

Gunnison County Environmental Health Board

Agenda: February 15, 2024

In Person at the Gunnison County Courthouse, Board of County Commissioners' Meeting Room, 200 East Virginia Ave in Gunnison and by Zoom (see Teleconference Information below)

1:15 p.m. Call to order; determine quorum
Organizational business-approval of officers
Approval of Minutes- April 28, 2022 and June 30, 2022
Unscheduled citizens

1:30 p.m. Joseph Baker, Public Hearing for a variance to the Gunnison County OWTS Regulations for an OWTS on a parcel less than one-acre at 20 Paul Pl, OWTS-23-00146

2:30 p.m. Gunnison County Attorney Office Training

Adjourn

Zoom Link:

Join Zoom Meeting

<https://us06web.zoom.us/j/86352672473?pwd=E4Q5xQGC63sEfvIHkO1vbhodTVpO7z.1>

Meeting ID: 863 5267 2473

Passcode: 089906

Dial by your location

+1 720 707 2699 US (Denver)

Find your local number: <https://us06web.zoom.us/j/86352672473?pwd=E4Q5xQGC63sEfvIHkO1vbhodTVpO7z.1>

ADA ACCOMMODATIONS: Anyone needing special accommodations as determined by the *American Disabilities Act* may contact the Community Development Department prior to the day of the hearing.

Gunnison County Environmental Health Board Minutes

April 28, 2022

The April 28, 2022 Gunnison County Environmental Health Board meeting was conducted in the BOCC meeting room, located at 200 E. Virginia, Gunnison, Co. 81230 and by ZOOM virtual online meeting.

Board Members Present:

Shea Earley, EH Board Member
Lucinda Lull, EH Board Member
Bill Barvitski, EH Board Member
Lynn Cudlip, EH Board Member

Staff Present:

Crystal Lambert, Building and EH Official
Rachel Sabbato, Community Development
Shannon Frias, Community Development
Charlie Dominquez, Community Development
Rebecca Ricord, Community Development

Other attendees as listed in text.

Call to order: S. Earley called the meeting to order at 2:20 pm. A quorum was determined by S. Earley at 2:25 pm

Approval of Agenda:

Approval of Minutes: Moved by Cudlip seconded by Lull to approve the April 14, 2022 meeting minutes as amended. The motion passed unanimously.

Unscheduled citizens: None present or on ZOOM

With a quorum present Vice Chairperson S. Earley opened the public hearing at 2:30 pm

Coleman (OWTS-22-00004) The Environmental Health Board conducted a public hearing to review the variance request to the Gunnison County On-site Waste Water Treatment System (OWTS) regulations for a second OWTS on a parcel at 4995 County Road 76.

The members introduced themselves.

Voting Members: S. Early was seated as vice-chair. Lull and Cudlip.

Barvitski recused himself from the Environmental Health Board to represent the applicant in the public hearing at 2:31 PM

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notices were published in the CB News and the Gunnison Country Times. All property owners within 500 feet of the parcel boundaries were notified by certified mail of the public hearing. The agenda was posted at the new posting location, on the Gunnison County Community Development website. The applicant submitted the certified mailing receipts, photo and affidavit of posting.

Application Presentation: Sara Coleman Craig stated she is hoping to build a secondary residence on the Coleman Trust. A creek divides the property necessitating the need for a second septic field on the property. Barvitski added that the creek divides the property in half which you can see on the site plan. She is wanting to develop on the county road side of the creek. The opposite side is where the existing residence and well is located. There is already a legal well drilled on the county road side. We need the variance for the second OWTS design system.

Staff Comments:

Lambert stated that staff reviewed application and did a site visit. This was a second site visit by staff. A decade ago Lambert met with Coleman at the site and reviewed the same scenario. At that time, Coleman had not begun working with a design professional. It was a concept at that point. Lambert gave Coleman ideas of what she should be focused on. The second site visit was after reviewing the application and the report from Trout Creek. The design specifies the design of a second OWTS. That system is in compliance with all of the minimum requirements of Gunnison County's OWTS regulations, with one exception. It is a second septic system on a single undivided parcel. No building permit has been submitted at this time. Staff did notice that this parcel is within a zone A floodplain. This will require a hydrologic study to determine the base flood elevation so a flood elevation certificate can be prepared. This is required before any permit can be issued. The design professional only wants to bring the second system in front of the board today, not the floodplain elements. Staff's site inspection report on April 19th confirmed that Quartz Creek runs across this parcel on the northwestern side and the parcel is bordered by County Road 76 on the southeastern side with an irrigation ditch that branches near and along the County Road. The parcel is relatively flat <5% slope. The owner wishes to build a dwelling on the southeastern portion and there is an existing dwelling on the other side of Quartz Creek in the northwestern region of the parcel. It is not feasible to run a sewer line across Quartz Creek so that both dwellings could be served by one system. The proposed plan appears to meet all of the minimum setback requirements to waterbodies, wetlands, and wells and the minimum technical requirements of the OWTS Regulations.

Lambert shared the plan as submitted by the design professional. Lambert stated that the applicant initially stated that the ditch was full irrigation. Staff determined that it appeared to be an intermittent ditch. The applicant proposed that the ditch could be piped or lined across the property which would make the setback requirements much less. All setbacks can be made with the proposed design. If a second residence is going to be built on this property, it makes sense for a second septic you are going to do a second residence you would need to do a second septic due to Quartz Creek running through. Lambert shared the prohibitions on the granting or variance requests.

Section 3.M.2.: Prohibitions on the granting of variance requests
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Prohibitions on the granting of variance requests:	Staff comments:
No variance shall be issued where the property can accommodate a conforming OWTS. Section 3.M.2.a.	The owner wishes to construct a dwelling and OWTS on the opposite side of Quartz Creek from the existing dwelling and OWTS. Staff discussed this plan with the current owner about 10 years ago and she has been considering any alternatives and preparing the design phase ever since.
No variance shall be issued to mitigate an error in construction involving any element of property improvements. Section 3.M.2.b.	N/A
No variance shall be allowed on the grounds of cost of compliance. Section 3.M.2.c.	N/A
No variance shall be issued if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without proof of compliance of Section 3.M.5. Section 3.M.2.d.	The minimum setbacks to off-site physical features appear to be met with the proposed development plan.
No variance shall be issued if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2. Section 3.M.2.e.	The required separation to ground water will be met with the proposed raised bed sand filter system.
No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors. Section 3.M.2.f.	N/A
No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the Department having a maintenance and oversight program. Section 3.M.2.g.	N/A

Staff Recommendation on the application for a variance to the *Gunnison County OWTS Regulations*:

The proposed plan appears to meet all of the minimum setback requirements to waterbodies, wetlands, and wells and provides the required minimum separation to groundwater with an elevated sand bed design. Additionally, the technical requirements of the OWTS Regulations are met with the proposed design. Quartz Creek runs across this parcel on the northwest side and the property owner wishes to construct the proposed dwelling on the opposite side of the creek (closer to County Road 76) from the existing dwelling. Staff recommends approval of the Coleman application for a variance to the Gunnison County OWTS Regulations, Section 3.A.10., to allow for a second system on the parcel. Staff will continue to work with the applicant once the base flood elevation is

determined to ensure that compliance with FEMA regulations and the floodplain design requirements of the OWTS Regulations are met with the final design.

Planning office will review any application and any items as needed under the Gunnison County Land Use Resolution before any OWTS permit will be issued. Cudlip stated that she is concerns with health and safety issues that may come with placing a new septic system on this parcel. Even with all of the setbacks being met.

Review Body Comments to staff comments and report:

Cudlip asked the applicant if there is any intent to subdivide the parcel. The applicant respond no.

Cudlip stated that she has concerns with health and safety issues that may come with placing a new septic system on this parcel. Even with all of the setbacks being met.

Early asked is a pressurized service back to the existing OWTS considered? Barvitski stated that they did not consider it due to the elevation drainage and crossing of the creek.

Cudlip asked about the landscape and irrigation. Cudlip would like more information on that. Cudlip also wants to make sure it goes through the LUC permit process. Lambert stated she spoke with Rachel Sabbato before the meeting regarding the second residence. Sabbato stated that an administrative review would be required for any second residence per the Land Use Resolution. Lambert commented that this variance request in not for approving a second residence, it is for a second OWTS system.

Lambert asked Sabbato to If they were to move forward to build they would have to go through an admin review. Sabbato listed what standards the second residence would have to go through:

Shea asked if the ditch is determined is not to be intermittent ditch could the setbacks still be met. Bill stated that the original design was done with the ditch being it being a ditch. After the site visit the design was changed for the it being an intermittent ditch. Bill stated that the setbacks would still be made even if it isn't an intermittent ditch.

Public Comments:

Public comment by email from residents Jeffrey Ryan and Cynthia Cechini-Ryan was read by Vice Chair, S. Earley. The residents expressed their concern with the board approving the variance. It was stated that that the original development agreed upon acres per structure. Not in support of changing that agreement.

Public comment by email from resident Deb Hefftner was read by Vice Chair, Early. She expressed her concern with the board approving the variance. She is not in favor of a variance or subdivision.

Taylor Hefftner, representing the Nienhueser family, specifically Seth Nienhueser, gave public comment in person. It was stated that Mr. Nienhueser has concerns with the board approving the

variance. It was stated that the variance would have a large encompassing effect on all surrounding properties. Over development would be a problem.

Public comment was given in person by resident William Earley. William Earley expressed concern with the board approving the variance.

William Earley also stated that he was concerned that the ditch is being considered an intermittent ditch and the well being legal.

Cudlip asked if William Earley has looked at the design for the OWTS that is being presented. William Earley commented that he has not had time to go over the design yet.

Public comment was given in person by resident Justin McLain. Mr. McLain expressed concern regarding who would be responsible for maintaining the ditch if it is piped or lined. Barvitski stated it would be for the attorney's office and reminded the room that this hearing is for a variance for a septic system design. The permit would still need to go through the Land Use Change permitting process with the county.

Applicants response to Public Comments:

Barvitski wanted to comment a reminder that this is just the approval of a septic system design. Everything will have to be reviewed through Gunnison County LUR compliance.

Aaron Huckstep was in person, representing the applicant. The concerns that the board is hearing relate to density issues. Which is not the variance request. Huckstep recently obtained a title commitment for the property and there is not a covenant with respect to subdivision of this property. In respect to the well, Huckstep has a letter dated February 25, 2019 that states both wells on the property are legal and can each be used for a single-family residence. In respect to the ditch, the pictures that Lambert showed do not indicate that the ditch goes very far beyond the property. Huckstep stated that there are no health or safety issues.

Review Body Response to Public Comment:

Cudlip asked who maintains the ditch now and does it go off property? It does go off property. The pictures show that the irrigation ditch leaves the property and appears to peter out to a very shallow depression.

Cudlip asked when the pictures were taken. Lambert stated they were taken the week before the hearing.

Additional Staff Comments:

Lambert asked Sabbato to explain what the process would be for the LUR review. Sabbato stated that if Coleman wanted to move forward, they would have to submit a LUC permit and go through an Administrative Review process to address a secondary structure. Sabbato explained the standards that need to be met for a secondary structure. This includes that the secondary structure be smaller than the primary residence, the location has to be within close proximity to the primary, designation of building envelope, adequate parking, shared water supply, shared

OWTS and the need to review if there are any deed restrictions or protective covenants. Sabato stated that a document on suggested covenants has not been found.

Review Body Comments:

S. Earley asked if the ditch is determined to not be an intermittent ditch could the setbacks still be met. Barvitski stated that the original design was done with the ditch being considered an irrigation ditch. After the site visit the design was changed for the it being an intermittent ditch. Barvitski stated that the setbacks would still be made even if it isn't an intermittent ditch.

S. Earley has reservations in closing the meeting due to the status of the ditch. Cudlip stated that she would have significant conditions if they want to approve.

S. Earley stated that he needs to know about the ditch. The plans need to show. Conditions need to be made with the ditch holders.

Determination Discussion

Lambert reminded the board that if there it is apparent that a decision can be made, either approve, deny, or approve with conditions, then they hearing can be closed.

S. Earley stated he is having pause to closing the hearing without knowing the status of the ditch.

Cudlip asked if they should continue the meeting or approve with conditions. Cudlip stated that she has several conditions before approval.

S. Earley again stated the they need to determine what engineering needs to be done on the ditch and if it is an intermittent ditch. S. Earley also stated that a condition should be an agreement between the ditch owners of the maintenance.

Cudlip stated to the board that the 2 conditions she would ask for on approval are: 1.) We must know what kind of ditch it is and if it is an actual ditch that it must be lined or piped. 2.) There must be a maintenance plan between owners for the ditch.

Lambert stated that there are definitions for ditches and she has spoke to representatives at the state level and the OWTS coordinator and she feels that we can apply those definitions definitively.

Huckstep thinks the applicant can take the classification of the ditch off the table for the board. She will take responsibility of the ditch being lined or piped.

Huckstep also suggested that If there is a condition of approval that there is an agreement for the maintenance of the ditch, that it should be provided at the time of a LUR application. Because if there is no secondary residence and LUR application then an agreement is meaningless.

S. Earley asked if they can put a condition on the LUC application. Lambert stated that the staff does a thorough job and they shouldn't put a condition on the application.

Lull stated that she is having a hard time with this not knowing what other conditions may come up. You think you have them all covered and things still come up. Lull stated she wanted to

continue the hearing until all information is gathered. Lambert asked if the concern was on what conditions may come up for the OWTS or the Land Use and building code regulations? Lull answered that the concern is with the OWTS conditions that may come up and effect the variance if it is approved.

Huckstep stated he isn't sure what new information would come up. Barvitski agreed.

Moved by : Early, **seconded by** Cudlip to close the public hearing at 3:43 PM.

Barvitski went on record at 3:44 pm that he will leave the room for the EH Board determination

The EH board wants to add the following conditions. 1.) Staff review and verify the status of the ditch in closest to the proposed OWTS and determine whether it is a intermittent irrigation lateral or an irrigation ditch as defined by the Gunnison County OWTS Regulations and that the ditch be piped and or lined and be maintained as required. 2.) The first one is to get the definitions of the ditch and have the staff review the state definitions. And to ask the applicant to pipe the ditch. The second condition is to accept the document from Mr. Huckstep regarding the wells from the state engineer's office.

EH Determination of Application: Moved by Cudlip. Seconded by Lull to approve, with conditions, the application for Coleman, OWTS-22-00004 before the Gunnison County Environmental Health Board. The motion passed unanimously.

Barvitski joined the EH meeting at 3:49.

Draft-ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION

APPLICANT: Coleman Trust-Sarah Coleman Craig

DATE: April 28, 2022

SITE LOCATION: 4995 County Road 76; 5.54 Acres in Section 4 49N3E

ACTION: Request for a variance to the Gunnison County OWTS Regulations for a second OWTS on a single undivided parcel

PREPARED BY: Crystal Lambert, Building and Environmental Health Official

PROPOSED PROJECT:

The applicant is requesting a variance to the Gunnison County OWTS Regulations for a second on-site wastewater treatment system (OWTS) on a single undivided parcel.

GUNNISON COUNTY ENVIRONMENTAL HEALTH OFFICE ACTION:

The application and proposed design plans have been reviewed by the Environmental Health Office for compliance with the OWTS Regulations. The proposed septic design meets the

design criteria of the Gunnison County OWTS Regulations and the minimum horizontal distance requirements from water features, pertinent physical features and property lines are met. Additional floodplain requirements will be demonstrated and verified by Department staff prior to permit approval and issuance.

The OWTS application was denied by the Environmental Health Office because *Section 3.A.10.* of the *Gunnison County OWTS Regulations* states that no more than one OWTS shall be permitted for an undivided parcel.

APPLICANT’S REQUEST FOR A VARIANCE:

A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to *Section 3.A.10.* of the *Gunnison County OWTS Regulations* has been received.

PUBLIC HEARING:

On April 28, 2022, the Gunnison County Environmental Health Board conducted a Public Hearing on this request for a variance.

FINDINGS:

Based on a review of all the information included with the OWTS application, the request for a variance, and staff reports for this project and consideration of any and all testimony and public input received relative to this application, the Gunnison County Environmental Health Board finds that:

1. Action on this request for a variance from the *Gunnison County OWTS Regulations* is property-specific and limited to the circumstances unique to this application.
2. The applicant has demonstrated that the requested variance from the *Gunnison County OWTS Regulations* is warranted by unique and existing site-specific configuration and site size that make compliance with the Regulations technically infeasible.
3. The applicant has provided justification through specific conditions that exist which support a finding that approval of the requested variance will result in no greater risk than that associated with compliance with the requirements of the *Gunnison County OWTS Regulations*.
4. The applicant has demonstrated that approval of the requested variance will not be in violation of any minimum standards established in any other applicable federal or state rule or regulation.
5. The applicant has demonstrated that the proposed OWTS will not be a nuisance or injurious to public health, safety or welfare.
6. The applicant has demonstrated that no substantial injury will result from the granting of the requested variance.
7. This review and decision incorporate, but is not limited to, all the documentation submitted to the County and included within the Department file relative to this application; including all exhibits, references and documents.

DECISION:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 3.A.10. of the *Gunnison County OWTS Regulations* for the Coleman Trust and Sarah Coleman Craig at her parcel, 4995 County Road 76, 5.54 Acres in Section 4 49N3E, under OWTS application 22-00004, with the following conditions:

1. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, floodplain requirements, system components and general technical standards.
2. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
3. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
4. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

Adjourn: S. Earley adjourned the meeting at 3:58 pm

/S/ Shannon Frias
Administrative Assistant III
Gunnison County Community and Economic Development

Gunnison County Environmental Health Board Minutes

June 30, 2022

The June 30, 2022 Gunnison County Environmental Health Board meeting was conducted in the Planning Commission Room 221 N. Wisconsin Gunnison, Co. 81230 and by ZOOM virtual online meeting.

Board Members Present:

Ashley Bembenek, EH Board member
Shea Earley, EH Board Member
Lucinda Lull, EH Board Member
Lynn Cudlip, EH Board Member

Staff Present:

Crystal Lambert, Building and EH Official
Charlie Dominquez, Community Development
Rebecca Ricord, Community Development
Shannon Frias, Community Development

Other attendees as listed in text.

Call to order: Bembenek called the meeting to order at 2:23. A quorum was determined at 2:26 pm

Approval of Agenda:

Approval of Minutes: Moved by Earley seconded by Cudlip to revise and approve the April 28 minutes at the next EH Board meeting. The motion passed unanimously.

Unscheduled citizens: None present or on ZOOM

With a quorum present Chairperson Bembenek opened the public hearing at 2:30 pm.

Harmel's OWTS-22-00138 The Environmental Health Board conducted a public hearing to review the variance request to the Gunnison County On-site Waste Water Treatment System (OWTS) regulations for temporary use of a vault system at 6748 County Road 742 OWTS-22-000138

The members introduced themselves.

Voting Members: Bembenek was seated as chair. Earley, Lull and Cudlip.

Environmental Health Official Crystal Lambert confirmed adequate public notice. The notices were published in the CB News and the Gunnison Country Times. All property owners within 500 feet of the parcel boundaries were notified by certified mail of the public hearing. The agenda was posted at the new posting location, on the Gunnison County Community Development website. The applicant submitted the certified mailing receipts, photo and affidavit of posting.

Application Presentation: Jacob With represents Harmel's on the Taylor. Jack Barker from Turd Herders and the Reynolds family, owners of Harmel's, are also present. Jerry Greene is the engineer. This is a family run business not a corporation. They received a large loan to purchase the property and they are losing \$200,000 a month by not having the resort open. It is bigger than the family. There is staff. Don't want them to lose their jobs. They also provide work force housing and tourism. Helps accommodate those that may be involved in disperse camping. The application is bigger than just a business. A problem in the making for a long time. Previous owner did not stay on top of it. The new owners went ahead with the purchase knowing that there were problems with the septic. Owner purchased with knowledge of the problem. They went to work immediately to cure the problem. The applicant knows they need to apply with the state. They have done that. They have interviewed 3 companies that produce pre-made treatment plants. That is not what we are talking about today. Today is talking about a variance. They know the variance is not permanent. The temporary solve will be fixed. They are moving forward as fast as they can. The variance is a request to use a vault system that will not cause harm to the environment. No matter what is done it will be a drastic improvement. The use of the failing systems has been stopped. The vault system is a drastic improvement. There are some systems that are compliant and some non-compliant systems. There are some systems that are working but the leach field cannot be found. The compliant systems are not an issue are: restaurant, store, bunkhouse M, cabins 7, 8, 12, 15, 18, 19, 30, 31, 36, 37, 38, and 39. The systems that are non-Compliant are fly shop, cabins 2, 3, 4, 9, 11, 14, 20-27, 28, 29 and the laundry system. Those systems that appear to be functioning but the leach field cannot be found are, cabins 5, 6 10, 13, 16, 17, 32, 33, 34, and 35. Staff recommendations are consistent with variance request but has 7 additional conditions for approval. The applicant agrees with 1, 2, 3, 5, and 7. Left out 4 and 6. 4 is the systems serving cabins 32-35. These fall under the systems that are functioning but the leach fields cannot be found. Believe these should go under number 6. Staff recommend these be vaulted and pumped, where leach field couldn't be found. Additional systems that staff would recommend be vaulted and pumped: 5, 6, 10, 13, 16, 17. Applicant is struggling with additional vaulting. Jack Barker would need additional equipment and man power. It would be really expensive and a lot of work. The applicant is struggling with that request because it is so expensive. Respectfully, the applicant is asking that the additional systems not be added. These systems were inspected. They did not fail. Staff is recommending they be vaulted because of the leach field not being located. They would have to dig to find the leach fields. Asking that despite the staff recommendations, they ask the additional cabins not be included for vaulting. If vaulting is required the client will take it. They may not be able to use all of the cabins. The big picture the applicant has the burden of proof by ponderance of the evidence, demonstrate that the variance is justified and shall result in no greater risk than that associated with compliance of the regulations. The applicant is doing everything they can to become compliant for what is best for

Gunnison County. They are going to have a plant that can facilitate current and future demands on the system. Not granting the variance would be harmful to the county. There are predictable consequences. There will be increase in dispersed camping. Loss of tourism. Harmels serves a function in the location it is at. There is no greater risk to the environment by granting the variance. To grant the variance would have no consequence to the environment. There shouldn't be any greater risk to the environment. Applicant asks the board to approve the variance as staff recommended. Except for #4 and #6. Applicant is requesting #4 & #6 is not included. If the board decides not to approve the variance without 4 and 6, the applicant would agree to keep 4 & 6 in the variance.

Public asked are they going to get notice and information on construction of the vaults before the project begins. Also, if notice will be given on the number of vaults and the location. Mr. With responded that the vaults will be located exactly where the failed systems are now in the ground. Jack Barker explained the tanks that have failed will be replaced with vaults and everything will be in the ground. They will gravity feed out of the cabins into the vaults. They will be putting tanks in the ground that don't leak and instead of them going to a leach field they will be pumped. Jack Barker commented that as for #4 there is a cross over between SGM report and his site visit. #4 has been taken care of.

Staff Comments:

GUNNISON COUNTY, COLORADO
COMMUNITY DEVELOPMENT DEPARTMENT, ENVIRONMENTAL HEALTH OFFICE STAFF
REPORT

Harmels on the Taylor, LLC

Application No: OWTS-22-00138
Date application scheduled with EH Board: June 30, 2022
Prepared by: Crystal Lambert, Building & EH Official

APPLICANT/OWNER: Harmels on the Taylor, LLC

PROJECT DESCRIPTION:

The applicant is proposing a variance for the temporary use, approximately two years, of vault systems throughout the resort while work to design, permit, and construct a wastewater treatment plant is being undertaken.

CURRENT STATUS OF OWTS APPLICATION: The OWTS application was denied by the Environmental Health Office because Section 12.C. of the Gunnison County OWTS Regulations prohibits vault systems in the unincorporated areas of Gunnison County.

ENVIRONMENTAL HEALTH BOARD ACTION REQUESTED: A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to Section 12.C. of the Gunnison County OWTS Regulations has been received.

PROPERTY LOCATION: 6748 County Road 742

AREA DESCRIPTION: The parcel is located on both sides of County Road 742 at the confluence of Spring Creek and the Taylor River

ATTACHED EXHIBITS:

- OWTS application
- Aerial view of parcel and surrounding parcels
- Map of resort
- Proposed plan narrative and variance request submittal
- Proposed service agreement
- Existing system inspection reports (from SGM and Turd Herder)
- As-built site plans of the resort on file with the County (may not be complete and/or accurate)
- Staff site visit inspection report with photographs
- Development Draft Action

ENVIRONMENTAL BOARD TASKS AT PUBLIC HEARING:

- Acknowledge receipt of application by applicant name, name of development (if applicable) and date of application
- Confirmation of adequate public notice:
 - Posting of legal notice in the County's official newspaper at least 20 days prior the hearing.
 - Posting of public hearing notice at the County posting locations.
 - Mailing of public hearing notice to all owners of properties who own surface rights within 500 feet of each boundary of the entire parcel at least 20 days prior to the hearing.
 - Posting of the public hearing notice in a conspicuous location at or near the parcel.
- Hear applicant presentation
- Hear staff comments
- Ask questions, identify and consider issues
- Hear applicant response and staff response
- Continue public hearing or close public hearing.

Staff Recommendation on the application for a variance to the Gunnison County OWTS Regulations:

Staff conducted a site visit of the property on May 11, 2022 (see site inspection report later in packet) and discussed the condition of wastewater treatment for every structure on the parcel with Jack Barker (Turd Herder). Some of the systems are old (>40 years) and the field or outlet areas are unknown. It is likely that many of the systems are “Arrowhead” type systems in which wastewater flows out of the tank and into the surrounding soil. These systems are prohibited for new construction but were popular in the 70s and 80s as a solution for small lots and tight spaces. Many of our repair/replacement septic permits are to replace failing “Arrowhead” type systems. While “Arrowhead” type systems are not permissible for new construction, existing “Arrowhead” systems are allowed to continue in use so long as the system is not failing and appears to be operating as designed during a Transfer of Title inspection.

Staff believes that State permitting of the wastewater treatment for the resort is needed as the total design capacity plus proposed future expansions will be well over 2,000 gallons per day. Many of the systems that currently serve the resort are old and failing or “unknown” and a new, modern wastewater system is a much-needed improvement to protect public health and water quality. The process for State site approval and permitting plus construction of the system can take several years. Staff agrees that, in the interim, the temporary use of vault systems is the only feasible solution given the site layout, topography and proximity to water-bodies. Vault systems have been prohibited for use in Gunnison County because they require continuous monitoring, frequent pumping and the resources to ensure this happens throughout the life of the system. The applicant is proposing this for a temporary interim period and is willing to pre-fund the maintenance and pumping. Staff recommends approval of the variance request and also recommends the following conditions of approval:

1. The applicant submits a plan showing the location of the proposed vault tanks, the manufacturers information of the vault tanks, and information about the electronic high-water alarm devices for review and approval before any permit be issued.
2. Pumping and hauling records be kept for each vault system and submitted to the Environmental Health Office monthly.
3. Anyone pumping, cleaning, and/or hauling wastewater at and from this site be licensed OWTS cleaners with Gunnison County.
4. The system serving Cabins 32-35 be located, and the tank cleaned and inspected.
5. Cabin 2 and the “fly shop” be connected to a vault system (as described below).
6. Cabins 5, 6, 10, 13, 16 and 17: either the fields be located and verified or they also be served by a vault system during the interim.
7. The approval of temporary use of vault systems for the resort be limited to two-years with the possibility of a one-year extension if warranted.

Applicants proposed structures for vault systems and staff recommends approval of the requested variance for temporary use of vault systems:

Cabins 3 and 4: Both of these cabins have a shower, toilet, and sink (no kitchen). They shared a fiberglass tank that has collapsed. The field is unknown and is likely an “Arrowhead” type system. The applicant is proposing that cabins 3 and 4 share a 1,000-gallon vault tank that will need to be pumped/cleaned/hailed when full.

Cabins 9, 28 and 29: According to the applicant, Cabin 9 has 2 bedrooms and a kitchen and Cabins 28 and 29 each have 2 bedrooms and no kitchen. A shared septic tank has failed and the field is unknown. The applicant is proposing these three units share a 1,500-gallon vault system tank that will need to be pumped/cleaned/hailed when full.

Cabin 11: This unit has 1 bedroom, 1 bathroom and no kitchen. The applicant is proposing a 1,000-gallon vault system that will need to be pumped/cleaned/hailed when full.

Cabin 14: This unit has 2 bedrooms. The applicant is proposing a 1,000-gallon vault system that will need to be pumped/cleaned/hailed when full.

Lodge Units 20-27 “Hitching Post”: Steel tank deep underground with only access pipe. The seven units are all studio style with no kitchen. The applicant is proposing a 1,500-gallon vault system that will need to be pumped/cleaned/hailed when full.

Laundry Building: The existing components appear to be a 1,000-gallon plastic tank that is only partially buried and exposed sewer line to tank that is not connected. The applicant is proposing a 1,000-gallon vault system that will need to be pumped/cleaned/hailed when full.

Applicants proposed structure to connect to another system and staff’s observed notes and recommendations:

Cabin 2 System: Tank is damaged and field is unknown. The applicant is proposing to pump the wastewater from this cabin to the “office”. Staff’s notes on the fly shop/office system is that wastewater goes to a 1,000-gallon tank under a deck and the field-outlet is unknown. Staff recommends that wastewater from Cabin 2 and the Fly shop/office should be vaulted and pumped as part of this variance request. Connecting Cabin 2 to an unknown vintage tank (located under a deck) and completely unknown field (no County permit on record) could be in violation of the sizing and component requirements, among other things, in the OWTS Regulations.

Other remaining structures for which the applicant is not proposing anything, other than routine maintenance, and staff’s comments, if any:

Restaurant//Store system: This system was permitted by Gunnison County ~2003 (ISDS-03-00005) and appears to be functioning as designed with no observed signs of failure. This system includes a grease interceptor for the restaurant waste.

Bunkhouse M (Wrangler Bunkhouse): Appears to be a recent septic tank. The County does not have a record of a septic permit. An RV was also hooked up to the system at the time of inspection. The distance to waterbodies far exceeds the minimum setback distances as it is across the County Road in the vicinity of the horse coral area.

Fly shop-office: This system was also discussed above with the “Cabin 2” system, however, the applicant does not appear to be proposing anything for this system other than to connect Cabin 2 to it. This system appears to be a 1,000-gallon tank of unknown vintage (no permit on record) to an unknown field area and a deck has been built over the existing tank. Staff recommends that wastewater from Cabin 2 and the Fly shop/office should be vaulted and pumped as part of this variance request. Connecting Cabin 2 to an unknown vintage tank (located under a deck) and completely unknown field (no County permit on record) could be in violation of the sizing and component requirements, among other things, in the OWTS Regulations.

Cabins 5 and 6: These units share a 1,000-gallon fiberglass tank that appears to be holding water. The field-outlet is unknown. Staff is concerned that the field could be the same as Cabins 3 & 4 (likely an “Arrowhead” style system). Given the vintage of the system staff is concerned about the proximity to Spring Creek, about 50 feet, and the ability of the field to function for treatment in addition to disposal of wastewater.

Cabin 10: According to the applicant on the site visit, this is a 2 bedroom, 1bath unit with no kitchen. The system has a 500-gallon fiberglass tank and the field-outlet is unknown. The proximity to the Taylor River is about 65 feet. Given the vintage of the system (no permit on record), staff is concerned about the ability of the field to function for treatment in addition to disposal of wastewater.

Cabins 31, 30 and 8: There are 4 bedrooms, 2 bathrooms, and two kitchens between these units. The shared 1,000-gallon fiberglass tank appears to be holding water and the field-outlet area is unknown. The proximity to the Taylor River is at least 100 feet, however, separation from high ground water could be a concern in the lower area.

Cabins 16 and 17: According to Jack Barker during the site visit, each unit has their own fiberglass tank that appears to be functioning-holding water. The field-outlet is unknown and the proximity to the Taylor River is less than 100 feet.

Cabin 15: 1,000-gallon concrete septic tank and appears to be holding water. During the site visit, the field was thought to be across the road and tied into a modern shared field, however, staff did not conduct a final inspection for installation of the system ~2013. The engineer’s as-built does not show cabin 15 connected to the shared field.

Cabins/units 12, 18, and 36-39: Served by a system installed around 2013 and appears to be functioning as designed. The engineer’s as-built drawing confirms the installation and that these units are connected.

Cabin 13: 500-gallon fiberglass septic tank and unknown field-outlet. The tank appears to be holding water. The proximity to the Taylor River is less than 100 feet.

Cabin 19: 1,000-gallon concrete tank that appears to be in good condition. The field is thought to be tied into the modern shared field, however, the engineer's as-built does not confirm this.

Cabins 32-35: A shared system is thought for these units; however, the tank could not be located and the field is unknown.

Review Body Comments to staff comments and report:

Cudlip asked Jack Barker when hauling, are you liable for anything that happens by subs or employees? Jack Barker responded that they will not have any subs. They are insured. The proposal is to have a truck onsite and the Harmel's employees will pump individual vaults as needed. Cudlip asked if they anticipate one haul a day. Jack Barker responded they cannot project that at this point. Cudlip asked that in the conditions it states that the pumping happens when full. What is the definition of full. Jack Barker stated that they set a float with an alarm that goes off when it is at $\frac{3}{4}$ full. When it is at $\frac{3}{4}$ full it needs to be pumped or use needs to stop. They need to create a management plan. Not dedicated to the one truck at Harmels. Jack Barker has other trucks that can be sent to pump. Shea Earley asked what happens in the middle of the night? Will there be a dialer system? Jack Barker responded that it will not have a dialer system. The design will hold one day. Jacob With stated that even if the resort can be at 100% occupancy they will not be at 100%. They will maintain it at 90%. Lynn Cudlip asked if it is possible to have connection and one vault for multiple cabins? Jack Barker answered, yes. Lynn Cudlip asked if 10 – 11 can be connected and 13 & 14 be connected? Jack Barker responded that 13 and 14 would be difficult to connect. Shea Earley asked if there will be plumbing leak test performed? Lambert stated that she believed they were going to propose new vaults. Jack Barker responded that they are for the vaults that have failed. Lambert comments that vaults are tested for water tightness before shipping. In the case they would not do a leak test, Lambert would want to do a water test. Jack Barker stated that part of the inspection is seeing if the tank is at proper operating level. If there is water at the discharge it is working as intended. Cudlip asked that since water is an issue in the valley right now, can the owner post to client/visitors about the shortage and ask visitors to conserve? The owner stated they would.

Shea Earley wanted to confirm that it is a public water system. And asked if there were any E. coli problems? Jack Barker responded that before the new owners there were problems. The previous owners did not install what they needed to. They have fixed all of the problems. They are complying now. Shea Earley asked about the 2-year period of time and what assurance do we have that the owner is working forward and making progress on the treatment. Shea Earley asked if we could ask the owner for an annual update? Jerry Greene stated they could do that. Jerry Greene informed the board that the state has a list of state approved waste water treatment plants. The process could go pretty fast but it is unsure. Jacob With stated that a schedule and update, would be in parts. Jack Barker stated that the state also has bench marks. Lambert asked if construction would be year-round? The owner stated that they will work as much as they can.

Jerry Greene stated that the corps of engineers dictates when you can be in the river. Shea Earley asked if the intention is to completely disconnect everything that is there now once the water treatment center is complete. The answer is yes.

Vice chair, Shea Earley took over as chair due to technical difficulties for chair Ashley Bembenek at 3:40 pm.

Bembenek stated she appreciates the service agreement with Jack Barker and his company. Bembenek made note that the current service dates on the service agreement are May 1, 2021 to November 1, 2023. Bembenek proposed the dates are revised. Bembenek also stated that the service agreement should include the 1-year extension. Does that need to be a condition of approval? Jacob With stated that it could be added as a condition of approval. Bembenek asked Lambert if the deposit balance in the service agreement reaches \$0 what is the course of action, if any from the county? Jacob With stated that if there is not adequate pumping they will have to shut down. Bembenek stated that she agrees with Cudlip and supports water conservation practices. Bembenek is curious about the laundry and its 1000-gallon tank. 1000 tank would only accommodate 16 loads of laundry. Asked applicants why a 1000-gallon tank was selected. Jack Barker answered that a 1000-gallon tank is what is existing and the laundry was not in the original plans to vault. They did not propose 1000-gallon tank. Lambert stated that by working with Jerry Greene on maximum seasonal capacity, and the laundry needed to be done, they would keep the tank large enough so that pumping only needs to occur on a certain schedule. Bembenek stated that condition 1 addresses the issues. Bembenek would like to see the applicant to further consider how to handle the laundry room and other facilities. Bembenek is concerned about the timeline and the application process with the State of Colorado. Bembenek stated that she is supportive of the condition allowing a one year extension and that the owner give annual up dates.

Lull stated that she is impressed with the owner going forward and working toward compliance.

Public Comments:

Cindy Wright stated that the variance should be allowed. Is there an estimate of how many vaults? Jack Barker responded that 6 vaults are replacement and discussion of the other 7 vault to see if they can be used.

Ward Cable owner of house next to Harmel's stated that there is a water well on the property and would like to know if there may be a testing program for adjacent properties with wells. Bembenek responded that while having the data on hand would be helpful, defining existing conditions before the vault pumping begins would be challenging. Monitoring whether this effort has improved or decreased water quality in adjacent wells would be difficult without baseline data. Bembenek asked if it is permissible for the EH Board to make it a condition. Jacob With stated that it is hard to individually testing. The owner already tests and if there is a problem with their water they report it to EH. Bembenek stated that incidences when an approval body has the ability to apply that type of condition, the condition language is typically something to the effect that wells within 500 ft and where the owner allows access.

Lambert asked if the water treatment plant in Gunnison will test for free. The answer is no.

Lambert stated that there were issues with E. coli in the county in the past and the EH office helped. There is a system in place. Jack Barker stated that what they are proposing is a 100% improvement from what has been going on for a long time.

Shea Earley asked if they could add testing as a condition. Lynn Cudlip is not supportive of adding that as a condition.

Pete Dunda lives close to the property and was contacted by other homeowners/neighbors to speak for them. They all support the variance. Most of the families have lived there for 30 years or more. And have lived with the violations. They are 100% in support of the variance.

Bob Skelton lives in Spring Creek. He seconded Pete Dunda's comments that they support the variance. They appreciate that the owner is doing a historical restoration.

Resident commented that they commend Crystal Lambert and the owner for what they have done and are doing to make this right. He stated that they could consider recycling the laundry water.

Randy Dailey stated that the wastewater treatment plant will cost millions and it shows the owners commitment to the valley.

Jacob With stated that he wanted to comment on the testing. That maybe they could put some money aside for those who wanted to test their water. He doesn't believe that mandatory testing would be beneficial. Lambert stated that the EH department could do better outreach and what is available. If someone has a positive E. coli result, they need to let the EH know.

Additional Staff Comments:

Lambert went over the draft conditions:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested temporary variance to Section 12.C. of the *Gunnison County OWTS Regulations* for Harmels on the Taylor, LLC at their parcel, 6748 County Road 742, under OWTS application OWTS-22-00138, with the following conditions:

1. The applicant shall submit a design plan that shows the location of all the proposed vault tanks, the manufacturers information of each vault tank, and information about the electronic high-water alarm devices for review and approval before any permit be issued for the use of vault systems at the property.

2. Pumping and hauling records be kept for each vault system and available on request.
3. Anyone pumping and/or cleaning vault systems or hauling wastewater at and from this site be licensed OWTS cleaners with Gunnison County.
4. This approval of the temporary use of vault systems at the parcel is limited to 24 months from the date of permit issuance. A one-time extension, of up to one-year can be granted by the Department if justifiable evidence is provided that shows the extension is warranted and necessary for timing of the completion of the future wastewater treatment plant.
5. The system(s) serving Cabins 32-35 be located and inspected; and cleaned and repaired if needed. If repair is not possible, the system(s) shall be replaced with vault system(s) as part of this temporary variance approval.
6. Cabin 2 and the “fly shop” system be connected to a vault system as part of this temporary variance approval.
7. The fields for cabins 5, 6, 10, 13, 16 and 17 shall be located and verified as existing and in working order and not damaged or they also shall be connected to vault system(s) as part of this temporary variance approval.
8. An update on progress towards site approval, permitting, and construction of the State approved wastewater treatment plant shall be submitted by January of each year to the Community Development Department.
9. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
10. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
11. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and

evaluated, subject to its compliance with current regulations, and its impact to the County.

Moved by: Lynn Cudlip and seconded by Ashley Bembenek to close the public hearing at 4:35 PM.

EH Determination of Application: Lynn Cudlip moved to approve with conditions as discussed and written in the draft EH board variance request action form the request for variance to the Gunnison County OWTS regulations for the temporary use of vault systems at Harmels on the Taylor LLC at 6748 County Road 742, OWTS-22-00138 before the Gunnison County Environmental Health Board. Seconded by Lull. The motion passed unanimously.

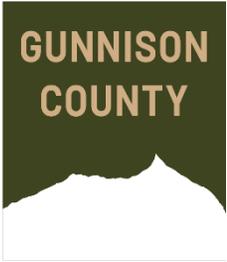
DECISION:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 3.A.10. of the *Gunnison County OWTS Regulations* for the Coleman Trust and Sarah Coleman Craig at her parcel, 4995 County Road 76, 5.54 Acres in Section 4 49N3E, under OWTS application 22-00004, with the following conditions:

12. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, floodplain requirements, system components and general technical standards.
13. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
14. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
15. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

Adjourn: Earley adjourned the meeting at 4:41 pm.

/S/ Shannon Frias
Administrative Assistant III
Gunnison County Community and Economic Development



GUNNISON COUNTY, COLORADO COMMUNITY DEVELOPMENT DEPARTMENT, ENVIRONMENTAL HEALTH OFFICE STAFF REPORT

Baker

Application No: OWTS-23-00146
Date application scheduled with EH Board: February 15, 2024
Prepared by: Rebecca Ricord, Building & Environmental Health Inspector/Plans Examiner

APPLICANT/OWNER:	Joseph Baker
PROJECT DESCRIPTION:	The applicant is proposing a variance for an OWTS on a parcel less than one acre to serve a future residence. The parcel is currently vacant.
CURRENT STATUS OF OWTS APPLICATION:	The OWTS application was denied by the Environmental Health Office because <i>Section 3.A.9. of the Gunnison County OWTS Regulations</i> states that an OWTS shall not be permitted to be installed on a parcel of land less than once acre in size.
ENVIRONMENTAL HEALTH BOARD ACTION REQUESTED:	A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to <i>Section 3.A.9 of the Gunnison County OWTS Regulations</i> has been received and was prepared by the applicant.
PROPERTY LOCATION:	20 Paul Pl, Lot 19, Mitzel's Green Acres
AREA DESCRIPTION:	The parcel is 0.87 acres in Mitzel's Green Acres near Hwy 135 in the Almont area approximately 7.5 miles north of the City of Gunnison, Colorado.
ATTACHED EXHIBITS:	<ul style="list-style-type: none">▪ OWTS application▪ Aerial view of parcel and surrounding parcels

	<ul style="list-style-type: none"> ▪ Variance Request and Proposed Design Report ▪ Site plan and system layout ▪ Staff site inspection photos ▪ Development Draft Action
ENVIRONMENTAL BOARD TASKS AT PUBLIC HEARING:	<ul style="list-style-type: none"> — Acknowledge receipt of application by applicant name, name of development (if applicable) and date of application — Confirmation of adequate public notice: <ul style="list-style-type: none"> • Posting of legal notice in the County's official newspaper at least 20 days prior the hearing. • Posting of public hearing notice at the County posting locations. • Mailing of public hearing notice to all owners of properties who own surface rights within 500 feet of each boundary of the entire parcel at least 20 days prior to the hearing. • Posting of the public hearing notice in a conspicuous location at or near the parcel. — Hear applicant presentation — Hear staff comments — Ask questions, identify and consider issues — Hear applicant response and staff response — Continue public hearing or close public hearing.

Variance Request Submittal Analysis		
Variance request submittals shall include the following items:	Applicant Submittal Summary	Staff Comments
Site-specific request identifying the specific criteria from which a variance is being requested. Section 3.M.1.b(1)	The variance is being requested for an OWTS to be permitted to be installed on the referenced parcel which is less than one acre in size.	Per Section 3.A.9 of the <i>Gunnison County OWTS Regulations</i> , an OWTS shall not be permitted to be installed on a parcel of land less than one acre in size. This is a local County requirement above the State minimum. The State of Colorado OWTS Regulations do not contain a requirement for minimum parcel size.
Technical justification by a professional	All the horizontal setback requirements	Though this is a small parcel, less than one

<p>engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance shall result in no greater risk than that associated with compliance with the requirements of the OWTS Regulations. Section 3.M.1.b(2)</p>	<p>between components of the OWTS and water, physical and health impact features are proposed to be met and there should be no greater risk to public health and safety. Gunnison County has more stringent horizontal distance requirements than the State Regulations and those more stringent setback distances will be met with the proposed system. The proposed system design includes pressurized distribution to an unlined sand bed.</p>	<p>acre, all of the required setback distances from system components to waterbodies and pertinent physical features can be met with the proposed plan. The water service to this parcel, and other parcels in the Subdivision is by wells. The applicant has provided a site plan that shows all setbacks are being made to neighboring wells and system components.</p>
<p>A discussion of alternatives considered in lieu of the requested variance. Section 3.M.1.b.(3)</p>	<p>There are no alternatives known. The subdivision and this parcel were created prior to creation of the Gunnison County OWTS Regulations.</p>	<p>No known feasible alternatives. The subdivision and parcel predate modern septic regulations and surrounding parcels are developed.</p>
<p>Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment. Section 3.M.1.b.(4)</p>		<p>N/A-the applicant is not proposing an alternative system design. The proposed system meets the technical requirements of the OWTS Regulations.</p>
<p>A statement of the hardship that created the necessity for the variance. Section 3.M.1.b.(5)</p>		<p>The small, less than one acre, parcel was created prior to modern septic regulations requiring a minimum of one-acre.</p>

Section 3.M.2.: Prohibitions on the granting of variance requests

Prohibitions on the granting of variance requests:	Staff comments:
No variance shall be issued where the property can accommodate a conforming OWTS. Section 3.M.2.a.	The OWTS will conform to the technical, design and setback distance requirements of the OWTS Regulations. The variance request is for a system on a parcel less than one acre.
No variance shall be issued to mitigate an error in construction involving any element of property improvements. Section 3.M.2.b.	N/A
No variance shall be allowed on the grounds of cost of compliance. Section 3.M.2.c.	N/A
No variance shall be issued if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without proof of compliance of Section 3.M.5. Section 3.M.2.d.	The minimum setbacks to on-site and off-site physical features appear to be met with the proposed development plan.
No variance shall be issued if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2. Section 3.M.2.e.	N/A
No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors. Section 3.M.2.f.	Future development on the adjacent undeveloped parcel would require thoughtful planning in relation to the proposed development and minimum setback distances of a future well location.
No variance shall be issued for the installation of a higher level treatment system based on sizing or separation reductions without the Department having a maintenance and oversight program. Section 3.M.2.g.	N/A

Staff Recommendation on the application for a variance to the *Gunnison County OWTS Regulations*:

It appears that the proposed OWTS design meets the design criteria and setback distance requirements of the Gunnison County OWTS Regulations. The location of the system limits the future location of a well on the adjacent undeveloped neighboring parcel but appears to provide enough space, although it will be limited. Staff recommends approval of the Baker application for a variance to the Gunnison County OWTS Regulations, Section 3.A.9, to install the proposed OWTS on Lot 19, Mitzel's Green Acres.



Gunnison County, CO
Community Development Department
 221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
 Phone: (970) 641-0360
 Website: <https://www.gunnisoncounty.org/144/Community-and-Economic-Development>
 Email: planning@gunnisoncounty.org

**ON-SITE WASTEWATER TREATMENT SYSTEM (OWTS)
 PERMIT APPLICATION**

Application Fee- Residential New- Due at Submittal: \$1050
 Application Fee- Commercial New or Replacement- Due at Submittal: \$1156
 Application Fee- Residential Repair- Due at Submittal: \$649
 Application Fee- Residential & Commercial Tank Replacement Only- Due at Submittal: \$367
 Application Fee- System Alteration or Expansion- Due at Submittal: \$813

Application Received Date: _____
 Application Fee Paid: _____

SUBMIT ALL PERMIT PACKET INFORMATION TO PERMIT@GUNNISONCOUNTY.ORG

OWNER: J. David Baker
 MAILING ADDRESS: 327 JD Lane, Lynchburg, TN, 37352
 DAY PHONE: _____ CELL PHONE: 615-804-5125
 EMAIL ADDRESS: jdBaker.jdb@gmail.com

LICENSED SEPTIC CONTRACTOR: _____
 MAILING ADDRESS: _____
 DAY PHONE: _____ CELL PHONE: _____
 EMAIL ADDRESS: _____

PRIMARY PROJECT CONTACT PERSON: 615-428-7222 / Zach Baker
 DAY PHONE: _____ CELL PHONE: 615-428-7222

DESCRIPTION OF PARCEL (legal description, site address): 19 Paul Place, Lot 19 Mizzels
Green Acres Gunnison County,

PARCEL SIZE: .86 ACRES

HAVE YOU APPLIED FOR A LAND USE CHANGE PERMIT? No

- Is this application for a secondary residence?
- Do you need a lot cluster? (Do you own adjacent lots that are less than one acre, if so you may need a lot cluster)

WHAT TYPE OF PERMIT ARE YOU REQUESTING?

- New
- Alteration
- Repair

Project Description (Please identify all existing buildings/development and all proposed buildings/development on the parcel.)

OWTS System, well, Home/Building (exact size yet to be determined)

Description of Proposed

Development 02/2023

- Single-Family Residence
- Multi-Family Residence
- Commercial; describe use: _____
- Other: _____

Number of Bedrooms: 4 Number of Baths: 3 1/2 Number of Kitchens: 1

For commercial note the square footage, number of seats if it is a food/bar establishment, number of rooms for hotel/motel/B-N-B facility, number of employees. _____

Type of System Proposed (For engineered systems, provide the design, stamped and signed by a Colorado Licensed Professional Engineer)

- Conventional Septic System Design
- Engineered System; Engineer Name: Tyler Harpel Phone: 970-707-8158
- Other: _____

Description of the Proposed and/or Existing Water Source. Description of proposed/existing water source; if such proposed source is by well, copy of the well permit may be required to verify the location of the well; and, if such source is a central system, documentation from the operator of that system that water will be supplied:

86943-F, 300 ft Depth, Not Installed

THE FOLLOWING INFORMATION IS NEEDED FOR THE SUBMITTAL OF ALL OWTS APPLICATIONS:

- Report from Site and Soils Evaluation and Site Plan.** The report from the Site and Soil Evaluation in accordance with Section 5-110: *Report and Site Plan* of the *Gunnison County OWTS Regulations* (see page 9 for description).
- Vicinity Map.** General area map showing the location of the proposal on a typical U.S. Geological Survey map, U.S. Forest Service map or County parcel map, available from the Gunnison County Geographic Information Services Department or the Gunnison County Assessor's Office.
- System Design.** The system design document shall contain all plan details necessary for permitting, installation and maintenance and shall include a brief description of the facility and its proposed use, basis and calculations of design flow, and influent strength in accordance with Section 5-111: *Design Document* of the *Gunnison County OWTS Regulations* (see page 10 for description).
- A copy of the recorded **Warranty Deed** is required for proof of ownership. This may be obtained from the Recorder's Office, located on the first floor of the Blackstock's Government Center. The Recorder's Office can be reached by phone at 970-641-2038.
- Letter of Consent.** If applicable, a letter from the property owner acknowledging a person other than the owner may apply for permits.
- Copy of **Well Permit**, if applicable
- Application Fee. **Fees** are determined by type of OWTS permit and proposed use. *See fee schedule.

**GUNNISON COUNTY PUBLIC WORKS
ACCESS DETERMINATION**

SIGNATURE OF OWNER OR CONTRACTOR: _____

DATE: 5-31-23



Scale = 1:3500

The data herein is general in nature and not assumed to be complete nor accurate in its entirety and is therefore to be used with all discretions necessary. The data portrayed should not be relied upon to establish legal title, boundary lines, the precise location of improvements, ownership, maintenance, easements or public right-of-ways.

Tuesday, December 5, 2023

From: [David Baker](#)
To: [Rebecca Ricord](#)
Cc: Zachbaker123@gmail.com
Subject: FW: Variance Letter & Attachments
Date: Tuesday, August 29, 2023 2:29:36 PM
Attachments: [19PaulPI_OWST_SoilSiteEvalVarianceFull.pdf](#)
[OWTS 2-4-BED PLAN.pdf](#)
[Certification No 108 Series 22023.pdf](#)

[EXTERNAL SENDER - USE CAUTION]

Rebecca, Please see below and the attachments. If I have missed something please let me know. My number is 615-804-5125 and email address is jdbaker@bacar.com and jdbaker.jdb@gmail.com David

J. David Baker, President



August 29, 2023

Rebecca Ricord
Building & Environmental Health Inspector/Plans Examiner
Gunnison County Community Development Department

REF: Request for OWTS Permit Variance for Permit #OWTS-23-00146

Dear Ms. Ricord,

I would like to request a variance for Lot 19, Mitzel's Green Acres. I am submitting answers to the specific requirements outlined in the letter dated July 19, 2023. The answers below and attachments are included.

1. Site specific request identifying the specific criteria from which a variance is being requested.

Answer: Requesting a variance approval of application OWTS-23-00146 for the .87 acre parcel, Lot 19 Mitzel's Green Acres.

2. Technical justification by a professional engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance shall result in no greater risk than that associated with compliance with the requirements of these Regulations.

Answer: Please find sufficient justification in the provided full detailed report by SGM engineer, Tyler Harpel, which indicates the 100' setback does not encroach on any established well sites. Also, added to the final page of the design are black dots on the lots surrounding lot 19 representing the location of existing well sites pulled from the Colorado state website.

Attachment #1 – SGM/Tyler Harpel P.E.

Attachment #2 – Letter & Report Drawings

3. A discussion of alternatives considered in lieu of the requested variance.

Answer: No alternatives, the lot is under 1 acre.

4. Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to the public health and to the environment.

Answer: Not applicable as there is no alternative.

5. A statement of the hardship that created the necessity for the variance.

Answer: Previous owner did not want to sell a full acre.

6. Signed Certification No. 108, Series 22023

Respectfully,

Joseph David Baker

cc Zach Baker

March 30th, 2023

RE: Baker, 19 Paul Place OWST On Site Detailed Soil Investigation Report

To Whom it May Concern;

This letter is to provide documentation of SGM's On-Site Wastewater Treatment System (OWST) Site and Soil Evaluation including detailed soil investigation and two test pits per Gunnison County OWST Regulations (Regulations).

The evaluated property is 19 Paul Place, Lot 19 Mitzel's Green Acres Gunnison County; approximately 6 miles north of the City of Gunnison west off Highway 135.

I first did reconnaissance information review to work with the Owner to find the best location on the property for the OWTS site components based on digital information. After preliminary investigation of the site, potential well and building location discussions, looking at Gunnison County GIS and interactive Mapping data and online NRCS soils survey of the site, the best location for the OWTS and specifically Soil Treatment Area (STA) was at the north end and lowest elevation on the property

The project is proposed to be a single-family house most likely with 2-3 bedroom but may have as many as 4-bedroom at some point. Therefore, we used flow rates for a 4-bedroom house in our preliminary calculations.

Following this initial investigation, I visited the site on April 12th, 2022 for an in depth evaluation of two 8' deep soil profile test pits per section 5 of the Regulation. I met with Hal Hearne Excavation on site at 11:00 am with a Takeuchi mini-excavator with thumb. It was clear and partly cloudy 34°F with no snow and no rain in the past 24 hours. Two test pits were dug, with the first about 50' directly south of the north property line and 45' west of the eastern roadway edge, and the second test pit approximately 50' south of north property line and 50' east of the western roadway edge.

Both test pits had very close to the same soils. Approximately 4-8" of topsoil with grass and sage roots followed by homogeneous light red/brown silty clay loam with vertical blocky structure. When excavated and put into spoils pile it would stay in a blocky structure, on the trench sidewalls the structure could be seen and broken off. No significant difference was found to the depth of about 8'. There was no bedrock or ground water encountered at all, the soil was quite dry. The first test pit found no rocks or stone of any kind, the second test pit found one large 2' diameter boulder and several smaller 8" rocks, but overall still had less than 10% rock by volume. The soil should be categorized as a soil type 3 from table 10-1 of the Gunnison County OWTS regulations and use a long-term acceptance rate of 0.35 in design calculations.

The observed soils fall in line fairly well with the NRCS soils classification of 165 Kolob family complex with clay or sandy clay loam but was not at all stony or very stony. Little to no stones were found on site. A Hydrologic Soil Group C should be considered accurate.

Property Size Variance Discussion:

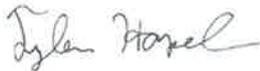
It should be noted that the lot evaluated was at one point subdivided from one lot on the internal loop road of Paul Place road into two, lots 20 and 19 on the inside of the looped road. This created lot 19 at just under 1 acre, Gunnison County GIS lists it as 0.87 Acres. This is just under the minimum required size for a parcel in Gunnison County to have its own OWTS and a variance would need to be obtained for this property to have one.

It is my professional opinion that the 0.87 acres of 19 Paul Place is sufficient for a properly constructed OWTS following all other Gunnison County OWTS regulations. It fits well into the existing residential neighborhood with OWTS on each lot. Specifically, 19 Paul Place is surrounded on three sides by Paul Place 60' wide road right of way and therefore has an additional 60' buffer from any lot other than directly to the north where 20 Paul Place is located. The 1-acre minimum lot size requirement would be met if 19 Paul Place was only 7.25' larger on the three sides of the road right of way and since there is a 60' right of way protecting the function of that area there is more than adequate separation for an OWTS on the property.

To further ensure and evaluate that the property is acceptable to have a properly functioning OWTS system, SGM performed preliminary calculations for a 4-bedroom house using the Soil Type 3 from table 10-1 of the Gunnison County OWTS regulations creating an example OWTS with 5 trenches 72' long with an effective surface area of 1080 SF (physical total footprint of 3015 SF, or 0.07 Acres, or taking up about 8% of the lot area). We then included all setbacks and 100' STA setback to well location leaving a more than acceptable area on the lot for a 4-bedroom house, driveway, yard and well. An OWTS can fit on the property with 100' setback to well location and still leave 34% of the property available for a well location.

The possible OWTS example design for a 4-bedroom house meeting all required setbacks is shown on the attached Example OWTS Setback Exhibit. Also included with this report is the example OWTS 4-bedroom design calculations, ILC and property vicinity map.

Sincerely,



Tyler Harpel, P.E. Senior Engineer





Test Pit #1 Approximately 50' south of north property line and 45' west of eastern loop road edge.



Test Pit #1 4-6" of top soil followed by silty clay loam to a depth of 8' with no rocks, no bedrock, no groundwater



Soil maintained a blocky structure once excavated and the vertical blocky structure could be seen on trench side walls. Little to no rock.



Vertical Blocky structure.



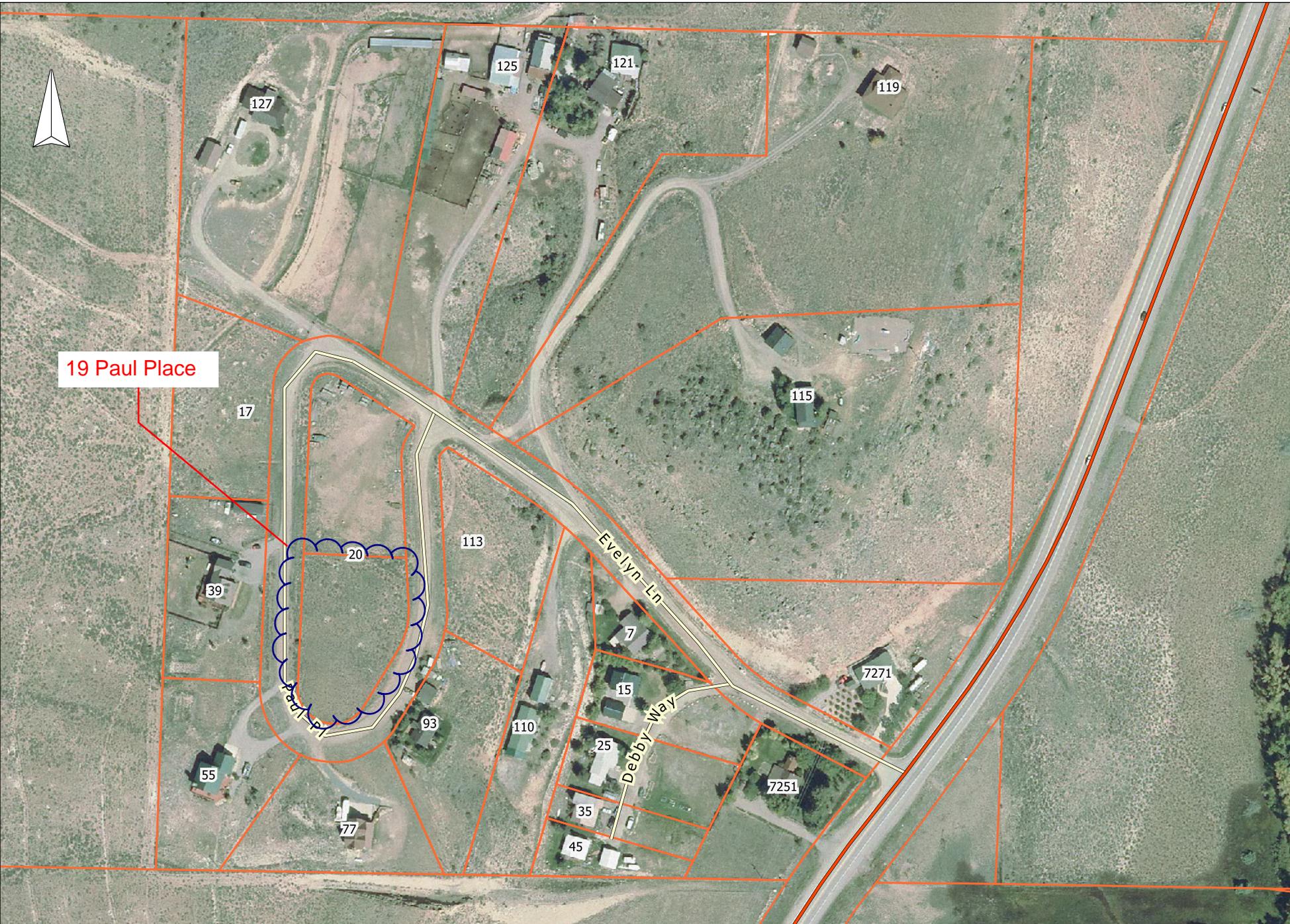
Test Pit #2 about 50' south of north property line and 50' east of western road loop.



Test Pit #2 very similar soil types, a few rocks found but less than 10% by volume



19 Paul Place



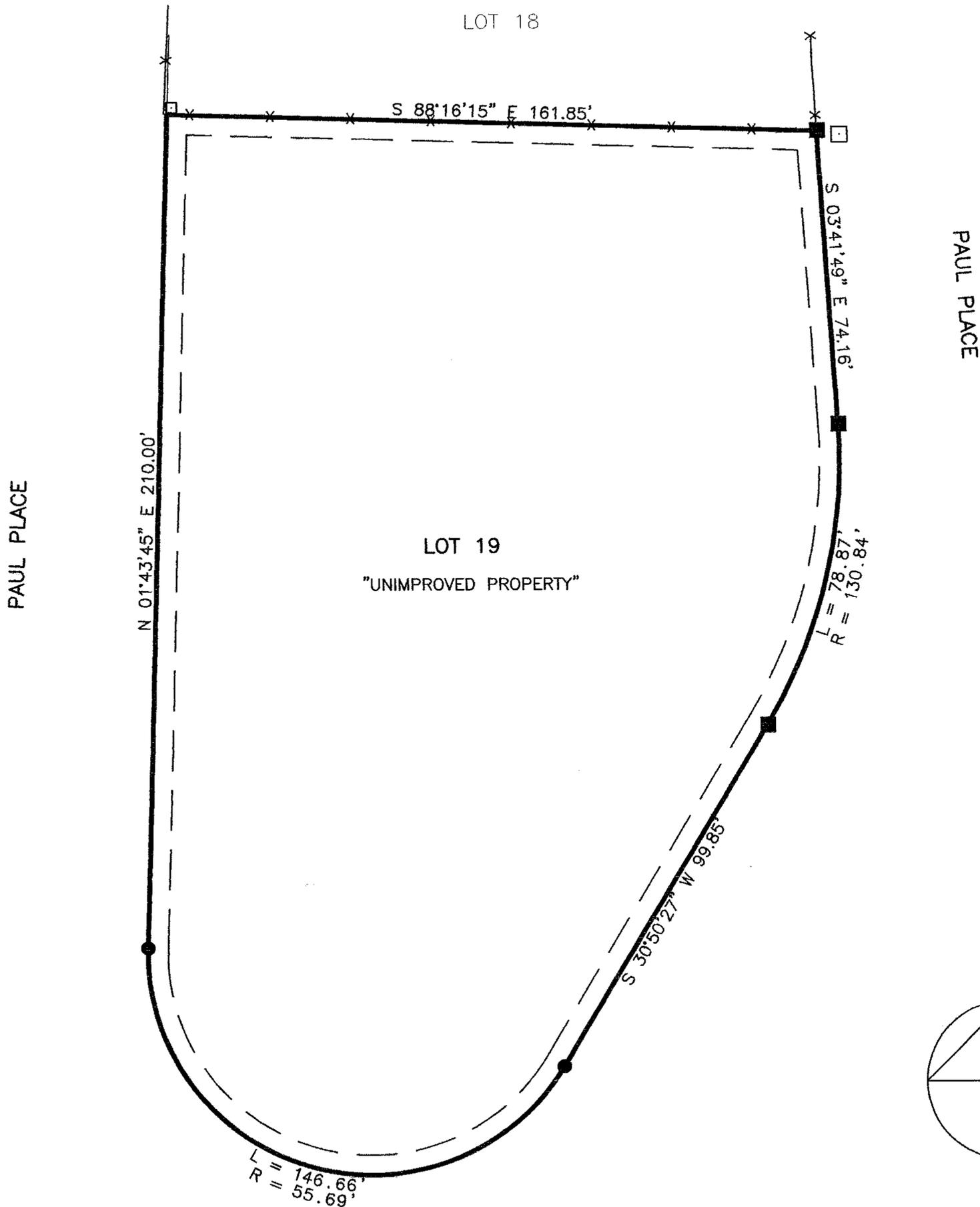
Scale = 1:2400

The data herein is general in nature and not assumed to be complete nor accurate in its entirety and is therefore to be used with all discretions necessary. The data portrayed should not be relied upon to establish legal title, boundary lines, the precise location of improvements, ownership, maintenance, easements or public right-of-ways.

Friday, February 3, 2023

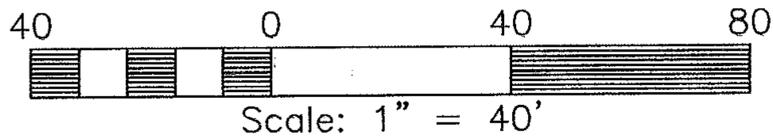
IMPROVEMENT LOCATION CERTIFICATE

LOT 19, MITZEL'S GREEN ACRES
GUNNISON COUNTY, COLORADO
STREET ADDRESS: TBD PAUL PLACE



LEGEND

- Found rebar with no cap
- Found rebar with aluminum cap "LS 11250"
- Utility pedestal
- x — x — Fence
- — — 5' wide utility easement per record plat



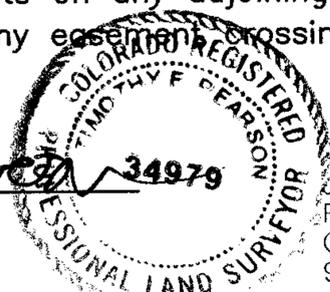
IMPROVEMENT LOCATION CERTIFICATE

I hereby certify that this Improvement Location Certificate was prepared for BLUEBIRD REAL ESTATE & LAND TITLE GUARANTEE COMPANY, that it 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 above described parcel on this date of MARCH 17, 2022, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no visible encroachments upon the described premises by the 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 on this drawing.

Date: 3-18-22

Timothy E. Pearson
Timothy E. Pearson
Colorado L. S. No. 34979



JOB NO. 22-3-16
PEARSON SURVEYING
GUNNISON, CO 81230
970-641-2910



Wastewater Usage

[Ref: On-Site Wastewater Treatment System Regulations, Gunnison County]

Wastewater Flow (Table 6-1)

4 Bedroom House:	525	GPD
Total (one OWTS system):	525	GPD

Design Flow (Table 6-2)

Occupancy Assumed: 7 people at 75 gal/day

Design Flow:	525	GPD
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Septic Tank Size:

Minimum Detention Time: 2 days

Tank Capacity: 1050 gal (Design Flow x Minimum Detention Time)

~Or Per Table 9-1~

Tank Capacity: 1250 gal

Maintenace Shop Tank Size:	1250	gal (min.)
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[Ref: On-Site Wastewater Treatment System Regulations, Gunnison County]

Soil Treatment Area:

Design Flow Rate:	525	gpd	Soil Type:	3	Table 10-1/10-1A
Long Term Acceptance Rate (LTAR - Table 10-1):	0.35	gpd/ft ²	Interstitial Soil if R-Type:	N/A	Table 10-1
Method of Application (Table 10-2):	Gravity; Trench		Size Adjustment Factor:	1.0	gpd/ft ²
Type of Distribution Media (Table 10-3):	Category 3; Chambers		Size Adjustment Factor:	0.7	gpd/ft ²

Treatment Area Calculations:

Total Treatment Area Required (A):	1500	SF	A = Design Flow Rate / LTAR
Total Treatment Area Adjusted (A _a):	1050	SF	Note: Calculated A _a based on Tables 10-2 and 10-3 adjustment factors.
No. of Zones (z):	1		
Req'd Adjusted Treatment Area/Zone (A _z):	1050.0	SF	Note: A _z = A _a /z

Dimensions of Single Chamber

Chamber Length (L _c):	4	ft	Note: Quick 4 Chambers Proposed
Chamber Width (W _c):	3	ft	
Treatment Area per Chamber (A _c):	12	ft	A _c = L _c * W _c

Trench Length and Number

Trench Width (W _t):	3.0		W _t = W _c
LF of Treatment Area Req'd (L _{req}):	350.0		L _{req} = A _z / W _t
Proposed Minimum Trench Length (L _{min}):	72		
No. of Trenches Calculated:	4.9		= L _{req} / L _{min}

Chambers

Treatment Area per Trench (A _t):	216.0		A _t = L _{min} * W _t
No. of Chambers per Trench Req'd:	18.0		= A _t / A _c
Actual Trench Length (L):	72.0		L = L _c / Chambers per Trench Req'd

Distribution System Geometry

Trench Length:	72.0	ft	= L
Trench Width:	3.0	ft	= W _t
Trench Separation:	4	ft	
No. of Trenches/Zone (Calculated):	4.9		= No. of Trenches Calculated
No. of Trenches Provided (Design):	5.0		= Rounded up to Nearest Whole Number
Total Width/Zone (Design):	31	ft	= (No. Trenches Provided (Design) * Trench Width) + (No. Trenches Provided (Design) - 1) * Trench Separation
Total Physical Area/Zone (Design):	2232	SF	= Total Width/Zone (Design) * Trench Length
Treatment Area Provided (A _{DESIGN}):	1080	SF	= Trench Length * Trench Width * No. of Trenches Provided (Design)

Check: Treatment area Provided >= Treatment Area Required (A_{DESIGN} >= A_z)

(A_{DESIGN} >= A_z): 1080.0 > 1050.0 **OK**

NOTE: GREEN CELLS INDICATE USER INPUT REQUIRED

Paul Place, Lot 19

Gunnison, CO



Vicinity Map

SGM
 103 W. Tomichi Ave., Suite A
 Gunnison, CO 81230
 970.641.5355
 www.sgm-inc.com

Sheet Index

- 1 - COVER SHEET
- 2 - OWTS 2-4-BED PLAN DESIGN
- 3 - OWTS 2&4-BED PLAN CALCULATIONS
- 4 - OWTS 2-4-BED PLAN DETAILS
- 5 - OWTS 2-4-BED PLAN DETAILS

PERMIT SET
 MARCH 2023



UNCC 1-800-922-1987

SGM
 103 W. Tomichi Ave, Suite A
 Gunnison, CO 81230
 970.641.5355
 www.sgm-inc.com



PAUL PLACE, LOT 19
 OWTS 2-4-BED PLAN

#	Revision	Date	By
1			

Project Milestone: PRELIMINARY

Job No: 2022-240.001
 Drawn by: RW
 Date: 03.10.2023
 QC: # | PE: TH
 File: PS_PaulPilot19_4-Bed OWTS

COVER SHEET

Dwg No.
1
 Of: 5

From: [David Baker](#)
To: [Rebecca Ricord](#)
Subject: FW: Message from "RNP002673C0315E"
Date: Wednesday, August 30, 2023 10:23:54 AM
Attachments: [20230830110945763.pdf](#)

[EXTERNAL SENDER - USE CAUTION]

Rebecca, please find in the attachment the Mitzel Green Acres home owner association letter supporting the septic system and allowing the lot to be approved. Also, please find the locations for the other wells on the adjacent lots. I believe this is all the information required for the variance. If not please contact me david

J. David Baker, President
BACAR Constructors, Inc.
1898 Nolensville Road
Nashville, TN 37210
(615)259-1516 Office
(615)804-5125 Mobile

-----Original Message-----

From: admin@bacar.com [<mailto:admin@bacar.com>]
Sent: Wednesday, August 30, 2023 10:10 AM
To: David Baker <jdbaker@BACAR.COM>
Subject: Message from "RNP002673C0315E"

This E-mail was sent from "RNP002673C0315E" (MP C3004).

Scan Date: 08.30.2023 11:09:45 (-0400)
Queries to: admin@bacar.com

Mitzel Green Acres Homeowner's Association
93 Paul Place
Gunnison, CO 81230

Gunnison County Community Development Department

To Whom It May Concern,

This letter is to notify you of the Homeowner's Association Board support for the owner to pursue a septic system, as proposed for Lot 19 at 20 Paul Places for Joseph David Baker. This is with the understanding that the new proposed system will remain within Lot 19, will meet all County LUR requirements for septic systems and will not be within 100 feet of any existing wells. Please don't hesitate to contact me if any other information is needed.

Sincerely,



Jessie Earley
Mitzel Green Acres HOA Board Secretary/Treasurer
(970) 596-4174

OWTS Site Inspection

Application #: OWTS-23-00146

Date: 9.12.2023

Owner: **Baker**

Installer: TBD

Site Address: 20 Paul PI

- _OK___ Lot corners staked and labeled, or defined if parcel is large
- _OK___ Location of proposed structure staked and labeled
- _OK___ Proposed system components staked and labeled (tank, STA, etc.)
- _OK___ Well and/or other potable water sources staked and labeled
- _N/A___ Other pertinent physical features staked and labeled
- _OK___ Site conditions concur with the findings of the Site and Soil Evaluation
- _____ Site adequate as are required by LUR & OWTS Regs
- Yes Flood hazards (check for floodplain if not mapped)
- N/A Ground slope in excess of twenty percent requires engineer
- N/A Probability of high groundwater or shallow bedrock in area
- Yes Geologic hazards (avalanche, **rockfall**, soil creep, etc.)
- OK Water quality--check for setbacks to water bodies including wetlands, ponds, irrigation ditches, gulches, etc.
- N/A Check for visibility on ridgelines from County Roads
- __Res___ Proposed use of site verified-Residential, Commercial, Agricultural, etc.
- __OK___ Other water sources verified-walking the site within 200' of the proposed system
- _OK___ Pertinent physical and environmental features verified

Additional Comments: Let know that need a more detailed site plan that shows the distance from the proposed STA to the neighboring wells and distance from proposed well to neighboring STAs

Inspector and findings: Rebecca Ricord

Photos below-

YELLOW FLAG- STRUCTURE/STA
PINK FLAG- TANK
BLUE FLAG- SETBACKS- 15 FT
STAKE- PROPOERTY LINE

PHOTO LOOKING NORTHEAST
SHOWING THE PROPERTY LINE STAKE





PHOTO LOOKING WEST WITH
PROPOERTY STAKE SHOWING THE
PROPERTY LINE. THE BLUE FLAG
SHOWIS THE 15 FOOT SETBACK FROM
THE PROPERTY LINE. THE YELLOW
FLAG IS THE STRUCTURE AND THE PINK
FLAG IN THE DISTANCE IS THE TANK
LOCATION.

















PHOTO OF PROPERTY LOOKING NORTH TO
WHERE THE STA WILL BE LOCATED



LOCATION OF SOIL
TREATMENT AREA AT
BOTTOM OF PARCEL



LOCATION OF
SOIL TREATMENT
AREA AT BOTTOM
OF PARCEL-
FROM ONE SIDE
TO THE OTHER
(EAST TO WEST)





ENVIRONMENTAL HEALTH BOARD VARIANCE REQUEST ACTION

APPLICANT: Joseph Baker

DATE: February 15, 2024

SITE LOCATION: 12 Paul Pl, Lot 19, Mitzel's Green Acres

ACTION: Request for a variance to the Gunnison County OWTS Regulations for an OWTS on a parcel less than one-acre

PREPARED BY: Rebecca Ricord, Building & Environmental Health Inspector/Plans Examiner

PROPOSED PROJECT:

The applicant is requesting a variance to the Gunnison County OWTS Regulations for an OWTS on a parcel less than one acre to serve a future residence. The parcel is currently vacant.

GUNNISON COUNTY ENVIRONMENTAL HEALTH OFFICE ACTION:

The application and proposed design plans have been reviewed by the Environmental Health Office for compliance with the OWTS Regulations and the land use requirements of the County. The proposed septic design meets the design criteria of the Gunnison County OWTS Regulations and the minimum horizontal distance requirements from water features, pertinent physical features and property lines are met.

The OWTS application was denied by the Environmental Health Office because *Section 3.A.9.* of the *Gunnison County OWTS Regulations* states that an OWTS shall not be permitted to be installed on a parcel of land less than once acre in size.

APPLICANT'S REQUEST FOR A VARIANCE:

A request for a Public Hearing with the Environmental Health Board for the consideration of a variance to *Section 3.A.9* of the *Gunnison County OWTS Regulations* has been received and was prepared by the applicant.

PUBLIC HEARING:

On February 15, 2024, the Gunnison County Environmental Health Board conducted a Public Hearing on this request for a variance.

FINDINGS:

Based on a review of all the information included with the OWTS application, the request for a variance, and staff reports for this project and consideration of any and all testimony and public input received relative to this application, the Gunnison County Environmental Health Board finds that:

1. Action on this request for a variance from the *Gunnison County OWTS Regulations* is property-specific and limited to the circumstances unique to this application.
2. The applicant has demonstrated that the requested variance from the *Gunnison County OWTS Regulations* is warranted by unique and existing site-specific configuration and site size that make compliance with the Regulations technically infeasible.
3. The applicant has provided justification through specific conditions that exist which support a finding that approval of the requested variance will result in no greater risk than that associated with compliance with the requirements of the *Gunnison County OWTS Regulations*.
4. The applicant has demonstrated that approval of the requested variance will not be in violation of any minimum standards established in any other applicable federal or state rule or regulation.
5. The applicant has demonstrated that the proposed OWTS will not be a nuisance or injurious to public health, safety or welfare. The proposed development meets minimum horizontal distance requirements from water features, pertinent physical features and property lines.
6. The applicant has demonstrated that no substantial injury will result from the granting of the requested variance.
7. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Department file relative to this application; including all exhibits, references and documents.

DECISION:

The Gunnison County Environmental Health Board, having reviewed the proposed application and supporting documentation, site observations and public testimony does approve the requested variance to Section 3.A.9 of the *Gunnison County OWTS Regulations* for Joseph Baker at his parcel, 20 Paul Pl, Lot 19, Mitzel's Green Acres, under OWTS application 23-00146, with the following conditions:

1. The OWTS shall be designed and installed in accordance with the *Gunnison County OWTS Regulations* and the *Gunnison County Land Use Resolution*, including but not limited to setback requirements, design standards, requirements for system components and general technical standards.
2. This approval is founded on each individual requirement. Should the applicant successfully challenge any such finding or requirement, this approval is null and void.
3. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.
4. Approval of this use is based upon the facts presented and implies no approval of similar use in the same or different location and/or with different impacts on the environment and community. Any such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

DRAFT