

- I. CALL TO ORDER

- II. ROLL CALL

- III. REVIEW AGENDA

- IV. CONSENT OF JANUARY 14, 2014, MINUTES

- V. NEW BUSINESS
 - a. Biernat Revised Land Use Application
 - b. Recommendation—Headlee Boundary Agreement
 - c. Review + Action/Direction Commercial Building Permit—Downstream Gas & Mercantile

- VI. ADJOURN

POSTED 2/6/14

OPEN TO THE PUBLIC

**PLANNING & ZONING COMMISSION
CITY OF CREEDE, COLORADO – A TOWN
January 14, 2013**

REGULAR MEETING

The Planning and Zoning Commission of the City of Creede – a Town, County of Mineral, State of Colorado, met in the Creede Town Hall at the hour of 5:30 p.m. There being present at the call of the roll the following persons:

COMMISSIONERS PRESENT: Eric Grossman, Kay Wyley, Lauri Jordan, Frank Freer
COMMISSIONERS ABSENT: Rex Shepperd

Commissioner Jordan, presiding, declared a quorum present:

Those members of staff also present were as follows: Clyde Dooley, Town Manager
Randi Snead, Town Clerk/Treasurer

AGENDA

Manager Dooley added updates on the Biernat Replat Application, the Walters Quiet Title Action, and the Rio Grande Avenue project to New Business. Commissioner Grossman moved and Commissioner Wyley seconded to approve the agenda as amended. The vote was unanimous. Commission Chair Jordan declared the motion carried.

CONSENT OF DECEMBER 10, 2013 MINUTES

Commissioner Wyley moved and Commissioner Freer seconded to approve the December 10, 2013 minutes as amended. The vote was unanimous. Commission Chair Jordan declared the motion carried.

NEW BUSINESS

HEADLEE VACATION UPDATE

A Boundary Line Agreement will be considered by the Board of Trustees February 4, 2014. The replat will also aid the City in cleaning up property lines around the old water treatment facility.

BIRDSEY REPLAT CLARIFICATION UPDATE

A replat had been considered in 2005 and approved with ordinances for this property; however, no survey was ordered and no deeds were exchanged. Dooley was research possible remedies for this problem in order to get the property correctly platted.

SIMON REPLAT APPLICATION UPDATE

Dooley is waiting for a copy of the deed from the property owners to continue processing this application.

BIERNAT REPLAT REQUEST

A request had been made for the Planning & Zoning Commission to discuss the possibility of considering a combination street vacation and replat on Capitol Avenue. The property and procedure was discussed at length. The Commission is open to considering the application but made it clear that no approval was guaranteed and more information was needed. They also recommended that the realtor and property owners approach the Board of Trustees at their regular meeting before ordering a survey.

WALTERS QUIET TITLE

Dooley is hoping for a stipulation agreement from the property owners regarding the easement going through the property. If no response is received by the 26th, an official response will be required for inclusion in the Quiet Title proceedings, and the Town Attorney is preparing a draft of such action.

RAILROAD RIGHT-OF-WAY

The topography survey for the property was received by the Town Engineer earlier today. They are preparing plans for development and excavation based on that survey and Dooley will submit them to the Commission as soon as he receives them.

ADJOURN

There being no further business to come before the Planning and Zoning Commission at this time, Commissioner Freer moved and Commissioner Grossman seconded that the meeting be adjourned at 6:23 p.m. The vote was unanimous. Commission Chair Jordan declared the motion carried.

Respectfully submitted:

Randi Snead
City Clerk/Treasurer

DRAFT

Boundary Line Agreement

This Boundary Line Agreement is made by and between Donald T. Headlee and Connie K. Popovich hereafter (“**Applicants**”) and the City of Creede, a Colorado municipality hereafter (“**City**”). Hereinafter, the City and Applicants are sometimes referred to collectively as (“**Parties**”).

RECITALS:

- A.** The Applicants have been discussing their desire to clarify their title through a boundary adjustment and replat of the property they’ve occupied over the years.
- B.** Donald T. Headlee and Connie K. Popovich are the owners of record for Lot 21 in Block 39, North Creede, purchased by his family October 13, 1967. The property occupied over the years includes portions of lots 20, 22, and 23 in Block 39, North Creede.
- C.** In addition, the southern third of Lot 21, Block 39, North Creede is encumbered by a thirty (30) foot wide Forest Service Road containing municipal utility lines and has never been able to be used as private property.
- D.** The City recognizes the situation and is desirous of working with the Applicants to resolve their boundary dispute for the health, safety and welfare of the community.
- E.** The intent of this Agreement is to facilitate the “Parties” abilities to evaluate and execute the steps necessary to adjust their property boundaries according to provisions provided in Colorado State Statute (C.R.S. 38-44-112).

The Parties agree to the following.

- 1.** The Applicants had their property surveyed to help identify the property owned as compared to what they’ve occupied.
- 2.** The Planning Commission has discussed this project several times and will review the final survey, the Boundary Line Agreement and the replatting of this property at their February 11, 2014 meeting.
- 3.** The Board of Trustees will discuss and review the Boundary Line Agreement at their March 4, 2014. If approved they will schedule a Public Hearing for their April 1, 2014 meeting.

4. Once this agreement is approved and signed by the Parties, the City will prepare and send certified return receipt requested letters to adjacent property owners and put a notice in the local paper announcing a public hearing, no less than 15 days prior to the next regularly scheduled Board of Trustees meeting to consider the ordinance authorizing the property transfer and resolution approving the replat.
5. The City will prepare an ordinance and Quit-Claim deeds authorizing the Board of Trustees to convey by quit-claim deed portions of Lots 20, 22, and 23 in Block 39, North Creede to Donald T. Headlee and Connie K. Popovich as described in (Exhibit "A").
6. The Applicants will convey by quit-claim deed the southern portion of lot 21 in Block 36, North Creede to the City as described in (Exhibit "B").
7. The City will prepare a resolution for replatting the property for the Board of Trustees to consider following the approval of the ordinance establishing proper ownership.
8. Once the Ordinance & Resolution are approved, the ordinance and deeds will be signed and recorded and then the resolution and maps (one Mylar and three 24" x 36" paper maps plus one 11" x 17" paper map) will be signed and recorded with the Mineral County Recorder.
9. All the steps of this agreement are contingent on prior steps being approved by the Board of Trustees.
10. This agreement supersedes all prior negotiations between the Parties concerning matters addressed herein and shall not be modified except in writing executed by each of the Parties.
11. The Applicants agree to reimburse the City for reasonable and incidental costs incurred by the City in connection with the approval of this process.
12. The mutual approval of this plan does not entitle or vest the Applicant with any construction or building rights without prior City approval.

THIS AGREEMENT was approved by the Board of Trustees at it's regularly scheduled meeting on March 4th, 2014.

Donald T. Headlee

Connie K. Popovich

By: _____
Donald T. Headlee Date

By: _____
Connie K. Popovich Date

CITY OF CREEDE:

ATTEST:

BY: _____
Eric Grossman, Mayor Date

BY: _____
Randi Snead, Clerk Date

DRAFT

EXHIBIT A
(City to Headlee)

A parcel of land located in a portion of Lot 20, Block 39, Town of Creede, A.K.A. North Creede, situated in the NE¼ Section 25, Township 42 North, Range 1 West, N.M.P.M., Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the Northeast corner of the parcel herein described, which corner is a point on the northerly line of said Lot 20, from whence Corner 10 of the Creede Townsite, a U.S.D.A. 3.25" aluminum cap and pipe PLS 18459, bears N 60°50'37" W a distance of 725.97 feet;
thence S 40°21'20" E a distance of 53.13 feet;
thence S 50°15'54" W a distance of 11.92 feet to a point on the west line of said Lot 20;
thence N 46°33'43" W along said west line a distance of 53.31 feet to the Northwest corner of said Lot 20;
thence N 49°38'40" E along the north line of said Lot 20 a distance of 17.68 feet to the point of beginning.

The parcel herein described contains 785.3 square feet (0.018 acres), more or less

SUBJECT TO any existing easements and/or rights-of-way of whatsoever nature.

TOGETHER WITH

A parcel of land located in a portion of Lots 22 & 23, Block 39, Town of Creede, A.K.A. North Creede, situated in the NE¼ Section 25, Township 42 North, Range 1 West, N.M.P.M., Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the Northeast corner of the parcel herein described, which corner is a the Northeast corner of said Lot 22, from whence corner 10 of the Creede Townsite, a U.S.D.A. 3.25" aluminum cap and pipe PLS 18459, bears N 57°36'50" W a distance of 712.11 feet; [to the point of beginning.]
thence S 46°33'43" E along the east line of said Lot 22 a distance of 53.04 feet;
thence S 50°15'54" W a distance of 37.97 feet;
thence N 40°21'20" W a distance of 52.32 feet to a point on the north line of said Lot 23;
thence N 49°38'40" E along the north line of said Lots 23 and 22 a distance of 32.23 feet to the point of beginning;

The parcel herein described contains 1842.8 square feet (0.042 Acres), more or less.

SUBJECT TO any existing easements and/or rights-of-way of whatsoever nature.

EXHIBIT B
(Headlee to City)

A parcel of land located in a portion of Lot 21, Block 39, Town of Creede, A.K.A. North Creede, situated in the NE1/4 Section 25, Township 42 North, Range 1 West, N.M.P.M., Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the Northeast corner of the parcel herein described, which corner is a point on the east line of said Lot 21, from whence Corner 10 of the Creede Townsite, a U.S.D.A. 3.25" aluminum cap and pipe PLS 18459, bears N 58°38'16" W a distance of 772.02 feet; Thence S 46°33'43" E a distance of 32.22 feet to the Southeast corner of said Lot 21; Thence S 43°26'17" W along the south line of said Lot 21 a distance of 25.18 feet to the Southwest corner of said Lot 21; Thence N 46°33'43" W along the west line of said Lot 21 a distance of 35.21 feet; Thence N 50°15'54" E a distance of 25.00 feet to the point of beginning.

The parcel herein described contains 843.00 square feet (0.0.19 acres), more or less.

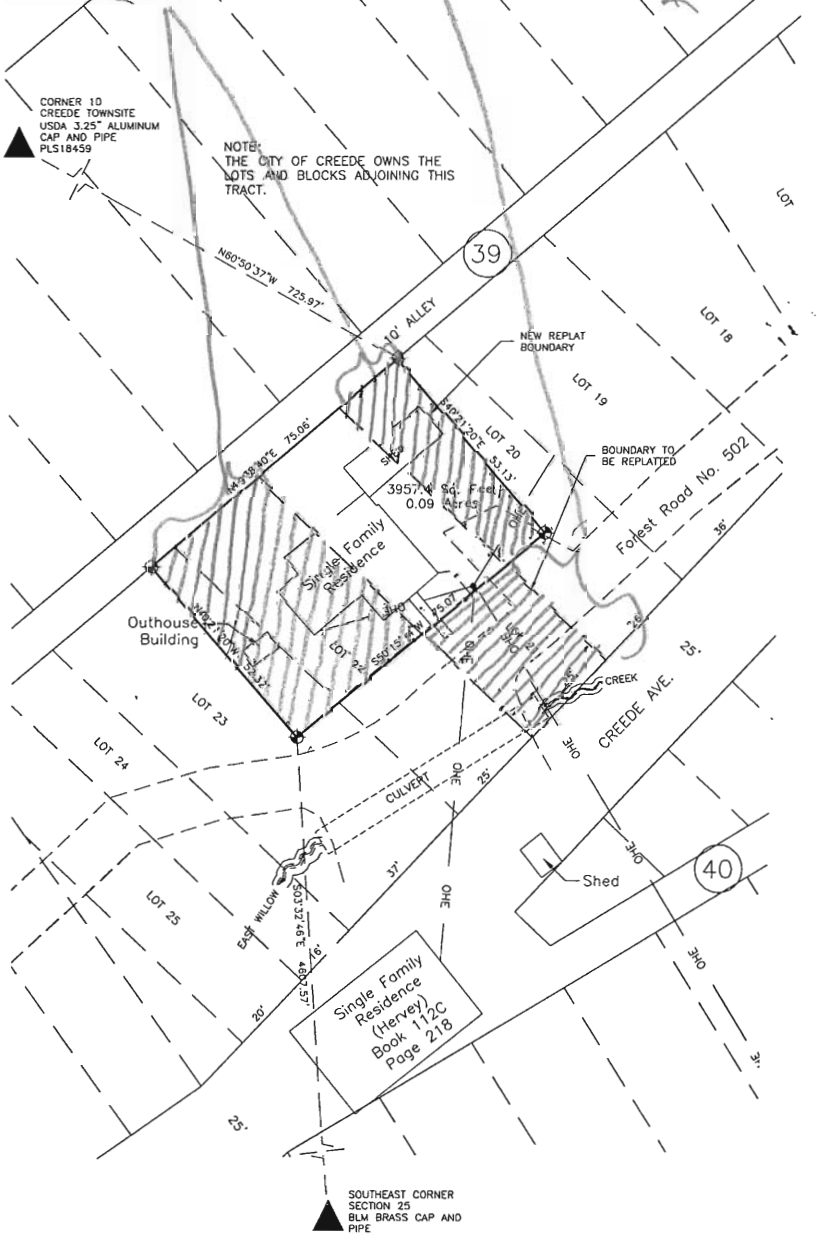
SUBJECT TO any existing easements and/or rights-of-way of whatsoever nature.

ASK Keith For LOCAL DESCRIPTIONS For Exhibit A.

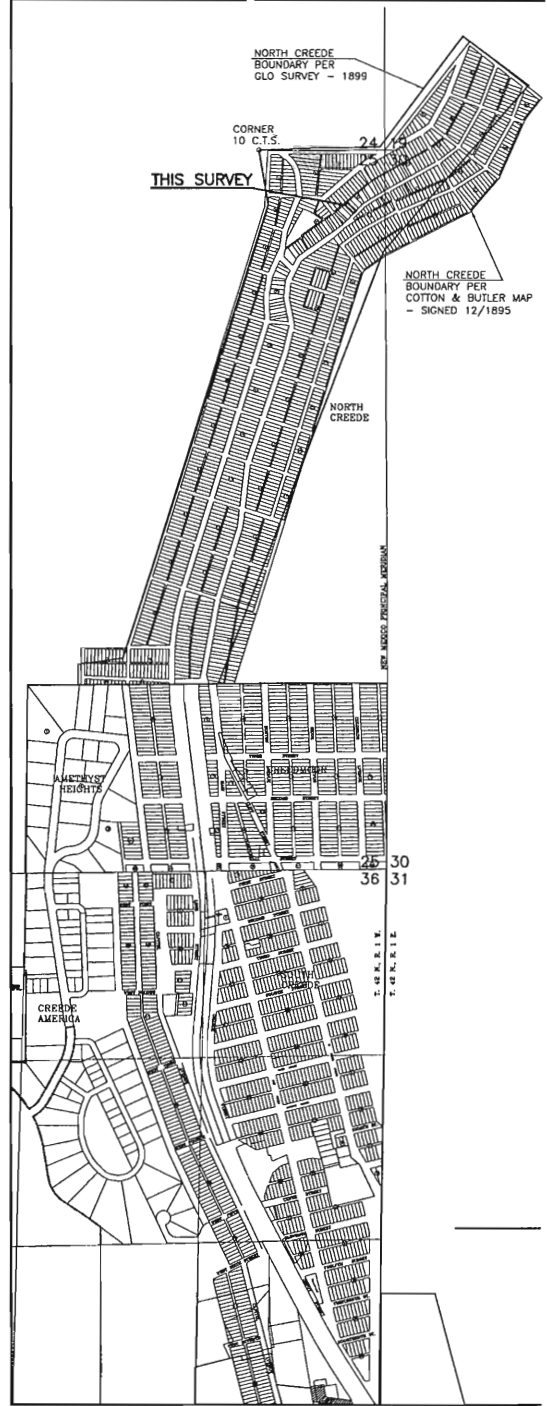
For Exhibit B.

Also Ask if this fits into his recommendation to Trustees about cleaning up North Creede.

Plus what about site/legal description for city water plant



LEGEND
 ◆ - 1.5 INCH ALUMINUM CAP
 AFFIXED TO # 5 REBAR FIRMLY SET



VICINITY MAP
SCALE: 1" = 600'

7/20/11