

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
FOR APPROVAL OF AN AMENDMENT TO THE
PRELIMINARY PLAN/PLAT FOR FAIRWAY PINES ESTATES**

WHEREAS, Heritage Inn and Suites of Kansas City, Inc. and H.T. Heritage Inn of Erie, LLC (“Applicant”) has filed an application for an amendment to an existing Preliminary Plan/Plat for Fairway Pines Estates, (“Application”) located on a parcel of property containing approximately 159 acres of unplatted property (“Property”), to be known as The Divide Ranch and Club described on Exhibit A attached hereto; and

WHEREAS, the Board of County Commissioners of Ouray County, Colorado (“Board”) heard public comments on the Application and the Applicant’s request for an amendment to the Preliminary Development Plan/Plat at its regularly scheduled and noticed meeting on June 25, 2007; and

WHEREAS, the Board has reviewed the Application and supporting materials, Staff Report and various other information supplied to the Board regarding the Application; and

WHEREAS, based upon the Application, supporting materials, Staff Report and public comments, the Board has determined that the Application meets the conditions and criteria as set forth in the Ouray County Land Use Code (“LUC”) of Section 6.10 of the LUC and otherwise complies with the applicable provisions of the LUC for approval of the amendment to the Preliminary Development Plan/Plat for Fairway Pines Estates, now known as The Divide Ranch and Club; and

WHEREAS, the Board reviewed the PUD Agreement to be executed by the Applicant;

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

1. The amendment to the Preliminary Development Plan/Plat for the Divide Ranch and Club is approved, subject to the following conditions:
 - a. Prior to final plan approval, the Applicant shall provide evidence that the Applicant has acquired and/or developed additional water supplies to meet golf course irrigation demands.
 - b. Prior to final plan approval, the Developer shall address, to the satisfaction of the Ouray County Engineer, concerns #5, #6 and #10 as set forth in the February 8, 2007 letter signed by Mark Wright. This includes drainage issues on Lots 1108, 1007 and 1008.
 - c. Prior to final plan approval, the mail kiosk to serve the Fairway Pines Estates/Divide Ranch and Club lots and properties shall be located on Lot CV-102 and traffic shall be routed so that traffic does not cross the median.
 - d. If the Applicant seeks to construct a new effluent pond (as shown on Exhibit “ee” of the Applicant’s submittal) on The Estates at Fairway Pines PUD, Applicant shall be required to comply with all applicable Ouray County Land Use Code requirements for such construction, including

seeking approval of an amendment to the Preliminary Plan/Plat for The Estates at Fairway Pines.

- e. Prior to recordation of the Preliminary Plan/Plat, the Applicant shall sign a PUD Agreement, approved by the Ouray County Attorney, and the PUD Agreement shall include an exhibit listing all of the improvements required to be constructed by the Applicant.
 - f. The setback along Ouray County Road 1A and Ponderosa Drive shall be fifty-feet from the edge of the traveled way and a note shall be placed on all final plats that no vegetation shall be removed from within such fifty-foot setback.
 - g. A note shall be placed on all final plats that a site-specific geologic study shall be required prior to submittal of an application for a building permit.
2. The Applicant shall sign the PUD Agreement within ten days of approval, and the terms and conditions of the PUD Agreement shall be considered incorporated into this BOCC resolution.
3. The Applicant shall have one (1) year from the date this resolution is recorded within which to submit a request for approval of a final development plan(s) for at least one (1) phase of The Divide Ranch and Club or the Preliminary Development Plan approval may be revoked or modified if the County deems such action necessary or in the public interest. Provided that the Applicant complies with the forgoing submittal requirement, the rights granted pursuant to this BOCC resolution and pursuant to the PUD Agreement shall be vested property rights for a period of five (5) years from date this BOCC resolution approving the Preliminary Development Plan has been recorded. Developer shall have such vested property right to undertake and complete the approval of the Final Development Plan for all phases of the development of the Property within such five (5) year period as provided in the Preliminary Development Plan, the PUD Agreement and according to the Code.

APPROVED AND ADOPTED THIS ____ DAY OF JULY 2007, RATIFYING ACTION TAKEN ON JUNE 25, 2007.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Don Batchelder, Chair

Heidi M. Albritton, Vice Chair

Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

K. Keith Meinert, Commissioner Member

EXHIBIT A – LEGAL DESCRIPTION OF THE PROPERTY
SUBJECT TO PRELIMINARY DEVELOPMENT PLAN

FILING NO. 6

A parcel of land located in the east half of the Southeast quarter of Section 25 and the Northeast quarter of the Northeast quarter of Section 36, all in Township 46 North, Range 9 West of the New Mexico principal meridian and in United States government lots 8 and 9 of Section 30, Township 46 North, Range 8 west of the New Mexico principal meridian, county of Ouray, State of Colorado, being more particularly described as follows:

Beginning at the northwest corner of the northeast quarter of the southeast quarter of said Section 25 also being the northwest corner of tract 14 of Loghill crest, recorded August 4, 1978, under Reception number 125033 of the records of the Ouray county clerk and recorder and considering the west line of the northeast quarter of the northeast quarter of said Section 36 to bear North $00^{\circ}47'58''$ east with all bearings contained herein being relative thereto;

Thence south $86^{\circ}45'54''$ east along the north line of the east half of the southeast quarter of said section 25, a distance of 1328.10 feet to the northwest corner of said United States government lot 9 also being the northwest corner of tract 15 of said Loghill crest;

Thence south $89^{\circ}01'42''$ east along the north lines of said United States government lots 8 and 9, a distance of 1250.58 feet to the northeast corner of said tract 15;

Thence south $01^{\circ}42'17''$ west along the east line of said tract 15, a distance of 182.50 feet to a point on the northwesterly boundary line of Fairway Pines Estates Filing no. 5c, recorded April 17, 2001, under reception number 174553 of the records of the Ouray county clerk and recorder;

Thence along said northwesterly boundary line the following five (5) courses;

1. Thence south $62^{\circ}33'17''$ west, a distance of 332.13 feet to a point on a curve;
2. Thence along the arc of a non-tangent curve to the left having a central angle of $73^{\circ}46'42''$, a radius of 120.00 feet and an arc length of 154.52 feet, the chord of which bears north $64^{\circ}20'04''$ west;
3. Thence south $78^{\circ}46'36''$ west, a distance of 104.66 feet;
4. Thence south $01^{\circ}42'22''$ west, a distance of 290.76 feet;
5. Thence south $10^{\circ}43'31''$ east, a distance of 159.19 feet to the northwest corner of golf hole 17, golf course OPEN SPACE, Fairway Pines estates filing no. 4A-1 as recorded July 17, 1996 under reception number 162226 of the records of the Ouray county clerk and recorder a ratification of Fairway Pines development filing no. 4A-1, recorded July 1, 1996 under reception number 162087 of the records of the Ouray county clerk and recorder;

Thence along the westerly and southerly boundary lines of said filing 4A-1 the following seven (7) courses;

1. Thence south $55^{\circ}20'14''$ west, a distance of 944.84 feet;
2. Thence south $56^{\circ}37'41''$ west, a distance of 497.71 feet;
3. Thence south $01^{\circ}04'14''$ west, a distance of 262.35 feet;
4. Thence south $80^{\circ}46'51''$ east, a distance of 90.00 feet to a point of

curvature;

5. Thence along the arc of a curve to the right having a central angle of $32^{\circ}10'21''$, a radius of 130.00 feet and an arc length of 73.00 feet;

6. Thence south $48^{\circ}36'30''$ east, a distance of 41.16 feet to a point of curvature;

7. Thence along the arc of a curve to the left having a central angle of

$90^{\circ}00'00''$, a radius of 20.00 feet and an arc length of 31.42 feet to a point on the westerly right-of-way line of north badger trail of said Fairway pines estates Filing no. 5c;

Thence south $41^{\circ}23'30''$ west along said westerly right-of-way, a distance of 100.00 feet to a point of on a curve;

Thence along the arc of a non-tangent curve to the left having a central angle of $90^{\circ}00'00''$, a radius of 20.00 feet and an arc length of 31.42 feet, the chord of which bears north $03^{\circ}36'30''$ west;

Thence north $48^{\circ}36'30''$ west, a distance of 41.16 feet to a point of curvature;

Thence along the arc of a curve to the left having a central angle of $32^{\circ}10'21''$, a radius of 70.00 feet and an arc length of 39.31 feet;

Thence north $80^{\circ}46'51''$ west, a distance of 128.41 feet;

Thence south $09^{\circ}13'09''$ west, a distance of 224.72 feet;

Thence north $74^{\circ}16'17''$ west, a distance of 250.19 feet;

Thence south $30^{\circ}03'09''$ west, a distance of 323.49 feet;

Thence south $00^{\circ}54'51''$ west, a distance of 188.02 feet;

Thence south $00^{\circ}52'21''$ west, a distance of 113.03 feet;

Thence south $52^{\circ}15'07''$ east, a distance of 313.81 feet to a point on a curve on the westerly right-of-way of said north badger trail;

Thence along said westerly right-of-way along the arc of a non-tangent curve to the left having a central angle of $29^{\circ}38'03''$, a radius of 430.00 feet and an arc length of 222.40 feet, the chord of which bears south $23^{\circ}54'05''$ west to the northeast corner of lot CV 102, fairway pines estates village 1a, recorded December 5, 2001, under reception number 176360 of the records of the Ouray county clerk and recorder;

Thence along the northerly and westerly boundary lines of said lot CV 102 the following two (2) courses;

1. Thence north $88^{\circ}30'44''$ west, a distance of 277.28 feet;

2. Thence south $01^{\circ}29'16''$ west, a distance of 200.00 feet to the southwest corner of said lot CV 102 also being a point on the north right-of-way line of Fairway pines road, Fairway Pines Estates Village 6A, recorded October 23, 2000, under reception number 173387 of the records of Ouray county clerk and recorder;

Thence along the said northerly right-of-way line the following three (3) courses;

1. Thence north $88^{\circ}30'44''$ west, a distance of 244.22 feet to a point of curvature;

2. Thence along the arc of a curve to the right having a central angle of $89^{\circ}44'43''$, a radius of 30.00 feet and an arc length of 46.99 feet;

3. Thence north $89^{\circ}11'54''$ west, a distance of 81.14 feet to a point on the west line of the northeast quarter of the northeast quarter of said section 36;

Thence north $00^{\circ}47'58''$ east along said west line, a distance of 633.92 feet to the northwest corner of the northeast quarter of the northeast quarter of said section 36;

Thence north $02^{\circ}02'28''$ east, a distance of 2613.82 feet to the point of beginning;

Said parcel contains an area of 4,047,714 square feet or 92.92 acres more or less.

FILING NO. 7

A parcel of land located in the southeast quarter of the southeast quarter of Section 25 and the northeast quarter of the northeast quarter of Section 36, Township 46 North, Range 9 West of the New Mexico principal meridian, county of Ouray, State of Colorado,

being more particularly described as follows:

Commencing at the northwest corner of the northeast quarter of the northeast quarter of said Section 36 and considering the north line of the northeast quarter of the northeast quarter of said Section 36 to bear north $87^{\circ}24'57''$ west with all bearings contained herein being relative thereto; Thence south $87^{\circ}24'57''$ east,

a distance of 470.86 feet to the point of beginning;

Thence north $00^{\circ}52'21''$ east, a distance of 47.87 feet;

Thence north $00^{\circ}54'51''$ east, a distance of 188.02 feet;

Thence north $30^{\circ}03'09''$ east, a distance of 323.49 feet;

Thence south $74^{\circ}16'17''$ east, a distance of 250.19 feet;

Thence north $09^{\circ}13'09''$ east, a distance of 224.72 feet;

Thence south $80^{\circ}46'51''$ east, a distance of 128.41 feet to a point of curvature;

Thence along the arc of a curve to the right having a central angle of $32^{\circ}10'21''$, a radius of 70.00 feet and an arc length of 39.31 feet;

Thence south $48^{\circ}36'30''$ east, a distance of 41.16 feet to a point of curvature;

Thence along the arc of a curve to the right having a central angle of $90^{\circ}00'00''$, a radius of 20.00 feet and an arc length of 31.42 feet;

Thence south $41^{\circ}23'30''$ west, a distance of 43.95 feet to a point of curvature;

Thence along the arc of a curve to the left having a central angle of $40^{\circ}01'40''$, a radius of 340.00 feet and an arc length of 237.53 feet;

Thence south $01^{\circ}21'50''$ west, a distance of 210.83 feet to a point of curvature;

Thence along the arc of a curve to the right having a central angle of $44^{\circ}01'45''$, a radius of 260.00 feet and an arc length of 199.80 feet;

Thence south $45^{\circ}23'00''$ west, a distance of 224.99 feet to a point of curvature;

Thence along the arc of a curve to the left having a central angle of $06^{\circ}39'54''$, a radius of 430.00 feet and an arc length of 50.02 feet;

Thence north $52^{\circ}15'07''$ west, a distance of 313.81 feet;

Thence north $00^{\circ}52'21''$ east, a distance of 65.16 feet to the point of beginning;

Said parcel contains an area of 337,267 square feet or 7.74 acres more or less.
8.570 acres more or less.

FILING NO. 8

A tract of land situated in U.S. Government Lot 10 of Section 30,

Township 46 North, Range 8 West, N.M.P.M., U.S. Government Lot 3 of Section 31, Township 46 North, Range 8 West, N.M.P.M., SE1/4SE1/4 of Section 25, Township 46 North, Range 9 West, N.M.P.M., and NE1/4NE1/4 of Section 36, Township 46 North, Range 9 West, N.M.P.M., Ouray County, Colorado, and being more particularly described as follows: Considering the bearing between the southwest corner of said Section 31 (a marked stone) and the northwest corner of said Section 31 (a #6 rebar) to be N00°59'56"E with all bearings herein relative thereto: Beginning at the northeast corner of Lot CV103, Fairway Pines Estates Village 1A, recorded December 5, 2001, Reception No. 176360, Ouray County Records being a point on the westerly boundary line of Golf Holes 10 and 18, Golf Course OPEN SPACE, Fairway Pines Estates Filing 4A-1 as shown by instrument recorded July 17, 1996, Reception No. 162226, Ouray County Records, a ratification of Fairway Pines Development Filing No. 4A-1, recorded July 1, 1996, Reception No. 162087, Ouray County Records whence the northwest corner of said Section 31 bears N42°26'57"E, 654.26 ft.; thence N88°49'38"W, 218.04 ft. to the northwest corner of said Lot CV103 being a point on the easterly right-of-way line of North Badger Trail, Fairway Pines Estates Filing No. 5C, recorded April 17, 2001, Reception No. 174553, Ouray County Records; thence the following courses along said easterly right-of-way line: 284.52 ft. along the arc of a curve to the right having a radius of 370.00 ft., a central angle of 44°03'32", and a long chord which bears N23°21'14"E, 277.56 ft.; N45°23'00"E, 225.04 ft.; 245.85 ft. along the arc of a curve to the left having a radius of 320.00 ft., a central angle of 44°01'10", and a long chord which bears N23°22'25"E, 239.85 ft.; N01°21'50"E, 210.83 ft.; 195.61 ft. along the arc of a curve to the right having a radius of 280.00 ft., a central angle of 40°01'39", and a long chord which bears N21°22'40"E, 191.66 ft.; N41°23'30"E, 137.50 ft. to a point on the westerly boundary line of Golf Holes 10 and 18, said Fairway Pines Estates Filing 4A-1; thence the following courses along said westerly boundary line: S48°36'30"E, 100.00 ft.; S12°41'36"E, 554.34 ft.; S06°55'16"W, 174.27 ft.; S54°24'25"W, 601.35 ft. to the point of beginning, containing 8.570 acres more or less.

FILING NO. 10

A parcel of land situated in the E1/2NE1/4 of Section 36, Township 46 North, Range 9 West, N.M.P.M., and U.S. Government Lots 3 and 4 of Section 31, Township 46 North, Range 8 West, N.M.P.M. Ouray County, Colorado being more particularly described as follows: Considering the bearing between the southwest corner of said Section 31 (a marked stone) and the northwest corner of said Section 31 (a #6 rebar) to be N00°59'56"E with all bearings herein relative thereto: Beginning at the northwest corner of Lot 313, Correction Plat of Fairway Pines Estates Filing No. 3A-1, recorded April 9, 1998, Reception No. 166607, Ouray County Records, said point being on the southerly boundary of Holes No. 6 and 7, GOLF COURSE OPEN SPACE, Filing No. 1, Fairway Pines Estates P.U.D., recorded August

10, 1992, Reception No. 151311, Ouray County Records whence the northwest corner of said Section 31 bears N24°35'01"W, 1276.41 ft.; thence S24°50'28"W, 240.46 ft. to the southwest corner of said Lot 313 being a point on the westerly boundary of Fairway Pines Estates Filing No. 3A, recorded August 5, 1994, Reception No. 157173, Ouray County Records; thence the following courses along said westerly boundary line: S24°50'28"W, 210.00 ft.; S18°53'59"E, 572.80 ft.; S00°22'09"E, 228.99 ft. to the northwest corner of Lot 328, said Correction Plat of Fairway Pines Estates Filing No. 3A-1; thence the following courses along the northerly boundary lines of Lots 328, 329 and 330 and Bear Cub Drive, said Correction Plat of Fairway Pines Estates Filing No. 3A-1: N79°54'02"W, 219.99 ft.; N46°38'21"W, 74.97 ft.; S84°57'57"W, 241.01 ft. to a point on the easterly boundary line of said Holes No. 6 and 7, Golf Course OPEN SPACE, Filing No. 1, Fairway Pines Estates P.U.D.; thence the following courses along said easterly boundary lines of said Holes No. 6 and 7, Golf Course OPEN SPACE, the following courses: N18°52'43"W, 701.46 ft.; N07°33'02"W, 472.19 ft.; N43°43'53"E, 292.12 ft.; S68°51'56"E, 643.77 ft. to the point of beginning, containing 17.734 acres more or less.

LEGAL NO. 2

OPEN SPACE, LOT 316, LOT 317, LOT 318, and LOT 319 of FAIRWAY PINES ESTATES FILING NO. 3A, recorded August 5, 1994, Reception No. 157173, Ouray County Records, containing 3.840 acres more or less.
AND

FILING NO. 11

A tract of land situated in the SE1/4SE1/4 and in the E1/2NE1/4 of Section 36, Township 46 North, Range 9 West, N.M.P.M., Ouray County, Colorado being more particularly described as follows: Considering the bearing between the southeast corner of said Section 36 (a marked stone) and the northeast corner of said Section 36 (a #6 rebar) to be N00°59'56"E with all bearings herein relative thereto: Beginning at the northeast corner of Lot CV101, Fairway Pines Estates Village 1A, recorded December 5, 2001, Reception No. 176360, Ouray County Records being a point on the southerly right-of-way line of Fairway Pines Road, Fairway Pines Estates Village 6A, recorded October 23, 2000, Reception No. 173387, Ouray County Records, whence said northeast corner of Section 36 bears N46°50'25"E, 1020.81 ft.; thence the following courses along said right of way line and the westerly right-of-way line of South Badger Trail said Fairway Pines Estates Village 6A: 31.36 ft. along the arc of a curve to the right being radial to a line running S88°30'44"E having a radius of 20.00 ft., a central angle of 89°50'11", and a long chord which bears S43°35'38"E, 28.24 ft.; S01°19'28"W, 57.71 ft.; 30.21 ft. along the arc of a curve to the right having a radius of 70.00 ft., a central angle of 24°43'45", and a long chord which bears S13°41'20"W, 29.98 ft.; S26°03'13"W, 56.82 ft.; 251.07 ft. along

the arc of a curve to the left having a radius of 314.50 ft., a central angle of 45°44'21", and a long chord which bears S03°11'02"W, 244.45 ft.; S19°41'08"E, 44.59 ft.; 121.16 ft. along the arc of a curve to the right having a radius of 370.00 ft., a central angle of 18°45'42", and a long chord which bears S10°18'17"E, 120.62 ft.; S00°55'27"E, 222.34 ft.; 39.80 ft. along the arc of a curve to the right having a radius of 370.00 ft., a central angle of 6°09'48", and a long chord which bears S02°09'27"W, 39.78 ft.; S05°07'48"W, 223.25 ft.; 283.14 ft. along the arc of a non radial curve to the left being radial to a line running S05°14'21"W, having a radius of 530.00 ft., a central angle of 30°36'31", and a long chord which bears S10°03'54"E, 279.78 ft.; S25°22'10"E, 177.31 ft.; 196.21 ft. along the arc of a curve to the right having a radius of 270.00 ft., a central angle of 41°38'15", and a long chord which bears S04°33'03"E, 191.92 ft. to a point on the north boundary line of Fairway Pines Estates Filing No. 4, as shown by instrument recorded July 17, 1996, Reception No. 162225, Ouray County Records, a ratification of Fairway Pines Development Filing No. 4A, recorded July 1, 1996, Reception No. 162086, Ouray County Records; thence the following courses along said north boundary line: S78°21'17"W, 26.01 ft.; N76°42'43"W, 75.32 ft.; 57.64 ft. along the arc of a curve to the left having a radius of 275.00 ft., a central angle of 12°00'34", and a long chord which bears N82°43'00"W, 57.54 ft.; N88°43'17"W, 183.68 ft.; 17.45 ft. along the arc of a curve to the left having a radius of 20.00 ft., a central angle of 49°59'41", and a long chord which bears S66°16'53"W, 16.90 ft.; S41°38'53"W, 360.84 ft.; N61°17'42"W, 100.88 ft. to a point on the easterly right-of-way line of Ouray County Road No. 1, said Fairway Pines Estates Village 6A; thence along said easterly right-of-way line the following courses: N00°36'44"E, 1023.54 ft.; N00°40'53"E, 444.33 ft. to the southwest corner of said Lot CV101; thence N52°29'20"E, 675.32 ft. to the point of beginning, containing 20.050 acres more or less.