



**AMENDMENT TO THE
RIVERBEND PLANNED UNIT DEVELOPMENT
NARRATIVE**

NUTRIENT HOLDINGS LLC

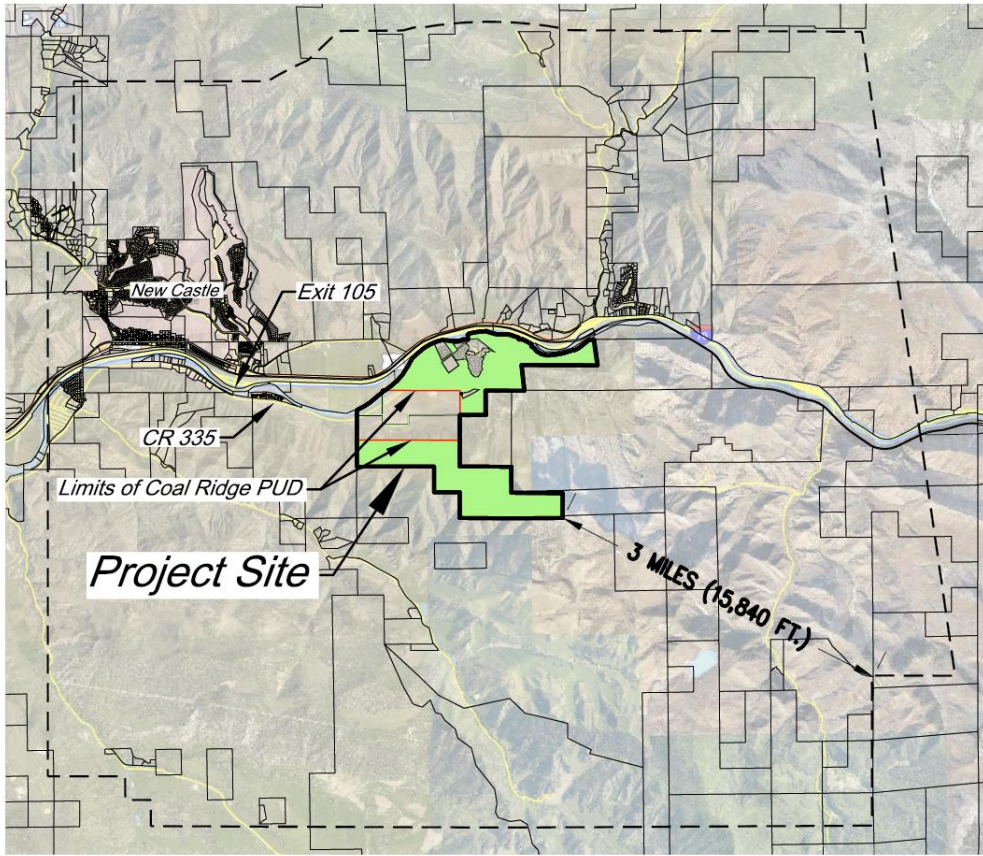
March 2023

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AMENDMENT TO THE
RIVERBEND PLANNED UNIT DEVELOPMENT

VICINITY MAP
RIVERBEND PLANNED UNIT DEVELOPMENT AMENDMENT AREA

- Vicinity Map -
Not to Scale



- Riverbend PUD Amendment Area
- Nutrient Holdings LLC Boundary Line

PROJECT TEAM

Owner/Project Designer

Nutrient Holdings LLC
Andrew Bruno
Post Office Box 560
New Castle, Colorado 81647

Authorized Agent and General Counsel

Timberline Partners
Daniel Teodoru, Esq.
Erin Hunter, Esq.
210 S. Ridge Street / Post Office Box 625
Breckenridge, Colorado 80424

Water Attorney

Hill and Pollock, LLC
Alan Hill, Esq.
1528 Wazee Street
Denver, Colorado 80202

Mineral Rights Attorney

Balcomb & Green
818 Colorado Avenue
Glenwood Springs, Colorado 81601

SGM

118 W. Sixth Street, Suite 200
Glenwood Springs, Colorado 81601

Surveyor: Tim Barnett, PLS

Civil Engineer: Dave Kotz, PE, CFM

Traffic Engineer: Dan Cokley, PE, PTOE

Wastewater Engineer: Chad Paulson, PE

Water Engineer: Bailey Leppek, PE

Ecologist/Wildlife Professional: Alex Nees, MS

Land Use Planner

Mathews Leidal, LLC
Christie Mathews Leidal, AICP
Post Office Box 4678
Breckenridge, Colorado 80424

Soils and Geohazards Engineer

RJ Engineering and Consulting, Inc.
Richard Johnson, PE
266 Red Cliff Circle
Glenwood Springs, Colorado 81601

All the above Team Members have degrees and/or professionally licensed and certified in their respective fields and qualified to practice in Colorado and prepare the documents contained within this submittal package. Any necessary stamps/certifications have been included on/in the applicable maps and documents.

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B. OVERVIEW OF THE REQUEST

This proposal is submitted on behalf of the Property Owner, Nutrient Holdings LLC, (“Owner/Developer”). The Owner/Developer is requesting approval to Amend the Riverbend Planned Unit Development (“PUD”) in order to establish the proposed Nutrient Farm PUD for the property. Nutrient Farm is an agricultural mixed-use community revolving around an experiential biodynamic working farm—a fully functional and operational farm, while also inviting visitors to experience agricultural, residential, recreational, and retail/commercial related activities—essentially, “agritourism.” Nutrient Holdings intends to develop the Nutrient Farm PUD as a cohesive community and has no intention of selling off any portions of it to be developed by others.

A separate application has been submitted for the Nutrient Farm PUD request, as well as another separate application to revoke the entire existing Coal Ridge PUD owned by Nutrient Holdings. The area of this Riverbend PUD Amendment application and accompanying Coal Ridge Revocation request corresponds with the property owned by Nutrient Holdings and the total proposed Nutrient Farm PUD area. No properties owned by others in the Riverbend PUD area and its various subdivisions, developed or not, are included in any of these requests. (Please see attached maps for location details.)

The Nutrient Holdings property is located between the Town of New Castle and Glenwood Springs, and to the south of Interstate 70 (“I-70”) and the Colorado River. The property is bisected by County Road (“CR”) 335/Colorado River Road and consists of four parcels, containing approximately 1,136 acres. (Assessor’s records Parcel ID Numbers are: 2123-344-00-005; 2123-344-00-007; 2123-353-00-081; 2183-053-00-086; and 2183-061-00-057. Per our surveyor’s research, these five Assessor’s parcels were combined and re-organized into four parcels in the property’s formal legal description in the title commitment and property deeds. Thus, the Riverbend PUD consists of Parcel ID Numbers 2123-344-00-005, 2123-344-00-007, 2123-353-00-081, and portions of 2183-053-00-086 and 2183-061-00-057 which also contain the Coal Ridge PUD area. (Please see below for legal and boundary description details.) The property has historically been used for crop production and grazing and continues to be used as such by Nutrient Holdings. The long established Vulcan Ditch runs through the property and other agricultural improvements such as sheds, greenhouses, fences, gates, ditches, and dirt roads exist. There is one existing single-family home to the south of Riverbend Filing No. 2 located on a portion of the original Riverbend PUD designated for single-family homes.

C. RIVERBEND PLANNED UNIT DEVELOPMENT (PUD) BACKGROUND

The Riverbend PUD development reaches back almost 50 years to a Sketch Plan that was reviewed and approved by the Board of County Commissioners (“BOCC”) on June 26, 1973. The Sketch Plan and materials from that time show a 617 residential dwelling unit community containing an outdoor education center, riding stables, open space, pasture, and a demonstration cattle ranch on approximately 1,180 acres. A Preliminary Plat for Riverbend was reviewed and approved by the Planning Commission on January 14, 1974. The Sketch Plan and associated Preliminary Plat approval pre-dated the County’s adoption of its Zoning regulations. Thus, when the developer later requested modifications to the approved subdivision, the County required that the subdivision request be accompanied by a formal PUD Zoning application in order to meet the County’s new Zoning policies. The development was reduced in size from 617 residential units to 118 single-family and 80 multi-family dwelling units and those modifications were reviewed and approved as the Riverbend PUD by the BOCC with Resolution No. 77-2. Minutes from the meeting indicate that this was a Joint Meeting with the Planning Commission and the BOCC reviewing both the zone change to the Riverbend PUD and the Preliminary Plat approval. Both requests were unanimously approved by the Planning Commission and the BOCC.

1. Preliminary Map of the Riverbend PUD and Declaration of Protective Covenants

The Preliminary Map of the Riverbend Planned Unit Development dated August 1976 drawn by Scarrow and Walker and the associated Declaration of Protective Covenants for Riverbend, Garfield County, Colorado received by the County on August 4, 1976 became the controlling documents for the Riverbend PUD. Mark Bean, then Senior Planner for Garfield County, stated this in his November 17, 1983 and April 25, 1984 letters to Sam Arentz of Storm King Mines. (These letters have been attached as well as a May 11, 1984 letter from Janell Kenzie, representing Storm King Mines, further describing these documents, and questioning them as they were neither signed nor recorded.)

Mr. Bean stated in his November 17, 1983 letter to Mr. Arentz regarding the need to amend the Declarations as follows:

Dear Mr. Arentz:

Enclosed is a copy of the Declaration of Protective Covenants for Riverbend. In reviewing the file for PUD rezoning, it appears that the County accepted this document as the method of controlling land use within the PUD. Presently, a separate zoning text is required, which becomes a part of the resolution of approval.

It appears that your company will have to amend these covenants, to allow for some parts of your operation. Whether or not there is any action required on the part of the County is still in question. Normally, the County does not enforce protective covenants. I have asked the County Attorney’s office to review this matter...

Per his April 25, 1984 Letter to Mr. Arentz:

Dear Sam:

Please consider this letter to be confirmation for the County Attorney's Office and Department of Development position regarding the zoning of the Storm King Mines property. As noted on April 13, 1984, the following documents will be considered the controlling documents for the Riverbend P.U.D.:

- 1. The approved P.U.D. Plan Map as required by Section 4.08.05(2) of the Zoning Resolution is a map entitled, "PRELIMINARY MAP OF THE RIVERBEND PLANNED UNIT DEVELOPMENT," dated August, 1976 and prepared by Scarrow and Walker, Inc.*
- 2. The P.U.D. zoning text, as required by Section 4.08.05(2)(H) of the Zoning Resolution, is contained in the "Declaration of Protective Covenants for Riverbend, Garfield County, Colorado" and received by the Garfield County Planner on August 4, 1976, as a part of the P.U.D. rezoning and Preliminary Plan application.*

It was at this time that the Riverbend P.U.D. was created and the above referenced documents correspond in time to the time that Resolution No. 77-2 was signed....

The Preliminary Map has a number of land use designations on it as well as specific information on the Development Areas and Notes. The Preliminary Map shows a 376 acre open space/agricultural land area adjacent to CR 335 and future development blocks for at least 198 residential units (118 single-family and 80 multi-family units), a 10 acre school site, a 0.33 acre commercial site for a convenience store, stable, park/playground, infrastructure areas (i.e., sewage treatment facility and storage tank), and common areas. Documents from that time indicate the open space/agricultural land area was to function as a working ranch and sufficient water rights existed for it. The 1,180.83 acre property was shown to be divided into 11 blocks, including the residential and open space/agricultural land areas, and common areas backing up to the mountains. Hamilton Duncan, the owner/developer, envisioned the PUD as homes for local working families and anticipated build-out of Riverbend in five phases within 10 years.

However, only a few of the residential areas shown on the Preliminary Map were eventually subdivided and developed with homes by the original owner/developer—Riverbend Subdivision Filing Nos. 1 and 2 and the Riverbend Ranchettes. The remainder of the property was sold off in the early 1980's. Some of which were developed by others as residential subdivisions and some as the Coal Ridge PUD. Specifically, in 1984, Storm King Mines received approval to modify approximately 292 acres of the undeveloped western portion of the Riverbend PUD for the Coal Ridge PUD. The Coal Ridge PUD allows for a coal mine, heavy industrial support facilities, as well as residential and agricultural uses in it. The Coal Ridge PUD contains three types of

development districts—Common Open Space, Transition, and Heavy Industrial. Agricultural is a By-Right Use in both the Transition and Heavy Industrial Districts, and a single-family dwelling is also a By-Right Use in the Transition District. (Please refer to the Coal Ridge Revocation Narrative for details.) The PC 4/12/95 and BOCC 6/5/95 Staff Reports for PUD Zone District and Text Amendment of the Riverbend PUD and Sketch Plan for the Riverbend by the River Subdivision (which later became Filing No. 5) relay this same history, reference the Preliminary Map, and acknowledge the 198 residential units of density.

The existing Riverbend PUD is approved for at least 198 residential units—118 single-family units and 80 multi-family units. (The Notes on the Preliminary Map indicate that the 80 multi-family units may be developed as multi-family units or single-family units.) The Preliminary Map contains a number of Notes discussing the residential development of the property—the location, type (i.e., single-family or multi-family), the size of the residential lots, as well as utility easements and public street dedications. The Preliminary Map shows residential lots in the existing Riverbend Subdivisions Filing Nos. 1 and 2 locations (designated as Phases I, II and III on the Preliminary Map) and additional lots extending to the southwest along the foothills. According to the Preliminary Map and its Notes, these areas were to be developed as single-family lots of a “1/2 acre more or less.” These areas contain 70 single-family lots in Blocks 7-10 and were to be developed in Phase IV of the Riverbend PUD but were never subdivided. The 80 multi-family/single-family units were shown on the northeastern portion of the property, adjacent to the Colorado River, in Block 6. They were to be developed in Phase V, but that subdivision phase also did not take place. Thus, according to the Preliminary Map, at least 70 single-family lots on the southwest portion of the property backing up to the mountains in Blocks 7-10 and 80 multi-family/single-family lots on Block 6 adjacent to the Colorado River have yet to be developed.

As mentioned above, the Preliminary Map also contains Development Areas information and provides a map legend of sorts that indicates the location of the uses. The shown Development Areas are as follows:

Development Areas

<i>Blocks No. 1, 2, 3, 4, 5, 7, 8, 9 and 10.</i>	<i>– 64.91 Acres</i>
<i>Roads in Blocks No. 1, 2, 3, 4, 5, 7, 8, 9 and 10.</i>	<i>– 17.44 Acres</i>
<i>Block No. 6</i>	<i>– 71.20 Acres</i>
<i>Block No. 11, Open Space and Agricultural Land</i>	<i>– 376.27 Acres</i>
<i>Sewage Treatment Easement Area</i>	<i>– 9.65 Acres</i>
<i>Common Area</i>	<i>– 641.36 Acres</i>
<i>Subdivision Total</i>	<i>1180.85 “</i>

The entirety of CR 335 has not been formally dedicated as a public right-of-way. We believe that it was to be dedicated to the County in increments—in association with the development of the various subdivisions and their plats. (Please see below for a detailed discussion.)

The Declaration of Protective Covenants for Riverbend, Garfield County, Colorado shows Mr. Duncan as the Declarant and “Owner of the Riverbend Subdivision.” The Declaration was to “include that portion of the property encompassing Filings I through IV as more particularly described as follows.” The legal description is then recited and the area totals 81.91 acres. As mentioned above, Riverbend Filing Nos. 1 and 2 and the Riverbend Ranchettes were platted by Mr. Duncan, which corresponds to Phases I – III. A portion of the Phase IV area was amended to the Coal Ridge PUD. Phase IV is located in the area owned by Nutrient Holdings.

There is no record of this Declaration being recorded in the records of the County Clerk and Recorder nor did it show up on the Commonwealth Title Report for the property Nutrient Holdings owns. (This lack of an effective Declaration also reflects the thrust of Ms. Kenzie’s 1984 correspondence to Mr. Bean noted above.). Ultimately, a Declaration that has no recordation, let alone on which is not executed and imposed upon property interests, is of no actual legal force and effect. Nonetheless, it does provide some insight into the contemporaneous concepts and plans behind the Riverbend development.

The Land Uses and Building Types specify one single-family home for each lot, or the number of homes specified on the plat. The lots were to be used only for residential or recreational purposes, for a private garage, barn, and other outbuildings incidental to the residential uses. No lot was to be used for commercial or business purposes. The Declaration specifically exempted the other various uses from the Declaration shown on the Preliminary Map. It states, “The foregoing covenants shall not apply to Declarant or its agent, real estate sales offices, convenience store, and the activities constructed in connection with the development, farming, ranching or the providing of services to the development or public.”

The Declaration calls for all construction plans to comply with Garfield County’s zoning ordinance and for the plans to be submitted for review and approval by an Architectural Control Committee. A 1,000 square foot habitable floor area minimum is specified and references to setbacks, fences, signs, easements, refuse, livestock and poultry, landscaping, nuisances and firearms, parking, and outside antennas are made. Interference with the ranching operation is specifically addressed and prohibited. The Declaration states:

F. Interference with Ranching Operation

Because of the physical danger, as well as a potential dollar loss, it is essential that residents do not interfere with ranching activities or trespass on ranch property. Non-interference with ranching activities will be strictly enforced. Any representative of the Board of the Association or the ranch operator shall have the right to contact the Garfield County Sheriff’s Department regarding trespassing on private land. Any resident causing damage to crops, livestock, ranch buildings or equipment all be assessed a penalty by the Board of the Associations sufficient to cover the dollar value of said damage.

Thus, the ranching/agricultural operation was central to the Riverbend development.

Article Four, Section A. Membership indicates that for the purposes of road maintenance, landscaping, and all common services or those for the general use and benefit of all lot owners, “...each and every lot owner, in accepting a deed or contract for any lot in the subdivision, agrees to and shall be a member of and subject to the obligations and duty enacted by-laws and rules of Riverbend Property Owners Association, a non-profit corporation.”

As mentioned above, we are unable to find any record of the Declaration being signed or recorded, let alone being enforced by the County. There is no record of the above mentioned Riverbend Property Owners Association in the online business records of the Colorado Secretary of State. There was also no mention of this Declaration’s applicability in the available on-line staff reports relating to the various Riverbend PUD Amendments. Rather the PUD Amendments for the Riverbend Ranchettes, Coal Ridge PUD, and Filing No. 5 only noted the Preliminary Map. The PUD Amendment for Coal Ridge PUD did not even contain an analysis of the proposed mining operation in relation to the existing Riverbend Preliminary Map or the residential density. Rather, it focused on the proposed Coal Ridge PUD uses. However, the PUD Amendments for the Riverbend Ranchettes and Filing No. 5 did—only in terms of the locations of the proposed uses and the amount of open space. (Please see below for details.) Consequently, we do not believe these are applicable or in need of amending.

The non-applicability of this Declaration is further supported by the various individual subdivision’s declarations we have been able to obtain. For instance, Protective Covenants for Riverbend Subdivision Filing No. 1 Garfield County, Colorado was recorded with Reception No. 281327 in 1977. Online documents indicate that the County received signed and notarized Declaration of Protective Covenants for Cedar Ridge Subdivision Garfield County on November 14, 1996. An unsigned/unrecorded Declaration of Protective Covenants for Riverbend P.U.D. Filing No. 5 was also found in the County’s online records. All of these declarations contain various use and design regulations for the development and occupancy of the future homes in them. We believe that these declarations would not have been established if the original Declaration was valid and applicable. At the very least, the Declaration would have been amended to incorporate the Cedar Ridge and Filing 5 areas as they did not conform to the original Riverbend Preliminary Map.

2. Riverbend PUD Amendments and Subdivisions

Over time, various portions of the original 1,180.83 acre Riverbend PUD were developed by Mr. Duncan as envisioned with single-family subdivisions—Riverbend Filing Nos. 1 and 2, and the Riverbend Ranchettes, while other portions were sold off and developed by others in different manners than planned—the Cedar Ridge Subdivision, Riverbend Filing No. 5, the Matthies Exemption, and the Coal Ridge PUD. The residential units were moved around within the Riverbend PUD boundaries and mining and other heavy industrial uses were allowed with the Coal Ridge PUD. (Copies of the available Resolutions approving the original Riverbend PUD, Coal

Ridge PUD, Filing No. 5 PUD Amendment, the Matthies Exemption, and copies of the six existing subdivisions in the original Riverbend PUD area have been attached for reference.)

The County required the above mentioned 1995 PUD Amendment in connection with the Riverbend Filing No. 5 subdivision request. According to the staff report, the proposed 10.61 acres consisted of unimproved agricultural land and also the then existing sewage treatment facility for the Riverbend homes. The parcel had been sold off illegally by the original owner in 1980 to a private individual who then sold it to the applicant. The utility was located on land designated by the Preliminary Map as one of the utility areas and also on open space/ agricultural land. According to the staff report, the requested PUD Amendment and associated subdivision were recognized as a means to clear-up the illegal lot and resolve the intent of the open space/agricultural area of the Preliminary Map.

The staff report noted two types of open space tracts were shown on the original Riverbend Preliminary Map—the Common Areas and the Open Space/Agricultural Land and questioned the long term use of the Open Space/Agricultural Land. It states, “The reduction of open space/agricultural will not reduce the minimum of 25% open space required for a PUD, if this land is considered as part of that requirement. It is not clear from the record of the rezoning action to PUD, as to the intent of the open space/agriculture area. It appears that the intent was to create an area for agricultural activities as an interim designation prior to conversion to another use.”

The staff report later states, “The Open Space/Agricultural areas appear to be for the purposes of continuing the historic ranching operations, but there is no indication that the ranch/farm use was intended to be the perpetual use. Based on the fact that there is also “common area,” this area appears to be another type of land use that is not intended to count towards the PUD open space requirement. All of the land outside the existing subdivision has been sold to various parties and has been subject to rezoning and subdivision exemption actions.” The staff report also states that 51 lots had been platted to date at the time. This is consistent with our research. We believe these were the Riverbend Subdivisions Filing Nos. 1 and 2, the Riverbend Ranchettes, and the Matthies Exemption.

The PUD Amendment was found to be in compliance with the County’s Zone District Amendment Regulations, including the Comprehensive Plan. The subsequent Riverbend Filing No. 5 PUD Plan recorded on September 12, 1995 shows the 10.61 acre parcel to contain 11 single-family lots, five duplex lots, and two open space/parkland areas. Development Regulations for the single-family, two-family, and open space/parkland zones were established. According to the recorded plat, the open space/parkland area adjacent to the Colorado River contains a 0.95 acre easement area for wastewater treatment facilities and a 25’ Pedestrian Access and Drainage easement running north-south from County Road 335 to the River was platted. No plat notes describe this easement, but a document submitted by the applicant, entitled Riverbend Filing #5 Preliminary Plan, describes the subdivision request, and indicates that this was to be available to the public. We are unable to determine if the public use was modified through the course of the approval process or not.

The original Riverbend PUD boundaries have been developed with six residential subdivisions—Riverbend Subdivision Filing Nos. 1 and 2, Riverbend Ranchettes, Cedar Ridge Subdivision, the Matthies Exemption, and Riverbend Filing No. 5. Per Assessor’s records and subdivision plats, 75 residential lots have been platted in the original Riverbend PUD boundaries since the Riverbend PUD was approved. The PUD has been amended many times to accommodate the relocated residential units and their associated subdivisions, and the new mining uses. For instance, as just mentioned, the original Riverbend Preliminary Map did not contemplate any residential lots where the Filing No. 5 Subdivision is located, and the Cedar Ridge Subdivision encompasses the original shown stable area. None of the 70 single-family homes in Blocks 7-10 nor the 80 multi-family/single-family lots on Block 6 were ever developed—except for perhaps two single family homes in the Matthies Exemption which seem to correspond to Block 7 (Phase IV).

Existing Subdivisions Within the Riverbend and Coal Ridge PUD Areas	
Subdivision	Number of Lots
Riverbend Filing No. 1	17 SFRs
Riverbend Filing No. 2	29 SFRs
Riverbend Ranchettes	3 SFRs (3 originally. Lot C with 1 SFR re-subdivided into Cedar Ridge.)
Cedar Ridge	3 SFRs (1 from Riverbend Ranchettes included. Double counted for a conservative analysis.)
Riverbend Filing No. 5	11 SFRs + 5 Duplex Lots (5 x 2 = 10 Lots)
Matthies Exemption	2 SFRs (On-site Farm Home and off-site Lake Residence.)
Total	65 SFRs + 10 from Duplex Lots = 75 Lots

Thus, there are no less than 123 residential lots remaining in the original PUD. ($198 - 75 = 123$). The one existing home, the Farm House, is already accounted for above, and 18 new residential lots are proposed with the Nutrient Farm PUD. (Density will be extinguished and 98 residential units will be preserved merely as a latent density bank at a later time subject to a PUD Amendment and review/approval by the County.)

No public dedications and/or improvements seem to have been contemplated by the original PUD beyond the 10 acre school site and the dedication of CR 335. (The 10.06 acre school site was originally dedicated to the County in 1979 and then transferred from the County to the RE-2 School District in 1992 via BOCC Resolution No. 92-076.)

D. NUTRIENT FARM PLANNED UNIT DEVELOPMENT (PUD) REQUEST

The remaining portion of the Riverbend PUD will be amended, and the entire existing Coal Ridge PUD will be vacated concurrently with the approval of the proposed Nutrient Farm PUD for the property. The areas of the amendment and revocation requests correspond to the total property owned by Nutrient Holdings and the total proposed Nutrient Farm PUD area. No properties owned by others in the various platted subdivisions or otherwise are included in the Riverbend PUD Amendment, Coal Ridge PUD Revocation, or the Nutrient Farm PUD requests. (Please refer to the various attached maps for location details.)

The Nutrient Farm PUD will establish a new PUD for the property revolving around a biodynamic working farm while also inviting visitors to experience agricultural, residential, recreational, and retail/commercial related activities—“agritourism.” The PUD consists of eight Development Areas—two large Working Farm areas, three residential areas, a residential/solar energy systems area, a recreational/entertainment area, and a commercial/industrial area. (A total of 18 new residential lots are proposed.) Four Private Open Space tracts backing up to the mountains—very similar to the common areas shown on the Preliminary Map, are planned. Over 608 acres, more than half the property, will be preserved as Private Open Space. The following Table 1 is from the proposed Nutrient Farm PUD Guide:

Table 1 – Development Areas, Private Open Space Tracts and General Land Uses Summary			
Area/ Tract	Name	Size¹ (Acres)	General Land Uses²
1	Residential Subdivision (5) 0.50 acre minimum lots	5.50	Agricultural/Animal Related Uses, Agritourism Residential Uses: Dwelling Units, Single-Unit
2	Residential Subdivision (1) 35.00 acres minimum lot/ Farm House Lot ³	42.14	Agricultural, Agritourism, Animal Related Uses Residential Uses: Dwelling Unit, Single-Unit
3	Residential/Solar Energy Systems (10) 0.50 acre minimum lots	9.46	Agricultural/Animal Related Uses, Agritourism Residential Uses: Dwelling Units, Single-Unit Solar Energy Systems
4	Residential Subdivision (2) 0.50 acre minimum lots	1.12	Agricultural/Animal Related Uses, Agritourism Residential Uses: Dwelling Units, Single-Unit
5	Working Farm – East/Solar Energy Systems (1) 1.00 acre minimum residential lot	73.99	Agricultural/Animal Related Uses, Agritourism Commercial Uses Residential Uses: Dwelling Unit, Single-Unit, and Dwelling Units, Bunkhouse ⁴ Solar Energy Systems
6	Working Farm – West/ Solar Energy Systems (North: 54.70 Acres) (South: 142.21Acres)	196.91	Agricultural/Animal Related Uses, Agritourism Commercial Uses Residential Uses: Dwelling Units, Bunkhouse ⁴ Solar Energy Systems
7	Commercial/Industrial Park (North: 5.45 Acres) (South: 6.86 Acres)	12.31	Agricultural/Animal Related Uses, Agritourism Commercial Uses Industrial Uses Residential Uses: Dwelling Units, On-Site Employee Housing ⁴
8	Outdoor Adventure Parks	174.39	Agricultural/Animal Related Uses, Agritourism

	(North: 6.14 Acres) (South: 168.25 Acres)		Commercial Uses Industrial Uses Public/Institutional Uses Visitor Accommodations Residential Uses: Dwelling Units, On-Site Employee Housing ⁴
A	Private Open Space	214.63	Private Open Space
B	Private Open Space	281.19	Private Open Space
C	Private Open Space	65.40	Private Open Space
D	Private Open Space	47.54	Private Open Space
County Road 335 ROW Area		11.42	Public Right-of-Way
Total Development Areas		515.82	45.4% of Total PUD Area
Total Private Open Space Tracts		608.78	53.6% of Total PUD Area
Total County Road ROW Area		11.42	1.0% of Total PUD Area
Total PUD Area		1,136.00	100% of Total PUD Area

¹ The size of each Area and Tract shown is approximate.

² The indicated General Land Uses for each Area and Tract does not specify all of the individual allowed land uses, Accessory Uses or Temporary Structures for that Area or Tract. Refer to the Nutrient Farm Land Use Table for the allowed land uses in each Area or Tract.

³ A single-family home (“Farm House”) and Accessory Uses and Structures exist.

⁴ Bunkhouses for seasonal and full time agricultural employees and On-Site Employee Housing units for employees of Nutrient Farm may be constructed in these Areas. These units are not inclusionary housing required by the LUDC nor shall any provisions of such be applied to them. All necessary applications, studies and reports shall be submitted to Garfield County for review and approval prior to the construction of any of these units including, but not limited to the provision of water and wastewater, vehicle trips, and other infrastructure improvements. No modification to this PUD Guide shall be required.

A variety of land uses and specific development standards have been proposed in the Nutrient Farm PUD Guide to foster the compatible and orderly development of Nutrient Farm so that it blends into the nearby residential development pattern and the natural landscape. Numerous public and private trails are being planned—including the LoVa Trail and trail access to the Colorado River. Over 608 acres of land will be designated as Private Open Space that will provide an important backdrop for the valley floor and serve as buffer for wildlife between the development and the nearby Bureau of Land Management (“BLM”) mountain lands.

CR 335 bisects the Nutrient Farm property and is contained within the parcels owned by Nutrient Holdings. CR 335 serves as the only paved access to the property and the nearby existing residential subdivisions. However, there is no record of its formal dedication on the property to the County for public use. Most likely, the Riverbend PUD intended its public dedication, but since that PUD was never fully developed and subdivided, the majority of CR 335 has not been dedicated to the County. An 80 foot right-of-way for CR 335 will be formally dedicated to the County in connection with the Nutrient Farm PUD via a separate document once the PUD has been approved and the dedication details are finalized in a separate agreement with the County. The LoVa Trail will be located within the right-of-way and a 25 foot public trail easement will be granted for that portion of the Trail outside of CR 335 on the eastern portion of the property to the Colorado River. Five public parking spaces for LoVa Trail users will also be constructed on the property adjacent

to CR 335. These will also be granted through a separate agreement with the County and the Town of Newcastle.

While CR 335 is the main public thoroughfare to Nutrient Farm, there is an extensive and functional series of looped roads within the property to foster inter-farm access and circulation. Multiple private streets, roads and driveways will be constructed by Nutrient Holdings to provide access to various portions of the property and its uses. An 80 foot right-of-way for CR 335 and two new 50 foot public rights-of-way will be constructed by the Owner/Developer and offered for dedication to the County to serve the new residential lots in Development Areas 1 and 3 adjacent to the Colorado River. (These roads will only be constructed/dedicated when the residential subdivisions are constructed.) The three residential lots in Development Areas 4 and 5 will take access off of the existing Riverbend Drive. All other private streets, roadways, driveways, and associated improvements in Nutrient Farm will be constructed, owned, and maintained by the Owner/Developer. No modifications or improvements to any of the existing roads in the surrounding subdivisions (i.e., land not owned by Nutrient Holdings) are planned. The proposed Nutrient Farm development has been discussed at length on several occasions with Wyatt Keesbery, County Road and Bridge Director, who opined that CR 335 is generally in satisfactory condition without needing major modifications in the near future. (Please refer to our later response in this Narrative to *7-107 Access and Roadways* for additional information on the circulation system.)

A Water Adequacy Report for Proposed Development has been prepared by SGM that analyzes the existing legal water rights, physical supply, the estimated water demands for the various uses on the property, and the proposed water systems. No County or municipal water or wastewater services are sought. Proposed Residential Areas 1, 3, and 4 have been placed near the existing Riverbend Subdivisions and are planned to connect to the Riverbend Water and Sewer Co. (“RWSC”) facilities. RB Water and Sewer Co. (“RBWS”) owns the excess capacity and excess water rights for the RWSC and both entities have indicated their capacity and willingness to serve these new 17 lots. Besides line extension, the only proposed upgrade is adding more potable storage adjacent to the existing tanks. Adding these lots to the existing system can in fact assist that system in its long term viability and operations. Invariably, the exact details of such connection to service and the final decision to connect is deferred to the point of subdivision.

Given the other proposed uses are a vast distance away from the central Riverbend systems, and are of a nature which are outside of the domestic use function of the RWSC, Nutrient Farm will develop its own internal water and waste water facilities for the rest of the uses—the Farm House in Area 2, the new residential lot in Development Area 5, the two farm areas, the Commercial/Industrial Development Area, and for all of the Outdoor Adventure Parks activities. The intent is to start with private on-site systems and then convert to public water systems as needed when required operationally. The Vulcan Ditch water supply will also serve all outdoor uses such as agricultural crop and livestock watering, landscaping, sound mitigation landscaping, open space areas, grass fields, recreational ponds, and the construction of any animal water ponds in cooperation with the Colorado Parks and Wildlife (“CPW”). A new well will be constructed to

serve the residential lot/home in the Working Farm – East, or the home may derive a water connection from the Vulcan Ditch pipeline.

Similarly, wastewater disposal systems will be provided to the various land uses within the Nutrient Farm PUD in a number of ways. Residential uses in Development Areas 1, 3, and 4 will connect to the existing RWSC facilities. The residential uses in Development Area 2 will continue to utilize a fully functional private on-site wastewater treatment systems (“OWTS”). All other uses within the remaining Development Areas will utilize individual wastewater treatment systems designed specifically for the land use they are to serve, which offer ample capacity and function to accommodate existing uses and any future expansion in scope and use. All wastewater systems will be designed per applicable County regulations and State standards, and all formal measures to ensure sewer service to the property and its development, will be provided in accordance with the Land Use and Development Code (LUDC), and all applicable State laws and regulations. (Please refer to the Central Water Distribution and Wastewater Systems Report, OWTS Engineering Report, and the Water and Sewer Plan that are included in the Nutrient Farm PUD application package for details.)

The Nutrient Farm PUD will bring back the agricultural and open space nature of the original Riverbend PUD and provide many public benefits including the dedication of CR 335 and the LoVa Trail through the property. As indicated above, over 608 acres, over half of the property, backing up to the Hogback will be preserved as open space—similar to the common area/open space areas shown on the original Preliminary Map.

As already noted, portions of the original Riverbend PUD have been developed in a manner inconsistent with the original Preliminary Map. Consequently, many amendments to the Riverbend PUD have taken place. These amendments allowed the original residential uses to be moved around in the PUD area. No County required open space minimum was found in our review of the online original Riverbend PUD documents. Thus, we believe the 25% open space requirement for the entire original PUD area mentioned in the Filing No. 5 staff report is not applicable. It was not brought up in the previous amendments for the Riverbend Ranchettes and the Coal Ridge PUD. Further, we can find no open space requirement for PUDs in the current LUDC. Rather, open space seems to be applicable to subdivision applications. Ultimately, this issue is relatively minor, as we well exceed any such threshold, but in any regard, that threshold was fundamentally inapplicable.

The LoVa Trail will be located within the proposed CR 335 right-of-way and a 25 foot public trail easement will be granted for that portion of the Trail outside of CR 335 on the eastern portion of the property and across the Colorado River. The Trail will provide an important east-west connection between New Castle and Glenwood Springs, and beyond. Five public parking spaces will also be provided on the property for trail users. The parking spaces will be constructed, owned, and maintained by Nutrient Holdings. (Again, please refer to the Nutrient Farm PUD Guide and Narrative for details.)

A total of 18 new single-family residential lots are planned. Single-family residential lots are proposed adjacent to Riverbend Filing No. 5—to the east and west in what is labeled as Commercial Lot 1 and Open Space/Agricultural Land on the original Riverbend Preliminary Map. The western area is a combination residential/solar energy system area—similar to Riverbend Filing No. 5 residential/utility area. Two lots are shown in the residential Phase III area and one lot is shown in the residential Phase V area. (The existing Farm House is located in the Phase IV area.) The proposed Western Farm/Development Area 6 is located in the same general area as the original open space/agricultural land on the Riverbend Preliminary Map, and the proposed recreational areas in Development Area 8 are located generally in the Coal Ridge PUD area. We believe the proposed Nutrient Farm PUD is very similar to the original PUD in terms of its agricultural and open space nature and there is already precedent to move the various uses around, especially with the recent Filing No. 5 PUD Amendment.

The Riverbend Preliminary Map calls for lots “1/2 acres more or less” and the various drawn subdivisions and phases show this. An analysis of the Assessor’s records and recorded subdivision plats in the original Riverbend Preliminary Map area shows a wide range of platted lot sizes:

Existing Subdivisions Within the Riverbend and Coal Ridge PUD Areas		
Subdivision	Number of Lots	Lots Sizes (Acres)
Riverbend Filing No. 1	17 SFRs	0.33 - 0.67
Riverbend Filing No. 2	29 SFRs	0.46 - 0.82
Riverbend Ranchettes	3 SFRs (3 originally. Lot C with 1 SFR re-subdivided into Cedar Ridge.)	1.73 - 2.12
Cedar Ridge Subdivision	3 SFRs (1 from Riverbend Ranchettes included. Double counted for a conservative analysis.)	3.36 - 4.54
Riverbend Filing No. 5	11 SFRs + 5 Duplex Lots (5 x 2 = 10 Lots)	0.33 - 0.41
Matthies Exemption	2 SFRs (On-site Farm Home and off-site Lake Residence.)	3.39 - 36.67
Total	65 SFRs + 10 from Duplex Lots = 75 Lots	

In order to be compatible with the nearby existing homes, all of the 18 proposed residential lots have been designated for single-family use and will be a minimum of one-half acre in size, except for the new residential lot in Development Area 5 which will be a minimum of one acre in size and the existing Farm House in Development Area 2 which will be a minimum of 35 acres in size. (Please refer to the Nutrient Farm PUD submittal package for details on the existing lots’ sizes, and proposed uses, locations, and development regulations.)

The 10 acre school parcel remains vacant. In terms of school dedication fees, Resolution No. 95-083 approving the Filing No. 5 subdivision plat required the payment of \$200 per dwelling in School Impact Fees. Similarly, all applicable school dedication fees will be paid at the time of subdivision of any land owned by Nutrient Holdings.

The proposed Nutrient Farm PUD is compatible with the nearby residential uses. We see this as an opportunity to replace a rather old and convoluted PUD that has a history of small, isolated modifications, with a comprehensive PUD that better conforms to current LUDC standards and expectations, and goes back to original farming, ranching, agricultural, and residential intent of the original Riverbend PUD and the rural mountain character of the community.

This Riverbend PUD Amendment and the accompanying Nutrient Farm PUD request meets multiple visions, issues, goals, policies, and strategies of the Comprehensive Plan's ten Plan Elements and is consistent with the efficient development and the preservation of the character of the original Riverbend development. Nutrient Farm, as a mixed-use community revolving around a working farm, will help preserve agricultural land and the rural mountain character that has been identified as important community attributes, while also helping to diversify the economy. Stable seasonal and year-round jobs in the agricultural, tourism, and commercial areas will be created. In addition to the new jobs, new lots/homes will be located within Nutrient Farm.

The Nutrient Farm PUD does not increase the original Riverbend residential density and provides many public benefits—over 608 acres (over 50%) of Private Open Space, the dedication of CR 335, and public easements for the LoVa trail and five recreational parking spaces. The proposed Nutrient Farm PUD meets the PUD Review Criteria of section 6-202(C) well. (Please see the specific responses to the criteria later in this Narrative.) The PUD will be compatible with the nearby existing uses and not affect in a substantially adverse manner the enjoyment of land abutting upon or across the street from the PUD, the public interest, and will not grant any special benefits to any person. Similar to the Riverbend and Coal Ridge PUDs, the Nutrient Farm PUD will contain a mix of uses—including residential, open space/agricultural, and commercial. As mentioned before, this proposed amendment to the Riverbend PUD only affects the remaining unsubdivided properties of the PUD owned by Nutrient Holdings. No land owned by others is included.

E. LEGAL DESCRIPTION

The Nutrient Holdings property consists of four parcels, Parcels A, B, C, and D, containing approximately 1,136 acres. The legal description of this property came directly from the title commitments prepared by Commonwealth Title Company of Garfield County, Inc. The original title commitment Filing No. 1805028 was amended to reflect a price change, buyer/owner name change, include hyperlinks, new dates, correct punctuation and spacing in the legal description, etc. According to our surveyor, none of these edits impacted the boundaries of the property. An updated title commitment has been prepared by Commonwealth Title Company of Garfield County Filing No. 2103068 and included in this application package. Again, the legal description of the property has not changed from the original title commitment to this most recent one.

The title commitment's legal description was utilized for the Special Warranty Deed conveying the property from NCIG Financial, Inc. to APB Holdings LLC—the Owner/Developer's initial property holdings company on November 9, 2018 (Reception No. 913980). For business reasons, APB Holdings LLC subsequently conveyed the property to Nutrient Holdings LLC on January 28, 2021 via another Special Warranty Deed (Reception No. 949446). The Water and Mineral Rights were also conveyed in a similar manner through a series of accompanying special warranty deeds. Nutrient Holdings LLC is the Owner/Developer of Nutrient Farm and is the applicant of this Riverbend PUD Amendment, the accompanying Coal Ridge PUD Revocation, and the Nutrient Farm PUD requests. (Copies of the updated title commitment and the warranty deeds are attached.)

Exhibit A of the current title report identifies the property to be conveyed in the four parcels—each with its metes and bounds legal description. The legal descriptions specifically exclude a few areas from Parcels A and C, and from Parcel B, such as the Amended Lake parcel, the existing Riverbend Subdivisions Filing Nos. 1 and 2, the Riverbend Ranchettes, the school site, Riverbend Filing No. 5, and the Cedar Ridge Subdivision. For instance, under Parcel B, the title report states:

EXCEPTING FROM THE ABOVE DESCRIBED LANDS the following:

- 1. All that portion platted as Riverbend Subdivision Filing No. 1 as shown on Reception No. 281326*
 - 2. All that portion platted as Riverbend Subdivision Filing No. 2 as amended as shown on Reception No. 281329 and No. 299710*
 - 3. All that portion platted as Riverbend Ranchettes Final Plat as shown on Reception No. 290481*
 - 4. All that portion conveyed to the Board of County Commissioners of Garfield County, Colorado, by Deed recorded August 31, 1979 in Book 534 at Page 416 as Reception No. 297140*
 - 5. All that portion platted as Riverbend Subdivision Filing No. 5 as shown on Reception No. 517550*
 - 6. All that portion platted as Cedar Ridge Subdivision as shown on Reception No. 501840*
 - 7. All those portions described as Parcel No. 143; Parcel No. 143-A; and Parcel No. 143-B in the Rule and Order of the Garfield County District Court in Civil Action No. 6635 and recorded in Book 437 at Page 383 as Reception No. 255941*
 - 8. All that portion of the lands described in the deeds recorded in Book 906 at Page 790 as Reception No. 464984, Book 863 at Page 424 as Reception no. 447796, and Book 1712 at Page 990 as Reception No. 679354.*
- All as recorded in the office of the Clerk and Recorder of Garfield County, Colorado.*

A survey prepared by Sopris Engineering was also obtained by APB Holdings during the sale of the property. The survey is titled “NCIG Ranch Parcel” and its Notes indicate that it relied on the original title commitment File No. 1805028. Sheet 1 of the survey contains the title commitment’s legal descriptions and sheet 2 contains its exceptions as noted above.

For illustration, Sheet 1 contains a map of the property and a legend in the lower left-hand corner that specifies the title commitment’s legal description for each Parcel A, B, C, and D, as well as its exceptions. Sheet 4 contains a boundary map with notes and calls illustrating the conveyed property. It can be seen that the various existing Riverbend developments—Riverbend Subdivision Filing Nos. 1 and 2, Riverbend Ranchettes, Cedar Ridge Subdivision, Riverbend Filing No. 5 Subdivision, and the Lake Parcel (Lot 2 of the original Matthies Exemption), as well as the 10 acre RE-2 School Site, are not included in the Nutrient Holdings property and consequently, not contained in the proposed Riverbend PUD Amendment, Coal Ridge Revocation, or Nutrient Farm PUD requests. The title commitment and this survey were utilized by SGM to prepare the Nutrient Farm PUD legal description, Development Plan Map, and all the other proposed maps and documents in these requests. All shown SGM map boundary areas match the Commonwealth Title Company title commitments legal descriptions and the Sopris Engineering survey. (A copy of the Sopris Engineering survey, the SGM Nutrient Farm PUD legal description, the Nutrient Farm PUD Plan Map, and a legal description of the proposed Riverbend PUD Amendment area have also been included for reference.)

According to the Assessor’s records, the Parcel ID Numbers for the property are: 2123-344-00-005; 2123-344-00-007; 2123-353-00-081; 2183-053-00-086; and 2183-061-00-057. Per our surveyor’s research, for reasons he was unable to determine, these parcels were combined and re-organized into Parcels A, B, C, and D in the property’s legal description of the title commitment prior to Nutrient Holdings acquiring the property. The following shows how each Assessor Parcel ID Number relates to the title commitment and warranty deeds:

- Assessor Parcel ID Number 2123-344-00-005 is part of Parcel B;
- Assessor Parcel ID Number 2123-344-00-007 is part of Parcel B;
- Assessor Parcel ID Number 2123-353-00-081 is all of Parcel A and part of Parcel B;
- Assessor Parcel ID Number 2183-053-00-086 is all and only Parcel D; and
- Assessor Parcel ID Number 2183-061-00-057 is all of Parcel C and part of Parcel B.

A map has been provided illustrating the location of the various Assessor Parcel ID numbers on the Nutrient Holding property and the location of the Riverbend PUD Amendment and the Coal Ridge Revocation areas. Thus, the Riverbend PUD area consists of Parcel ID Numbers 2123-344-00-005, 2123-344-00-007, 2123-353-00-081, and portions of 2183-053-00-086 and 2183-061-00-057 which also contain the Coal Ridge PUD area since the Coal Ridge PUD area was never formally subdivided.

F. PLANNED UNIT DEVELOPMENT REVIEW CRITERIA SECTION 6-202.C.1.-5.

Per section 6-202.C.1.-5. of the LUDC, five criteria have been established which must be met in order for a PUD zoning request to be approved. The criteria are meant to ensure development is appropriate, compatible, and not harmful to the public health, safety, and welfare. We believe the proposed Riverbend PUD Amendment to redact the Riverbend land area in specified sections to be replaced by the Nutrient Farm PUD meets the criteria well and will be a benefit to the Garfield County community. This very same section 6-202.C. review criteria is required for the proposed Nutrient Farm PUD per the LUDC and Pre-Application Conference Summary given to us. Each of the following review criteria of section 6-202.C. has been discussed below and further details are contained in the accompanying Nutrient Farm PUD application's Narrative and attachments. We ask that you please refer to the Nutrient Farm PUD application package for additional information contained in the proposed Nutrient Farm PUD Narrative, PUD Guide, Plan Map, Impact Analysis, and the many additional maps and technical reports.

- 1. Purpose and Applicability. The PUD meets the purpose and applicability of this Code, as provided in section 6-101.A. and B.*
- 2. Development Standards. The PUD meets the Development Standards as provided in section 6-401.*
- 3. Standards, Article 7. The PUD meets the standards within Article 7, Division 1, excluding 7-101.*
- 4. Rezoning Criteria. The PUD meets the Rezoning Review Criteria in section 4-113.C.*
- 5. Established Zoning Standards. The PUD Plan adequately establishes uses and standards governing the development, density, and intensity of land use by means of dimensional or other standards.*

1. Purpose and Applicability. The PUD meets the purpose and applicability of this Code, as provided in section 6-101.A. and B.

The proposed Riverbend PUD Amendment to allow for the Nutrient Farm PUD implementation meets the purpose, intent, and applicability of PUD zoning as provided in sections 6-101.A. and B. of the LUDC. The intent of PUD zoning per the LUDC is to encourage innovation and flexibility in the planning and design of land so that the development is compatible with its surroundings. Section 6-101.B. also states that any single parcel of land or contiguous parcels of land comprising a minimum of two acres is eligible for PUD zoning. The proposed PUD Amendment area and the Nutrient Farm PUD area are well over the two acre minimum size requirement.

The proposed Nutrient Farm PUD seeks to establish a new PUD for the property revolving around a biodynamic working farm with agricultural, residential, outdoor recreational/entertainment and commercial/industrial tourist activities. A variety of land uses and specific development standards have been proposed in the PUD Guide to foster the

compatible and orderly development of Nutrient Farm so that it blends into the nearby residential development pattern and the natural landscape.

The existing Coal Ridge PUD will be formally vacated and the Riverbend PUD modified to allow for the proposed Nutrient Farm PUD. These somewhat antiquated and anachronistic PUD Guide will be replaced by the Nutrient Farm PUD Guide. This new PUD is less impactful and intensive in terms of the scope and nature of development. Nutrient Farm is also much more compatible with the nearby residential uses than what is currently allowed. We see this as an opportunity to replace a rather old and convoluted PUD that has a history of small, isolated modifications, with a comprehensive PUD that better conforms to current LUDC standards and expectations and goes back to original agricultural and residential intent of the original Riverbend PUD and the rural mountain character of the community.

2. Development Standards. The PUD meets the Development Standard as provided in section 6-401.

The 6-401. DEVELOPMENT STANDARDS include:

- A. Permitted Uses*
- B. Off-Street Parking*
- C. Density*
- D. Housing Types*
- E. Transportation and Circulation*
- F. Recreational Amenities*
- G. Building Height*
- H. Lots*
- I. Phasing*

A number of specific development standards must be contained within the proposed PUD Plan Guide. These include those listed under PUD Plan Guide (6-302.A.4.a.-d.) as well as the Development Standards contained in 6-401.A.-I. Section 6-401.A.-I. lists the Development Standards which must be met at the time of PUD zoning and allows the applicant to request, and the BOCC to grant, a modification to any of the specific standards or requirements which the land would otherwise be subject to if it is demonstrated that the proposed regulations and standards would support the purpose of the PUD.

We believe the proposed Riverbend PUD Amendment, in unison with the Nutrient Farm PUD, meet the purpose and intent of the LUDC well. The Nutrient Farm PUD Guide provides appropriate and reasonable development standards; is reflective of the LUDC in terms of its structure, form, and content, and in fact even incorporates the existing LUDC land uses, definitions, standards, and requirements whenever viable; and it builds upon and expands the various provisions of the LUDC with specificity tailored to the unique agricultural, residential, recreational, and retail/commercial related activities on Nutrient Farm. The proposed

departures are sought in order to create a cohesive development. Additional standards have also been included related to a variety of specific uses such as Solar Energy Systems, sound standards, and Nutrient Farm Events—again, in order to ensure the orderly development and compatibility of Nutrient Farm with its surroundings. (Please refer to the earlier Nutrient Farm Planned Unit Development (PUD) Request discussion for details on the various development standards contained in the PUD Guide and the Nutrient Farm PUD Narrative and PUD Guide itself.)

3. Standards, Article 7. The PUD meets the standards within Article 7, Division 1, excluding 7-101.

Article 7, Division 1 contains the General Approval Standards for all proposed Land Use Changes, unless a use is specifically exempted from the standards elsewhere in the LUDC. They are:

Division 1. General Approval Standards

- 7-101. Zone District use Regulations*
- 7-102. Comprehensive Plan and Intergovernmental Agreements*
- 7-103. Compatibility*
- 7-104. Source of Water*
- 7-105. Central Water Distribution and Wastewater Systems*
- 7-106. Public Utilities*
- 7-107. Access and Roadways*
- 7-108. Use of Land Subject to Natural Hazards*
- 7-109. Fire Protection*

These General Approval Standards are also required for the Nutrient Farm PUD submittal requirements and have been discussed in the Nutrient Farm PUD Narrative in depth. However, for ease of reference, each Article 7, Division 1 Standard has been listed below and responses have been provided. If the criteria has already been addressed elsewhere, information on where to find the response has been provided.

7-102. Comprehensive Plan and Intergovernmental Agreements

The proposed PUD Amendment for the Nutrient Farm PUD is in general conformance with the Comprehensive Plan 2030. It meets numerous vision statements, needs, goals, policies, and strategies/actions identified in the Comprehensive Plan 2030's ten Plan Elements. Each of the ten Plan Elements have been analyzed in detail in the Nutrient Farm PUD Narrative. We respectfully ask that the Narrative be referred to for details.

The Nutrient Farm PUD is a mixed-use community revolving around a working farm with agricultural, residential, and tourist-oriented education, recreational, and commercial activities. With its unique focus on sustainable organic and biodynamic farming practices,

Nutrient Farm will help preserve agricultural land and the rural mountain character of the Colorado River Valley that have been identified as important community qualities, while also helping to diversify the economy. Stable seasonal and year-round jobs in the agricultural, tourism, and retail/commercial areas related to the same will be created. In addition to the new jobs, single-family residential lots, ADUs and on-site employee housing/bunkhouses will be created within Nutrient Farm.

As far as we can surmise, Nutrient Farm will be the first operation of this nature in the area, and thus will help diversify the County's economy, provide a variety of on-site housing options, and offer numerous public and private recreational opportunities to the County's residents and guests. Nutrient Farm's agricultural practices, energy systems, and utilities will be sensitive to the land with its sustainable ecological practices, and thereby offer a unique attraction promoting healthy agricultural, educational, and recreational and commercial related amenities—"agritourism." With opportunities to play and connect in an outdoor agricultural environment, Nutrient Farm will help to improve the overall quality of life for its residents and guests. Nutrient Farm will provide local families and guests a chance to visit a working farm and engage in its activities. Healthy food and recreational options—a restaurant, Farm Store, Health and Wellness Retreat, spa, arts, and entertainment will be provided. Nutrient Farm will be a benefit to the entire County.

In terms of the development pattern, the Nutrient Farm area is essentially an infill development that still remains compatible with the nearby undeveloped areas as well. Visual corridors will be preserved, impacts of development will be abated and mitigated significantly, and the historical agricultural use of the area will be well preserved. The new agricultural mixed-use PUD is a much more compatible and sensitive development than that which is currently allowed. Implementing this change will remove the potential for highly impactful industrial uses in an area that is not best suited for it, given its rural feel, adjacent residential uses, and the Colorado River literally running on the property.

Thus, the Nutrient Farm PUD addresses many of the visions, issues, goals, policies, and strategies/actions identified in the Comprehensive Plan's ten Plan Elements. Each of the ten Plan Elements' goals, policies, and strategies/actions have been discussed at length in the Nutrient Farm PUD Narrative. Please see the Narrative's response to *Explanation of how the PUD is in general conformance with the Comprehensive Plan* for details.

7-103. Compatibility

As discussed throughout the Nutrient Farm PUD Narrative, Nutrient Farm is far more compatible in nature, scale, and intensity with the surrounding land uses and the natural landscape than the allowances and guidance of the existing Riverbend and Coal Ridge PUDs in the areas to be affected by the Nutrient Farm PUD.

Nutrient Farm is an infill project on land that has been contemplated and approved for intensive residential and industrial development since the early 1970's. It is located to the south and west of the Colorado River and backs up the steep slopes of Coal Ridge and the nearby BLM lands. CR 335 bisects the property, and pockets of residential subdivisions (single-family and duplex lots) are located adjacent to the property. (These residential subdivisions are on land that was originally part of the overall Riverbend PUD area.) To the south and west lie private lands which are zoned Rural and are currently being used as grazing land/meadow hay fields/agricultural according to the Assessor's records. One single-family ranch home exists to the south on one of these properties.

The Coal Ridge PUD will be vacated, and the Riverbend PUD amended and replaced with the proposed Nutrient Farm agricultural mixed-use PUD. (Please see the later response to 7-301 *Compatible Design* for details on the layout and location of the uses in Nutrient Farm.) We believe the 18 new residential lots and enclosed and open-air uses are rather modest in relation to the roughly 1,136 acre property, and the very intensive scope of presently allowed uses on the property. The Nutrient Farm PUD complies with the existing density of the Riverbend and Coal Ridge PUDs, as well as the LUDC and the Comprehensive Plan. We believe the proposed Nutrient Farm PUD contains an appropriate level of development for the property, and is much more compatible, sensitive, and less intense than which is currently allowed under the two existing PUDs. (Besides the below response to 7-301 *Compatibility Design*, please also see the Nutrient Farm PUD Narrative's response to *Relationship of the proposed PUD development to the existing land uses and adjacent property land uses; Method and calculation used to determine overall project and specific use type densities*; and the Nutrient Farm PUD Plan Guide and PUD Plan Map for more information.)

7-104. Source of Water (Including reference to 4-203.M Water Supply.); and
7-105. Central Water Distribution and Wastewater Systems

Water

As noted earlier, a Water Adequacy Report for Proposed Development has been prepared that analyzes the existing legal water rights, physical supply, the estimated water demands for the various uses on the property, and the proposed water systems. (Please refer to the Nutrient Farm PUD application package for copies of the Water Adequacy Report and the existing water rights for details.) No County or municipal water or wastewater services are sought. Ultimately, in terms of revocation of the Riverbend PUD, nothing now proposed will in any substantive way negatively affect the water supply related to the Riverbend homes in any manner.

Proposed Residential Areas 1, 3, and 4 and are planned to connect to the Riverbend facilities. The RWSC currently serves the nearby Riverbend homes, and has a complete water treatment, distribution and storage system in place that is already permitted as a public water supply. RBWS owns the excess capacity and excess water rights for the

RWSC. RBWS and RWSC have indicated capacity and willingness for Nutrient Farm to connect to the systems and have written a Will Serve Letter indicating this.

The RWSC will provide all indoor and outdoor water use to these Areas through their potable water system. Initial assessment of the RBWS and RWSC water rights show that it has sufficient water to supply the 17 lots in Areas 1, 3, and 4. Adding these lots to the existing system can in fact assist that system in its long term viability and operations. (I.e., Besides line extension, the only proposed upgrade is adding more potable storage adjacent to the existing tanks.) Invariably, the exact details of such connection to service and the final decision to connect is deferred to the point of subdivision.

Given the other proposed uses are a vast distance away from the central Riverbend systems and are of a nature which are outside of the domestic use function of the RWSC, Nutrient Farm will develop its own internal water and waste water facilities for the rest of the uses—the Farm House in Area 2, the new residential lot in Development Area 5, the two farm areas, the Commercial/Industrial Development Area, and for all of the Outdoor Adventure Parks activities.

Water rights to the Vulcan Ditch and the Coal Ridge Pump and Pipeline were included in the purchase of the Nutrient Farm property. These considerable water rights allow for year-round municipal, commercial, industrial, domestic, sewage treatment, irrigation, recreational, fish wildlife propagation, and “...all other beneficial purposes, including storage for each of the above purposes.” (Water Adequacy Report, page 18.) The Vulcan Ditch has historically provided irrigation water to the property from Canyon Creek and will continue to do so. Surface water from the Vulcan Ditch will be routed to settling ponds, and then filtered and treated to supply potable water to the existing Farm House in Area 2, to the Working Farms, and to the recreational and commercial/industrial activities in Development Areas 7 and 8. Generally, the water will be filtered and sanitized using state-of-the-art natural and holistic methods including sediment, ion-exchange, charcoal, reverse-osmosis, distillation, ozone and ultraviolet. No sodium fluoride silicofluorides, hydrofluorosilicic acid, sodium fluorosilicate or other forms of fluoride will be added to the water systems. The ultimate water systems’ design and treatment requirements will depend on the water systems’ designation—public or private for the various uses, and inevitably all local and State required drinking water and water quality and quantity standards will be followed and exceeded.

The intent is to start with private on-site systems and then convert to public water systems as needed when required operationally. The Vulcan Ditch water supply will also serve all outdoor uses such as agricultural crop and livestock watering, landscaping, sound mitigation landscaping, open space areas, grass fields, recreational ponds, and the construction of any animal water ponds in cooperation with CPW. A new well will be constructed to serve the residential lot/home in the Working Farm – East, or the home may derive a water connection from the Vulcan Ditch pipeline.

Full buildout demands and consumptive use (annual consumption, average day demand, maximum day demand, peak hour demand, etc.) for Nutrient Farm were calculated per

LUDC section 4-203.M. and provided in the Water Adequacy Report. The legal supply and physical supply of water from the Vulcan Ditch and the RWSC system were analyzed in relation to the proposed uses and found to be sufficient. The Water Adequacy Report states, “Legal supply is discussed for the Vulcan Ditch and for the Riverbend system. Based on a comparison of the Farm’s water rights to anticipated demands and consumptive use, the Farm’s legal supply is sufficient.” (Water Adequacy Report, page 18.) “Physical water supply is discussed for each of the two proposed sources: the Vulcan Ditch which will serve Areas 2, 5, 6, 7 and 8, and the Riverbend System which will serve Areas 1, 3, and 4. Based on the analysis of stream flow, the Farm’s Vulcan Ditch physical supply can support anticipated demands. Based on the analysis of stream flow and hydrogeology near the Riverbend Wells, there is sufficient supply to support the additional demands to the Riverbend System from Areas 1, 3, and 4.” (Water Adequacy Report, page 21.)

The peak hour demand for the Farm during irrigation season is estimated, based on County peaking factors, at 8.7 cfs, which includes non-potable demand for farm irrigation operations, and thus fully within the scope of the Farm’s legal ownership of 8.93 cfs in the Vulcan Ditch. The peak hour demand on the Farm’s potable system for Areas 2 and 5–8 is estimated at 0.24 cfs. The Farm’s potable treatment, storage and distribution systems will be designed to accommodate this peak hour demand. (Water Adequacy Report, page 28; and described fully in the Central Water and Distribution and Wastewater Systems Report. For further details, please also see the OWTS Engineering Report, and the Water and Sewer Plan that have also been included in the Riverbend PUD submittal package.))

Wastewater

Similarly, wastewater disposal systems will be provided to the various land uses within the Nutrient Farm PUD in a number of ways. Residential uses in Development Areas 1, 3, and 4 will connect to the existing RWSC facilities. The residential uses in Development Area 2 will continue to utilize a fully functional private OWTS. All other uses within the remaining Development Areas will utilize individual wastewater treatment systems designed specifically for the land use they are to serve, which offer ample capacity and function to accommodate existing uses and any future expansion in scope and use. All wastewater systems will be designed per applicable County regulations and state standards, and all formal measures to ensure sewer service to the property and its development will be provided in accordance with the LUDC, and all applicable State laws and regulations. (Again, please refer to the Central Water Distribution and Wastewater Systems Report, OWTS Engineering Report, and the Water and Sewer Plan for details.)

7-106. Public Utilities

Adequate utilities for Nutrient Farm are available and can be provided in a variety of ways—including connections to nearby existing conventional energy systems and the construction of multiple new private renewable energy systems. Connections will be based on the location and the power needs of the individual uses. No utility plans and no redaction of land area from the Riverbend PUD will in any manner impact the existing utilities and infrastructure for the existing and developed Riverbend areas that will remain.

For instance, the existing Farm House utilizes a pellet stove for heat and Xcel Energy provides electricity. The new residences and any of their associated ADUs may also use individual propane tanks/systems and electricity from Xcel Energy. (A letter from Xcel Energy has been provided in the Nutrient Farm PUD package indicating their ability and willingness to serve the new homes.) All new conventional utilities will be located and installed in accordance with the applicable utility providers' requirements and those of the LUDC. All other uses in the Development Areas will be served by multiple private renewable energy systems constructed on the property specifically designed to serve them. These include solar electric, solar thermal, geothermal, wind, and hydro-electric energy systems. In addition, each single-family home/lot will be able to construct its own Accessory Solar System per the terms of the Nutrient Farm PUD Guide.

7-107. Access and Roadways

Nutrient Farm is located south of I-70 and the Colorado River, between Glenwood Springs and New Castle. CR 335 bisects the property and connects to I-70 via Bruce Road/Exit 105. CR 335 is the only paved access to the property and also serves the surrounding Riverbend residential subdivisions. However, there is no record of its formal dedication to the County as a right-of-way within the Nutrient Holdings property boundaries. We realize that CR 335 was shown on the original 1976 Preliminary Map of Riverbend, however, since Riverbend was not fully developed/platted as planned, this portion of CR 335 was never dedicated. The location of existing CR 335 lies within a historic, no longer utilized, and for all practical intents abandoned, 80 foot wide Cattle Drive Easement. The same easement alignment was subsequently dedicated, and accepted by the County, as an 80 foot wide right-of-way within the platted Riverbend Subdivision filings. That easement acceptance reflects the County's take on the predominant nature of the right-of-way easement. In complement to the already aligned and dedicated easement for CR 335 discussed above, per the amendment to the Riverbend PUD to allow for the Nutrient Farm PUD, an 80 foot right-of-way corresponding to the historic Cattle Drive Easement for CR 335 and the existing CR 335 dedication, for the stretch within the property, is shown on the PUD Plan Map. This right-of-way will be dedicated to the County, in a similar fashion to the LoVa Trail, after approval of the Riverbend PUD Amendment and the Nutrient Farm PUD via a separate dedication agreement process, and all respective obligations and understandings of the parties reflected therein. As discussed below, CR 335 will continue to be maintained by the County, and no improvements to CR 335 are assumed by the Owner/Developer at this time.

The dedication of this further stretch of 335, and the LoVa trail, will serve as an existing benefit to the properties that will remain in the Riverbend PUD. Thus, the partial redaction of the Riverbend PUD for the Nutrient PUD will not only preserve existing access, but it will also improve and enhance it. For further analysis of the access and circulation system and benefits associated with the Nutrient Farm PUD, we would respectfully point to our

earlier discussion under the Nutrient Farm Planned Unit Development (PUD) request and the Nutrient Farm Narrative and the elaborate discussion regarding access therein.

7-108. Use of Land Subject to Natural Hazards

The Nutrient Holdings property, including the Riverbend PUD Amendment area, is located on a benched area between the Colorado River and the steep slopes of the Grand Hogback. Vegetation on the property is sparse, but diverse. The majority of the property, including the areas proposed for development with the Nutrient Farm PUD, is dominated by grazed and dryland pasture areas. The Vulcan Ditch traverses the southern part of the property and carries water to these pasture areas. Sagebrush shrublands cover the land as it rises to the south, and pinyon-junipers and mixed mountain shrublands dominate the steep slopes above them. The north and east edges of the property abut the Colorado River. Two minor natural drainages cross the property from south to north, draining from the mountains into the Colorado River. These are ephemeral drainages and with no notable wetland or riparian characteristics. The area of the property immediately adjacent to the Colorado River contains sparse and discontinuous wetland/riparian vegetation on its banks. No wetlands extend beyond the immediate vicinity of the Colorado River.

An Impact Analysis Report for Nutrient Farm (“Report”) was included in the Nutrient Farm PUD submittal package and details the property’s physical features including its topography, water bodies, vegetative cover, soil characteristics, geology, and other existing conditions. The Report includes an inventory and evaluation of the native vegetation and wildlife habitat potential on the property—including aquatic species use of the Colorado River. In addition, a Soils and Geohazards Evaluation has been prepared by RJ Engineering and Consulting, a Slope Analysis, a Weed Management Plan, and a Reclamation Plans for the Vulcan Ditch improvements and the Nutrient Farm PUD property have been prepared by SGM and included in the Nutrient Farm PUD submittal package. (Please refer to those documents for details.)

Ultimately, in terms of partial revocation of the Riverbend PUD, nothing now proposed will in any substantive way affect any natural hazard issues related to the Riverbend PUD in any manner. In fact, the Nutrient PUD has much more extensive provisions protecting against uses and development on any natural hazards, such as steel slopes, flood areas, etc. It is also premised upon extensive reports and analyses that have been recently prepared for the Nutrient Farm PUD and are in fact incorporated into the PUD Guide itself. In contrast, the Riverbend PUD, with its rather ambiguous and amorphous guidance, fails to extensively address any of these issues.

7-109. Fire Protection

Nutrient Farm is located within the Colorado River Fire Rescue (“CRFR”) jurisdiction. All development on the property will meet all fire protection requirements of the CRFR

and comply with wildfire hazard mitigation/defensible space requirements of the CRFR at the time of building permit for each individual building or structure. Wildfire mitigation strategies are encouraged for all construction and development within Nutrient Farm. This is exactly the same standards that the Riverbend PUD area is subject to, but now the application of such standards will also be codified into the new Nutrient Farm PUD Guide, while it never was for the original Riverbend PUD. Thus, redacting Riverbend is beneficial.

4. Rezoning Criteria. The PUD meets the Rezoning Review Criteria in section 4-113.C.

Section 4-113.C. of the LUDC contains the four criteria that must be met in order for a rezoning request to be approved. This same criteria are required for the Nutrient Farm PUD. We believe the Nutrient Farm PUD meets this criteria well and have elaborated on each of the criteria below. We ask that the Nutrient Farm PUD Narrative be also referred to for additional details.

C. Review Criteria

An application for rezoning shall demonstrate that the following criteria has been met:

- 1. The proposed rezoning would result in a logical and orderly development pattern and would not constitute spot zoning;*
- 2. The area to which the proposed rezoning would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area;*
- 3. The proposed rezoning addresses a demonstrated community need with respect to facilities, services or housing; and*
- 4. The proposed rezoning is in general conformance with the Comprehensive Plan and in compliance with any applicable intergovernmental agreement.*

1. The proposed rezoning would result in a logical and orderly development pattern and would not constitute spot zoning;

As noted before, various portions of the original 1,180.83 acre Riverbend PUD were developed as planned with single-family subdivisions by the initial owner/developer, while other portions were sold off and developed by others. Per Assessor's records and plats, 75 residential lots have been platted in the original Riverbend PUD boundaries since the Riverbend PUD was approved.

Nutrient Farm consists of eight Development Areas and four Private areas Open Space Tracts. As shown on the Nutrient Farm PUD Plan Map, the heart of Nutrient Farm, and the majority of the flat land, will be the Working Farms – East and West. The proposed Nutrient Farm PUD is much more compatible with the nearby residential uses and the original intent of the Riverbend PUD than the coal mine and heavy industrial uses allowed under the Coal Ridge PUD. We see this as an opportunity to replace two rather old and convoluted PUDs with a comprehensive PUD that better conforms to current LUDC standards and expectations and brings back the agricultural and residential intent of the

original Riverbend PUD. Thus, the proposed Nutrient Farm PUD area is a much more sensitive and logical development pattern for the property.

2. The area to which the proposed rezoning would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area;

The Riverbend PUD area has been planned for development for almost 50 years and has been developed to varying degrees through numerous PUD Amendments and subdivisions. The nearby existing residential subdivisions are on land that was originally part of the overall Riverbend PUD. As mentioned above, the PUD has been amended many times to accommodate the relocated residential uses and their associated subdivisions, and the new mining uses of the Coal Ridge PUD. For instance, the original Riverbend Preliminary Map did not contemplate any residential lots where the Filing No. 5 Subdivision is located, and the Cedar Ridge Subdivision encompasses the original shown stable area. The Riverbend was also modified in 1984 to allow for the Coal Ridge PUD. The Coal Ridge PUD altered the western 292 acres of the Riverbend PUD designated as Open Space/Agricultural Land and some of the future residential areas near the mountains to allow for a coal mine and other heavy industrial uses.

The Nutrient Holdings property proposed for rezoning includes portions of the remaining unsubdivided Riverbend PUD area and the entire Coal Ridge PUD area. We believe it would be in public's best interest to vacate all of the Coal Ridge PUD and amend the remaining portions of the Riverbend PUD and replace them with the Nutrient Farm PUD. Nutrient Farm has been carefully designed to be compatible in use and intensity with the nearby residential homes and minimize any potential impacts. The PUD will bring back the agricultural and residential aspects of the property that were originally envisioned with the Riverbend PUD and help preserve the rural mountain character of Garfield County.

3. The proposed rezoning addresses a demonstrated community need with respect to facilities, services or housing; and

We believe that Nutrient Farm will be an asset to Garfield County as it addresses many of the community's concerns brought up during the Comprehensive Plan 2030 Update. Nutrient Farm is a mixed-use community focused on its biodynamic working farm areas with agricultural, residential, and related recreational/entertainment and commercial/industrial activities. No heavy industrial uses from the existing Coal Ridge PUD are sought, rather commercial and light industrial uses such as a contractor's yard, storage and a sewage treatment facility are proposed. A restaurant serving healthy grown and raised products from Nutrient Farm and other local sources, agricultural processing buildings, and solar systems are planned to power the Nutrient Farm community are planned. Many private and public trails will be located throughout the property.

Nutrient Farm will help to bring back agricultural land and preserve the rural character of the Colorado River Valley that have been identified as important community attributes. Not only will the rural character of the community be protected and enhanced, but also the County's recreational and open space opportunities through the construction of the LoVa Trail and other private trails on the property. In addition, over 608 acres of Private Open Space, which is more than half of the proposed PUD area, will be preserved. Nutrient Farm also will help diversify the economy by providing stable seasonal and year-round jobs in the agricultural, retail/commercial, and tourism areas as opposed to the energy industry which depends upon a finite resource. In addition to the new jobs, employee housing and 18 new residential lots will be created within Nutrient Farm.

Thus, Nutrient Farm addresses many community needs—preserving agricultural land, diversifying the economy with additional jobs revolving around its biodynamic Working Farm areas, providing housing options, and enhancing recreational and open space opportunities for the public with the LoVa Trail and multiple private trails on the property. Nutrient Farm will bring back agriculture and the rural feeling of the Valley. In quite stark contrast, the Riverbend PUD was far more myopic and limited in nature. There are really no significant public benefits or public amenities provided through that PUD and the development related thereto.

4. The proposed rezoning is in general conformance with the Comprehensive Plan and in compliance with any applicable intergovernmental agreement.

As mentioned above in response to 7-102. *Comprehensive Plan and Intergovernmental Agreements*, the proposed Riverbend PUD Amendment to allow for the Nutrient Farm PUD is in general conformance with the Comprehensive Plan. The Nutrient Farm PUD meets numerous vision statements, goals, policies, and strategies/actions identified in the Comprehensive Plan's ten Plan Elements. We ask that that response be referred to again along with the Nutrient Farm PUD Narrative which includes a detailed analysis of each of the Comprehensive Plan's ten Plan Elements in relation to the Nutrient Farm PUD request.

Conclusion to Rezoning Criteria (4-113.C.1.-4)

PUD Zoning – Review Criteria 6-202.C.1.-5. requires a PUD request to meet the Rezoning Criteria of section 4-113.C.1.-4. of the LUDC. This same criteria is also required to be addressed in the Rezoning Justification Report (4-203.H.) that was submitted as part of the Nutrient Farm PUD application package. We believe that the Nutrient Farm PUD request readily meets, and in fact thoroughly exceeds, the expectations set forth in these criteria for the reasons set forth above.

5. Established Zoning Standards

The last PUD Zoning Review Criteria of 6-202.C.1.-5. requires finding that the proposed PUD establishes dimensional and other development standards governing the future uses and development of the PUD. It states:

5. *Established Zoning Standards. The PUD Plan adequately establishes uses and standards governing the development, density, and intensity of land use by means of dimensional or other standards.*

The Nutrient Farm PUD Pre-Application Conference Summary requests further information by stating:

- *Please respond directly to the Development Standards in Section 6-401.*
- *Please respond directly to the Standards identified in Article 7, Division 3, Site Planning and Development Standards.*

As mentioned before, the Nutrient Farm PUD Guide has been specifically tailored to fit the unique agricultural nature of Nutrient Farm, to foster its compatible and orderly development, and ensure that it blends in with the nearby residential development pattern and the natural landscape. The following specific Development Standards contained in section 6-401. and the Site Planning and Development Standards of Article 7, Division 3 are all squarely addressed in the Nutrient Farm PUD Guide. The PUD Guide is reflective of the LUDC in terms of its structure, form, and content, and in fact even incorporates the existing LUDC land uses, definitions, standards, and requirements whenever viable, with minor modifications to such terms when necessary to tailor the PUD terms to the actual circumstances anticipated in the Nutrient Farm community. Additional standards have also been included related to a variety of specific uses such as solar systems, sound standards, and Nutrient Farm Events—again, in order to ensure the orderly development and compatibility of Nutrient Farm with its surroundings. Please refer to the Nutrient Farm PUD Guide and the Nutrient Farm PUD Narrative for the various development standards.

Section 6-401. Development Standards include:

6-401. DEVELOPMENT STANDARDS

- A. Permitted Uses*
- B. Off-Street Parking*
- C. Density*
- D. Housing Types*
- E. Transportation and Circulation*
- F. Recreational Amenities*
- G. Building Height*
- H. Lots*

I. Phasing

Article 7, Division 3. Site Planning and Development Standards contain:

DIVISION 3. SITE PLANNING AND DEVELOPMENT STANDARDS

7-301. COMPATIBLE DESIGN

7-302. OFF-STREET PARKING AND LOADING STANDARDS

7-303. LANDSCAPING STANDARDS

7-304. LIGHTING STANDARDS

7-305. SNOW STORAGE STANDARDS

7-306. TRAIL AND WALKWAY STANDARDS

In addition to the above Development Standards, the *PUD Plan Guide* (6-302.A.4.a.-d.) requires additional regulations which are all contained within the proposed Nutrient Farm PUD Guide and which have been discussed in detail in the Nutrient Farm PUD Narrative. The PUD Guide specifically regulates and addresses: the existing and proposed uses; housing types; density/intensity; lot size; building locations/setbacks; building heights; fences; parking and loading; reclamation; weed management; landscaping; forest management; trails; pathways; walkways; exterior lighting; ADUs; animal keeping; guest houses; food trucks; Nutrient Farm Events; temporary improvements; signage; access and circulation systems; water systems; wastewater systems; utilities; Solar Energy Systems; fire protection; soils/geotechnical hazards; floodplains and protection of water bodies; wildlife protection; snow storage; open space and recreational improvements; public dedications of CR 335; LoVa Trail and parking area easements, etc.

We believe the standards are appropriate and reasonable for Nutrient Farm and will not compromise any Building Code requirements or cause any adverse impacts to the adjacent properties.

Similarly, the Article 7, Division 3 Site Planning and Development Standards are already discussed in the Nutrient Farm PUD Narrative since the same criteria is required to be met by the Nutrient Farm PUD request itself. Therefore, we have listed each one of the Site Planning and Development Standards below and have briefly responded to them. More detailed responses may be found in the Nutrient Farm PUD Narrative.

7-301. COMPATIBLE DESIGN

As discussed in the Nutrient Farm PUD Narrative, the proposed Nutrient Farm PUD is compatible in nature, scale, and intensity with the surrounding land uses and the natural landscape. Nutrient Farm is an infill project on land that has been contemplated and approved for intensive residential and industrial development since the early 1970's. As already mentioned, the Riverbend PUD has been amended numerous times over the years

to accommodate the re-location of residential uses and the new mining and heavy industrial uses of the Coal Ridge PUD.

The proposed Nutrient Farm PUD is compatible with the nearby residential uses and the natural landscape, and fulfills numerous vision statements, goals, policies, and strategies/actions identified in the Comprehensive Plan's ten Plan Elements. With over 270 acres devoted to farming and over 608 acres designated as open space, Nutrient Farm will help bring back the rural mountain agricultural nature of Garfield County and provide a variety of recreational, economic, and other benefits to the County and its residents and guests.

As a foil to this meticulously planned experiential agricultural vision in Nutrient Farm, the Riverbend PUD is very lacking in terms of blending with the surrounding natural areas and adjacent properties, or the history of the area. It is simply focused on building houses. Accordingly, this Riverbend PUD redaction will accomplish great strides in attaining a more compatible use and development plan.

Nutrient Farm has been carefully planned and designed to be compatible with the nearby residential uses and the natural landscape. Unique land uses, definitions, and development standards have been proposed in the Nutrient Farm PUD Guide to encourage this. These include locating new single-family residential lots next to the nearby existing residential subdivisions, feathering recreational and commercial development to the south-west, and ensuring the PUD's proposed uses are internally and externally compatible. For instance, new single-family homes are proposed adjacent to the existing Riverbend Filing No. 5 subdivision. The proposed lots are actually larger than those in the Riverbend Filing No. 5 subdivision and more similar in size to the Riverbend Filing Nos. 1 and 2 lots. Development standards are proposed designed to yield homes compatible with the existing Riverbend homes. (Please see the Nutrient Farm PUD Narrative responses to *Method and calculation used to determine overall project and specific use type densities* and the *Lots* and the *Development Standards* discussions for details on the proposed standards in relation to the LUDC and nearby existing homes.)

The recreational and commercial/industrial uses are located on the southern and western portions of the PUD property. The western Working Farm provides a buffer between the existing Riverbend Subdivisions and these uses. Separate access roads off of CR 335 will also be constructed to provide access to these areas, and a variety of measures regarding hours of operation, noise levels, and parking have been proposed in the PUD Guide to ensure that the uses will be compatible with the surrounding properties and any potential off-site impacts are mitigated.

The proposed Nutrient Farm PUD will revolve around a biodynamic working farm with an Owner/Developer that prioritizes healthy living and responsible stewardship of the land. Nutrient Farm will utilize organic and biodynamic agricultural practices such as avoiding

all synthetic chemical pesticides, fertilizers, and transgenic contamination. The design of the uses, and the structures supporting such uses, the internal circulation system, the solar system(s) and other alternative energy systems, and all other aspects of Nutrient Farm, have been meticulously planned to ensure that they blend into the surrounding area and the natural environs. The site plan for Nutrient Farm takes advantage of the size and topography of the land to ensure that internal uses blend well and complement each other. It also ensures that any use or structure is not inconsistent to or offensive to the surrounding area. Nutrient Farm, as designed, serves as a singular transition area from light residential to agricultural, grazing lands, open space, and rural vistas. Specific land uses and development standards have been established in the proposed Nutrient Farm PUD Guide to foster the compatible and orderly development of the Nutrient Farm community so that it blends into the nearby residential development pattern and the natural landscape.

7-302. OFF-STREET PARKING AND LOADING STANDARDS

As mentioned before, Off-Street Parking and Loading standards have been included in the PUD Guide that will supersede those of the LUDC. They closely resemble the LUDC and require compliance with section 7-302. Off-Street Parking and Loading Standards of the LUDC except for Table 7-302.A. regarding the amount of parking spaces for each land use, the location of the parking stalls, and surfacing and striping provisions for the parking stalls, loading areas, aisles, and access drives. These standards take into account that guests will enjoy multiple activities during their visit to Nutrient Farm. The parking requirements and surfacing standards have been proposed in an effort to reduce the amount of site disturbance and hard surfaces in Nutrient Farm and promote water absorption for the non-residential uses. Shared permanent parking spaces and a temporary parking plan for any Nutrient Farm Events with an expected attendance of 350 persons or more are also proposed. (Please refer to the Nutrient Farm PUD Guide, and the Nutrient Farm PUD Narrative responses to *Description of how the development departs from the otherwise applicable standards of this Code but meets the intent and purpose of this Article, PUD Plan – PUD Plan Guide*, and the PUD Guide itself for details on the proposed parking and loading standards, and for a Parking Summary of the various Nutrient Farm uses.)

7-303. LANDSCAPING STANDARDS and

7-306. TRAIL AND WALKWAY STANDARDS

Nutrient Farm will maintain the rural mountain character of the County and blend in with the nearby residential development and surrounding landscape. A number of landscaping and trails, pathway, and walkway design standards are contained within the PUD Guide to accomplish this. Landscaping will be installed for all new public and private roadways within Nutrient Farm as well as within the private parks and open spaces. A Weed Management Plan has also been created for the Development Areas of the property and weed mitigation has already begun. Design standards have been provided for all future trails, pathways, and walkways that the Owner/Developer will install and maintain. The

LoVa Trail and all associated improvements will be constructed by others within the CR 355 right-of-way and within the 25 foot wide public trail easement on the eastern portion of the property as it crosses the Colorado River. (Please see the PUD Plan Map and PUD Guide for location, construction, and dedication details, and our Nutrient Farm PUD Narrative responses to *General project concept and purpose of the request* and *PUD Plan Guide – Recreational Amenities and Landscaping—Parks, Trails, and Rights-of-Way* for more information.)

7-304. LIGHTING STANDARDS

Exterior Lighting Standards have been proposed in the Nutrient Farm PUD Guide in an effort to minimize light pollution and conserve energy while providing adequate lighting for safety and security for residents and guests. The proposed Exterior Lighting Standards encompass and supersede those of section 7-304. of the LUDC with additional details regarding prohibited lighting and exempt lighting for Nutrient Farm. (Please refer to the Exterior Lighting Standards of the PUD Guide for details.) This well exceeds the lighting standards in the Riverbend PUD.

7-305. SNOW STORAGE STANDARDS

No unique Snow Storage Standards are proposed in the Nutrient Farm PUD Guide to supersede those of the LUDC. Thus, LUDC section 7-305. Snow Storage Standards will apply.

Conclusion to PUD Zoning Review Criteria of 6-202.C.1.-5. – Established Zoning Standards

As mentioned before, the Riverbend PUD will be amended and the Coal Ridge PUD will be vacated (via a separate request) to allow for the Nutrient Farm PUD to replace them. The Nutrient Farm PUD is a mixed-use agricultural community revolving around a working farm. Sustainability and ecology will guide agricultural practices and the property's natural resources will be protected. Nutrient Farm is compatible with the nearby residential land uses and the natural landscape. The proposed Nutrient Farm PUD Guide adequately establishes uses and development standards to foster the organized development of Nutrient Farm and compatibility with the nearby land uses and the natural environment.

Conclusion to Planned Unit Development Review Criteria Section 6-202.C.1.-5.

We believe the request to Amend the Riverbend PUD to allow for the Nutrient Farm PUD meets the Planned Unit Development Review Criteria of section 6-202.C.1.-5. well. The Nutrient Farm PUD will be more compatible with the surrounding uses than the current PUDs and bring back the agricultural and residential intent of the original Riverbend PUD. Nutrient Farm meets numerous goals and strategies of the Comprehensive Plan and will be an asset to the entire Garfield County community.

G. ADDITIONAL REQUESTED INFORMATION PER NOVEMBER 22, 2022 LETTER

This Riverbend PUD Amendment package includes the following additional requested information per the November 22, 2022 Letter. For ease of reference, responses to each request have been provided below or it is noted where the information may be found.

Updated narrative describing the Intent of the PUD Amendment/Substantial Modification

Earlier in this Narrative, a description of the intent of the PUD Amendment and an overview of the proposed Nutrient Farm PUD request are provided. We note that this PUD Amendment has been determined to be a Substantial modification as opposed to a Minor Modification.

Mapping and labeling of areas to be retained in the PUD and those being removed, along with legal descriptions.

Additional maps have been created and included in this application package to illustrate the boundaries of the original Riverbend PUD area, the PUD area amended/replaced by the Coal Ridge PUD, the area of the Riverbend PUD Amendment, and the total area owned by Nutrient Holdings. Various legal descriptions have been provided via the attached updated title commitment, maps, resolutions, and/or legal descriptions created by our surveyor. As noted above, no property owned by others, nor any infrastructure or common area, is affected or part of any of our requests.

The Application needs to address technical issues noted below as #1 - #4 items.

1. **Title Commitment.** An updated title commitment was prepared on December 6, 2022 by Commonwealth Title Company of Garfield County, Inc. A copy of this document is provided in this Riverbend PUD Amendment package as well as the accompanying Revocation of the Coal Ridge PUD and Nutrient Farm PUD requests' submittal packages.
2. **Statements of Authority.** A Statement of Authority for Nutrient Holdings LLC was recorded on November 10, 2022 with the Garfield County Clerk and Recorder under Reception No. 981220 to ensure proper ownership interests were properly implemented and designated. (A copy has been included in this submittal package.) Working with our title insurer and our title counsel, it does not appear that any further statements of authority are required. Nevertheless, if at any juncture it comes to light that some additional or modified statement of authority is needed, we will promptly do so. Of course, in accordance with CRS 38-30-172(6) a statement of authority may be recorded which reaches back to and clarifies or corrects prior transactions or prior statements of authority.
3. **A plat amendment application for the Matthies Exemption.** The Matthies Exemption Plat was approved by the BOCC on November 14, 1994 and recorded in the Garfield County records at Reception No. 471051, over three decades prior to Nutrient Holdings acquiring the subject property. That plat created two parcels, colloquially the Lake Property (owned

by the Lakes and not subject to any of these PUD proposals), and the “Owner’s Parcel” for the primary Farm House. In terms of the various PUD proposals at hand, and the alignment and relative sizes and boundaries of these parcels, we have utilized this subject exemption plat for such descriptions, which is the only tool we can use. It does appear that there may be some ambiguity related to Assessor’s records and some potential subsequent quit claims deeds that also well preceded Nutrient Holding’s involvement, we simply cannot speak to the same within the context of this zoning application. Moreover, we also cannot unilaterally proceed with any plat application that affects property outside of our interests.

Nonetheless, in order to resolve any concerns regarding such plat, we will agree to some sort of condition of review or approval, etc. that notes that if it is properly determined that a plat amendment to the existing Matthies Exemption Plat is needed, we will take prompt, good faith efforts to process such plat in collaboration with the owners of the Lake Parcel prior to recordation of the PUD.

4. *Boundary Line Adjustments to address merger of the properties to be aggregated under the Nutrient Farms PUD are needed.* As indicated previously, we will not be merging any parcels or adjusting any internal boundary lines within the property prior to PUD review and approval. To proceed with such efforts on the auspice of presuming quasi-judicial approval of the PUD seems to be placing the proverbial cart before the horse. Moreover, there is no pressing reason or requirement to do so at this juncture, as there is simply no requirement under the LUDC or state law or jurisprudence that would mandate such an effort. In fact, to the contrary, both the LUDC and state law belie any notion that such merger is required.

First, per section 6-101.B. of the LUDC, multiple contiguous parcels are expressly allowed to be included in one proposed PUD, as follows:

Any single parcel of land or contiguous parcels of land comprising a minimum of 2 acres, sufficient to accommodate an integrally planned environment to be developed through a unified plan, is eligible for PUD zoning.

In terms of pragmatic application of this notion, one need look no further than the Riverbend PUD itself, which of course includes scores of separate properties within it. That PUD, in closer to its present manifestation with various parcels under different ownership, contained therein, has already been subject to several PUD Amendments. We of course have four contiguous parcels here that far exceed two acres in total area, all under one owner (though they need not be). We are readily meet the qualifications to proceed with the PUD as proposed.

Further, we point to a Colorado appellate case which has become the seminal case regarding how a PUD may be processed amongst owners of the property within a PUD. In *Whatley Ranch v. Summit County*, 77 P.3d 793 (2003), the Colorado Court of Appeals

noted that a proposed PUD designation may be processed if all owners of property within the proposed PUD sign off on the application. In terms of a PUD Modification, only the directly affected properties within a PUD need sign off on the application to proceed. Any other property owners need only receive notice of the application via the public notice process.

In the present matter, Nutrient Holdings is the owner of all property within Nutrient Farm and has of course signed off on the application fully. Nutrient Holdings is also the owner of all property within the Coal Ridge PUD and has signed off accordingly. In regard to the Riverbend Amendment, we are seeking an amendment only to the PUD area that Nutrient Holdings owns. Thus, we are the application signatures that only affects such properties.

Ultimately, we are happy to explore any future platting or merger that the County feels is necessary or appropriate after the PUD is reviewed and hopefully approved. However, there is no legal mandate, nor any good policy impetus, behind doing so prior to review—when of course quasi-judicial approval is not even in any manner guaranteed.

Copies of the existing PUD Approvals and Resolutions as available.

According to our online review of available Riverbend materials, the Riverbend PUD was approved by the County via Resolution No. 77-2. We have only been able to locate an unsigned portion of the document and have included it in this submittal package. We have also been able to locate copies of: Resolution No. 84-261 that allowed for the Coal Ridge PUD; Resolution No. 94-130 approving the Matthies Exemption (although no PUD Amendment was required for the exemption); and Resolution No. 95-074 Riverbend Filing No. 5 PUD Amendment. We were unable to locate any resolutions related to Riverbend Filing Nos. 1 and 2, the Riverbend Ranchettes, or Cedar Ridge. (Please see the earlier discussion regarding these PUD Amendments/Resolutions and subdivisions for background details.)

Invariably, very little of a land use application is actually in the recorded public record, and we have rather limited access to the Garfield County planning files. However, from the materials that have been secured, it does seem that our analysis of the zoning history of the Nutrient Holding property and surrounding area is very accurate and reflective of the progression of use and development accordingly. We have not found any other information or materials that would counter this analysis. We will be glad to review any additional material that is secured by staff.

Copies of the existing PUD Guidelines or applicable interpretations regarding the PUD Guidelines, as available.

In our online review of the Riverbend materials, we found that the Preliminary Map of the Riverbend Planned Unit Development dated August 1976 drawn by Scarrow and Walker and the associated Declaration of Protective Covenants for Riverbend, Garfield County, Colorado received by the County on August 4, 1976, became the controlling documents for the Riverbend PUD.

Mark Bean, then Senior Planner for Garfield County, stated this in his November 17, 1983 and April 25, 1984 letters to Sam Arentz of Storm King Mines. However, there is no record of either of these being signed by the owner and/or recorded. This notion was also reflected to us by Planning Staff in our initial meeting with Staff several years back.

As already noted, over time, various portions of this Preliminary Map area were developed by the initial owner/developer as envisioned with single-family subdivisions—Riverbend Filing Nos. 1 and 2, and the Riverbend Ranchettes, while other portions were sold off and developed by others in different manners than planned—the Cedar Ridge Subdivision, Riverbend Filing No. 5, the Matthies Exemption, and the Coal Ridge PUD. The residential units were moved around within the Riverbend PUD boundaries and mining and other heavy industrial uses were allowed via the Coal Ridge PUD.

Crucially, it seems quite apparent that past modifications to the Riverbend PUD to allow the Cedar Ridge Subdivision, Coal Ridge PUD, and Riverbend Filing No. 5 were evaluated only against the Preliminary Map. The reviews generally consisted of proposed location analyses and made no mention of any applicability of the Declaration noted above. We do not believe the Declaration is applicable not only as it is not recorded, but subsequent subdivisions and PUDs created their own original declarations for their developments rather than modify any existing Declarations. As a matter of law, any declaration, particularly one dealing with any common interest community, has no force and effect of it is not timely recorded and implemented.

The developer knew to record the declarations that he wanted to have effect. For instance, Protective Covenants for Riverbend Subdivision Filing No. 1 Garfield County, Colorado was recorded at Reception No. 281327 in 1977. Online documents indicate that the County received signed and notarized Declaration of Protective Covenants for Cedar Ridge Subdivision Garfield County on November 14, 1996. An unsigned/unrecorded Declaration of Protective Covenants for Riverbend P.U.D. Filing No. 5 was also found. All of these declarations contain various use and design regulations for the development of the future homes in the subject property areas for each. Plainly, these declarations would not have been established if the original Declaration was in effect and controlled any of the property within Riverbend. At the very least, the original Declaration would have been amended to incorporate the Cedar Ridge and Filing No. 5 areas as they did not conform to the original Riverbend Preliminary Map. Copies of the Preliminary Map and various Declarations noted above are included in this submittal package.

On a final note, it is not only bad policy, but actually likely legally improper to utilize any declarations as an articulation of zoning mandates or any other PUD aspects. PUDs are legislative and may be amended, modified, judicially reviewed etc. by governmental entities as a matter of law. In contrast, declarations represent a private encumbrance upon property, and typically can only be modified with a vote of 67% of the affected parties. Further, declarations do not have the force and effect of regulations or law and are merely private contractual commitments amongst property owners. In other words, declarations not only should not, but in most circumstances actually cannot, be elevated to a public regulatory structure such as a PUD.

Mailing list of all property owners within the PUD.

An updated mailing list of all property owners in the Riverbend PUD Amendment Area—Nutrient Holdings only, and an updated list of all property owners in the remaining Riverbend PUD area have been provided in this submittal package.

Updated public notice mailing lists and mineral owners lists applicable to this application and the current legal/parcel description.

As discussed with Staff, various updated public notice mailings lists have been provided in this submittal package. Due to the magnitude of the Nutrient Farm requests and the anticipated extended review time, these lists will be updated again, along with an updated mineral rights owners list, and be provided in accordance with the LUDC as any hearings are scheduled.

Updated information on status of infrastructure for the PUD, as proposed to be amended. This needs to include, but is not limited to the status of water and wastewater facilities, any road or access issues/updates, ongoing fire protection topics, open space provisions and any other changes in existing conditions relevant to and/or in support of the proposed amendment.

Nutrient Farm plans to be as self-sufficient as possible in terms of its roads, utilities, fire protection, etc. Detailed infrastructure information has been provided in the Nutrient Farm PUD application package—in the Narrative, various reports, and in the proposed PUD Guide itself. No changes to the Riverbend PUD infrastructure improvements are sought except for the possibility of the 17 new residential lots connecting to the Riverbend water and sewer systems. The portion of County Road 335 within the property will be dedicated to the County as a public right-of-way and numerous internal roads will be constructed and maintained by the Owner/Developer. No improvements to CR 335 or other existing off-site roads in the Riverbend subdivisions are planned. We note that according to our Traffic Impact Study, should Nutrient Farm be built out to its maximum proposed capacity, shoulder improvements may be required in order to bring CR 335's classification up from Minor Collector to Major Collector. However, until that time, and the contemporaneous analysis that will occur at that juncture, the road will function well for the proposed uses and development of Nutrient Farm over many years.

Water and wastewater systems will be provided in a variety of ways related to the needs and locations of the various uses in Nutrient Farm. As already noted, the proposed 17 single-family homes are planned to connect to the nearby RWSC facilities. The RWSC currently serves the nearby Riverbend homes, and has a complete water treatment, distribution, and storage system in place that is already permitted as a public water supply. Both RBWS and RWSC have indicated their willingness and ability to serve these lots. Besides line extension, the only proposed upgrade is adding more potable storage adjacent to the existing tanks. Adding these lots to the existing system can in fact assist that system in its long term viability and operations.

Given the other proposed uses are a considerable distance away from the central Riverbend systems and are of a nature beyond the typical and contemplated domestic use function of the RWSC, Nutrient Farm plans to develop its own centralized, efficient internal water and wastewater facilities for the rest of the uses. The intent is to start with private on-site systems and then convert to public water systems as needed when required operationally. The Vulcan Ditch water supply will also serve all outdoor uses such as agricultural crop and livestock watering, landscaping, sound mitigation landscaping, open space areas, grass fields, recreational ponds, and the construction of any animal water ponds in cooperation with the CPW. We have ample water supply to accommodate ever planned use, and again, the LUDC provides a safeguard to ensure that supply. This PUD is merely zoning, if at the time any use us proposed adequate water for the use is not available, it simply will not be approved.

Similarly, wastewater disposal systems will be provided to the various land uses within the Nutrient Farm PUD via an array of mechanisms that parallel and complement the planned mechanisms for the water supply. Accordingly, residential uses in Development Areas 1, 3, and 4 will connect to the existing RWSC facilities. The residential uses in Development Area 2 will continue to utilize a fully functional private OWTS. All other uses within the remaining Development Areas will utilize individual wastewater treatment systems designed specifically for the land use they are to serve, which offer ample capacity and function to accommodate existing uses and any future expansion in scope and use.

All wastewater systems will be designed to not only meet but exceed all applicable County regulations and State standards, and all formal measures to ensure sewer service to the property and its development will be provided in accordance with the LUDC, and all applicable State laws and regulations. SGM has analyzed the property's water rights and the RBSC rights and systems in relation to the proposed uses and has prepared a number of reports—Water Adequacy Report for proposed Development, Central Water Distribution and Wastewater Systems Report, Water and Sewer Pan, and OWTS Engineering Report. We ask that you please refer to those for details as no changes have taken place to our proposal related to the planned water and sewer systems.

In terms of fire protection, fire hydrants will be installed in the new residential subdivisions according to the requirements of the CRFR and the numerous water ponds constructed on the remainder of the property will be available for emergency use. (Please see the earlier response to *7-109 Fire Protection* for details on the water capacity, etc.) All development on the property will meet all fire protection requirements of the CRFR and comply with wildfire hazard mitigation/defensible space requirements of the CRFR at the time of building permit for each individual building or structure. Wildfire mitigation strategies are encouraged for all construction and development within Nutrient Farm. As already mentioned, many private internal roads will be constructed on Nutrient Farm to provide interconnectedness, and the private driveway/agricultural road connecting the existing Farm House to Storm King road may also be used by the Fire Department and other emergency services agencies in the event of an emergency.

In terms of other various Riverbend PUD provisions, as we have already noted, there were not many public benefits associated with the development beyond the dedication of the 10 acre school site and CR 335. That portion of CR 335 in the property and an easement for the LoVa trail (and five public parking spaces) will be dedicated to the County in connection with the Nutrient Farm PUD. More than 608 acres, over half of the Nutrient Farm PUD area, will be designated as Private Open Space. The Nutrient Farm open space is in the same general locations as those originally shown on the 1976 Map and will serve as important habitat and backdrop for the valley floor. Many privately owned/maintained trails will also be constructed on the property. Nutrient Farm will provide many more public benefits than the original Riverbend PUD did.

Specific responses to PUD Review Criteria Section 6-202(C)

Please see the above detailed responses to the PUD Review Criteria of Section 6-202.C.1.-5. of the LUDC. This same PUD Review Criteria Section 6-202(C) was also required for the Nutrient Farm PUD request per the Pre-Application Conference Summary given to us. Detailed responses were provided in the Nutrient Farm PUD Narrative and we ask these be referred to as well. We believe the Riverbend PUD Amendment request and the accompanying Nutrient Farm PUD request meet this criteria well. Amending the Riverbend PUD and vacating the entire Coal Ridge PUD area and replacing them with the Nutrient Farm PUD will be a benefit for the adjacent property owners and the community as a whole.

Payment of a \$300 Application Fee

As requested, a \$300 Application Fee has been included in this submittal package along with a Payment Agreement Form.



November 22, 2022

Andrew Bruno
Nutrient Holdings LLC
P.O. Box 560
New Castle, CO 81647

Daniel Teodoru, Timberline Partners
P.O. Box 625
Breckenridge, CO 80424

Christie Mathews Leidal
Mathews Leidal, LLC
P.O. Box 4678
Breckenridge, CO 80424

David Kotz, SGM
118 W. Sixth St.
Glenwood Springs, CO 81601

RE: Nutrient Farms PUD Revocation and PUD Application
(PUAA-5-22-8898) (PUDA-5-22-8899)

Dear Andrew, Daniel, Christie and David:

Thank you for your detailed submittals, several meetings, past communication and site visit regarding your submittals. Of note we have also received revised submittals for the revocation application, specific to the Coal Ridge PUD. The following outline and completeness summary sets out the needed next steps for a determination of completeness. They are intended to provide information along with the opportunity for additional questions/answers regarding the unique applications and proposals you are putting forth.

Applications for PUD Revocation of the Coal Ridge PUD and Riverbend PUD

The County was not able to process your applications as submitted as the revocations would eliminate the zoning for a significant number of residential properties that have been developed and built on based on the Riverbend PUD Zoning that you were

proposing to eliminate. This Application needs to be withdrawn and replaced by your current Coal Ridge PUD Vacation request and a revised application requesting an amendment to the Riverbend PUD.

Riverbend PUD

The Application regarding the Riverbend PUD needs to be resubmitted as a PUD Amendment designed to remove from the PUD those portions of the property to be included in a new Application for the Nutrient Farms PUD. Based on review of your submittals, the Director has determined that the amendment will be reviewed as a Substantial Modification. Those portions currently developed with residential uses would remain under the Riverbend PUD Zoning. An initial listing of submittal requirements for the amendment is outlined below:

- A. Updated narrative describing the intent of the PUD Amendment/Substantial Modification.
- B. Mapping and labelling of areas to be retained in the PUD and those being removed, along with legal descriptions
- C. The Application needs to address technical issues noted below as #1 - #4. items.
- D. Copies of the existing PUD Approvals and Resolutions as available.
- E. Copies of the existing PUD Guidelines or applicable interpretations regarding the PUD Guidelines, as available.
- F. Mailing list of all property owners within PUD.
- G. Updated public notice mailing lists and mineral owners lists applicable to this application and the current legal/parcel description.
- H. Updated information on status of infrastructure for the PUD, as proposed to be amended. This needs to include but is not limited to the status of water and wastewater facilities, any road or access issues/updates, ongoing fire protection topics, open space provisions and any other changes in existing conditions relevant to and/or in support of the proposed amendment.
- I. Specific responses to the PUD Review Criteria in Section 6-202(C).
- J. Payment of a \$300 Application Fee

Coal Ridge PUD

Staff's understanding is this PUD can be revoked as it is currently undeveloped. The updated submittals are consistent with this direction, however, clearer mapping and labelling of exhibits along with legal descriptions are needed. A listing of additional submittal requirements is outlined below:

- A. Ensure consistency between the multiple applications, legal descriptions, and mapping.
- B. The Application needs to address the submittal requirements noted below as items #1 - #4.
- C. Updated listing of all property owners within the PUD to be revoked or eliminated.

D. Payment of a \$300 Application Fee.

Nutrient Farms PUD

As noted in previous meetings thanks you for the very detailed and extensive PUD Application submittals. While some technical completeness issues will still need to be addressed the primary need prior to initiating review is the coordination between the three anticipated applications including legal descriptions and mapping to clearly delineate the property to be rezoned into the new PUD. Outlined below are technical completeness items that need to be addressed.

1. Title Commitments need to be updated to be more current.
2. Statements of Authority need to be recorded.
3. A Plat Amendment Application for the Mathias Exemption is needed, or the Application needs to propose appropriate timing for completion of the Plat Amendment.
4. Boundary Line Adjustments to address merger of the properties to be aggregated under the Nutrient Farms PUD are needed or the Application needs to propose appropriate timing for such mergers and/or provide a legal opinion/assessment of this issue.
5. Updated public notice mailing lists and mineral owners lists applicable to this application and the current legal/parcel description.
6. A check or payment to CGS (Colorado Geological Survey) is needed as we will be referring the Application to them for comment.
7. Mapping needs to show legal descriptions for the existing PUD's and proposed PUD. (Note: recent meetings have identified the Sopris Engineering Survey mapping as referenced in your title work as a key document)
8. Specific responses are needed to Article 7, Division 2 Standards including but not limited to Agricultural Lands, Wildlife, Waterbody Protection, Drainage & Erosion, Environment, Natural and Geologic Hazards, and Reclamation.

While not completeness issues the following topics have been identified as key issues that are anticipated to be further considered in the course of the development review process for the Nutrient Farms PUD.

- Section 7-109 Fire Protection and any special considerations for major uses with significant attendance, capacity, and or accessibility issues.
- Floodplain Details associated with the mapped floodplain.
- Traffic Study including larger special events and modelling assumptions. Level of service and impacts on adjacent land uses is key issue.
- Location and size of parking areas including areas for temporary parking.
- Noise Study and receiver locations and/or calculation of noise estimates for key PUD zones.
- Clarification to the PUD Guide and including reference to a number of uses that will require additional Land Use Permitting by the County and some industrial uses and high traffic and noise generating uses.

- Additional information on employee housing including the "bunk house" use will be beneficial.

Once the above completeness issues are addressed, we can complete your referral process and schedule your initial Planning Commission reviews/public hearings. Supplements to the submittals are an effective way to address completeness issues, however, a complete compilation/update of any changes/additions will be needed to facilitate referrals and Planning Commission/Board of County Commissioners review.

Please note that the Garfield County Land Use and Development Code requires that the technical completeness issues be resolved within 60-days of the date of this letter, otherwise the application will be deemed withdrawn unless a request for extension is submitted and approved.

Please feel free to contact me with any questions on the completeness topics noted above or if we need to discuss any of the items.

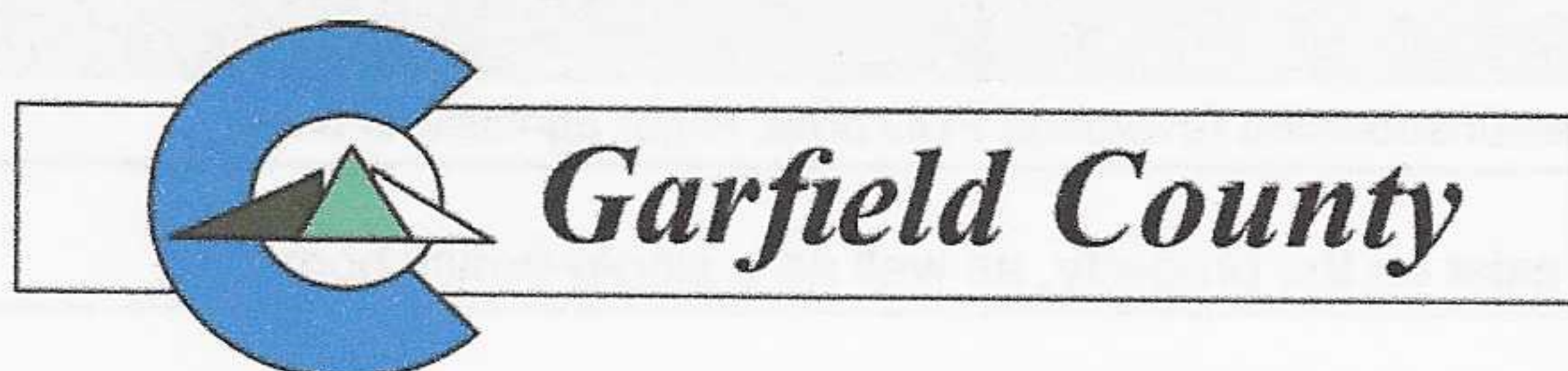
Sincerely,



Glenn Hartmann
Principal Planner

Appendix B – General Application Materials (4-203.B.)

Appendix B.1	• Land Use Change Permit Application Form
Appendix B.2	• Statement of Authority (Reception No. 981220)
Appendix B.3	• Letter of Authorization
Appendix B.4	• Evidence of Ownership – Special Warranty Deed – Land (Reception No. 949446)
Appendix B.5	• Evidence of Ownership – Special Warranty Deed – Mineral Rights (Reception No. 949447)
Appendix B.6	• Evidence of Ownership – Title Commitment – Commonwealth Title Company of Garfield County, Inc. File No. 2103068
Appendix B.7	• Nutrient Holdings LLC – Articles of Organization and Statement of Change Changing the Principal Office Address
Appendix B.8	• Memo – Chain of Title
Appendix B.9	• List of Names and Addresses of all Property Owners within the Riverbend PUD Amendment Area and Map. *Updated list to be generated 30 days prior to hearing per 4-101.E. of the LUDC.
Appendix B.10	• List of Names and Mailing Addresses of all Property Owners within the Coal Ridge PUD and Map. *Updated list to be generated 30 days prior to hearing per 4-101.E. of the LUDC.
Appendix B.11	• List of Names and Mailing Addresses of all Property Owners within the Remaining Riverbend PUD Area. *Updated list to be generated 30 days prior to hearing per 4-101.E. of the LUDC.
Appendix B.12	• Map of all Property Owners in the Remaining Riverbend PUD Area.
Appendix B.13	• List of Names and Mailing Addresses of all Property Owners within 200’ of Nutrient Holdings Property/Nutrient Farm PUD Area. *Updated list to be generated 30 days prior to hearing per 4-101.E. of the LUDC.
Appendix B.14	• Map of all Property Owners within 200’ of Nutrient Holdings property/Nutrient Farm PUD Area.
Appendix B.15	• Certificate of Mineral Owner Research and List of Names and Mailing Addresses of all Mineral Estate Owners and Lessees within the Subject Site. *Updated list to be generated 30 days prior to hearing per 4-101.E. of the LUDC.
Appendix B.16	• Fees – Payment Agreement Form
Narrative	• Project Description



Community Development Department
108 8th Street, Suite 401
Glenwood Springs, CO 81601
(970) 945-8212
www.garfield-county.com

LAND USE CHANGE PERMIT APPLICATION FORM

TYPE OF APPLICATION

<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Development in 100-Year Floodplain
<input type="checkbox"/> Limited Impact Review	<input type="checkbox"/> Development in 100-Year Floodplain Variance
<input type="checkbox"/> Major Impact Review	<input type="checkbox"/> Code Text Amendment
<input type="checkbox"/> Amendments to an Approved LUCP <input type="checkbox"/> LIR <input type="checkbox"/> MIR <input type="checkbox"/> SUP	<input checked="" type="checkbox"/> Rezoning <input type="checkbox"/> Zone District <input type="checkbox"/> PUD <input checked="" type="checkbox"/> PUD Amendment
<input type="checkbox"/> Minor Temporary Housing Facility	<input type="checkbox"/> Administrative Interpretation
<input type="checkbox"/> Vacation of a County Road/Public ROW	<input type="checkbox"/> Appeal of Administrative Interpretation
<input type="checkbox"/> Location and Extent Review	<input type="checkbox"/> Areas and Activities of State Interest
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> Accommodation Pursuant to Fair Housing Act
<input type="checkbox"/> Pipeline Development	<input type="checkbox"/> Variance
<input type="checkbox"/> Time Extension (also check type of original application)	

INVOLVED PARTIES

Owner/Applicant

Name: Andrew Bruno, Nutrient Holdings LLC Phone: (970) 984-4369
Mailing Address: PO Box 560
City: New Castle State: CO Zip Code: 81647
E-mail: andy@nutrientfarm.com

Representative (Authorization Required)

Name: Daniel Teodoru, Timberline Partners Phone: (970) 485-9998
Mailing Address: PO Box 625
City: Breckenridge State: CO Zip Code: 80424
E-mail: danny@timberlinelaw.com

PROJECT NAME AND LOCATION

Project Name:

Amendment to the Riverbend Planned Unit Development (PUD)

Assessor's Parcel Number: - - -

Physical/Street Address: 0 Gleneagle Cir., 364 Storm King Rd., Riverbend Dr., two unassigned, and 0 Riverbend Dr. - all in New Castle

Legal Description: Please see submittal package for Special Warranty Deeds.

Assessor's Parcel Numbers: 2123-344-00-005 (portion), 2123-344-00-07, 2123-353-00-081, 2083-053-00-86 (portion) and 2183-061-00-057

Zone District: Riverbend PUD Property Size (acres): 844 (Approximately)

PROJECT DESCRIPTION

Existing Use: Generally vacant land consisting of the remaining undeveloped/unsubdivided Riverbend PUD area. Minor agricultural uses, and associated roads, ditches, ponds, fences, and other improvements exist on the property, as well as a single-family home.

Proposed Use (From Use Table 3-403): _____

Description of Project: Amendment to the Riverbend PUD and Revocation of the entire Coal Ridge PUD (separate application) in order to establish the Nutrient Farm PUD. (Please see the project Narrative for additional background information.)

REQUEST FOR WAIVERS

Submission Requirements

- ☐ The Applicant requesting a Waiver of Submission Requirements per Section 4-202. List:

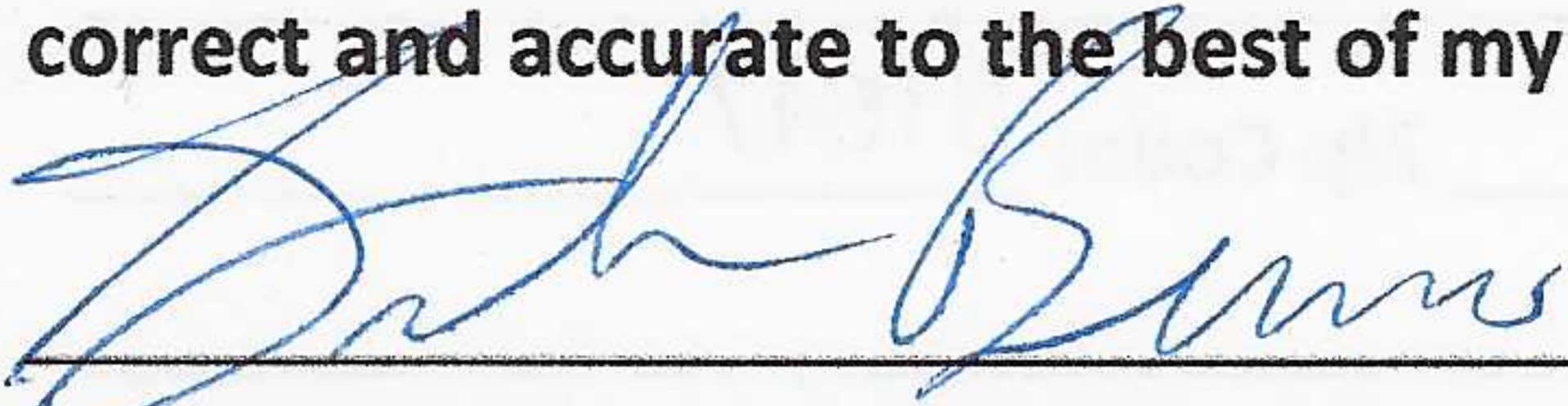
Section: _____ Section: _____
Section: _____ Section: _____

Waiver of Standards

- ☐ The Applicant is requesting a Waiver of Standards per Section 4-118. List:

Section: _____ Section: _____
Section: _____ Section: _____

I have read the statements above and have provided the required attached information which is correct and accurate to the best of my knowledge.



Signature of Property Owner or Authorized Representative, Title

11-10-2022

Date

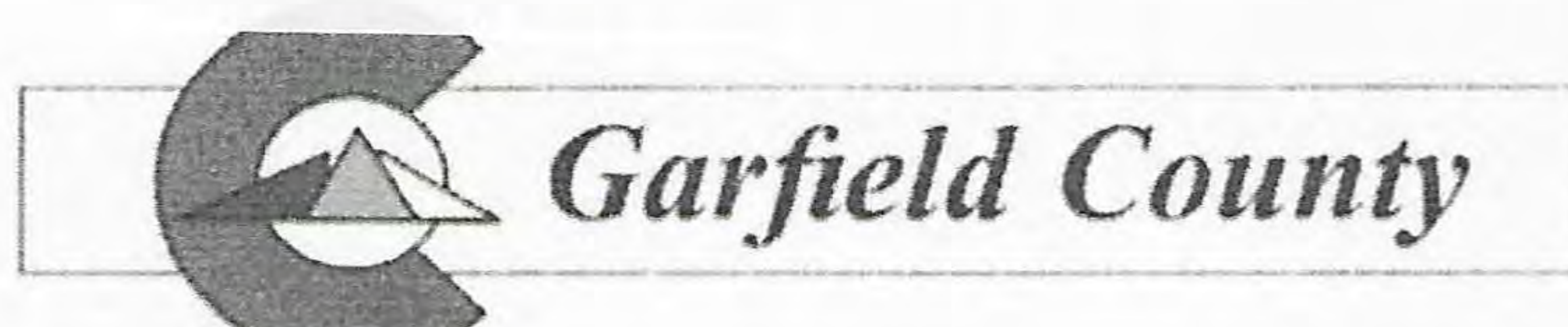
OFFICIAL USE ONLY

File Number: _____ - _____

Fee Paid: \$ _____



Reception#: 981220
11/10/2022 01:22:58 PM Jean Alberico
1 of 1 Rec Fee:\$13.00 Doc Fee:0.00 GARFIELD COUNTY CO



STATEMENT OF AUTHORITY

Pursuant to C.R.S. §38-30-172, the undersigned executes this Statement of Authority on behalf of Nutrient Holdings LLC, a Colorado (corporation, limited liability company, general partnership, registered limited liability partnership, registered limited liability limited partnership, limited partnership association, government agency, trust or other), an entity other than an individual, capable of holding title to real property (the "Entity"), and states as follows:


The name of the Entity is Nutrient Holdings LLC,
and is formed under the laws of Colorado.
The mailing address for the Entity is PO Box 560, New Castle, Colorado 81647.

The name and/or position of the person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the Entity is Andrew Bruno.

The limitations upon the authority of the person named above or holding the position described above to bind the Entity are as follows (if no limitations, insert "None"): None.

Other matters concerning the manner in which the Entity deals with any interest in real property are (if no other matter, leave this section blank): _____.

EXECUTED this 10 day of January, 2022.

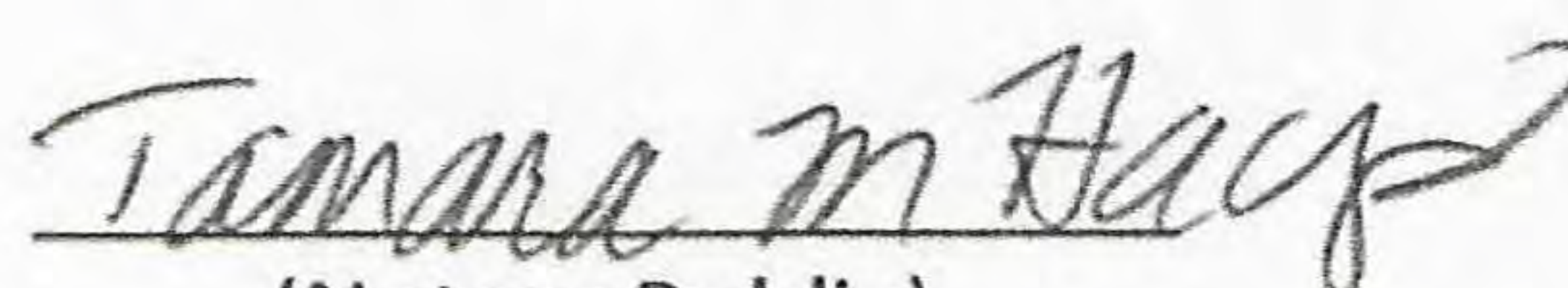
Signature: 
Name (printed): Andrew Bruno
Title (if any): CEO

STATE OF Colorado)
)SS.
COUNTY OF Garfield)

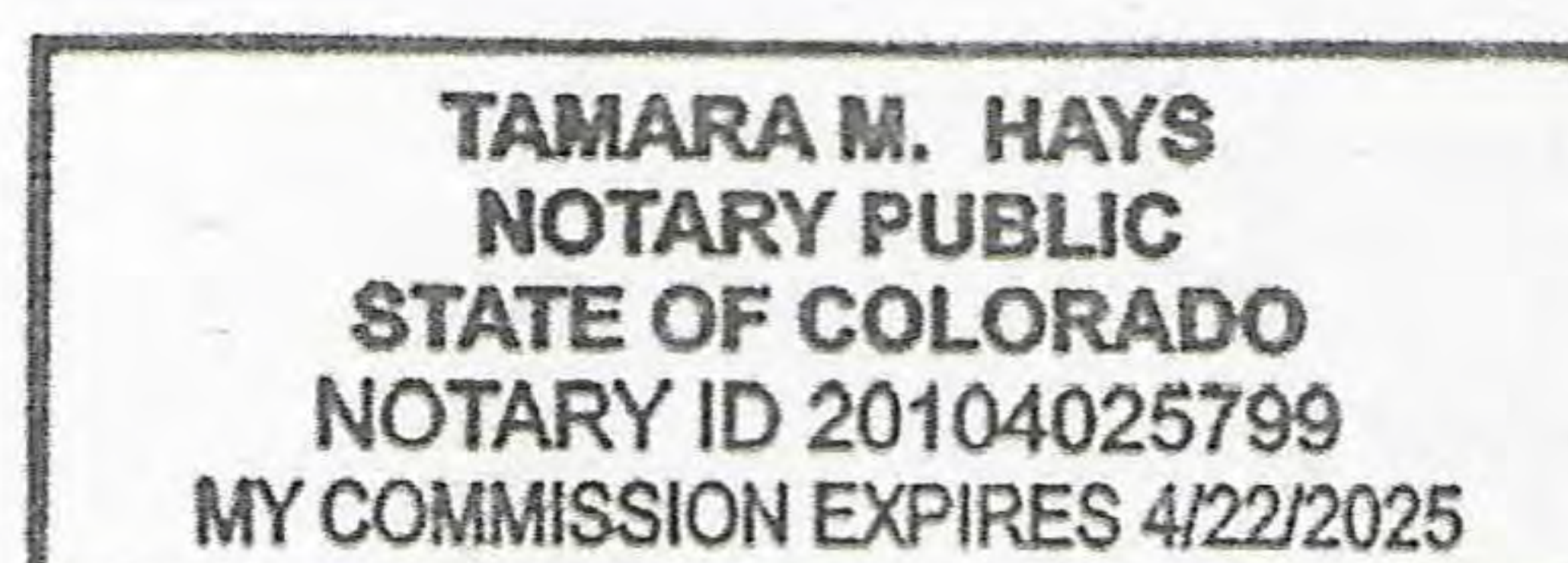
The foregoing instrument was acknowledged before me this 10 day of January, 2022
by Tamara M Hays, on behalf of Andrew Bruno, a
Colorado, LLC.

Witness my hand and official seal.

My commission expires: 2025
(Date)


(Notary Public)

[SEAL]



November 10, 2022

Glenn Hartmann
Garfield County Community Development Department
108 8th Street, #401
Glenwood Springs, Colorado 81601

RE: Letter of Authorization for an Amendment to the Riverbend Planned Unit Development

Mr. Hartmann,

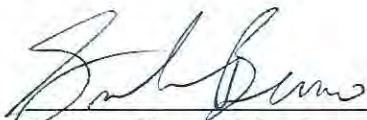
Nutrient Holdings LLC is the owner of approximately 1,136 acres of land located on the south side of the Colorado River, bisected by County Road 335/Colorado River Road, near the existing Riverbend subdivisions in Garfield County, Colorado and as more specifically described in attached Exhibit A. This area includes the entire Coal Ridge Planned Unit Development Area and the remaining portions of the Riverbend Planned Unit Development. The area of the Coal Ridge PUD vacation request and the Riverbend PUD Amendment correspond to the total proposed Nutrient Farm PUD area and the property owned by Nutrient Holdings LLC. (Please see attached legal description and Exhibit B map for location details.)

I, Andrew Bruno, am a Member of Nutrient Holdings LLC and expressly authorize Daniel Teodoru of Timberline Partners, and his agents, to act on behalf of, and represent, Nutrient Holdings LLC regarding all aspects of the application for the above and during the associated review process with Garfield County.

Should you have any questions or need additional information, please feel free to contact me at your convenience at (970) 984-4369 or at andy@nutrientfarm.com.

Sincerely,

Nutrient Holdings LLC

A handwritten signature in black ink, appearing to read "Andrew Bruno", is written over a horizontal line.

Andrew Bruno, Member