

**TOWN OF PAGOSA SPRINGS, COLORADO**

**ORDINANCE NO. 772  
(SERIES 2012)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS  
APPROVING VESTED PROPERTY RIGHTS AND  
ACQUISITION OF PUBLIC TRANSPORTATION  
EASEMENT WITHIN THE SPRINGS DEVELOPMENT  
MAJOR SUBDIVISIONS SKETCH PLAN**

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 ("Charter"); and

WHEREAS, pursuant to Section 11.2, A) of the Charter, the Town Council may adopt land use and development ordinances; and

WHEREAS, Article 68 of Title 24, C.R.S. ("Vested Rights Statute") provides procedures necessary to establish vested property rights associated with land use and development approvals; and

WHEREAS, the Town Council has, pursuant to the Town Charter and the Vested Rights Statute, enacted Article 2, Chapter 21 ("Vested Rights Code") of the Pagosa Springs Land Use and Development Code, regarding the establishment of vested property rights; and

WHEREAS, Springs Partners, LLC ("Applicant") owns real property as legally described in **Exhibit C**, has applied to the Town for approval of the Springs Development Major Subdivision Sketch Plan A ("Sketch Plan A"), which is attached hereto and incorporated herein as **Exhibit A**, for the land use or development project generally known as the Springs Development ("Project"); and

WHEREAS, should certain conditions of development not be met, the Applicant has applied to the Town for alternate approval of the Springs Development Major Subdivision Sketch Plan B, which is attached hereto and incorporated herein as **Exhibit B**, for the Project ("Sketch Plan B"); and collectively with Sketch Plan A, the "Development Plan"); and

WHEREAS, Applicant has also requested that the Town approve vested property rights associated with the Development Plan ("Vested Property Rights Application"), by approval and designation of the Development Sketch Plans as a site specific development plans as contemplated by the Vested Rights Statute and the Vested Rights Code; and

WHEREAS, the Town Council considered Applicant's Vested Property Rights Application at a public hearing at which time all interested person had an opportunity to be heard on the mater, which hearing was convened upon notice as set forth in the Pagosa Springs Land

Use and Development Code Section 2.4.14, copies of such notice being contained in the public record regarding the Vested Property Rights Application; and

WHEREAS, contemporaneous with the approval of this Ordinance, the Town is approving and the Town and Applicant will enter into that Development and Vested Rights Agreement the ("Agreement") further outlining the conditions of the Town's approval and the vesting of such rights; and

WHEREAS, as a part of the Springs Development Major Subdivisions Sketch Plan and Vested Property Rights Application approval, the Town wishes to provide for the acquisition of a public easement for the construction of bridge, road and related improvements as further described in the Agreement; and

WHEREAS, the Town Council hereby finds and determines that approval of the Vested Property Rights Application is reasonable and appropriate.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. Incorporation of Recitals. The recitals contained above are incorporated herein as if set forth in full.

Section 2. Approval of Vested Property Rights. Provided that the Applicant meets all the requirements provided herein, the Agreement, the Land Use and Development Code and the approvals and the development improvement agreements associated with subsequent preliminary plat and final plat approvals ("Additional Development Approvals"), approval of the Springs Development Major Sketch Plans A and B , shall constitute a site specific development plan, as that term is defined in §24-68-102(4)(a), C.R.S., and shall confer upon the Developer the right to undertake and complete the development of the property and uses identified therein regarding the units, square footage and density of development under the terms and conditions of this Ordinance and the Development and Vested Rights Agreement ("Agreement"), **Exhibit D**. The Agreement shall constitute a development agreement, as such term is used in §24-68-104(2), C.R.S., and the vested rights created by the approval of the site specific development plan shall be vested for a period of ten (10) years from the effective date of the Ordinance. The vested rights granted herein are further conditioned as follows:

(a) Sketch Plan A is approved and designated as a site specific development plan as contemplated by the Vested Rights Statute and the Pagosa Springs Land Use and Development Code Section 2.4.14 , Vested Rights. The Applicant shall have vested property rights to undertake and complete development of the Project and use the Project property as set forth in Sketch Plan A.

(b) Sketch Plan B is hereby approved and designated as an alternate site specific development plan as contemplated by the Vested Rights Statute and the Pagosa Springs Land Use and Development Code Section 2.4.14 , Vested Rights. Should certain conditions regarding construction of road and bridge improvements not take place as further set forth in the

Agreement, the Applicant shall have vested property rights to undertake and complete development of the Project and use the Project property as set forth in Sketch Plan B.

Section 3. Duration of Vested Rights. The vested property rights designated herein shall extend for a period of ten (10) years from the date of the effective date of this ordinance.

Section 4. Conditions of Approval. Applicant's vested property rights in the Development Plan are specifically conditioned upon and shall not be valid except as provided in the Agreement.

Section 5. Acquisition of Transportation Easement. The Town is authorized to acquire a public easement within the Springs Development Major Subdivisions Sketch Plan for the construction of bridge, road and related improvements, as further described in the Agreement.

Section 6. Notice of Approval. Pursuant to Section 21.2.4 of the Vested Rights Code, the vested rights granted herein are contingent upon, and shall not be valid, until and unless notice is provided in the following manner:

A. The following language shall be affixed to the Development Plan: "Approval of the Plan may create a vested property right pursuant to Article 68 of Title 24, C.R.S."

B. A notice describing the type and intensity of use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created, in the form attached hereto as **Exhibit E**, shall be published once, not more than fourteen (14) days following approval of this Ordinance, in a newspaper of general circulation within the Town.

Section 7. Public Inspection. The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

Section 8. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 9. Public hearing. A public hearing on this Ordinance shall be held on the 26 day of July, 2012, at 5:00 p.m. at the Pagosa Springs Town Hall, 551 Hot Springs Boulevard, Pagosa Springs, Colorado.

Section 10. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 3 DAY OF July, 2012.

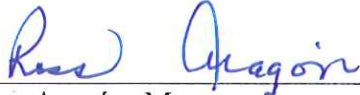
TOWN OF PAGOSA SPRINGS, COLORADO

Attest:

  
April Hessman, Town Clerk




By:

  
Ross Aragón, Mayor

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 26 DAY OF July, 2012.

TOWN OF PAGOSA SPRINGS, COLORADO

By:

  
Ross Aragón, Mayor

Attest:


  
April Hessman, Town Clerk

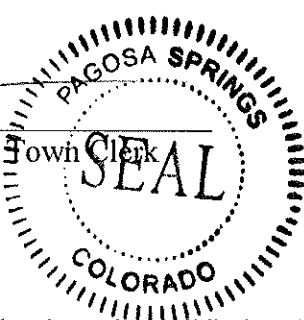


**CERTIFICATE OF PUBLICATION**

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 772 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 3rd day of July, 2012, and was published by title only, along with a statement that the full text of the Ordinance, including any amendments, is available for public inspection at the office of the Town Clerk at Town Hall, on the Town's official website, on July 3, 2012, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.


IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 26 day of July, 2012.

  
April Hessman, Town Clerk  
(S E A L)



I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 772 (Series 2012) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its special meeting held on the 26<sup>th</sup> day of July, 2012, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on July 26, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 26<sup>th</sup> day of July, 2012.

  
April Hessman, Town Clerk

(S E A L)



# Exhibit A

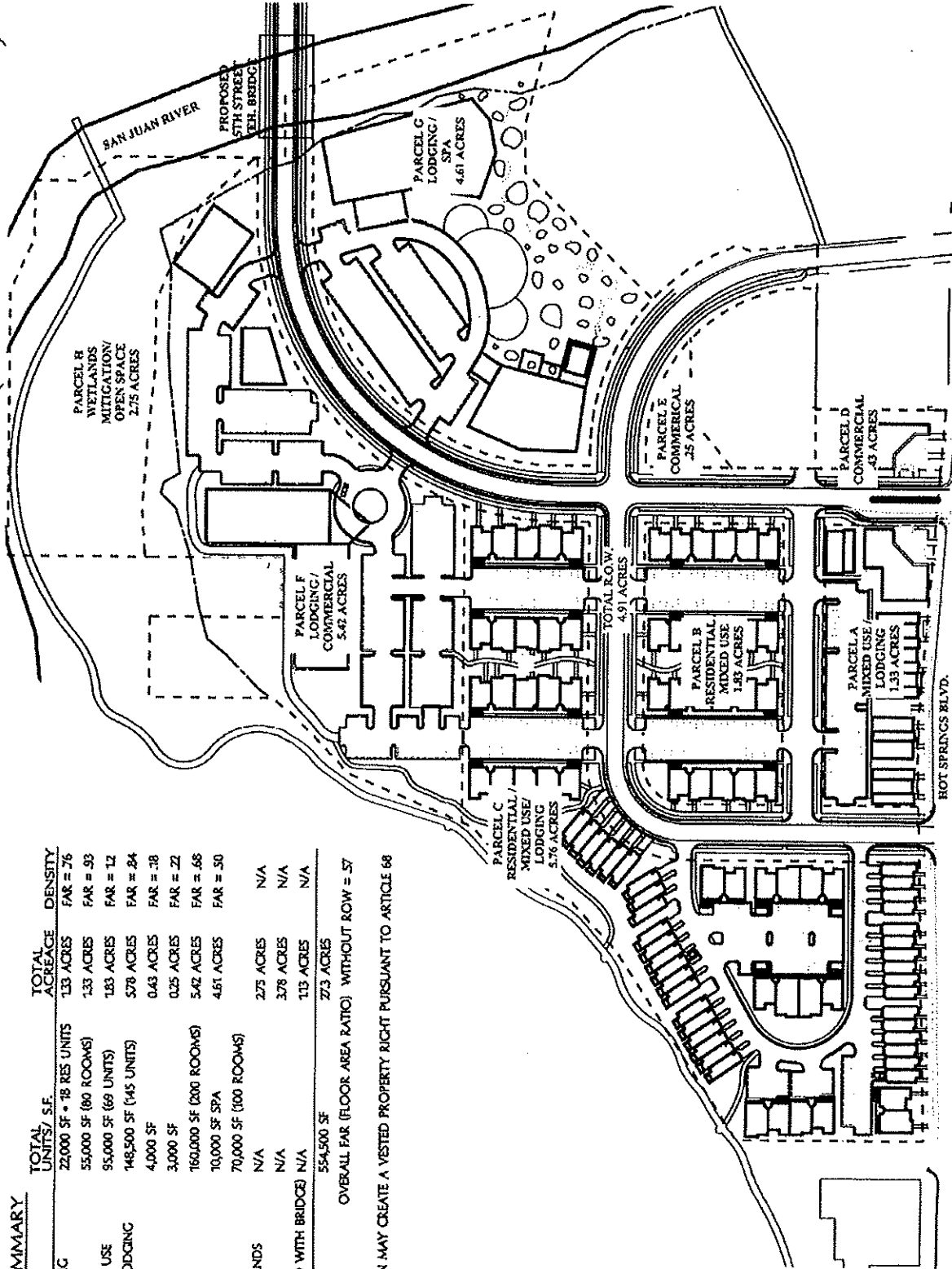
## SPRINGS DEVELOPMENT MAJOR SUBDIVISION SKETCH PLAN A (CONCEPTUAL PLAN)

### SKETCH PLAN "A" SUMMARY

| PARCEL INFORMATION                        | TOTAL UNITS/ SF.         | TOTAL ACRES | DENSITY  |
|---|--------------------------|-------------|----------|
| PARCEL A MIXED USE / LODGING              | 22,000 SF • 18 RES UNITS | 113 ACRES   | FAR = 76 |
| OPTIONAL HOTEL                            | 55,000 SF (80 ROOMS)     | 133 ACRES   | FAR = 39 |
| PARCEL B RESIDENTIAL / MIXED USE          | 95,000 SF (69 UNITS)     | 183 ACRES   | FAR = 12 |
| PARCEL C RES. / MIXED USE / LODGING       | 148,500 SF (145 UNITS)   | 578 ACRES   | FAR = 24 |
| PARCEL D COMMERCIAL                       | 4,000 SF                 | 0.43 ACRES  | FAR = 18 |
| PARCEL E COMMERCIAL                       | 3,000 SF                 | 0.25 ACRES  | FAR = 22 |
| PARCEL F LODGING / COMM.                  | 160,000 SF (200 ROOMS)   | 5.42 ACRES  | FAR = 68 |
| PARCEL G LODGING / SPA                    | 10,000 SF SPA            | 4.61 ACRES  | FAR = 50 |
| PARCEL H OPEN SPACE / WETLANDS            | 70,000 SF (100 ROOMS)    | 273 ACRES   | N/A      |
| ROW                                       | N/A                      | 378 ACRES   | N/A      |
| 5TH STREET ROW (IF CONNECTED WITH BRIDGE) | N/A                      | 113 ACRES   | N/A      |
| TOTAL                                     | 554,500 SF               | 273 ACRES   |          |

OVERALL FAR (FLOOR AREA RATIO) WITHOUT ROW = 57

\*APPROVAL OF THIS SKETCH PLAN MAY CREATE A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S.\*



## SPRINGS DEVELOPMENT MAJOR SUBDIVISION SKETCH PLAN A



NORTH

SCALE: 1" = 300'

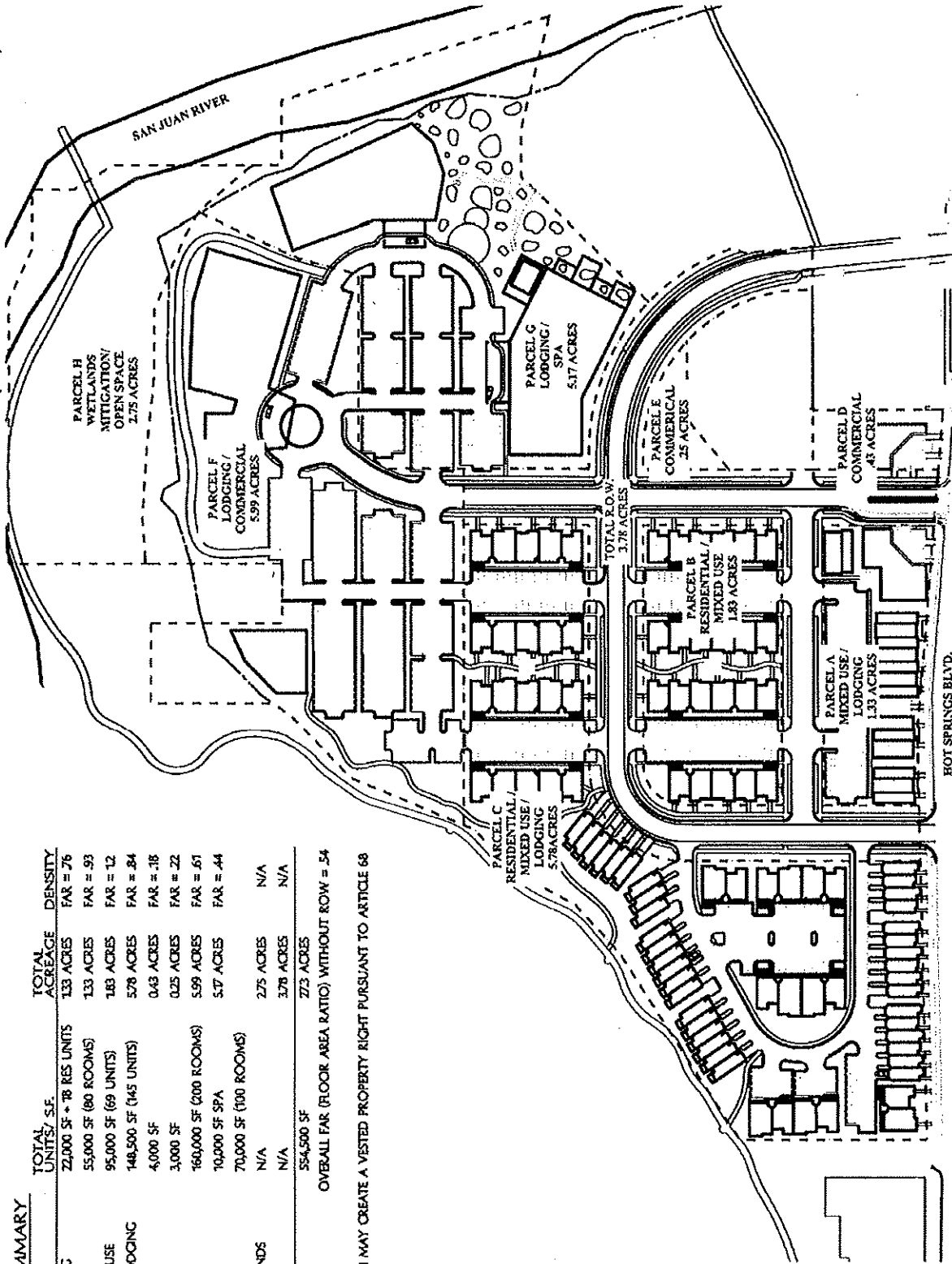
# Exhibit B

## SPRINGS DEVELOPMENT MAJOR SUBDIVISION SKETCH PLAN B (CONCEPTUAL PLAN)

### SKETCH PLAN "B" SUMMARY

| PARCEL INFORMATION                              | TOTAL UNITS/ SF.         | TOTAL ACRES | DENSITY  |
|---|--------------------------|-------------|----------|
| PARCEL A MIXED USE / LODGING                    | 22,000 SF + 78 RES UNITS | 133 ACRES   | FAR = 76 |
| OPTIONAL HOTEL                                  |                          |             |          |
| PARCEL B RESIDENTIAL / MIXED USE                | 55,000 SF (80 ROOMS)     | 133 ACRES   | FAR = 93 |
| PARCEL C RES / MIXED USE / LODGING              | 95,000 SF (69 UNITS)     | 183 ACRES   | FAR = 12 |
| PARCEL D COMMERCIAL                             | 148,500 SF (445 UNITS)   | 578 ACRES   | FAR = 84 |
| PARCEL E COMMERCIAL                             | 4,000 SF                 | 0.43 ACRES  | FAR = 18 |
| PARCEL F LODGING / COMM.                        | 3,000 SF                 | 0.25 ACRES  | FAR = 22 |
| PARCEL G LODGING / SPA                          | 160,000 SF (200 ROOMS)   | 5.99 ACRES  | FAR = 61 |
| PARCEL H OPEN SPACE / WETLANDS                  | 10,000 SF SPA            | 5.17 ACRES  | FAR = 44 |
| ROW   | 70,000 SF (100 ROOMS)    |             |          |
| TOTAL   | N/A                      | 2.75 ACRES  | N/A      |
|   | N/A                      | 3.78 ACRES  | N/A      |
|   | 554,500 SF               | 273 ACRES   |          |
| OVERALL FAR (FLOOR AREA RATIO) WITHOUT ROW = 54 |                          |             |          |

"APPROVAL OF THIS SKETCH PLAN MAY CREATE A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S."



## SPRINGS DEVELOPMENT MAJOR SUBDIVISION SKETCH PLAN B

SCALE: 1" = 200'

## **Exhibit C**

### **Legal description of Property**

#### **North Parcel:**

Thence South 17° 15' 00" East, 141.86 feet along the westerly line of Lot One of the Springs Resort Minor Subdivision;

Thence South 72° 45' 00" West, 86.91 along the westerly line of Lot One of the Springs Resort Minor Subdivision;

Thence North, 148.55 to the northerly line of that parcel of land recorded under Reception No. 20705061 A.C.R.;

Thence North 72° 45' 00" East, 42.86 feet along the northerly line of that parcel of land recorded under Reception No. 20705061 A.C.R. to the place of beginning.

#### **South Parcel:**

A tract of land located in Section 13 and 24 of Township 35 North, Range 2 West, N.M.P.M., Town of Pagosa Springs, Colorado and within the Henry Footes Valentine Scrip of the Townsite of Pagosa Springs, being more particularly described as follows, to-wit:

Beginning at the mid point on the West line of the Henry Footes Valentine Scrip;

Thence North 89° 57' 42" East, 882.40 feet along the East-West mid line of the Henry Footes Valentine Scrip to the Westerly right of way limits of Hot Springs Boulevard as described in that deed recorded under Reception No. 20212451, in the office of the Clerk and Recorder, Archuleta County, Colorado;

Thence South 04° 44' 12" West, 40.81 feet along the Westerly right of way limits of Hot Springs Boulevard as described in that deed recorded under Reception No. 20212451, in the office of the Clerk and Recorder, Archuleta County, Colorado;

Thence South 01° 21' 46" East, 587.82 feet along the Westerly right of way limits of Hot Springs Boulevard as described in that deed recorded under Reception No. 20212451, in the office of the Clerk and Recorder, Archuleta County, Colorado, to North line of Lot C, recorded under Reception No. 98000158, in the office of the Clerk and Recorder, Archuleta County, Colorado, and as shown on the "Wetlands # Open Space Minor Subdivision" recorded under Reception No. 99000708, in the office of the Clerk and Recorder, Archuleta County, Colorado;

Thence West, 270.00 feet along the said North line of Lot C to the Northwest corner thereof;

Thence North 33° 06' 28" West, 320.79 feet along the Northeasterly line of Lot B-1 of the "Wetlands # Open Space Minor Subdivision";

Thence North 43° 17' 31" West, 93.21 feet along the said Northeasterly line of Lot B-1;

Thence North 61° 52' 53" West, 99.55 feet along the said Northeasterly line of Lot B-1;

Thence North 43° 28' 19" West, 84.94 feet along the said Northeasterly line of Lot B-1;

Thence North 67° 23' 34" West, 192.68 feet along the said Northeasterly line of Lot B-1;

Thence North 43° 52' 20" West, 121.33 feet along the said Northeasterly line of Lot B-1;

Thence North 53° 01' 52" West, 35.44 feet along the said Northeasterly line of Lot B-1;

Thence South 89° 44' 53" East, 52.66 feet to the Place of Beginning.



**EXHIBIT D**  
**DEVELOPMENT AND VESTED RIGHTS AGREEMENT**

This DEVELOPMENT AND VESTED RIGHTS AGREEMENT ("Agreement") is made and entered into this 26 day of July, 2012, by and between the Town of Pagosa Springs, a Colorado home-rule municipality (the "Town"), and Springs Partners, LLC, a Colorado limited liability company ("Developer," or "Owner"). The Town and Developer are individually referred to as a "Party" and collectively as the "Parties."

WHEREAS, Developer is the owner of the following described real property (the "Property" or "Development") located in Archuleta County, Colorado, which Legal Description is attached as Exhibit C; and

WHEREAS, on July 26, 2012, the Town adopted Ordinance No. 772 (the "Ordinance") that approved the Springs Development Major Subdivision Sketch Plan A ("Sketch Plan A"), with conditions, and further approved the Springs Development Major Subdivision Sketch Plan B ("Sketch Plan B") as an alternative development plan for the Property should certain development conditions not be met as further set forth in this Agreement; and

WHEREAS, the Town is in need of an additional primary transportation route to connect U.S. Highway 160 to Hot Springs Boulevard, to serve properties accessed from Hot Springs Boulevard, including property that may be developed in the future, and to reduce congestion at the U.S. Highway 160 and Hot Springs Boulevard intersection; and

WHEREAS, the Developer is willing to dedicate to the Town an easement for the construction, operation and maintenance of the Fifth Street Vehicular Bridge over the San Juan River and a road connecting to Hot Springs Boulevard at Spring Street, including the roadway, curb, gutter, lighting and signage and associated improvements, as depicted on Sketch Plan A, ("Bridge and Connection Road Improvements"); and

WHEREAS, the Developer and the Town wish to set forth certain obligations regarding the timing and construction of the Bridge and Connection Road Improvements, and water, sewer, other public utilities and sidewalks to be constructed within, under or adjacent to the Bridge and Connection Road Improvements ("Additional Connection Road Improvements") ;

NOW THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1. Public Improvements.

a) Developer Obligations.

(i) Generally. Except the Bridge and Connection Road Improvements, Developer shall be responsible at its sole costs for design, construction, acquisition, installation and easements for all public improvements shown on the applicable Sketch Plan, including the Additional Connection Road Improvements, streets and utilities, and for providing easements for the Bridge and Connection Road Improvements, as phasing of the project dictates. The design, construction, acquisition, installation, easements and timing of such public improvements shall be consistent with the Town's Land Use and Development Code and the approvals of development improvement agreements associated with subsequent preliminary plat and final plat approvals ("Additional Development Approvals").

(ii) Bridge and Connection Road Improvement Easements. At such time within ten (10) years from the effective date of the Ordinance the Town commits funding for and provides Developer notice that it will proceed with construction of the Bridge and Connection Road Improvements, Developer shall dedicate to the Town an easement for the Bridge and Connection Road Improvements, and shall:

(1) Install the Additional Connection Road Improvements prior to or in coordination with the Town constructing the Bridge and Connection Road Improvements; or

(2) Provide security for the costs to be incurred by the Town to construct the Additional Connection Road Improvements; or

(3) Convey to the Town easements adjacent to the Bridge and Connection Road Improvements to allow later construction by Developer of the Additional Connection Road Improvements that would otherwise be constructed within or under the Bridge and Connection Road Improvements.

b) Town Obligations.

(i) Capital Improvement Plan. The Town shall include the costs of constructing the Bridge and Connection Road Improvements in its future Road and Bridge Capital Improvement Plan for funding in year 2017.

(ii) Decision Regarding Constructing. If at any time following the effective date of the Ordinance and for so long as the vested rights granted by the Ordinance remain in effect the Developer has: (a) provided notice that a Development proposal is reasonably likely to result in application within 2 years of such notice

requesting Additional Development Approvals for any portion of the Property which includes the Bridge and Connection Road Improvements or the Additional Connection Road Improvements; (b) provides evidence that upon such application it will reasonably be able to provide security for the costs of constructing all public improvements within such phase and the Additional Connection Road Improvements; and (c) provides evidence that upon such application it will reasonably be able to meet the requirements set forth in Subsection 1a) herein if the Town gives notice that it will proceed with construction of the Bridge and Connection Road Improvements, the Town shall elect whether it shall construct the Bridge and Connection Road Improvements prior to 2017 and provide notice to the Developer. If the Town elects to construct the Bridge and Connection Road Improvements prior to 2017, such construction shall proceed in coordination with and no later than the Developer's construction of the Additional Connection Road Improvements. If the Town does not elect to construct the Bridge and Connection Road Improvements, the Developer's obligations set forth in Subsection 1a)(ii) herein shall expire and the provisions of Subsection 2a)(ii) shall apply.

(iii) Within two years of the execution of this Development and Vested Rights agreement, the Town shall make every effort to prepare preliminary design for the Bridge and Connection Road Improvements, and to receive preliminary design approval for submitting construction plans by all appropriate local, state and federal agencies.

(iv) Upon receipt from the developer that a pending development is being considered, the Town shall respond within 30 days, as to its ability to proceed with the Bridge and Connection Road Improvements, prior to 2017.

## 2. Creation of Vested Rights.

a) Provided that the Developer meets all the requirements provided herein, the Land Use and Development Code and the Additional Development Approvals, approval of the Springs Development Major Sketch Plans A and B, shall constitute a site specific development plan, as that term is defined in §24-68-102(4)(a), C.R.S., and shall confer upon the Developer the right to undertake and complete the development of the property and uses identified therein regarding the units, square footage and density of development under the terms and conditions of the Ordinance and this Agreement. This Agreement shall constitute a development agreement, as such term is used in §24-68-104(2), C.R.S., and the vested rights created by the approval of the site specific development plan shall be vested for a period of ten (10) years from the effective date of the Ordinance. The vested rights granted herein are further conditioned as follows:

(i) The vested rights and approval set forth in the Ordinance and this Agreement are initially only those associated with Sketch Plan A.

(ii) If the Developer has or is able to meet the Developer's obligations stated in Subsections 1a) or 1b)(ii) of this Agreement, but the Town elects not to construct the Bridge and Connection Road Improvements, Sketch Plan A shall no longer be applicable and the Developer's vested rights for the remainder of the vested rights period shall be the units, square footage and density of development as set forth on Sketch Plan B.

(iii) Failure of the Developer to meet its obligations pursuant to Subsections 1a) or 1b)(ii) of this Agreement shall result in the expiration of Developer's vested rights in both Sketch Plan A and Sketch Plan B, and as granted in Ordinance No. 722.

(iv) If at anytime it is determined that the Town will not or is not able to proceed, for whatever reason, with the design and construction of the "Bridge and Connection Road Improvements", the Developer's obligations set forth in Subsection 1a)(ii) herein shall expire and the provisions of Subsection 2a)(ii) shall apply.

3. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is intended to be given at the address set forth below, or at such other address as may be subsequently furnished to the other Party as provided herein. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

To Pagosa Springs:

Town Manager  
Town of Pagosa Springs  
551 Hot Springs Boulevard  
P.O. Box 1859  
Pagosa Springs, Colorado 81147

With copies to:

Robert G. Cole  
Town Attorney  
Collins Cockrel & Cole  
390 Union Boulevard, Suite 400  
Denver, Colorado 80228-1556

To Owner:

Springs Partners, LLC.  
Bill Dawson  
Po Box 719  
Pagosa Springs, Co. 81147

With copies to:

NA

4. Paragraph Captions. The captions of the paragraphs are set forth only for convenience and reference and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

5. Indemnification. Owner shall indemnify, defend and hold the Town, and its employees, agents, engineers and attorneys, harmless from and against all costs, claims, damages, judgments, losses and expenses of every nature, including reasonable attorneys' fees, arising at any time from any act or omission of Owner, its employees, subcontractors and their employees, and all other persons directly or indirectly involved in or performing work for the Owner on the Development.

6. Covenants Running with the Land. All provisions contained in this Agreement touch and concern the Development, constitute covenants running with the land, and shall be binding upon the Owner and each of Owner's successors in interest.

7. No Third-Party Beneficiaries. Nothing in this Agreement shall be deemed to create any third-party benefits or beneficiaries, or create a right or cause of action for the enforcement of its terms, in any entity or person not a Party to this Agreement.

8. Time is of the Essence. All the time limits stated in this Agreement are of the essence of this Agreement.

9. Severability. In the event that any of the terms, covenants or conditions of this Agreement or their application shall be held invalid as to any person, entity or circumstance by any court having competent jurisdiction, the remainder of this Agreement and the application in effect of its terms, covenants or conditions to such persons, entities or circumstances shall not be effected thereby.

10. Duly Authorized Signatories. By execution of this Agreement, the undersigned each individually represent that he or she is duly authorized to execute and deliver this Agreement and that the subject Party shall be bound by the signatory's execution of this Agreement.

11. Duplicate Original. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

12. Venue and Governing Law. Any action arising out of this Agreement shall be brought in the District Court, Archuleta County, Colorado. This Agreement shall be governed by the laws of the State of Colorado.

Dated this 26 day of July 2012.

TOWN OF PAGOSA SPRINGS,  
COLORADO

By: Ross Aragón  
Ross Aragón, Mayor

Attest:

April Hessman  
April Hessman, Town Clerk



STATE OF COLORADO )  
COUNTY OF Archuleta ) ss.

The foregoing Development and Conditions of Vested Rights Agreement was acknowledged before me this 26 day of July, 2012, by Ross Aragón, as Mayor of the Town of Pagosa Springs and April Hessman as Town Clerk of the Town of Pagosa Springs.

Witness my hand and official seal.

My commission expires: 12-08-2012

Kathleen M. Harker  
Notary Public



OWNER

By: William L. Dawson

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Archuleta )

The foregoing Development and Conditions of Vested Rights Agreement was acknowledged before me this 6<sup>th</sup> day of August, 2012, by William L. Dawson as PARTNER of Springs Partners, LLC.

Witness my hand and official seal.

My commission expires: 10-29-2014



Crystal Frisby  
Notary Public

## **Exhibit E**

### **Notice of Vested Rights**

*[A notice describing the type and intensity of use approved, the specific parcel or parcels of property affected, and stating that a vested property right has been created, in the form attached hereto as Exhibit FbelowC, shall be published once, not more than fourteen (14) days following approval of this Ordinance, in a newspaper of general circulation within the Town.]*

## **Notice**

The Town Council of Pagosa Springs has approved site specific development sketch plans and created vested property rights under Sections 24-68-101, et seq., C.R.S. and

Article 2 of the Town of Pagosa Springs Land Use Development Code and the Development and Vested Rights Agreement for certain property known as Springs Development located in *Block 42 PS Sec: 13 Town: 35 Range: 2W PS Foote-VAL Script and Block 51, Lot 5 & 35' Lot 4, Sec: 13 Town: 35 Range: 2W PS Foote PS Wetlands.*

The approved uses and densities include those permitted in zone districts; MU-TC District, MU-C District and Hot Springs Blvd Overlay District under the Town of Pagosa Springs Land Use Development Code, subject to and as qualified by the terms of the Development and Vested Rights Agreement.