

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
TO APPROVE THE
FISHER CANYON NORTH PUD**

WHEREAS, Fisher Creek Canyon Partners, Ltd. ("Applicant") has filed an application for final development plan approval of the Fisher Canyon North PUD ("Application"); and

WHEREAS, the Board of County Commissioners of Ouray County, Colorado ("Board") heard comments on the Application and the Applicant's request for Final Development Plan Approval at its regularly scheduled and noticed meeting on July 17, 2006; and

WHEREAS, the Board has reviewed the Application and supporting materials, Staff Report and various other information supplied to the Board regarding the proposed Fisher Canyon North PUD; and

WHEREAS, based upon the Application, supporting materials, Staff Report and comments, the Board has determined that the Application meets the conditions and criteria as set forth in the Ouray County Land Use Code ("LUC") at Section 6.10 (D) of the LUC and otherwise complies with the applicable provisions of the LUC for approval of the Final Development Plan for Fisher Canyon North PUD;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Final Development Plan for the Fisher Canyon North PUD is approved, subject to the following conditions:
 - a. The Applicant shall execute the Final Development Agreement, in the form as attached as Exhibit "A" for Fisher Canyon North PUD and shall submit, no later than July 24, 2006, a Performance Bond in the amount \$22,591.60 which represents ten percent (10%) of the estimated costs (as shown on the attached Exhibit "B") of the improvements for Fisher Canyon North PUD ("Project"), as required by Section 6.10(D)(6)(e)(iv) of the LUC. Upon the final completion of the improvements for the Project and the certification by appropriate Ouray County personnel that all improvements have been satisfactorily completed, the Performance Bond may be released to the Applicant.
 - b. Prior to recording the final plat, all requirements of Section 6.10(D)(8) and (9) of the LUC concerning construction of the infrastructure of the PUD and final approval of the PUD shall have been met.
 - c. A fee in lieu of land dedication to the Ridgway School District must be paid, however, Applicant has represented that such fee has been paid.
2. Once all conditions of Final Development Plan approval have been met, the Applicant shall submit its Final Plat for approval by the Board.

APPROVED AND ADOPTED THIS 24th DAY OF JULY 2006, RATIFYING ACTION TAKEN ON JULY 17, 2006.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Heidi M. Albritton, Chair

Michelle Nauer, Clerk and Recorder

Don Batchelder, Vice Chair

By:

Linda Munson-Haley,
Deputy Clerk of the Board

Kristi R. Westfall, Member

**FINAL DEVELOPMENT AGREEMENT
FOR FISHER CANYON NORTH PUD**

This Addendum to Planned Unit Development Agreement for Fisher Canyon North PUD is made this 17th day of July, 2006 between the Board of County Commissioners of the County of Ouray (“Board”) and Fisher Creek Canyon Partners Ltd. (“Developer”), as follows:

WHEREAS, Developer is developing a project known as Fisher Canyon North PUD (“Project”); and

WHEREAS, Developer and Board have previously entered into a “Planned Unit Development Agreement” (“PUD Agreement”) which PUD Agreement details certain terms and conditions for the completion of the Project by Developer; and

WHEREAS, the Ouray County Land Use Code (“LUC”) requires the Developer to post a cash bond in the amount of ten percent (10%) of the estimated costs of the Project; and

WHEREAS, Developer and Board wish to memorialize their agreement regarding such cash bond and the terms and conditions under which such bond shall be returned to Developer;

NOW, THEREFORE, in consideration of the mutual promises between the parties, and other good and valuable consideration, the receipt and sufficiency of which each hereby acknowledge, the parties agree as follows:

1. Developer shall deliver to Board its cash bond in the amount of \$22,591.00, (“Bond”) on or before July 24, 2006.
2. Board, or Board’s designated Agent, shall place the Bond in a thirty-day Certificate of Deposit with a financial institution that is FDIC insured. Board shall continue to rollover the Certificate of Deposit until such time as Developer has satisfactorily completed the roads and other infrastructure as required in the PUD Agreement and as described in Attachment A.
3. At the time that the Board, or its designee, has given approval of the Final Plat of the PUD, Developer shall request, in writing, that the Bond be released to Developer. Board shall, as soon as may be practicable after such request by Developer, take the necessary steps to release the Bond to the Developer, without penalty to Ouray County or the Board for any early withdrawal of the Certificate of Deposit.
4. In the event that Developer has not sought approval of the Final Plat for the PUD, or has not sought an extension of the one-year term of the PUD Agreement on or before July 10, 2007, then the Board may, upon reasonable notice to the Developer, determine that the Developer is in default of the PUD Agreement and void the Final Development Plan Approval and declare the Bond forfeited. Developer may apply for reinstatement of the Final

Development Plan Approval and the PUD Agreement, but shall be required to comply with the provisions of the Code then in effect.

5. The terms of this Addendum may be extended by written agreement between Board and Developer, based upon action taken at a regularly scheduled meeting of the Board.
6. In the event that Board receives contradictory instructions regarding the release of the Bond, Board shall be permitted to interplead the Bond funds with a Court of competent jurisdiction and shall have no further duties hereunder. Board shall be entitled to recover its reasonable costs and fees which may be incurred in interpleading the funds.
7. The prevailing party in any action to interpret the terms of this Agreement or to enforce any of the rights, obligation or conditions of this Agreement, shall collect all reasonable costs and expenses incurred, including, but not limited to, reasonable attorney's fees.
8. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect.

DEVELOPER:

Fisher Creek Canyon Partners Ltd.

Name	Title
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Board of County Commissioners of Ouray County

Heidi Albritton, Chairperson

ATTEST:

Michelle Nauer, Ouray County Clerk and Recorder

By: Linda Munson-Haley, Deputy Clerk of the Board

ATTACHMENT "A"**CONSTRUCTION IMPROVEMENTS SCHEDULE**

1. The Developer agrees to cause the below listed improvements to be constructed and completed in accordance with the Final Development and Improvement Plan(s) documents, as approved by the County, and in accordance with the applicable design, improvements, and construction standards of the County's Land Use Code, including the County's road, and other infrastructure specifications as specified below, and shall cause such improvements to be completed by the date specified below. "Record" plans and drawings will be submitted as each required improvement is completed. All improvements shall be designed and constructed in accordance with good and customary engineering practices.

<u>Public Improvements</u>	<u>Completion Date</u> [completed, date, or N/A]
All road sub-base	9/15/06
All road base, paving, asphalt	9/15/06
Road signs	9/15/06
Drainage system, ditches and culverts	9/15/06
Water and Fire prevention system	9/15/06
Natural gas	9/15/06
Power	9/15/06
Telephone	9/15/06
<u>Private Improvements</u>	<u>Completion Date</u>
Road dedication	9/15/06

2. Developer shall provide letters from utility and ditch companies and fire districts, as applicable, stating their acceptance and approval of all infrastructures as constructed. Developer shall request the Developer's design engineer to inspect such improvements for proper completion and compliance with County Road Standards. Developer's design engineer shall submit proof of all required inspections and final certification of compliance with County Road Standards and one copy of "as built" drawings to the Ouray County Land Use Department for approval. Upon approval and recordation of the Final Plat, the County shall release the 10% Cash bond to the Developer.

**FISHER CANYON NORTH
ESTIMATED COST FOR INFRASTRUCTURE**

Description	Quantity	Unit	Unit Price	Total
Clear & Rough In	1.00	LS	\$4,650.00	\$4,650.00
18" Culvert	55.00	LF	\$40.00	\$2,200.00
6" Water Line	1400.00	LF	\$16.50	\$23,100.00
Telephone	1400.00	LF	\$3.00	\$4,200.00
Water Services	12.00	EA	\$250.00	\$3,000.00
6" Fire Hydrant	4.00	EA	\$3,775.00	\$15,100.00
Recondition Roadway	1.00	LS	\$12,300.00	\$12,300.00
Class 6 Roadbase	530.00	CY	\$21.00	\$11,130.00
Sub-Base Class 2	879.00	CY	\$16.50	\$14,503.50
Trenching	3550.00	LF	\$18.00	\$63,900.00
Clean-up and Removal	1.00	LS	\$7,500.00	\$7,500.00
Mobilization	1.00	LS	\$2,000.00	\$2,000.00
2-1/2" Asphalt Concrete	3326.50	SY	\$14.00	\$46,571.00
Subtotal				\$210,154.50
Contingency (7.5%)				\$15,781.58
Total Estimate				\$226,936.09

05/23/06