

**REPORT AND RECOMMENDATIONS OF THE HIGHLANDS RANCH
DELEGATE BACKCOUNTRY STUDY GROUP
August 18, 2015**

On April 15, 2014, the HRCA Delegates approved the formation of a committee/study group to undertake the following tasks:

1. Conduct a thorough review of the Backcountry governing documents to determine what they provide and how they govern land uses that may currently be permitted or disallowed both within and beyond the boundaries of the Backcountry's "developable parcels," i.e., the "Planning Areas."

2. Identify how and where the land uses currently allowed under the Backcountry governing documents may conflict with the results of the 2012 Highlands Ranch Community Survey.

3. Identify those steps that may need to be taken to update the Backcountry governing documents to reflect what the Highlands Ranch Community has stated it wants to see happen and not happen in terms of development within the Backcountry consistent with the results of the 2012 Survey.

4. Prepare and present to the Delegate body a written report of its findings and recommendations as to how the results of the 2012 Survey can best be implemented and incorporated into the Backcountry's governing documents.

This report addresses those tasks and should not be confused with the work and report addressing potential development of the Planning Areas within the Backcountry, *Recommendations to the HRCA Board of Directors Regarding Potential Uses for the Backcountry Planning Areas*, prepared and presented to the Delegates on May 19, 2015, by the HRCA Board-appointed committee, the Backcountry Planning Areas Advisory Committee.

Eleven (11) delegates initially volunteered to participate on the Committee. As the work proceeded, some delegates withdrew given unavoidable scheduling conflicts or other unstated reasons. The following core group of delegates remained to complete the Committee's assignment: Roy King (District 4), Greg Herman (District 17), Suresh Damle (District 89), Pat Kaptain (District 100), Tim Lindsey (District 109), Jed Caswall (District 112) and Clay Karr (District 114). The Committee met on the following dates with varying levels of member attendance, each meeting averaging approximately 90 minutes: June 11, July 9, August 13, September 10, October 8, and November 12, 2014; and February 11, April 8, May 13, July 8 and August 12, 2015. Scheduling and document retrieval assistance was provided by HRCA staff members Annie Vincent and Mark Giebel, while employees of the Douglas County Community Development Department and Geographic Information Services Department were also consulted on several occasions, including meeting with the Committee on July 8, 2015. All of the assistance provided was essential to the Committee's work and greatly appreciated.

What Is the Backcountry?

As described in the documents discussed below, the Backcountry has been variously referred to over the years by several different names, including “Wildcat Mountain Reserve,” “Highlands Ranch Open Space Conservation Area,” the “Committed Area,” the “OSCA Area” or “OSCA,” and the “Backcountry Wilderness Area.” Notwithstanding, all of these names have been used to generally identify that several thousand acre, largely undisturbed natural area situated within the southernmost boundaries of what was once anticipated to be the New Town of Highlands Ranch and what is now simply known as just the “Backcountry.”

Based on recorded deed information maintained by Douglas County, the Backcountry is presently comprised of thirty-one separate parcels with a total combined area of approximately 8,268 acres (excluding public rights-of-way), all within what is technically called the Highlands Ranch Planned Community District—or Highlands Ranch. While it was initially contemplated, but not promised, that all or almost all of the Backcountry would eventually be owned by the Highlands Ranch Community Association (the “HRCA”), county records show that a number of the parcels within the Backcountry area are titled in the names of several different owners in addition to the HRCA, including Douglas County (4 parcels), the Centennial Water and Sanitation District (3 parcels), Shea Homes (1 parcel), the Backcountry Homeowners Association (2 parcels), and the City and County of Denver (2 parcels) (see attached map with index of parcels by location, acreage and ownership). The HRCA is by far the largest landowner, owning 18 of the 31 total parcels comprising 7,235 (+/-) acres.

Should Delegates be Interested in the Backcountry?

Pursuant to Section 2.47 of the HRCA covenants, the Backcountry constitutes a Recreation Cost Center not unlike any of the four HRCA recreation centers, i.e., a recreation improvement which is restricted in use to HRCA members and guests, and where the operating expenses associated with the same are borne by HRCA members. And as with all of the recreation cost centers, the HRCA delegates are to serve as the primary advisory body to the HRCA Board of Directors when it comes to the Backcountry’s operations and maintenance, including the development of improvements, programs, regulations and activities (*see* Section 4.7, Community Declaration for the Highlands Ranch Community Association and Section 6.21, Bylaws of Highlands Ranch Community Association). Importantly, and unlike other bodies that may advise the Board, the delegate body may propose the adoption of rules and regulations governing: (i) the use and operation of the Backcountry; (ii) improvements; (iii) and/or increases or reductions in homeowner fee assessments attributable to the cost of operating and maintaining the Backcountry. Moreover, the HRCA Board *must adopt any and all such proposals* absent a determination that any given proposal would substantially and adversely impact an HRCA member, or group of members, not represented in the delegate body. However, since all HRCA members are represented by a delegate, there would appear to be little, if any, basis for the Board to reject a delegate-sponsored recommendation or proposal for the Backcountry. In sum, delegates have a particularly important role to play in determining what happens in the Backcountry should they elect to exercise it.

Relevant Documents

The following documents were determined by the Committee to be the most pertinent to its task and have been briefly summarized below.

- **Planned Community District Development Guide for the New Town of Highlands Ranch, approved by Douglas County September 17, 1979, and initially recorded October 25, 1979, at Bk 373, Pg. 187 (repeatedly amended since).** This document sets forth development parameters for all of Highlands Ranch and is commonly referred to as the “Highlands Ranch Development Guide,” or simply the “Development Guide.” It is essentially a living document that has been amended over seventy times since it was first approved in 1979 so as to address changing conditions and development goals within Highlands Ranch as build-out has progressed.

- **Conservation easement conveyed by Mission Viejo Company to Douglas County dated April 14, 1980, recorded on June 19, 1980, at Bk 388 Pg 759.** This perpetual easement was granted by Mission Viejo Company, the original master developer of Highlands Ranch, to Douglas County in 1980 and was designed and intended to offset/satisfy open space requirements for the proposed development of the New Town of Highlands Ranch (*at least* 30% of the total land mass of approximately 21,437 acres comprising the new town was to be dedicated to open space and/or community uses). Total acreage subject to the easement is 6,140, more or less, and is applicable to the majority of the land that now comprises the Backcountry (*see* accompanying map.) The easement initially limited uses within the easement area (known as the “General Conservation Easement Area”) to ranching, farming, horticulture, open space and forests, although limited development was allowed for residential ranch home sites and structures/infrastructure necessary for the development of the proposed New Town of Highlands Ranch, *e.g.*, roads, utility lines/systems, sanitation facilities, and public facilities (fire/police stations and other government buildings). Mining and energy development activities and structures are also permitted within the conserved area. Most, but not all, of the land within the conservation easement area was conveyed to the HRCA in 2009 by Shea Homes (as successor to Mission Viejo). The easement agreement and easement area have been amended at least once at the request of Shea Homes so as to accommodate residential development within the Backcountry Subdivision that otherwise would have been prohibited under the agreement.

- **Open Space Agreement between Mission Viejo and Douglas County dated October 20, 1980, recorded October 22, 1988, at Reception #258603.** This agreement was entered into by Mission Viejo and the County in 1980 as part of the 1979 rezoning and subdivision development approvals granted by the County for the proposed New Town of Highlands Ranch. It is a companion document to the conservation easement agreement noted previously and contractually obligated Mission Viejo to provide not less than 30% of the total planned community area for “open space publicly owned or devoted to community use,” with a minimum of 6% dedicated to Douglas County. The remaining 24% was to be set aside as “functional open space,” which eventually was to be conveyed or dedicated to a “Community Body” (*e.g.*, HRCA) for community use (*e.g.*, recreation facilities, unimproved open space, green belts, etc.), or to a “Public Body” (*e.g.*, a metro district, Douglas County, or to a school district) for public use (*e.g.*,

improved parks, unimproved open space, recreational facilities, roads, utility systems and plants, schools and government buildings, etc.).

• **Open Space Conservation Agreement dated November 15, 1988, between Douglas County, Mission Viejo Company, Sand Creek Cattle Company** (a wholly-owned subsidiary of Mission Viejo), **and the Highlands Ranch Community Association, recorded November 18, 1988, at Bk 826 Pg. 20.** This critical agreement (commonly referred to as the “OSCA Agreement” or “Open Space Agreement”) was entered into in the aftermath of the County’s adoption in 1986 of a county-wide master plan containing new objectives and policies for land development, and in response to Mission Viejo’s request to expand the geographical boundaries of Highlands Ranch and increase the maximum number of residential dwelling units. The purposes of the agreement were to guarantee development rights to Mission Viejo under the Highlands Ranch development approvals for 30 years (until 2018) and confirm and/or clarify commitments made by Mission Viejo to convey land to the HRCA or some other public entity for open space, recreational purposes, public facilities, and wildlife habitat enhancement. With particular regard to the latter, the agreement committed Mission Viejo to convey 8200 acres (+/-) to the HRCA, the equivalent of 38% of the total planned development area of 21,437 acres for Highlands Ranch, including the land previously identified for ranch home sites in the 1980 conservation easement agreement, the entirety of such area to be known as the “Committed Area,” *i.e.*, the Backcountry. Other important provisions of the agreement include:

* Conveyance of the 8200-acre Committed Area (now known as the Backcountry) to the HRCA was to occur not later than two years after “substantial completion of either residential or nonresidential buildout” of Highlands Ranch, or 75 years from the date of the agreement. (The final transfer of those portions of the Backcountry not otherwise previously conveyed to the HRCA or to third parties by Mission/Shea was completed by the end of May 2009.);

* The Backcountry was conveyed absent all mineral and water rights. Mineral and water rights were previously severed/reserved from the surface acreage and/or conveyed to third parties, *e.g.*, Union Pacific Land Resources, the State of Colorado and the United States regarding mineral interests, and Centennial Water & Sanitation District regarding water;

* Ownership of the Backcountry was to be limited to the HRCA or a public (governmental or quasi-governmental) entity or alternative community body, *e.g.*, an HOA or other entity that would be contractually bound to own, maintain and operate the property as open space for the benefit of the “residents of the New Town of Highlands Ranch;”

* The property was to be restricted “in perpetuity” to “open space and recreational purposes,” and/or to “Permitted Incidental Uses,” *i.e.*, uses “necessary, appropriate or desirable” to support or facilitate the development of Highlands Ranch consistent with the community development guide, such as roads and utility lines and facilities, or to support or facilitate development outside of Highlands Ranch or accommodate mineral resource extraction;

* A “limited portion” of the Backcountry was to be restricted to “active recreational facilities and public facilities,” *i.e.*, up to 1200 acres, later to become the Planning Areas. At the time the agreement was executed, what constituted “active recreational facilities” had yet to be

defined. In any event, the implementation of all such uses had to be consented to in writing by the County, Mission/Shea and the HRCA.

* In the event the HRCA was ever to convey any portion of the Backcountry to a third party, Mission Viejo (or its successor Shea) would get 50% of any consideration paid to the HRCA for the land. Likewise, in the event Mission/Shea was to convey any portion of the Backcountry prior to its transfer to the HRCA, Mission/Shea would have pay the HRCA 50% of any consideration paid for the same. This did occur in at least one instance.

* Any land within the Backcountry that might be conveyed by the HRCA is to be subject to the same use and conveyance restrictions set forth in the agreement and under which the HRCA received the property, and any conveyance agreement is to include a reversion of title back to Mission/Shea should there be a violation of those restrictions.

* Prior to the planned conveyance of the Committed Area to the HRCA, Mission reserved to itself (and to its successor, Shea Homes) the right to convey portions of the area to third parties for active recreational facilities and/or public facilities provided that written consent of the HRCA and County was obtained first. In the event that occurred, the initial 8200 acres to be conveyed to the HRCA would be correspondingly reduced to reflect any conveyances. This provision resulted in certain areas within the Backcountry being owned by entities other than the HRCA as described above.

* The agreement anticipated the creation of a land use plan that would define and limit the nature of all future development within the Backcountry, and no development within the area, excepting public utility facilities and lines, roads and similar uses, was to take place prior to the creation and approval of that plan by Douglas County. This plan was eventually developed in 1997 and subsequently revised and approved in May 2000. It is the "Highlands Ranch Open Space Conservation Area Plan (Wildcat Mountain Reserve)," otherwise and commonly known today as the "OSCA Plan" (see description of this document below).

* Finally, the agreement states that it may be amended or terminated "only with the prior written consent and approval of each of the parties hereto following public notice and public hearing." The agreement has been amended in the past. Most recently in 2012, the County, HRCA and Shea agreed to an amendment at Shea's request for the purpose of accommodating the transfer of restricted conservation land out of the original Committed Area/Backcountry into what is now the Backcountry Subdivision for residential development. Shea simultaneously exchanged and incorporated other land into the Committed Area in replacement of the land added to the subdivision. The HRCA subsequently received monetary compensation as a result of the sale of residential lots on the conservation land that was formerly within the Committed Area. Shea also provided HRCA the parcel on which the Southridge Rec Center is located.

• **Wildcat Regional Park Agreement dated November 6, 1996, entered into by Douglas County, Mission Viejo Company, the Sand Creek Cattle Company and the HRCA (unrecorded).** Based upon information provided by Douglas County, this agreement arose in light of a failure by Mission Viejo to preserve and protect against the encroachment of residential development sufficient land for the full development of the Highlands Heritage Regional Park.

Consequently, and consistent with the terms of the 1988 OSCA Agreement, the parties agreed that Mission Viejo would convey to Douglas County a specific subdivided 202-acre parcel within the Backcountry for a county-owned park to be known as the Wildcat Regional Park. This 202-acre parcel subsequently became Planning Area C within the overall Planning Area generally described in the later-adopted OSCA Plan. Significant provisions within this agreement include the following:

- * The park may contain irrigated, multipurpose playing fields, picnic units, playgrounds, non-motorized multipurpose trails and group picnic pavilions;

- * The parcel was conveyed to the County by Mission Viejo at no cost;

- * The property is deed-restricted for use exclusively as a regional park and is not to be leased or transferred in whole or in part to any person, entity or organization without an opportunity for the HRCA and Mission Viejo to review and comment on the same.

- * Mission Viejo and the HRCA are entitled to review and comment upon (within 30 days) plans for the park, including the construction of any improvements, *e.g.*, landscape plans, lighting, buildings (inclusive of materials and colors), hours and types of usage, operational issues, access to the park, and buffer zones between the park and the surrounding area.

The 202-acre parcel was conveyed to the County by recorded deed on September 20, 2011, Reception #2011058506.

- **Highlands Ranch Open Space Conservation Area Plan (Wildcat Mountain Reserve) prepared by Shea, Douglas County, and the HRCA OSCA Committee, February 1997, revised May 2000, and approved June 1, 2000, by Shea, Sand Creek Cattle Co., Douglas County and the HRCA; recorded June 13, 2000, Bk 1856, Pg. 2030.** This is another critical document that sets forth in some detail the initial proposed plan for development within the Backcountry, referred to in the document as the Open Space Conservation Area (“OSCA”). The plan is commonly referenced to as the “OSCA Plan.” The provisions of the OSCA Plan constitute amendments to the Highlands Ranch Development Guide. All development and/or land uses within OSCA/Backcountry are subject to the terms and conditions of the OSCA Plan regardless as to the ownership of the land upon which any particular development is proposed or occurring. Hence, this is the document that defines the uses and development that are allowed either by right or by special review on HRCA’s parcels within the Backcountry. However, and as noted in the document, “. . . no plan is forever. Both our natural resources and our society are dynamic and subject to change . . . When conditions and problems change enough, new planning with public participation will begin.” As initially established in 1997 and 2000, some of the plan’s goals/policies are as follows:

- * The land is to be used for recreational and educational purposes through reasonable programming that will prevent environmental damage.

- * Uses are to be compatible with one another and minimize impact on natural systems and wildlife, historic sites and natural landscape features.

* Wetlands, sensitive open space, dominant ridgelines, cultural resources, best wildlife habitat areas, rock outcroppings and highly visible bluffs are to be protected, and extensive landform alteration should be minimized.

* Any revenue-generating uses, including “joint venture development,” that may occur within the “1200-acre active recreational and public facilities areas,” *i.e.*, the Planning Areas previously noted in the 1988 agreement, should be utilized to financially support the management of OSCA/Backcountry or for other purposes deemed appropriate by the HRCA Board of Directors.

(The land uses allowed within the Backcountry, and the areas in which they are allowed, are specified later below.)

• **Highlands Ranch Open Space Conservation Area Management Implementation Plan, dated May 28, 2002, prepared by private consultants Science Applications International Corp. and Hellmund Associates for Shea Homes and the HRCA (unrecorded).** This document sets forth a comprehensive resource management plan for the Backcountry, *excluding the 1200-acre Planning Areas*.¹ Shea Homes still largely, if not entirely, owned the Backcountry at the time the plan was adopted. Unlike the OSCA Plan described above, the Implementation Plan does not expressly limit or otherwise govern land uses. Rather, its goals are, in part, to establish best management practices so as to “make OSCA a premier place for experience-based wildlife observation and outdoor education” and provide a place “where wildlife thrive and people experience wildlife, native vegetation, and scenery in a natural setting.” Execution of the plan is to be directed at restoring, linking and protecting habitat areas, wildlife populations and native plant communities, and providing nature-based recreation and education. It is intended to be “an adaptive working document” that depends on a periodic review (every five years) and corresponding adjustments. The document calls for a Resource Working Group comprised of “OSCA’s managers” and invited representatives from Douglas County, the Colorado Division of Wildlife, the Department of Agriculture’s Natural Resources Conservation Service, the Colorado State Forest Service and other organizations.

• **Community Involvement Process for Assessing Backcountry Planning Proposals prepared by the Backcountry Wilderness Area Planning Areas Task Force, adopted by the HRCA Board in 2012.** While not in the form of a formal legal document, the HRCA adopted an extensive community review process under which any proposed development within an HRCA-owned planning area would be subjected to prior to being allowed to occur. The procedure does not dictate or designate uses, but would determine what would or would not be permitted to be developed through an application and review process. Again, it only applies to lands within HRCA-owned planning areas.

There are numerous other documents that impact land uses and areas within the Backcountry that were reviewed by the Committee (see documents listed in the attached

¹ While the OSCA Plan called for the Planning Areas to comprise 1200 acres, those areas presently total just over 1400 acres (+/-) based on calculations provided by Douglas County (*see map*).

Appendix), but the Committee concluded the documents summarized above were of the greatest relevance in terms of the task assigned to it.

Land Uses Allowed Within the Backcountry

The following land uses were originally designated under the provisions of the governing documents described above as allowed uses **“by right” within all of the Backcountry parcels presently owned by the HRCA** and remain so today (*see* map for HRCA-owned planning areas and non-planning areas). “By right” means that development of the use would only require the approval by Douglas County of a site specific improvement plan.²

- Ranches for the production and sale of livestock (*e.g.*, cattle, buffalo and horses) and associated structures.
- Agricultural education facilities.
- Public utility buildings, structures, facilities and distribution lines.
- Flood control and drainage facilities, including impoundment reservoirs.
- Multi-use/purpose trails.
- Public transportation facilities.

Additional uses *currently allowed by right* in the HRCA-owned non-planning areas, aka “Open Space Area,” per the OSCA Plan:

- Wildlife interpretative centers utilizing not more than ten acres “at the interface” with a Planning Area, and wildlife viewing areas.
- Utilization of existing historic structures for a ranch headquarters, caretaker structure, heritage center or living history museum without expanding the original structure square footage.
- Archaeological sites and interpretative center sites not to exceed ten acres in size.
- Sludge (treated effluent) application.
- Potable water reservoirs, including buried tanks up to 5 million gallons.
- Communication, electrical and natural gas distribution facilities.

² The land use/development review and approval process adopted by the HRCA in 2012 previously described above does not apply to development outside the HRCA-owned planning areas.

- Community camps (subject to terrain and wildlife habitat), including limited overnight camping, with associated structural facilities up to a total of 10,000 sq. ft., e.g., dining and sanitary facilities and storage.
- Polo fields, fishing ponds, open space buffers and hunting.
- Roads, interpretative signs and picnic areas.
- Ranch and land manager/caretaker residences.
- Water and wastewater treatment plants not exceeding 100,000 gallon capacity and distribution lines.

Additional uses *currently allowed only by special review* in the HRCA-owned non-planning area:

- Exploration/extraction of mineral resources.
- Water/wastewater treatment plants exceeding 100,000 gallon capacity.
- Community camps (subject to terrain and wildlife habitat), including limited overnight camping, with associated structural facilities exceeding 10,000 sq. ft., e.g., dining and sanitary facilities and storage.
- Utilization of existing historic structures for a ranch headquarters, caretaker structure, heritage center or living history museum by expanding the original structure square footage.

Additional uses *currently allowed by right* in the HRCA-owned Planning Areas, excepting Planning Area G³:

- Law enforcement stations/offices and fire stations.
- Libraries, museums, cultural centers (structures not to exceed 50,000 sq. ft.), amphitheaters (sites not to exceed one acre), archaeological and interpretative centers (sites not to exceed ten acres), and utilization of existing historic structures for ranch

³ The Douglas County Department of Community Development has confirmed that the individual planning areas owned by the HRCA (Planning Areas B, D, E, F and G, and a small remaining portion of Planning Area A) do not have defined boundaries notwithstanding their depiction on various planning maps. Likewise, the acreage assigned to each area is not fixed (*see* footnote 1). It may also be worth noting again that most of Planning Area A, the former Golf Course Area, is now owned by the Backcountry HOA as open space, Planning Area C is owned by Douglas County and is specifically limited to use as a regional park, Planning Area H is currently owned by Douglas County and utilized by the school district for athletic fields, and Planning Areas I and J are occupied by the Highlands Ranch Law Enforcement Training Center.

headquarters, caretaker structure, heritage center, or living history museum (not to exceed historic structure square footage).

- Farms and gardens for the production and sale of crops, including tree farms, arboreta, and associated structures, agricultural research facilities, and livestock structures, including feedlots.
- Water and wastewater treatment plants not exceeding 100,000 gallon capacity and distribution lines.
- Sludge (treated effluent) application.
- Potable water reservoirs, including buried tanks up to 5 million gallons.
- Cellular communication facilities.
- Religious institutions, churches and retreat facilities not exceeding 350 seating capacity “in main worship area.”
- Colleges/universities, environmental education camps, and satellite educational facilities with structures not to exceed 50,000 sq. ft.
- Sport training or other recreation centers/facilities with structures not to exceed 50,000 sq. ft., and skateboard and in-line skating facilities.
- Equestrian center, riding areas and stables with sites not to exceed 20 acres, and polo fields.
- Multi-use trails.
- Community camps (subject to terrain and wildlife habitat), including limited overnight camping, and community events.
- Animal rehabilitation center/wildlife hospital (sites not to exceed one acre).
- Wildlife interpretative centers utilizing not more than ten acres “at the interface” with non-planning area open space, and wildlife viewing areas.
- Roads, signs and ranch and land manager/caretaker residences.
- Unspecified “other uses” which “serve all or a portion of Highlands Ranch and similar to and consistent with uses by right, subject to review and approval by the Douglas County Planning Director based upon recommendation from the HRCA.”

Additional uses *currently allowed only by special review* in the HRCA-owned Planning Area(s), excepting Planning Area G:

- Religious institutions, churches and retreat facilities exceeding 350 seating capacity “in main worship area.”
- Electrical facilities over 115 KV, cable television, radio and communication facilities.
- Colleges/universities, environmental education camps, and satellite educational facilities with structures in excess of 50,000 sq. ft.
- Sport training or other recreation centers/facilities with structures in excess 50,000 sq. ft.
- Recreational water parks.
- Ice skating rink/facilities.
- Equestrian center, riding areas and stables with sites in excess of 20 acres.
- Commercial sledding/tobogganing operation, inclusive of snowmaking equipment.
- Cultural center with structures in excess of 50,000 sq. ft.
- Amphitheaters with sites in excess of one acre.
- Animal rehabilitation center/wildlife hospitals with sites in excess of one acre.
- Wildlife interpretative centers utilizing more than ten acres “at the interface” with non-planning area open space.
- Dog training areas.
- Cemetery/mausoleum.

Additional *uses currently allowed by right* in the HRCA-owned Planning Area G:

- Cellular communication facilities.
- Equestrian center, riding areas and stables with sites not to exceed 20 acres, and polo fields.
- Community camps (subject to terrain and wildlife habitat), including limited overnight camping, and community events.

- Museums, cultural centers (structures not to exceed 50,000 sq. ft.), amphitheaters (sites not to exceed one acre), archaeological and interpretative centers (sites not to exceed ten acres).
- Animal rehabilitation center/wildlife hospital (sites not to exceed one acre).
- Wildlife interpretative centers utilizing not more than ten acres “at the interface” with non-planning area open space, and wildlife viewing areas.
- Roads and signs.
- Unspecified “other uses” which “serve all or a portion of Highlands Ranch and similar to and consistent with uses by right, subject to review and approval by the Douglas County Planning Director based upon recommendation from the HRCA.”

**Uses Presently Allowed within the HRCA’s Backcountry Parcels
versus the HRCA Community Survey Results**

The HRCA has at various times undertaken surveys of Highlands Ranch residents regarding what they would like to see, or not see, in terms of development in the Backcountry— but only with respect to the HRCA-owned planning areas. As described above, there currently are many uses that may be developed in the non-planning areas (the Open Space Area) either by right or by special review, *e.g.*, trails, agriculture education facilities, wildlife interpretative centers, community camps, water reservoirs, water/wastewater treatment plants, utility infrastructure, sludge applications, etc. Because many of these uses are also potentially developable in the planning areas, it would not be unreasonable to extend and apply the results of the most recent survey to all of HRCA’s Backcountry land, not just the HRCA planning areas. Hence, the Committee’s analysis and resulting recommendations apply to all of the HRCA’s land, not just the planning areas.

There is significant tension between what the governing documents potentially allow in the Backcountry and what the residents of Highlands Ranch have stated they want and don’t want through the community surveys (particularly the 2012 professionally prepared and administered survey sent to 3,000 residents with a 44% response rate). The most pronounced conflicts are listed as follows:⁴

- 76% oppose allowing private sports facilities.
- 73% oppose allowing cemeteries/memorial gardens.
- 71% oppose allowing a college or university.
- 69% oppose allowing houses of worship.
- 68% oppose horses boarding facilities.

⁴ All statistics are taken from the 2012 Community Survey unless otherwise indicated.

- 63% oppose an equestrian center/riding arena.
- 62% oppose allowing a skate park.
- 61% oppose allowing golf courses.
- 55% oppose allowing recreation centers.
- 53% oppose allowing an indoor ice arena.
- Conversely, 57% support simply leaving the Backcountry as is.

The results of the 2012 survey echo in several respects the previous, albeit not professionally prepared, survey sent to 4,000 Highland Ranch residents in 2002 (with a 20% response rate) by the HRCA Strategic Planning Committee for OSCA. The results of that survey showed as follows:

- 65% supported leaving the Backcountry as open space with 19% opposed.
- 56% opposed churches/religious facilities with 16% in support.
- 61% opposed cemeteries with 10% in support.
- 57% opposed college or university with 20% in support.
- 48% opposed a skate facility with 21% in support.
- 45% opposed a sports training facility with 23% in support. (Note: No distinction was drawn between private or other facilities.)
- 40% opposed an equestrian center with 28% in support.
- 40% opposed a golf course with 36% in support.
- 32% opposed a recreation center with 36% in support (Note: This was prior to the construction of the Southridge Rec Center).
- 31% opposed an ice arena with 41% in support.

The Committee's Recommendations Regarding the Elimination of Potential Uses

The consistency in the results of the two major HRCA community surveys made obvious to the Committee certain uses for elimination from the list of uses presently allowed on HRCA-owned land, whether within or without the Backcountry Planning Areas. Other recommended deletions are based on the Committee's interpretations of the survey results in light of the

approaching build-out of Highlands Ranch, the uses presently established within the Backcountry (*e.g.*, the development of water supply facilities and other utility structures by the Centennial Water/Sanitation District and others, and the construction of the Law Enforcement Training Center), and the existing uses/programming currently being undertaken by the HRCA on its land. The uses recommended for elimination are as follows:

- Cemeteries/memorial gardens.
- Colleges/universities.
- Churches/religious worship facilities/retreat centers.
- Sports/training facilities, including rec centers and ice arenas.
- Skate park/facilities.
- Horse boarding/equestrian center/arena facilities and polo fields.
- Golf courses.
- Water parks (Note: 57% of respondents in the 2012 survey opposed the development by the HRCA of an outdoor pool/aquatics center anywhere within Highlands Ranch).
- Sledding/tobogganing facilities, inclusive of snow making.
- Off-road bike parks.
- Public transportation facilities.
- Sludge applications.
- Feedlots
- Water and waste water treatment plants.
- Cellular/other communication towers/distribution facilities.
- “Unspecified other uses” as may be approved by Douglas County absent the express consent of the HRCA.

The suggested recommendations echo many of those same uses identified for elimination in 2002 by the OSCA Strategic Planning Committee to the HRCA Board, none of which were acted upon (*e.g.*, that committee recommended elimination of churches, cemeteries, colleges/universities, equestrian centers, skate parks, and sports training centers). At the same time, and despite a number of the results noted above, the committee’s report curiously recommended the development of an ice arena (survey support of 41%), an amphitheater (49%

survey support), a sledding hill (survey support of 41%), and a daily fee golf course (survey support of 36%) while otherwise recommending preserving as open space as many of the remaining acres as possible.

Steps/Processes for Securing Amendments to the Backcountry Governing Documents

Committee members met with staff of the Douglas County Community Development Department on two occasions in an effort to inform themselves regarding any governmental review or approval process that might apply to any effort the HRCA may wish to undertake to delete the uses listed above from the documents governing development within the Backcountry. Given the preliminary nature of the discussions and the uncertainty regarding the scope and specifics of any potential application, the county staff could (understandably) only provide the Committee with very general information. A brief summary of that information follows.

When taken together, several of the historical Backcountry documents executed by HRCA, Mission/Shea and Douglas County essentially constitute what is currently referred to as a planned development agreement. Specifically, and as noted previously, the Development Guide, the 1988 OSCA Agreement and 2000 OSCA Plan contain commitments and standards under which any development in the Backcountry would be subject to. At a minimum, deletion of the development uses noted above would require an amendment to the terms of the 2000 OSCA Plan, for it is that plan that identifies the specific land uses that presently may be developed in the Backcountry.

There are two alternative processes under the County's land use rules by which the desired amendments could be obtained. First, by the submission and approval of what is known as a "major amendment." This entails an expensive and rather drawn out multi-step process involving preliminary staff reviews, review and recommendation by the Planning Commission after a public hearing, and final review and approval by the Board of County Commissioners, also after a public hearing. This process also entails potentially expensive public noticing requirements and generally applies to proposed amendments involving such things as dwelling densities, major changes in setback, lot size or building height limitations, significant changes in planning area boundaries, and substantial changes to development standards or commitments.

The second process is called an "administrative amendment." It is significantly less expensive and complex and is used for plan amendments that involve such things as changes to the text of a development agreement that do not alter the "intent" of a planned development or associated commitments, and minor changes in planning area boundaries. The review and approval of an application under this process is handled administratively, absent multiple steps and public hearings and required noticing. While referral comments from outside agencies may be solicited, the ultimate decision to approve or not approve an administrative amendment is made by the Director of Community Development. It is to be noted that this is the process Shea Homes utilized in 2011 to (i) obtain a significant reconfiguration of the boundary line separating the Backcountry Subdivision from the open space to the south comprising a portion of former Planning Area A, (ii) convert dedicated open space to residential lots for single-family home development, and (iii) lift the limitations previously imposed on the land prohibiting residential development under the terms of the conservation easement granted to Douglas County in 1980.

The planning staff members who conferred with the Committee suggested that should the HRCA wish to explore in greater detail what would be involved in an amendment request, and whether the proposed changes would qualify as an “administrative amendment” as opposed to a “major amendment,” it should contact the County and schedule what is called an application “presubmittal review request,” which does not entail a formal application submittal and is free.

The Committee has also concluded that notwithstanding the County’s review and approval process, the HRCA would also have to seek and obtain the consent of Shea regarding the proposed elimination of the uses listed above. This would not be unlike Shea having to have requested and obtained the HRCA’s approval for the boundary and use changes related to the Backcountry Subdivision development in 2011 as previously described, and which the HRCA granted.

Conclusions

As described above, the documents under which the Backcountry came into being primarily govern the types of uses, structures and activities that may be developed within its boundaries. With regard to those portions of the Backcountry owned by the HRCA, the key documents are the 1988 OSCA Agreement and 2000 OSCA Plan. The ideas, assumptions and vision upon which the Backcountry was created are dated and have not been formally revisited since 2002. And while many of the goals and aspirations for the Backcountry may still be valid, a lot has happened since 2002.

A thorough review of the uses currently allowed in the Backcountry reveals that many of them are not what the Highlands Ranch Community would like to see developed as demonstrated through the 2002 and 2012 HRCA community surveys. Despite this, no action has been taken by the HRCA up to now to formally reevaluate the desirability or appropriateness of those uses, or reform the governing documents to reflect what the Community has indicated it would and would not like to see in the Backcountry. The failure to do this resulted in the unfortunate and divisive episode in 2009-2010 arising from the attempt to locate a residential university campus on approximately 100 acres of the Backcountry in Planning Area E. The Committee believes that absent amendments to the governing documents, a similarly explosive event in the future cannot be ruled out.

As illustrated by the relatively recent amendments requested and obtained by Shea Homes through the cooperation of the HRCA and Douglas County to facilitate additional development of the Backcountry Subdivision, changes to the governing documents can and should be made to accommodate changed conditions, concerns and community desires. Given the evolution and approaching build-out of Highlands Ranch and the now well-established uses to which the Backcountry has been put, including hiking, biking, livestock grazing and other relatively passive activities, all of which have been overwhelmingly endorsed via the community surveys, the Committee believes there is no longer any well-founded community need or interest served by maintaining the uses identified in this report for elimination.

In view of the Delegates’ responsibility and authority to oversee the operations, development and welfare of the Backcountry, the Committee concludes and recommends that the

Delegate Body vote to direct the HRCA Board of Directors, through staff or other suitable persons, to timely undertake and complete those steps necessary to amend the appropriate documents described in this report so as to foreclose the potential development of the land uses previously identified for elimination; specifically, cemeteries/memorial gardens, colleges/universities, churches/religious worship facilities/retreat centers, sports/training facilities, including rec centers and ice arenas, skate park/facilities, horse boarding/equestrian center/arena facilities and polo fields, golf courses, water parks, sledding/tobogganing facilities, inclusive of snow making, off-road bike parks, public transportation facilities, sludge applications, feedlots, water and waste water treatment plants, cellular/other communication towers/distribution facilities, and “unspecified other uses” as may be approved by Douglas County absent the express consent of the HRCA.

Respectfully submitted by the members of the HRCA Delegate Backcountry Study Group.

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