
Herbert Zone Change

ACTIVITY #:	PL20230030
HEARING DATES:	Planning Commission - May 18, 2023 Board of County Commissioners - May 30, 2023
PETITIONER:	Elizabeth Herbert
PETITION:	Zone Change from Commercial to Mountain Residential Estate.
LEGAL DESCRIPTION:	PT OF SE4SW4 E OF YAMPA RIVER & W OF HWY 131 34-3-85 TOTAL 5.49A SMR
LOCATION:	18195 STATE HIGHWAY 131, ROUTT, CO 80483 approximately 1.5 miles north of the Town of Yampa
ZONE DISTRICT:	MULTIPLE ZONES Existing: Commercial Proposed: Mountain Residential Estate
AREA:	5.49
STAFF CONTACT:	Alan Goldich, agoldich@co.routt.co.us
ATTACHMENTS:	<ul style="list-style-type: none">• Narrative• Vicinity map• Existing condition plan

History:

Previous files indicate that this property started being used in a commercial fashion in 1954 with a motel and "tourist court," which contained five cabins. In 1969, an upholstery shop was set up. A mobile home park also existed on the property. When the County adopted Zoning in 1972, it assigned the Agriculture/Forestry zone district to the parcel. Around this time, a temporary license was granted by the County allowing the landowners to continue operating the mobile home park. In 1972 the Board of Adjustment (BOA) granted a zone change to Commercial. It was later revealed that the BOA does not have the ability to grant zone changes. In 1973, the Board of County Commissioners granted the zone change to Commercial. Around that time, the license for the mobile home park expired. It is unclear when the cabins ceased being used, but it has been more than twelve months, so approvals for any grandfathered uses have expired.

In the summer of 2020, the Planning Department received a complaint about this property. At the time, the applicant (and now current owner) was a tenant on this parcel. The complaint cited a campground, wall tents on platforms within the 50' waterbody setback, lack of sanitation controls, un-permitted signs for Yampa Valley Anglers, and outdoor storage of trailers and boats. Staff worked with the applicants to bring the site into compliance and was in compliance as of the last site inspection. The campground uses ceased, the platforms were removed from the waterbody setback, the signs were removed, and the items stored outside were relocated to a compliant location.

Prior to submission of this application, staff visited the site multiple times to discuss the code enforcement complaint, how to come into compliance, the applicant's future plans for the site, as well as locations for development. Staff explained the difficulties of the site, taking into consideration the river and the wetlands that exist on site. The applicant came into possession of the parcel in November of 2022.

Site Description:

The parcel is oriented in a north/south configuration. It is sandwiched in between Highway 131 on the east, the Bear (Yampa) River on the west, and County Road 21 to the north. A majority of the site is heavily vegetated with riparian area/wetland vegetation near the river and mature cottonwood trees distributed throughout. There are mapped wetlands near the river in the central portion of the site. It appears there are wetlands in the northern portion of the site but these areas have not been officially mapped. Access is off of Highway 131. The entrance to County Road 21A is on the other side of the highway. The driveway for this parcel and the intersection of Highway 131 and CR 21A do not line up, which goes against standard intersection design conventions.

Currently there are three run down cabins and one three bay garage on the site.

Project Description:

The applicant is requesting a zone change from Commercial to Mountain Residential Estate. The applicant would like to construct a single family residence on the parcel, but in order to get financing, the land cannot be zoned Commercial.

Staff Comments:

- The Zoning Regulations state, *"Except as provided for in the Routt County Master Plan or an adopted sub-area plan, or for the purpose of rezoning from LDR, MDR, or HDR to MRE, no additional land will be placed in the MRE Zone District after July 1, 2006."* The only plan that this property falls within is the Routt County Master Plan. Through the below analysis, staff has determined that the application is in compliance with the Master Plan. Through the code update process, staff will be analyzing this restriction to see if it should remain or be modified.

Staff Recommendation

Staff recommends that the application be **RECOMMENDED FOR APPROVAL** to the Board of County Commissioners.

*****Issues for Discussion*****

No issues for discussion were identified during staff's review.

Compliance with the Routt County Master Plan, Sub Area Plans and Zoning Regulations

The Routt County Master Plan (Master Plan), Sub Area Plans, and Zoning Regulations contain dozens of land use policies and regulations that are intended to reinforce the guiding principles of the Master Plan. This report categorizes subject matter content that is important to consider when reviewing. The categories include:

1. Zoning Amendment Standards
2. Community Character and Visual Concerns

Within each category are applicable policies and regulations. Specific Zoning Regulations sections include:

- **Section 8** of the Zoning Regulations applies to certain land uses and are intended to assist in determining the compatibility with the surrounding uses and appropriate mitigation of potentially significant negative impacts..

Interested parties are encouraged to review the Master Plan, Sub Area plans and Zoning Resolution to determine if there are other policies and regulations that may be applicable to the review of this petition.

Planning Staff comments are included in bold at the end of each category and highlight questions and/or comments from the general public, referral agencies, and Planning Staff.

1. Zoning Amendment Standards

Applicable Zoning Regulations

4.5 Mountain Residential Estate

The principal purpose of this Zone District is to allow rural residential development compatible with adjacent agricultural uses. The Zone District also provides for other uses, most requiring permits.

8.2.1 Standards for Zoning Amendments – Part 1

In any petition for zoning amendment, the petitioner shall have the burden of showing that all of the following exist:

- 8.2.1.A That the proposed zone change is consistent with the goals and policies of the Master Plan and any applicable sub-area plans.
- 8.2.1.B That the area in question possesses geological, physiological and other environmental conditions compatible with the characteristic of the Zone District requested.
- 8.2.1.C That the advantages of the Zone District requested substantially outweigh the disadvantages to the County and neighboring land occasioned by the amendment.
- 8.2.1.D That the applicable provisions of these Regulations have been met
- 8.2.1.E That in the case of a zone amendment request that would increase allowable residential, commercial, or industrial density, that adequate facilities such as roads, water and sanitation, fire protection, emergency services and public utilities shall be available to serve the areas.

8.2.2 Standards for Zoning Amendments – Part 2

In addition, zoning amendments shall be allowed only after the petitioner demonstrates that rezoning is necessary for one or more of the following reasons:

- 8.2.2.A The existing Zone District is inconsistent with the policies and goals of the applicable Master Plan and any applicable adopted area or community plan; or
- 8.2.2.B The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area; or

- 8.2.2.C The proposed rezoning is necessary in order to provide land for a demonstrated community need; or
- 8.2.2.D The existing zone classification currently shown on the Official Zoning Map is an error.

Applicable Routt County Master Plan Policies

- 7.15 Ensure that future development occurs where roads can accommodate projected traffic volumes and patterns.

Staff comments: If the rezone is approved, the parcel in question would be in compliance with the dimensional standards for the MRE zone district. The MRE zone district is more appropriate for a parcel of this size instead of A/F which surrounds this parcel. The rezoning would remove all of the commercial uses that are allowed to occur in the Commercial zone district. The Master Plan directs growth and development to the Future Growth Areas. This site is over 1.5 miles from the Town of Yampa, which is where commercial development should occur. This site was used in a commercial fashion which is why it has that zoning. The parcel has features that are compatible with the MRE zone district. A buildable area has been identified that meets waterbody and property line setbacks. It also has a legal and valid access. The neighboring properties are zoned Agriculture/Forestry. The uses allowed in the MRE zone district align more closely with the uses that are allowed in the A/F zone district, than in the Commercial zone district. The application has met all of the applicable provisions of the Zoning Regulations. This zone change would decrease the number and types of uses allowable in the current zone district.

All of the commercial uses that were in existence when the zone change to Commercial was approved in 1973 have ceased and the area around this parcel remains in agricultural production. The cessation of all commercial uses shows that the area has changed to a degree that warrants this zone change. Access is directly off of Highway 131 via an existing driveway.

***Is the application in compliance with the Policies and Regulation outlined above? Yes or No*

2. Community Character and Visual Concerns

Applicable Zoning Regulations

- 6.1.7.K Land Use Compatibility.
- 6.1.7.O Historical Significance.

Applicable Routt County Master Plan Policies

- 4.1 Direct new growth and development to Tier 1, Tier 2, and Tier 3 Future Growth Areas, in that order and as defined in the Growth & Land Use Chapter.
- 4.2 Support infill development and redevelopment that is complementary to existing character and consistent with available resources to accommodate evolving community needs within the Future Growth Areas.
- 6.2 Focus housing development within Tier 1 Municipalities and Tier 2 Targeted Growth Areas (West Steamboat, Stagecoach, and Hayden's 3-mile area).

- 6.5 Support a broad range of housing opportunities in Tier 1 Municipalities and Tier 2 Targeted Growth Areas. Integrate affordable and workforce housing into existing neighborhoods and communities, preferably close to civic/social amenities.
- 9.3 Discourage development that changes the rural character or historic agricultural uses and/or practices.
- 9.4 Preserve open space.
- 9.5 Discourage rural residential developments in areas of prime agricultural production.

Staff comments: The proposed residential use is compatible with the surrounding areas. Although this site has been used commercially in the past, it has not been used in the same manner and intensity as what was approved for a while. There has been a residence on the site in the past. Recently, the Town of Yampa has approached the Planning Department stating that they would like some areas around Yampa that fall within the 3 Mile boundary be considered a Tier 2 Growth Area. A referral was sent to the Town for this project, they did not provide any comments on the merits of his project. Development of this parcel with a residence will not change the rural character or historic ag uses in the area. Due to its small size, abundant wetlands, mature vegetation, and river, this parcel is not in area of prime agriculture.

***Is the application in compliance with the Policies and Regulation outlined above? Yes or No*

PLANNING COMMISSION / BOARD OF COUNTY COMMISSIONERS:

Approve the Zone Change request without conditions if it is determined that the petition will not adversely affect the public health, safety, and welfare and the proposed use is compatible with the immediately adjacent and nearby neighborhood properties and uses and the proposal is in compliance with the Routt County Zoning Regulations and complies with the guidelines of the Routt County Master Plan. The applicable provisions of Sections 5 and 6 have been reviewed and appropriate findings and conditions are included in the approval outlined herein.

Approve the Zone Change request with conditions and/or performance standards if it is determined that certain conditions and/or performance standards are necessary to ensure public, health, safety, and welfare and/or make the use compatible with immediately adjacent and neighborhood properties and uses and/or bring the proposal into compliance with the Routt County Zoning Regulations and Routt County Master Plan.

Deny the Zone Change request if it is determined that the petition will adversely affect the public health, safety, and welfare and/or the proposed use is not compatible with the immediately adjacent and nearby neighborhood properties and uses and/or the proposed use is not in compliance with the Routt County Zoning Regulations and/or the Routt County Master Plan. Make specific findings of fact; cite specific regulations or policies by number from the Routt County Master Plan, and the Routt County Zoning Regulations.

Table the Zone Change request if additional information is required to fully evaluate the petition. Give specific direction to the petitioner and staff.

FINDINGS OF FACT that may be appropriate if the Zone Change is approved:

1. The proposal with the following conditions meets the applicable guidelines of the Routt County Master Plan and is in compliance with the applicable provisions of Sections 8 of the Routt County Zoning Regulations.

2. The existing Commercial Zone District is inconsistent with the policies and goals of the applicable Master Plan.
3. The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area.

CONDITIONS that may be appropriate may include the following:

1. The change of zone from Commercial to Mountain Residential Estate shall become effective upon signing of a resolution amending the Official Zoning Map by the Board of County Commissioners, said resolution to be recorded in the Routt County Clerk and Records Office.

- A. The existing Zone District is inconsistent with the policies and goals of the applicable Master Plan and any applicable adopted area or community plan. Changing the zoning of 18196 HWY 131 Yampa, CO from commercial to mountain residential would change said parcel's possible use to be more inline with the surrounding area. Said parcel is surrounded by agricultural and mountain residential parcels.

- A. Per Routt County's Master Plan, rezoning 18195 HWY 131 Yampa, CO 80483 from commercial to mountain residential is consistent with the goal of having commercially zoned property condensed together. Said parcel is an outlier in terms of zoning. It is not adjacent to other commercially zoned property and it is surrounded by residential and agricultural land.
- B. Said parcel's geologically, physically and environmentally compatible with mountain residential zoning. It is easily accessible. Two building envelopes have been determined. The parcel is mostly flat with little elevation change.
- C. Advantages significantly outweigh disadvantages for rezoning said parcel from commercial to mountain residential. As stated above, rezoning would be in alignment with Routt County's Master Plan in terms of condensing commercial zones within the county. In addition, a full-time primary home would be built in Routt County without substantially impacting density. Eliminating commercially zoned property in the area would minimize negative future impact to neighbors and agriculture that may be created if a high traffic business were to be created on the parcel. D.
- D. All applicable dimensional standards can and will be met as well as all other standards found in the Zoning Regulations.
- E. Adequate facilities are available at and for the parcel in question. A residential water well permit already exists for the parcel. A septic plan will be created following appropriate soils tests. Access to the parcel is adequate with a CDOT approved driveway. The Yampa Fire and Rescue Dept. is within a mile of the parcel. The Oak Creek Fire and Rescue Dept. is within ten miles of the parcel. Electric is currently permitted and run on the parcel.

Phippsburg

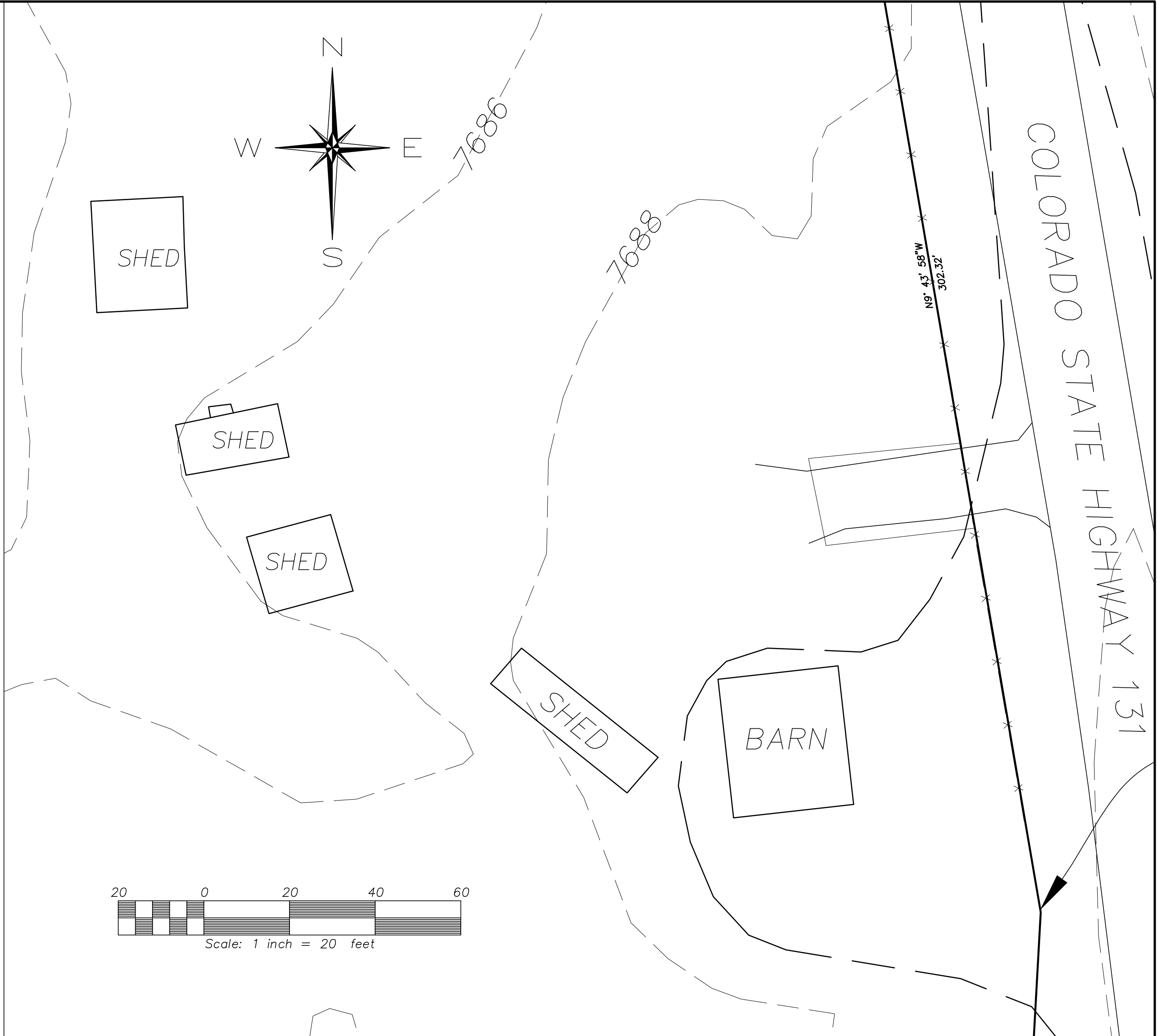
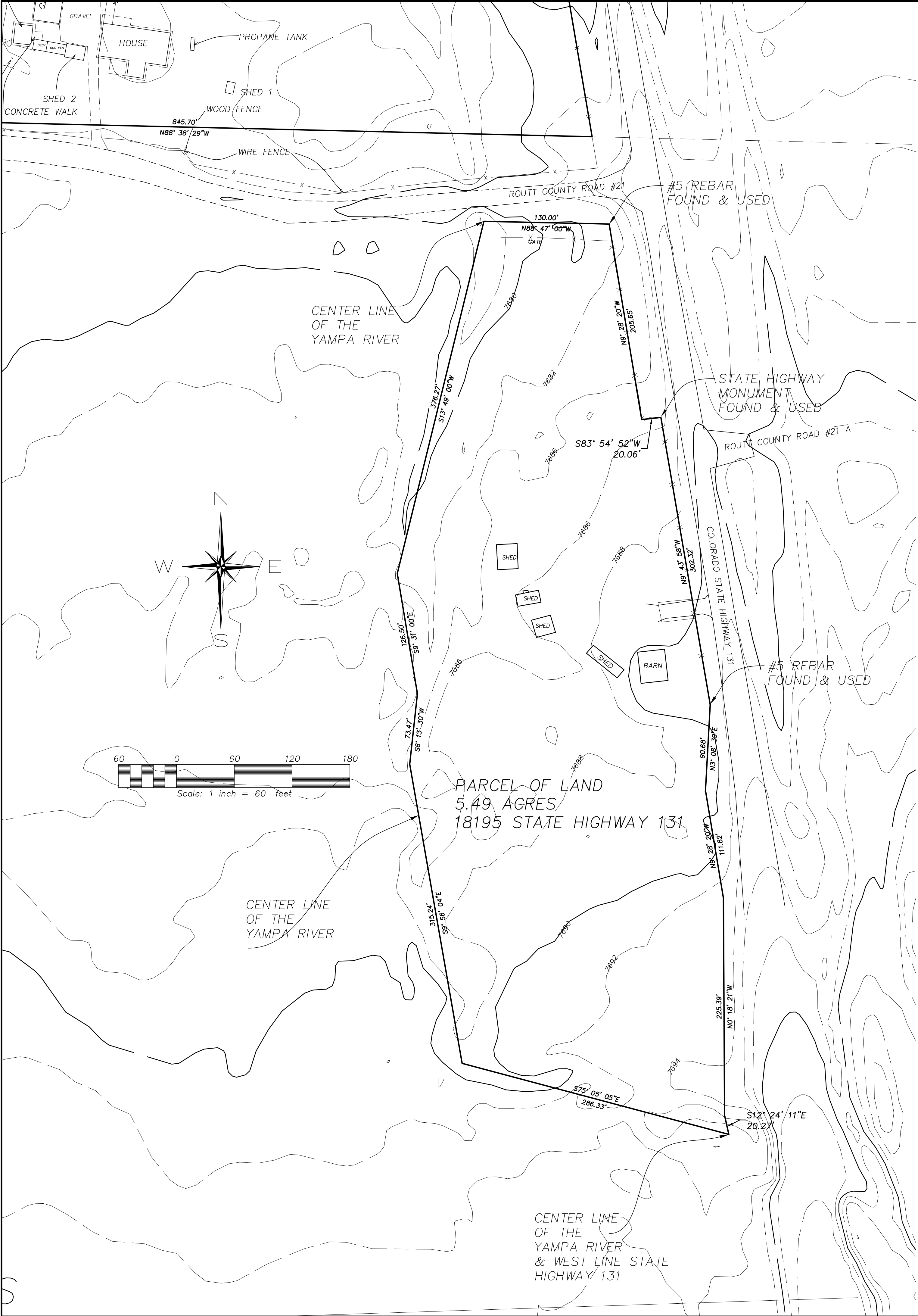


Vicinity Map

18195 HWY 131
yampa, CO 80483



Yampa



IMPROVEMENT LOCATION CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE, AS PREPARED FOR BETH & RYAN HERBERT, IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENT LINES.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE DESCRIBED PARCEL ON THIS DATE, OCTOBER 4, 2022, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

DATED: 10-4-2022

BY: JAMES B. ACKERMAN

NOTICE: "According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon."		
		CALC'D JBA
		DRAWN JBA
		SURVEYED BY: KK
NO.	REVISION	DATE
TITLE: IMPROVEMENT LOCATION CERTIFICATE		
PARCEL OF LAND SECTION 34, T3N, R85W ROUTT COUNTY, COLORADO		
PREPARED BY: EMERALD MOUNTAIN SURVEYS, INC. P. O. BOX 774812 STEAMBOAT SPRINGS, COLORADO 80477 970-879-8998 www.emeraldmtn.net		
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PREPARED FOR: BETH & RYAN HERBERT BOX 273 YAMPA COLORADO		
SCALE: SEE MAP	DATE: 10-4-2022	
PROJECT NO. 4088-1	SHEET NO. 1 of 1	

LEGAL DESCRIPTION

PER WARRANTY DEED
BOOK 706 PAGE 774 OF ROUTT COUNTY CLERK AND RECORDERS RECORDS

TOWNSHIP 3 NORTH, RANGE 85 WEST OF THE 6TH PM, SECTION 34, THAT PART OF THE SE $\frac{1}{4}$ NW $\frac{1}{4}$ AND THE NE $\frac{1}{4}$ SW $\frac{1}{4}$ LYING EAST OF YAMPA RIVER AND LYING WEST OF HIGHWAY 131.