



2. Site conditions that were known by the Owner requesting the BHI at the time the Owner acquired the Lot and/or would have been known by person exercising ordinary care, when acquiring the Lot.

7.7 Review of Request for a Building Site Enlargement (BSE) or a Building Site Relocation (BSR).

7.7.1 The Building Site Boundary Covenant provides as follows:

“The Community wishes to preserve and enhance the views, privacy, visual impact, and values on the Lots located in The Aldasoro Ranch and mitigate the impacts on wildlife by restricting the location of Improvements on each Lot.

Improvements, including but not limited to excavations, buildings, decks, patios, roof overhangs, play areas, swimming pools, tennis courts, and enclosed parking areas may not be located or constructed on the Lot outside of the corresponding Building Site Boundary.

The DRB, in its sole discretion, may grant a limited exception to this covenant allowing driveways, underground utilities, limited surface parking and landscaping outside of the Building Site Boundary. The DRB shall exercise its discretion cautiously in granting such limited exceptions.”

Consistent with the Building Site Boundary Covenant, the DRB may consider an Applicant’s request to either enlarge a Building Site Boundary (Building Site Enlargement / BSE) or relocate a Building Site (Building Site Relocation / BSR).

Given the foregoing covenant, and because the Community was designed in such a manner that driveways and utilities connect at a street, it is expressly permitted for a driveway and utilities to be constructed in part outside the Building Site Boundary (BSB) on a Lot. No Limited Design Exception, Building Site Relocation, or Building Site Enlargement shall be necessary or required for the sole purpose of accommodating a driveway or utilities connecting a structure to a street.

7.7.2 Any request for BSE/R regarding the following will require extra scrutiny: (A) a relocation which would encroach upon San Miguel County's 100' Wetland Buffer Zone as identified as Lots 15, 23, 28, 48, 50, 51, and 52 in Filing 1, Lots 85, 86, 91 and 99 in Filing 2, and Lot 45 in Filing 3; (B) Lots which have been, designated in the Aldasoro Ranch PUD Agreement in paragraphs 11.1.7 and 11.2 by the Colorado Department of Wildlife (CDOW), and which may encroach on wildlife habitat patterns, would require approval from CDOW and San Miguel County, those being Lots 30, 31, 35, 36 and 37 in Filing 1, Lots 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 161, 162, 163 and 164 in Filing 2 and Lots 108, 109, 110, 111, 112 and 113 in Filing 3.

- A. The designated BSB on a designated Border/Wildlife Habitat Lots may not be moved in a northerly direction without the approval the Colorado Division of Wildlife.(PUD Agreement 11.1.7.1)
- B. The designated BSB on a designated Wetlands Buffer Lots shall not be moved without the approval of San Miguel County.



- 7.7.3 DRB approval of a BSE/R shall be contingent on the Applicant developing only the Improvements reflected in the BSE/R Concept Plan.
- 7.7.4 Construction shall commence within the time frame for implementing Improvements. If construction has not commenced within the time frame, the approval of the BSR/E shall become null and void.
- 7.7.5 **Building Site Enlargement Area.** The BSE shall not increase the BSB by more than 5% of the area contained in a Lot's originally platted BSB.
 - A. Height Limitation Lots (75' BSB radius) may enlarge the BSB area by 884 sf.
 - B. Non-Height Limitation Lots (60' BSB radius) may enlarge the BSB area by 566 sf.
 - C. Cumulative BSEs may not exceed 5% of the originally platted Building Site Boundary area.
- 7.7.6 **BSE/R Process.** The following procedural steps shall apply to a BSE/R Application:
 - A. The Applicant shall schedule a Planning Meeting with the HOC to specifically address the BSE/R. The Owner or Contract Purchaser shall attend this meeting. The BSE/R Checklist shall be provided at the meeting explaining the submittal and Site Walk requirements.
 - B. The HOC shall inform all Adjacent Property Owners (APO).
 - C. The HOC shall host a BSE/R Site Walk presentation by the Applicant to the APO. The Owner or Contract Purchaser shall attend this meeting.
 - D. The APO shall submit the Accepted Request or Opposed Request Form to HOC within seven (7) days of the presentation.
 - E. **Accepted Request.** If all APOs submit an Accepted Request the BSE/R the Application shall be agendized for DRB review and the DRB shall act upon on the BSE/R.
 - F. **Opposed Request.** If one or more APOs submits an Opposed Request, the Application will not be agendized for DRB review unless an arbitrator, following the Building Site Arbitration Rules and Procedures, issues an award determining that the requested BSE/R is necessary for the development of the Lot due to unanticipated and extraordinary conditions. See 7.7.8 *Building Site Arbitration Rules and Procedures for BSE/BSR/BHI.*
 - G. **Building Site Boundary Covenant Amendment.** If the BSE/R is approved by the DRB, the HOC shall prepare a revised Building Site Boundary Covenant (Building Site Boundary Covenant Amendment) reflecting the BSE/R which shall be executed by the BOD and the Applicant and recorded with San Miguel County immediately after the San Miguel County Building Permit has been acquired.
- 7.7.7 DRB Review Criteria and Standards for BSE/R
 - A. A BSE/R Application on Wetland Buffer Lots or Border/Wildlife Habitat Lots will require extra scrutiny.



- B. The DRB shall consider the following when reviewing a BSR/E Application:
 - 1. The resulting impacts of the BSE/R on increased visibility, noise, and similar influences. The DRB may require the Applicant to make modifications to the mass/scale/height or placement of the proposed Improvements, add berms/landscaping, and other factors to reduce impacts.
 - 2. Prior modifications to BSBs and heights on the subject Lot and Adjacent Lots.
- C. The following conditions by themselves, shall not be considered unanticipated and extraordinary conditions such that a BSE/R is necessary;
 - 1. Increased costs to develop the Lot; or
 - 2. Site conditions that were known by the Owner requesting the BSE/R at the time the Owner acquired the Lot and/or would have been known by a person exercising ordinary care, when acquiring the Lot.

7.7.8 Building Site Arbitration Rules and Procedures for BSE/BSR/BHI

The HOC and each of the Owners acknowledge that disputes concerning requests for BSE/BSR/BHIs can be costly, time consuming, and disruptive to the Community. The Building Site Arbitration Process is designed to provide a fast, simple, efficient, and inexpensive process for Owners to resolve disputes over requests for BSE/BSR/BHIs.

These rules and procedures are subject to the Colorado Common Interest Ownership Act and shall govern the Building Site Arbitration Process as administered by Construction Dispute Resolution Services, LLC (CDRS). They shall take precedence over any other set of arbitration rules and procedures.

- A. **Initiation of Building Site Arbitration.** An Owner initiates the “Building Site Arbitration Process” by submitting a written Request for Building Site Arbitration to the HOC together with the filing fee and simultaneously providing notice, via certified mail return receipt requested, to all Adjacent Property Owners. The filing fee shall include the initial arbitration fee set by CDRS together with a sum of money that the DRB may, from time-to-time, determine is proper. An Owner initiating the Building Site Arbitration Process shall be called the “Claimant” for purposes of the Building Site Arbitration. The Adjacent Property Owner(s) who file a written Response within the period specified below opposing the BSE/BSR/BHI shall be called the “Respondent(s)” for purposes of these arbitration rules. The Claimant and the Respondent(s) shall be called the Parties.
- B. **DRB’s Written Assessment/Participation.** No later than fourteen (14) days after the DRB has received the Request for Building Site Arbitration from the Claimant, the DRB shall prepare a written assessment of the requested BSE/BSR/BHI. No later than seven (7) days after receiving the responses of the parties, the DRB shall transmit to CDRS the Request for Building Site Arbitration, the Responses, the DRB’s Written Assessment and the initial arbitration fee. At the request of