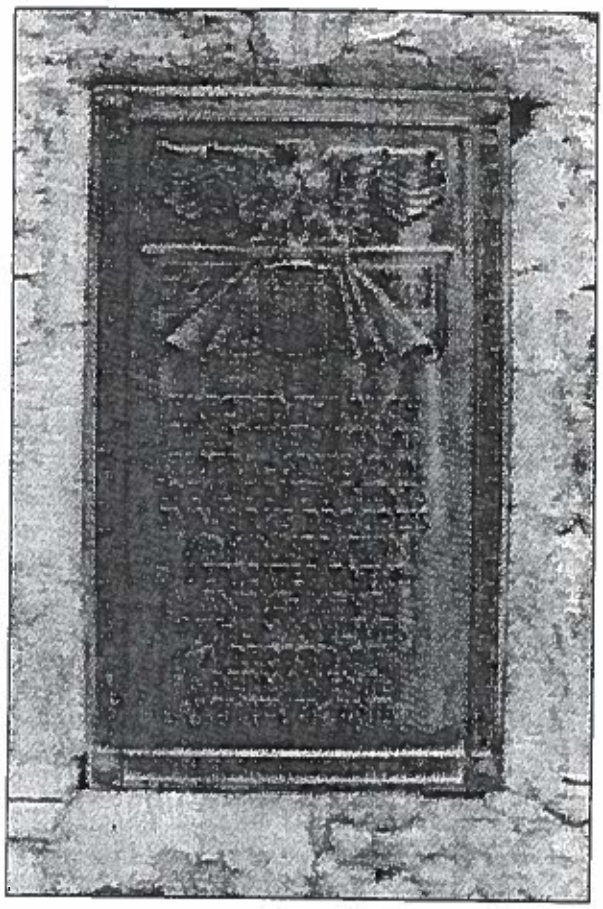
Rumbaugh Bridge arch.



Settling tanks showing water intake pipe.



Masonry work detail.



Plaque mounted on the side of the building erected to house the water wheel by the WPA.

The Pagosa Springs waterworks — pipes and fittings.

wheel-housing, which is today part of the Pioneer Museum.

The original "hourly-wage schedule" on the facing page is on display in the museum. This beautiful rustic building with settling tanks still stands at the corner of First and Pagosa Streets beside the river. A picturesque stone bridge spans Rumbaugh Creek to the east of the settling tanks. The skill of the workmen can still be viewed and appreciated in the second room of the San Juan Historical Society's Pioneer Museum and the Rumbaugh Bridge.

The total cost of this WPA project to provide domestic water to Pagosa Springs was $4,630.00. All the names of the men participating in this project were placed in a glass jar and then placed in the corner of the building that housed the waterwheel. When the work was completed a bronze plaque was placed in the beautiful stone. It reads:

ERECTED THROUGH
THE COOPERATION OF
FEDERAL STATE AND
LOCAL GOVERNMENTS
BY WORKS PROGRESS
ADMINISTRATION
DEDICATED TO THE
ENRICHMENT
OF HUMAN LIVES
A RECORD OF
PERMANENT
ACHIEVEMENT

AGENDA DOCUMENTATION

NEW BUSINESS:III.2

PAGOSA SPRINGS TOWN COUNCIL
MARCH 27, 2015

FROM: JAMES DICKHOFF, PLANNING DIRECTOR

PROJECT: AWARDING CONSTRUCTION CONTRACT FOR THE 200 BLOCK SIDEWALK PROJECT AND POSSIBLY APPROPRIATING FUNDS FROM RESERVES
ACTION: DISCUSSION AND POSSIBLE ACTION

BACKGROUND

The Town has budgeted $100,000 in the 2015 budget for the replacement of the curb, gutter and sidewalk along the 200 block of Pagosa Street between 2nd Street and 3rd Street. This section of sidewalk was the second sidewalk replacement priority project identified in our 5 year capital improvement plan. Davis Engineering has completed the final construction plans and has advertised for construction bids. Bids are due on Thursday, March 26th at 2pm, at which time the bids will be opened for review. The results of these bids and bid abstract will be communicated to Town Council via email that evening if possible and presented for consideration at the March 27th Special 7:30am TC meeting.

ANALYSIS

The project is anticipated to take approximately 6 - 8 weeks to complete. Staff has staged the project to be substantially completed before the summer tourists begin arriving in masses. We have communicated with the property owners that the project may extend to mid-June worst case, however, we expect the project to be complete before the Memorial Day weekend. In order to meet that tight schedule, it is imperative we begin the project ASAP, thus this agenda item for Town Council's consideration.

The Town Streets Department will set up the traffic control and conduct the demolition of the existing curb, gutter, sidewalk and some asphalt removal during the first week of April. PAWSD will come in after the demolition to replace any older service lines under our project area. The contractor will then mobilize to begin constructing the new infrastructure that includes new sidewalk, curb and gutter. It is hoped we can begin at the west end and head towards Second Street.

Staff is finalizing 5 property owner agreements for the project, which are anticipated to be signed by property owners prior to March 31st. These agreements outline temporary construction easements, permanent light pole easements, pedestrian and vehicular access modifications and other relative responsibilities.

ATTACHMENT(S)

Bid Abstract will be presented at the meeting.

FISCAL IMPACT

The Town has budgeted $100,000 in the 2015 budget for the replacement of the curb, gutter and sidewalk along the 200 block of Pagosa Street between 2nd Street and 3rd Street. The engineer has recently estimated the total cost of the project at up to $210,000 (conservative), which includes construction management, materials testing, 10% contingency, and engineering services during the project. In addition to this estimated cost, there are 10 new

light poles along the project, that staff also recommends Town Council consider appropriating $30,000 in funds from reserves.

The Bid Abstract will be sent to Town Council the evening of Thursday March 26th via email if available, and the abstract will be presented at the Town Council meeting for consideration. This will determine any needed funding from reserves for the project.

RECOMMENDATIONS

Staff recommends TC consider the submitted construction bids abstract and award the project to the lowest bidder capable of conducting the work.

#1. Award the 200 block sidewalk project construction contract to _____, Finding they are the lowest bidder responding to the advertisement for bids.

If the lowest construction bid is above the budgeted $100,000, staff also recommends appropriating additional funds from reserves. In addition, staff recommends the Town Council also consider appropriating funds from reserves to cover the cost of purchasing and installing the new street lights along this sidewalk project. Below are potential actions for Town Council's consideration. Staff Recommends option #1.

#1. Approve the appropriation of $_____from Reserves to fund the lowest construction bid for the 200 block sidewalk project and APPROVE the appropriation of $30,000 from reserves for the purchase and installation of new Street light fixtures to be installed along the sidewalk project.

#2. APPROVE the appropriation of $_____from Reserves to fund the lowest construction bid for the 200 block sidewalk project.

#3. Deny the appropriation of additional funding from reserves.

AGENDA DOCUMENTATION

OLD BUSINESS:III.3-6

PAGOSA SPRINGS TOWN COUNCIL
MARCH 27, 2015

FROM: JAMES DICKHOFF, PLANNING DIRECTOR

PROJECT: CONSIDERATION OF POTENTIAL LOCATIONS FOR RETAIL AND/OR MEDICINAL MARIJUANA LOCATIONS AND CONSIDERATION OF ALLOWABLE TYPES OF MARIJUANA ESTABLISHMENTS
ACTION: DISCUSSION AND POSSIBLE ACTION

BACKGROUND

On March 13, 2015, the Town Council considered potential allowable areas within Town for Marijuana Establishments. Town Council did determine that required distance buffer restrictions should include:
~ 1000 feet from School Facilities.
~ 1000 feet from Licensed Child Day Care Facilities.
~ 1000 feet from Drug and Alcohol treatment facilities.
Town Council decided to table the discussion and consideration of buffer distance restrictions around public parks and churches until the March 19th TC meeting, and instructed staff to prepare additional maps for consideration.

On March 19, 2015, Town Council discussed additional distance restrictions from Churches and Public Parks with no final determination. TC asked staff to bring additional maps showing potential locations with 250 foot residential buffers and the previously approved 1000 foot distances from schools, day cares and drug and alcohol treatment facilities, to establish potential allowable locations within town boundaries.

MARIJUANA ESTABLISHMENT DEFINITIONS

The State of Colorado defines the following 7 different types of **Marijuana Establishments**:

1. Medical marijuana center - a business that sells medical marijuana to registered patients or primary caregivers but is not a primary caregiver.

2. Medical marijuana-infused products manufacturer – a business that manufacturers a product containing medical marijuana for use or consumption by a patient. Examples of products include edibles, tinctures and ointments.

3. Optional premises cultivation operation – a business associated with a medical marijuana center or a medical marijuana-infused products manufacturer for a location in which the licensee is authorized to grow and cultivate medical marijuana.

4. Retail marijuana stores - a business that sells retail marijuana to adults over 21 years of age.

5. Retail marijuana products manufacturers - a business that manufacturers a product containing retail marijuana for use or consumption by an adult over 21 years of age.

6. Retail marijuana cultivation facilities - a business that grows and cultivates retail marijuana. Unlike medical marijuana optional premises cultivators, a retail marijuana cultivation facility does not have to be directly linked to a retail store or products manufacturer.

7. Retail marijuana testing facilities – a business that operates a lab to test the quality and components of retail marijuana and retail marijuana products.

Archuleta County allows all types of establishments **except** for Retail marijuana testing facilities and Retail marijuana products manufacturers, which are not allowed due to the nature of some of the hazardous products used in the production of such products.

In the case of #3, "Optional Premise Growing Operations" and "Retail Marijuana Cultivation Facilities" (marijuana growing operations), Archuleta County only allows these operations if: The growing operation is in connection with the operation of a Retail marijuana center, and, where the growing center and the Retail marijuana center have identical ownership, and, where the operations are on the same or adjacent parcels for property tax purposes.

Archuleta County has regulations that require the growing of at least 70% of the marijuana sold at a retail or medical sales establishments, to be grown on site. This ensures for consolidated businesses and ensures that the majority of the product is grown locally, employing local residents. If a grow operation is attached to a sales establishment, then the business is more commercial and industrial in nature. Archuleta County has not allowed Retail marijuana testing facilities or Retail marijuana products manufacturers, which are more light industrial to industrial in nature, in staff's view.

TOWN ZONING DISTRICT ANALYSIS

ZONING CONSIDERATIONS:
Similar allowable uses from the Town's LUDC table of allowable uses, for uses similar to various Marijuana Establishments, include the following:

1) Adult Entertainment Businesses:
   Allowed in the Commercial (C) district only, with an approved conditional use permit (CUP). These establishments are required to be at least 1000 feet from Schools, Churches, Residential Neighborhoods and any use frequented by children (eg., Library, Cinema, ect..)
2) Commercial Greenhouses:
   Allowed in the Mixed Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) zone districts as a use by right.
   Allowed in the Mixed Use Town Center (MU-TC), Mixed Use Residential (MU-R) and Agricultural Residential (R-A) districts with an approved conditional use permit (CUP).
3) Liquor Stores:
   Allowed in the Mixed Use Town Center (MU-TC), Mixed Use Corridor (MU-C) and Commercial (C) districts as a use by right.
   Allowed in the Mixed Use Residential (MU-R) with a conditional use permit (CUP).

TOWN RESIDENTIAL DISTRICTS INCLUDE: Rural Transitional (R-T), Agricultural/Residential (R-A), Residential Low Density (R-6), Residential Medium Density (R-12), Residential High Density (R-18) and Mixed Use Residential (MU-R).

Additionally, Multi Family residential dwellings (apartments, townhomes, condos) are allowed in the Mixed Use Town Center (MU-TC) and Mixed Use Corridor (MU-C) districts.

PLEASE NOTE: There is also the consideration of existing residential homes/uses, that are not currently within a residential district. This scenario is present due to previous rezoning efforts.

MARIJUANA USES COMPARISON WITH LUDC ALLOWABLE USE CHART

~ Medical marijuana centers.
~ Retail marijuana stores

These uses are consistent with a pharmacy, liquor store, or other retail business use. The LUDC defines Liquor store use as the most restrictive use, and allows these types of businesses in the following districts:
Allowed in Commercial (C), Mixed Use Corridor (MU-C) and Mixed Use Town Center, as a use by right.
(Staff believes Light Industrial is an appropriate district as well, as retail over 4,000 sqft is allowed in LI)
Allowed in Mixed Use Residential (MU-R) district with a conditional use permit (CUP).
PLEASE NOTE, retail over 4,000 sqft, is not allowed in the MU-R district.

Additionally, the use could also be associated with Adult Entertainment uses. The LUDC allows Adult Entertainment uses within the Commercial (C) district **only** with a conditional use permit and ***these establishments are required to be at least 1000 feet from Schools, Churches, Residential Neighborhoods and any use frequented by children (e.g., Library, Cinema, etc.)***

~ Optional premises cultivation operation (Medicinal)
~ Retail marijuana cultivation facilities

These uses are consistent with a commercial greenhouse. The LUDC allows commercial greenhouses in the following districts:
Allowed in Mixed Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) districts as a use by right.
Allowed in Agricultural/Residential (RA), Mixed Use Residential (MU-R) and Mixed Use Town Center (MU-TC) districts with a conditional use permit (CUP).

~ Retail marijuana products manufacturers
~ Retail marijuana testing facilities
~ Medical marijuana-infused products manufacturers

These uses are not typically open to the public, and if they are, that use is considered a subordinate use to the primary use. These uses are consistent with manufacturing and production uses and specifically, Light Manufacturing. The LUDC allows Light Manufacturing uses in the following districts:
Allowed in Light Industrial (LI) districts as a use by right.
Allowed in Mixed Use Corridor (MU-C) and Commercial (C) with a conditional use permit (CUP).

ATTACHMENT(S)

~ Additional Buffer and Distance Restriction Maps
~ LUDC Allowable Use Chart
~ Bob Coles Brief
~ Archuleta County Ordinance 12-2014.

FISCAL IMPACT

The fiscal impact expected during the creation of regulations will include legal expenses, production of documents/maps, substantial staff time (Administration, Planning, Police), and other incidentals.

RECOMMENDATIONS

Staff recommends that Town Council discuss the matters presented, and provide direction to staff on each matter below. Following are Alternative Actions for Town Council's consideration.

DISTANCE RESTRICTION BUFFER FROM RESIDENTIALLY ZONED AREAS:

#1. APPROVE a distance restriction buffer of at least _____ feet from residential zoned areas and established residential homes outside of residential areas.

#2. APPROVE a distance restriction buffer of at least _____ feet from residential zoned areas and DENY a distance restriction buffer from established residential homes outside of residential areas.

#3. DENY a distance restriction buffer from residential zoned areas and established residential homes outside of residential areas.

DISTANCE RESTRICTION BUFFER FROM PUBLIC PARKS:

#1. APPROVE a distance restriction buffer of at least _____ feet from Public Parks.

#2. DENY a distance restriction buffer from Public Parks.

DISTANCE RESTRICTION BUFFER FROM CHURCHES:

#1. APPROVE a distance restriction buffer of at least _____ feet from established Churches.

#2. DENY a distance restriction buffer from established Churches.

TYPES OF MARIJUANA ESTABLISHMENTS:

#1. APPROVE the Following Marijuana Establishments to Operate within Town Boundaries in Specific Zoning Districts in Accordance with Adopted Distance Restrictions:

~ Medical Marijuana Centers Shall Be Allowed in Commercial (C), Mixed Use Corridor (MU-C), Mixed Use Town Center (MU-TC) and Light Industrial (LI) districts as a use by right.

~ Retail Marijuana Stores Shall Be Allowed in Commercial (C), Mixed Use Corridor (MU-C), Mixed Use Town Center (MU-TC) and Light Industrial (LI) districts as a use by right.

~ Medical Marijuana Optional Premises Cultivation Operations Shall be Allowed in Mixed Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) districts as a use by right.

~ Retail Marijuana Cultivation Facilities Shall be Allowed in Mixed Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) districts as a use by right.

~ Retail Marijuana Testing Facilities Shall Be Allowed in Light Industrial (LI) districts as a use by right And Allowed in Mixed Use Corridor (MU-C) and Commercial (C) Districts with a conditional use permit (CUP).

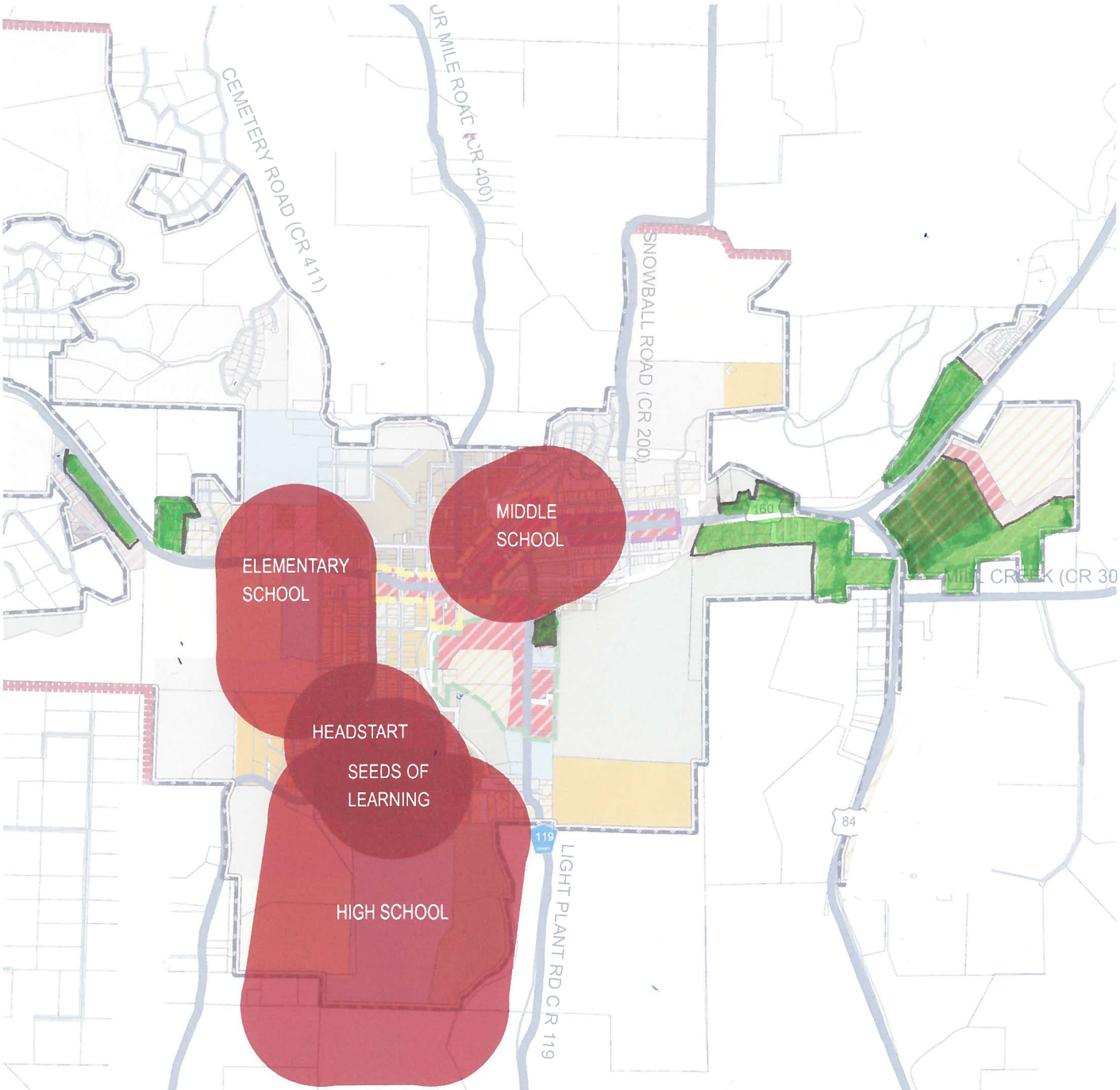
~ Medical Marijuana-infused Products Manufacturers Shall Be Allowed in Light Industrial (LI) districts as a use by right and Allowed in Mixed Use Corridor (MU-C) and Commercial (C) with a conditional use permit (CUP).

~ Retail Marijuana Products Manufacturers Shall Be Allowed in Light Industrial (LI) districts as a use by right and Allowed in Mixed Use Corridor (MU-C) and Commercial (C) with a conditional use permit (CUP).

DUAL RETAIL AND / OR MEDICINAL MARIJUANA ESTABLISHMENTS:

#1. APPROVE Retail and Medical Marijuana Establishments to operate within Town Boundaries at the same location.

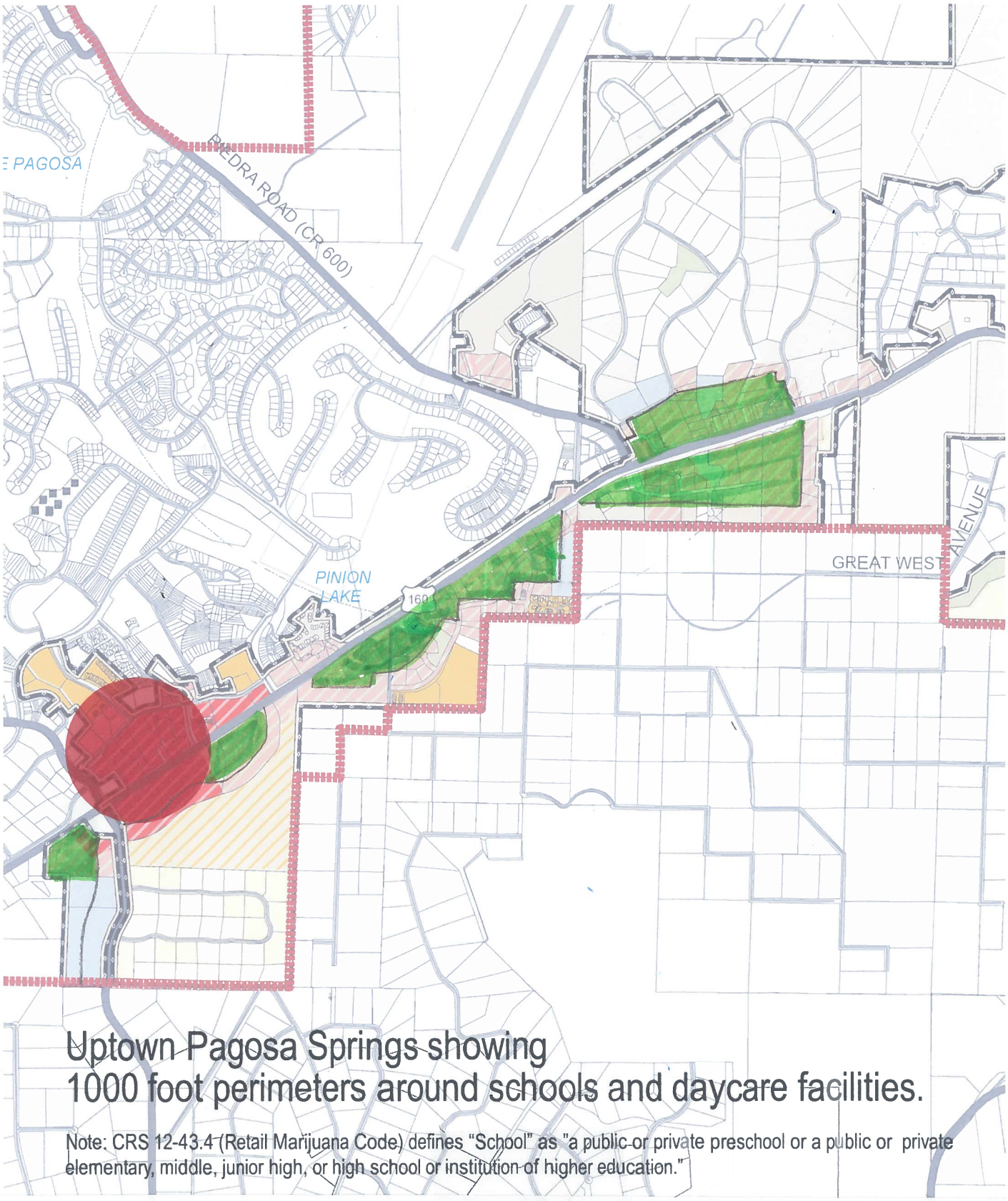
#2. DENY Retail and Medical Marijuana Establishments to operate within Town Boundaries at the same location.



Downtown Pagosa Springs showing 1000 foot perimeters around schools and daycare facilities.

Note: CRS 12-43.4 (Retail Marijuana Code) defines "School" as "a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education."

Green Shaded Areas are those areas that are at least 250 feet from Residential zoned districts, and areas outside of the 1000 foot distance restriction from Schools, Child Care Facilities and Drug and Alcohol Treatment centers.



Uptown Pagosa Springs showing
1000 foot perimeters around schools and daycare facilities.

Note: CRS 12-43.4 (Retail Marijuana Code) defines "School" as "a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education."

Green Shaded Areas are those areas that are at least 250 feet from Residential zoned districts, and areas outside of the 1000 foot distance restriction from Schools, Child Care Facilities and Drug and Alcohol Treatment centers.

4.1.4. TABLE OF ALLOWED USES

TABLE 4.1-1 TABLE OF ALLOWED USES

P = Permitted C = Conditional Use

Use Category	Use Type	Residential					Mixed-Use			Non-Residential and Other				Use-Specific Regulations
		RA	RT	R6	R12	R18	MUR	MUC	MUTC	C	LI	OS	PS	
COMMERCIAL USES														
Agriculture	Farming, traditional or ranch uses	P	C	C										4.2.2.B.
	Stables	P	C								P			
Animal-Related Services	Kennel	C	C					P		P	P			4.2.2.D.
	Veterinary clinic/hospital	P	P					P		P	P			
Financial Services	With drive-through						C	C	C	P	P			
	Without drive-through						C	P	P	P	P			
Food and Beverage Services	Bar or nightclub						C	P	P	P				
	Restaurant, with drive-through							P	C	P				
	Restaurant, no drive-through						C	P	P	P	P			
Lodging Facilities	B&B or inn	C	C				C	P	P	C				
	Campground, guest ranch, or RV park	C								P				
	Hotel, motel, or lodge							P	P	P				
	Vacation rental	C	C	C	C	C	C	P	P					
Offices, Business and Professional	4,000 s.f. or less						C	P	P	P	P			4.2.2.E.
	More than 4,000 s.f.							P	P	P	P			
Personal Services	Dry cleaning and laundry service							P	P	P	P			
	General personal services						P	P	P	P	P			
Recreation and Entertainment, Indoor	Adult entertainment									C				4.2.2.A.
	Art gallery						P	P	P	P	P		P	
	Movie theater						C	P	C	P				
Recreation and Entertainment, Outdoor	General outdoor recreation, commercial	C	C							P		C	C	
	Golf course or driving range	C	C							C			C	
Retail Sales	Greenhouse or nursery, commercial	C					C	P	C	P	P			
	Grocery store						C	P	P	P				4.2.2.C.
	Liquor store						C	P	P	P				4.2.2.E.
	Retail, general, over 4,000 s.f.							P	P	P				
	Retail, general, 4,000 s.f. or less						C	P	P	P	P			
Vehicles and Equipment	Parking lot/structure						C	C	C	P	P			
	Gasoline sales							C	C	P	P			
	Vehicle sales and rental							C		P	P			
	Vehicle service and repair							C		P	P			4.2.3.F.

4.1.4. TABLE OF ALLOWED USES

TABLE 4.1-1 TABLE OF ALLOWED USES

P = Permitted C = Conditional Use

Use Category	Use Type	Residential					Mixed-Use			Non-Residential and Other				Use-Specific Regulations
		RA	RT	R6	R12	R18	MUR	MUC	MUTC	C	LI	OS	PS	
RESIDENTIAL USES														
Household Living	Dwelling, duplex		C	P	P	P	P							4.2.1.A.
	Dwelling, live/work						P	P	P	P	P			4.2.1.B.
	Dwelling, factory built mftd. (HUD) & mobile	C	C											4.2.1.F
	single - wide	C	C											
	double - wide	C	C	P	P	P								
	Dwelling, multi-family					P	P	P	P					4.2.1.C
	Dwelling, single-family detached (incl. modular)	P	P	P	P	P	P							
	Dwelling, timeshare						C	C	C					
	Dwelling, townhouse		C		P	P	P	P	P					4.2.1.E.
	Mobile home park	C	C											4.2.1.D.
Group Living	Group living facility, large							C	C	C				
	Group living facility, small (Type A)	P	P	P	P	P	P	P	C	C				
	Group living facility, small (Type B)				C	C	P	P	C					
	Nursing care home				P	C	P	P	P				P	
	Nursing care facility				C	C	C	C	C	C			P	
PUBLIC , INSTITUTIONAL, AND CIVIC USES														
Community and Cultural Facilities	Government adm. and civic buildings						C	P	P	P			P	
	Social, fraternal lodges						C	P	P	P			P	
	Public assembly	C	C	C	C	C	P	P	P	P			P	
	Public safety facility	C	C	C	C	C	C	P	P	P	P	P	P	
Child Care Facilities	Child care center				C	C	C	P	P	P			C	
	Day care home	C	C	C	C	C	C							
Health Care Facilities	Hospital							P	C	P	P			
	Immediate care facility							C	C	P			P	
	Medical or dental office or clinic						P	P	P	P				
Parks and Open Space	Athletic fields and courts	P	P	C	C	C	P	P	P	P	P	P	P	
	Community garden	P	P	P	P	P	P	P	P	P	P	P	P	
	Open space	P	P	P	P	P	P	P	P	P	P	P	P	
	Park	P	P	P	P	P	P	P	P	P	P	P	P	
Educational Facilities	College or university	C	C				C	C	C	C			C	
	Elementary or secondary school	C	C				C	C	C	C	C		P	
	Trade or vocational school	C	C				C	C	C	C	C		C	
INDUSTRIAL USES														
Industrial Service	Building materials sales							C	C	P	P			
	General industrial service									C	P			
	Natural resource processing									C	P			
Manufacturing and Production	Assembly, light							P		P	P			
	Manufacturing, heavy										C			
	Manufacturing, light							C		C	P			
Warehouse and Freight Movement	Mini-storage							C		P	P			4.2.3.A.
	Storage yard										P			
	Warehouse									C	P			
	Wholesale establishment							C	C	C	P			
Telecomm	Tower/antenna of any height										P	C		
Waste and Salvage	Salvage, junk yard										C			4.2.3.B.

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MEMORANDUM

February 26, 2015

CONFIDENTIAL
ATTORNEY/CLIENT PRIVILEGED

VIA E-MAIL

TO: Town Council
Town of Pagosa Springs

FROM: Robert G. Cole and Christopher Price

RE: **Medical and Recreational Marijuana Issues and Options**

The Town extended the temporary ban on medical and retail marijuana establishments which is now set to expire on June 1, 2015. We were asked to provide a summary of the Archuleta County Ordinance regulating medical and recreational marijuana and to provide options for Town Council to consider when determining whether to regulate in the same manner. The questions for Town Council are provided in italics below.

1. What types of marijuana establishments does Archuleta County license and how does it license and regulate those businesses?

The County regulations are robust and contain provisions that are covered by state law and regulation. A copy of Archuleta County Ordinance 12-2014 is attached and includes provisions such as:

(a) The County permits all types of medical and retail marijuana establishments allowed by state law.

A summary description of the types of medical and retail marijuana establishments is attached. The Town is not required to permit all those establishments to operate within Town but can choose which establishments are allowed.

(i) ***Does the Town want to permit all medical and retail marijuana establishments?***

(b) The County allows licensees to operate medical and retail establishments at the same location.

Under the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code, the state permits medical and retail operations to operate at the same location so long as the product is separated. The operator must have a separate license to operate each type of establishment at the location.

(i) Does the Town want to permit that type of dual operation?

(c) The County requires its cultivation licensees to be located on or adjacent to the property on which the licensee will operate a commercial store or product manufacturing business.

State law does not require the location limitation the County imposes on cultivation licensees. Other communities around Colorado do impose a similar limitation.

(i) Does the Town want to limit cultivation activities in the same manner?

(d) The County imposes certain operation restrictions that include:

- Product labeling;
- Limited hours of operation (8am to 7pm);
- Product storage – indoors and not visible to the public;
- Prohibition on the use of certain metals and gases without prior verification of compliance with application codes;
- Requiring use of an identification scanner;
- Prohibition on free distribution of product;
- Requiring in-person sales;
- Compliance with the County's sign code;

- Prohibition on certain advertising of product or the business;
- Prohibition on sponsorship of events at which more than 30% of attendees will be under 21;
- Requiring collection of sales tax;
- Requiring an alarm system with video surveillance;
- Use of certain doors and locks;
- Use of a safe to store product when the establishment is closed;
- Limitation on age of employees;
- Business manager restrictions (no person shall manage the business unless on the application);
- Required warning signs;
- Maintain certain business records;
- Consent to disclose certain records; and
- Reservation of the County's right to conduct inspections.

(i) Does the Town want to adopt some or all of the same operation restrictions?

(e) The County imposes location restrictions on all establishments that include:

- Permission to operate in the County's commercial and industrial zone district;

- A distance limitation between marijuana establishments and schools, parks and day care facilities of 1000 feet;

- A distance limitation between any residential or PUD zone district and licensed locations of 250 feet; and

- A prohibition against operating in a residential zone district.

(i) Does the Town want to adopt similar and/or more stringent location restrictions?

The Town is not required to adopt location restrictions. However, the Town can adopt more or less stringent limitations than those imposed by the County. The zone

districts approved by the County for marijuana establishments are consistent other Colorado local governments. Other more stringent location restrictions include:

- Limiting the number of marijuana establishments within the Town;
- Location limitations between licensed establishments. Some local governments have limited licensees from operating an establishment if it is to be located within a certain distance of another licensed establishment. We have seen a range of between 250 feet and 1000 feet for this type of limitation

(f) The County's local licensing authority is the Board of County Commissioners.

If the Town does not identify the local licensing authority in the ordinance, the Town Council will serve in that capacity by default. Other jurisdictions have named an administrative law judge to serve as the local licensing authority.

(i) Who should serve as the Town's local licensing authority?

(g) The County follows very specific licensing and application processing provisions that include:

- Detailed submittal requirements;
- Site plan;
- Plan for use of CO2 gas for cultivation establishments; and
- Referral of the application to different County departments and special districts for additional review and comment.

(i) Does the Town want to follow similar licensing and application requirements?

The Town must use the state license application. It is permitted to require additional submittals by the applicant as part of its review process. The County's provisions are not unreasonable.

(h) The County provides the option of holding a public hearing before deciding to approve or deny a license application.

The Town can require a hearing before approving a medical or retail establishment license application but is not required to hold such hearing by state law. Note that under Amendment 64 (approving retail marijuana) the Town must issue a decision within ninety days of receiving a completed license application for a retail establishment. If the Town adopts stringent hearing requirements, the limited meeting schedule of the Council may further limit the Town's ability to review and act on applications within that timeframe.

(i) Does the Town want to provide a similar option to hold a public hearing on license applications?

(i) The County has adopted procedures for enforcement actions.

The Retail Marijuana Code and Medical Marijuana Code differ in the enforcement of license violations by local licensing authorities. The Retail Marijuana Code only describes state enforcement of violations whereas the Medical Marijuana Code provides both the state and local licensing authority with enforcement powers. The Town may consider adopting enforcement provisions so that it can enforce violations by either type of licensee.

(i) Does the Town want to adopt enforcement procedures?

(j) The County has adopted the following fees:

<u>Marijuana Center Fees: for each individual type of license</u>

- Operating Fee (Including renewals with changes) $3,000.00
- Renewal w/out Changes $2,000.00
- Transfer $3,000.00
- Location Change $2,000.00
- Business Name Change $500.00
- Corporate Structure Change $500.00
- Modification of Premises $500.00

(i) ***What application and licensing fees should be imposed?***

The Town has authority to impose local application and licensing fees on medical marijuana applicants. The Town cannot adopt additional application and licensing fees

for retail marijuana. Those fees are imposed by the state but shared with the local government.

(ii) Should the Town adopt an "operating fee" for marijuana establishments?

Under the Retail Marijuana Code, an operating fee is defined to cover the local government costs of inspection, administration and enforcement. Archuleta County only imposes an operating fee on retail marijuana establishments. The Town can adopt an operating fee for both retail and medical marijuana establishments. This fee should be different than the license and application fee.

2. What other issues must the Town decide?

(a) Whether to impose civil penalties for license violations?

The Town may adopt civil penalties to be imposed by the licensing authority, the municipal court or an administrative law judge for violations by licensees.

(b) Whether to ask the voters to approve any additional local sales or excise tax on marijuana?

The County cannot impose an excise tax. The Town may impose such a tax or an additional sales tax after holding an election. The decision to impose an additional tax on retail and/or medical marijuana should be made soon so that the question can be prepared for the November ballot.

CONCLUSION

If the Council decides to permit either or both medical and recreational marijuana businesses, the County's ordinance can be revised based on Council's responses to the questions above. If the Council would like to adopt a new tax, we can prepare an ordinance referring the issue to the voters. Please let us know how you would like to proceed.

RGC/CMP
Enclosures

MARIJUANA ESTABLISHMENTS

1. Medical marijuana center - a business that sells medical marijuana to registered patients or primary caregivers but is not a primary caregiver.

2. Medical marijuana-infused products manufacturer – a business that manufacturers a product containing medical marijuana for use or consumption by a patient. Examples of products include edibles, tinctures and ointments.

3. Optional premises cultivation operation – a business associated with a medical marijuana center or a medical marijuana-infused products manufacturer for a location in which the licensee is authorized to grow and cultivate medical marijuana.

4. Retail marijuana stores - a business that sells retail marijuana to adults over 21 years of age.

5. Retail marijuana products manufacturers - a business that manufacturers a product containing retail marijuana for use or consumption by an adult over 21 years of age.

6. Retail marijuana cultivation facilities - a business that grows and cultivates retail marijuana. Unlike medical marijuana optional premises cultivators, a retail marijuana cultivation facility does not have to be directly linked to a retail store or products manufacturer.

7. Retail marijuana testing facilities – a business that operates a lab to test the quality and components of retail marijuana and retail marijuana products.

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35

ORDINANCE 12-2014

AN ORDINANCE FOR THE REGULATION AND LICENSING OF MARIJUANA BUSINESS ESTABLISHMENTS

WHEREAS, the General Assembly enacted the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, " Colorado Medical Marijuana Code") to implement Amendment 20 to the Colorado Constituition authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of the Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of the Medical Marijuana Code, Colorado voters enacted Amendment 64 to the Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as "retail" marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted the Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, " Colorado Retail Marijuana Code") governing retail marijuana establishments and use as more particularly described in the Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of the Colorado Retail Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, the majority of voters in Archuleta County voting on the legalization of medical marijuana and retail marijuana have approved it, including approving Amendment 20 and Amendment 64; and

WHEREAS, pursuant to Amendment 64, and the Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), counties may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of the Retail Marijuana Code; and

RtN: JUNE MADRID
ORDINANCES

WHEREAS, the Archuleta County Board of County Commissioners is authorized by CRS §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

WHEREAS, the Board has determined that adopting regulations governing the time, place and manner of operating retail marijuana establishments in unincorporated Archuleta County will serve the health, safety and welfare of the community; and

WHEREAS, the Board has determined that the efficient administration of medical marijuana and retail marijuana laws and regulations encourages that it adopt a single set of regulations applicable to both medical marijuana and retail marijuana to the extent that doing so conforms to the requirements of the Medical Marijuana Code and the Retail Marijuana Code; and

WHEREAS, the Board has considered the testimony and opinions of persons interested in marijuana regulation at public work sessions and at public hearings; and

WHEREAS, the Board finds it is in the interest of public health, safety and welfare that the Board adopt the Archuleta County Marijuana Licensing Regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Archuleta County Board of County Commissioners hereby adopts the Archuleta County Marijuana Licensing Regulations attached hereto, effective July 1, 2014.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that any Moratorium effecting is rescinded, effective July 1, 2014.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY:

Part I. GENERAL PROVISIONS

Section 1.01 Title

These regulations shall be known and referred to as the "Archuleta County Marijuana Licensing Regulations" (referred to herein as "Regulations").

Section 1.02 Authority

Section 14 of Article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law. Section 16, Article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law. To enact, restrict, and enforce the State Constitution, the General Assembly enacted the Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules. The Colorado Medical Marijuana Code and the Medical Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain medical marijuana businesses within their jurisdictions. Further, to enact, restrict, and enforce the state constitution, the General Assembly enacted the Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. In addition, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules, the Colorado Retail Marijuana Code and the Retail Marijuana Rules authorize counties and municipalities to determine whether to permit, as a matter of state law, certain retail (i.e. nonmedical) marijuana businesses within their jurisdictions.

Section 1.03 Purpose

1.03.1 The purpose of these regulations are to:

(1) Authorize licensing in unincorporated Archuleta County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Archuleta County by prescribing the manner in which marijuana businesses can be conducted in the county.

(2) Comply with the County's obligations under the Colorado Medical Marijuana Code;

(3) Comply with the County's obligations under Const. Art. XVIII, §16(5)(e);

(4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Medical Marijuana Code;

(5) Require that retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers and retail marijuana testing facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Retail Marijuana Code;

(6) Mitigate potential negative impacts that the Medical Marijuana and Retail Marijuana Establishments may cause on surrounding properties and persons;

(7) Regulate the conduct of persons owning, operating, and using Medical Marijuana and Retail Marijuana Establishments to protect the public health, safety and welfare;

(8) Establish a nondiscriminatory mechanism by which the County appropriately regulates the Location and operation of Medical Marijuana Establishments and Retail Marijuana Establishments within the County.

1.03.2 By enacting these Regulations, Archuleta County does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, that constitutes or may constitute a violation of federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Section 1.04 Effective Date and Applicability of Regulations

1.04.1 *Effective date.* Except as provided in section 1.04.3, as of July 1, 2012, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Medical Marijuana Code without first having obtained a local license under these regulations and a state license under state code. As of October 23, 2013, it shall be unlawful to operate any business in unincorporated Archuleta County for which a license is required under the Colorado Retail Marijuana Code without first having obtained a local license under these regulations and a state license under state code. Provided, further, this ordinance is necessary to the immediate preservation of the public health and safety, due to the immediate impact upon surrounding residences, churches and schools from the attraction of transients, parking and traffic problems, the potential for increased crime and noise, increased safety hazards to neighborhood children, and the potential for overall deterioration of neighborhood quality, and therefore shall become effective immediately upon adoption.

1.04.2 *Applications for local licenses.* The Authority shall receive and process all applications for medical marijuana centers and optional premises medical marijuana cultivation operations. The Authority shall accept and process applications for retail marijuana stores and retail marijuana cultivation facilities, license beginning on July 1, 2014.

1.04.3 *Pre-existing businesses.* Any person who is lawfully engaged in the business of selling, cultivating, or manufacturing medical marijuana as permitted by the Colorado Medical Marijuana Code and the Archuleta County Land Use Code prior to the effective date in Section 1.04.1, may continue in business if, on or before January 1, 2014, the person submitted an application for local licensing under these regulations. If an application is submitted according to this subsection, the business may continue until such time as the state or local licensing application is denied or the state or local license is revoked. Provided, further, any local license issued pursuant to the provisions of Ordinance No. 11-2013, an Ordinance Enabling the Operation of Certain Medical Marijuana Operations Pursuant to and Consistent with Article XVIII, Section 14 of the Colorado Constitution and Declaring effective Date which is valid and effective as of the date these Regulations are promulgated, shall be deemed to have been issued pursuant to these Regulations, and the provisions of these Regulations shall govern the expiration, renewal, revocation, suspension and transfer of such license.

1.04.4 *Dual Licenses.* Dual operation of a licensed medical marijuana center, optional premises cultivation facility, or medical marijuana-infused products manufacturing facility and any retail marijuana facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to persons younger than twenty-one years of age, except that Medical Marijuana products may be sold to a person at least eighteen years of age, as allowed by State law.

1.04.5 *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, Archuleta County zoning approvals, or Archuleta County building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in unincorporated Archuleta County, all persons must obtain a license under these regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

1.04.6 These Regulations apply only to the unincorporated areas of Archuleta County, Colorado.

1.04.7 *Relationship to Ordinance No. 11-2013.* The provisions of this Ordinance shall control the operations of all Retail Marijuana and Medical Marijuana Establishments in Archuleta County. In the event of a conflict between this Ordinance and Ordinance No. 11-2013, this Ordinance shall control. Provided, further, Ordinance No. 11-2013 shall be repealed.

Section 1.05 Definitions

1.05.1 Unless otherwise expressly provided, the definitions in the Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to Medical Marijuana Establishments.

1.05.2 Unless otherwise expressly provided, the definitions in the Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to Retail Marijuana Establishments.

1.05.3 The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *"Authority," "Archuleta County Local Licensing Authority"* and *"Local Licensing Authority"* have the same meaning for the purposes of these Regulations.

(2) "*Good Cause*", for purposes of refusing or denying a license issuance, renewal or transfer means:

(a) The Licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the state administrative regulations promulgated pursuant thereto, as applicable;

(b) The Licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;

(c) The Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or

(d) The Licensed Premises have been inactive without justification for at least one year.

(3) *"Licensed Premises"* means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. "Licensed Premises includes and off-premises storage facility owned, operated or used by the Licensee.

(4) *"Licensee"* means a person licensed pursuant to these Regulations.

(5) *"Location"* means a particular parcel of land that may be identified by an address or other descriptive means.

(6) *"Medical Marijuana Establishment"* means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in the Colorado Medical Marijuana Code.

(7) *"Owner"* means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical or a Retail Marijuana Establishment.

(8) *"Premises"* means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.

(9) *"Retail Marijuana Establishment"* means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in the Colorado Retail Marijuana Code.

(10) *"Sale"* or *"Sell"* includes to exchange, barter, or traffic in, to solicit or receive and order except through a licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

Section 1.06 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code, and State Administrative Regulations

1.06.1 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Medical Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Medical Marijuana Code and the state administrative regulations promulgated pursuant thereto, each as they are amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments.

1.06.2 Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Retail Marijuana Code or the state administrative regulations promulgated pursuant thereto, all of the provisions of the Colorado Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, each as they are amended from time-to-time, are promulgated herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Retail Marijuana Establishments.

1.06.3 If there is a conflict between the provisions of these Regulations and the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, or the state administrative regulations promulgated pursuant to them, respectively, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Section 1.07 Licenses and Grant of Authority for Dual Licenses

1.07.1 The Authority is authorized to issue the following local licenses should the applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

1.07.2 A person may operate a licensed Medical Marijuana Center, Optional Cultivation Facility or Medical Marijuana-infused Products Manufacturing Facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.

1.07.3 The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

Section 1.08 County Reservations

1.08.1 Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.3-104.

1.08.2 Adoption of these Regulations is not intended to waive or otherwise impair the County's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Section 1.09 Operation Limitations

1.09.1 Licensees shall be subject to the following additional operation limitations:

1.09.1.1 All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.

1.09.2 Each Medical and Retail Marijuana Establishment shall be operated from a permanent Location. No Medical or Retail Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed location and such delivery sales account for less than ten (10%) percent of the Medical Marijuana Establishments total sales.

1.09.3 A Medical Marijuana Center and Retail Marijuana Store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 7 p.m.

1.09.4 No Medical Marijuana Establishment or Retail Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The Authority in its sole and unfettered discretion may, at any time, require an applicant or licensee to engage an Industrial Hygienist, at applicant or licensees cost, to review the manner in which butane, propane or other solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opining on the safety precautions in place. Such Industrial Hygienist may make recommendations which the County may require the applicant or licensee to implement.

1.09.5 No Retail Marijuana Establishment is permitted to sell marijuana to persons younger than twenty-one years of age and must post signage that clearly states: "You must be at least 21 years old to enter." No Medical Marijuana Establishment is permitted to sell marijuana to persons younger than eighteen years of age and must post signage that clearly states: "You must be at least 18 years old to enter" where any marijuana products are visible.

1.09.6 All retail marijuana labels must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21." All medical marijuana labels must contain the statement: "It is illegal to transfer or sell medical marijuana or medical marijuana products to anyone under the age of 18."

1.09.7 For dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An "electronic ID scanner" is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.

1.09.8 All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.

1.09.9 All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.

1.09.10 All lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and location of all lamps recycled must be documented and available for inspection.

1.09.11 Medical Marijuana Establishments and Retail Marijuana Establishments stores may not distribute to a consumer, marijuana or marijuana-infused products free of charge.

1.09.12 All Medical Marijuana Establishments and Retail Marijuana Establishments are subject to the requirements of the Archuleta County Land Use Regulations including Section 7 thereof, the Sign Regulations and the restrictions on advertising and marketing under the Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without consent of the property owner. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the County or on the internet; (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word "marijuana," "cannabis" or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.

1.09.13 A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.

1.09.14 All Medical Marijuana Establishments or Retail Marijuana Establishments shall collect and remit all applicable State and County sales taxes in a timely manner. Their State and County license to engage in a Medical Marijuana Establishment or Retail Marijuana Establishment shall be posted along with the State sales tax license.

1.09.15 Any Medical Marijuana Establishments or Retail Marijuana Establishments within the County shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent de-activation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the Archuleta County Sheriff's department.

1.09.16 Medical Marijuana Establishments or Retail Marijuana Establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every 500 square feet of interior business space.

1.09.17All inventory, containing any form of marijuana, must be placed within a locked safe on the premises during hours that the business is closed. The safe must be securely bolted to the floor or installed as part of the foundation of the building in which the marijuana business is located. Five Hundred ($500) dollar retail value of marijuana shall be stored in a secured refrigerator which is maintained in a secure area of premises and approved by the State.

1.09.18 It shall be unlawful for any marijuana business to employ any person who is not at least 21 years of age.

1.09.19 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be managed by any person other than the licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairman of the Authority available to be on the premises within thirty minutes of a demand for such person to be present being made at the establishment.

1.09.20 There shall be posted in a conspicuous location in each Medical Marijuana Establishment or Retail Marijuana Establishment a legible sign containing the following warnings:

(1) A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;

(2) A warning that possession and distribution of marijuana is a violation of federal law; and

(3) That smoking of marijuana in public is illegal.

1.09.21 Medical Marijuana Establishments and Retail Marijuana Establishments are required pursuant to the Colorado Retail Marijuana Code, the Retail Marijuana Rules, the Colorado Medical Marijuana Code or the Medical Marijuana Rules to maintain certain business records. Any and all such records required to be maintained shall be open at all times during business hours for inspection and examination by the County Administrator or his duly authorized representative(s). Provided, further, the County may require the licensee to furnish such information as it considers necessary for the proper administration of this Ordinance.

1.09.22.1 By accepting a Medical Marijuana Establishment license or a Retail Marijuana Establishment license, the licensee is providing consent to disclose any information received by the County including but not limited to information obtained pursuant to Section 1.09.21 above and further, if applicable, to include information about the number of patients and caregivers. Any records provided by the licensee that include patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.]* or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The County will not disclose documents appropriately submitted under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] as confidential documents to any party other than law enforcement agencies. Provided, further, all Medical marijuana establishments shall provide the Authority with a monthly patient & Plant Count which report shall exclude names but provide medical marijuana registration numbers and the number of plants associated with such patient.

1.09.22.2 The County may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the County, who shall likewise have access to all books and records of such licensee. The expense of any audit determined to be necessary by the County, shall be paid by the County; provided, however, should the audit reflect a failure of the licensee, in whole or in part, to timely remit all sales taxes due to the County, the expense of the audit shall be paid by the licensee.

1.09.3 Acceptance of a Medical Marijuana Establishment license of any type, a Retail Marijuana Establishment license of any type or a Dual License from the County constitutes consent by the licensee, owners, managers and employees of such business to permit the County Administrator or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Section 1.10 Prohibited Locations

1.10.1 Medical Marijuana Establishments or Retail Marijuana Establishments may be allowed in the commercial or industrial zones.

1.10.2 No Medical Marijuana Establishment or Retail Marijuana Establishment shall be licensed to operate at a Location that is within 1000 feet from any school as "school" is defined in these Regulations, any licensed day care facility, church or dedicated public park, whether located within or outside the corporate limits of any municipality within the county. The suitability of a location for the Medical Marijuana Establishment or Retail Marijuana Establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Medical marijuana business under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. Nothing within this section shall preclude the establishment of a public, private or charter school, licensed day care facility, licensed pre-school, church or dedicated Public Park within 1000 feet of a pre-existing Medical Marijuana Establishment or Retail Marijuana Establishment.

1.10.3 Notwithstanding anything to the contrary herein, even if a Medical Marijuana Establishment or Retail Marijuana Establishment is located within a commercial or industrial zoned area such business must be no less than 250 feet from any Residential or Planned Unit Development zoned area; provided, however, the distance between the Medical Marijuana Establishment or Retail Marijuana Establishment and the area zoned as Residential or Planned Unit Development may be less than 250 feet if there exists between the Medical Marijuana Establishment or Retail Marijuana Establishment and the Residential or Planned Unit Development zoned area a United States Highway such as U.S. Highway 160.

1.10.4 The distances referred to in this Section 1.10.2 are to be computed by direct measurement from the nearest property line of the land used for either the public, private or charter school, licensed day care facility, licensed pre-school, church, dedicated Public Park or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which Medical Marijuana Establishment or Retail Marijuana Establishment products are to be sold.

1.10.5 No License may be issued to operate a Medical Marijuana Establishment or Retail Marijuana Establishment in a residential zone district as a "home occupation" under the Archuleta County Land Use Regulations.

Part II. LOCAL LICENSING AUTHORITY

Section 2.01 Establishment of Local Licensing Authority

The Archuleta County Local Licensing Authority shall be the Archuleta County Board of County Commissioners. The Chairman and Vice-chairman of the Board of County Commissioners shall be, respectively, the Chairman and Vice-chairman of the Local Licensing Authority.

Section 2.02 Clerk
The Archuleta County Local Licensing Authority shall have the authority to designate deputies from time to time.

Section 2.03 Powers

2.03.1 The Local Licensing Authority shall have the powers described in the Medical Marijuana Code and Retail Marijuana Code, including to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held. In the absence of the Chairman, the Vice-chairman may exercise the powers of the Local Licensing Authority.

2.03.2 The Local Licensing Authority shall serve as the entity for unincorporated Archuleta County that is responsible for processing applications submitted for a license to operate a marijuana establishment in the circumstances as provided in Colo. Const. Art. XVIII, §16(5)(e).

Part III. LICENSES

Section 3.01 Medical Marijuana Licenses

The Archuleta County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Medical Marijuana Code who fulfill the requirements for one of the following:

(1) medical marijuana center;
(2) medical marijuana-infused products manufacturer;
(3) optional premises cultivation operation;

Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Medical marijuana center, ii) where the growing center and the Medical marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 3.02 Retail Marijuana Licenses

The Archuleta County Local Licensing Authority shall issue local licenses to applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Retail Marijuana Code who fulfill the requirements for one the following:

(1) retail marijuana store; and
(2) retail marijuana cultivation facility;

Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Retail marijuana center, ii) where the growing center and the Retail marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 3.03 Nature of Local License

A local license pursuant to these Regulations shall apply to a specific person, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person, a different Establishment, or different Premises except as provided by these Regulations. An application to "convert" a state license for a Medical marijuana Establishment to a Retail Marijuana Establishment license requires an application for a new license for purposes of these Regulations and, if the Medical Marijuana Establishment license being converted was issued by the Archuleta County, the surrender of that license to Archuleta County.

Section 3.04 Condition of Local License For Release of Archuleta County

It shall be a condition of all local licenses that the applicant/Licensee releases Archuleta County from liability to the applicant/Licensee and also agrees to indemnify, defend and hold harmless Archuleta County from liability arising from injuries and damages substantially in the form in Appendix A to these Regulations.

Part IV. LICENSES REQUIRED

Section 4.01 Unlawful Acts

4.01.1 For any business, establishment, facility or activity which is required by the Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a current state license and a current license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.2 For any business, establishment, facility or activity which is required by the Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate in unincorporated Archuleta County without both a state license and a license issued by the Local Licensing Authority pursuant to these Regulations of the same type for the same activity at the same Location.

4.01.3 A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.

4.01.4 No Retail Marijuana Establishment license shall be effective before July 1, 2014.

Section 4.02 Coordination of Local and State Licenses

4.02.1 A Medical Marijuana Establishment or a Retail Marijuana Establishment licensed pursuant to these Regulations shall not operate unless it also has a valid license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code and Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. Provided, however, if a Medical Marijuana Establishment or a Retail Marijuana Establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days then the establishment may operate pending the issuance of a state license.

4.02.2 Upon denial of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be revoked.

4.02.3 If a license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the suspension or revocation of the State license.

4.02.4 Upon the surrender of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in the Order of suspension or revocation.

Section 4.03 Duration of Local Licenses

4.03.1 Except as provided in Section 4.03.2 below, any local license issued under these Regulations shall be valid for a period of one year from the date of issuance unless sooner revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months if deemed appropriate to synchronize the license periods of the license and the corresponding license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

4.03.2 A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license will assume the balance of the license term previously held by the surrendered Medical Marijuana Establishment license.

4.03.3 If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Section 4.04 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the Licensee, and the Premises licensed.

Part V. LICENSE APPLICATIONS

Section 5.01 Licensing Procedure.

5.01.1 General Procedure. The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code and any other State regulations not covered by these regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and no public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

5.01.2 Application forms.

5.01.2.1 All applications for medical marijuana center licenses; optional premises cultivation licenses; and medical marijuana-infused products manufacturing licenses, shall be made upon forms provided by the state and Local Licensing Authority and shall include the following supplemental materials: (1) identity of the owner of the property on which the premises is located; (2) a site plan of the premises; (3) a list of all other uses on the property; (4) the number of vehicle trips per day expected to be generated by the business; (5) the expected source and level of water use for the premises; (6) permits or other applicable documentation related to well use, septic system use, and water sanitation; (7) a copy of the State sales tax license for the business; (8) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (9) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months; (10) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans; (11) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems mitigating

odor leaving the premises. For Marijuana Enterprises that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process; (12) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes; (13) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business; and (14) a detailed drawing, with scale of the floor plan.

5.01.2.2 All applications for retail marijuana store licenses, and retail marijuana cultivation facilities licenses licenses shall be made upon forms provided by the state or Local Licensing Authority and shall include: (1) a site plan of the premises; (2) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements; (3) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises; (4) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and location of required signage; (5) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the applicant during the previous 12 months; (6) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the location of use and storage of each shall be identified on the site plans; (7) a copy of the State sales tax license for the business; (8) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Enterprises that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises; (9) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes; and (10) a detailed drawing, with scale of the floor plan.

5.01.2.3 A site plan of the Premises will be scaled and show the following:

(1) The scale used;

(2) North arrow designating true north;

(3) Property boundaries of the Premises, indicating front, rear and side lines;

(4) Location of all proposed buildings/structures and existing buildings/structures that will remain;

(5) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;

(6) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);

(7) Platted building envelope(s), if applicable;
(8) Parking areas and spaces;

(9) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;

(10) Total acreage or square footage of the Premises; and

(11) Total square footage of all buildings and total square footage of building footprints.

5.01.3 All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO2 gas will be used in the cultivation and the location of the generation, use and storage shall be identified on the site plans.

5.01.4 The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.

5.01.5 An applicant must have filed a complete application for a license of the same type for the same activity at the same location to the State Licensing Authority before it may apply to the Local Licensing Authority.

5.01.6 The applicant must update any of the information required of an application by this section 5.01 in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

5.01.7 By submitting a license application, the applicant and, if the applicant is not the owner, the owner of the Premises to be licensed, certify that the applicant has received permission from the Premises owner to allow inspections as may be required under the Medical Marijuana Code, Retail Marijuana Code, state administrative regulations promulgated pursuant thereto, or these Regulations for purposes of local licensing. In addition, the owner of the Premises and the applicant authorize (a) the Authority and its designee, (b) Archuleta County Development Services and other departments and agencies of the County, (c) in its jurisdiction, the Pagosa Fire Protection District or its designee, (d) in its jurisdiction, the Los Pinos Fire Protection District and its designee, and (e) the Archuleta County Sheriff and his designees, to enter upon and inspect the Premises for the purposes of implementing these Regulations. (f) San Juan basin Health Department or its designee. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

5.01.8 Other County Departments. Upon receipt of an application under the Regulations, the Authority shall circulate the application to the Planning Department, Public Works Department, the Sheriff's Office, the Archuleta County Treasurer, San Juan Basin Health District and the applicable Fire District. These departments or districts should employ their best efforts to respond within thirty days to the Authority with any concerns they have regarding the application. Failure of a referral agency to timely respond to a referral shall not constitute such Department or District's approval of the license.

Section 5.02 Processing Applications

5.02.1 No application for a license for any type of Retail Marijuana Establishment may be submitted to the Local Licensing Authority before July 1, 2014.

5.02.2 Applications shall be submitted to the Authority in care of the Authority.

5.02.3 Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.

5.02.4 Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to Archuleta County Development Services no later than thirty days after the referral.

(1) Building Department: For determination of compliance with Archuleta County Building Regulations relative to structure features. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.

(2) Planning Department: For determination of compliance with Archuleta County Subdivision and Zoning Regulations.

(3) San Juan Basin Health Department: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.

(4) Any other County department deemed relevant in the circumstances: For determination of compliance with its regulations.

(5) Archuleta County Sheriff: For investigation as requested by the Local Licensing Authority.

(6) Pagosa Fire Protection District or the Los Pinos Fire Protection District as appropriate, for its determination of Fire Code compliance, if appropriate.

(7) County departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

5.02.5 The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the applicant is eligible for a state license.

5.02.6 The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Const. Art XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.

5.02.7 The applicant shall be responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Medical Marijuana Code and the Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable.

Part VI. APPROVAL CRITERIA

Section 6.01 Basic Criteria

Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:
(1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;

(2) Development Services has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Archuleta County Land Use Regulations;

(3) No zoning violations exist on the Premises;

(4) All proposed signs meet the requirements of the Archuleta County Land Use regulations;

(5) All proposed lighting meets the Archuleta County Land Use Regulations;

(6) Any structure in which the use is located has been inspected by the Archuleta County Building Official or her designee, the structure complies with all applicable Building Regulation provisions, and all necessary building permits have been obtained;

(7) The Premises complies with all applicable Site Development regulations including, but not limited to driveway and grading;

(8) The Premises has all required well and sanitation system permits or is adequately served by public water and/or sewer;

(9) The Premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;

(10) The Premises complies with the applicable Fire Code;

(11) All property taxes have been paid and no tax liens exist on the Premises;

(12) The applicant and Premises are in compliance with all other applicable County regulations;

(13) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and

(14) The proposed Licensed Premises are located in a Location permitted by these Regulations.

Section 6.03 Applicant Burden of Proof

The applicant bears the burden of proving it meets all licensing requirements.

Section 6.04 State License Must Be Issued First

Before a local license may be issued, the applicant must have applied for a State license of the same type for the same activity at the same Location as provided in the Medical Marijuana Code or Retail Marijuana Code, as applicable. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued – conditioned on the issuance of the State license – if it is demonstrated to the satisfaction of the Local Licensing Authority that the applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority. If Colorado Const. Art. XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, the criteria applicable pursuant to the Medical Marijuana Code or Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable, shall be applicable to the extent deemed appropriate by the Local Licensing Authority.

Section 6.05 Additional Criteria for Cultivation Operations and Facilities

6.05.1 No license shall be issued for an optional premises cultivation operation that is connected to a medical marijuana center or to a medical marijuana-infused products manufacturer for the purpose of meeting the vertical integration marijuana-supply requirements of the Medical Marijuana Code, with respect to which the center's or manufacturer's Licensed Premises are located outside Archuleta County. Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a Medical marijuana center, ii) where the growing center and the Medical marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

6.05.2 No license shall be issued for a retail marijuana cultivation facility that is connected to a retail marijuana store for the purpose of meeting the vertical integration marijuana-supply requirements of the Retail Marijuana Code, with respect to which the store's or manufacturing facility's Licensed Premises are located outside Archuleta County. Due to impacts on adjoining properties, including fire, safety, and health risks associated with such facilities, Marijuana growing operations, such as the optional premises cultivation license referenced in C.R.S. §12-43.3-403, are prohibited in the County except those i) growing in connection with the operation of a retail marijuana center, ii) where the growing center and the retail marijuana center have identical ownership; **and**, iii) where the operations are on the same or adjacent parcels for property tax purposes.

Section 6.06 Buildings Must be Ready for Occupancy

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and, a building permit certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the applicant has complied.

Part VII. ACTION ON APPLICATION; HEARINGS

Section 7.01 Action on Applications

7.01.1 The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairman.

Section 7.02 Public Hearings and Public Notice

7.02.1 A public hearing may be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof.

7.02.2 If a public hearing is held, it shall begin not less than thirty days after the date the complete application is submitted. The Authority shall cause to prepare and the applicant shall post and publish public notice thereof not less than ten days before the hearing. The Applicant shall give public notice by posting a sign in a conspicuous place on the Premises for which a local license application has been made and by publication in a newspaper of general circulation in the County.

7.02.3 Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

7.02.4 Notice given by publication shall contain the same information as that required for signs.

7.02.5 If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign posted as required in this Section 7.02 shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Section 7.03 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation in writing to the applicant. If a public hearing has not already been set, the applicant may request a public hearing which request shall be granted unless the recommendation is for approval.

Section 7.04 License Findings

7.04.1 Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the applicant for operating the type of Medical or Retail Marijuana Establishment proposed.

7.04.2 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the applicant in accordance with the standards and procedures set forth in the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check: (i) if the State Licensing Authority has performed a criminal background check on the applicant to the satisfaction of the Authority; or (ii) if the Authority approves a license conditioned on the completion and successful review of the criminal background check by the State Licensing Authority.

7.04.3 Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.08 of these Regulations.

Section 7.05 Decision on Application

7.05.1 The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

7.05.2 The Local Licensing Authority may approve an application subject to conditions related to these Regulations, the Medical Marijuana Code, the Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.

7.05.3 Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Section 7.06 Notice of Decision

The Local Licensing Authority promptly shall notify the applicant and the State Licensing Authority of its decision. Notice to the applicant will be deemed given upon personal delivery or three calendar days after deposit in a depositary of the US Postal Service, first class postage paid.

Section 7.07 Review of Local Licensing Authority Decision

7.07.1 If a license is conditionally approved or denied without a public hearing, the applicant may request a hearing by the Local Licensing Authority, by a writing delivered to it within twenty days after notice of the action has been given to the applicant.

7.07.2 If a license is conditionally approved or denied following a public hearing by the Local Licensing Authority, that decision shall be deemed final action and the applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part VIII. DUTIES OF LICENSEE

Section 8.01 Notice of Changes

8.01.1 A Licensee shall notify the Local Licensing Authority in writing of the name, address, and date of birth of a proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer, manager and employees must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before owning, managing, or associating with the operation. For a complete change of ownership, see Part X.

8.01.2 A Licensee shall report each transfer or change of financial interest in the license to the State and Local Licensing Authorities and receive approval prior to any transfer or change. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

8.01.3 A Licensee shall report any change of trade name to the Local Licensing Authority before using it.

Section 8.02 Possession of Licensed Premises

At all times, a Licensee shall possess and maintain possession of the Licensed Premises for which the License is issued by ownership, lease, or other arrangement suited for possession of the Premises for the duration of the License.

Section 8.03 Publicly Display Licenses

The Licensee shall conspicuously display the local- and the state-issued licenses at all times on the Licensed Premises.

Section 8.04 On-site Access to Occupational Licenses and Registrations

All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority. Copies of all such licenses issued by the State Licensing Authority shall be provided to the Authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the County has performed a background check and determined the preferred manager or employee to be temporarily acceptable then compliance with this Section 8.04 is extend for up to ninety (90) days from the start of their employment.

Section 8.05 Compliance with Laws

A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations; Colo. Const. Art. XVIII, §§14 and 16, the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable; Archuleta County Building, Subdivision and Zoning Regulations; Archuleta County public health regulations; applicable fire code; and all other Archuleta County regulations applicable to the Establishment.

Section 8.06 Notices of Changes in State License Status

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Archuleta County Attorney within four business days of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

Section 8.07 Notices to Public Safety Agencies

Before commencing operation, a Licensee shall notify the local firefighting agency and Archuleta County Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO2 or CO2-generating is used on the Licensed Premises, the method and the location. A licensee shall promptly, within no more than one week, notify its local firefighting agency and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the Local Licensing Authority.

PART IX. RENEWALS

Section 9.01 Time to Apply for Renewal License

9.01.1 A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section 9.01. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate.

9.01.2 A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than sixty (60) days before the date of expiration of the current license. The Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement but the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration except as provided in Section 9.01.3. Reasonable grounds include that the Licensee has pending a timely-filed application for renewal of its state license. A Licensee who files a renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

9.01.3 Notwithstanding the provisions of subsection 9.01.1 and 9.01.2, a Licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the State Licensing Authority, is pending, and the required fees have been paid. In those circumstances, the Licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the Licensee's late renewal application unless the State Licensing Authority summarily suspends or denies the license, in which case the Licensee must cease operation immediately.

9.01.4 The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

Section 9.02 Action on Application for Renewal

Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, or there are allegations against the Licensee that would constitute Good Cause, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.

Section 9.03 Procedures; Action on Application

To the extent applicable, the provisions of Part VII shall govern processing and action on the application for renewal.

Section 9.04 Approval Criteria
The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a renewal.

Part X. TRANSFERS

Section 10.01 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific Location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Section 10.02 License Transfers Allowed

A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within unincorporated Archuleta County, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Section 10.03 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

Section 10.04 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a transfer.

Section 10.05 Procedures; Action on Application

The Local Licensing Authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts V and VII shall govern processing and action on the application for transfer.

Section 10.06 Period of Transferred License

Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall be valid for a period of one year from the date of approval.

Part XI. ENFORCEMENT

Section 11.01 Inspection

11.01.1 The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

11.01.2 The Local Licensing Authority shall at all times during the Licensee's business hours, upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The Local Licensing Authority may request to inspect during non-business hours if the Licensee's normal business hours are inconsistent with typical business hours.

Section 11.02 Hearing; Suspension, Revocation of License

11.02.1 A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

(1) Fraud, misrepresentation or a false statement of material fact contained in the license application;

(2) A violation of any County, state or federal law or regulation with respect to the ownership or operation of the licensed Establishment or with respect to the Licensed Premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64;

(3) A violation of any of the terms and conditions of the license;

(4) A violation of any of the provisions of these Regulations;

(5) The corresponding state license has been suspended or revoked by the State Licensing Authority; or

(6) The Licensed Premises have been inactive without good cause for at least one year.

11.02.2 A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.

11.02.3 Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.

11.02.4 If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of Section 11.02.1, these Regulations, the Medical Marijuana Code or the Retail Marijuana Code and the state administrative Rules promulgated pursuant thereto, as applicable, or an order of a state or local licensing authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.

11.02.5 The burden of proof shall be on the person, department or agency alleging that grounds exist for suspension or revocation of the license.

11.02.6 Any decision made by the Local Licensing Authority pursuant to this Section 11.02 shall constitute the final decision of the County, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

11.02.7 No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Section 11.03 These Enforcement Provisions are not Exclusive

In addition to all other remedies available to the County under these Regulations or by other law, including the Medical Marijuana Code, the Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, the operation of a Medical Marijuana Establishment or a Retail Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the County in an action brought in a court of competent jurisdiction.

Section 11.04 Deference to State Licensing Authority

The Authority may defer to the state to enforce compliance with the requirements in the Medical Marijuana Code, Retail Marijuana Code and state administrative regulations promulgated pursuant thereto.

Part XII. FEES

Section 12.01 Fees Set by Resolution

The Board of County Commissioners may revise application, license and operating fees by resolution.

Section 12.02 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Archuleta County Fee Schedule.

Section 12.03 Retail Marijuana Establishments – Application Fees

Application fees for Retail Marijuana Establishment licenses are determined by the Retail Marijuana Code and collected by the State Licensing Authority.

Section 12.04 Retail Marijuana Establishments – License Fees

Ordinarily there is no license fee for Retail Marijuana Establishment licenses. If Colorado Const. Art XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the State, the license fee shall be the same amount as would have been charged by the State had it issued the license.

Section 12.05 Retail Marijuana Establishments – Operating Fees

12.05.1 Operating fees shall be set with the objective of offsetting the cost to the County of administering these Regulations.

12.05.2 Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Archuleta County Fee Schedule, in addition to the application fee received by the Local Licensing Authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

12.05.3 If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the applicant in writing of the amount of the increase. Not later than ten days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.

Section 12.06 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the Licensee qualifies for consideration of that late renewal pursuant to Section 9.01.3, the renewal application must be accompanied by a late renewal penalty as stated on the Archuleta County Fee Schedule.

Section 12.07 Payment of Fees

All fees are due and must be paid before a license of any type will be issued or effective. All funds must be remitted in the form of a business check or certified funds.

Section 12.08 Establishment of Community Marijuana Offset Impact Fund

By Separate Resolution of the Board of County Commissioners, a Community Marijuana Offset Impact Fund, which shall be funded by 10% of all Application, License or Operating or other fees received from Marijuana Establishments of all type, shall be established. The Community Marijuana Impact Fund shall be administered by the Board of County Commissioners after receiving recommendations from a panel, to be created by such establishing Resolution and such funds may be used to develop awareness within Archuleta County about Marijuana in general and programs available to help Archuleta County Citizens and children in general make positive lifestyle choices.

Section 13. Repeal

All ordinances and/or resolutions or parts of ordinances and/or resolutions inconsistent with provisions of this ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

Section 14. Effective Date.

This ordinance shall become effective upon its passage.

INTRODUCED, READ AND ADOPTED AS AMENDED ON FIRST READING ON this 10th day of June, 2014 and ordered published in full in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Clifford Lucero, Chairman

ARCHULETA COUNTY ORGANIZED MAY 2014 COLORADO

ATTEST:

June Madrid by Geree Henderson
June Madrid, County Clerk & Recorder
Deputy County Clerk + Recorder

ADOPTED ON SECOND AND FINAL READING ON this 17th day of June, 2014 and ordered published by reference to title only with amendments in the Pagosa Springs Sun in Pagosa Springs, Archuleta County, Colorado.

BOARD OF COUNTY COMMISSIONERS
ARCHULETA COUNTY, COLORADO

Clifford Lucero, Chairman

ATTEST:
June Madrid by Kristy Aragon
Deputy Clerk & Recorder
June Madrid, County Clerk & Recorder

CERTIFICATE

I hereby certify that the foregoing Ordinance No. 12-2014 was introduced, read, and adopted on first reading at the regular public meeting of the Board of County Commissioners of the County of Archuleta on June 10, 2014, and the same was published in full in the Pagosa Springs Sun, a newspaper of general circulation published in Archuleta County, on May 22, 2014, and thereafter was adopted on second and final reading at a regular public meeting of the Board of County Commissioners of the County of Archuleta on June 17, 2014. Said Ordinance was published by title only with amendments on June 26, 2014. Said Ordinance went into effect on July 17, 2014.

Certified this 26th day of June, 2014

June Madrid, County Clerk & Recorder

ARCHULETA COUNTY ORGANIZED MAY 20 1885 COLORADO

APPENDIX A

WAIVER AND RELEASE OF LIABILITY AND AGREEMENT TO INDEMNIFY ARCHULETA COUNTY

Release of Archuleta County From Liability to License Applicant and Licensee

By applying for a license pursuant to the Colorado Medical Marijuana Code (CRS §12-43.3-101, et seq.) and/or the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101, et seq.), and (if it is approved and issued) by accepting a license, from the Archuleta County Board of County Commissioners acting as the Archuleta County Local Licensing Authority, the applicant/licensee, and each of them, waives and releases Archuleta County, and its elected officials, employees, agents, insurers and attorneys, and each of them, from any liability for injuries, damages, costs and expenses of any nature whatsoever that result or relate to the investigation, arrest or prosecution of business owners, operators, employees, clients or customers of the applicant/licensee for a violation of state or federal laws, rules or regulations relating to marijuana.

Agreement to Indemnify Archuleta County

By applying for a license pursuant to the Colorado Medical Marijuana Code (CRS §12-43.3-101, et seq.) and/or the Colorado Retail Marijuana Code (C.R.S. § 12-43.4-101, et seq.), and (if it is approved and issued) by accepting a license, from the Archuleta County Board of County Commissioners acting as the Archuleta County Local Licensing Authority, the applicant/licensee, and each of them, jointly and severally if more than one, agrees to indemnify, defend and hold harmless Archuleta County, and its elected officials, employees, agents, insurers and attorneys, and each of them, against all liability, claims and demands, of any nature whatsoever, including, but not limited to, those arising from bodily injury, sickness, disease, death, property loss and property damage, arising out of or in any manner related to the operation of the medical marijuana business that is the subject of the license.

THE UNDERSIGNED AGREES TO THE RELEASE AND AGREEMENT ABOVE.

Signed on _____

_____
Applicant

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, in their capacity as _____ of _____.

S E A L

_____
Notary Public

My Commission Expires: _____