



AGENDA

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order and times of agenda items listed are approximate and intended as a guideline for the Town Council.

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday October 6, 2021

The public is welcome to join the meeting in person or using the following methods:

<https://us02web.zoom.us/j/86498115864>

Or join by phone:

US: +1 301 715 8592 or +1 651 372 8299

Webinar ID: 864 9811 5864

Regular Session – 4:30pm

MAYOR – Vacant

MAYOR PRO TEM – Earle Bidez

COUNCIL MEMBERS:

Terry Armistead

George Brodin

Eric Gotthelf

Gusty Kanakis

Tom Sullivan

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

Regular Session – 4:30pm

The Minturn Town Council will open the Regular Meeting at 4:30 for the purpose of appointing a new mayor and council member (publicly) and then convening into Executive Session. At (approximately) 7:00pm the Council will convene back into Regular Session for the remainder of the meeting. The public is welcome to attend at 4:30 for the appointments of the new mayor and council member prior to Executive Session.

1. Call to Order

- Roll Call
- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added
- Declaration of Conflicts of Interest

3. Public Hearing/Action Item: Resolution 32 – Series 2021 A Resolution appointing the Mayor for the Town of Minturn – Metteer (5 min) Pg 5

- Swear in of Mayor – Town Clerk
- Motion to appoint the Mayor Pro Tem

4. Public Hearing/Action Item: Discuss and Interview applicants for the vacant Town Council seats – Brunvand

5. Public Hearing/Action Item: Resolution 33 – Series 2021 consideration of a Resolution appointing an individual to the Minturn Town Council – Brunvand Pg 14

- Swear in of Council Member – Mayor

6. Public Hearing/Action Item: Resolution 34 – Series 2021 consideration of a Resolution appointing authorized check signers for the Town of Minturn – Brunvand Pg 15

EXECUTIVE SESSION

7. Executive Session: An executive session to conference with the Town attorney for the purpose of consulting with the Town Attorney(s) under CRS 24-6-402(4)(b) and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under CRS 24-6-402(4)(e) – Battle Mountain

OPEN SESSION – APPROXIMATELY 7:00PM

8. Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)

A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be discussed when the Consent Agenda comes before the Council. If any Council member wishes to discuss a Consent Agenda item, please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

9. Approval of the Consent Agenda

- September 15, 2021 Meeting Minutes Pg 17
- Liquor License – The Bunkhouse, annual renewal of a Lodging & Entertainment (City) Liquor license; 175 Williams St; Nancy Richards, Owner/Manager – Brunvand Pg 37
- Liquor License – Rocky Mountain Taco LLC, Modification of Premises for a Hotel and Restaurant (City) Liquor license; 291 Main St; Chris McGinnis, Owner/Manager – Brunvand Pg 40
- Resolution 37 – Series 2021 A Resolution approving an update to the Town Manager Contract Pg 47
- Resolution 38 – Series 2021 a Resolution authorizing the Mayor or his/her designee to sign a Municipal Advisor Engagement Letter with UMB Financial Services, Inc Pg 50
- Direction to staff to initiate a quiet title lawsuit related to property located in NW1/4NE1/4 of Section 35, Township 5 South Range 81 West Pg 60

10. Special Presentations

- Council Comments/Committee Reports (10 min)

PUBLIC HEARINGS AND/OR ACTION ITEMS

- 11. Public Hearing/Action Item:** Ordinance 09 – Series 2021 (Second Reading) an ordinance authorizing a loan agreement with the Colorado Water Resources and Power Development Authority and a related bond for the purpose of financing improvements to the Town’s water storage system – Metteer Pg 62
- 12. Public Hearing/Action Item:** Resolution 35 – Series 2021 A Resolution approving VAR 21-01 for 261 Main St regarding lot coverage – Harris Pg 111
- 13. Public Hearing/Action Item:** Resolution 36 – Series 2021 A Resolution approving VAR 21-02 for The Bunkhouse, 175 Williams St – Harris Pg 126
- 14. Public Hearing/Action Item:** Council motion to formally accept the FY2022 Preliminary Budget – Brunvand Pg 137
- 15. Public Hearing/Action Item:** Ordinance 10 – Series 2021 (First Reading) an Ordinance rezoning 504 Eagle River St and 502 Main St - Hunn Pg 142

DISCUSSION / DIRECTION ITEMS

- 16. Discussion / Direction Item:** Review of Minturn North PUD application for direction to staff (MMC Sec 16-15-180) – Hunn Pg 164

17. Discussion / Direction Item: Default under Battle Mountain Annexation Agreement and Water Services Agreement – Sawyer and Metteer

COUNCIL INFORMATION / UPDATES

18. Staff Updates (5 Min)

- Manager’s Report Pg 172
 - Joint meeting Council/Planning Commission; October 27th at 6:30 pm
- Future Agenda Items Pg 181
 - Consideration of amendment to the Strategic Plan - Gotthelf

MISCELLANEOUS ITEMS

19. Future Meeting Dates

- a) Council Meetings:
- October 20, 2021
 - November 3, 2021
 - November 17, 2021
 - December 1, 2021
 - December 15, 2021

20. Other Dates:

21. Adjournment

**FROM THE DESK OF
JAY BRUNVAND, MINTURN FINANCE OFFICE**

MEMORANDUM

TO: Mayor and Town Council
FROM: Jay Brunvand, Clerk/Treasurer's Office
CC:
DATE: 9/30/21 12:36 PM

OCTOBER 6, 2021 COUNCIL MEETING

At tonight's Council Meeting you will consider appointment of the Mayor and one Council Seat. Currently the Council stands at six members with the resignation of the Mayor upon his moving from Town. In order to appoint a candidate to the vacant seat you will need four votes minimum.

Note: Following is a recommended sequence of events for the Mayor Pro Tem to follow in order to appoint the vacant Council seat. The Mayor will be nominated from the existing sitting Council.

- 1) General Meeting of the Public Hearing.
 - a. Discuss and Interview applicants
 - i. The Mayor Pro Tem will call for mayoral nominations from the Council from the existing sitting Council. A Council Member is eligible to nominate him or herself.
 - ii. Each nominee will be allowed time to speak from the dais.
 1. They will each have a few minutes to introduce themselves and express their desire and qualifications.
 2. The Council will have time to ask interview questions.
 - iii. Once all nominees have been interviewed, Council will use ballots to vote for the seat.
 1. The ballots are not secret, will have your name on them for future reference, and will be numbered in the event multiple ballot votes are necessary.
 2. The nominee(s) are eligible to cast a ballot.
 3. Ballots will be passed to the Town Clerk who will tally the votes and announce the results.
 - a. With six members voting, a winning candidate must receive not less than three votes.
 - b. In the event the first round of voting does not produce a nominee with four or more votes the Council will revote.
 - c. In the event of only one nominee, no vote is necessary.

- b. Resolution 32 – Series 2021
 - i. Based on a single nominee or the final vote where one applicant receives a majority vote, the Mayor Pro Tem will call for a motion to appoint the applicant and their name will be added to the Resolution provided.
- c. Swearing in of appointed applicant
 - i. Once the Resolution is approved, the Town Clerk will swear in the newly appointed Mayor with the following:

Nominee will raise their right hand.

I, _____, do solemnly swear that I will support the Constitution and laws of the United States, the Constitution and laws of the State of Colorado, and the Ordinances of the Town of Minturn, and that I will faithfully perform all the duties of the office of Minturn Town Council Member, upon which I am about to enter.

- 2) The newly seated Mayor will assume direction of the meeting.
 - a. The Mayor will nominate a currently sitting Council Member to serve as Mayor Pro Tem and make a motion to appoint.
- 3) Discuss and Interview of candidates to fill the now vacant Council Seat.
 - a. Letters of Interest have been solicited from the public and each candidate has been vetted to ensure they are eligible to hold the seat of Council Member.
 - b. The Mayor will announce the candidates:
 - i. Katherine Schifani – 550 Taylor St
 - ii. Lynn D. Feiger – 344 Eagle St
 - iii. David Clapp – 392 Taylor St (Via Zoom)
 - iv. Greg Sparhawk – 245 Pine St
 - v. Casey McKenna – 661 Main St
 - c. Each applicant, one at a time, will speak from the podium.
 - 1. They will each have a few minutes to introduce themselves and express their desire and qualifications.
 - 2. The Council will have time to ask interview questions.
 - 3. Once all candidates have been interviewed, Council will use ballots to vote for the seat.
 - 4. The ballots are not secret, will have your name on them for future reference, and will be numbered in the event multiple ballot votes are necessary.
 - 5. Ballots will be passed to the Mayor (or Town Clerk) who will tally the votes and announce the results.
 - a. With six members voting for two candidates, a winning candidate must receive not less than three votes.

- b. In the event the first round of voting does not produce any applicants with four or more votes the Council will revote.
 - c. In the event two candidates receive two or three votes during a round, the next round will include only those that received more than one vote.
 - d. This process will continue until a candidate is produced with not less than four votes.
- d. Resolution 33 – Series 2021
 - i. Based on the final vote where one applicant receives a majority vote, the Mayor will call for a motion to appoint the applicant and their name will be added to the Resolution provided.
 - e. Swearing in of appointed applicant
 - i. Once the Resolution is approved, the Mayor will swear in the newly appointed applicants with the following:
 - 1. Applicants will be sworn in by raising their right hand.
 - 2. The Mayor will read:

I, _____, do solemnly swear that I will support the Constitution and laws of the United States, the Constitution and laws of the State of Colorado, and the Ordinances of the Town of Minturn, and that I will faithfully perform all the duties of the office of Minturn Town Council Member, upon which I am about to enter.

- 3. The newly appointed member will assume their seat at the Council Table

Katherine Schifani

550 Taylor St., Minturn, CO

Dear Minturn Town Council,

I am writing to express my interest in the mid-term appointment for Town Council. I moved to the Vail Valley in 2014 after leaving the active duty Air Force, and moved to south Minturn a few months later. Having now lived here for seven years, the longest I've lived anywhere since leaving my childhood home in New Mexico for the Air Force Academy, I consider this home. I love the community and the funkiness that makes Minturn Minturn.

My wife and I now live on Taylor Street, and I am excited about the opportunity to give the residents of North Minturn a voice on council, and offer council a different perspective. I work as the Snowmaking Manager at Vail Mountain, so I am intimately familiar with the operations that draw tourists to our valley and allows us to thrive here. I can appreciate the delicate balance between residents and guests, and the challenges people working in service roles face living in the valley.

In addition to my job on the mountain here, I am currently an officer in the Air Force Reserve, where I command an F-35 Aircraft Maintenance Squadron at Hill Air Force Base in Utah. In this role, my job, in part, is to take information on subjects about which I may not always be an expert and make decisions that balance the best interests of both my organization and my people. I believe this skill will translate well to a position on Town Council, and I welcome for the opportunity to help shape the town and community I love.

Thank you for your consideration,

Kate Schifani

TO Minturn Town Council Members:

I wish to be considered for the open position on the Minturn Town Council. I have resided in Minturn on a full-time basis for approximately 14 years and have owned property here since 1991. As most of you know, I am an attorney. In light of the complexity of current and future legal issues facing the Council, my legal background will be helpful.

I have practiced employment law in Colorado for almost fifty years and am currently rated by my peers as one of the best attorneys in the country. I am currently of counsel to Jester, Gibson, & Moore, LLC., a Denver boutique firm that specializes in real estate and employment litigation. I have had extensive experience managing my own law firm including approximately twenty attorneys and staff. My background includes the successful negotiation and litigation of the largest employment cases in Colorado.

I founded the Vail Valley Art Guild and most recently, organized the First Minturn Affordable Art Event this summer at the Agora. My husband and I are currently remodeling the former Lucero Gas Station South of Minturn into a gallery, art studio and residential space.

Despite being sandwiched between Vail and Beaver Creek, Minturn has been able to preserve its historic and cultural character and is a very special place for all of us who live here. I care deeply about the future of Minturn and am concerned about the challenges to Minturn's future. Minturn must change and grow wisely in the future, and we must be able to successfully stand up against the powerful interests who seek to promote the wrong kind of change.

Although I am a litigator, my biggest successes have always come from negotiation and I believe strongly in working together to find the best solutions.

Lynn D. Feiger

344 Eagle Street

Minturn, Co. 81645

To Whom It May Concern,

I, David Clapp residing at 392 Taylor Street, am interested in the vacated seat on Minturn Town Council. I moved to Minturn in 1999, buying and renovating a trailer on Taylor Street. I have worked as a bartender in Minturn since 1997. First at Chili Willys and now at the Saloon. Twenty five years of working and 20 years of living in Minturn has given me a good grasp of the residents sentiments, worries, etc. I love living and working in Minturn and believe I would be an asset to the council.

Thank you for the consideration.

David Clapp



September 28, 2021

Hello,

I am submitting this letter as an interested candidate for the vacant seat on the Town Council.

My wife and I moved to Minturn in 2000 and fell in love with the charm and atmosphere. I joined the volunteer fire department and quickly came to realize why so many people want to call this community home. When we learned our family was getting ready to grow with a daughter, we began looking for a home to buy to settle down. It became apparent very quickly that we would not be able to afford to stay.

We spent the next fifteen years moving multiple times around the country. Every place we moved to we compared to Minturn. The small town with big charm, a world away, but right next to everything. Finally we were in a position that we were able to purchase our home on Pine street with the intent to rent it out until we were ready to retire. A month into owning it we asked ourselves why we were waiting, then up and moved from D.C. with our two kids, dog and cat back to here, home.

In the five years that we have been back here I have been a Planning Commission member, a volunteer on trail crews in town, a volunteer on the Fishing access program, a participant in the bar stool races, an RFM DJ, an active Halloween celebrant and have completed two large Pro-Bono architectural projects for Habitat for Humanity.

I am an architect by trade, an artist at heart, but first and foremost a husband and father.

Ms Lynn Teach is my neighbor and friend and has shared many stories with me regarding why visitors love our town. These are the ideas that make this place special to so many people and these are the ideals that we should look to as we grow. Growth is inevitable here, with our location and charm, Minturn is a highly desirable community to live in. While I always felt my place of influence would be best served on the Planning Commission, I now believe that I should play a bigger part in the direction of our town. As growth continues, I would like to work with the other council members to find the best solutions for the town as a whole. Especially as that pertains to responsible resource management, safe infrastructure (including Holy Cross transmissions lines), but especially attainable housing solutions. I believe there are multiple solutions to affordability aside from simple deed restrictions.

As many of you know, I am working on a project in town that I believe is the ideal fit for Minturn. But because of that, if selected, I would need to recuse myself from the subject. However, an important outcome of this process for me has been developing a better understanding of the relationship between the Railroad and the Town, the financial condition of the town, the interest in so many people wanting to call Minturn home as well as hearing so many opinions on the direction of Minturn. I would like to assist the Town in determining the direction of our downtown (and protection). I look forward to the opportunity to help with the health of our communities' resources as well as increasing accessibility to existing trails and resources. I would like to have a louder voice when it comes to where and how the Town makes decisions.

You all have done so much to continue to make Minturn an amazing place. I would like to offer all I can to help continue this and to help Minturn to protect its unique character.

Best regards and thank you,

Greg Sparhawk
245 Pine Street

www.gpsdesigns.com

general@gpsdesigns.com

970 470 4945

Jay Brunvand

From: CJ McKenna <cmautotech@hotmail.com>
Sent: Wednesday, September 29, 2021 2:53 PM
To: Jay Brunvand
Subject: Letter of Interest for Council Vacancy

To whom it may concern,

My name is Casey McKenna, I was born In Vail, Colorado, raised in Minturn, Colorado and have been a resident of Minturn for over 30 years. In that time, I have seen both positive and negative changes to Minturn and our surrounding area.

As much as I dislike politics, I have recently become more interested in the wellbeing of Minturn, mainly for our future generations. I have a 10-year-old daughter and feel fortunate to raise her somewhere that still has a small-town atmosphere with a positive community. I love Minturn's historic character and small town feeling and I personally don't want that to change.

With all the growth and expansion everywhere in Eagle county I feel Minturn will inevitably grow too. I feel as though Minturn should change and grow but I don't want to live in Vail and I don't want to live in a city.

Minturn is still a small town of hard-working citizens and I would hate to see it become gentrified to chase out the middle class that have lived here for decades and made Minturn what it is today.

To my knowledge Minturn originally was primarily railroad workers and miners but today there is almost nothing to show for its historic past and positive influence on the country. I would like to see Minturn's future developments have a more historic ambiance and due to our old infrastructure keep our small town small.

I am by no means getting my hopes up for this vacancy, but I have voiced my opinions with dozens of town locals and feel as though I share their beliefs and have their support.

I want to keep Minturn Minturn and believe everyone in it has an equal opinion no matter their financial status or up bringing.

Thank you for your time and consideration.

Casey McKenna
661 Main St.
Minturn, CO 81645
cmautotech@hotmail.com
(970) 471-6440

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 32 – SERIES 2021**

A RESOLUTION APPOINTING THE TOWN MAYOR

WHEREAS, The Minturn Town Council has received a resignation from the Mayor and desires to fill the vacancy; and

WHEREAS, pursuant to Minturn Town Charter Section 4.6, the remaining Council Members shall choose by majority vote appointments to fill the vacancies.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING INDIVIDUAL IS HEREBY APPOINTED MAYOR AS INDICATED:

NAME

TERM

October 6, 2021 – Election Day April 2022

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6th day of October, 2021.

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Jay Brunvand, Town Clerk

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 33 – SERIES 2021**

**A RESOLUTION APPOINTING TOWN COUNCIL
MEMBERS**

WHEREAS, The Minturn Town Council has received a resignation from the Town Council and desires to fill the vacancy; and

WHEREAS, pursuant to Minturn Town Charter Section 4.6, the remaining Council Members shall choose by majority vote appointments to fill the vacancies.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING INDIVIDUAL IS HEREBY APPOINTED COUNCIL MEMBER AS INDICATED:

NAME	TERM
_____	October 6, 2021 – Election Day April 2022

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6th day of October, 2021.

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Jay Brunvand, Town Clerk



To: Mayor and Council
From: Jay Brunvand
Date: October 6, 2021
Agenda Item: Resolution 34 – Series 2021

REQUEST:

Council is asked to approve Resolution 34 – Series 2021

INTRODUCTION:

In light of the appointment of a new Mayor and the restructuring of the Council, new check signers need to be appointed. For security and in conformance with our financial policies the town requires two authorized signatures on all checks. The pool of check signers includes the Mayor, two Council members, and the Town Manager.

Staff recommends maintaining the current signers and adding the newly appointed mayor to the signatory list.

ANALYSIS:

N/A

COMMUNITY INPUT:

N/A

BUDGET / STAFF IMPACT:

All checks require two signatures. The Treasurer does not sign checks for security purposes.

STRATEGIC PLAN ALIGNMENT:

N/A

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to approve Resolution 34 – Series 2021 a Resolution appointing check signers as presented.

ATTACHMENTS:

- Resolution 34 – Series 2021

TOWN OF MINTURN

RESOLUTION NO. 34 – SERIES 2021

**A RESOLUTION CONCERNING BANKING PRACTICES FOR THE
TOWN OF MINTURN**

WHEREAS, Pursuant to the Town of Minturn’s banking institutions policies and practices it is requested and required that Town Council make certain authorizations following a municipal election or when a change of positions on the Council or in Staff warrant.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO THAT THE FOLLOWING FOUR INDIVIDUALS ARE HEREBY AUTHORIZED TO SIGN CHECKS WITHDRAWN ON FUNDS FROM THE TOWN’S CHECKING ACCOUNT(S) AND SAVING ACCOUNT(S) AND INVESTMENT ACCOUNT(S):

_____	Mayor
Terry Armistead	Council Member
George Brodin	Council Member
Michelle Metteer	Town Manager

INTRODUCED, READ, APPROVED, RESOLVED, AND ADOPTED this 6th DAY OF OCTOBER, 2021.

MAYOR

ATTESTS:

JAY BRUNVAND, TOWN CLERK



OFFICIAL MINUTES

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order and times of agenda items listed are approximate and intended as a guideline for the Town Council.

MEETING OF THE MINTURN TOWN COUNCIL

**Minturn Town Center 302 Pine Street
Minturn, CO 81645 • (970) 827-5645**

Wednesday September 15, 2021

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<https://us02web.zoom.us/j/84152456736>

Or join by phone:

US: +1 301 715 8592 or +1 651 372 8299

Webinar ID: 841 5245 6736

Regular Session – 5:30pm

**MAYOR – John Widerman
MAYOR PRO TEM – Earle Bidez**

COUNCIL MEMBERS:

Terry Armistead
George Brodin
Eric Gotthelf
Gusty Kanakis
Tom Sullivan

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

Regular Session – 5:30pm

1. Call to Order

- Roll Call

The meeting was called to order by Mayor John W. at 5:31pm using a hybrid in-person and ZOOM on-line meeting format.

Those present include: Mayor John Widerman, Mayor Pro Tem Earle Bidez and Town Council

members Terry Armistead, George Brodin, Eric Gotthelf, Gusty Kanakis, and Tom Sullivan (via Zoom).

Staff present: Town Manager Michelle Metteer, Town Planner Madison Harris, Town Attorney Michael Sawyer (via Zoom) and Richard Peterson-Cramer (via Zoom), and Town Treasurer/Town Clerk Jay Brunvand.

- Pledge of Allegiance

The Minturn Town Council will open the Regular Meeting at 5:30pm for the purpose of convening into Executive Session. At (approximately) 6:30pm the Council will convene into Regular Session for the remainder of the meeting.

EXECUTIVE SESSION

2. **Executive Session:** An Executive Session pursuant to Section 24-6-402(4)(f) for the purpose of discussing the Town Manager's annual review and contract and for the purpose of Conferencing with the Town Attorney pursuant to C.R.S. 24-6-402(3)(b) for the purposes of receiving legal advice on title issues of certain Town property – Metteer/Sawyer

Motion by Terry A., second by Gusty K., to convene in Executive Session pursuant to Section 24-6-402(4)(f) for the purpose of discussing the Town Manager's annual review and contract and for the purpose of Conferencing with the Town Attorney pursuant to C.R.S. 24-6-402(3)(b) for the purposes of receiving legal advice on title issues of certain Town property as presented. Motion passed 7-0. Those included in the Executive Session were Council, Town Manager Michelle M. and attorneys.

The Council reconvened at 7:09pm from Executive Session

Direction given as a result of the Executive Session:

OPEN SESSION – APPROXIMATELY 6:30PM

3. **Public comments on items which are ON the consent agenda or are otherwise NOT on the agenda as a public hearing or action item. (5-minute time limit per person)**
A Consent Agenda is contained in this meeting agenda. The consent agenda is designed to assist making the meeting more efficient. Items left on the Consent Agenda may not be wishes to discuss a Consent Agenda item, please tell me now and I will remove the item from the Consent Agenda and place it in an appropriate place on the meeting agenda so it can be discussed when that item is taken up by the Board. Do any Council members request removal of a Consent Agenda item?

Ms. Joyce Pilum, Beaver Creek, spoke in support of legislation opposing the sale of puppies and kittens in pet stores thereby not using Puppy Mills. She stated this legislation would not include the sale of animals through the stores that come from local animal shelters. She submitted a recommended model Ordinance for the town to consider.

4. Approval of the Consent Agenda

- September 1, 2021 Meeting Minutes
- September 7, 2021 Special Meeting Minutes

Motion by Gusty K., second by George B., to approve the September 15, 2021 Consent Agenda as presented. Motion passed 7-0.

5. Approval of Agenda

- Items to be Pulled or Added

Motion by Terry A., second by Eric G., to approve the September 15, 2021 agenda as presented. Motion passed 7-0.

- Declaration of Conflicts of Interest

6. Special Presentations

- Council Comments/Committee Reports (10 min)

George B. updated on NWCCOG Water QQ and a potential water grant available.

Eric G. attended a Climate Action Collaborative and updated on efforts throughout the county.

Gusty K reminded all of the Town Council position opening

Terry A. updated on the Hometown Throwdown scheduled for October 2. She noted Minturn Matters is September 21 and will be held at the Minturn Fitness Center.

John W. thanked all for his time on the Council and as Mayor.

PUBLIC HEARINGS AND/OR ACTION ITEMS

7. **Public Hearing/Action Item:** A Public Hearing for the purposes of informing citizens and soliciting public input, written or oral, regarding the Minturn Water Tanks Project Needs Assessment (PNA) and Environmental Assessment (EA) – Metteer/Peterson/Gordon

Michelle M. introduced Ryan Gordon and Eric Peterson, Town Consultants from SGM and stated a Public Hearing for the purposes of informing citizens and soliciting public input, written or oral, regarding the Minturn Water Tanks Project Needs Assessment (PNA) and Environmental Assessment (EA). The Minturn Town Council has identified communication and transparency as a cornerstone of the Town's Strategic Plan and how business will be done within the community. This public discussion is one more effort to facilitate an open dialogue between the Council and the community. The Town of Minturn has been conducting public discussions on the overall water system as well as specific infrastructure for many years. Most recently these public discussions

have taken place with the approval of the Water CIP in September of 2019 and again with the update of the Water CIP in December of 2020. In both of the aforementioned discussions, a new water tank was identified as a project need and in the December 2020 discussion, the Town Council modified the Water CIP to approve the construction of two tanks to allow for redundancy. The two new tanks will come at an approximate cost of \$3,200,000 which is a significant sum for repayment by the Minturn water system users. It is important to ensure proper notice of this cost is provided to the rate payers and to allow individuals the ability to provide comment or feedback prior to construction commencing. Although ongoing, the Council and staff seek any additional comments/feedback in relation to the Minturn water tanks construction project.

Ryan G. discussed the Public Needs Assessment and noted this assessment included an alternative site assessment. It was determined other sites were less suitable and would cost more.

Eric P. discussed the Environmental Impact Assessment. It was noted the Elk habitat would be mitigated with no construction over the winters.

Gusty K. asked if the other tanks currently used would be utilized. Ryan G. stated the Maloit Park tank would remain after construction culminated. Gusty K was concerned if that tank failed later on, it is the oldest tank on the system. It could be decommissioned if needed the new tanks would be sufficient to handle the needs. He asked if the tank was of sufficient elevation. Ryan G. stated the tank would be placed a little higher in order to obtain the greatest gravity feed.

Terry A. asked about the construction timing. It should be completed and online in the fall of 2022. She asked about fencing. The fencing will be around the top portion but would allow wildlife migration to travel through the area. Michelle M. noted the fencing would allow wildlife access through the area but not limit them access to the river. The fencing would be more to deter hiking and dog-walking through the actual plant area.

Earle B. asked about the pumps, the existing pumps will be sufficient and will be replaced when the second phase is undertaken. Phase II will encompass the replacement of the water treatment plant.

Public Hearing Opened.

No Public Comments

Public Hearing Closed.

8. **Public Hearing/Action Item:** Ordinance 09 – Series 2021 an ordinance authorizing a loan agreement with the Colorado Water Resources and Power Development Authority and a related bond for the purpose of financing improvements to the Town’s water storage system – Mann

Michelle M. introduced our consultant Jim Mann of UMB Financial Consultants. Jim M. presented this is an initial approval for a \$3,000,000 loan at 2.25% (fixed rate) interest over a 20-year period which was authorized during the August CWRPDA Board meeting for the construction of two new water tanks located on town-owned land adjacent to the current (and future) Minturn water treatment plant. A CWRPDA loan is a low-interest option for obtaining infrastructure funding. Staff is still seeking congressionally directed funding to help offset some of this cost but will not

know the status of that request as the request is still making its way through committees and congress. This loan, combined with the water tanks discussion materials is the culmination of work by staff over the past year in preparation for construction of the new water tanks.

Jim M. highlighted that adoption authorizes execution of all documents and it sets forth the terms of the loan. He noted we cannot use other Funds such as the General Fund to pay back the loan or to make the annual payments. There is no penalty for early payment in the event we obtain an applicable grant. He noted the loan requires we have sufficient revenues in the form of water rates to cover the debt at 110% of the annual costs of the annual debt payments.

Gusty K. asked about grants that we have applied for. Michelle M. stated if we get a grant, we can either limit the amount we actually borrow or paydown and potentially re-amortize the loan. Jim M. stated if we get funds down the line, we would want to pay off the most expensive loan first. Gusty K.'s concern was that if we get too far ahead of the loan process that we can't utilize grants. It was noted our growth is limited because we don't have the water to support new growth but we need to update our water systems and water rights in order to allow development and more users. Michelle M. noted we would be discussing potential grant requests and applications further in the budget presentations.

Public Hearing Opened.

Mr. Woody Woodruff, 344 Eagle River St, was concerned we had a contract with Battle Mtn which would assist in paying for the Water Treatment Plant. Jim M. stated that was a legal question. It is anticipated that any BMR funds would need go to the Enterprise Fund.

Public Hearing Closed.

Motion by Terry A., second by Eric G., to approve Ordinance 09 – Series 2021 (First Reading) an ordinance authorizing the execution and delivery of a loan agreement between the Colorado Water Resources and Power Development Authority and the Town of Minturn, acting by and through the Town of Minturn, Water and Sanitation Activity Enterprise, and the issuance of a Governmental Agency Bond in an aggregate principal amount not to exceed \$3,000,000 evidencing the obligation of the town, acting by and through such Enterprise under the loan agreement, and prescribing other details in connection therewith as presented. Motion passed 7-0.

9. Public Hearing/Action Item: Resolution 30 – Series 2021 A Resolution updating and approving the Water Capital Improvement Plan – Metteer/Gordon

Michelle M. stated Staff has identified the need to update the Water Capital Improvements Plan on an annual basis due to its. Included in this update is information requested from Council for the secondary water source which includes the estimated cost of the Eagle River well field as well as the estimated cost of the Eagle River surface diversion (not including legal costs). Council has already approved the Eagle River well field as a secondary water source for the Town. The water rights for this option, as well as an Augmentation Plan have already gone through the water court process and decrees have been obtained.

Upon further investigation of the well field, staff and consultants have identified environmental,

geographic and financial complications to this secondary water source. With that in mind, staff undertook the review of an alternative secondary water source, a surface diversion at the confluence of the Eagle River and Cross Creek. Staff is seeking approval from Council on one of these options prior to moving forward.

Option A is a Well Field plan, running approximately \$6M

Option B is a surface diversion plan Running about \$2.3M

George B. noted the work defining the two options that has been done and noted the concern of a toxic plume that could affect the wells. He felt Option B, the surface water diversion, was a stronger option.

Earle B. asked if we could combine the surface diversion and move Eagle River water up and release it on Cross Creek to assist with our augmentation requirements using the exiting water distribution system? It was stated that is a potential option.

Eric G. asked if the Well Field was a use it or lose it? Discussion ensued and Staff will get a firm answer.

Earle B. supported the Option B surface diversion.

Gusty K supported Option B

Terry A supported Option B.

John W. stated the well fields had been adjudicated but the diversion had not. He asked how long the Court Decrees would take. Approximately 18 months but could be less depending on how many and who contests the decree adjudication.

Earle B. asked if we could be in danger of not being able to divert the water due to stream flows. Michelle M. noted Option B would be Junior water rights and would require a new augmentation plan.

Public Hearing opened.

Mr. Woody Woodruff, 344 Eagle River St, asked about the water rights, it was stated that if we had the ability to put the water diverted in prior to the Gore confluence then we could get the rights back (lost in the 1998 settlement). To do so would require a sewer treatment plant within the Town limits.

Ms. Tracy Anderson, 1016 Mountain Dr, asked how does the water compare when it is put back in the river? Michelle M. stated treated water is required to meet federal and state guidelines in order to purify water for public consumption or for reintroduction back to the river source.

Public Hearing closed.

Motion by Eric G., second by Gusty K., to approve Resolution 30 – Series 2021 A Resolution to update and approve Option “B” of the Water System Capital Improvements Plan for the Town of Minturn Water Plant system as presented. Motion passed 7-0.

10. Public Hearing/Action Item: Resolution 31 – Series 2021 A Resolution approving a Regional Transit Authority Memorandum of Understanding – Metteer

Michelle M. introduced this memorandum provides an overview and background with regard to efforts to pursue a potential regional transit authority (“RTA”) to serve the Eagle River Valley. The attached Memorandum of Understanding Establishing a Regional Transit Authority Formation Committee (“MOU”) is the culmination of efforts over the last year at the Mayors and Managers meetings and the efforts of an Ad Hoc Regional Transit Optimization Committee that was formed out of a Mayors and Managers Meeting. We recognize that there are many questions posed by the formation of an RTA. The attached MOU is intended to embark on the next level of structured collaboration and focus to understand the details of a potential RTA and implement a comprehensive outreach program to inform stakeholders and receive stakeholder input. The MOU proposes the formation of an RTA Formation Committee, an RTA Technical Committee and an RTA Community Stakeholders Committee. Eagle County, the Town of Vail and the Town of Avon are contemplated to fund Phase I of planning costs so that this effort is able to proceed by retaining a community outreach facilitator by October. Phase II contemplates funding contributions by all municipalities that would participate in this RTA planning effort in 2022. This effort is anticipated and desired to lead up to an election in November of 2022 to approve an RTA and may potentially include a tax funding question to support enhancements to regional transit services. The contemplated RTA would also include dedicated funding to support the Eagle Air Alliance and subsidies to secure new direct flights to Eagle County Regional Airport.

Michelle M noted this would cost approximately \$1,700 for Minturn in 2022. She noted this is a formation committee and the committee will study the potential to form a RTA, it does not actually form a RTA; that would be done by general election. The County would need to approve the formation of the Authority and then a potential funding authorization.

Discussion ensued and Council supported this project. It is possible that Leadville/Lake County would be members of the Authority.

John W. felt it would be a challenge but was in support. He felt an Authority was a very strong need for the future. His fear is that a regional authority sometimes does not include circulator routes.

Public Hearing opened.

Tracy Anderson, 1016 Mountain Dr, agreed it would be difficult.

Public Hearing closed.

Motion by Earle B., second by George B., to approve Resolution 31 – Series 2021 A Resolution approving as a Regional Transit Authority Memorandum of Understanding as amended. Motion passed 7-0.

DISCUSSION / DIRECTION ITEMS

11. Discussion / Direction Item: 2022 Water Rate Review – Metteer/Mann

Michelle M. stated this is a discussion only that will be approved in the fee structure during the budget process. She noted no increase is recommended for FY2022.

Jim M. stated due to the timing of the water tank loan, the first payment due in November 2022 is very small which means no need to increase the monthly fees for the 2022 budget. He stated until we can accommodate growth and development any future increase will be levied on the existing population. There is a 3% increase for development fees such as tap fees and System Improvement Fees. These fees are a way for development to pay for their impacts on the systems.

12. Discussion / Direction Item: Holy Cross Energy Transmission Line Comment Period

Michael S. and Richard P-C outlined on September 1, the White River National Forest (WRNF) opened to public comment the Draft Environmental Assessment (EA) for the Holy Cross Energy (HCE) Avon-to-Gilman Electric (115-kV) Transmission Line. The full EA and supporting documents can be found here: <https://www.fs.usda.gov/project/?project=57224>

HCE has requested federal authorization to construct portions of a new transmission line from Avon to Gilman, a length of approximately 8.9 miles, 3.4 of which is on United States Forest Service (USFS) property. 3 miles of the proposed line would be buried underground, of which 1.2 miles is on USFS property. The proposal also includes construction of 7.5 miles of access road, 2.6 miles of which is on USFS property. Federal approval of the project would only authorize construction of the 3.4 miles on USFS property, though under federal law the EA must analyze the environmental impacts of the project as a whole. This EA follows on a Scoping period from March 2020 that included a public comment period where the public could identify issues that FS should analyze. Attached to this memo is the Town's comment letter from last year.

Richard P-C noted since last year, some changes to the proposed alignment have occurred. These include:

- Moving the underground portion slightly to the south to avoid above ground segment on the Two Elk Shooting Range. This results in the line daylighting just north of the railroad property on Minturn Road.
- The alignment on the USFS Holy Cross Ranger District Office parcel at Dowd Junction has changed in order to avoid access road construction in roadless areas.

We are requesting Council direction to draft a comment letter to WRNF on the draft EA. We expect to include discussion of impacts to wildlife, visual, recreation, and water resources. Additionally, the Town has a keen interest in ensuring that as much as possible of the transmission line is buried in order to mitigate wildfire risk from powerlines that has been seen throughout the West. The Town also has an interest in the development potential of the

USFS District Office site and will want to ensure that vertical development there is not impaired.

Terry A. asked regarding the shooting range, can we obtain information that would show the actual proximity of the lines and proximity to water sources in the light of wildfire concerns. She noted the undergrounding in the area would also mitigate this concern. Second, regard the bike park, can we show the alinement and could this be commented on by the public or the Town? Richard P-C stated they do have to show this information and it would be appropriate for public or Town comments.

Public Comment Opened

Ms. Amanda Meir, 414 Eagle River St., asked if there was a way to get county wide support on the Minturn Comments; yes, Staff will follow up on this. She asked if the school district had commented due to the proximity of their schools? She asked if there is any opportunity to comment on the blight they will cause to the national forest. Richard P-C stated undergrounding and wildfires have been the bulk of the comments submitted by all parties. She asked about maintenance of the lines, are they required to annually mitigate the fire dangers? Yes, they are but it is difficult to judge the consistency of such efforts by HCE.

Mr. Woody Woodruff, 433 Eagle River St, stated they have never budged on what they would underground. He stated NEPA required in-person meetings and he felt this was not being required and felt they had ignored this regulation. Richard P-C stated he felt the USFS has stated they fell it is not required but that written was sufficient. He would review the requirements to determine if in-person is required. It would be requested if it is.

Michelle M. asked if the Council was allowed to provide direction to hold a public meeting.

Terry A. requested the public comments be included within the minutes. These have been included as **Attachment A**.

Direction was given to provide a public open house forum and to include the town comment and public comments in the packet as discussed.

COUNCIL INFORMATION / UPDATES

13. Staff Updates (5 Min)

- Manager's Report

Eagle Valley Wildland Program

In the spring of 2021 Chief Karl Bauer, Eagle River Fire Protection District, presented the Eagle Valley Wildland Fire Program (conceptually) to the Minturn Town Council. As was identified back in April, Eagle County Government covered the cost of the first year of the program. The Wildland Program is now asking for financial contributions from the municipalities of Eagle County to support the program efforts in 2022. Of note, the Town of Vail currently has its own program and will be working alongside the Eagle Valley Wildland team.

Outlined within the program is the mitigation efforts around the Minturn Shooting Range area. Given the complexities of any work or activity on federal land, I have requested and Chief Bauer has initially agreed, to add “fuels reduction” in the area of Minturn’s assets, primarily the water treatment plant. This will result in the coordinated activity of removing dead trees and debris from the water tank area. More such areas may be identified in the future and added to the list.

A copy of the Eagle Valley Wildland Program and financial ask (which will be considered as part of the 2022 budget) are included for review.

Eagle Mine Superfund Site Stakeholder Meeting

I attended the Eagle Mine Superfund Site quarterly stakeholder meeting where progress on remediation, along with issues identified were addressed. The liberty well pump is currently out of order and a new pump should be installed later this fall. As you’ll remember, it was the deactivation of the liberty well (along with several other contributing factors) that caused the Eagle River to run orange in the 1990’s.

Removal of the pipeline on the trestle is expected to begin later this fall. A new pipeline was installed that allows crews easier access. The old pipe is contaminated and will be disposed as a hazardous material.

Moving forward I will be participating on the team that oversees the Operable Unit 3 compliance scoping session.

Taylor Ave Safety Concerns

I met with residents of Taylor Ave on the morning of Saturday, September 4th to discuss safety concerns along the corridor from the Minturn Saloon to the intersection of Taylor and Minturn Road. We walked this section, discussed variations in grade, line of sight limitations, vehicle speeds and the variety of user groups in the area. As a result of this discussion, I asked Deputy Peterson if he might observe the corridor during high-volume times (mornings and evenings) and provide his feedback. I expect this will culminate with Stolfus Engineering conducting an analysis of the area and providing recommendations for improvements.

- Future Agenda Items

Ordinance for Puppy Mill puppies to be sold within the Town of Minturn. Richard P-C will review and update as needed for consideration at a future meeting.

MISCELLANEOUS ITEMS

14. Future Meeting Dates

- a) Council Meetings:
 - October 6, 2021
 - October 20, 2021
 - November 3, 2021

- November 17, 2021

15. Other Dates:

16. Adjournment

Motion by Earle B., second by George B., to adjourn at 9:04pm. Motion passed 7-0.

Mayor

ATTEST:

Jay Brunvand, Town Clerk

PROPOSED ENVIRONMENTAL ASSESSMENT OF AVON TO GILMAN TRANSMISSION LINE IS INEPT AND ILLEGAL

In August of this year, the USDA Forest Service announced a draft environmental assessment (EA) for the Holy Cross Energy Avon to Gilman Electric Transmission Line Project approving the granting of a 50 year permit for to construct and operate a high voltage Transmission Line. The EA finds that the transmission line will have no significant environmental impact and specifically permits 5.9 miles of the 8 mile line to be ABOVE GROUND through a scenic and highly combustible forested valley.

The conclusions of the EA appear to be predetermined. The EA fails to deal with the evident wildfire risk for Gilman, Minturn and Vail created by the above ground high transmission lines and refuses to even address the alternative suggested by the public -- i.e. burying the transmission line. The EA also fails to take into account the dangerous wildfires ignited by high transmission lines elsewhere in the West, the difficulties experienced by utilities in safely managing high transmission lines, the impact of the current persistent drought in Colorado or any possibility of climate change increasing the risk of wildfire.

With respect to the content and associated process involving the EA, the USDA Forest Service has violated the National Environmental Policy Act (NEPA) in numerous ways including:

1. The EA refuses to consider the reasonable alternative of burying the above ground portion of the transmission lines. An "agency must still give full and meaningful consideration to all reasonable alternatives in an environmental assessment". *Western Watersheds Project v. Abbey*, 719 F.3d 1035 (9th Cir.2013)
2. The information is not of high quality and disregards accurate scientific analysis and public scrutiny and fails to concentrate on the issues that are truly significant to the action in question 40 CFR Sec.1500.1(b)
3. The Forest Service failed to involve the public to the extent practicable in preparing the assessment insofar as it has refused to hold ANY public meeting. 40 CFR Sec.1501.4(1)(b)
4. The Forest Service has failed to publish notice of the EA in a local newspaper of general circulation. 40 CFR Sec. (e) (1); 40 CFR Sec.1506.6 (b)(2)(iv).
5. The Forest Service has failed to make a diligent effort to involve the public in its process. 40 CFR Sec.1506.6(a)

I. **FOREST SERVICE FAILS TO DISCUSS THE ALTERNATIVE OF BURYING THE HIGH VOLTAGE TRANSMISSION LINES**

Although the EA is required to discuss alternatives and examine whether they are less damaging to the environment, the EA, without explanation, fails to even mention the possibility of burying the

additional 5.9 miles of the transmission line! The USFA's failure to consider this alternative is, at best, gross negligence. In light of the fact that a large percentage of prior negative comments by the public were addressed to this issue, the omission is incomprehensible.

As stated July 21, 2021, by Patricia Poppe, CEO of Pacific Gas & Electric Company, "It's too expensive not to it (bury power lines). Lives are on the line."¹ In July of this year PG&E agreed to bury 10,000 miles of previously existing California power lines to prevent future wildfires.² Even before the recent massive forest fires in recent years, nationally, a 2012 industry study estimated one-fourth of new power lines are buried.³ Undergrounding transmission lines are becoming more cost effective thanks to new technology such as chain and wheel trenchers to boost trench production, and adoption of directional boring.⁴

Significantly many of the wildfires in the West in recent years have been started by power lines⁵. Some of the largest fires were specifically started by high voltage transmission lines which unlike, distribution lines, are not insulated and can start massive wildfires when in contact with trees or other vegetation or blown over by high winds or rock slides⁶. Recent droughts and future climate change will only increase the danger of wildfires and the need to bury high voltage transmission lines.⁷

II. THE EA RECOGNIZES THE POTENTIAL FIRE DANGER FROM THE HIGH VOLTAGE TRANSMISSION LINES BUT FAILS TO TAKE WILDFIRE RISK INTO CONSIDERATION IN ITS PROPOSED APPROVAL OF THE ABOVE GROUND LINES

A. USFS ACKNOWLEDGES DANGER OF WILDFIRE FROM TRANSMISSION LINE

The EA acknowledges that there the above ground transmission lines result in concerns relating to the risk of the new transmission line starting a wildfire. According to the EA, the ignition of the power line fire can occur due to high winds, contact with vegetation, equipment failure or human or animal contact. (p.340ikjj) The EA admits that there are existing natural hazards in the project area which consist of landslides, a fault line and four avalanche zones which "pose increased risk to infrastructure." (p35.)

The EA further acknowledges that three areas of the above-ground portions of the proposed transmission line present particularly high fire danger according to Eagle County fire mitigation specialists. These areas are:

1. The northwestern section of the line across State Land Board and NFS lands, to Dowd Junction, at the base of Meadow Mountain .

¹ "PG&E Will Bury 10,000 Miles of Power Lines So They Don't Spark Wildfires, Associated Press, July 21,2021.

² See above

³ "Why Doesn't the U.S. Bury Its Power Lines", University of Florida News,Oct.24, 2018.

⁴ "Calif. Utility Giant Will Bury 10,000 Miles of High Fire=Risk Power Lines" Engineering News-Record, July 27, 2021;

⁵ "Power Lines Are Burning the West", The Atlantic, May 25, 2018.

⁶ "Over 1,500 California Fires in the Past 6 Years -- Including the Deadliest Ever -- Were Caused by One Company: PG&E. Here's What It Could Have Done, But Didn't", Business Insider, Nov. 3, 2019.

⁷ See Above article

2. From the Two Elk Target Range across Two Elk Creek to the first switchback on US 24 at the base of Battle Mountain.
3. From the north side of the old town of Gilman, on the timbered face of the steep hill as it descends into the canyon following the existing Xcel distribution line. (p. 33).

The EA also identifies a mile of the above ground transmission line area containing approximately 30 percent standing dead “beetle kill” trees, “with a moderate burn probability and the highest Fire Intensity Scale.” The EA also acknowledges that the above ground area involves heavily forested areas of aspen, lodgepole pine and spruce. (p.33)

B. USDA FOREST SERVICE MINIMIZES AND IGNORES THE IDENTIFIED WILDFIRE RISK

The EA minimizes any wildfire risk by focusing on the type of vegetation involved, the small ignition risk compared to other wildfire risks, and its conclusion that “utilities manage transmission lines to avoid wildfire risks”. To reach its ultimate conclusion that the risk is minimal, the USFS must ignore the evidence that utilities often do not or cannot adequately manage wildfire risk with their maintenance programs, ignore the impact of the current persistent drought in Colorado, ignore a recent fire in the transmission line area, ignore all future climate change issues and ignore the number of massive wildfires ignited by transmission lines in the Western United States.

With respect to relevant vegetation, the EA declares:

Aspen trees are not normally a vegetation type of risk of fire, though stands have known to burn under drought conditions. Lodgepole pine and spruce are not normally at high risk for active fire behavior unless persistent drought conditions align with low relative humidity and high winds. (p33)

Yes, trees do not ordinarily burn when they are wet and there is no wind! Although the USFS also admits, “Colorado is currently experiencing a prolonged drought” (p33), it refuses to take into consideration the impact of current or future drought conditions in its risk calculus and conclusions. The unstated and unjustified assumption of the Forest Service apparently is that current drought conditions are unusual and not likely to recur. There is also no discussion about high winds, which are prevalent in this area or discussion of the reality of recent and ongoing huge fires in similar alpine forests in California and Oregon.

Significantly, the EA fails to even mention the fire that broke out several years ago at Two Elks in the above ground transmission area. Although the fire was extinguished, it rapidly burned the entire hillside and had the winds been right, could have eviscerated Vail Resorts and even the town of Vail itself. During the fire, a complete evacuation of Vail Mountain was required.

The omission of any meaningful analysis of wildfire risk or the risk of downed transmission poles in this heavily forested and rugged area is simply wrong. In fact, the evidence of recent and increasing wildfire risk is overwhelming. As pointed out by the Wall Street Journal, the historic drought in

California has⁸ resulted in more than one power line ignited wildfire a day on average in California! Colorado, as well as California faces more drought conditions in the future.. In 2020 Colorado had its third driest year on record and the 12th warmest with more than 175,000 acres burning from wildfires.⁹ Colorado climate scientists expect more wildfires and summers like 2020 and worse, if carbon emissions aren't reduced.¹⁰

Without referring to any evidence, the USFS asserts that Climate Change can be disregarded for purposes of the EA, because it is "not quantifiable." (p26.) That conclusion is irresponsible and not supported by the evidence. In its analysis of climate change the Forest Service strangely limits its climate change analysis to a discussion of whether the CONSTRUCTION of the transmission line would be impacted and avoids the obvious impact of increased wildfire risk from the operation of the above ground portion of the line. The Forest Service concludes, "Because the impact of the proposed project on climate change is not quantifiable and would result in undetectable changes in Greenhouse Gas emissions and impacts on the carbon cycle, the topic was not carried forward for analysis." (p.26)

Simply because the precise amount of Climate change resulting from a given project is not known with certitude hardly excuses the US Forest Service from taking into consideration the obviously increasingly hot and dry weather conditions and resulting increasing wildfire risk. In this century, both temperature and drought conditions have increased measurably. This summer the Lower 48 states experienced some of the hottest and driest conditions on record.¹¹ Equipment failures that would have caused little or no damage a few years ago now set off fires that burn thousands of acres because California forests have become much more combustible. Fire safety experts acknowledge that climate change is resulting in an uphill battle for utilities attempting to prevent wildfires.¹²

When E&E News analyzed 753 sites in the West where moisture readings go back to the late 1970s, the average moisture level in June 2021 was below the average moisture level for all the previous June measurements.¹³ According to Scientific American, "Dryness makes forests and grasslands more likely to burn if they are ignited by a source such as a downed power line. ."

When power lines do spark, these climate conditions mean drier vegetation is more likely to ignite and the resulting fires are more likely to grow than previously. As the world continues to warm, wildfires are expected to keep getting bigger and more frequent.¹⁴

C. USFS REFUSES TO ADEQUATELY ANALYZE RISK OF FIRE IGNITION FROM HIGH TRANSMISSION LINES

⁸PG&E Sparked at Least 1,500 California Fires. Now the Utility Faces Collapse", The Wall Street Journal, Jan. 13, 2019.

⁹ Colorado Wildfires Are Climate Change "In The Here and Now" -- And A sign of Summers To Come", CPR News, Aug.20,2020.

¹⁰ See above article.

¹¹ "Record Heat Scorches West as Fire Danger Escalates Yet Again", The Washington Post, Sept. 9, 2021.

¹² "How PG&E Ignored Fire Risks in Favor of Profits", The New York Times, Mar 18, 2019.

¹³ "Extremely Dry US West is Ripe for Wildfires, Scientific American, Jun 29, 2021.

¹⁴ See Footnote 6.

In making its case that the risk of fire from the high transmission lines is minimal, The EA justifies the ignition risk from the transmission lines as “small compared to other ignition risks (e.g. escaped campfires, other human causes, lightning and target range fires”. In its effort to minimize the fire risk of high voltage transmission line, the EA points out that smaller distribution lines are five times more likely to start fires.

Significantly, the EA does not even discuss the fact that high transmission lines are more likely to cause BIG fires and that many of the huge fires in forested areas out West have been started by transmission lines. The EA fails to mention that because high voltage transmission lines are not insulated, any contact with a fallen tree or wind blown branch can, under the right conditions, lead to a catastrophic fire.¹⁵

Another example of the sloppy analysis in the EA is that, In concluding that distribution lines cause more fires than high voltage transmission lines, the EA ignores the fact that distribution lines are also far more common than high transmission lines, which are relatively rare.

Any significant fire risk is dismissed by the Forest Service by the statement that “Electric utilities manage transmission line ROWs to minimize the risk of starting wildfire.” (p. 35) , In this dismissal of fire risk, the Forest Service disregards the substantial evidence about transmission maintenance issues. According to fire control experts, in reality utilities have a great deal of difficulty in doing safe trimming of vegetation around high voltage transmission lines.¹⁶ Moreover maintenance of transmission line ROWs is often deferred by cash strapped utilities. Relevant evidence relating to the failure of utilities to properly maintain high speed transmission lines, such as has been the experience in California where PG&E was forced to file bankruptcy in 2019 due to wildfire liability from deficient maintenance of power lines, is disregarded.¹⁷

In general, the EA takes pain to avoid the evidence relating to fires started by power lines. In fact, this evidence is staggering. Today, the ongoing Dixie Fire in California, the largest fire in California’s history and the largest fire in the current fire season in the United States was, according to the utility involved, likely started by a tree falling on a power line. ¹⁸ High voltage transmission lines have been linked to some of California’s most destructive and deadliest wildfires including the 2019 Kincade Fire, the 2018 Camp Fire, and the 2020 Zogg Fire.¹⁹ High voltage transmissions lines were also cited as the cause of a major Utah wildfire in 2012 involving 75 square miles²⁰

¹⁵ See Footnote 14

¹⁶ See above.

¹⁷ See above.

¹⁸ “The Utility PG&E Says its Equipment May have Led to a 30,000-Acre Wildfire”, The New York Times, July 19, 2021.

¹⁹ “High Voltage Transmission Lines Complicate PG&E’s Efforts to Prevent Wildfires”, The Press Democrat, 8/16/20; New York Times article above.

²⁰ “Report: Arcing Power Lines Caused Utah Wildfire”, Washington Examiner, July 11, 2012

Cal Fire has estimated that electric power lines have, in the past, caused 10% of California's wildfires including the most devastating²¹. These lines have sparked more than 1500 wildfires in California alone.²² Power lines have also caused more than 4000 fires in Texas as reported in a 3 1/2 year period.²³

III. USFS HAS FAILED TO PROVIDE A REASONABLE OPPORTUNITY FOR THE PUBLIC TO COMMENT ON THE PROPOSED ENVIRONMENTAL ASSESSMENT

The USFS process to provide for public input is inadequate, confusing and designed to shield its analysis from public scrutiny. The Forest Service has refused to hold any public meetings despite promises to the contrary. The required notice was not published in a local newspaper of general circulation, the content of the EA notice was deficient, and the time frame and conditions for public comment following the EA was not clearly set forth as required.

The Notice sent interested parties and organizations is completely inadequate insofar as it:

1. Fails to state that the EA approves the transmission line
2. Fails to state ANYTHING whatsoever concerning the findings of the EA;
3. Fails to provide any specific deadline for comments except for the general statement that the comments must be made within a specified period of time calculated exclusively from the date of publication of the Notice in an obscure and distant newspaper in a different county;
4. Fails to provide the date of publication of the Notice
5. Fails to provide for a consistent time period following publication. One notice provides for a specified 45 day period from date of publication and a later notice, without any rational, shortens that period to 30 days following publication.
6. Fails to clearly indicate who can file comments. One email notice provides that only individuals or entities that previously filed comments, may provide new comments. Another email notice does not contain this limitation.
7. Fails to provide notice in the local newspaper of general circulation, the Vail Daily, which covers events within Eagle County;
8. Stipulates that the only newspaper of record for Notice purposes will be the Glenwood Springs Post Independent which is located in an unrelated county, many miles distant from the transmission line area. The Glenwood Springs Post Independent does not normally cover news within Eagle County, is not distributed within Eagle County and is not in general circulation in Eagle County and is not, in any sense of the word, a "local" newspaper for the impacted public..

²¹ "Op-Ed: California is Uniquely Fire-Prone Thanks to its Long Romance with High Voltage Power Lines," Los Angeles Times, 1/18/19.

²² "Over 1,500 California Fires in the Past 6 Years -- Including the Deadliest Ever -- Were Caused by One Company: PG&E. Here's What It Could Have Done But Didn't", Business Insider, Nov. 3, 2019.

²³ "How Do Power Lines Cause Wildfires", Texas Wildfire Mitigation Project, Texas A&M University, 2014

A. NO ADEQUATE PUBLICATION OF NOTICE

Notice of the proposed EA was published in the Glenwood Springs Post Independent and that paper was identified as the “newspaper of record” according to the email sent to identified “interested parties”. Glenwood Springs is located in Pitkin County, many miles distant from the location of the proposed transmission line and the towns where the impacted public resides. The Glenwood Springs Post Independent has virtually no readership in Eagle County. The Glenwood Springs Post Independent does not cover local news within Eagle County. The same corporation that owns the Glenwood Springs Post Independent also owns another newspaper, the Vail Daily which is the newspaper that covers events within Eagle County.

Publication in the Glenwood Springs Post Independent amounts to non-publication in that it is a newspaper that is virtually impossible for Eagle County to access. Although the Glenwood Springs Post Independent has a website online, it does not publish legal notices online. Logically there would be no reason for an Eagle County resident to access the Glenwood Springs newspaper for news of events within Eagle County; it would be just as logical to access a notice in a newspaper in Tennessee or even China for local news of Eagle County.

Eagle County residents do not normally visit the Glenwood Springs on a routine basis; moreover, because of rock and mud slide issues, the main connecting artery (Highway 170 through Glenwood Springs), has been closed for much of the summer and is likely to be closed on an intermittent continuing nature through this fall.

Because the time period for filing objections is EXCLUSIVELY based on the Glenwood Springs Post Independent publication date and the publication dates are not available elsewhere, the lack of access to the Glenwood Springs Post Independent is a particularly critical issue.

B. NO PUBLIC HEARING OR MEETING OPPORTUNITY

Despite the evident controversy and public concern relating to the transmission line, The USFS has refused to hold ANY meetings with the general public. In March of 2020, the USFS indicated that they would host a public meeting to invite comments from the public. The public meeting was then postponed due to covid related health and safety issues and Eagle County covid guidelines. At that time, the public was led to believe a new public meeting would be rescheduled prior to the completion of the EA. Eighteen months later, the meeting still has not been re-scheduled and no reason has been provided why the USFS has been unwilling to meet in person or remotely to discuss the issues involved and invite public comments.

The refusal to hold a public meeting and the lack of adequate notice is particularly concerning in light of the controversial nature of the transmission line project. At the prior Holy Cross Electric open house, there was a large turnout and almost universal opposition to the above ground portion of the transmission line.

C. INADEQUATE AND CONFUSING CONTENT OF EMAIL NOTICES

Between August 27, 2021, and September 2, 2021, three email notices concerning the completed EA were sent to interested parties. All three e-mail notices failed to state ANYTHING as to what the EA concluded and all three omit any reference to the fact that the EA had found no significant environmental impact and had approved the transmission line. The Notices simply referred interested parties to make further inquiry of online materials, the Eagle-Holy Cross Ranger District Office, or to Leanne Veldhuis, Eagle-Holy Cross Ranger.

All three notices also failed to specify specific deadlines for objections; instead the notices specified an unknown period of time which was to be EXCLUSIVELY calculated based on the date of publication of the notice in the Glenwood Springs Independent Post. The Notices do not provide any information as to the date of publication to permit the public to calculate the relevant dates. As pointed out previously, the Glenwood Springs Independent Post covers local news in Glenwood Springs and Pitkin County and does NOT cover local news in Gilman, Minturn, Avon or anywhere else in Eagle County. The Post is not normally read or distributed in Eagle County and is not normally available to the Eagle County public.

August 27 Notice

On August 27, 2021, the USFS sent an email to individuals and organizations that had submitted prior objections to the proposed transmission line stating that the EA was complete. The notice provided that, "Objections will only be accepted from those who have previously submitted specific written comments regarding the proposed project". This was contrary to the prior promise of an open comment period for everyone.

Objections were to be submitted within 45 calendar days following the publication of the notice in the Glenwood Springs Post Independent.

September 1, 2021 Notice

On September 1, 2021, a new email was sent to interested parties. In the new email, the prior Objection period was withdrawn and a new letter was sent to interested parties. This letter provided that now objections would only be accepted ONLY for a shortened 30- day period of time, again EXCLUSIVELY as calculated based on the publication of the notice in the Glenwood Springs Post Independent.

September 2, 2021 Notice

On September 2, 2021, still another email notice was provided to interested parties. This time there was no reference to a limitation of objections to people who had previously submitted objections. Again the 45- day comment period was changed to 30 days and the notice publication date in the Glenwood Springs Post Independent was specified as the exclusive means for calculating the period of time.

IV. OTHER CONCERNS

This response does not address the additional multitude of problem areas with the above ground portion of the transmission line including the disregard for major aesthetic, and recreational impacts from the installation of industrial 50 to 75 foot towers, wide lanes stripped of vegetation, and

transmission lines crossing the Eagle River in front of Meadow Mountain, one of the premier recreational sites for hiking and winter sports in Eagle County, and at the gateway entrance to the Town of Minturn. These same above ground towers continue and cross over Highway 24, effectively blighting the base of Battle Mountain and ruining what is an important iconic scenic view.

V. CONCLUSION

Because of the failure of USDA Forest Service to comply with relevant federal law with respect to both the required content of the EA and the required process for obtaining public input, the USDA Forest Service must withdraw the proposed EA approving the Holy Cross Electric Company's above ground portion of the high voltage transmission line between Avon and Gilman.



To: Mayor and Council

From: Jay Brunvand

Date: October 6, 2021

Agenda Item: Annual renewal of Lodging and Entertainment Liquor License

REQUEST:

Staff is requesting Council to review and approve the attached annual renewal of a Lodging and Entertainment Liquor License for the Bunkhouse located at 175 Williams St.

INTRODUCTION:

This establishment has an existing L&E License and this is the annual renewal.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant has submitted the required fee of \$125.00.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the license renewal.

THE BUNKHOUSE
P.O. BOX 1496
Avon CO 81620

Fees Due		Waived due to
Renewal Fee		20B-001
Storage Permit	\$100 X _____	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X _____	Waived due to 20B-001
Related Facility - Campus Liquor Complex	\$160.00 per facility	Waived due to 20B-001
Amount Due/Paid		\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name THE BUNKHOUSE		Doing Business As Name (DBA) THE BUNKHOUSE		
Liquor License # 03-06941	License Type Lodging & Entertainment (City)	Sales Tax License # 31414917	Expiration Date 10/17/2021	Due Date 09/02/2021
Business Address 175 WILLIAMS STREET Minturn CO 81645		County Eagle	Phone Number 9703939003	
Mailing Address P.O. BOX 1496 Avon CO 81620		Email nancy@vailbunkhouse.com		
Operating Manager Nancy Richards	Date of Birth 12/27/73	Home Address 175 Williams St. #102 Minturn, CO 81654		Phone Number 970-393-9003
1. Do you have legal possession of the premises at the street address above? <input checked="" type="radio"/> Yes <input type="radio"/> No Are the premises owned or rented? Owned <input type="radio"/> Rented* <input checked="" type="radio"/> *If rented, expiration date of lease 2/28/25				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input checked="" type="radio"/> Yes <input type="radio"/> No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <input type="radio"/> No <input checked="" type="radio"/>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <input type="radio"/> No <input checked="" type="radio"/>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <input type="radio"/> No <input checked="" type="radio"/>				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes <input type="radio"/> No <input checked="" type="radio"/>				



To: Mayor and Council

From: Jay Brunvand

Date: October 6, 2021

Agenda Item: Consideration of a Modification of Premises for Rocky Mountain Tacos

REQUEST:

Staff is requesting Council to review and approve the attached Modification of Premise for Rocky Mountain Tacos located at 291 Main St.

INTRODUCTION:

This establishment has an existing H&R License and has requested a Modification of Premises. This Modification will allow for the inclusion of the entire ground floor and will include removal of a dividing wall that is non-weight bearing. This item will require building permits and other reviews.

ANALYSIS:

Not Applicable

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The applicant does not have a Town fee.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #4 the Town will advance decisions/projects/initiatives that expand future opportunity and viability for Minturn. Both as an employer and a sales tax contributor these businesses each help further Minturn.

RECOMMENDED ACTION OR PROPOSED MOTION:

This item is approved on the Consent Agenda, no separate motion is required.

ATTACHMENTS:

- Application and supporting documentation for the modification.

Permit Application and Report of Changes

Current License Number <u>03-13037</u> All Answers Must Be Printed in Black Ink or Typewritten Local License Fee \$ <u>0.00</u>		
1. Applicant is a <input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Limited Liability Company		Present License Number <u>03-13037</u>
2. Name of Licensee <u>Rocky Mountain taco LLC</u>		3. Trade Name
4. Location Address <u>291 main street</u>		
City <u>Minturn</u>	County <u>Eagle</u>	ZIP <u>81645</u>
SELECT THE APPROPRIATE SECTION BELOW AND PROCEED TO THE INSTRUCTIONS ON PAGE 2.		
Section A – Manager reg/change		Section C
• License Account No. <u>03-13037</u> <input type="checkbox"/> Manager's Registration (Hotel & Restr.) \$75.00 <input type="checkbox"/> Manager's Registration (Tavern) \$75.00 <input type="checkbox"/> Manager's Registration (Lodging & Entertainment) \$75.00 <input type="checkbox"/> Change of Manager (Other Licenses pursuant to section 44-3-301(8), C.R.S.) NO FEE		<input type="checkbox"/> Retail Warehouse Storage Permit (ea) \$100.00 <input type="checkbox"/> Wholesale Branch House Permit (ea) 100.00 <input type="checkbox"/> Change Corp. or Trade Name Permit (ea) 50.00 <input type="checkbox"/> Change Location Permit (ea) 150.00 <input checked="" type="checkbox"/> Change, Alter or Modify Premises \$150.00 x _____ Total Fee _____ <input type="checkbox"/> Addition of Optional Premises to Existing H/R \$100.00 x _____ Total Fee _____ <input type="checkbox"/> Addition of Related Facility to an Existing Resort or Campus Liquor Complex \$160.00 x _____ Total Fee _____ <input type="checkbox"/> Campus Liquor Complex Designation No Fee <input type="checkbox"/> Sidewalk Service Area \$75.00
Section B – Duplicate License		
• Liquor License No. _____ <input type="checkbox"/> Duplicate License \$50.00		
Do Not Write in This Space – For Department of Revenue Use Only		
Date License Issued	License Account Number	Period
The State may convert your check to a one time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department of Revenue may collect the payment amount directly from your bank account electronically.		TOTAL AMOUNT DUE \$ <u>150.00</u>

Instruction Sheet

For All Sections, Complete Questions 1-4 Located on Page 1

Section A

To Register or Change Managers, check the appropriate box in section A and complete question 8 on page 5. Proceed to the Oath of Applicant for signature. Submit to State Licensing Authority for approval.

Section B

For a Duplicate license, be sure to include the liquor license number in section B on page 1 and proceed to page 5 for Oath of Applicant signature.

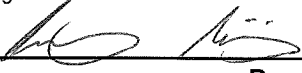
Section C

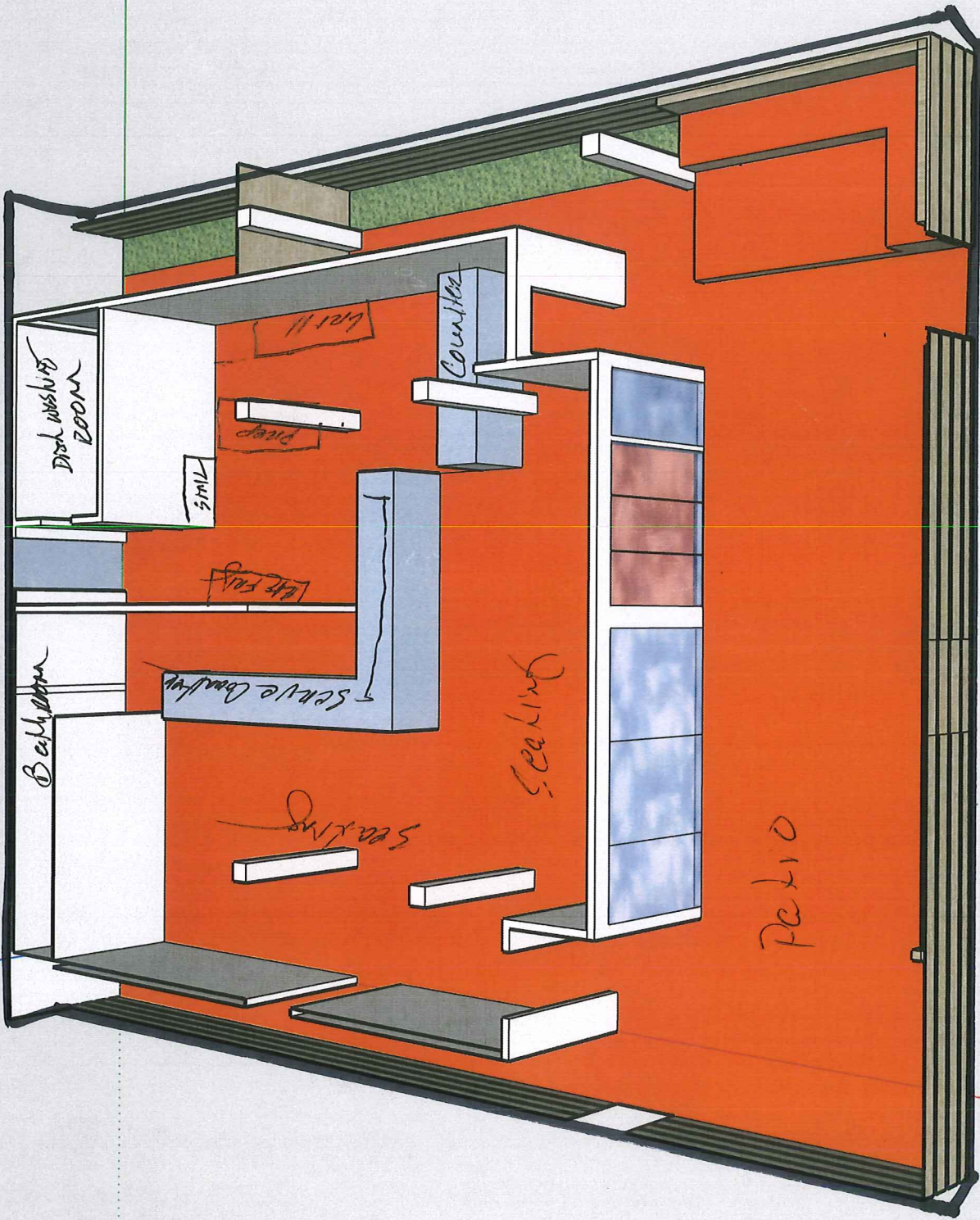
Check the appropriate box in section C and proceed below.

- 1) **For a Retail Warehouse Storage Permit**, go to page 3 complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 2) **For a Wholesale Branch House Permit**, go to page 3 and complete question 5 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Submit to State Licensing Authority for approval.
- 3) **To Change Trade Name or Corporation Name**, go to page 3 and complete question 6 (be sure to check the appropriate box). Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 4) **To modify Premise, or add Sidewalk Service Area**, go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 5) **For Optional Premises** go to page 4 and complete question 9. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County).
- 6) **To Change Location**, go to page 3 and complete question 7. Submit the necessary information and proceed to page 5 for Oath of Applicant signature. Retail Liquor License submit to Local Liquor Licensing Authority (City or County). Manufacturer, Wholesaler and Importer's Liquor Licenses submit to State Liquor Licensing Authority.
- 7) **Campus Liquor Complex Designation**, go to page 4 and complete question 10. Submit the necessary information and proceed to page 5 for Oath of Applicant signature.
- 8) **To add another Related Facility** to an existing Resort or Campus Liquor Complex, go to page 4 and complete question 11.

Storage Permit	<p>5. Retail Warehouse Storage Permit or a Wholesalers Branch House Permit</p> <p><input type="checkbox"/> Retail Warehouse Permit for:</p> <p style="padding-left: 20px;"><input type="checkbox"/> On-Premises Licensee (Taverns, Restaurants etc.)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Off-Premises Licensee (Liquor stores)</p> <p><input type="checkbox"/> Wholesalers Branch House Permit</p> <p>Address of storage premise: _____</p> <p>City _____, County _____, Zip _____</p> <p>Attach a deed/ lease or rental agreement for the storage premises. Attach a detailed diagram of the storage premises.</p>				
Change Trade Name or Corporate Name	<p>6. Change of Trade Name or Corporation Name</p> <p><input type="checkbox"/> Change of Trade name / DBA only</p> <p><input type="checkbox"/> Corporate Name Change (Attach the following supporting documents)</p> <p style="padding-left: 20px;">1. Certificate of Amendment filed with the Secretary of State, or</p> <p style="padding-left: 20px;">2. Statement of Change filed with the Secretary of State, <u>and</u></p> <p style="padding-left: 20px;">3. Minutes of Corporate meeting, Limited Liability Members meeting, Partnership agreement.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Old Trade Name</td> <td style="width: 50%;">New Trade Name</td> </tr> <tr> <td>Old Corporate Name</td> <td>New Corporate Name</td> </tr> </table>	Old Trade Name	New Trade Name	Old Corporate Name	New Corporate Name
Old Trade Name	New Trade Name				
Old Corporate Name	New Corporate Name				
Change of Location	<p>7. Change of Location</p> <p>NOTE TO RETAIL LICENSEES: An application to change location has a local application fee of \$750 payable to your local licensing authority. You may only change location within the same jurisdiction as the original license that was issued. Pursuant to 44-3-311(1) C.R.S. Your application must be on file with the local authority thirty (30) days before a public hearing can be held.</p> <p>Date filed with Local Authority _____ Date of Hearing _____</p> <p>(a) Address of current premises _____</p> <p style="padding-left: 20px;">City _____ County _____ Zip _____</p> <p>(b) Address of proposed New Premises (Attach copy of the deed or lease that establishes possession of the premises by the licensee)</p> <p style="padding-left: 20px;">Address _____</p> <p style="padding-left: 20px;">City _____ County _____ Zip _____</p> <p>(c) New mailing address if applicable.</p> <p style="padding-left: 20px;">Address _____</p> <p style="padding-left: 20px;">City _____ County _____ State _____ Zip _____</p> <p>(d) Attach detailed diagram of the premises showing where the alcohol beverages will be stored, served, possessed or consumed. Include kitchen area(s) for hotel and restaurants.</p>				

Change of Manager	<p>8. Change of Manager or to Register the Manager of a Tavern, Hotel and Restaurant, Lodging & Entertainment liquor license or licenses pursuant to section 44-3-301(8).</p> <p>(a) Change of Manager (attach Individual History DR 8404-I H/R, Tavern and Lodging & Entertainment only) Former manager's name _____ New manager's name _____</p> <p>(b) Date of Employment _____ Has manager ever managed a liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/> Does manager have a financial interest in any other liquor licensed establishment? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, give name and location of establishment _____</p>
Modify Premises or Addition of Optional Premises, Related Facility, or Sidewalk Service Area	<p>9. Modification of Premises, Addition of an Optional Premises, Addition of Related Facility, or Addition of a Sidewalk Service Area</p> <p>NOTE: Licensees may not modify or add to their licensed premises until approved by state and local authorities.</p> <p>(a) Describe change proposed <u>Adding next door unit to our lease. This will allow for more seating in our dining area.</u></p> <p>(b) If the modification is temporary, when will the proposed change: Start _____ (mo/day/year) End _____ (mo/day/year)</p> <p>NOTE: THE TOTAL STATE FEE FOR TEMPORARY MODIFICATION IS \$300.00</p> <p>(c) Will the proposed change result in the licensed premises now being located within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? (If yes, explain in detail and describe any exemptions that apply) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(d) Is the proposed change in compliance with local building and zoning laws? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>(e) If this modification is for an additional Hotel and Restaurant Optional Premises has the local authority authorized by resolution or ordinance the issuance of optional premises? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>(f) Attach a diagram of the current licensed premises and a diagram of the proposed changes for the licensed premises.</p> <p>(g) Attach any existing lease that is revised due to the modification.</p> <p>(h) For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.</p>
Campus Liquor Complex Designation	<p>10. Campus Liquor Complex Designation</p> <p>An institution of higher education or a person who contracts with the institution to provide food services</p> <p>(a) I wish to designate my existing _____ Liquor License # _____ to a Campus Liquor Complex Yes <input type="checkbox"/> No <input type="checkbox"/></p>
Additional Related Facility	<p>11. Additional Related Facility</p> <p>To add a Related Facility to an existing Resort or Campus Liquor Complex, include the name of the Related Facility and include the address and an outlined drawing of the Related Facility Premises.</p> <p>(a) Address of Related Facility _____</p> <p>(b) Outlined diagram provided Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Oath of Applicant		
I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge		
Signature 	Title Owner	Date 7/7/21
Report and Approval of LOCAL Licensing Authority (CITY / COUNTY)		
The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the applicable provisions of Title 44, Articles 4 and 3, C.R.S., as amended. Therefore, This Application is Approved.		
Local Licensing Authority (City or County) Town of Monticello		Date filed with Local Authority 9/27/21
Signature	Title Mayor	Date
Report of STATE Licensing Authority		
The foregoing has been examined and complies with the filing requirements of Title 44, Article 3, C.R.S., as amended.		
Signature	Title	Date



**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 37 – SERIES 2021**

**A RESOLUTION APPROVING THE SECOND
AMENDMENT TO THE TOWN MANAGER'S
EMPLOYMENT AGREEMENT**

WHEREAS, The Town of Minturn (the 'Town') and Michelle Metteer entered into an Employment Agreement on December 6, 2017 (the 'Employment Agreement') for services in the roll of Town Manager; and

WHEREAS, Michelle Metteer has served as Town Manager with distinction for almost four years and received positive employment reviews; and

WHEREAS, the Town desires to revise the Employment Agreement consistent with the terms and conditions discussed below.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MINTURN, COLORADO:**

Section 1: The Council hereby approves and authorizes the Mayor to sign the Second Amendment to Employment Agreement by and between the Town of Minturn and Michelle Metteer, attached hereto as Exhibit A.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6TH day
of October, 2021.**

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Jay Brunvand, Town Clerk

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

This SECOND AMENDMENT TO EMPLOYMENT AGREEMENT is made this 6th day of October 2021, by and between the Town of Minturn, Colorado (the “Town”), and Michelle Metteer (“Metteer”).

WHEREAS, the Town and Metteer entered into an Employment Agreement on December 6, 2017, and a First Amendment to the Employment Agreement on November 6, 2019 (together, the “Employment Agreement”); and

WHEREAS, Metteer has served as Town Manager with distinction for almost four years and received positive employment reviews; and

WHEREAS, the Town desires to revise the Employment Agreement consistent with the terms and conditions discussed below.

NOW THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1. Term. Section 2 of the Employment Agreement is amended and restated as follows:

The term of this agreement shall end on December 31, 2024, subject to annual Appropriation of funds. This agreement may be extended for an additional period by mutual agreement of the parties.

2. Compensation and Benefits. Section 3 of the Employment Agreement is amended and restated as follows:

In consideration for the services specified herein by Metteer, Town agrees, starting on January 1, 2022, to pay Metteer for her services rendered at an annual rate of \$117,576 to be payable in accordance with Town policy. Town shall provide Metteer a car allowance of three hundred dollars (\$300.00) per month to be included in her monthly taxable compensation. Metteer shall also be entitled to participate in those programs and receive those benefits offered by Town to its full-time exempt employees, as such benefits may be amended by the Town in its discretion. In addition, the Town shall grant Metteer a license to occupy the premises located at 210 Eagle Street as set forth in Section 5 below. Metteer’s salary may be increased by Town Council during the annual budgeting process without effectuating a subsequent amendment of the Employment Agreement.

3. Residence. Section 5.A. of the Employment Agreement is amended and restated as follows:

A. Metteer shall reside within 15 roadway miles (as calculated by a program such as google maps) of the Town as a condition of employment during the term of this Agreement. As part of Metteer’s compensation, the

Town shall offer Metteer a license to occupy the Town-owned premises located at 210 Eagle Street (the "Premises"). Metteer shall pay all costs and expenses attributable to the housing (with the exception of internet, water and sewer) including ordinary maintenance and repair, electric/gas, and renter's insurance in reasonable amounts required by the Town. During the year 2022, the Town will appropriate \$2,500 towards permanent improvements to the Premises.

4. All other terms and conditions of the Employment Agreement, as amended by the First Amendment to the Employment Agreement, shall remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Second Amendment to Employment Agreement as of the date first above written.

EMPLOYER:
TOWN OF MINTURN,
COLORADO

EMPLOYEE:
MICHELLE METTEER

By: _____
Mayor

Michelle Metteer

ATTEST:

Town Clerk

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 38 – SERIES 2021**

A RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT BETWEEN UMB FINANCIAL SERVICES, INC AND THE TOWN OF MINTURN AND AUTHORIZING THE MANAGER OF THE TOWN OF MINTURN TO SIGN THE AGREEMENT.

WHEREAS, THE Town of Minturn has previously utilized the services of Ehlers Public Financial Advisors for contracted financial consulting services of whom has discontinued services within the State of Colorado, and;

WHEREAS, The Minturn Town Council has reviewed the Municipal Advisory Engagement Letter with UMB Financial Services and deems it acceptable; and,

WHEREAS, The Town Council desires to engage UMB Financial Services as presented in the attached agreement.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

1. The Minturn Town Council hereby approves the Professional Services Agreement between UMB Financial Services and the Town of Minturn, Colorado and authorizes the Town Manager to execute said agreement.
2. The Minturn Town Council hereby appoints UMB Financial Services as the Town's financial consulting firm
3. The Mayor or his designee is authorized to sign on behalf of the Town of Minturn any and all negotiated documents required to executed said agreement.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6th day of October, 2021.

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Town Clerk

UMB FINANCIAL SERVICES, INC.
MUNICIPAL ADVISOR ENGAGEMENT LETTER

Name of Appropriate Official/Officer:

James A Mann, Senior Vice President

Municipal Entity/Obligated Person Name:

Michelle Metteer, Town Manager, Town of Minturn, CO

UMB FINANCIAL SERVICES, INC. (“Municipal Advisor”) appreciates the opportunity to serve as municipal advisor to **TOWN OF MINTURN** (“Client”). Upon your acceptance, this engagement letter (the “Agreement”) will serve as our mutual agreement with respect to the terms and conditions of our engagement as your municipal advisor, effective on the date this Agreement is executed by Client (the “Effective Date”).

1. Scope of Services.

(a) *Services to be provided.* Municipal Advisor is engaged by Client as its municipal advisor to provide the services with respect to the issuances of municipal securities (“Issues”) or municipal financial products (“Products”) set forth in **Appendix A** (the “Scope of Services”).

(b) *Limitations on Scope of Services.* The Scope of Services is subject to the following limitations:

(i) The Scope of Services is limited solely to the services described herein and is subject to any limitations set forth within the description of the Scope of Services.

(ii) Unless otherwise provided in the Scope of Services described herein, Municipal Advisor is not responsible for preparing any preliminary or final official statement, or for certifying as to the accuracy or completeness of any preliminary or final official statement, other than with respect to any information about Municipal Advisor provided by Municipal Advisor for inclusion in such documents.

(iii) The Scope of Services does not include tax, legal, accounting or engineering advice with respect to any Issue or Product or in connection with any opinion or certificate rendered by counsel or any other person at closing and does not include review or advice on any feasibility study.

(iv) If Client has designated Municipal Advisor as its independent registered municipal advisor (“IRMA”) for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the “IRMA exemption”) with respect to the activities and aspects described in the Scope of Services, the Scope of Services as they relate to such designation as IRMA shall be subject to any

limitations with respect to Municipal Advisor's activities as IRMA as may be provided in the Scope of Services described herein. Municipal Advisor is not responsible for verifying that it is independent (within the meaning of the IRMA exemption as interpreted by the SEC) from another party wishing to rely on the exemption from the definition of municipal advisor afforded under the IRMA exemption. Any reference to Municipal Advisor, its personnel and its role as IRMA in the written representation of Client contemplated under SEC Rule 15Ba1-1(d)(3)(vi)(B) is subject to prior approval by Municipal Advisor, and Client agrees not to represent, publicly or to any specific person, that Municipal Advisor is Client's IRMA with respect to any aspect of municipal financial products or the issuance of municipal securities, or with respect to any specific municipal financial product or any specific issuance of municipal securities, outside the Scope of Services without Municipal Advisor's prior written consent.

(v) Municipal Advisor is engaged as an independent contractor and will accomplish the services under this Agreement in such capacity. Client will have no control or supervisory powers as to the detailed manner or method of Municipal Advisor's performance of the services under this Agreement.

(c) ***Amendment to Scope of Services.*** The Scope of Services may be changed only by written amendment or supplement to the Scope of Services described herein. The parties agree to amend or supplement the Scope of Services described herein promptly to reflect any material changes or additions to the Scope of Services.

2. Municipal Advisor's Regulatory Duties When Servicing Client. MSRB Rule G-42 requires that Municipal Advisor make a reasonable inquiry as to the facts that are relevant to Client's determination whether to proceed with a course of action or that form the basis for any advice provided by Municipal Advisor to Client. The rule also requires that Municipal Advisor undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information. Municipal Advisor is also required under the rule to use reasonable diligence to know the essential facts about Client and the authority of each person acting on Client's behalf.

Client agrees to cooperate, and to cause its agents to cooperate, with Municipal Advisor in carrying out these regulatory duties, including providing to Municipal Advisor accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, Client agrees that, to the extent Client seeks to have Municipal Advisor provide advice regarding any recommendation made by a third party, Client will provide to Municipal Advisor written direction to do so as well as any information it has received from such third party relating to its recommendation.

3. Term of this Engagement. The term of this Agreement begins on the Effective Date and shall continue unless earlier terminated as provided below.

This Agreement may be terminated with or without cause by either party upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination.

Upon receipt of such termination notice, Municipal Advisor and Client shall mutually determine the scope of work reasonably expected to be completed prior to the termination date, for which Client shall be liable for payment. Upon payment for work performed through the termination date, Municipal Advisor shall deliver to Client any requested studies, reports, documents, specifications, calculations, plans, estimates, summaries and other information and materials accumulated in performing this Agreement. Client shall pay Municipal Advisor for all work and services rendered up to the termination date, in accordance with the terms, limits and conditions of this Agreement.

4. Compensation.

(a) *Fees and expenses.* The fees due to Municipal Advisor hereunder shall be, and expenses incurred by Municipal Advisor in connection with any services provided hereunder shall be reimbursed, as set forth in **Appendix B** hereto.

(b) *Limitation of liability.* In the absence of willful misconduct, bad faith, negligence or reckless disregard of obligations or duties hereunder on the part of Municipal Advisor or any of its associated persons, Municipal Advisor and its associated persons shall have no liability to Client for any act or omission in the course of, or connected with, rendering services hereunder, or for any error of judgment or mistake of law, or for any loss arising out of any issuance of municipal securities, any municipal financial product or any other investment, or for any financial or other damages resulting from Client's election to act or not to act, as the case may be, contrary to any advice or recommendation provided by Municipal Advisor to Client. Client further agrees that Municipal Advisor's total liability under this Agreement, for any reason, including but not limited to, any alleged negligence by or of Municipal Advisor, shall be limited to the amount of liability insurance coverage maintained by the Municipal Advisor. The current insurance certificate is as set forth in **Appendix C** hereto.

No recourse shall be had against Municipal Advisor for loss, damage, liability, cost or expense (whether direct, indirect or consequential) of Client arising out of or in defending, prosecuting, negotiating or responding to any inquiry, questionnaire, audit, suit, action, or other proceeding brought or received from the Internal Revenue Service in connection with any Issue or Product or otherwise relating to the tax treatment of any Issue or Product, or in connection with any opinion or certificate rendered by counsel or any other party. Notwithstanding the foregoing, nothing contained in this paragraph or elsewhere in this Agreement shall constitute a waiver by Client of any of its legal rights under applicable U.S. federal securities laws or any other laws whose applicability is not permitted to be contractually waived, nor shall it constitute a waiver or diminution of Municipal Advisor's fiduciary duty to Client under Section 15B(c)(1) of the Securities Exchange Act of 1934, as amended, and the rules thereunder.

5. Non-Exclusive Services. Client understands and agrees that Municipal Advisor and its affiliates may perform, among other things, brokerage, investment advisory, or consulting services for other clients. Client recognizes that Municipal Advisor and its affiliates may give advice and take action in the performance of its duties for such other clients (including those who may have similar municipal advisory issues) that may differ from the services provided, or in the timing and nature of action taken, with respect to Client. Nothing in this Agreement shall impose upon Municipal Advisor or any of its affiliates any obligation to provide the services in the same manner

as they may provide services to any of their other clients. Municipal Advisor will not use information provided by the Client for the benefit of any other client or to the disadvantage of the Client.

6. Confidentiality. Both parties agree and acknowledge that, except as required by law, each party will treat as confidential all non-public information of the other party ("Confidential Information"). Neither party shall disclose or use such Confidential Information other than to accomplish the purposes of this Agreement. Each party also understands that it is responsible for complying with applicable state and federal laws as well as any applicable regulatory agency and self-regulatory organization rules and regulations pertaining to the protection of client information.

7. Required Disclosures. MSRB Rule G-42 requires that Municipal Advisor provide Client with disclosures of material conflicts of interest and of information regarding certain legal events and disciplinary history. Such disclosures are provided in Municipal Advisor's Disclosure Statement delivered to Client together with this Agreement.

8. Waiver of Jury Trial. EACH PARTY AGREES TO WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THE RELATIONSHIP BETWEEN THE PARTIES. PARTIES AGREE TO WAIVE CONSEQUENTIAL AND PUNATIVE DAMAGES.

9. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Colorado.

9. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of Client and Municipal Advisor, their respective successors and permitted assigns; provided however, neither party may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.

10. Entire Agreement. This instrument, including all appendices hereto, contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. This Agreement may not be amended, supplemented or modified except by means of a written instrument executed by both parties.

11. Severability. If any provision of this Agreement is, or is held or deemed to be, invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions because it conflicts with any provisions of any constitution, statute, rule or public policy, or for any other reason, such circumstances shall not make the provision in question invalid, inoperative or unenforceable in any other case or circumstance, or make any other provision or provisions of this Agreement invalid, inoperative or unenforceable to any extent whatever.

12. No Third-Party Beneficiary. This Agreement is made solely for the benefit of the parties and their respective successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

13. Authority. The undersigned represents and warrants that (s)he has full legal authority to execute this Agreement on behalf of Client. The following individuals have Client’s authority to direct Municipal Advisor’s performance of its activities under this Agreement:

Name: Michelle Metteer

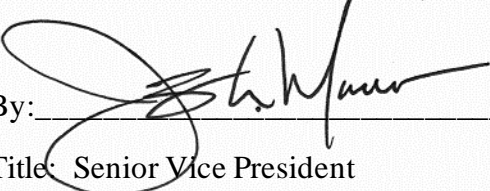
Title: Town Manager

Name:

Title:

14. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, but which taken together, shall constitute one and the same instrument.

UMB FINANCIAL SERVICES, INC. (“Municipal Advisor”)

By: 
Title: Senior Vice President
Date: September 17, 2021

ACCEPTED AND AGREED:

TOWN OF MINTURN (“Client”)

By: _____
Title: _____
Date: _____

**APPENDIX A –
SCOPE OF SERVICES**

Municipal Advisor agrees to work with Client’s Financing Team, including Client staff member(s) and other professionals such as Bond Counsel, to assist in the Issuance and provide the following scope of services in connection with the Issuance:

1. Capital Markets Advisory Services

A. Debt and Capital Planning Advisory Services

- i. Meet with Client to establish timing parameters, discuss financing structure alternatives, and identify financing needs, issues and preferences. Discuss potential bond or hedge structures, as applicable and appropriate, and determine the best approach given the Client’s goals and objectives. *Completed prior to Disclosure*
- ii. Evaluate Client’s existing bond and debt related documents, identifying issues, concerns, or opportunities related to existing or proforma debt. Identify refinancing opportunities and structures based on current and forecasted future market conditions. *Completed prior to Disclosure*
- iii. As requested by the Client, assist in the development of a credit or underwriter RFP; provide a tabular summary of proposals received; compare and contrast alternatives available to the Client; advise on terms, conditions and pricing of proposals received; assist in negotiating final terms, conditions and fees; and assist in the award of credit provider or underwriter selected. *Completed prior to Disclosure*
- iv. Hold an organizational meeting with Client and financing team working group to lay out the financing plan and establish timing parameters, document drafting requirements and other roles, responsibilities and tasks. *Completed prior to Disclosure*
- v. Assist the Client select, as needed and applicable, a trustee, legal counsel, printer, verification agent, credit facility provider, and other finance team members. *Completed prior to Disclosure*
- vi. Model the municipal securities issuance according to the Client’s preferences and specifications (or alternatively, review such models prepared by the underwriter), advising on appropriate terms and conditions including maturity schedule, redemption provisions, security provisions, covenants, and other structural elements. If negotiated public issue, consult with underwriter to determine the marketability of various alternatives given current market conditions and investor preferences. If bank direct purchase or private

placement, assist in the negotiation of final lending terms, structure and pricing, as well as, achieving final credit approval.

- vii. Advise on the general timing of the sale or placement, taking into consideration current and future market and economic factors, visible, competing bond sales that may impact Client's pricing, length of approval processes for Client and conduit issuer, as applicable, timing for delivery of credit rating(s), and other factors present or that may arise.
- viii. Coordinate with bond counsel, underwriter's or bank counsel, Client counsel, and any other legal counsel on the preparation of authorizing resolutions and financing documents. Review and provide comment on all draft financing documents and provide assistance, as requested, to complete Client due diligence questionnaires.
- ix. For publicly sold, negotiated issue, if pursued:
 - a. Conduct pre-pricing analysis and discussion to update Client on market conditions leading into the pricing period; hold a pricing call with the underwriter and Client, present pricing comparables to the underwriter as a basis for negotiation, and react and respond to pricing or structural options as they arise; and assist in the negotiation of costs, interest rates, and spread.
- x. Review the final official statement, as applicable, and all legal and closing documents to ensure accuracy and completeness. Work with bond counsel to ensure all regulatory documentation is filed and assist in the closing process.
- xi. Coordinate the final flow of funds and closing memorandum and schedule the pre-closing and closing activities and conference call(s).
- xii. Assist in the preparation for and participate in/and or attend Client meetings, as requested.
- xiii. Assist in other activities related to the bond (debt) issue as requested by Client throughout the development of the financing plan, credit process, sale and closing, and any unforeseen requirements beyond the bond (debt) issue.
- xiv. Respond to Client's general or specific inquiries regarding its debt and credit.
- xv. Provide, as market fluctuations warrant, periodic updates on market events, conditions and relevant information to Client and its financing plan.

2. Financial Forecasting Model and Annual Rate Setting

A. Financial Forecast Model

- i. Utilizing the Town's current Financial Forecast Model, meet with Client to review financial assumptions, growth assumptions and actual revenues/expenses.
- ii. Update, as needed the Town's Water System Enterprise Financial Forecast Model.
 - a. Update annual capital needs.
 - b. Update forecast assumptions.
 - c. Evaluate Forecast Model scenarios as requested.

B. Annual Rate Setting

- i. Meet with Client to establish goals of annual rate setting for the Water System Enterprise
- ii. As requested by Client, utilizing the Financial Forecast Model evaluate rate scenarios.
- iii. As requested by Client, present Rate Modeling recommendations to the Finance Committee or Town Council.

**APPENDIX B –
COMPENSATION**

Fees for the services provided by Municipal Advisor to Client under this Agreement and the manner for payment of expenses incurred by Municipal Advisor in the course of performing its services are as set forth below:

1. Appendix A – Capital Markets Advisory Services

For providing the Scope of Services as detailed in Appendix A, the Municipal Advisor shall receive a fixed fee of \$17,500 per bond (debt) issue. Such fee shall be included in the costs of issuance of the bond (debt) financing or be paid directly by Client.

2.

Appendix A – Financial Forecasting Model and Annual Rate Setting

For providing the Scope of Services as detailed in Appendix A, the Municipal Advisor shall bill Client hourly for the services rendered. If requested, the Municipal Advisor will provide a supplemental estimate of the costs associated with the Financial Forecasting Model and Annual Rate Setting. The following billing rates will be utilized:

Position	Hourly Rate
Public Finance Municipal Advisor	\$300
Senior Public Finance Analyst	\$250
Public Finance Analyst	\$235

3. Expenses

The Client shall reimburse the Municipal Advisor for travel-related expenses for travel that is requested by Client for providing services under this Agreement. Travel-related expenses shall be limited to economy airfare, lodging, car rental, transportation, and other reasonable out-of-pocket travel expenses approved by Client. The Municipal Advisor shall not seek reimbursement for other ancillary expenses incurred through the normal course of providing services to Client under this Agreement.

APPENDIX C
INSURANCE CERTIFICATE

DATE: September 30, 2021
TO: Minturn Mayor and Town Council
FROM: Karp Neu Hanlon, P.C.
RE: Quiet Title Action Authorization

The Town Attorney is requesting authorization from Minturn Town Council to initiate a judicial proceeding in Eagle County District Court to quiet title to a 4.5 acre parcel of land located northwest of the Riverview Cemetery, and surrounded by the cemetery, Town property, Union Pacific right-of-way, and federal land. We have confirmed that the title to this piece of land, while in use by the Town and its residents, is not legally vested in the Town. As such, an action to quiet title pursuant to C.R.C.P. 105 is necessary to ensure that no other persons can claim the property, and so that the Town can then annex this parcel into the corporate limits and manage it for the town's benefit.

Town Council Recommended Action: *Town Council authorizes the initiation of a judicial proceeding to quiet title to the parcel of land known as THAT PORTION OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EAGLE, STATE OF COLORADO, LYING NORTHERLY OF THE RIGHT OF WAY OF THE UNION PACIFIC RAILROAD; EXCEPTING THEREFROM THAT PORTION LYING WITHIN RIVER VIEW CEMETERY ACCORDING TO THE PLAT THEREOF RECORDED JUNE 10, 2002 UNDER RECEPTION NO. 798232. AND THAT PORTION IN DEED RECORDED DECEMBER 16, 1966 IN BOOK 189 AT PAGE 239*



To: Minturn Town Council
From: Michelle Metteer
Date: September 15, 2021
RE: Colorado Water Resources and Power Development Authority (CWRPDA) Loan Agreement

REQUEST: Approve Ordinance 09 – Series 2021

INTRODUCTION:

Initial approval for a \$3,000,000 loan at 2.25% interest over a 20-year period was authorized during the August CWRPDA Board meeting for the construction of two new water tanks located on town-owned land adjacent to the current (and future) Minturn water treatment plant.

ANALYSIS:

A CWRPDA loan is a low-interest option for obtaining infrastructure funding. Staff is still seeking congressionally directed funding to help offset some of this cost but will not know the status of that request as the request is still making its way through committees and congress.

This loan, combined with the water tanks discussion materials is the culmination of work by staff over the past year in preparation for construction of the new water tanks.

COMMUNITY INPUT: Ongoing.

BUDGET / STAFF IMPACT: \$3,000,000

STRATEGIC PLAN ALIGNMENT:

[Practice fair, transparent and communicative local government](#)

RECOMMENDED ACTION OR PROPOSED MOTION: Approve Ordinance 09 – Series 2021.

ATTACHMENTS:

- Ordinance 09 – Series 2021
- Drinking Water Revolving Fund Loan Agreement
- Drinking Water Revolving Fund Loan Repayment Schedule
- Drinking Water Revolving Fund Loan Approval Letter

TOWN OF MINTURN

ORDINANCE NO. 09 – SERIES 2021

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, BETWEEN THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY AND THE TOWN OF MINTURN, ACTING BY AND THROUGH THE TOWN OF MINTURN, WATER AND SANITATION ACTIVITY ENTERPRISE, AND THE ISSUANCE OF A GOVERNMENTAL AGENCY BOND IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$3,000,000 EVIDENCING THE OBLIGATION OF THE TOWN, ACTING BY AND THROUGH SUCH ENTERPRISE UNDER THE LOAN AGREEMENT, AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH.

WHEREAS, the Town of Minturn, Colorado (the “Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town of Minturn Home Rule Charter (the “Charter”); and

WHEREAS, the Town is the owner of a municipal water system (the "System"), which System historically has been operated on a self-supporting basis with its financial operations accounted for in a water enterprise fund of the Town; and,

WHEREAS, pursuant to Section 37-45.1-103, Colorado Revised Statutes, the Charter, and Article 5 of the Town of Minturn Municipal Code (the “Code”), the Town has designated the System as a water activity enterprise (the "Water and Sanitation Activity Enterprise" or the "Enterprise") of the Town, constituting a government-owned business and “enterprise” within the meaning of Article X, Section 20 of the Colorado Constitution; and,

WHEREAS, such designation was made by the Town in Ordinance No. 19-1995, as amended by Ordinance No. 3-2019, (collectively, the "Enterprise Ordinance"), designating the System as the "Water and Sanitation Activity Enterprise," and the Enterprise Ordinance authorizes the Minturn Town Council to act as the governing body of the Enterprise, and further provides the powers of the Enterprise to include the issuance of revenue bonds; and,

WHEREAS, the Town, acting through its Town Council, hereby reaffirms the status of the Water Enterprise as an enterprise consistent with the requirements of Title 37, Article 45.1, Colorado Revised Statutes and Article X, Section 20 of the Colorado Constitution; and,

WHEREAS, the Town has made an application to the Colorado Water Resources and Power Development Authority (the "Authority") for a loan to finance system improvements including, but not limited to, replacing one of the Town’s water storage tanks that is in disrepair and replacing it with two new storage tanks (the "Project"); and

WHEREAS, the Authority has accepted such application and expressed its interest in making such loan, subject to certain conditions (the "Loan Agreement"); and

WHEREAS, the Loan Agreement will provide for the issuance by the Town, acting by and through the Enterprise, of a governmental Agency Bond in the principal amount not exceeding \$3,000,000 (the "Bond") evidencing the obligations of the Town, acting by and through the Enterprise, under the Loan Agreement; and

WHEREAS, the repayment obligations of the Bond shall constitute a special revenue obligation of the Town which is generally payable from the income for the services furnished by or the use of the System less reasonable and necessary current expenses of the Town of operating, maintaining and repairing the System and, after consideration, the Town Council has determined that the execution of the Loan Agreement and the issuance of the Bond to the Authority is to the best advantage of the Town; and

WHEREAS, except as specifically described in the Loan Agreement, the Town has no indebtedness outstanding secured by the Pledged Property (as defined in the Loan Agreement); and

WHEREAS, voter approval in advance is not required under Article X, Section 20 of the Colorado Constitution for the execution of the Loan Agreement or the issuance of the Bond; and

WHEREAS, the form of the Loan Agreement and the Bond, have been presented to the Town and made available to the Town Council; and

WHEREAS, pursuant to Sections 37-45.1-103(4) and 37-45.1-104, Colorado Revised Statutes, the Enterprise Ordinance, the Charter and the Code, the Minturn Town Council, acting as the governing body of the Enterprise, is authorized to issue revenue bonds in the name of the Enterprise.

THEREFORE, BE IT ORDAINED BY THE MINTURN TOWN COUNCIL OF THE TOWN OF MINTURN, IN EAGLE COUNTY, COLORADO:

Section 1. Pursuant to and in accordance with the State Constitution, Sections 37-45.1-103(4), 37-45.1-104, and Title 11, Article 57, Part 2, Colorado Revised Statutes, the Town Charter and the Code, the Bond shall be issued by the Town acting by and through the Enterprise. The form of the Loan Agreement setting forth the terms, conditions and details of the Bond and the procedures relating thereto, is incorporated herein by reference and is hereby approved; all Town officials and employees are hereby directed to take such actions as are necessary and appropriate to fulfill the obligations of the Town under the Loan Agreement and the Bond. The Town shall enter into the Loan Agreement and deliver the Bond in substantially the form presented to the Town at or prior to this meeting of the Town Council with such changes as the Town Attorney and the Town's bond counsel may determine to be necessary to carry out the purposes hereof and are not inconsistent herewith; provided that, in accordance with Title 11, Article 57, Part, Colorado revised Statutes, the Town Council hereby delegates to the Mayor the authority to approve the final terms of the Loan Agreement and the

Bond, subject to the limitations herein, which approval shall be evidenced by the Mayor's execution thereof. The Town attorney and bond counsel are hereby authorized to negotiate the forms of the Loan Agreement and the Bond and any changes thereto as may be necessary in the opinion of the Town Attorney and bond counsel to effectuate the intentions of the parties or to comply with the provisions of applicable law are hereby approved. The accomplishment of the Project, as defined in the Loan Agreement, is hereby authorized, approved, and ordered.

Section 2. The Mayor and the Town Clerk are hereby authorized and directed to execute and deliver to the Authority the Loan Agreement and any other documents which are required to complete and close this transaction, provided the same have been reviewed and approved by the Town Attorney.

Section 3. The Town shall issue the Bond to evidence the obligations of the Town, acting by and through the Enterprise, under the Loan Agreement. The Bond shall be in the principal amount, mature on the date, bear interest payable at the rate and on the dates, be pre-payable at the option of the Town, acting by and through the Enterprise, on the dates and at the prices, be in the form and be secured in the manner provided in the Loan Agreement; provided however, that the term of the Loan shall not exceed twenty (20) years, the maximum net effective interest rate of the Bonds shall not exceed 2.25% and the principal amount thereof shall not exceed \$3,000,000.

Section 4. The Mayor, Town Clerk and the Town Administrator of the Town are hereby authorized and directed to execute and deliver the Bond to the Authority and are designated as "Authorized Officers" as identified in Exhibit B to the Loan Agreement.

Section 5. The principal of and interest on the Bond shall be payable solely from the Pledged Property (which term is defined in the Loan Agreement). The Town irrevocably pledges the Pledged Property for the payment of the Bond and the amounts due under the Loan Agreement, on a parity with the parity lien obligations secured thereby, as described in the Loan Agreement. The Authority may not look to any general or other fund of the Town for the payment of the principal of or interest on the Bond, except the funds and accounts pledged thereto pursuant to authority of this Ordinance, and the Bond shall not constitute a debt or an indebtedness of the Town within the meaning of any constitutional or statutory provision or limitation; nor shall they be considered or held to be a general obligation of the Town; provided, however, that the Town may, but is not required to, apply any otherwise legally available moneys to the repayment of the Loan at its sole discretion.

Section 6. The Town Council hereby determines that the Enterprise is currently an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and hereby reaffirms the establishment of the System as a "water activity enterprise" within the meaning of Title 37, Article 45.1, C.R.S. The Town has and will continue to maintain the System as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution; provided, however, after the current calendar year the Town may disqualify the System as an "enterprise" in any year in which said disqualification does not materially, adversely affect the enforceability of the covenants made in the Loan Agreement and the Bond. In the event that the System is disqualified as an enterprise and the enforceability of the

covenants made by the Town in the Loan Agreement or the Bond are materially, adversely affected, the Town covenants to (i) immediately take all actions necessary to qualify the System as an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution and (ii) permit the enforcement of the covenants made in the Loan Agreement and the Bond.

Section 7. This Ordinance is, and shall constitute, a legislative measure of the Town, acting by and through the Enterprise, and after the Bond is issued, this Ordinance shall constitute an irrevocable contract between the Town, acting by and through the Enterprise, and the Authority, and this Ordinance shall be and shall remain irrevocable until the Bond shall be fully paid, satisfied or discharged.

Section 8. This Enterprise Ordinance shall be published and shall be effective, in accordance with Charter law, seven (7) days after second publication. This Enterprise Ordinance shall be recorded in a book kept for that purpose, shall be authenticated by the signature of the Mayor and attested by the Town Clerk.

Section 9. All action not inconsistent with the provisions of this Ordinance heretofore taken by the Town or its officers and otherwise directed toward the authorization of the Loan Agreement and the Bonds and the undertaking and completion of the Project and the authorization of the Enterprise to have and in connection therewith to exercise the necessary powers is hereby ratified, approved and confirmed.

Section 10. All ordinances, bylaws, orders and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, bylaw, order or other instrument, or part thereof, heretofore repealed.

Section 11. If any section, subsection, paragraph, clause or other provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity to unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions of this Ordinance.

INTRODUCED, READ BY TITLE, APPROVED ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 15th DAY OF SEPTTEMBER, 2021. A PUBLIC HEARING ON THIS ORDINNCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 6th DAY OF OCTOBER, 2021 AT 5:30P.M. AT THE MINTURN TOWN HALL, 302 PINE STREET, MINTURN, COLORADO 81645.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST

Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THIS 6th DAY OF OCTOBER, 2021.

TOWN OF MINTURN, COLORADO

John Widerman IV, Mayor

ATTEST

Jay Brunvand, Town Clerk

DRINKING WATER REVOLVING FUND

LOAN AGREEMENT

BETWEEN

**COLORADO WATER RESOURCES AND POWER
DEVELOPMENT AUTHORITY**

AND

**TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS
_____ ENTERPRISE**

DATED

LOAN AGREEMENT

THIS LOAN AGREEMENT is made and entered into as of this ____ day of _____ 2021, by and between **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), a body corporate and political subdivision of the State of Colorado, and the **TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency").

WITNESSETH THAT:

WHEREAS, the United States of America, pursuant to the federal Safe Drinking Water Act of 1996, assists state and local participation in the financing of the costs of drinking water system projects and said federal Drinking Water Act requires each state to establish a drinking water revolving fund to be administered by an instrumentality of the State.

WHEREAS, the Authority was created to initiate, acquire, construct, maintain, repair, and operate or cause to be operated certain water resource projects, and to finance the cost thereof;

WHEREAS, Section 37-95-107.8, Colorado Revised Statutes, has created a Drinking Water Revolving Fund to be administered by the Authority;

WHEREAS, the Authority has determined to loan certain sums to governmental agencies in Colorado to finance all or a portion of the costs of certain water resource projects;

WHEREAS, the Colorado Legislature has approved a Project Eligibility List that includes the water resource project proposed by the Governmental Agency to be financed hereunder;

WHEREAS, the Governmental Agency has made timely application to the Drinking Water Revolving Fund for a loan to finance a portion of the cost of a certain water resource project, and the Authority has approved the Governmental Agency's application for a loan from available funds in the Drinking Water Revolving Fund in an amount not to exceed the amount of the loan commitment set forth in Exhibit B hereto to finance all or a portion of the cost of such project;

WHEREAS, the Governmental Agency will issue its bond to the Authority to evidence said loan from the Authority;

NOW THEREFORE, for and in consideration of the award of the loan by the Authority, the Governmental Agency agrees to perform its obligations under this Loan Agreement in accordance with the conditions, covenants and procedures set forth herein and attached hereto as a part hereof, as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Act" means the "Colorado Water Resources and Power Development Authority Act," being Section 37-95-101 et seq. of the Colorado Revised Statutes, as the same may from time to time be amended and supplemented.

"Authority" means the Colorado Water Resources and Power Development Authority, a body corporate and political subdivision of the State of Colorado duly created and validly existing under and by virtue of the Act.

"Authorized Officer" means, in the case of the Governmental Agency, the person whose name is set forth in Paragraph (7) of Exhibit B hereto or such other person or persons authorized pursuant to a resolution or ordinance of the governing body of the Governmental Agency to act as an Authorized Officer of the Governmental Agency to perform any act or execute any document relating to the Loan, the Governmental Agency Bond, or this Loan Agreement, whose name is furnished in writing to the Authority.

"Commencement Date" means the date of commencement of the term of this Loan Agreement, as set forth in Paragraph (1) of Exhibit B attached hereto and made a part hereof.

"Cost" means those costs that are eligible to be funded from draws under the Federal Capitalization Agreement capitalizing the Drinking Water Revolving Fund and are reasonable, necessary and allocable to the Project and are permitted by generally accepted accounting principles to be costs of the Project.

"Custodian" means Wells Fargo Bank National Association, or any successor appointed by the Authority as custodian of the direct loan portion of the Drinking Water Revolving Fund.

"Event of Default" means any occurrence or event specified in Section 5.01 hereof.

"Federal Capitalization Agreement" means the instrument or agreement established or entered into by the United States of America Environmental Protection Agency with the Authority to make capitalization grant payments pursuant to the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f et seq.)

"Governmental Agency" means the entity that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assigns.

"Governmental Agency Bond" means the bond executed and delivered by the Governmental Agency to the Authority to evidence the Loan, the form of which is attached hereto as Exhibit D and made a part hereof.

"Loan" means the loan made by the Authority to the Governmental Agency to finance or refinance a portion of the Cost of the Project pursuant to this Loan Agreement. For all purposes of this Loan Agreement, the amount of the Loan at any time shall be the amount of the loan commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part of this Loan Agreement.

"Loan Agreement" means this Loan Agreement, including the Exhibits attached hereto, as it may be supplemented, modified, or amended from time to time in accordance with the terms hereof.

"Loan Closing" means the date upon which the Governmental Agency shall issue and deliver the Governmental Agency Bond.

"Loan Repayments" means the payments payable by the Governmental Agency pursuant to Section 3.03 of this Loan Agreement, including payments payable under the Governmental Agency Bond.

"Loan Term" means the term of this Loan Agreement provided in Paragraph (5) of Exhibit B attached hereto and made a part hereof. If the Loan is prepaid in its entirety pursuant to Section 3.06, the Loan Term shall automatically terminate.

"Pledged Property" means the source of repayment described in Paragraph (3) of Exhibit A to this Loan Agreement attached hereto and made a part hereof.

"Prime Rate" means the prevailing commercial interest rate announced by the Wall Street Journal from time to time, or, if the Wall Street Journal ceases announcing a prime rate, shall be the prevailing commercial interest rate announced by Citibank, N.A. as its prime lending rate.

"Project" means the project of the Governmental Agency described in Paragraph (1) of Exhibit A attached hereto and made a part hereof, all or a portion of the Cost of which is financed or refinanced by the Authority through the making of the Loan under this Loan Agreement.

"Project Loan Account" means the Project Loan Account established within the Drinking Water Revolving Fund.

"System" means the water system of the Governmental Agency, described in Paragraph (2) of Exhibit A, including the Project, described in Paragraph (1) of Exhibit A attached hereto and made a part hereof, for which the Governmental Agency is making the borrowing under this Loan Agreement, as such System may be modified, replaced, or expanded from time to time.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms,

associations, corporations, agencies and districts. Words importing one gender shall include the other gender.

ARTICLE II

REPRESENTATIONS AND COVENANTS OF GOVERNMENTAL AGENCY

SECTION 2.01. Representations of Governmental Agency. The Governmental Agency represents for the benefit of the Authority:

(a) Organization and Authority.

(i) The Governmental Agency is a governmental agency as defined in the Act and as described in the first paragraph of this Loan Agreement.

(ii) The Governmental Agency has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate, and maintain the System, other than licenses and permits relating to the construction and acquisition of the Project that the Governmental Agency expects to receive in the ordinary course of business; to carry on its activities relating thereto; and to undertake and complete the Project. The Governmental Agency has full legal right and authority to execute and deliver this Loan Agreement; to execute, issue, and deliver the Governmental Agency Bond; and to carry out and consummate all transactions contemplated by this Loan Agreement and the Governmental Agency Bond. The Project is on the drinking water project eligibility list approved by the General Assembly of the State of Colorado pursuant to the Act and is a project that the Governmental Agency may undertake pursuant to Colorado law, and for which the Governmental Agency is authorized by law to borrow money.

(iii) The proceedings of the Governmental Agency's governing members and voters, if a referendum is necessary, approving this Loan Agreement and the Governmental Agency Bond, and authorizing their execution, issuance, and delivery on behalf of the Governmental Agency, and authorizing the Governmental Agency to undertake and complete the Project, or to cause the same to be undertaken and completed, have been duly and lawfully adopted and approved in accordance with the laws of Colorado, and such proceedings were duly approved and published, if necessary, in accordance with applicable Colorado law, at a meeting or meetings or election if necessary that were duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout.

(iv) This Loan Agreement has been, and the Governmental Agency Bond when delivered at the Loan Closing will have been, duly authorized, executed, and delivered by an Authorized Officer of the Governmental Agency; and, assuming that the Authority has all the requisite power and authority to authorize, execute, and deliver, and has duly authorized, executed, and delivered, this Loan Agreement, this Loan Agreement constitutes, and the Governmental Agency Bond when delivered to the Authority will constitute, the legal, valid, and

binding obligations of the Governmental Agency in accordance with their respective terms; and the information contained under "Description of the Loan" on Exhibit B attached hereto and made a part hereof is true and accurate in all material respects.

(b) Full Disclosure.

There is no fact that the Governmental Agency has not disclosed to the Authority in writing on the Governmental Agency's application for the Loan or otherwise that materially adversely affects the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(c) Pending Litigation.

Except as disclosed to the Authority in writing, there are no proceedings pending, or, to the knowledge of the Governmental Agency threatened, against or affecting the Governmental Agency, in any court, or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(d) Compliance with Existing Laws and Agreements.

The authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions provided for in this Loan Agreement and in the Governmental Agency Bond; the compliance by the Governmental Agency with the provisions of this Loan Agreement and the Governmental Agency Bond; and the undertaking and completion of the Project; will not result in any breach of any of the terms, conditions, or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge, or encumbrance upon, any property or assets of the Governmental Agency pursuant to any existing ordinance or resolution, trust agreement, indenture, mortgage, deed of trust, loan agreement, or other instrument (other than the lien and charge of this Loan Agreement and the Governmental Agency Bond) to which the Governmental Agency is a party or by which the Governmental Agency, the System, or any of the property or assets of the Governmental Agency may be bound, and such action will not result in any violation of the provisions of the charter or other document pursuant to which the Governmental Agency was established, or of any laws, ordinances, resolutions, governmental rules, regulations, or court orders to which the Governmental Agency, the System, or the properties or operations of the Governmental Agency, are subject.

(e) No Defaults.

No event has occurred and no condition exists that, upon authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, or receipt of the amount of the Loan, would constitute an Event of Default hereunder. The Governmental Agency is not in violation of, and has not received notice of any claimed violation of, any term of any agreement or other instrument to which it is a party, or by which it, the System, or its property, may be bound, which violation would materially adversely affect the properties, activities, prospects, or condition (financial or otherwise) of the Governmental Agency or the System, or the ability of the Governmental Agency to make all Loan Repayments, or the ability of the Governmental Agency otherwise to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(f) Governmental Consent.

The Governmental Agency has obtained all permits and approvals required to date by any governmental body or officer for the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or for the undertaking or completion of the Project and the financing or refinancing thereof; and the Governmental Agency has complied with all applicable provisions of law requiring any notification, declaration, filing, or registration with any governmental body or officer in connection with the making, observance, and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond, or with the undertaking or completion of the Project and the financing or refinancing thereof. Other than those relating to the construction and acquisition of the Project, which the Governmental Agency expects to receive in the ordinary course of business, no consent, approval, or authorization of, or filing, registration, or qualification with, any governmental body or officer that has not been obtained is required on the part of the Governmental Agency as a condition to the authorization, execution, and delivery of this Loan Agreement and the Governmental Agency Bond, the undertaking or completion of the Project or the consummation of any transaction herein contemplated.

(g) Compliance with Law.

The Governmental Agency:

(i) is in compliance with all laws, ordinances, governmental rules, and regulations to which it is subject, the failure to comply with which would materially adversely affect the ability of the Governmental Agency to conduct its activities or to undertake or complete the Project, or the condition (financial or otherwise) of the Governmental Agency or the System; and

(ii) has obtained all licenses, permits, franchises, or other governmental authorizations presently necessary for the ownership of its property, or for the conduct of its activities that, if not obtained, would materially adversely affect the ability of the Governmental Agency to conduct its activities or to undertake or complete the Project, or the condition (financial or otherwise) of the Governmental Agency or the System.

(h) Use of Proceeds.

The Governmental Agency will apply the proceeds of the Loan from the Authority as described in Exhibit B attached hereto and made a part hereof (i) to finance all or a portion of the Cost; and (ii) where applicable, to reimburse the Governmental Agency for a portion of the Cost, which portion was paid or incurred in anticipation of reimbursement by the Authority.

SECTION 2.02. Particular Covenants of the Governmental Agency.

(a) Pledge of Source of Repayment.

The Governmental Agency irrevocably pledges and grants a lien upon the source of repayment described in Paragraph (3) of Exhibit A for the punctual payment of the principal of and the interest on the Loan, and all other amounts due under this Loan Agreement and the Governmental Agency Bond according to their respective terms.

(b) Performance Under Loan Agreement.

The Governmental Agency covenants and agrees to maintain the System in good repair and operating condition; to cooperate with the Authority in the observance and performance of the respective duties, covenants, obligations and agreements of the Governmental Agency and the Authority under this Loan Agreement; and, to comply with the covenants described in the Exhibits to this Loan Agreement.

(c) Completion of Project and Provision of Moneys Therefor.

The Governmental Agency covenants and agrees to exercise its best efforts in accordance with prudent water utility practice to complete the Project and to provide from the Pledged Property or other sources available to it all moneys, in excess of the total amount of loan proceeds it receives under the Loan, required to complete the Project.

(d) Disposition of the System.

During the Loan Term, the Governmental Agency shall not sell, lease, abandon, or otherwise dispose of, all or substantially all, or any substantial portion, of the System or any other system that provides revenues to provide for the payment of this Loan Agreement or the Governmental Agency Bond, except on ninety (90) days' prior written notice to the Authority and, in any event, shall not so sell, lease, abandon, or otherwise dispose of the same unless the following conditions are met: (i) the Governmental Agency shall assign this Loan Agreement in accordance with Section 4.02 hereof and its rights and interests hereunder to the purchaser or lessee of the System, and such purchaser or lessee shall expressly assume all duties, covenants, obligations, and agreements of the Governmental Agency under this Loan Agreement in writing; and (ii) the Authority shall by appropriate action determine that such sale, lease, abandonment or other disposition will not adversely affect the Authority's ability to meet its duties, covenants, obligations, and agreements under the Act, the Federal Clean Water Act, the Safe Drinking

Water Act, or any agreement between the Authority or the State of Colorado relating to any capitalization grant received by the Authority or the State of Colorado under the Federal Clean Water Act or the Safe Drinking Water Act, and in its sole discretion, approve such sale, lease, abandonment, or other disposition.

(e) Inspections; Information.

The Governmental Agency shall permit the Authority to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of, any accounts, books, and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments, and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the Authority may reasonably require in connection therewith. In addition, the Governmental Agency shall provide the Authority with copies of any official statements or other forms of offering prospectus relating to any other bonds, notes, or other indebtedness of the Governmental Agency secured from the Pledged Property and issued after the date of this Loan Agreement. At the discretion of the Authority, the Governmental Agency may be required to provide unaudited quarterly financial reports to the Authority.

(f) Cost of Project.

The Governmental Agency certifies that the Estimated Cost of the Project, as listed in Paragraph (3) of Exhibit B hereto and made a part hereof, is a reasonable and accurate estimation, and that upon direction of the Authority it shall supply the Authority with a certificate from its engineer stating that such cost is a reasonable and accurate estimation, taking into account investment income to be realized during the course of the Project, and other money that would, absent the Loan, have been used to pay the Estimated Cost of the Project.

(g) Reimbursement for Ineligible Costs.

The Governmental Agency shall promptly reimburse the Authority for any portion of the Loan that is determined not to be a Cost of the Project and that would not be eligible for funding from draws under the Drinking Water Revolving Fund. Such reimbursement shall be promptly repaid to the Authority upon written request of the Authority.

(h) Advertising.

The Governmental Agency agrees not to advertise the Project for bids until plans and specifications for the Project, if such plans and specifications require approval, have been approved by the State Department of Public Health and Environment.

(i) Commencement of Construction.

Within twelve (12) months after the Loan Closing, the Governmental Agency shall initiate construction of the Project.

(j) Interest in Project Site.

As a condition of the Loan, the Governmental Agency will demonstrate to the satisfaction of the Authority before advertising for bids for construction that the Governmental Agency has or will have a fee simple or such other estate or interest in the site of the Project, including necessary easements and rights-of-way, as the Authority finds sufficient to assure undisturbed use and possession for the purpose of construction and operation of the Project for the estimated life of the Project.

(k) No Lobbying.

No portion of the Loan shall be used for lobbying or propaganda as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.

(l) Operation and Maintenance of System.

The Governmental Agency covenants and agrees that it shall, in accordance with prudent water utility practice: (i) at all times operate the properties of its System and any business in connection therewith in an efficient manner; (ii) maintain its System in good repair, working order and operating condition; (iii) from time to time make all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements with respect to its System so that at all times the business carried on in connection therewith shall be properly and advantageously conducted; provided, however, this covenant shall not be construed as requiring the Governmental Agency to expend any funds that are derived from sources other than the operation of its System or other receipts of such System that are not pledged under subsection (a) of this Section 2.02, and provided further that nothing herein shall be construed as preventing the Governmental Agency from doing so.

(m) Records; Accounts.

During the Loan Term, the Governmental Agency shall keep accurate records and accounts for its System (the "System Records"), separate and distinct from its other records and accounts (the "General Records"). Such System Records shall be maintained in accordance with generally accepted accounting principles, generally accepted government accounting standards related to the reporting of infrastructure assets and System Records and General Records shall be made available for inspection by the Authority at any reasonable time.

(n) Audits.

(i) If the Governmental Agency's System Records or General Records are audited annually by an independent accountant, then it shall furnish a copy of such annual audit(s) including all written comments and recommendations of the accountant preparing the audit to the Authority within 210 days of the close of the fiscal year audited, and the Governmental Agency shall cause its independent auditor to file with the Authority a report to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (4) of Exhibit A; Operations and Maintenance Reserve Fund Covenant, Paragraph (4) of Exhibit F; or Lien Representation, Paragraph (3) of Exhibit F under this Loan Agreement, which report may be a part of the annual audit or a separate document.

(ii) If the Governmental Agency's annual revenues are less than \$100,000, and the Governmental Agency elects in accordance with state law to file a short form audit exemption in lieu of performing an annual audit, then it shall provide the Authority a copy of the Exemption from Audit Form completed by a person skilled in governmental accounting practices, together with a report, also completed by a person skilled in governmental accounting practices, to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (4) of Exhibit A; Operations and Maintenance Reserve Fund Covenant, Paragraph (4) of Exhibit F; or Lien Representation, Paragraph (3) of Exhibit F under this Loan Agreement within 210 days of the close of the fiscal year.

(iii) If the Governmental Agency's annual revenues for any fiscal year commencing on or after January 1, 2015, are more than \$100,000, but less than \$750,000, and the Governmental Agency elects in accordance with state law to file a long form audit exemption in lieu of performing an annual audit, then it shall provide the Authority a copy of the Exemption from Audit Form completed by an independent accountant with knowledge of governmental accounting practices, together with a report, also completed by an independent accountant with knowledge of governmental accounting practices, to the effect that the Governmental Agency is not in default of its Rate Covenant, Paragraph (4) of Exhibit A; Operations and Maintenance Reserve Fund Covenant, Paragraph (4) of Exhibit F; or Lien Representation, Paragraph (3) of Exhibit F under this Loan Agreement within 210 days of the close of the fiscal year.

(o) Insurance.

During the Loan Term, the Governmental Agency shall maintain or cause to be maintained in force, insurance policies with responsible insurers or self-insurance programs providing against risk of direct physical loss, damage, or destruction of its System, at least to the extent that similar insurance is usually carried by utilities constructing, operating, and maintaining utility system facilities of the nature of the Governmental Agency's System, including liability coverage. The Governmental Agency shall pay all insurance premiums for coverage required hereby from revenues derived from the operation of the System. Nothing herein shall be deemed to preclude the Governmental Agency from asserting against any party, other than the Authority, a defense that may be available to the Governmental Agency, including, without limitation, a defense of governmental immunity.

(p) Notice of Material Adverse Change.

During the Loan Term, (i) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its System, or its ability to observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement; (ii) the Governmental Agency shall promptly notify the Authority of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Governmental Agency relating to its ability to make all Loan Repayments from the Pledged Property, or its ability to otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement and the Governmental Agency Bond.

(q) Hiring Requirements.

The Governmental Agency agrees to comply with the requirements found at Title 8, Article 17, and Title 8, Article 17.5, Colorado Revised Statutes.

(r) Additional Covenants and Requirements.

Additional covenants and requirements are included on Exhibit F attached hereto and made a part hereof. The Governmental Agency agrees to observe and comply with each such additional covenant and requirement included on Exhibit F.

(s) Continuing Representations.

The representations of the Governmental Agency contained herein shall be true at the time of the execution of this Loan Agreement and the Governmental Agency covenants not to take any action that would cause them not to be true at all times during the term of this Loan Agreement.

(t) Capacity Development.

The Governmental Agency covenants to maintain its technical, financial, and managerial capability to ensure compliance with the requirements of the Safe Drinking Water Act of 1996 under Section 1452(a)(3)(A)(i).

(u) Archeological Artifacts.

In the event that archeological artifacts or historical resources are unearthed during construction excavation, the Governmental Agency shall stop or cause to be stopped, construction activities and will notify the State Historic Preservation Office and the Authority of such unearthing.

ARTICLE III

LOAN TO GOVERNMENTAL AGENCY; AMOUNTS PAYABLE;

GENERAL AGREEMENTS

SECTION 3.01. The Loan. The Authority hereby agrees to loan and disburse to the Governmental Agency in accordance with Section 3.02 hereof, and the Governmental Agency agrees to borrow and accept from the Authority, the Loan in the principal amount equal to the Loan Commitment set forth in Paragraph (4) of Exhibit B attached hereto and made a part hereof as such Loan Commitment may be revised to reflect a reduction in the Cost of the Project prior to the initial Loan Repayment; provided, however, that the Authority shall be under no obligation to make the Loan if (i) the Governmental Agency does not deliver its Governmental Agency Bond to the Authority on the Loan Closing, or (ii) an Event of Default has occurred and is continuing under this Loan Agreement. The Governmental Agency shall use the proceeds of the Loan strictly in accordance with Section 2.01(h) hereof.

SECTION 3.02. Disbursement of the Loan. The Authority has created in the Drinking Water Revolving Fund a Project Loan Account for this Project from which the Costs of the Project shall be paid. Amounts shall be transferred into the Project Loan Account and disbursed to the Governmental Agency upon receipt of a requisition executed by an Authorized Officer, and approved by the Authority and the State Department of Public Health and Environment, in the form set forth in Exhibit G; provided that the Disbursement of the Loan may be withheld if the Governmental Agency is not complying with any of the covenants and conditions in the Loan Agreement.

SECTION 3.03. Amounts Payable.

(a) The Governmental Agency shall repay the principal of, interest on, and Administrative Fee, on the Loan **semi-annually on May 1st and November 1st** in accordance with the schedule set forth on Exhibit C attached hereto and made a part hereof, as the same may be amended or modified, commencing on the Loan Repayment Commencement Date set forth in Paragraph (8) of Exhibit B.

The Governmental Agency shall execute the Governmental Agency Bond to evidence its obligations to make Loan Repayments and the obligations of the Governmental Agency under the Governmental Agency Bond shall be deemed to be amounts payable under this Section 3.03. Each Loan Repayment shall be deemed to be a credit against the corresponding obligation of the Governmental Agency under this Section 3.03 and shall fulfill the Governmental Agency's obligation to pay such amount hereunder and under the Governmental Agency Bond. Each payment made pursuant to this Section 3.03 shall be applied to the payment of principal as set forth in Exhibit C.

(b) In addition to the payments required by subsection (a) of this Section 3.03, the Governmental Agency shall pay a late charge for any payment that is received by the Authority later than the tenth (10th) day following its due date, in an amount equal to the greater of twelve percent (12%) per annum or the Prime Rate plus one half of one percent per annum on such late payment from its due date to the date it is actually paid; provided, however, that such late charge shall not be in excess of the maximum rate permitted by law as of the date hereof.

(c) Loan Repayments pursuant to this Section 3.03 shall be made by electronic means (either by bank wire transfer or by Automated Clearing House “ACH” transfer).

SECTION 3.04. Unconditional Obligations. The Loan Repayments and all other payments required hereunder are payable solely from the Pledged Property. The obligation of the Governmental Agency to make the Loan Repayments and all other payments required hereunder shall be absolute and unconditional and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, while any payments due under the Loan Agreement remain unpaid regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of the purpose, any change in the laws of the United States of America or of the State of Colorado or any political subdivision of either or in the rules or regulations of any governmental authority, any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project or this Loan Agreement or any rights of set-off, recoupment, abatement or counterclaim that the Governmental Agency might otherwise have against the Authority or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

SECTION 3.05. Disclaimer of Warranties and Indemnification. The Governmental Agency acknowledges and agrees that (i) the Authority makes no warranty or representation, either express or implied as to the value, design, condition, merchantability, or fitness for particular purpose, or fitness for any use, of the Project or any portions thereof, or any other warranty or representation with respect thereto; (ii) in no event shall the Authority or its agents be liable or responsible for any direct, incidental, indirect, special, or consequential damages in connection with or arising out of this Loan Agreement, or the Project, or the existence, furnishing, functioning, or use of the Project, or any item or products or services provided for in this Loan Agreement; and (iii) to the extent authorized by law, the Governmental Agency shall indemnify, save, and hold harmless the Authority against any and all claims, damages, liability, and court awards, including costs, expenses, and attorney fees incurred as a result of any act or omission by the Governmental Agency, or its employees, agents, or subcontractors pursuant to the terms of this Loan Agreement, provided, however, that the provisions of this clause (iii) are not intended to and shall not be construed as a waiver of any defense or limitation on damages provided for under and pursuant to the Colorado Governmental Immunity Act (Section 24-10-101, *et seq.* C.R.S.), or under the laws of the United States or the State of Colorado.

SECTION 3.06. Option to Prepay Loan Repayments. The Governmental Agency may prepay the Loan Repayments, in whole or in part without penalty upon prior written notice (unless otherwise waived by the Authority) of not less than thirty (30) days. Prepayments shall be applied first to accrued interest and then to principal on the Loan. The Authority will amend Exhibit C to reflect any prepayment of the principal amount of the Loan.

SECTION 3.07. Source of Payment of Governmental Agency's Obligations. The Authority and the Governmental Agency agree that the amounts payable by the Governmental Agency under this Loan Agreement, including, without limitation, the amounts payable by the

Governmental Agency pursuant to Section 3.03, Section 3.05, Section 3.06, and Section 5.04 of this Loan Agreement are payable solely from the Pledged Property, and are not payable from any other source whatsoever; provided, however, that the Governmental Agency at its option, may elect to make payment from any source available to it.

SECTION 3.08. Delivery of Documents. Concurrently with the execution and delivery of this Loan Agreement, the Governmental Agency will cause to be delivered to the Authority each of the following items:

(a) an opinion of the Governmental Agency's counsel substantially in the form set forth in Exhibit E-1 hereto (such opinion or portions of such opinion may be given by one or more counsel); provided, however, that the Authority may in its discretion permit variances in such opinion from the form or substance of such Exhibit E-1 if such variances are not to the material detriment of the interests of the Authority;

(b) an opinion of the Governmental Agency's Bond Counsel substantially in the form set forth in Exhibit E-2 hereto. Such opinion must be rendered by Bond Counsel listed in the Directory of Bond Counsel published by the Bond Buyer (the "Red Book");

(c) executed counterparts of this Loan Agreement;

(d) copies of the resolutions or ordinances of the governing body of the Governmental Agency authorizing the execution and delivery of this Loan Agreement and the Governmental Agency Bond, certified by an Authorized Officer of the Governmental Agency; and

(e) such other certificates, documents, opinions, and information as the Authority may require.

Upon receipt of the foregoing documents, the Authority shall obligate the amount of the Loan Commitment set forth in Paragraph (4) of Exhibit B, and make the amount of the Loan available for the Project in accordance with the terms of this Loan Agreement.

ARTICLE IV

ASSIGNMENT

SECTION 4.01. Assignment and Transfer by Authority. The Governmental Agency expressly acknowledges that other than the right, title, and interest of the Authority under Section 3.05, Section 5.04, and Section 5.07, all right, title, and interest of the Authority in, to, and under this Loan Agreement and the Governmental Agency Bond, including, without limitation, the right to receive payments required to be made by the Governmental Agency hereunder, and to compel or otherwise enforce observance and performance by the Governmental Agency of its other duties, covenants, obligations, and agreements hereunder, may be transferred, assigned, and reassigned in whole or in part by the Authority at its sole discretion to one or more assignees

or subassignees at any time subsequent to their execution without the necessity of obtaining the consent of, but after giving prior written notice to, the Governmental Agency.

The Authority shall retain the right to compel or otherwise enforce observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements under Section 3.05 and Section 5.04.

SECTION 4.02. Assignment by Governmental Agency. Neither this Loan Agreement nor the Governmental Agency Bond may be assigned by the Governmental Agency for any reason, unless the following conditions shall be satisfied: (i) the Authority shall have approved said assignment in writing; (ii) the assignee shall be a governmental agency as defined by the Act, and the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Governmental Agency's duties, covenants, agreements, and obligations under the Loan Agreement; (iii) immediately after such assignment, the assignee shall not be in default in the performance or observance of any duties, covenants, obligations, or agreements of the Governmental Agency under the Loan Agreement; and (iv) the Authority shall receive an opinion of counsel to the effect that such assignment will not violate the provisions of any agreement entered into by the Authority with, or condition of any grant received by the Authority from, the United States of America relating to the Federal Capitalization Agreement or any capitalization grant received by the Authority or the State under the Safe Drinking Water Act.

No assignment shall relieve the Governmental Agency from primary liability for any of its obligations under this Loan Agreement, and in the event of such assignment, the Governmental Agency shall continue to remain primarily liable for the performance and observance of its obligations to be performed and observed under this Loan Agreement.

ARTICLE V

DEFAULTS AND REMEDIES

SECTION 5.01. Event of Default. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Governmental Agency to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due, which failure shall continue for a period of thirty (30) days;

(b) failure by the Governmental Agency to make, or cause to be made, any required payments of interest and principal, redemption premium, if any, and interest on any bonds, notes, or other obligations of the Governmental Agency for borrowed money (other than the Loan and the Governmental Agency Bond), after giving effect to the applicable grace period, the payments of which are secured by the Pledged Property;

(c) failure by the Governmental Agency to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement other

than as referred to in Paragraph (a) of this Section, which failure shall continue for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Governmental Agency; provided, however, that if the failure stated in such notice is correctable, but cannot be corrected within the applicable period, the Authority may consent to an extension of such time if corrective action is instituted by the Governmental Agency within the applicable period and diligently pursued until the Event of Default is corrected;

(d) any representation made by or on behalf of the Governmental Agency contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect; or

(e) (i) a petition is filed by or against the Governmental Agency under any federal or state bankruptcy or insolvency law, or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless in the case of any such petition filed against the Governmental Agency such petition shall be dismissed within thirty (30) days after such filing, and such dismissal shall be final and not subject to appeal; or (ii) the Governmental Agency shall become insolvent, or bankrupt or make an assignment for the benefit of its creditors; or (iii) a custodian (including, without limitation, a receiver, liquidator, or trustee of the Governmental Agency or any of its property) shall be appointed by court order, or take possession of the Governmental Agency, or its property or assets, if such order remains in effect, or such possession continues, for more than thirty (30) days.

SECTION 5.02. Notice of Default. The Governmental Agency shall give the Authority prompt telephonic notice of the occurrence of any Event of Default referred to in Section 5.01 at such time as any senior administrative or financial officer of the Governmental Agency becomes aware of the existence thereof. Any telephonic notice pursuant to this Section 5.02 shall be confirmed by the Governmental Agency in writing as soon as practicable.

SECTION 5.03. Remedies on Default. Whenever an Event of Default referred to in Section 5.01 hereof shall have occurred and be continuing, the Authority shall have the right to withhold disbursement of Loan funds remaining, and take such other action at law or in equity as may appear necessary to enforce the performance and observance of any duty, covenant, obligation, or agreement of the Governmental Agency hereunder, including, without limitation, appointment ex parte of a receiver of the System.

SECTION 5.04. Attorney's Fees and Other Expenses. In the Event of Default, the Governmental Agency shall on demand pay to the Authority the reasonable fees and expenses of attorneys, and other reasonable expenses (including, without limitation, the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of Loan Repayments or any other sum due hereunder, or in the enforcement of the performance or observation of any other duties, covenants, obligations, or agreements of the Governmental Agency.

SECTION 5.05. Application of Moneys. Any moneys collected by the Authority pursuant to Section 5.03 hereof shall be applied (a) first, to pay any attorney's fees, or other fees and expenses owed by the Governmental Agency pursuant to Section 5.04 hereof, (b) second, to pay

principal due and payable on the Loan, and (c) third, to pay any other amounts due and payable under this Loan Agreement.

SECTION 5.06. No Remedy Exclusive; Waiver; Notice. No remedy herein conferred upon or reserved to the Authority is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement, or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy, or power accruing upon any Event of Default shall impair any such right, remedy, or power, or shall be construed to be a waiver thereof, but any such right, remedy, or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

SECTION 5.07. Retention of Authority's Rights. Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the Authority shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the Governmental Agency at law or in equity, as the Authority may, in its discretion, deem necessary to enforce the obligations of the Governmental Agency to the Authority pursuant to Section 5.04, Section 3.03, and Section 3.05 hereof.

SECTION 5.08. Default by the Authority. In the event of any default by the Authority under any covenant, agreement, or obligation of this Loan Agreement, the Governmental Agency's remedy for such default shall be limited to injunction, special action, action for specific performance, or any other available equitable remedy, designed to enforce the performance or observance of any duty, covenant, obligation, or agreement of the Authority hereunder, as may be necessary or appropriate. The Authority shall on demand pay to the Governmental Agency the reasonable fees and expenses of attorneys, and other reasonable expenses, in the enforcement of such performance or observation.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when hand-delivered or mailed by registered or certified mail, postage prepaid, to the Governmental Agency at the address specified on Exhibit B attached hereto and made a part hereof, and to the Authority, at the following address:

Colorado Water Resources and Power
Development Authority
1580 Logan Street, Suite 620
Denver, Colorado 80203
Attention: Executive Director

Such address may be changed by notice in writing.

SECTION 6.02. Binding Effect. This Loan Agreement shall inure to the benefit of, and shall be binding upon, the Authority and the Governmental Agency, and their respective successors and assigns.

SECTION 6.03. Severability. In the event any provision of this Loan Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect, any other provision hereof.

SECTION 6.04. Amendments, Supplements and Modifications. This Loan Agreement may not be amended, supplemented, or modified without the prior written consent of the Authority and the Governmental Agency.

SECTION 6.05. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

SECTION 6.06. Applicable Law and Venue. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, including the Act. Venue for any action seeking to interpret or enforce the provisions of this Loan Agreement shall be in the Denver District Court.

SECTION 6.07. Consents and Approvals. Whenever the written consent or approval of the Authority shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the Authority unless otherwise provided by law, or by rules, regulations or resolutions of the Authority.

SECTION 6.08. Captions. The captions or headings in this Loan Agreement are for convenience only and shall not in any way define, limit, or describe, the scope or intent of any provisions or sections of this Loan Agreement.

SECTION 6.09. Further Assurances. The Governmental Agency shall, at the request of the Authority, authorize, execute, acknowledge, and deliver, such further resolutions, conveyances,

transfers, assurances, financing statements, and other instruments, as may be necessary or desirable for better assuring, conveying, granting, assigning, and confirming, the rights and agreements, granted or intended to be granted, by this Loan Agreement and the Governmental Agency Bond.

SECTION 6.10. Recitals. This Loan Agreement is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State of Colorado thereunto enabling. Specifically, but not by way of limitation, this Loan Agreement is authorized by the Governmental Agency pursuant to Title 37, Article 45.1 C.R.S., Title 31, Article 35, Part 4, C.R.S., and Title 11, Article 57, Part 2, C.R.S and shall so recite in the Governmental Agency Bond. Such recitals shall conclusively impart full compliance with all provisions and limitations of such laws and shall be conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond, and the Governmental Agency Bond delivered by the Governmental Agency to the Authority containing such recital shall be incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF MINTURN, COLORADO, ACTING
BY AND THROUGH ITS _____
ENTERPRISE**

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
Town Clerk

IN WITNESS WHEREOF, the Authority and the Governmental Agency have caused this Loan Agreement to be executed, sealed and delivered, as of the Commencement Date set forth on Exhibit B hereto.

**COLORADO WATER RESOURCES AND
POWER DEVELOPMENT AUTHORITY**

(SEAL)

By: _____
Executive Director

ATTEST:

By: _____
Assistant Secretary

**TOWN OF MINTURN, COLORADO, ACTING
BY AND THROUGH ITS _____
ENTERPRISE**

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
Town Clerk

EXHIBIT A

(1) **Description of the Project**

The project consists of replacing one of the Town's water storage tanks that is in disrepair and replacing it with two new storage tanks.

(2) **Description of the System**

"System" shall mean, (i) any facility, plant, works, system, building, structure, improvement, machinery, equipment, fixture or other real or personal property, relating to the collection, treatment, storage and distribution of water that is owned, operated or controlled by the Governmental Agency, including, without limitation, the Project (ii) any renewal, replacement, addition, modification or improvement to (i) above, and (iii) all real or personal property and rights therein and appurtenances thereto necessary or useful or convenient for the effectiveness of the purposes of the Governmental Agency in the transmission, treatment, storage and distribution of water.

(3) **Pledged Property**

The Pledged Property shall consist of Net Revenue, as defined below:

"*Net Revenue*" means the Gross Revenue after deducting the Operation and Maintenance Expenses.

"*Gross Revenue*" means all income and revenues directly or indirectly derived by the Governmental Agency from the operation and use of the System, or any part thereof, including without limitation, any rates, fees (including without limitation plant investment fees and availability fees), and charges for the services furnished by, or the use of, the System, and all income attributable to any past or future dispositions of property or rights, or related contracts, settlements, or judgments held or obtained in connection with the System or its operations, and including investment income accruing from such moneys; provided however, that there shall be excluded from Gross Revenue: ad valorem property taxes; any moneys borrowed and used for providing Capital Improvements; any money and securities, and investment income therefrom, in any refunding fund, escrow account, or similar account, pledged to the payment of any bonds or other obligations; and any moneys received as grants or appropriations from the United States, the State of Colorado or other sources, the use of which is limited or restricted by the grantor or donor to the provision of Capital Improvements or for other purposes resulting in the general unavailability thereof, except to the extent any such moneys shall be received as payments for the use of the System, services rendered thereby, the availability of any such service, or the disposal of any commodities therefrom.

"*Capital Improvements*" means the acquisition of land, easements, facilities and equipment (other than ordinary repairs and replacements), and the construction or

reconstruction of improvements, betterments, and extensions, for use by, or in connection with, the System.

“*Operation and Maintenance Expenses*” means all reasonable and necessary current expenses of the Governmental Agency, paid or accrued, for operating, maintaining and repairing the System, including without limitation legal and overhead expenses of the Governmental Agency directly related to the administration of the System, insurance premiums, audits, professional services, salaries and administrative expenses, labor and the cost of materials and supplies for current operation; provided however, that there shall be excluded from Operation and Maintenance Expenses any allowance for depreciation, payments in lieu of taxes or franchise fees, expenses incurred in connection with Capital Improvements, payments due in connection with any bonds or other obligations, and expenses that are otherwise paid from ad valorem property taxes.

(4) Rate Covenant

The Governmental Agency shall establish and collect such rates, fees, and charges for the use or the sale of the products and services of the System as, together with other moneys available therefor, are expected to produce Gross Revenue (as defined in Paragraph (3) of this Exhibit A to this Loan Agreement) for each calendar year that will be at least sufficient for such calendar year to pay the sum of:

- (a) all amounts estimated to be required to pay Operation and Maintenance Expenses (as defined in Paragraph (3) of this Exhibit A of this Loan Agreement) during such calendar year;
- (b) a sum equal to 110% of the debt service due on the Governmental Agency Bond for such calendar year and debt service coming due during such calendar year on any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property, in each case computed as of the beginning of such calendar year;
- (c) the amount, if any, to be paid during such calendar year into any debt service reserve account in connection with any obligations secured by a lien on the Pledged Property which lien is on a parity with the lien of this Loan Agreement on the Pledged Property;
- (d) a sum equal to the debt service on any obligations secured by a lien on the Pledged Property which lien is subordinate to the lien of this Loan Agreement on the Pledged Property for such calendar year computed as of the beginning of such calendar year; and
- (e) amounts necessary to pay and discharge all charges and liens or other indebtedness not described above payable out of the Gross Revenue during such calendar year.

EXHIBIT B

DESCRIPTION OF THE LOAN

- (1) Commencement Date:
- (2) Name and Address of Governmental Agency:
Town of Minturn, Colorado, Acting By And Through Its _____ Enterprise
301 Boulder Street #309; P.O. Box 309
Minturn, CO 80488
- (3) Estimated Cost of the Project: \$3,000,000.00
- (4) Maximum Principal Amount of Loan Commitment: \$3,000,000.00
- (5) Loan Term: 20 years
- (6) Interest Rate: 2.25% annually
- (7) Authorized Officers: (please list at least two people that will be authorized to take action on this loan, including the ability to withdraw funds)
- (8) Loan Repayment Commencement Date: November 1, 2022
- (9) Execution Date:

EXHIBIT C
REPAYMENT SCHEDULE

EXHIBIT D

GOVERNMENTAL AGENCY BOND

FOR VALUE RECEIVED, the undersigned **TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency"), hereby promises to pay to the order of the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority") the principal amount of Three Million and 00/100 Dollars (\$3,000,000.00), or such lesser amount as shall be loaned to the Governmental Agency pursuant to the Loan Agreement dated as of____, 2021, by and between the Authority and the Governmental Agency (the "Loan Agreement"), at the times and in the amounts determined as provided in the Loan Agreement, at Two and One Quarter percent interest (2.25%), subject to late charges on late payments as provided in Section 3.03 (b) of the Loan Agreement, and payable on the dates and in the amounts determined as provided in the Loan Agreement.

This Governmental Agency Bond is issued pursuant to the Loan Agreement and is issued in consideration of the loan made thereunder (the "Loan") and to evidence the obligations of the Governmental Agency set forth in Section 3.03 thereof. This Governmental Agency Bond is subject to assignment or endorsement in accordance with the terms of the Loan Agreement. All of the definitions, terms, conditions, and provisions of the Loan Agreement are, by this reference thereto, incorporated herein as a part of this Governmental Agency Bond.

Pursuant to the Loan Agreement, disbursements to the Governmental Agency shall be made in accordance with written instructions upon the receipt by the Authority of requisitions from the Governmental Agency executed and delivered in accordance with the requirements set forth in Section 3.02 of the Loan Agreement.

This Governmental Agency Bond is entitled to the benefits, and is subject to the conditions, of the Loan Agreement. The obligations of the Governmental Agency to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim, or recoupment by reason of any default by the Authority under the Loan Agreement, or under any other agreement between the Governmental Agency and the Authority, or out of any indebtedness or liability at any time owing to the Governmental Agency by the Authority, or for any other reason.

This Governmental Agency Bond is subject to optional prepayment under the terms and conditions, and in the amounts, provided in Section 3.06 of the Loan Agreement. The obligation of the Governmental Agency to make payments under the Loan Agreement and this Governmental Agency Bond is payable solely from the Pledged Property, except for reserves created in connection with the Loan.

This Governmental Agency Bond does not constitute a debt or an indebtedness of the Governmental Agency within the meaning of any constitutional or statutory limitation or provision, and shall not be considered or held to be a general obligation of the Governmental Agency. The payment of this Governmental Agency Bond is not secured by an encumbrance, mortgage or other pledge of property except for such property and moneys pledged for the payment of the Governmental Agency Bond.

For the payment of this Governmental Agency Bond, the Governmental Agency shall enforce the Rate Covenant set forth in Paragraph (4) of Exhibit A to the Loan Agreement, shall promptly collect all revenues of the System, and shall take all necessary action to collect any revenues that are in default.

If an "Event of Default" as defined in Section 5.01 of the Loan Agreement occurs, the remedies on default set forth in Section 5.03 of the Loan Agreement shall be available to enforce the obligations of the Governmental Agency that are evidenced by this Governmental Agency Bond.

This Governmental Agency Bond is issued under the authority of and in full conformity with the Constitution and laws of the State of Colorado, including without limitation, Article X, Section 20 of the Constitution, Title 31, Article 35, Part 4, C.R.S.; Title 37, Article 45.1; certain provisions of Title 11, Article 57, Part 2, C.R.S. (the "Supplemental Public Securities Act"), and pursuant to the Loan Agreement. Pursuant to §11-57-210, of the Supplemental Public Securities Act, this recital is conclusive evidence of the validity and regularity of the issuance of the Governmental Agency Bond after its delivery for value. Pursuant to §31-35-413, C.R.S., this recital conclusively imparts full compliance with all the provisions of said statutes, and this Governmental Agency Bond issued containing such recital is incontestable for any cause whatsoever after its delivery for value.

IN WITNESS WHEREOF, the Governmental Agency has caused this Governmental Agency Bond to be duly executed, sealed and delivered, as of this ___ day of _____ 2021.

(SEAL)

**TOWN OF MINTURN, COLORADO,
ACTING BY AND THROUGH ITS
_____ ENTERPRISE**

ATTEST:

By: _____
Mayor

By: _____
Town Clerk

EXHIBIT E-1

OPINION OF GOVERNMENTAL AGENCY COUNSEL

[LETTERHEAD OF COUNSEL TO GOVERNMENTAL AGENCY]

[DATED : Closing Date]

Colorado Water Resources and
Power Development Authority

Ladies and Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as counsel to **TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution and delivery by the Governmental Agency of its Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and the [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

- (a) the Loan Agreement, dated as of _____ (the "Loan Agreement") by and between the Authority and the Governmental Agency;
- (b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement and the execution, issuance and delivery thereof on behalf of the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);
- (c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond") issued by the Governmental Agency to the Authority to evidence the Loan(as defined in the Loan Agreement);
- (d) the proceedings of the governing body of the Governmental Agency relating to the issuance of the Governmental Agency Bond and the execution, issuance and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents");

(e) all outstanding instruments relating to the bonds, notes or other indebtedness of or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation and is a (_____) of the State of Colorado with the full legal right and authority to execute the Loan Documents.

(2) The Governmental Agency has the full legal right and authority to carry on the business of the System (as defined in the Loan Agreement) as currently being conducted and as proposed to be conducted, and to undertake and complete the Project.

(3) The proceedings of the Governmental Agency's governing body authorizing the Governmental Agency to undertake and complete the Project were duly and lawfully adopted and approved in accordance with [applicable resolution] applicable Colorado law at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(4) The proceedings of the Governmental Agency's governing body approving the Loan Documents and authorizing their execution, issuance and delivery on behalf of the Governmental Agency have been duly and lawfully adopted and approved in accordance with [the applicable resolution] applicable Colorado law, at meetings duly called pursuant to necessary public notice and held in accordance with applicable Colorado law, and at which quorums were present and acting throughout and were published in accordance with applicable Colorado law.

(5) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, the authorization, execution and delivery of the Loan Documents by the Governmental Agency, the observation and performance by the Governmental Agency of its duties, covenants, obligations and agreements thereunder and the consummation of the transactions contemplated therein and the undertaking and completion of the Project do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or governmental or administrative agency, authority or person having jurisdiction over the Governmental Agency or its property or assets or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, trust agreement, indenture, mortgage, deed of trust, ordinance, order, or other agreement to which the Governmental Agency is a party or by which it, the System, or its property or assets is bound.

(6) To the best of [insert "my" or "our"] knowledge, after such investigation as [insert "I" or "we"] have deemed appropriate, all approvals, consents or authorizations of, or registrations of or filings with, any governmental or public agency, authority or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery and performance of the Loan Documents and the undertaking and completion of the Project, other than licenses and permits relating to the construction and acquisition of the Project which [insert "I" or "we"] expect the Governmental Agency to receive in the ordinary course of business, have been obtained or made.

(7) To the best of my knowledge, after such investigation as I have deemed appropriate, except as disclosed in writing to the Authority, there is no litigation or other proceeding pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) that (1) questions the creation, organization or existence of the Governmental Agency; or the validity, legality or enforceability of the Loan Documents; or the undertaking or completion of the Project; or (2) if adversely determined, could (a) materially adversely affect (i) the financial position of the Governmental Agency; (ii) the ability of the Governmental Agency to perform its obligations under the Loan Documents; (iii) the security for the Loan Documents; or (iv) the transactions contemplated by the Loan Documents; or (b) impair the ability of the Governmental Agency to maintain and operate its system.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. [insert "I" or "We"] express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond, & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT E-2

OPINION OF GOVERNMENTAL AGENCY BOND COUNSEL

[LETTERHEAD OF BOND COUNSEL TO GOVERNMENTAL AGENCY]

[DATED: Closing Date]

Colorado Water Resources and
Power Development Authority

Ladies and Gentlemen:

[insert "I am an attorney" or "We are attorneys"] admitted to practice in the State of Colorado and [insert "I" or "we"] have acted as bond counsel for **TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS _____ ENTERPRISE** (the "Governmental Agency"), of the State of Colorado, which has entered into a Loan Agreement (as hereinafter defined) with the **COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY** (the "Authority"), and have acted as such in connection with the authorization, execution, and delivery by the Governmental Agency of the Loan Agreement and Governmental Agency Bond (as hereinafter defined).

In so acting [insert "I" or "we"] have examined the Constitution and laws of the State of Colorado and [charter/by-laws/proceedings relating to organization] of the Governmental Agency. [insert "I" or "We"] have also examined originals, or copies certified or otherwise identified to [insert "my" or "our"] satisfaction, of the following:

(a) the Loan Agreement, dated as of _____ (the "Loan Agreement"), by and between the Authority and the Governmental Agency;

(b) the proceedings of the governing body of the Governmental Agency relating to the approval of the Loan Agreement, and the execution, issuance, and delivery thereof by the Governmental Agency, and the authorization of the undertaking and completion of the Project (as defined in the Loan Agreement);

(c) the Governmental Agency Bond, dated as of _____ (the "Governmental Agency Bond"), issued by the Governmental Agency to the Authority to evidence the Loan (as defined in the Loan Agreement);

(d) the proceedings of the governing body of the Governmental Agency relating to the issuance, of the Governmental Agency Bond, and the execution, issuance, and delivery thereof to the Authority (the Loan Agreement and the Governmental Agency Bond are referred to herein collectively as the "Loan Documents"); and

(e) all outstanding instruments relating to the bonds, notes, or other indebtedness of, or relating to the Governmental Agency.

[insert "I" or "We"] have also examined and relied upon originals, or copies certified or otherwise authenticated to [insert "my" or "our"] satisfaction, of such other records, documents, certificates, and other instruments, and made such investigation of law as in [insert "my" or "our"] judgment [insert "I" or "we"] have deemed necessary or appropriate to enable [insert "me" or "us"] to render the opinions expressed below.

Based upon the foregoing, [insert "I am" or "we are"] of the opinion that:

(1) The Governmental Agency is a "governmental agency" within the meaning of the Authority's enabling legislation.

(2) The Governmental Agency has full legal right and authority to execute the Loan Documents and the Governmental Agency has full legal right and authority to observe and perform its respective duties, covenants, obligations, and agreements thereunder; subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization, debt adjustment, or other similar laws affecting creditors' rights generally (Creditor's Rights Limitations), heretofore or hereafter enacted.

(3) The Governmental Agency has pledged the Pledged Property described in Paragraph (3) of Exhibit A to the Loan Agreement for the punctual payment of the principal on the Loan and all other amounts due under the Loan Documents according to their respective terms, and the Authority has a first lien on such Pledged Property, but not an exclusive first lien. *****Only include "but not an exclusive first lien" if there is parity debt***** No filings or recordings are required under the Colorado Uniform Commercial Code in order to provide a first lien on such Pledged Property, and all actions have been taken as required under Colorado law to insure the priority, validity, and enforceability of such lien.

(4) The Loan Documents have been duly authorized, executed, and delivered by the authorized officers of the Governmental Agency; and, assuming in the case of the Loan Agreement, that the Authority has all the requisite power and authority to authorize, execute and deliver, and has duly authorized, executed, and delivered the Loan Agreement, the Loan Documents constitute the legal, valid, and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to the effect of, and to restrictions and limitations imposed by, or resulting from, Creditor's Rights Limitations or other laws, judicial decisions, and principles of equity relating to the enforcement of contractual obligations generally, provided that no opinion is expressed herein regarding the validity or enforceability of Section 3.05 of the Loan Agreement or any other provision thereof that purports to require the Governmental Agency to indemnify or hold any party harmless.

(5) To the best of our knowledge, after such investigation as we have deemed appropriate, the authorization, execution, and delivery of the Loan Documents by the Governmental Agency, the observance and performance by the Governmental Agency of its duties, covenants, obligations, and agreements thereunder, and the consummation of the transactions contemplated therein, do not and will not contravene any existing law, or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any outstanding

instruments relating to the bonds, notes, or other indebtedness of, or relating to, the Governmental Agency.

(6) To the best of our knowledge, after such investigation as we deemed appropriate, all approvals, consents, or authorizations of, or registrations of or filings with, any governmental or public agency, authority, or person required to date on the part of the Governmental Agency in connection with the authorization, execution, delivery, and performance of the Loan Documents have been obtained or made.

****If the Governmental Agency constitutes an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The execution and delivery of the Loan Documents are not subject to the limitations of Article X, Section 20 of the Colorado Constitution, since the Governmental Agency as defined in the Loan Agreement constitutes an enterprise under said Article X, Section 20 on the date of such execution and delivery. The performance of the Loan Documents is not subject to the limitations of said Article X, Section 20, as long as the Governmental Agency continues to qualify as an enterprise under said Article X, Section 20. If the Governmental Agency ceases to be an enterprise under said Article X, Section 20, during the Loan Term, the Loan Documents will continue to constitute legal, valid and binding obligations of the Governmental Agency enforceable in accordance with their respective terms; subject, however, to (a) Creditor's Rights Limitations or other laws, judicial decisions and principles of equity relating to the enforcement of contractual rights generally and (b) subject to the next sentence, the revenue and spending limitations of said Article X, Section 20. If the Governmental Agency at any time ceases to be an enterprise under said Article X, Section 20, (i) the **City/District/Town** may continue to impose and increase fees, rates and charges without voter approval; (ii) all revenues of the Governmental Agency used to pay Loan Repayments will be included in the Governmental Agency fiscal year spending limit under Section 7(d) of said Article X, Section 20 except that debt service changes and reductions are exceptions to, and not part of, the Governmental Agency revenue and spending bases and limits; and (iii) if the Governmental Agency is required to reduce spending in order to comply with its fiscal year spending limit under Section 7(b) of said Article X, Section 20, the Governmental Agency will first be required to reduce spending for purposes for which it does not have an obligation under law or by contract prior to reducing spending required to comply with the other covenants contained in the Loan Documents.

****If the Governmental Agency does not constitute an Enterprise under TABOR, the following paragraph should be included in the Bond Counsel opinion:**

(7) The Governmental Agency has complied with the requirements of Article x, Section 20 of the Colorado Constitution in connection with the execution and delivery of the loan documents.

This opinion is rendered on the basis of Federal law and the laws of the State of Colorado as enacted and construed on the date hereof. We express no opinion as to any matter not set forth in the numbered paragraphs herein.

[insert "I" or "We"] hereby authorize Carlson, Hammond & Paddock, L.L.C., General Counsel to the Authority, to rely on this opinion as if [insert "I" or "we"] had addressed this opinion to them in addition to you.

Very truly yours,

EXHIBIT F

ADDITIONAL COVENANTS AND REQUIREMENTS

(1) Rate Study.

In the event that Gross Revenue collected during a fiscal year is not sufficient to meet the requirements set forth in the Rate Covenant contained in Paragraph (4) of Exhibit A to this Loan Agreement, the Governmental Agency shall, within 90 days of the end of such fiscal year, cause an independent firm of accountants or consulting engineers, to prepare a rate study for the purpose of recommending a schedule of rates, fees, and charges for the use of the System that, in the opinion of the firm conducting the study will be sufficient to provide Gross Revenue to be collected in the next succeeding fiscal year that will provide compliance with the Rate Covenant described in Paragraph (4) of Exhibit A to this Loan Agreement. Such a study shall be delivered to the Authority. The Governmental Agency shall within six months of receipt of such study, adopt rates, fees, and charges for the use of the System, based upon the recommendations contained in such study, that provide compliance with said Rate Covenant. Notwithstanding the foregoing, the Authority may, from time to time, in its sole and absolute discretion and pursuant to such terms and restrictions it may specify, waive in writing the requirement that a rate study be performed by the Governmental Agency.

(2) Additional Bonds.

(a) Senior Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge on, the Pledged Property that is superior to the lien or charge of this Loan Agreement on the Pledged Property.

(b) Parity Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge on, the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued was at least equal to the sum of (a) 110% of the maximum annual debt service due in any one year on (i) this Loan Agreement and (ii) all other outstanding obligations of the Governmental Agency payable out of, or secured by a lien or charge on, the Pledged Property that is on a parity with the lien or charge of this Loan Agreement on the Pledged Property, and (iii) such proposed obligations to be issued, and (b) the maximum annual debt service due in any one year on all obligations payable out of, or secured by a lien or charge on, the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property.

(c) Subordinate Lien Bonds. The Governmental Agency covenants that it will not issue any obligations payable out of, or secured by a lien or charge on, the Pledged Property that is subordinate to the lien or charge of this Loan Agreement on the Pledged Property, unless the Governmental Agency certifies to the Authority that for any 12 consecutive months out of the 18 months preceding the month in which such obligations are to be issued Net Revenue (as defined in Paragraph (3) of Exhibit A to this Loan Agreement) was at least 100% of the maximum

annual debt service due in any one year on (a) all obligations outstanding during such period that are payable out of, or secured by a lien or charge on, the Pledged Property and (b) such proposed obligations to be issued.

(d) Net Revenue Adjustment. In calculating revenue coverage for purposes of the issuance of additional parity or subordinate lien bonds, the Governmental Agency may adjust Net Revenue to reflect any rate increases adopted in connection with the issuance of additional obligations by adding to the actual Net Revenue for the period examined an estimated sum equal to 100% of the estimated increase in Net Revenue that would have been realized during such period had the adopted rate increase been in effect during all of such period.

(e) Refunding Bonds. Notwithstanding the foregoing, the Governmental Agency may issue refunding obligations payable out of, or secured by a lien or charge on, the Pledged Property, without compliance with the requirements stated above, provided that the debt service payments on such refunding obligations do not exceed the debt service payments on the refunded obligations during any calendar year.

(3) Lien Representation.

The Governmental Agency has disclosed the following bonds, notes or other evidence of indebtedness of the Governmental Agency issued, or contractual obligations incurred, having a lien on the Source of Repayment of equal rank with the lien and charge on the Source of Repayment of the Governmental Agency Bond: {insert description of the parity lien obligations} (the "Parity Lien Obligations"). The Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, other than that of the Parity Lien Obligations, that is of equal rank with the obligation of the Governmental Agency Bond. Further, the Source of Repayment is free and clear of any pledge, lien, charge, or encumbrance thereon, or with respect thereto, that is prior to the obligation of the Governmental Agency Bond.

(4) Operation and Maintenance Reserve Fund. The Governmental Agency shall maintain an operation and maintenance reserve in an amount equal to three months of operation and maintenance expenses, excluding depreciation, of the System as set forth in the annual budget for the current fiscal year. Said reserve may be in the form of unobligated fund balances, or other unobligated cash or securities (i.e. capital reserves), or may be in a separate segregated fund and shall be maintained as a continuing reserve for payment of any lawful purpose relating to the System. If the operation and maintenance reserve falls below this requirement, the shortfall shall be made up in 24 substantially equal monthly installments beginning the second month after such shortfall.

(5) Davis Bacon & Related Acts (DBRA). The Governmental Agency will comply with the requirements of the Davis Bacon & Related Acts, codified at 40 U.S.C. §§ 3140 through 3148.

(6) Cost Overruns. Any cost overruns associated with the Project will be the responsibility of the Governmental Agency and any additional costs to defend against contract claims will not be reimbursed through this or any future funding.

(7) Audit Requirements. For each year in which the Governmental Agency requests a disbursement from the Project Loan Subaccount, the Governmental Agency shall conduct its annual audit in accordance with the federal Single Audit Act, 31 U.S.C. 7501 et seq.

(8) American Iron and Steel Requirement. The Governmental Agency will comply with all federal requirements applicable to the Loan, including Section 436 of P.L. 113-76, Consolidated Appropriations Act, 2014, (the “Appropriations Act”) and related State Revolving Fund Policy Guidelines, which require that all of the iron and steel products (as defined in the Appropriations Act and Guidelines) used in the Project must be produced in the United States unless the Governmental Agency has requested and received a waiver from the requirement pursuant to the “waiver process” described in the Appropriations Act and Guidelines.

(9) Construction Schedule.

The Governmental Agency has provided the following estimated dates regarding the project:

- a) Advertisement for Bids Publication Date:
- b) Construction Contract Award Date:
- c) Construction Start Date:
- d) Construction Completion Date:

(10) Technical Managerial and Financial Capacity Requirement. As described in the Technical/Managerial/Financial (TMF) Capacity Evaluation Report dated August 10, 2021, resulted in the following mandatory recommendations of revenue (increasing user rates) must increase, or expenditures decrease, to meet coverage ratio requirements.

EXHIBIT G
DWRF Form of Requisition

THE TOWN OF MINTURN, COLORADO, ACTING BY AND THROUGH ITS _____
ENTERPRISE (the “Governmental Agency”)

Please submit to the following addresses:

Submit Online To:

https://ceos.colorado.gov/CO/CEOS/Public/Client/CO_CIMPLE/Shared/Pages/Main/Login.aspx

If there are any questions or technical issues, please submit your backup document via one of the methods below.

Email To: cdphe_grantsandloans@state.co.us (preferred backup method)

Or Mail To: Colorado Department of Public Health and Environment
Grants and Loans Unit WQCD-OA-B2
Attn: Project Manager
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Or Fax To: 303-782-0390 (Call CDPHE Project Manager to confirm delivery)

Cc: CDPHE Project Manager

Cc: E-mail requisition form (Exhibit G) to the Colorado Water Resources and Power Development Authority at requisitions@cwrpda.com

This requisition is made in accordance with Section 3.02 of the Loan Agreement executed by the Colorado Water Resources and Power Development Authority on _____, 2021. Terms defined in the Loan Agreement and not otherwise defined herein shall have the same meanings when used herein.

The Governmental Agency hereby states as follows:

1. This is Requisition No _____.
2. The amount requisitioned hereunder is _____.
3. The person, firm or corporation to whom the amount requisitioned is due, or to whom a reimbursable and advance has been made, is _____.
4. The payee of the requisitioned amount is _____.
5. The manner of payment to the payee is to be wire transferred to:

Bank:

ABA No.:

Account No.:

Account Name:

Contact:

6. Attached hereto is the appropriate documentation demonstrating that the amount requisitioned hereunder is currently due or has been advanced by the Governmental Agency.

7. The amount hereby requisitioned is a proper Cost of the Project to be paid only from amounts deposited in the Project Account established for the Governmental Agency in the **Drinking Water Revolving Fund**.
8. On the date hereof, there does not exist any Event of Default under the Loan Agreement nor any condition which, with the passage of time or the giving of notice, or both, would constitute an Event of Default thereunder.
9. Estimate of total project completion percentage: _____%
- 10. The undersigned is an Authorized Officer of the Governmental Agency duly authorized in the Loan Agreement to submit the Requisition.**
11. The Governmental Agency reaffirms that all representations made by it in the Loan Agreement are true and accurate as of the date of this requisition, and that it shall continue to observe and perform all of its duties, covenants, obligations and agreements thereunder, at all times during the entire term of said Loan Agreement.

Dated: _____.

**TOWN OF MINTURN, COLORADO,
ACTING BY AND THROUGH ITS _____ ENTERPRISE**

By: _____.

Title: _____ & Authorized Officer

Print Name: _____

You should receive all payments no later than 10 working days after receipt of requisition unless otherwise notified.

1. The undersigned approves the disbursement of the requisitioned amount from the Project Loan Account established in the **Drinking Water Revolving Fund** Project Account.

**COLORADO WATER RESOURCES AND POWER DEVELOPMENT
AUTHORITY**

By: _____
Finance Director

Dated: _____

For Colorado Department of Public Health and Environment, Water Quality Control Division purposes only:

Payment approved by _____

Dated: _____

**EXHIBIT C
DRINKING WATER REVOLVING FUND
LOAN REPAYMENT SCHEDULE
TOWN OF MINTURN, ACTING BY AND THROUGH ITS ENTERPRISE, COLORADO**

Loan Number: #D21----

On or before the first of each date, commencing on November 1, 2022, the
Governmental Agency shall pay the amount set forth below:

LOAN DATE:	TBD
LOAN AMOUNT:	\$3,000,000
INTEREST RATE:	2.250%
TERM (YEARS):	20

INTEREST DATE: 10/1/2022

PAYMENT DATES	PAYMENT	PRINCIPAL	REMAINING PRINCIPAL	CALCULATED INTEREST
			\$3,000,000.00	
11/1/2022	\$15,591.74	\$9,966.74	\$2,990,033.26	\$5,625.00
5/1/2023	\$95,136.06	\$61,498.19	\$2,928,535.07	\$33,637.87
11/1/2023	\$95,136.06	\$62,190.04	\$2,866,345.03	\$32,946.02
5/1/2024	\$95,136.06	\$62,889.68	\$2,803,455.35	\$32,246.38
11/1/2024	\$95,136.06	\$63,597.19	\$2,739,858.16	\$31,538.87
5/1/2025	\$95,136.06	\$64,312.66	\$2,675,545.50	\$30,823.40
11/1/2025	\$95,136.06	\$65,036.17	\$2,610,509.33	\$30,099.89
5/1/2026	\$95,136.06	\$65,767.83	\$2,544,741.50	\$29,368.23
11/1/2026	\$95,136.06	\$66,507.72	\$2,478,233.78	\$28,628.34
5/1/2027	\$95,136.06	\$67,255.93	\$2,410,977.85	\$27,880.13
11/1/2027	\$95,136.06	\$68,012.56	\$2,342,965.29	\$27,123.50
5/1/2028	\$95,136.06	\$68,777.70	\$2,274,187.59	\$26,358.36
11/1/2028	\$95,136.06	\$69,551.45	\$2,204,636.14	\$25,584.61
5/1/2029	\$95,136.06	\$70,333.90	\$2,134,302.24	\$24,802.16
11/1/2029	\$95,136.06	\$71,125.16	\$2,063,177.08	\$24,010.90
5/1/2030	\$95,136.06	\$71,925.32	\$1,991,251.76	\$23,210.74
11/1/2030	\$95,136.06	\$72,734.48	\$1,918,517.28	\$22,401.58
5/1/2031	\$95,136.06	\$73,552.74	\$1,844,964.54	\$21,583.32
11/1/2031	\$95,136.06	\$74,380.21	\$1,770,584.33	\$20,755.85
5/1/2032	\$95,136.06	\$75,216.99	\$1,695,367.34	\$19,919.07
11/1/2032	\$95,136.06	\$76,063.18	\$1,619,304.16	\$19,072.88
5/1/2033	\$95,136.06	\$76,918.89	\$1,542,385.27	\$18,217.17
11/1/2033	\$95,136.06	\$77,784.23	\$1,464,601.04	\$17,351.83
5/1/2034	\$95,136.06	\$78,659.30	\$1,385,941.74	\$16,476.76
11/1/2034	\$95,136.06	\$79,544.22	\$1,306,397.52	\$15,591.84
5/1/2035	\$95,136.06	\$80,439.09	\$1,225,958.43	\$14,696.97
11/1/2035	\$95,136.06	\$81,344.03	\$1,144,614.40	\$13,792.03
5/1/2036	\$95,136.06	\$82,259.15	\$1,062,355.25	\$12,876.91
11/1/2036	\$95,136.06	\$83,184.56	\$979,170.69	\$11,951.50
5/1/2037	\$95,136.06	\$84,120.39	\$895,050.30	\$11,015.67
11/1/2037	\$95,136.06	\$85,066.74	\$809,983.56	\$10,069.32
5/1/2038	\$95,136.06	\$86,023.74	\$723,959.82	\$9,112.32
11/1/2038	\$95,136.06	\$86,991.51	\$636,968.31	\$8,144.55
5/1/2039	\$95,136.06	\$87,970.17	\$548,998.14	\$7,165.89
11/1/2039	\$95,136.06	\$88,959.83	\$460,038.31	\$6,176.23
5/1/2040	\$95,136.06	\$89,960.63	\$370,077.68	\$5,175.43
11/1/2040	\$95,136.06	\$90,972.69	\$279,104.99	\$4,163.37
5/1/2041	\$95,136.06	\$91,996.13	\$187,108.86	\$3,139.93
11/1/2041	\$95,136.06	\$93,031.09	\$94,077.77	\$2,104.97
5/1/2042	\$95,136.14	\$94,077.77	\$0.00	\$1,058.37
Total	\$3,725,898.16	\$3,000,000.00		\$725,898.16



COLORADO WATER RESOURCES & POWER DEVELOPMENT AUTHORITY

Logan Tower Bldg - Suite 620, 1580 Logan Street, Denver, Colorado 80203-1942
303/830-1550 · Fax 303/832-8205 · info@cwrpda.com

August 27, 2021 (Transmitted Via Email)

Michelle Metteer, Town Manager
Town of Minturn
301 Boulder Street #309; P.O. Box 309
Minturn, CO 80488

Re: Drinking Water Revolving Fund (“DWRF”) Loan Approval

Dear Ms. Metteer:

On August 25, 2021, the Board of Directors of the Colorado Water Resources and Power Development Authority approved the Town of Minturn for a \$3,000,000.00 DWRF direct loan. The loan is for a term of 20 years at an interest rate of 2.25%. The loan was approved with the following conditions: The Town increasing user rates, if necessary, sufficiently to meet the Authority’s rate covenant prior to loan execution.

We look forward to working with you and your attorneys towards a successful loan closing. Please call me at (303) 830-1550, extension 1011 or email me at areichel@cwrpda.com with any questions.

Sincerely,

A handwritten signature in black ink that reads "Austin Reichel".

Austin Reichel
Financial Analyst

CC: Michael Sawyer, (via email)
Mario Trimble, (via email)
Sean Oliver, Mark Henderson WQCD, (via email)

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Tom Priest
Christopher Manning
Jena Skinner

Town Council Hearing

Faircloth Residence Garage Addition / Variance Request 261 Main Street

Hearing Date: October 6, 2021

File Name and Process: Faircloth Garage Addition / Variance Request

Owner/Applicant: Heather Faircloth

Representative: Tom Warzecha

Legal Description: BOOCO Subdivision, Block F, Lot 12 and Part of Lot 13

Address: 261 Main Street

Zoning: Old Town Mixed-Use (Old Town Character Area)

Staff Member: Scot Hunn, Planning Director
Madison Harris, Planner I

Recommendation: **Approval**

Staff Report

I. Summary of Request:

The Applicant, Heather Faircloth, requests review of two variance requests associated with a proposed garage addition at 261 Main Street in the Old Town Mixed Use Zone District. The variance requests are for relief from the strict interpretation of the following standards of the Town of Minturn Municipal Code:

- 1. Building Lot Coverage**
- 2. Impervious Coverage**

The Town of Minturn Planning Commission reviewed the variance requests at their regular meeting of August 25, 2021 along with final plans for a two-car garage addition (to be accessed at the rear of the lot, from Boulder Street) with habitable space below the new garage. The property is non-conforming with regard to the size of the lot in the Mixed-Use Zone District and there is an existing single-family residence on the lot.

The lot currently is in conformance with the Old Town Character Area, Mixed-Used Zone District lot coverage and impervious coverage limits which allow for:

- Up to 45% lot coverage by buildings
- Up to 55% lot coverage by impervious surfaces (sidewalks, driveways, decks)

Analysis:

Surveys included for review with the final plans for the garage addition show that the existing residence (building footprint) is currently compliant with maximum allowable lot (building) coverage. Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (41%). The total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43%).

However, the proposed 664.6 sq. ft. garage addition will result in a maximum building coverage of approximately 1,955.99 sq. ft. (52.16%) building coverage, and a maximum lot coverage of approximately 2,255.22 sq. ft. (60.14%) lot coverage with the new driveway and exterior stairs.

The Applicant is requesting a variance from the following:

- **Building Lot Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (41%). However, the proposed 664.6 sq. ft. garage addition will result in a maximum building coverage of approximately 1,955.99 sq. ft., or approximately **52% lot coverage by buildings**.
- **Impervious Surface Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43%). However, with the proposed 664.6 sq. ft. garage addition, the new driveway and the exterior stairs there is a maximum lot and impervious coverage of approximately 2,255.22 sq. ft., or approximately **60% lot coverage by impervious surfaces**.

The Planning Commission granted final plan approval of the proposed garage addition and recommended approval of the variance requests with a vote of 4-1.

Staff is recommending approval of the variance requests based on a finding that the variance requests meet the criteria for approval.

II. Summary of Process and Code Requirements:

The Town Council is responsible for reviewing the variance request and for making a decision to approve or deny the variance request based on criteria for approval and specific “findings” listed within Section 16-21- 690 – *Variations* of the Town Code (detailed below under Section IV with staff analysis).

III. Zoning Analysis:

Zoning

The subject property is located within the “Old Town Character Area” Mixed-Use Zone District. The purpose of the Old Town Mixed-Use Zone District is to:

- a. *This area allows a compatible mix of **residential uses**, low-impact commercial uses and institutional uses that serve residents and visitors. The Old Town Mixed-Use Zone can accommodate various types of development if found not to significantly impact nearby properties.*
- b. *The Old Town Mixed-Use Zone is intended to **provide sites for combined residential and low-impact commercial and service uses which maintain a predominantly residential appearance. This area can accommodate reasonable growth where land and services are available and when services and amenities are needed for residents and visitors.***

- Town of Minturn Town Code Section 16-6-40

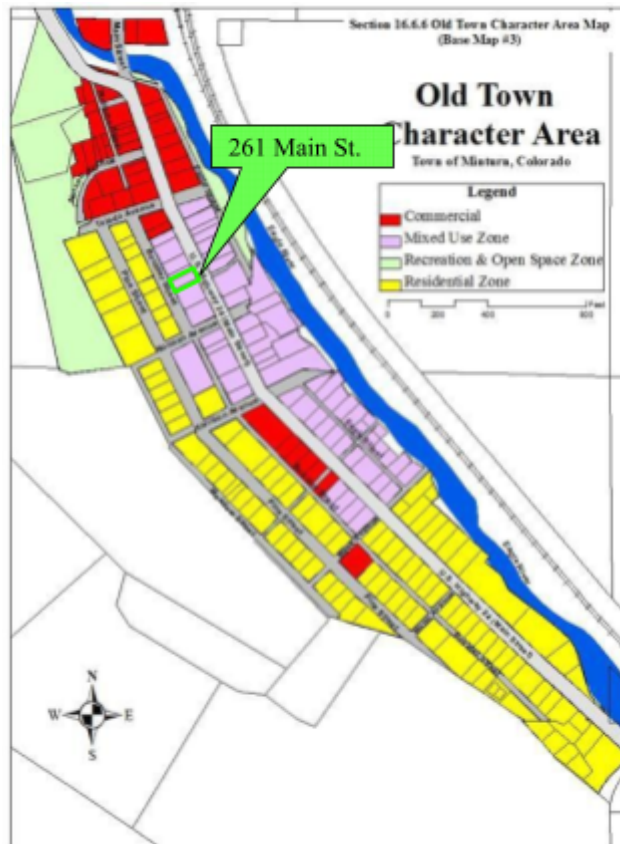


Figure 1: Old Town Character Area Zoning Map

Dimensional Limitations and Development Standards

The following table summarizes the lot, development and dimensional standards and limitations applicable to the subject property pursuant to Sections 16-2-40. - *General lot requirements and dimensional standards* and 16-16-20 – *Parking Required for Residential and Lodging Uses*.

Regulation	Allowed/Required	Proposed/Existing
Minimum Lot Area:	5,000 sq. ft.	3750 sq. ft.
Maximum Building Height:	28 feet	22.5 feet
Minimum Front Setback:	10 feet	No Change
Minimum Side Setback:	5 feet	5 feet
Minimum Rear Setback:	10 feet	10 feet
Maximum Lot Coverage:	45% (1687.5 sq. ft.)	1,526.9 sq. ft. (41%) Existing 1,955.99 sq. ft. (52%) Proposed
Maximum Impervious Coverage:	55% (2,062.5 sq. ft.)	1,623.0875 sq. ft. (43%) Existing 2,255.22 sq. ft. (60%) Proposed
Minimum Snow Storage Area:	5% of Driveway Area (20.2235 sq. ft.)	75 sq. ft. (18%)
Parking:	3 spaces	4 spaces

Note: the above calculations are based on the following:

$$\text{Lot 12 and part of 13} = .086 \text{ acres} \times 43,560 \text{ sq. ft./acre} = 3,750 \text{ sq. ft.}$$

IV. Applicable Standards and Design Guideline Criteria:

Variance

The Town Code provides the following purpose, intent and criteria for the approval of a variance:

Sec. 16-21-690. - Variances.

(a) Purpose of provisions; limitations.

- (1) In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Chapter as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.*
- (2) Variances may be granted only with respect to the development standards prescribed for each zone, including lot area and site dimensions, setbacks, distances between buildings, height, density, site coverage, usable open space, landscaping, site development and parking and loading requirements.*

(3) *The power to extend variances does not extend to the use regulations prescribed for each district because the flexibility necessary to avoid results inconsistent with the objectives of this Chapter is provided by Sections 16-21-620, Conditional Use Permits, and Division 3 of this Article, Amendments to text of Land Use Regulations or Character Area and Zone District Map.”*

(c) Approval criteria. *Before acting on a variance application, the Planning Commission and the Zoning Board of Appeals shall consider the following factors with respect to the requested variance:*

- (1) The relationship of the requested variance to other existing or potential uses and structures in the vicinity;*
- (2) The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this Chapter without grant of special privilege;*
- (3) The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities and public safety; and*
- (4) Such other factors and criteria as the Planning Commission and Zoning Board of Appeals deem applicable to the proposed variance.*

(d) Findings required. *The Planning Commission and Zoning Board of Appeals shall make the following findings before granting a variance:*

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;*
- (2) The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;*
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.*
- (4) There is no substantial impairment to the public that would result from the granting of the variance.”*

Staff Response:

As noted above, the Town Council must make positive findings for all four variance criteria. Although no one criterion should be weighted differently or considered more important, the first two criteria are typically the most difficult to establish.

In this instance, the Applicant will be required to demonstrate an ‘extraordinary circumstance,’ ‘physical hardship,’ and/or ‘practical difficulty’ when the regulations are applied strictly and literally to their property. The Planning Commission found that the design of the garage addition was functional, beneficial to the surrounding area (as a

means to accommodate off street parking), and appropriate for the site and the surrounding area from the standpoint of design and character. The Planning Commission, therefore found that the literal enforcement of the regulations would result in an unnecessary physical hardship (reducing the size, benefit and functionality of the garage) and that there would be no substantial impairment to the public or the purposes of the Town's zoning regulations.

Last, staff suggests that while the subject property is not unlike other lots in the vicinity with regard to its shape, topography, it is, however, an undersized lot (the lot is 3,750 sq. ft. instead of the required 5,000 sq. ft.).

V. Staff Recommendation and Suggested Conditions:

Staff is **recommending approval** of the variance requests for relief from the strict interpretation of the regulations for lot and impervious coverage for property located at 261 Main Street.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 35 – SERIES 2021**

**A RESOLUTION APPROVING LAND USE APPLICATION
VARIANCE 21-01**

WHEREAS, on or about June 22, 2021 Heather Faircloth (hereinafter, the “Applicant”) properly applied for the review of a variance from building lot coverage and impervious lot coverage standards pursuant to the Minturn Municipal Code (hereinafter, the “Code”), Section 16-21-690, Variances; and,

WHEREAS, the Applicant requests relief from the strict interpretation of Section 16-2-40 of the Code to allow for up to fifty-two (52%) percent building lot coverage and to allow for up to sixty (60%) percent impervious lot coverage on a pre-existing non-conforming lot located within the Old Town Character Area Mixed-Use Zone District; and,

WHEREAS, public notice was properly given pursuant to the Code, Section 16-21-610, Public Notice, for a public hearing held by the Town of Minturn Planning Commission (hereinafter, the “Commission”) on August 25, 2021 to consider the variance requests; and,

WHEREAS, at their regular meeting of August 25, 2021, the Commission acted to recommend approval of the variance requests to the Minturn Town Council;

WHEREAS, at their regular meeting of August 25, 2021, the Commission, acting as the design review board, also reviewed proposed building plans for a garage addition to be constructed on the subject property; and,

WHEREAS, at the regular meeting on October 6, 2021, the Minturn Town Council (hereinafter, the “Council”) acting as the Zoning Board of Appeals, held a public hearing on the variance application and to consider the Commission’s recommendation, pursuant to the Code, Section 16-21-690(e); and,

WHEREAS, the Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Section 16-21-30; and,

WHEREAS, at the regular meeting on October 6, 2021, the Council, acting as the Zoning Board of Appeals, voted to confirm the action of the Commission; and,

WHEREAS, pursuant to the Minturn Municipal Code Section 16-1-20, the most appropriate use of the subject property is allowed via the granting of a variance; and,

WHEREAS, pursuant to Minturn Municipal Code Section 16-21-690(d), Finding Required, the Council makes the following findings:

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;

- (2) The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.
- (4) There is no substantial impairment to the public that would result from the granting of the variance.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

THAT, the application variances for 261 Main Street, BOOCO Subdivision, Block F, Lot 12 and Part of Lot 13, File No. VAR 21-01, for relief from maximum allowable building lot coverage and maximum allowable impervious coverage, be approved with no conditions.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 6th DAY OF OCTOBER, 2021.

TOWN OF MINTURN, COLORADO:

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



VARIANCE APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT
P.O. Box 309 302 Pine Street Minturn, Colorado 81649-0309
Phone: 970-827-5645 Fax: 970-827-5545 Email: planner@minturn.org

Project Name:

Faircloth Garage addition

Project Location**Street Address:**

261 Main Street Minturn.Co

Zoning:

Mixed use

Parcel Number(s):**Application Request:**

To provide onsite parking by adding a garage with a living space below. The garage will be accessed from Boulder Street.

Applicant:**Name:**

Wei Construction

Mailing Address:

P.O.Box 1384 Vail,Co 81645

Phone:

970-390-3674

Email:

wei04@comcast.net

Property Owner:**Name:**

Heather Ehrhardt Faircloth

Mailing Address:

216 Main street

Phone:

720-320-9333

Email:

Faircloth@gamil.com

Required Information:

Lot Size: 3750	Type of Residence (Single Family, ADU, Duplex) redidence	# of Bedrooms 3	# On-site Parking Spaces 1
# of Stories: 2	Snow storage sq ft: 75sqft	Building Footprint sq ft: 1958.76	Total sq ft Impervious Surface: 2148.41

Signature:

Fee Paid: \$575-

Date Received: 6/22/21

Planner:

Madison Hurns

VARIANCE APPLICATION

SUBMITTAL CHECKLIST REQUIREMENTS (TO BE INCLUDED WITH APPLICATION)

Applicant Staff

Application Fee (Non-Refundable application fee shall be collected)

- Planning Commission Review - \$575 + Costs attributable to the review by consultant time are billed at actual hourly rates. Cost assessed after first hour.

RESPOND TO THE FOLLOWING QUESTIONS:

1. **Please describe the nature of the requested variance:** _____

To build on site parking inside the set backs but over the allowable lot coverage.

2. **Are there exceptional or extraordinary circumstances or conditions applicable to the site of the variance that does not apply generally to other properties in the same zone? (If yes, please elaborate):** _____

The lot is small 3750 sqft.

The code is based on a 5000sqft lot so the percentage of the lot coverage is increased by the smaller lot size.

3. **Do the exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zone code! (if yes, please elaborate):** _____

The code is based on 5000sqft.lot resulting in the lot coeverage to be increased and over the allowable coverage.

Also the adjacent properties are over there lot coverage

So the project seems to be consitent with neighborhood

Vicinity Map

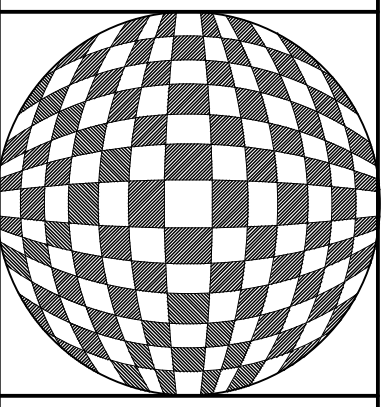
-- Directional Map indicating how to get to the Property involved in the request.

- Zoning of Property

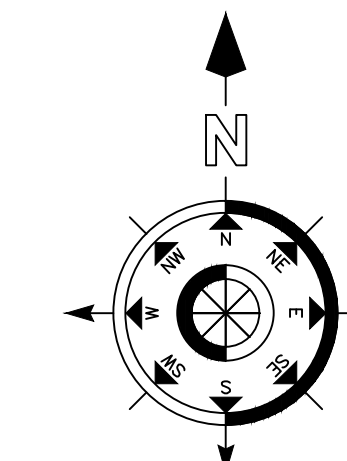
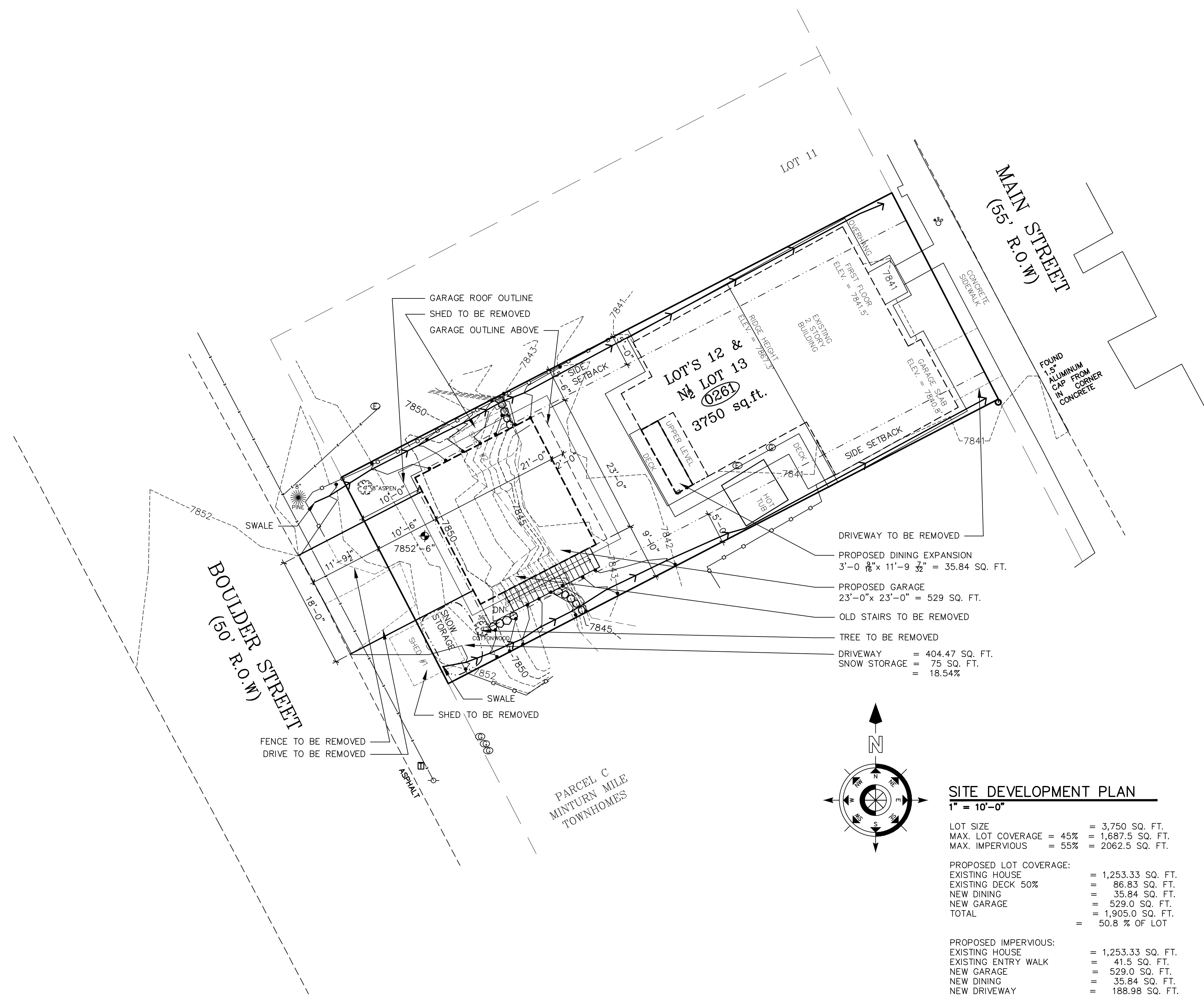
Improvement Location Certificate of Survey (ILC or ILS)

Site Plan showing Precise Nature of the Proposed Use – To Scale

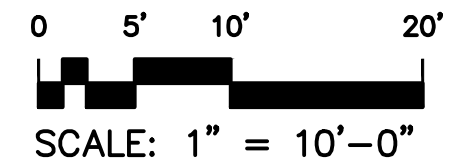
- Scaled Drawings of Proposed Design of Structure
 - Plan View and Sections
- Building Heights – all 4 directions N/S/E/W
- Topography



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

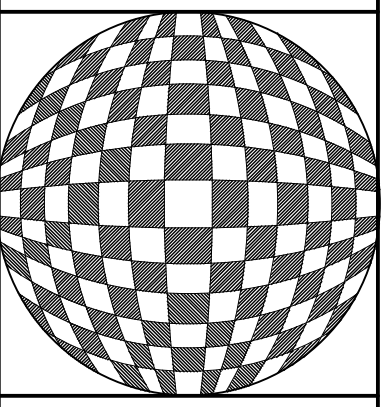


SITE DEVELOPMENT PLAN
 1" = 10'-0"

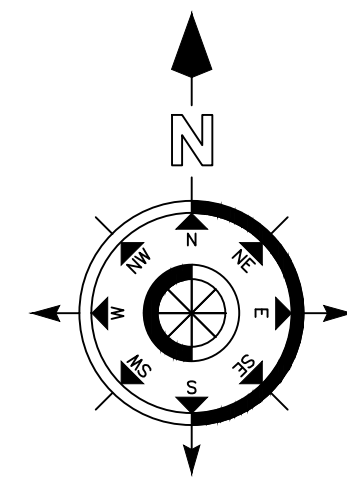
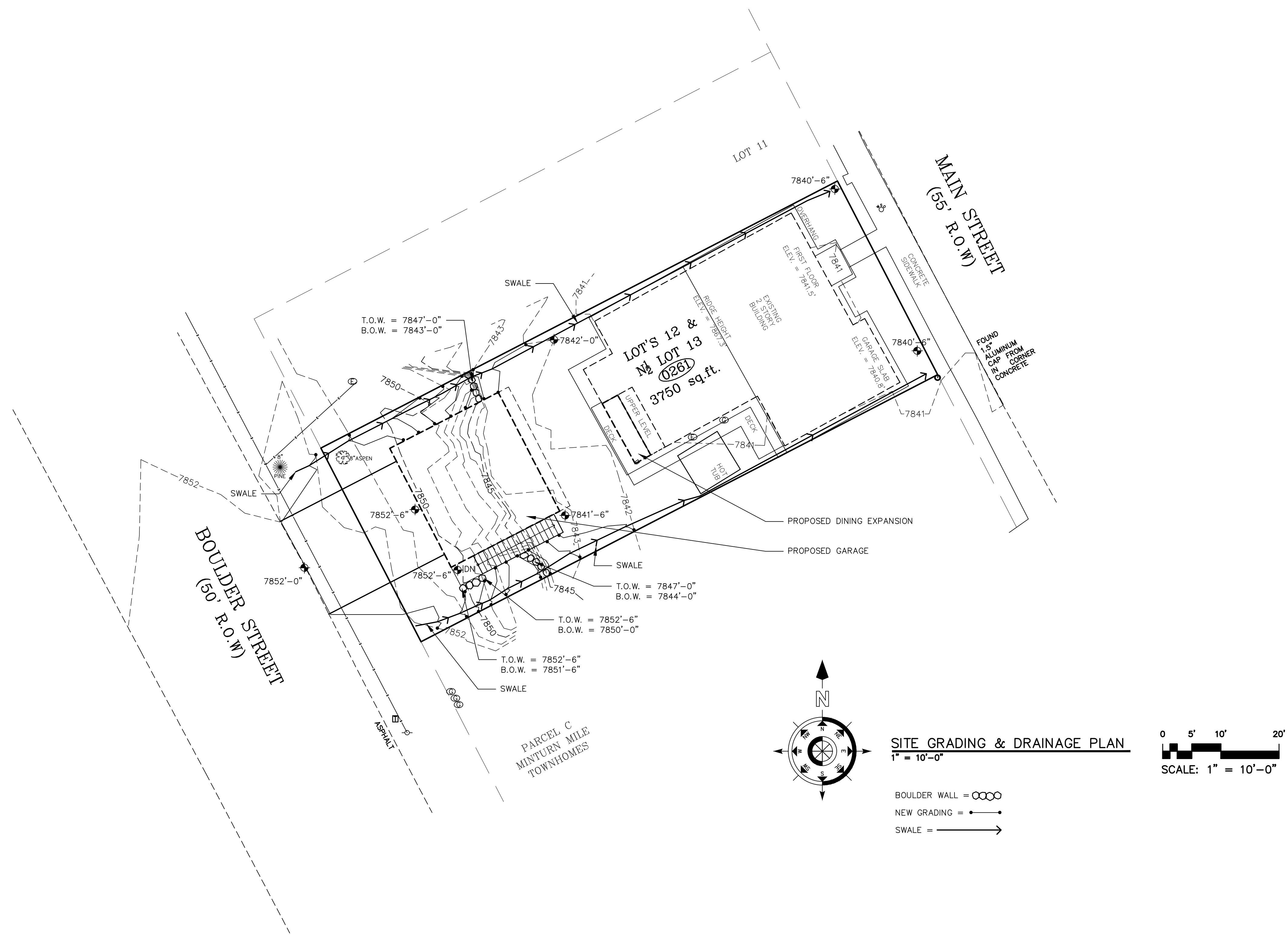


LOT SIZE	=	3,750 SQ. FT.
MAX. LOT COVERAGE = 45%	=	1,687.5 SQ. FT.
MAX. IMPERVIOUS = 55%	=	2062.5 SQ. FT.
PROPOSED LOT COVERAGE:		
EXISTING HOUSE	=	1,253.33 SQ. FT.
EXISTING DECK 50%	=	86.83 SQ. FT.
NEW DINING	=	35.84 SQ. FT.
NEW GARAGE	=	529.0 SQ. FT.
TOTAL	=	1,905.0 SQ. FT.
	=	50.8 % OF LOT
PROPOSED IMPERVIOUS:		
EXISTING HOUSE	=	1,253.33 SQ. FT.
EXISTING ENTRY WALK	=	41.5 SQ. FT.
NEW GARAGE	=	529.0 SQ. FT.
NEW DINING	=	35.84 SQ. FT.
NEW DRIVEWAY	=	188.98 SQ. FT.
TOTAL	=	2,048.65 SQ. FT.
	=	54.63% OF LOT

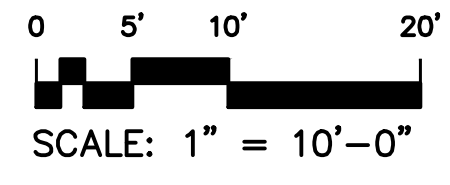
JOB NUMBER	20-5
DRAWN BY	TH
DATE	AUGUST 3, 2021
TITLE	VARIANCE
REVISION DATE	INITIAL



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645



SITE GRADING & DRAINAGE PLAN
 1" = 10'-0"



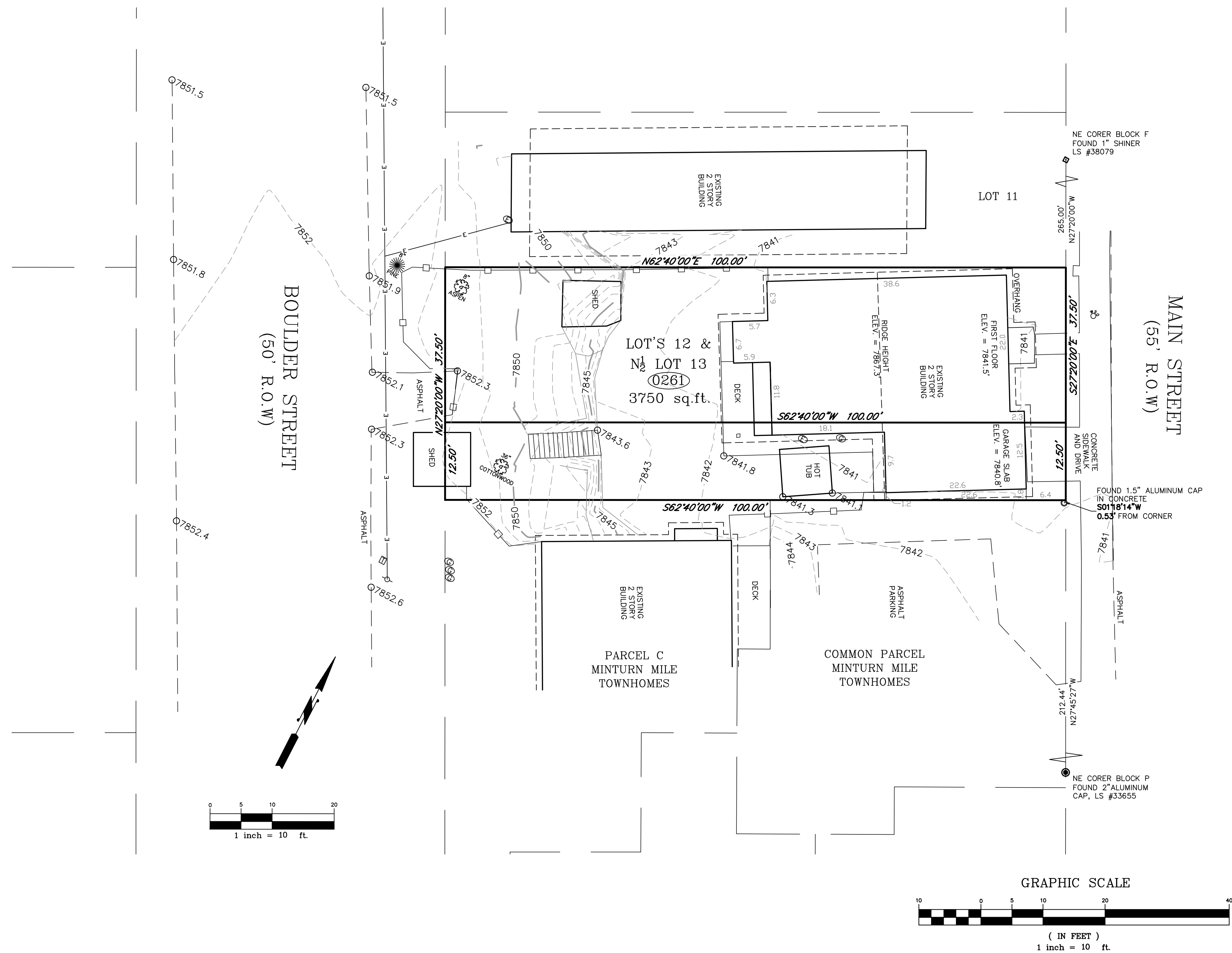
- BOULDER WALL = ○○○○
- NEW GRADING = ●—●
- SWALE = —>

JOB NUMBER	20-5
DRAWN BY	TH
DATE	AUGUST 3, 2021
TITLE	VARIANCE
REVISION DATE	INITIAL

TOPOGRAPHIC SURVEY

Lot 12 and N $\frac{1}{2}$ LOT 13, Block F, Booco's Addition To Minturn

Located in Section 26, T5S, R81W, 6th P.M.
Town of Minturn, Eagle County, Colorado



LEGAL DESCRIPTION:

Lot 12 and the Northerly $\frac{1}{2}$ Lot 13, Block F, Plat of Booco's Addition to Minturn, dated February 14, 1891, according to the plat thereof, recorded under Reception No. 9109, in the Office of the Clerk and Recorder, Eagle County, Colorado.

NOTES:

- 1) Survey Date: June 14, 2018.
- 2) Street Address: 261 Main Street. (posted)
- 4) Record easements, legal description, and rights-of-way shown hereon were derived from above referenced Final Plat, monuments found at the time of the survey and Warranty Deed Reception No. 201606076. This survey does not constitute a boundary survey nor any investigation into record easements or encumbrances associated with this property.
- 5) This survey was performed using U.S. Survey Feet.
- 6) This is not a monumented survey, Land Survey Plat, or Improvement Survey plat. No boundary resolution was performed in making this survey. All lot lines, setback lines, and easement lines shown hereon should be considered approximate and should not be relied upon for the placement of any future improvements.
- 7) Notice: According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect, in no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.
- 8) Benchmark: Derived from NGS S-280 with an Elevation = 7894.5 and the first floor elevation shown hereon is relative thereto.

CERTIFICATION

I, Randall P. Kipp, a Registered Professional Land Surveyor in the State of Colorado, hereby certify that this TOPOGRAPHIC SURVEY was done by me or under my direct supervision, and that it was performed using the standard care and practice used in the area at the time of the survey. The Notes hereon are a part of this certification.



Randall P. Kipp
P.L.S. No. 38079
Colorado Professional
Land Surveyor

NOTICE: According to Colorado law you MUST commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

KIPP LAND SURVEYING		TOPOGRAPHIC SURVEY	
RANDY KIPP P.L.S. P.O. Box 3154 Eagle, CO 81631 (970) 390-9540 email: randy@kipplandsurveying.com web: kipplandsurveying.com		LOT 12 AND N $\frac{1}{2}$ LOT 13, BLOCK F Booco's Addition To Minturn Town of Minturn, Eagle County, Colorado	
DRAWN BY: RPK	DATE: 6/18/18		
SHEET: 1 OF 1		18116 L12N13 TOPO DWG NO.:	

MAIN LEVEL DOOR SCHEDULE

MARK	DOOR		Style	FIRE RATING LABEL	NOTES
	SIZE				
	WD	HGT			
1	6'-0"	7'-0"	Sliding - Double - Full Lite	--	--
2	2'-6"	7'-0"	Hinged - Single	--	--
3	2'-6"	7'-0"	Hinged - Single - Half Lite	--	Existing, relocate

MAIN LEVEL WINDOW SCHEDULE

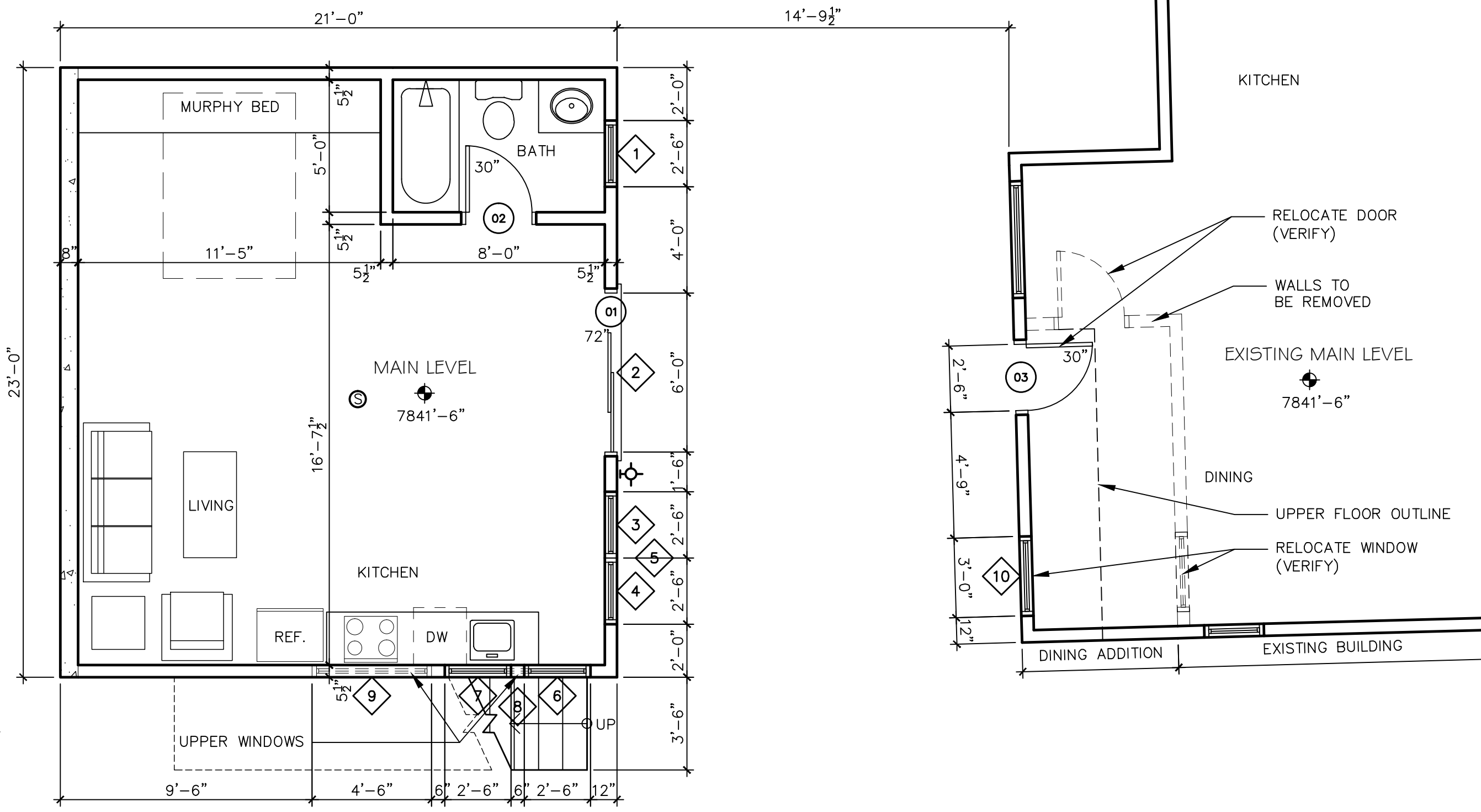
MARK	SIZE		Style	Sill Height	NOTES
	WIDTH	HEIGHT			
1	2'-6"	3'-6"	Casement	3'-6"	--
2	6'-4"	1'-6"	Picture	7'-6"	--
3	2'-6"	3'-6"	Casement	3'-6"	--
4	2'-6"	3'-6"	Casement	3'-6"	--
5	5'-0"	1'-6"	Picture	7'-6"	--
6	2'-6"	3'-6"	Casement	3'-6"	--
7	2'-6"	2'-6"	Casement	4'-6"	--
8	5'-6"	1'-6"	Picture	7'-6"	--
9	4'-6"	1'-6"	Picture	7'-6"	--
10	3'-0"	4'-0"	Casement	3'-0"	Existing, relocate

UPPER LEVEL DOOR SCHEDULE

MARK	DOOR		Style	FIRE RATING LABEL	NOTES
	SIZE				
	WD	HGT			
4	2'-6"	8'-0"	Hinged - Single - Exterior Half Lite	20 MIN.	W/closer
5	18'-0"	8'-0"	Overhead - Sectional	--	--

UPPER LEVEL WINDOW SCHEDULE

MARK	SIZE		Style	Sill Height	NOTES
	WIDTH	HEIGHT			
11	6'-6"	4'-0"	Picture	4'-0"	--
12	7'-6"	4'-0"	Picture	4'-0"	--
13	4'-0"	4'-0"	Casement	4'-0"	--
14	7'-6"	4'-0"	Picture	4'-0"	--
15	4'-0"	4'-0"	Casement	4'-0"	--
16	7'-6"	4'-0"	Picture	4'-0"	--
17	6'-6"	4'-0"	Picture	4'-0"	--



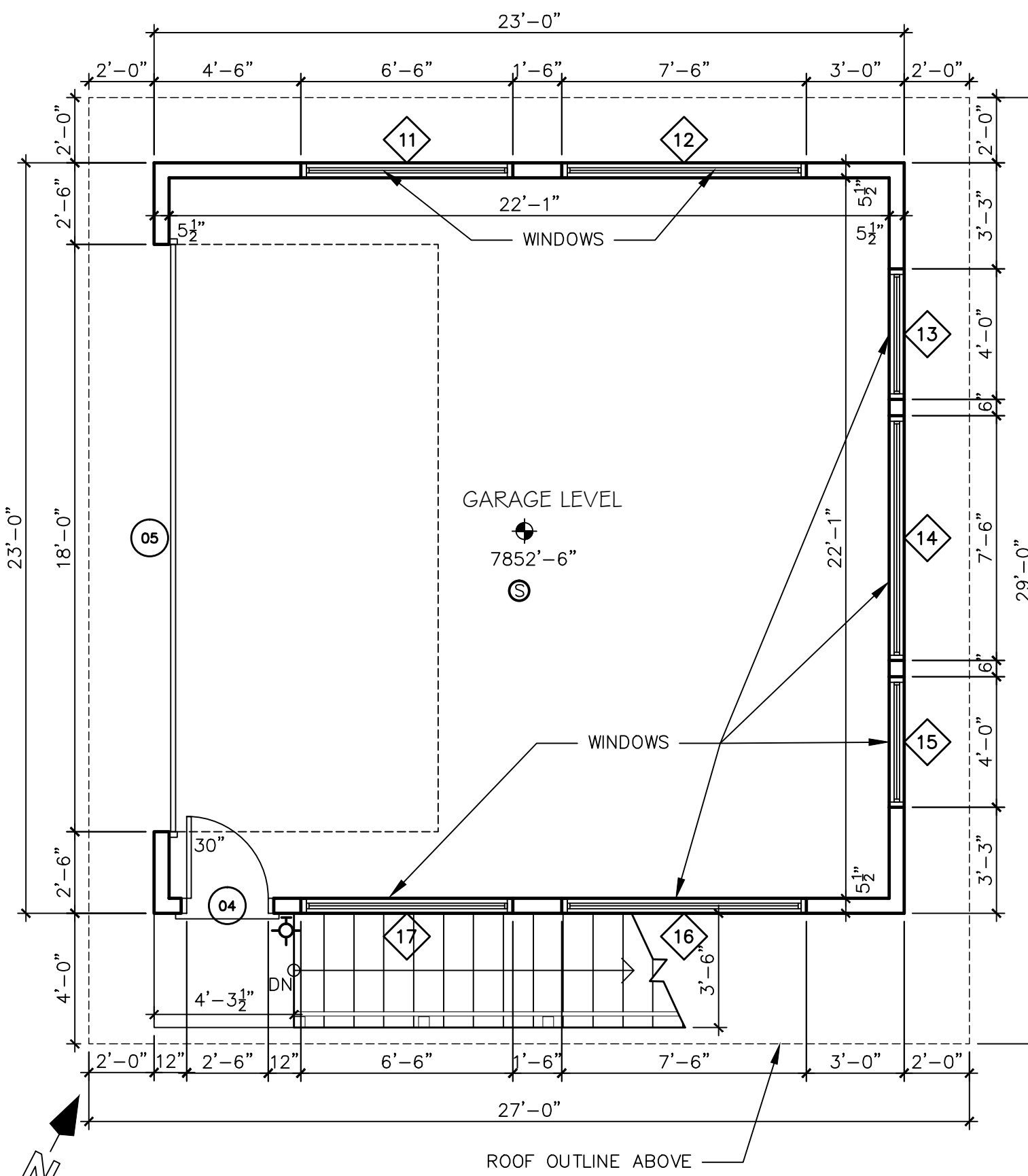
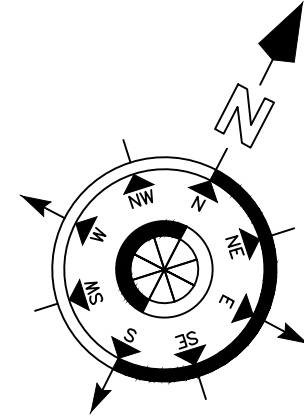
MAIN LEVEL FLOOR PLAN

1/4" = 1'-0"

MAIN LEVEL = 483.00 SQ. FT.
 DINING = 35.84 SQ. FT.
 TOTAL = 518.84 SQ. FT.

NOTE: RE: A2.01 BUILDING ELEVATIONS FOR UPPER WINDOW LOCATIONS

- ⊛ EXTERIOR LIGHTING - VERIFY W/OWNER/ARCHITECT
- ⊛ EXTERIOR WALL SCONCE: KICHLER 97070Z MOUNT VERNON SMALL O.A.E.
- ⊙ SMOKE DETECTOR/CARBON MONOXIDE-SILHOUETTE LOW-PROFILE SMOKE ALARM O.A.E.

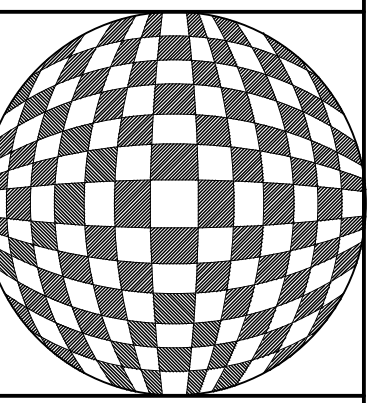
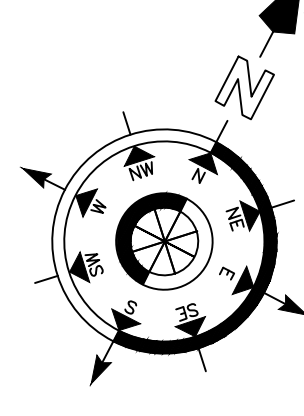


GARAGE LEVEL FLOOR PLAN

1/4" = 1'-0"

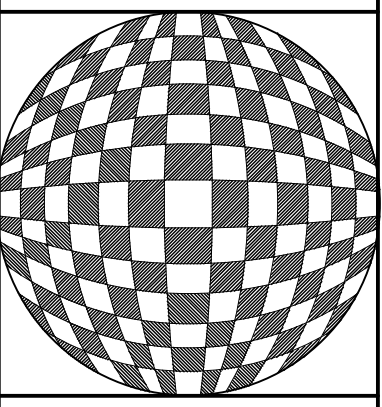
GARAGE = 529 SQ. FT.

- ⊛ EXTERIOR LIGHTING - VERIFY W/OWNER/ARCHITECT
- ⊛ EXTERIOR WALL SCONCE: KICHLER 97070Z MOUNT VERNON SMALL O.A.E.
- ⊙ SMOKE DETECTOR/CARBON MONOXIDE-SILHOUETTE LOW-PROFILE SMOKE ALARM O.A.E.

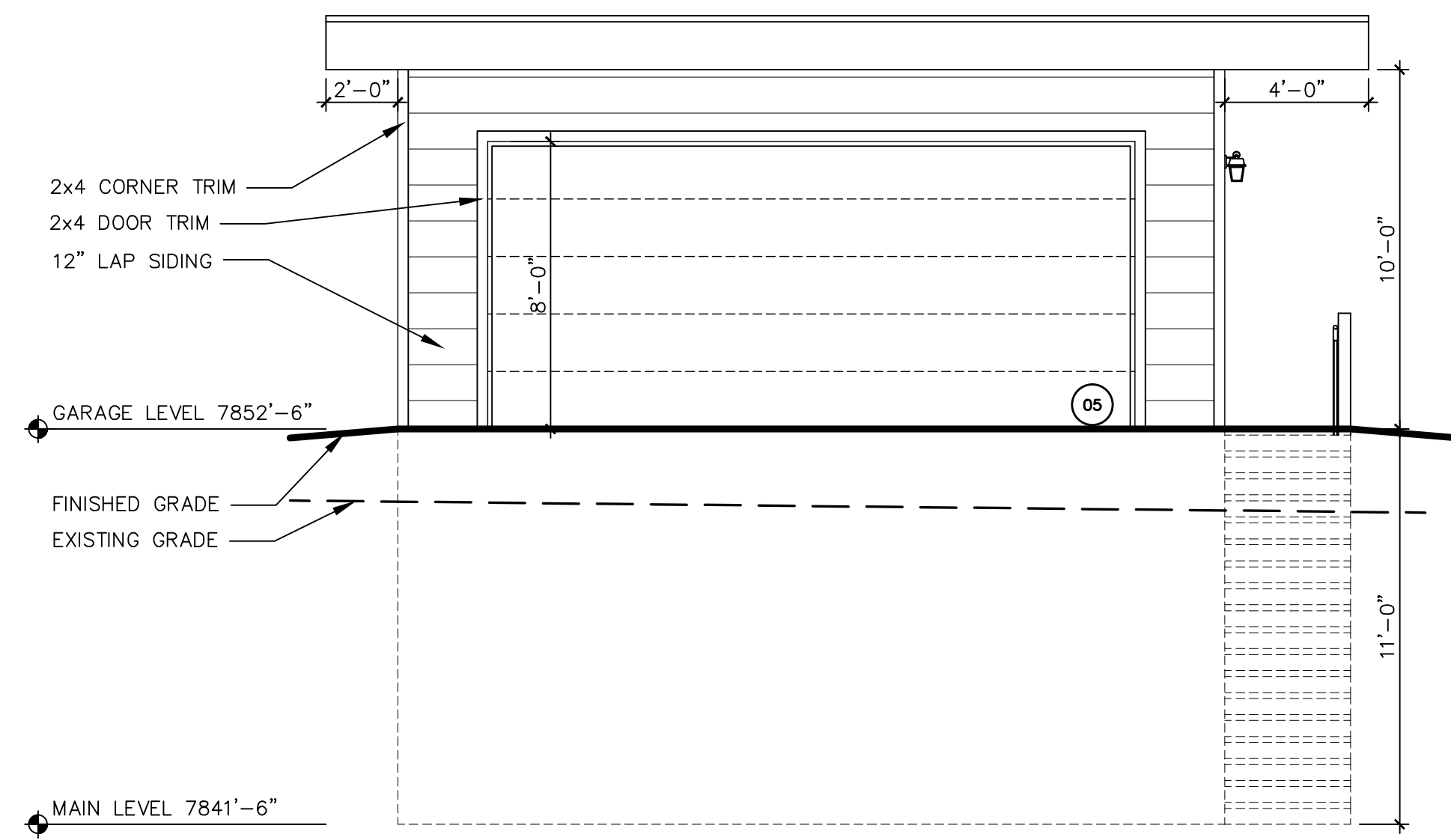


GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

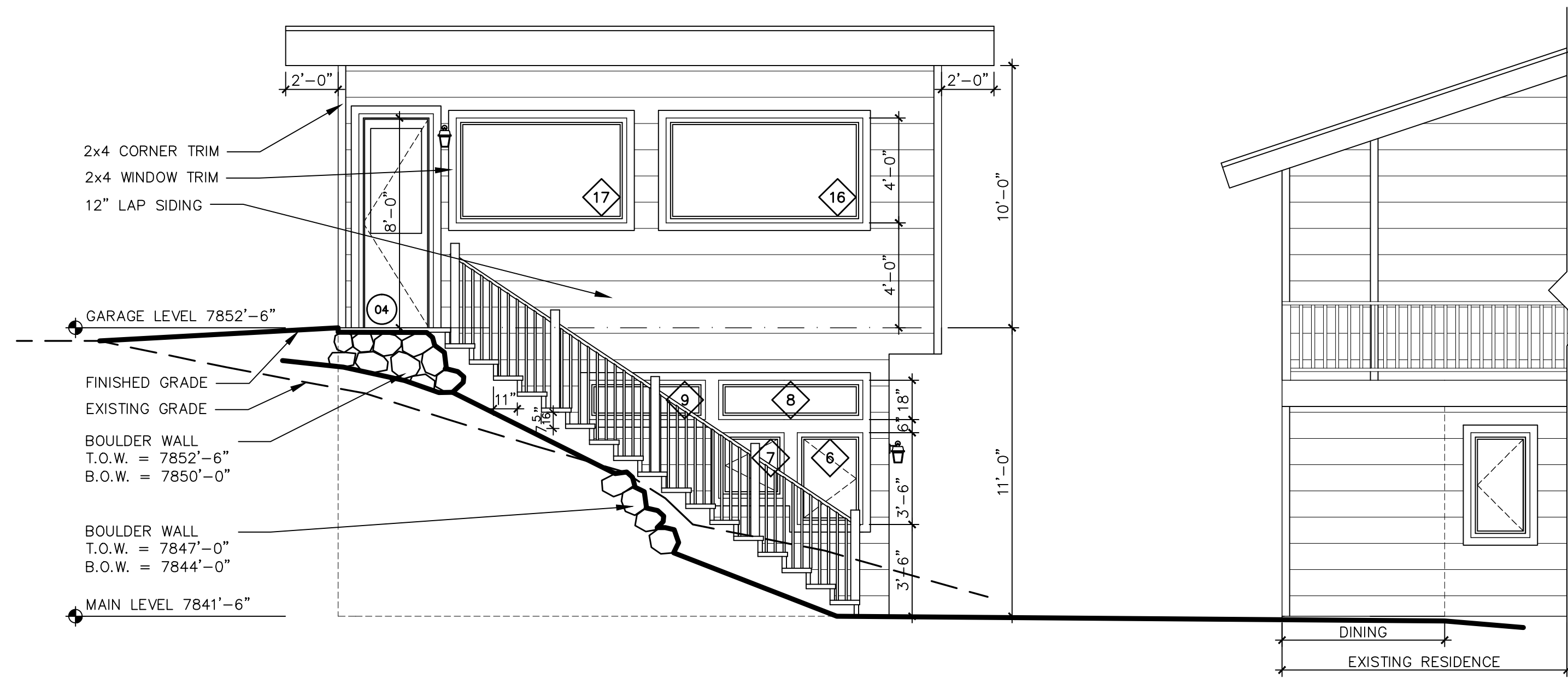
JOB NUMBER	20-5
DRAWN BY	TH
DATE	AUGUST 3, 2021
TITLE	VARIANCE
REVISION DATE	INITIAL



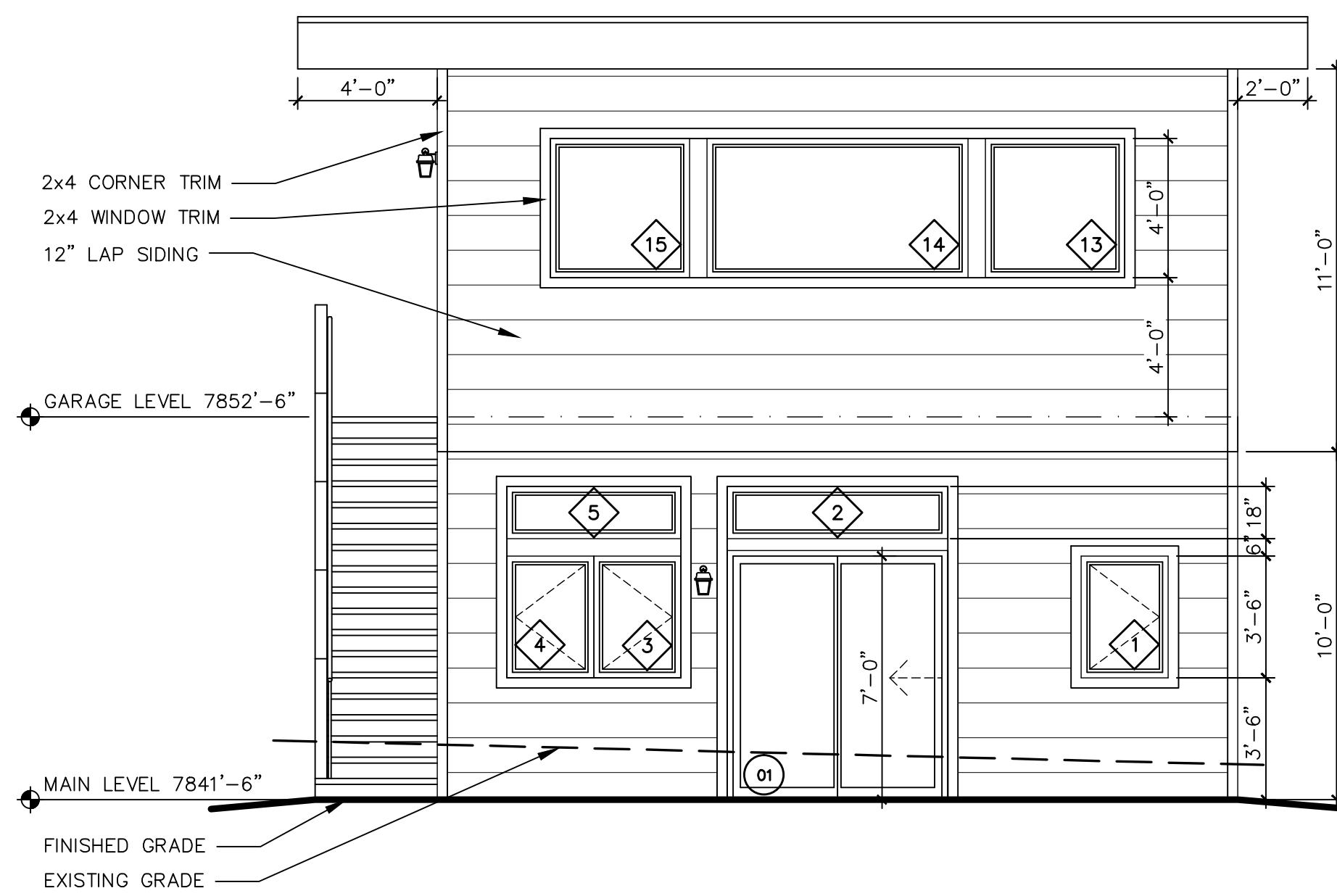
GARAGE ADDITION
261 MAIN STREET
MINTURN COLORADO 81645



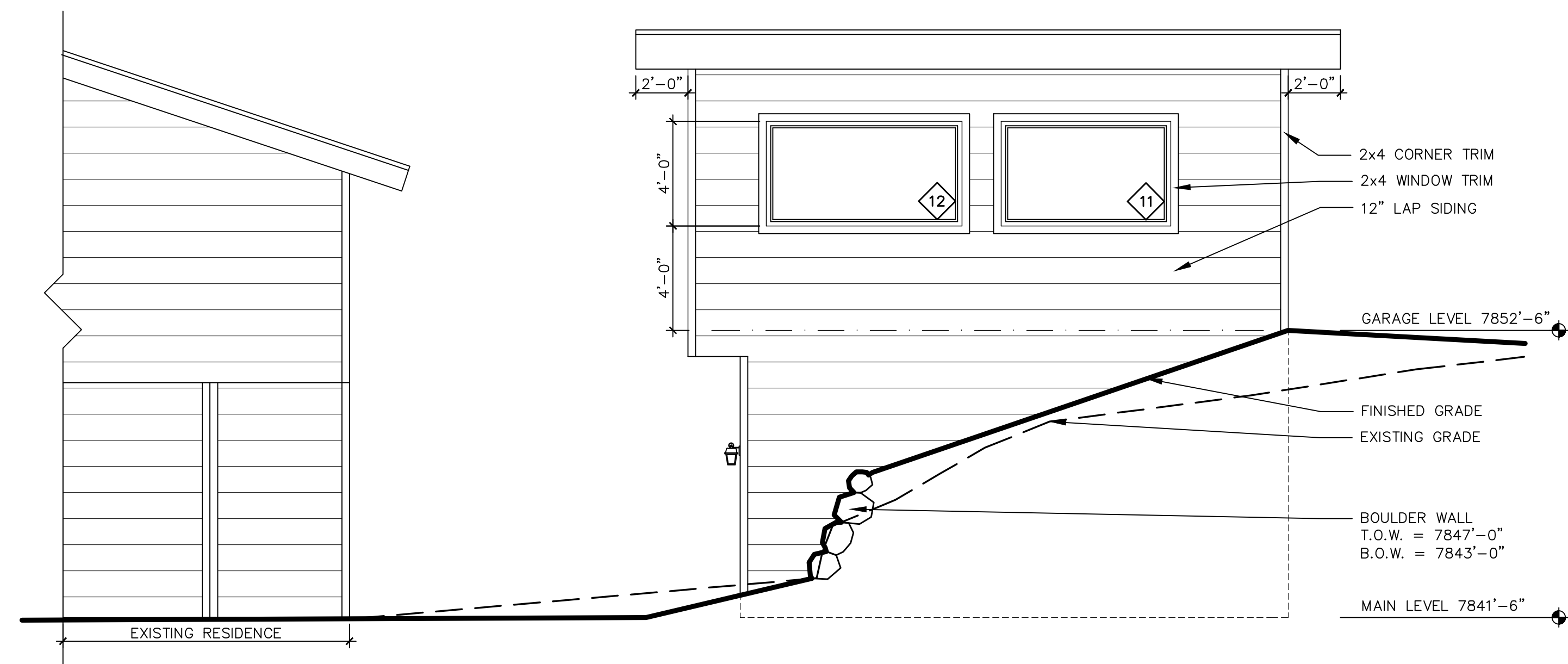
1 **SOUTHWEST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.



2 **SOUTHEAST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.



3 **NORTHEAST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.



4 **NORTHWEST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.

JOB NUMBER	20-5
DRAWN BY	TH
DATE	AUGUST 3, 2021
TYPE	VARIANCE
REVISION DATE	INITIAL

August 3, 2021

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Chris Manning
Tom Priest
Jena Skinner

To: Town Council
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: September 30, 2021
Re: 175 Williams Street – Bunkhouse Variance, Resolution 36 - Series 2021

This is an addendum to the staff memo from September 16, 2021 which is also in this packet.

The Applicant, Nancy Richards, owner of the Bunkhouse at 175 Williams Street, requests review of a variance to allow for the renting of 20 parking spaces in the Municipal lot in order to supplement and/or replace the on-site parking required by the Minturn Municipal Code (MMC). The variance was reviewed by the Planning Commission on September 22, 2021 with a forwarded recommendation of approval with conditions.

Summary of Discussion at September 22, 2021 Meeting:

As highlighted in the staff memo dated September 16, 2021, the original variance granted to the Bunkhouse for off-site parking included a sunset provision which required the variance to be updated in 2018. At their meeting on 22nd, the Planning Commission agreed that the sunset provision should be removed. In addition to that, the Applicant was asked to keep a better eye on customers parking where they are not supposed to.

Staff and Planning Commission are recommending **approval with conditions** of the variance request for relief from the strict interpretation of the regulations for parking standards for a business located at 175 Williams Street.

1. The Applicant shall work with the Town on a parking management and enforcement plan.
2. The Bunkhouse will lease 20 parking spaces from the Town of Minturn at the municipal lot at the Town rate set by the Treasurer as may be updated from time to time.
3. The Bunkhouse will be responsible for all snow removal and maintenance of their rented section of the municipal town parking lot.
4. The Bunkhouse will place signs delineating their parking area at the far end of the municipal lot.
5. The Bunkhouse will place a sign in front of the 2 designated check -in, drop -off, parking spaces, designating them as short term check -in parking only.
6. The Bunkhouse will have valet parking to ensure all guest vehicles are parked in the Bunkhouse parking lot located at the far end of the municipal lot.

7. The employee and manager will park in the 2 underground parking spaces or at the leased parking.
8. The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Chris Manning
Tom Priest
Jena Skinner

To: Planning Commission
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: September 16, 2021
Re: 175 Williams Street - Bunkhouse Variance Application

Introduction:

Nancy Richards, owner of the Bunkhouse at 175 Williams - Molly G Building, requests review and renewal of a previously approved variance allowing for the renting of 20 parking spaces in the Municipal lot in order to supplement and/or replace the on-site parking required by the Minturn Municipal Code (MMC).

Background:

Ms. Richards was originally granted a variance on this issue on October 21, 2015 detailed in Resolution 14 - Series 2015. There was sunset provision included as a clause to the resolution which stated that “this variance will be reviewed for renewal on June 1, 2018. Unless reviewed and renewed for approval by that date the variance is revoked.” Staff was not aware that this provision had expired until July 2021, at which point it was determined that the Bunkhouse was no longer in compliance and needed to apply for another variance. Below are the conditions that were associated with Resolution 14 - Series 2015:

1. Sunset Provision: this variance will be reviewed for renewal on June 1, 2018. Unless reviewed and renewed for approval by that date the variance is revoked. Review of the variance is to determine if the Bunkhouse has complied with the conditions of this variance listed below.
2. The Bunkhouse will lease 20 parking spaces from the Town of Minturn at the municipal lot at the Town rate set by the Treasurer as may be updated from time to time.
3. The Bunkhouse will be responsible for all snow removal and maintenance of their rented section of the municipal town parking lot.
4. The Bunkhouse will place signs delineating their parking area at the far end of the municipal lot.
5. The Bunkhouse will place a sign in front of the 2 designated check -in, drop -off, parking spaces, designating them as short term check -in parking only.
6. The Bunkhouse will have valet parking to ensure all guest vehicles are parked in the Bunkhouse parking lot located at the far end of the municipal lot.
7. The employee and manager will park in the 2 underground parking spaces or at the leased parking.

8. The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

Staff believes that most have been adhered to with little issue except for conditions 5, 6, and 7 as discussed later in this staff memo. We do not recommend previous condition 1 with regards to a sunset provision.

Analysis:

There are no standards in the MMC for on-site parking requirements for hostels. Staff believes that this use should be classified as either a boarding house or a lodging house. Both require 1 space per guest room, and 2 spaces per manager's/caretaker's quarters. Therefore, any lodging parking standards called out in Chapter 16, Article 16 of the MMC rely on a specific number of spaces per room. Given that a hostel has multiple beds per room, and not specific suites or units it is hard to make a determination of how much parking to require. In this case, staff is relying on the number agreed upon in 2015 by the Planning Commission and Town Council which required the Bunkhouse to lease 20 spaces from the Municipal Lot, as well as be responsible for their maintenance and snow removal during the winter.

Concerns:

Of all of the clauses within Resolution 14 - Series 2015, staff is not aware of how well clauses 5, 6, and 7 have been enforced. Staff suspects there needs to be evaluation of the enforceability of these terms. Staff recommends that the Applicant develop a parking management and enforcement plan with the Town.

Staff is recommending **approval with the following conditions:**

1. The Applicant shall work with the Town on a parking management and enforcement plan.
2. The Bunkhouse will lease 20 parking spaces from the Town of Minturn at the municipal lot at the Town rate set by the Treasurer as may be updated from time to time.
3. The Bunkhouse will be responsible for all snow removal and maintenance of their rented section of the municipal town parking lot.
4. The Bunkhouse will place signs delineating their parking area at the far end of the municipal lot.
5. The Bunkhouse will place a sign in front of the 2 designated check -in, drop -off, parking spaces, designating them as short term check -in parking only.
6. The Bunkhouse will have valet parking to ensure all guest vehicles are parked in the Bunkhouse parking lot located at the far end of the municipal lot.
7. The employee and manager will park in the 2 underground parking spaces or at the leased parking.
8. The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

**TOWN OF MINTURN, COLORADO
RESOLUTION 36 – SERIES 2021**

**A RESOLUTION APPROVING VARIANCE APPLICATION FOR
175 Williams Street, Molly G Building, Minturn, CO**

WHEREAS, Nancy Richards, 175 William Street, Minturn, CO 81645, on behalf of The Bunkhouse, LLC., (the “Applicant”), filed a variance application for relief from the strict interpretation of Section 16-16-20 - *Parking required for residential and lodging uses*, Minturn Municipal Code, (the “Application”) on or about August 27, 2021; and

WHEREAS, The Town of Minturn Town Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Sec. 16-21-30; and

WHEREAS, public notice was given pursuant to Minturn Municipal Code Sec. 16-21-610; and

WHEREAS, on September 22, 2021 the Planning Commission held a public hearing on the application pursuant to Minturn Municipal Code Section 16-21-690 and recommended approval of the application to the Minturn Town Council; and

WHEREAS, on October 6, 2021 the Town Council held a public hearing on the application pursuant to Minturn Municipal Code Section 16-21-690; and

WHEREAS, pursuant to Minturn Municipal Code Section 16-21-690(d), the Town Council makes the following findings:

- (1) There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
- (2) The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;
- (3) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of this Chapter.
- (4) There is no substantial impairment to the public that would result from the granting of the variance.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

THAT, the variance application for The Bunkhouse, LLC. for a property located at 175 Williams Street, Minturn, Colorado, 81645, File No. VAR 21-02 for relief from the strict

interpretation of Section 16-16-20, Minturn Municipal Code, is approved with the following conditions:

1. The Applicant shall work with the Town on a parking management and enforcement plan.
2. The Bunkhouse will lease 20 parking spaces from the Town of Minturn at the municipal lot at the Town rate set by the Treasurer as may be updated from time to time.
3. The Bunkhouse will be responsible for all snow removal and maintenance of their rented section of the municipal town parking lot.
4. The Bunkhouse will place signs delineating their parking area at the far end of the municipal lot.
5. The Bunkhouse will place a sign in front of the 2 designated check-in, drop-off, parking spaces, designating them as short term check-in parking only.
6. The Bunkhouse will have valet parking to ensure all guest vehicles are parked in the Bunkhouse parking lot located at the far end of the municipal lot.
7. The employee and manager will park in the 2 underground parking spaces or at the leased parking.
8. The Bunkhouse will notify the Town of any changes to their lease agreement or change in size of operations.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 6th day of OCTOBER, 2021.

TOWN OF MINTURN, COLORADO:

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



VARIANCE APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT
P.O. Box 309 302 Pine Street Minturn, Colorado 81649-0309
Phone: 970-827-5645 Fax: 970-827-5545 Email: planner@minturn.org

Project Name:

Renewal of the parking variance for The Bunkhouse, LLC

Project Location

Street Address: The Bunkhouse is located at #175 Williams St. Minturn, CO 81645

Zoning:

Old Town mixed use

Parcel Number(s):

210326323001

Application Request:

The Bunkhouse asks that we continue the rental and use of alternate parking for guests and staff of The Bunkhouse. We have used the alternate lot for over five years with no issues with no complications during utilization for the Minturn Market or other events. We will continue to document guest license plates, as well as, have The Bunkhouse parking tag displayed in guest front window. We would also ask that no sunset clause be placed on this variance.

Applicant:

Name: Nancy Richards, representative of The Bunkhouse LLC

Mailing Address: PO Box 1496
Avon, CO 81620

Phone:

(970)-393-9003

Email:

nancy@vailbunkhouse.co

Property Owner:

Name:

CHARLES E. LAKIN FOUNDATION, INC.

Mailing Address: 705 N. 16th Street
Council Bluffs, IA 51501

Phone:

712-256-5580

Email:

jgreen@lakinfdn.org

Required Information:

Lot Size: <i>115 acres</i>	Type of Residence (Single Family, ADU, Duplex) <i>mixed use building</i>	# of Bedrooms <i>3</i>	# On-site Parking Spaces <i>4</i>
# of Stories: <i>3</i>	Snow storage sq ft: <i>N/A</i>	Building Footprint sq ft: <i>N/A</i>	Total sq ft Impervious Surface: <i>N/A</i>

Signature:

Fee Paid: *575-*

Date Received: *8/27/21*

Planner: *Maehon Harris*

VARIANCE APPLICATION

SUBMITTAL CHECKLIST REQUIREMENTS (TO BE INCLUDED WITH APPLICATION)

Applicant Staff

Application Fee (Non-Refundable application fee shall be collected)

- Planning Commission Review - \$575 + Costs attributable to the review by consultant time are billed at actual hourly rates. Cost assessed after first hour.

RESPOND TO THE FOLLOWING QUESTIONS:

1. Please describe the nature of the requested variance: THE BUNKHOUSE

REQUESTS CONTINUED LEASE OF SPACES IN
THE MUNICIPAL LOT FOR GUEST AND STAFF.
THE EXISTING 4 SPACES ARE NOT ADEQUATE.

2. Are there exceptional or extraordinary circumstances or conditions applicable to the site of the variance that does not apply generally to other properties in the same zone? (If yes, please elaborate):

EXISTING 4 SPACES PROVIDED BY BUILDING
IS NOT ADEQUATE FOR SUCCESSFUL
OCCUPANCY.

3. Do the exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zone code! (if yes, please elaborate):

Vicinity Map

-- Directional Map indicating how to get to the Property involved in the request.

- Zoning of Property

Improvement Location Certificate of Survey (ILC or ILS)

Site Plan showing Precise Nature of the Proposed Use – To Scale

- Scaled Drawings of Proposed Design of Structure
 - Plan View and Sections
- Building Heights – all 4 directions N/S/E/W
- Topography

- Building Location
- Setbacks
- River or Creek Setbacks
- Parking Plan
- Traffic Circulation
 - Location and Width of Existing and Proposed Access Points
 - Location of Existing Driveways and Intersections
- Landscaped Area – Plan
- Approximate Location of Existing Wooded Areas and Rock Outcrops
- Location and Type of Existing and Proposed Easements
- Utility Easements
- Drainage Features

Preliminary Building Plans and Elevations

N/A

- Indicates Dimensions
- General Appearance
- Scale
- Interior Plan for the Buildings

Elements needed on the Site Plan

N/A

- Scale
- North Arrow
- Date Prepared
- Lot Dimensions, Area, Entire Site Acreage

Architecture Details – Materials Board

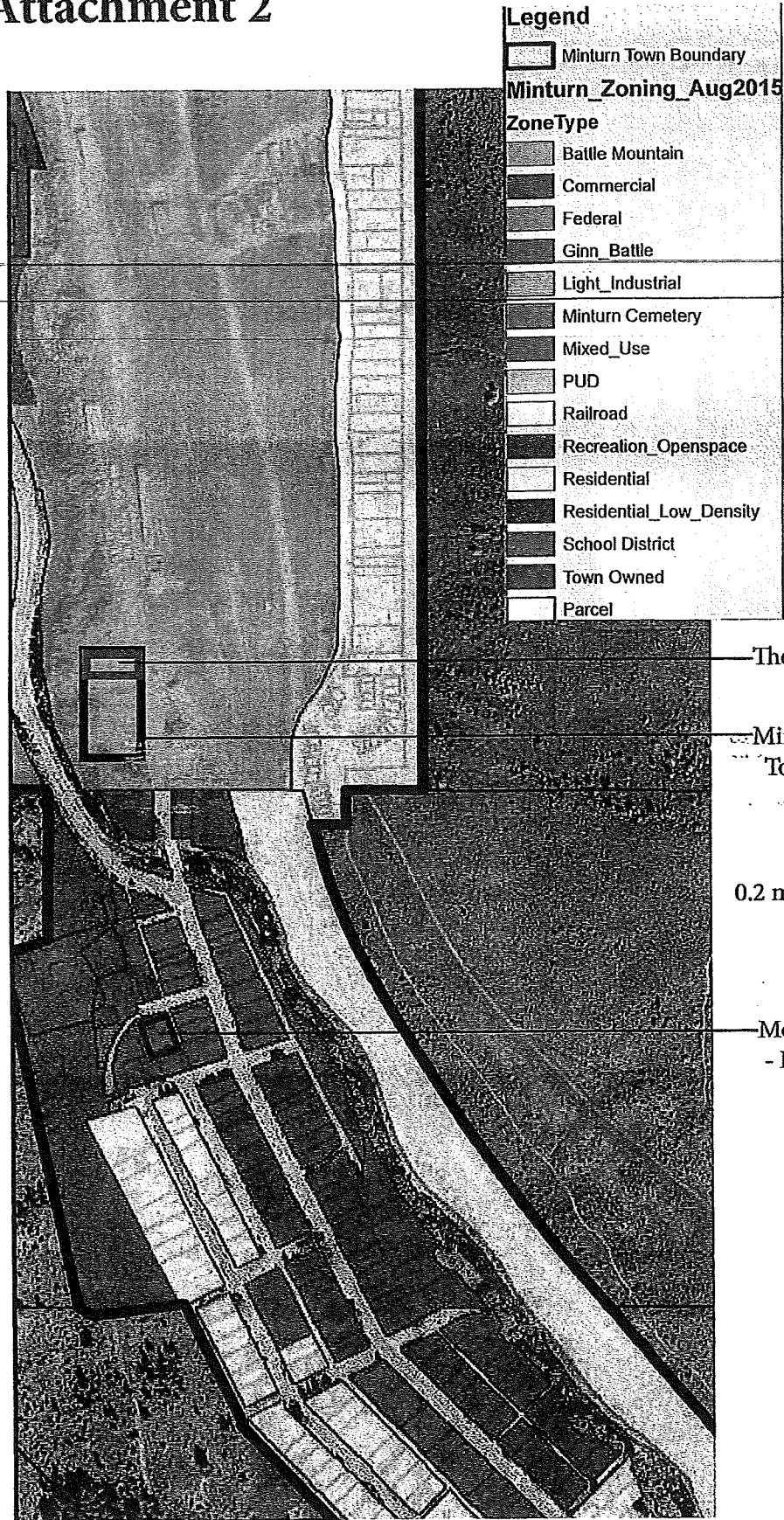
N/A

- Windows – Placement and Color
- Doors – Placement and Color
- Siding – Type and Color
- Roof Material – Type and Color
- Paint Color

The Planning Commission and Town Council are required to make the following findings before granting a variance:

1. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
2. The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of the zoning code;
4. There is no substantial impairment to the public that would result from the granting of the variance.

Attachment 2



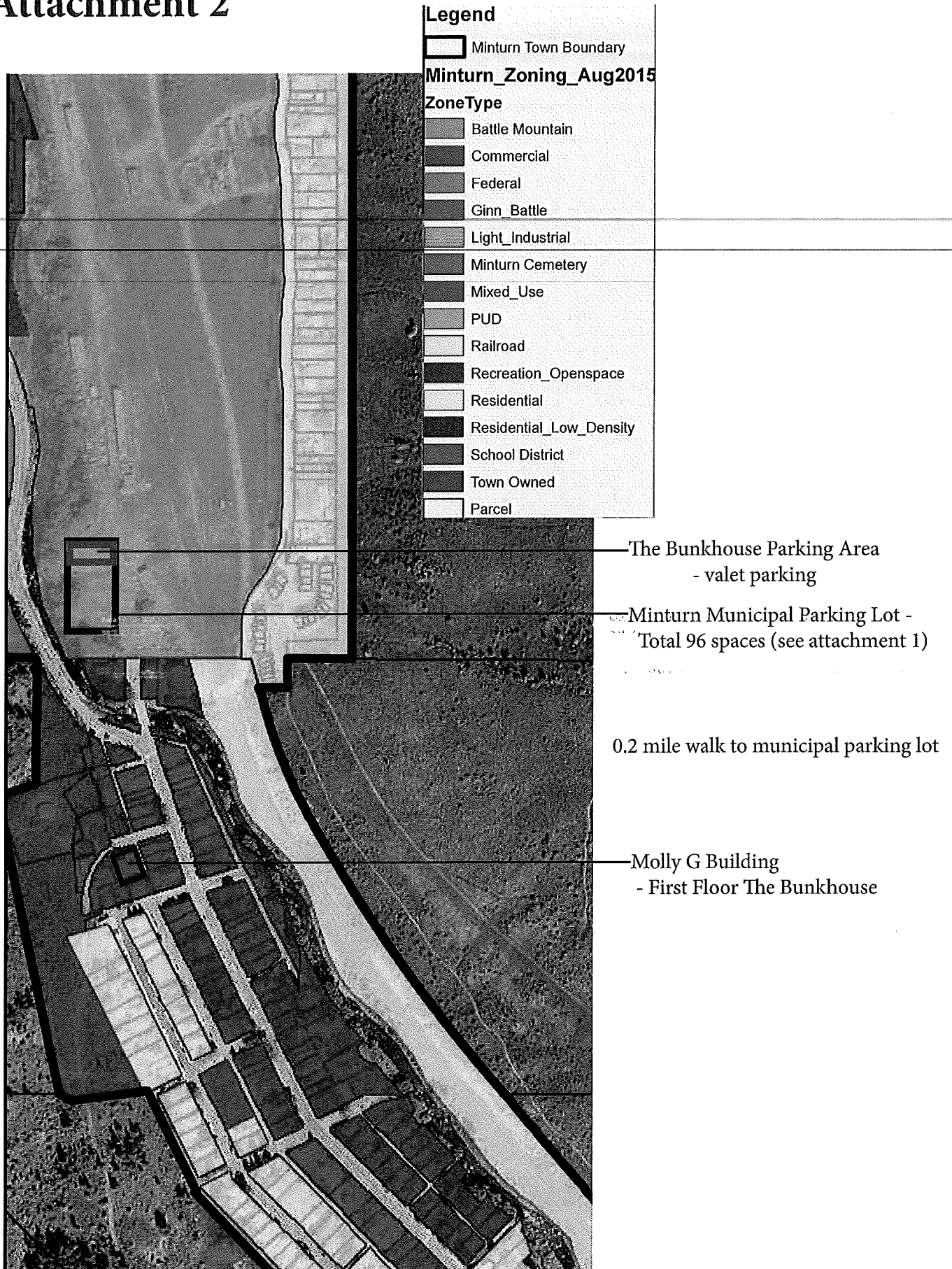
The Bunkhouse Parking Area

Minturn Municipal Parking Lot -
Total 96 spaces (see attachment 1)

0.2 mile walk to municipal parking lot

Molly G Building
- First Floor The Bunkhouse

Attachment 2



To: Mayor and Council
From: Jay Brunvand
Date: October 6, 2021
Agenda Item: Acceptance of the Fiscal Year 2022 Annual Budget

REQUEST:

Staff is requesting the Town Council to accept the Fiscal Year 2022 Preliminary Budget

INTRODUCTION:

As required by Colorado State law, the Council must accept the proposed budget for the following year no later than October 15 of the preceding year.

ANALYSIS:

10/6/2021 Council Meeting

When reviewing the Draft FY2022 Annual Budget it is important to realize that this budget is tight. It recognizes revenues and expenses for the forthcoming year in a conservative and mindful manner. It recognizes the needs and attempts to fairly estimate income and growth as the local economy safely recovers. Be assured this budget is conservative and represents the needs of the Community in relation to the resources of the Town government.

The second meeting in October we will have a brief presentation in which we will review proposed special projects and capital expenses and then allow time for Council to express their goals and priorities for the budget. This will give Staff the necessary time to prioritize your concerns. It is not a promise to include new items in the budget, rather a chance to consider and discuss what can be done in FY2022 and plan for the future.

Please reference the Budget Schedule and Calendar included on pages 70-74. This will give you a clear vision of what meetings we will have discussions and public hearings. We all know the budget includes the operational items like electric bills and general day to day items. My intent during the first meeting in October is not to review that material in detail, rather to highlight some of the recent items of note in our General Fund revenues and expenses and allow for council and public questions. I have listed a few of the accounts below to show the Council that we do have money to perform some of the items we have recently discussed that are not Special Projects.

ITEMS OF NOTE:

GENERAL FUND (01):

INCOME:

- Property Tax (01-00-4010) – The amount reported in the Certification of Values represents an 8% increase over 2021. As a reminder, in 2019 statewide General Election included a question to reduce the impact of the Gallagher Amendment. This ballot question passed and froze the Residential Assessment value at 7.15%. The Property Tax calculation is based on that ballot question. However, in November 2021 the statewide ballot will again include a question that, if

passed, will lower the assessment rates on both residential and commercial properties. In addition, the state legislature passed SB21-293. The results of these two issues are as follows:

	Current Rate	SB21-293	SB21-293 and Initiative 27 passes	W/out SB21-293 but Initiative 27 passes
Residential	7.15%	6.95% for '22 & '23*	6.95% for 2yrs	6.5%
Commercial	29%	29%	29%	26.4%

I have not heard a lot on Initiative 27 and we are in the same boat as some very vocal groups such as schools, teachers, and fire districts which are opposed to the amendment. It is safe to say this election will have potential outcomes that will affect Minturn.

- Staff's concern with all revenues is to not spend money before we have it yet balance the probability of projects coming to fruition.
- Lodging Tax (01-00-4039) has been growing year over year showing a slow gain. This is due to more units and rental of those units as well as a more developed and uniform collection system locally and state wide. Changes in the state laws have made it easier for companies like AirBnB to submit their taxes directly to the state for distribution to Minturn.
- Sales Tax (01-00-4040 and 4050) is growing quickly and to fairly represent realistic numbers I have modified how 2022 is calculated. In past years I have used the prior two years and developed a reasonable number. For 2022 I took what we have actually received year to date (Jan-July) and then added the actual Aug-Dec 2020 numbers. I will continue to watch this develop but at this point I am reasonably comfortable with the calculation. The state requires companies who sell online from both intra and interstate to collect and submit sales tax where the goods are received. Prior to this, on-line sales were either not taxed or taxed from the corporate home office. These payments are made to the state and distributed to the town monthly and is showing to be about a 15-20% increase for the town.
- The town is anticipating a number of new unit developments in 2021. This is represented in the increase for Planning and Development fees. Although we have tried to be conservative in these numbers, several of our General, Enterprise, and Capital fund revenues reflect a small increase by association. Although we have several large projects that could provide a large increase in our numbers, weighted against the water tap moratorium we are in a wait-and-see position.
- Currently we have 7 leases on the lease lot budgeted for 2021. This includes the concrete plant, and seven others in the developed area behind the berm. (01-00-4516 thru 4526). This revenue source allows for diversification of our revenues and accounts for a budgeted \$138,400 income. This does not include less assured incomes earned from snow dump services, interest on investments, etc. This diversified income represents 23% of the estimated amount collected in property and 15% of the estimated sales tax. Overall this income accounts for 6% of our total budgeted General Fund revenues for 2022.
- In recent years the town has earned upwards of 2.5% interest on our liquid cash investments. As a result of COVID this has dropped to less than 1/10%. This downward earning cycle will continue until the Federal Reserve begins to raise interest rates again in the wake of COVID. (01-00-4540). Although the economy is facing significant inflationary factors, little wavering has been witnessed at the Federal Reserve and it is not encouraging for at least the next 6-9months.

EXPENSE:

- For all Employee insurance I have budgeted a 10% increase. The good news is that Staff has attended several virtual insurance meetings and, for the most part, it appears we may see less than 3% overall increases. In recent years we have seen negative, zero or very modest increases. In an industry that has seen 10-40% annual increases and wild fluctuations in the private markets, Staff feels this continues to be a tremendous success in cost management.
- Some of the more beneficial community organizations have been funded in separate line items. For example, The Vail Valley Partnership will be funded at \$3,500 (01-01-5235) and the Minturn Community Fund is funded at \$15,000 (01-05-5275), the Minturn Bike Park is funded at \$15,000 (01-06-5357) and the Minturn Fitness Center at \$2,500 (01-06-5354). This is in addition to substantial in-kind contributions. The Shooting Range work with the Keystone Policy Institute will be continuing in to 2022.
- The Planning Department budget is seeing an overall 69% increase over 2021. This is due to the budgeted expenses of the Community Plan, Chpt 16 revisions, and the development of Planning Guidelines. These three items represent a large umbrella of projects that are one-time expense. The department has received a \$100,000 grant which although attributed to the department is reflected as income.
- Town Events and promotions (01-05-5275) was reduced from \$75,000 to \$65,000 from 2020 but has been restored to its previous \$75,000 in 2022.
- The Police and Legal Department includes the contracted Code Enforcement Officer and a contribution to the Wildfire Fund.
- The Public Works Department includes funding for contracted snow plow/removal services, \$2500 plus in-kind for the Minturn Fitness Center, and \$15,000 plus in-kind for the Minturn Bike Park.
- Public Building R&M is budgeted at \$15,000 and used to assist in maintenance and upgrades to our facilities.
- Maintenance and improvements for streets and sidewalks has again this year been budgeted for \$40,000 (01-06-5352). This does not include a scheduled overlay of Pine St which will be funded in Fund 06 with proceeds from the Construction Use Tax.
- A new Public Works vehicle was scheduled for 2021. Due to the difficulty in supplies of new trucks this purchase has been moved to 2022 and the vehicle scheduled for 2022 has been moved to 2023. It is difficult to tell if the supply chain issues will be resolved so changes may be made here as we proceed into 2022.

ENTERPRISE FUND (02):

- In accordance with Council discussion, it was advised to not increase monthly water rates in 2022. This is largely due to when we will begin our water tank project and the associated loan. FY2022 water rates will remain at:
 - A base rate of \$90.83
 - A Use Rate per 1,000gal from \$6.83
 - No increase in trash services is proposed
 - A 3% increase will be implemented to the tiered system for Residential Tap Fees, System Improvement Fees, and Cash in Lieu of Water fees. And, in accordance with previous year's, to match the tap rates for commercial with those of the Eagle River Water and Sanitation District.
 - As we move forward with the necessary water plant upgrades rates will continue to be reevaluated with the options that are presented.

- I have broken out the various Capital Reserve revenues associated with remodels and new development (02-00-4320, 4321, and 4322). As stated earlier this is pendent on anticipated growth and the effects of the existing water tap moratorium, however, is very conservatively budgeted.
- Council has discussed several times this past year that the Town is in the midst of moving forward with desperately needed Capital needs in the Enterprise Fund with the development and implementation of a much need and complete Capital Improvement Plan (CIP). Such needs include a new water tank, improvements to the filters and purification systems, and maintenance to the distribution system.

As part of this review and adoption of the CIP plan water rates, debt needs, and other sources of funding will be examined completely and will require rate increases and the issuance of debt to undertake all the necessary improvements.

There are several schedules in the budget beginning on page 85 that show what we have accomplished, what is planned for 2022, and what is on the horizon. Council and Staff will continue to evaluate our system and the pressing needs with funding opportunities to help accomplish our needs and goals. At this time staff is moving forward with connecting Well #4 to the Clear Well for purification purposes, testing and placement of new water storage tanks, a water loss detection system, and much needed repairs to the plant and distribution system. The work included to date is already evident as we monitor our reduced water loss in the distribution system, the link of Well #4 to the water plant, site approval for the new water tanks, and ongoing consideration of secondary water sources. This is reflected in the loan procurement in 2021 and expenditure in 2022 for the water tank construction.

- Annual H2O water right maintenance (02-06-5352) will increase approximately 4%. The \$133,000 covers the Cross Creek flow gage station, water rights of 5acre ft, 20acre ft, and 50acre ft through the Colorado River Pact. The gage station shows expense; however, this is split in thirds. We pay the full amount and then bill 1/3 to CBS/Viacom and 1/3 to BMD. At this time, it is unclear if BMD will continue to contribute to this expense.
- With the pending needs in the Enterprise Fund of water plant and distribution line work, it will be important that we save where we can and manage our reserves in the coming several years. Our water rates are admittedly steep as are the expenses and the estimated capital needs, all must be weighed as best we can.

Conservation Trust Fund (03):

- FY2022 expenditures in this fund include \$15,000 to stain and treat the wood of the Little Beach Park stage, Eagle River Park restroom, and the Town Manager's house. This maintenance is scheduled every five years or so.

BUIDING FUND (04):

- FY2022 reflects a \$96,223 transfer to the Capital Fund. \$10,000 will remain in Fund 04 for fixed asset needs or to accrue for larger projects in future years. The interfund transfer will be to accommodate non-Enterprise Fund expenses.

CAPITAL FUND (06):

- The Capital Fund recognizes revenues resulting from the implementation of the Construction Use Tax and the previously noted income from the Building Fund transfer.
- Vehicles/Equipment (06-01-5249) is earmarked for 50% of the cost of a new vehicle in Public Works, the remaining 50% is budgeted as an expense in the Enterprise Fund (02). Previous direction has been to maintain a 20year rotation of the two loaders. A new loader was purchased in 2020.

- Little Beach Park (06-01-5310) is budgeted for \$260,000 as a place holder. During previous Council budget discussions direction was given to replace the existing playground equipment. It is intended that this utilizes the Little Beach Park restricted cash for this purpose. These funds are maintained in a savings account per the previous BMD funding agreements. These funds are held only for development in Little Beach Park and will be utilized once a development plan is approved.
- Budget Review during upcoming meetings (Budget page 70):
 - 10/20/21
 - Session under Discussion and Direction for Council to discuss the budget as relates to goals and consider questions or direction from Council. This will begin with a short presentation and then discussion of major projects scheduled for
 - Q&A
 - 11/03/21
 - Public Hearing on FY2022 Budget (this is the ONLY public hearing)
 - GID public hearing and approval
 - Q&A
 - 11/17/21
 - First Reading of Budget approval Ordinances
 - Review of 2021 Supplemental Appropriations
 - Q&A
 - 12/01/21
 - Second and final reading of Budget approval Ordinances

COMMUNITY INPUT:

Staff has scheduled a Public Hearing on the budget at the November 3, 2021 Council Meeting, we will have a Public Hearings to adopt the four Ordinances used to formally approve the budget, and the public is encouraged to contact Staff to review any questions or comments they might have. Throughout this process any comments offered will be reviewed, as directed by Council items of concern will be discussed and may be included within the final budget document. The final approval of the budget will be on December 1, 2021.

BUDGET / STAFF IMPACT:

The annual fiscal budget sets forth projected income and expenses and sets forth a plan to achieve our stated goals. The budget will appropriate reserves, revenues and expenses and set the mill levy and fees for the ensuing year.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 to practice fair, transparent, and communicative local government.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to accept the Fiscal Year 2021 Draft Annual Budget and set Public Hearing at 5:30pm on November 3, 2021 to be held in the Council Chambers and via ZOOM at 302 Pine St, Minturn.

ATTACHMENTS: The FY2022 Budget document is provided under separate cover from the packet.

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Chris Manning
Tom Priest
Jena Skinner

To: Town Council
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: September 30, 2021
Re: 504 Eagle River Street and 502 Main Street Rezoning from Old Town Residential to Old Town Mixed Use - Ordinance 10 - Series 2021

This is an addendum to the Planning Commission staff report presented at the September 22, 2021 regular meeting which is also in this packet.

The Applicants, Mr. Michael Boyd and Mr. Casey Rietz, propose to rezone their properties, located at 504 Eagle River Street and 502 Main Street, respectively, from Old Town Character Area Residential Zone District, to Old Town Character Area Mixed Use Zone District. The request was reviewed by the Planning Commission on September 22, 2021 with a forwarded recommendation to the Town Council of approval without conditions.

Summary of Discussion at September 22, 2021 Meeting:

Two adjacent neighbors spoke at the hearing in opposition to the proposed zone change. Their concerns included the potential impact of changing the residential character and nature of the existing residential neighborhood as well as concern over the existing and future uses of the subject properties. The Planning Commission voted unanimously to recommend approval of the rezoning request.

Staff and the Planning Commission are recommending **approval without conditions**.

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Eliot Hovey
Chris Manning
Tom Priest
Jena Skinner

Planning Commission Hearing

Boyd / Rietz Rezoning Proposal 504 Eagle River Street & 502 Main Street

Hearing Date:	September 22, 2021
File Name and Process:	Rezoning Proposal
Owner/Applicant:	Michael Boyd and Casey Rietz
Representative:	Michael Boyd and Casey Rietz
Legal Description:	Boyd Property NE ½ Lot 1, Bocco's 2nd, Block 3 Rietz Property SW ½ Lot 1, Bocco's 2nd Block 3
Existing Zoning:	Old Town Character Area - Residential Zone District
Proposed Zoning:	Old Town Character Area - Mixed Use Zone District
Staff Member:	Scot Hunn, Planning Director
Recommendation:	Approval

Staff Report

I. Summary of Request:

The Applicants, Mr. Michael Boyd and Mr. Casey Rietz, propose to rezone their properties, located at 504 Eagle River Street and 502 Main Street, respectively, from Old Town Character Area Residential Zone District, to Old Town Character Area Mixed Use Zone District.

II. Summary of Process and Code Requirements:

The following section sets forth those sections of the Town of Minturn Municipal Code applicable to the processing and review of amendments to the text of the Land Use Regulations (Chapter 16 - *Zoning*), or the official zone district map for the Town.

Section 16-21-410 - Amendments to text of Land Use Regulations or Character Area and Zone District Map.

All amendments to the text of these Land Use Regulations or amendments to the Character Area Zoning Map shall comply with the following procedures and meet the standards set forth in this Division.

Section 16-21-420 - Purpose.

The purpose of this Division is to provide a means for changing the boundaries or any other map incorporated herein by reference, and for changing the text of these Land Use Regulations. It is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions.

Sec. 16-21-430 - Initiation.

- (a) Map amendment. An application for an amendment to the Character Area Zoning Map or any other map incorporated in these Land Use Regulations may be proposed by the Town Council, the Planning Commission, the Planning Director or the owner or another person having a recognized interest in the land affected by a proposed amendment, or his or her authorized agent.*
- (b) Regulation amendment. An application for an amendment to the text of these Land Use Regulations may be proposed by the Town Council, the Planning Commission, the Planning Director, the owner or another person having a recognized interest in land in the Town or his or her authorized agent, or any citizen of the Town.*
- (c) Application contents. An application for an amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or an application for an amendment to the text of these Land Use Regulations shall contain the materials specified in [Section 16-21-690](#) of this Article and the following additional materials:*
 - (1) Precise wording. If the application is for an amendment to the text, the precise wording of the proposed change shall be provided.*
 - (2) Map amendment. If the application requests an amendment to the Character Area Zoning Map or any other map incorporated in these Land Use Regulations, it shall include a map showing the present Character Area and zoning, and other designations of the subject property and of all adjacent properties. For a proposed amendment to the Character Area Zoning Map, the map shall be a survey that accurately describes the dimensions of the subject property, including its size in square feet or acres. This survey shall be accompanied by a written statement or map describing the existing uses of the subject property and on adjacent properties and a conceptual site plan showing, in general terms, the property's proposed layout, use, density and the timing for its development.*

Staff Response:

An application has been filed by the two property owners having a recognized interest in the land affected by a proposed amendment. As part of the application, the Applicants have provided survey's of both affected properties. No development is proposed. Both properties are currently developed and being used for residential purposes. 504 Eagle River Street currently has three (3) dwelling units that have been approved, constructed and inspected by the Town, while 502 Main Street has two units (primary residence with apartment) according to the Eagle County Assessor's information.

Section 16-21-440 - Procedure.

- (a) Review of applications. The submission of an application for an amendment, determination of its sufficiency, staff review and notice and scheduling of a public hearing for an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations shall comply with the procedures established in this Chapter.*
- (b) Review and recommendation of Planning Commission. The Planning Commission shall conduct a public hearing on an application for amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the staff report and the public testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall recommend to the Town Council either to approve or disapprove the application based on the standards in this Chapter and forward the application to the Town Council.*
- (c) Action by Town Council. After receipt of the recommendation from the Planning Commission, the Town Council shall conduct a public hearing on the application. At the public hearing, the Town Council shall consider the application, the relevant support materials, the staff report, the Planning Commission recommendation and the public testimony given at the public hearing. After the close of the public hearing, the Town Council, by a majority vote of the quorum present, shall either approve or disapprove the application based on the standards in this Chapter. Any amendment to the Character Area Zoning Map, any other map incorporated in these Land Use Regulations or the text of these Land Use Regulations approved by the Town Council shall be adopted by ordinance.*

Staff Response:

Public notice was provided for public hearings before the Planning Commission on September 22, 2021 and Town Council on October 6, 2021 in accordance with the requirements of the MMC.

Section 16-21-450 - Standards

The wisdom of amending the text of these Land Use Regulations, the Character Area Zoning Map or any other map incorporated in these Land Use Regulations is a matter committed to

the legislative discretion of the Town Council and is not controlled by any one (1) factor. In determining whether to adopt, adopt with modifications or disapprove the proposed amendment, the Town Council shall consider the following:

- (1) Consistency with Master Plan. Whether and the extent to which the proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan.*

Staff Response:

Staff believes that the 2009 Minturn Community Plan generally supports this request. The “Community Character/Urban Design” goal area of the Plan sets forth the following:

“Established in 1904, Minturn is one of the oldest communities in Eagle County. It is a diverse community comprising a mix of year-round residents and second home owners. Residents value the “small town” feel of Minturn and its unique identity (as identified in the community vision statement) which is quite distinct from the surrounding resort towns...”

From the Land Use/Transportation goal area of the Plan, staff suggests that the Town seeks balance within development proposals and amongst individual properties and neighborhoods:

“In order for a community to thrive economically, socially and culturally, there must exist a balance of compatibly located places for residents to live, work, recreate and shop for the things they need on a day-to-day basis.”

Additionally, staff believes that the proposed rezoning which will permit the use of a third dwelling unit (again, a unit that has previously been approved and inspected by the Town but never used as a third dwelling unit by anyone other than the Applicant) directly addresses or responds to the following strategy found on page 17 of the Community Plan, under “Affordable Housing” goal area:

“Goal (AHS 1): Promote Affordable Housing

“(AHS 1.1) Promote the development of housing opportunities for all income levels throughout all areas of town.”

The Town adopted its first housing action plan in 2019 for the purpose of addressing and completing a goal of the 2009 Community Plan. The overarching goal of the Housing Action Plan was to create more opportunities for locals housing through incentives to create or protect diverse housing types such as Accessory Dwelling Units:

“In creating this Housing Action Plan, our goal is to preserve the economic and social diversity of Minturn through a combination of incentives, regulations, partnerships, and Town initiatives, that ensure Minturn retains its historical status as a full-time resident population center.”

“Increasing infill opportunities such as duplexes, townhouses, and accessory dwelling units in existing neighborhoods”

Staff believes that the proposed rezoning of these two properties abutting the existing MU zone district - a zone district that promotes slightly higher residential densities along with other neighborhood commercial uses (many of which are only permitted after limited or conditional review processes to ensure compatibility) will generally promote the goals and policies of the Town.

Furthermore, in the case of 504 Eagle River Street, staff suggests that the rezoning will create additional rental opportunities for local residents and/or for visitors (if the property owner chooses to apply for a Short Term Rental license of one of his three existing units in the future). Staff is not aware of any plans by the owner of 502 Main Street to change the existing use of his property or to introduce any of the neighborhood commercial uses listed in the Old Town Character Area table of uses. Likewise, staff is not aware of any plans by the owner of 504 Eagle River Street to convert his existing primary residence into a business or commercial use of any kind. Staff believes such conversion would be impractical and unlikely in the future given the design and construction of the existing residential uses on the property.

- (2) *Compatible with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate Character Area and zone district for the land, considering its consistency with the purpose and standards of the proposed zone district.*

Staff Response:

The Old Town Character Area Residential Zone District permits single-family uses as uses ‘by right,’ along with “Accessory Apartments” and “Accessory Dwelling Units” as uses that are permitted via the Limited Review Use permit process. The Mixed-Use Zone District also requires a Limited Review Use permit for Accessory Apartments and Accessory Dwelling Units.

The subject properties already have Accessory Apartments and staff believes several of the surrounding residential or mixed-use zoned properties in the vicinity - to the north, south, and west - also have pre-existing Accessory Apartments or dwelling units in addition to single-family uses. Therefore, from a density perspective, the proposed uses located at 504 Eagle River Street (to continue use of the primary residential dwelling unit and to fully utilize two additional dwelling units that have previously been designed, approved and inspected by the Town)- will not be at all out of character with the surrounding uses and characteristics of nearby properties that are zoned Mixed Use and Residential. Parking for 504 Eagle River Street appears to meet or exceed the requirements of the Minturn Municipal Code. Likewise, the existing residential use at 502 Main Street is to continue.

This rezoning request is being proposed, in part, to allow for the use of a third dwelling unit at 504 Eagle River Street that has been approved by the Town in the past.

The Old Town Character Area Mixed Use Zone District covers a large area of Old Town on both sides of Hwy. 24, from Toledo Avenue to the north, to Pine and Boulder Streets to the west, and Meek Avenue /Eagle River Street to the east and south. The subject properties are contiguous with the southern boundary of the MU Zone District. The MU Zone District permits a wider variety of residential, professional office and commercial (both service and retail oriented) uses. Importantly, while low impact professional service and office uses are permitted “by right,” other, potentially more impactful retail or service commercial uses are only permitted in the MU Zone District via the limited or, in most cases, the Conditional Use Permit (CUP) process to ensure that uses are scrutinized and that any potential impacts are mitigated or fully addressed.

Based on this analysis and with consideration for the amount and type of existing residential uses mixed with commercial and service uses already occurring in the immediate vicinity of the subject properties, staff believes that the proposed rezoning of these two properties - as logical book ends to the existing MU Zone District abutting their properties - will be compatible and in character with existing and proposed surrounding uses.

- (3) *Changed conditions. Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.*

Staff Response:

Staff respectfully suggests that, since the time that the subject properties were zoned Residential, several conditions of strategic importance to the Town have changed.

From a policy perspective, the Town has adopted a Housing Action Plan in response to ongoing and seemingly increasing pressures on local housing and land development costs and availability. The Town has also approved an inclusionary zoning ordinance requiring new developments over five (5) units to mitigate their impacts on local’s housing by providing “Locals Only” or resident occupied housing units, as well as providing deed restricted, price or rent capped units aimed at certain local income levels. This is in response to the significant increase in housing and land values locally and a general lack of housing based on real estate listing and housing “needs assessments” completed by Eagle County on a periodic basis. Simply, there is an ongoing and ever-increasing need for diverse housing offerings including the provision of more Accessory Dwelling Units.

Rezoning the subject properties to allow, among other potential uses, additional dwelling units is viewed by staff as conforming with the Town’s goals and policies in response to changing conditions.

Additionally, the Town Council has consistently indicated that those areas fronting, or adjacent to, U.S. Hwy. 24 (Main Street) should be protected and treated - through zoning and development standards - as sales tax generated areas; meaning, that the Town should continue to review its zoning map and associated development standards as they apply to the Hwy. 24 corridor to ensure that zoning regulations and development standards

encourage rather than discourage additional commercial and mixed uses to ensure the viability and sustainability of Town.

- (4) *Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife habitat, vegetation and wetlands.*

Staff Response:

No development is proposed with this rezoning request and staff does not believe the rezoning request will have any adverse impact on the natural environment.

- (5) *Community need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.*

Staff Response:

For reasons stated above, staff believes that the proposed rezoning does address a community need - to expand the MU Zone District to permit additional opportunities for infill housing - by permitting “multi-family” housing (more than two dwelling units) where appropriate.

- (6) *Development patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning, and whether the resulting development can logically be provided with necessary public facilities and services.*

Staff Response:

Staff believes this standard addresses one of the more compelling aspects of the proposed rezoning; that being the location of the subject properties relative existing MU Zone District boundaries as well as their proximity to the sale tax-generating areas of the Old Town Commercial Zone District (located along the 400 Block of Main Street). Designation of 502 Main Street and 504 Eagle River Street as MU will provide a logical extension of the MU Zone District. Further, both properties enjoy adequate access to public streets, have ample parking and proximity to public facilities and services, and are located within 200-300 feet of an existing bus stop.

- (7) *Public interest. Whether and the extent to which the area to which the proposed amendment 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.*

Staff Response:

(See staff response to items/criteria number(s) 3 and 5 above).

Section 16-21-460 - Action by Planning Commission.

For each application heard by the Planning Commission, the Planning Commission shall forward within thirty (30) days after the public hearing one (1) of the following recommendations to the Town Council, or it may table an application for a maximum of forty (40) days to receive additional information. No public hearing shall continue for more than forty (40) days from the date of commencement without the written consent of the applicant.

- (1) Recommend approval of the application as submitted or with certain conditions as stated;*
- or*
- (2) Recommend denial of the application with all reasons clearly stated.*

III. Zoning Analysis:

The subject properties are located within the “Old Town Character Area” Residential Zone District. In fact, their properties form the northern boundary of the Residential zone district on the east side of Hwy. 24. Directly to the north, the two properties abut Meek Avenue/Eagle River Street and the Mixed-Use zone district.

The description and purpose of the Old Town Residential Zone District are as follows:

- “(a) The neighborhood is bisected by Highway 24 and is **characterized by single-family residences with a mix of business and institutional uses.** The residences are typically one (1) and two (2) stories, with outbuildings and minimal setback between structures.*
- “(b) The purpose of this zone is to provide for **continued residential use and redevelopment that preserves the unique character and scale of the neighborhood.** An objective is to retain the historically residential areas as quiet and safe neighborhoods while allowing for limited home-based occupations and home-based businesses to encourage permanent residency. This area can accommodate reasonable growth where land and services are available.”*

- Town of Minturn Town Code Section 16-6-20

Similarly, the description and purpose of the Old Town Mixed Use Zone District are as follows:

- “(a) This area **allows a compatible mix of residential uses, low-impact commercial uses and institutional uses that serve residents and visitors.** The Old Town Mixed-Use Zone can accommodate various types of development if found not to significantly impact nearby properties.*
- “(b) The Old Town Mixed-Use Zone is intended to **provide sites for combined residential and low-impact commercial and service uses which maintain a predominantly residential appearance.** This area can accommodate reasonable growth where land*

and services are available and when services and amenities are needed for residents and visitors.”

- Town of Minturn Town Code Section 16-6-40

Staff respectfully suggests that the proposed rezoning from Residential to Mixed Use Zone District, particularly given the current nature, scale and character of residential structures located on the subject properties, will accomplish objectives of *both* the Residential and MU Zone Districts. Specifically, while the rezoning theoretically provides “sites for combined residential and low-impact commercial and services uses which maintain a predominantly residential appearance” to serve residents and visitors, the two properties and the neighborhood in general will likely continue to be characterized by “single-family residences with a mix of business and institutional uses” in an manner that “preserves the unique character and scale of the neighborhood.”

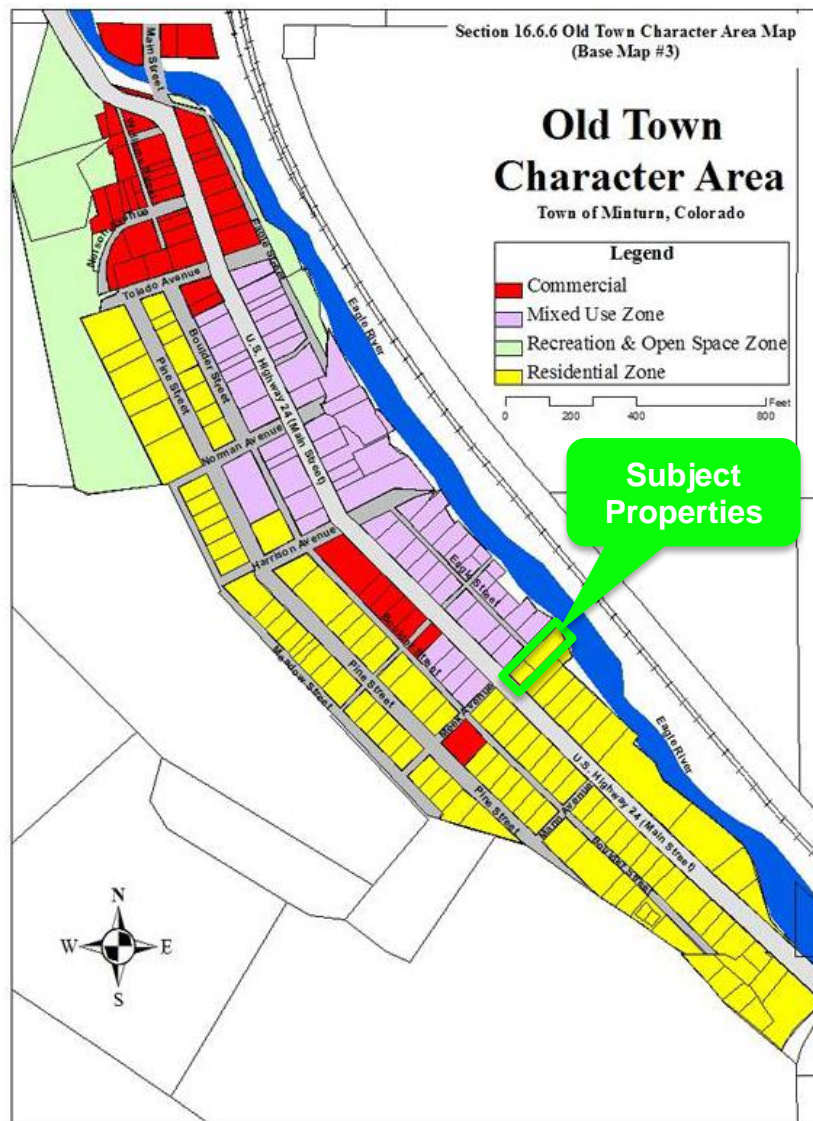


Figure 1: Old Town Character Area Zoning Map

VI. Staff Recommendation: Approval

Staff is recommending **approval** of the proposed rezoning request for 504 Eagle River Street and 502 Main Street based on the analysis provided in this report.

With the Planning Commission's recommendation, staff will present Ordinance No. (TBD), Series 2021 to the Town Council at their regularly scheduled meeting of Wednesday, October 6, 2021.

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 10 - SERIES OF 2021**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO, REZONING NE ½ OF LOT 1, BOYD
PROPERTY SUBDIVISION AND SW ½ OF LOT 1, BLOCK
3, BOOCO'S 2ND SUBDIVISION, FROM RESIDENTIAL TO
MIXED-USE IN CONFORMANCE WITH THE TOWN OF
MINTURN MASTER PLAN AND LAND USE CODE**

WHEREAS, the Town of Minturn ("Town") is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council ("Town Council") is authorized to act; and

WHEREAS, the Boyd Property Subdivision Final Plat was recorded in the Office of the Eagle County Clerk and Recorder on September 9, 1997 at Reception No. 632503, attached hereto as **Exhibit A**; and

WHEREAS, the SW ½ of Lot 1, Block 3, Booco's 2nd Addition was platted in 1904; and

WHEREAS, Minturn Municipal Code (the "Code") Sec. 16-6-20 and 16-6-40 describe the Old Town Residential Zone and Old Town Mixed-Use Zone; and

WHEREAS, Code Sec. 16-21-410 through 450 provides for the consideration of amendments to the Town's Character Area Zoning Map; and

WHEREAS, the Planning Director has determined that it is appropriate and has accepted an application for certain real property known as NE 1/2 of Lot 1, Boyd Property Subdivision, otherwise known as 504 Eagle River Street, and the SW ½ of Lot 1, Block 3, Booco's 2nd Subdivision, otherwise known as 502 Main Street (hereinafter the "Property") located in the Old Town Character Area to be rezoned from Residential Zone to Mixed-Use Zone; and

WHEREAS, the proposed Mixed-Use zoning for the Property provides for single-family residential uses, accessory residential uses as well as complimentary and compatible professional office, service and commercial uses; and

WHEREAS, on September 22, 2021, the Town of Minturn Planning Commission considered the application for rezoning the Property and recommended that the Town Council rezone the Property from Residential Zone to Mixed-Use Zone; and

WHEREAS, the Town of Minturn Planning Commission and the Minturn Town Council have held duly-noticed public hearings as required by the Minturn Municipal Code, and the Town Council now wishes to rezone the Property.

WHEREAS, Town of Minturn Planning Commission and the Minturn Town Council have

determined that the rezoning provided for herein is in conformance with the Minturn Land Use Regulations and Master Plan.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. The following property is hereby rezoned to South Town Residential Zone:

NE ½ OF LOT 1, BOYD PROPERTY SUBDIVISION AND SW ½ OF LOT 1, BLOCK 3, BOOCO'S 2ND SUBDIVISION

As depicted on the Final Plat recorded in the Office of the Eagle County Clerk and Recorder on September 9, 1997 at Reception No. 632503 and platted in 1904

SECTION 3. Within thirty (30) days after the effective date of this Ordinance, the Town Clerk shall cause a printed copy of the amendment to the Town Zoning District Map to be made, which shall be dated and signed by the Mayor and attested to by the Town Clerk, and which shall bear the seal of the Town. The amended map shall include the number of this Ordinance. The signed original printed copy of the Zoning Map shall be filed with the Town Clerk. The Clerk shall also record a certified copy of this Ordinance with the Eagle County Clerk and Recorder. The Town staff is further directed to comply with all provisions of the Minturn Land Use Regulations, Minturn Municipal Code Chapter 16, to implement the provisions of this Ordinance.

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 6th DAY OF OCTOBER, 2021. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 20TH DAY OF OCTOBER, 2021 AT 5:30p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 20TH DAY OF OCTOBER, 2021.

TOWN OF MINTURN, COLORADO

Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

Exhibit A



LAND DEVELOPMENT APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT

P.O. Box 309 302 Pine Street

Minturn, Colorado 81645-0309

Phone: 970-827-5645 Ext. 2

Email: planner1@minturn.org

APPLICANT: Michael Boyd	ADDRESS: 504 E and 502 1/2 Eagle St. Minturn, CO 81645	SIGNATURE:
	PHONE: 970 390 6702 FAX:	NAME: Michael Boyd
	EMAIL: mastersealers@comcast.net	TITLE:
OWNER(S) OF RECORD: Michael Boyd	ADDRESS: 504 and 502 1/2 Eagle St. Minturn, CO 81645	SIGNATURE:
	PHONE: 970 390 6702 FAX:	NAME: Michael Boyd
	EMAIL: mastersealers@comcast.net	TITLE:
OWNER(S) OF RECORD: Casey and Karen Rietz, James and Kimberly Caveth	ADDRESS: 502 Main St Minturn, CO 81645	SIGNATURE:
	PHONE: 6302918606 FAX:	NAME: CASEY RIETZ
	EMAIL: CRIETZ355@YAHOO.COM	TITLE:
ENGINEERING FIRM: N/A	ADDRESS:	CONTACT PERSON:
	PHONE:	FAX:
	EMAIL:	

Presubmittal Date	Presubmittal Planner: Madison Harris
Parcel ID Number	2103-263-22-001, 2103-263-01-014 (Example: 210326325001) from your full card printout
Address or Intersection	502 1/2 Eagle St, 502 Main St Minturn, CO 81645
Brief Legal Description	Subdivision: Boyd Property Lot: 1 NE 1/2
Subdivision Name & Filing #	Subdivision: Bobco 2ND Block: 3 Lot: 1 Parcel in SW 1/2
Project Description	Rezone 502 1/2 Eagle and 502 Main from Residential to Mixed Use.

	Existing	Proposed:
Zoning:	Residential	Mixed Use
Land Use:	Residential	Residential
Total Acres:	.261	.261
F.A.R./Density:		
Project Name:	Boyd Rezoning	Boyd Rezoning
Related Case #'s:		

CASE TYPE			
<input type="checkbox"/> PUD CDP: Concept Dev. Plan	<input type="checkbox"/> PP: Prelim. Subdivision Plat	<input type="checkbox"/> DRB - P: Des. Rev. Bd. Prelim	<input type="checkbox"/> A-FP: Fence Permit
<input type="checkbox"/> PUD PDP: Prelim. Dev. Plan	<input type="checkbox"/> FP: Final Subdivision Plat	<input type="checkbox"/> DRB - F: Des. Rev. Bd. Final	<input type="checkbox"/> A-MOD: Modification/Add
<input type="checkbox"/> PUD FDP: Final Dev. Plan	<input type="checkbox"/> MS: Minor Subdivision	<input type="checkbox"/> ADM: Admin. Des. Review	<input type="checkbox"/> A-MIN: Minor Ext. Mod.
<input type="checkbox"/> PUD ASP: Admin. Site Plan	<input type="checkbox"/> ASR: Admin. Subdivision Replat	<input type="checkbox"/> A-SIGN: Admin. Sign Review	<input type="checkbox"/> ANNEX: Annexation
<input type="checkbox"/> PUD FDP A: Amendment	<input type="checkbox"/> V: Vacation of Easement	<input type="checkbox"/> A-DIG: Admin. Dig Permit	<input type="checkbox"/> TU: Temporary Use
<input type="checkbox"/> LU-V: Land Use - Variance	<input type="checkbox"/> R.O.W. Vacation	<input type="checkbox"/> A-DEMO: Admin. Demo Per.	<input type="checkbox"/> CU: Conditional Use
<input type="checkbox"/> NU -V: Non Use - Variance	<input checked="" type="checkbox"/> REZ -Rezoning -Straight Zoned	<input type="checkbox"/> A-LTD: Admin. Limited Use	<input type="checkbox"/> APPLS: Appeals

This section for OFFICE USE ONLY

Case No:	Case Mgr.	Case Eng.
Fees Paid	Y N \$ 1000	Dates Referred Out
Dates to be Returned	Planning Comm Date:	

This development application shall be accompanied with the applicable fee and shall not be considered valid until the total application fee is received. If the application type requires a deposit, minimum deposit balances must be maintained or replenished upon notice by the Town. Submittal of this application does not mean you will receive automatic approval, nor does it establish a vested property right in accordance with C.R.S. 24-68-105(1). Further processing and review of this application may require additional information, and/or meetings, as outlined in the Town of Minturn Zoning and Development Code

To: Town of Minturn

From : Michael Boyd

Attn. Maddison Harris, Scott Hunn

This is a letter of intent for zoning change application for 502 1/2/504 Eagle Street and 502 Main Street.

The intent is to change the zoning to Mixed use to the end of Eagle street making it continuous front and back to match.

The Boyd property currently has two ADU units both of which have been inspected with final CO'S and we are just trying to clean up the zoning map.

In addition as neighbors and joint applicants to make this match front and back as the rest of Main and Eagle Street we authorize as owners of 502 Main Street for Michael Boyd to be the point person on this application.

Please copy us on any emails or correspondence.

X



Casey & Karen Rietz

Madison Harris

From: Contact form at Minturn CO <cmsmailer@civicplus.com>
Sent: Friday, September 17, 2021 5:00 PM
To: Madison Harris
Subject: [Minturn CO] Re-zoning (Sent by Heather Douglas , Hdouglas03@gmail.com)

Hello mharris,

Heather Douglas (Hdouglas03@gmail.com) has sent you a message via your contact form (<https://www.minturn.org/user/353/contact>) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at <https://www.minturn.org/user/353/edit>.

Message:

Hi Madison,

I went to the Minturn website thinking I could find your email and this is what I came up with. My name is Heather Douglas. My husband Cameron and I own 482 Main St. We support the re-zoning of 504 Eagle River St. and 502 Main St. We do not see a problem with this. Would you please consider this as our vote?

Thank you!
Heather Douglas

Madison Harris

From: Scot Hunn <scot@hunnplanning.com>
Sent: Thursday, September 16, 2021 8:33 PM
To: Madison Harris
Subject: Fwd: 592/504 main

Please respond to Mr. Calabrese and add his email to the public record for the rezoning.

Thank you!

Scot Hunn, AICP/MPA
Principal/Owner
Hunn Planning & Policy LLC.
scot@hunnplanning.com
(970) 343-2161

----- Forwarded message -----

From: Mike Calabrese <mike.calabrese9@gmail.com>
Date: Thu, Sep 16, 2021 at 6:13 PM
Subject: 592/504 main
To: <Planner@minturn.org>
Cc: Michael Boyd <mastersealers@comcast.net>

Hello

I am the owner at 494 eagle at and I would like to go on the record supporting the zoning change for the Boyd property - such that it matches the rest of the street

Please let me know if you have any questions

Thanks

Mike calabrese

Sent from my iPhone

Minturn Planning Department
Minturn Town Center
302 Pine Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Tom Priest
Chris Manning
Jena Skinner

MEMORANDUM

To: Town of Minturn Town Council
From: Scot Hunn, Planning Director
Date: October 1, 2021
Re: Minturn North Preliminary Plan for PUD – Discussion and Direction Item

The Town of Minturn has been reviewing the Minturn North Preliminary Development Plan for Planned Unit Development (PUD) since November 2020. Minturn North PUD is a 100% residential development located on Union Pacific Railroad property, north of Railroad Avenue, east of Minturn Road, and west of Taylor Avenue on the Town’s north side. The Applicant is Minturn Crossing, LLC.

Since April 2021, the Minturn Planning Commission has held four public meetings to review the proposed Preliminary Plan, as well as companion zone change and Preliminary Plat applications. During the review period, and specifically as part of the Planning Commission’s public hearing process, the Applicant and Town staff have identified and worked to resolve several outstanding issues related to legal access across Union Pacific Railroad property, street and utility design within the PUD, and off-site improvements required to serve the project. In several instances over that same period, the Applicant has redesigned aspects of the project to address areas of concern.

On August 25, 2021, the Planning Commission held their last public hearing to consider the Preliminary application package and voted unanimously to recommend *denial* of the Preliminary Plan for PUD, while also recommending approval of the zone change and Preliminary Plat. Staff had recommended approval of the Preliminary Plan, with several detailed conditions requiring the Applicant to address prior to any Final Plan and Final Plat application (the last of three steps in the review and approval process).

The Planning Commission’s recommendation for denial of the Preliminary Plan was based, in part, on the Commission’s finding that the Preliminary Plan did not comply with all applicable standards. Specifically, while the Commission members individually expressed support for the PUD, the Commission pointed to concerns regarding existing off-site conditions and safety at the “S-Curve” on Railroad Avenue and the potential for the Minturn North PUD to exacerbate those conditions – without further mitigation - as reasons for denial.

Since that time, the Applicant has worked to update their overall plan layout and design in a manner that remains true to the original layout and design of the project, but which responds to and respects comments and concerns expressed by the staff, the Planning Commission as well as adjacent

property owners. Items having to do with impacts to residents on Taylor Avenue, the Taylor Avenue/Minturn Road intersection design, and impacts to the Minturn Towne Homes' access, drainage and snow storage have been addressed in updated plans. Additionally, the Applicant has worked with the Town and the Union Pacific Railroad to identify potential mitigation solutions for the "S-Curve" and pedestrian safety along the Railroad Avenue corridor.

Typically, following Planning Commission review and action on a Preliminary Plan for PUD application, the file is forwarded with recommendations and conditions to the Town Council 'as is' for its review. However, because the Applicant now proposes revisions to the Preliminary Plan (following Planning Commission action), staff believes the Council must determine if the changes made to the Preliminary Plan since Planning Commission action are "substantial" enough to warrant remanding the Preliminary Plan back to the Planning Commission for further review.

Section 16-15-180. - *Substantial change from Planning Commission review*, Minturn Municipal Code states the following:

(a) Submittal to Planning Commission; public hearing. If, after the initial public hearing on the application, the Town Council proposes to consider approval of a preliminary development plan for the PUD that constitutes a substantial change in or departure from the initial preliminary development plan for the PUD recommended by the Planning Commission, the matter shall be submitted back to the Planning Commission for consideration at a public hearing. The Planning Commission shall consider the matter within thirty (30) days of its referral by the Town Council. At the public hearing, the Planning Commission shall consider the submitted materials, any staff report and the testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall recommend to the Town Council in accordance with the standards and criteria of this Code and forward the application and a recommendation back to the Town Council.

Staff does not believe the updated plan by the Applicant represents a substantial change or departure from the initial Preliminary Development Plan for PUD; rather, staff respectfully suggests that the changes now being proposed by the Applicant represent a refinement of the plan and, importantly, a direct response to stated concerns by the staff, adjacent neighbors and the Planning Commission while maintaining in a substantial manner the overall design, layout, intent and character of the Preliminary Plan that was presented to the Planning Commission initially.

However, before the Applicant spends considerable time and financial resources to update their civil engineering drawings and any associated reports or technical studies to reflect the updated plan – something that will be required of the Applicant prior to any further review by the Town - staff and the Applicant request direction from the Town Council on the issue of "substantial change" in accordance with Section 16-15-180.

October 6, 2021

Town of Minturn
Town Council
301 Boulder Street, #309
Minturn Colorado 81645
970 827 5645

Minturn North PUD

Thank you all for your attention on this project.

You may remember that we presented this project in early 2020 to the Planning Commission and Town Council. While the concept received unanimous support, we worked to address concerns that were brought up at that time from the Town as well as from the public. After a great deal of work on the project we had the opportunity to present the project to the Planning Commission with a Recommendation for Approval by Town Staff. While the overall density and layout of the project were acceptable to the Commission. They decided to deny the project based solely on the safety of the S-curve and the intersection of Minturn Rd and Taylor St. In fact, as part of the denial, they added a condition that we produce a more effective solution on the Minturn Rd and Taylor St intersection.

As we were given a recommendation for denial at the Commission level, we were faced with the decision to present one of three options to the Town Council.

- 1) Present the plan as presented previously, along with supportive evidence that the safety concern was not substantial.
- 2) Same as option 1: but provide additional solutions to the intersections.
- 3) Present minor modifications that not only address Commission concerns, but also allay additional concerns brought up from the public during the public hearing.

We have decided to move forward with the third option and are proposing a slight modification of the original plan. One that fixes the Minturn Rd – Taylor St intersection, as well as proposes steps to make the S-curve a safer condition. Additionally, we have reduced the core density by 17 units and have added alleys. The overall layout stays virtually the same, but this allows us to remove driveways from Taylor Street and allows us to greatly reduce driveways along Minturn Road. Removing driveways addresses the Taylor street residents concerns regarding parking and traffic. With the degree of work and offsite improvements that are required, we are unable to lose overall density within the project. It is for that reason that we are proposing eliminating the game creek crossing along with the 8 estate lots to the north and replacing these with a single multifamily parcel entitled for up to 40 deed restricted "locals-only" units, roughly 30% of the project. This results in a decrease in lots from 95 lots to 71 lots, but an overall increase in maximum potential density and SFE of 5%. Please remember these numbers assume every possible ADU and duplex would be built out. Regarding the slight increase in density, the loss of the more valuable lots requires the addition of a greater number of lots that are less valuable to maintain the economic viability of the project.

The overall intent of the project has remained the same and we have only provided enhanced solutions to any areas that have been brought up as areas of concern. This project meets the Community Plan, meets all requirements of the PUD zone where it is located, has received support from Staff, matches the potential existing density on Taylor, continues the individual character of Town, provides a large percentage of locals housing, offers a wide diversity of housing options, provides an estimated \$12MM to the Town in revenue over the next 10 years, provides additional annual revenue after that, provides roughly \$2MM toward water system improvements, provides roughly \$3MM in offsite infrastructure improvements, creates legal snow storage and parking solutions, conveys Union Pacific water rights associated with this parcel, builds a large portion of the Eco Trail and addresses numerous road safety and quality concerns.

In addition to all of this, this project effectively blocks large resort style condominium development, large tract housing projects as well as large scale, high density residential projects from being built in this PUD zone. None of which further the character of Town, but all of which have much higher rates of return that will be spearheaded by large developers with money and influence.

We ask that you please accept this adjusted plan and allow us to come directly back in front of you as soon as we are able to revise our engineering and reports for the Preliminary Review.

Thank you for your time and commitment to decisions that represent the best for the entire Town of Minturn.

Gregory Sparhawk

GPS Designs, llc

Architecture + Planning

O . 970 470 4945

C . 425 495 7241

gregs@gpsdesigns.com

DEAD END TAYLOR, NARROW DEAD END PORTION HELP WITH DRAINAGE AND SNOW STORAGE

SHIFT FIFTH TO SOUTH TO BETTER ALIGN WITH FLATTER PORTION OF TAYLOR

GAME CREEK

30' CREEK BUFFER

LARGE NORTHERN LOT ACCESSED OFF MINTURN ROAD. MULTIFAMILY LOT WITH PROPOSED 40 UNITS

REDUCED FROM 8 LOTS TO 1 LOT (40 UNITS)

REDUCED FROM 55 LOTS TO 41 LOTS

REDUCED FROM 29 LOTS TO 26 LOTS

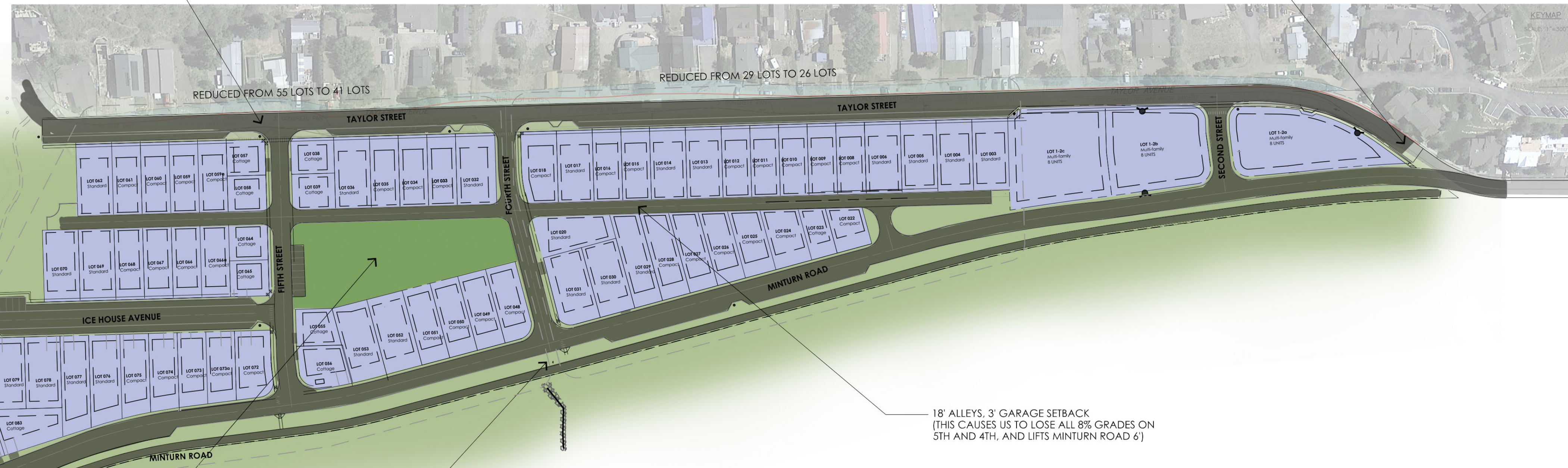
18' ALLEYS, 3' GARAGE SETBACK (THIS CAUSES US TO LOSE ALL 8% GRADES ON 5TH AND 4TH, AND LIFTS MINTURN ROAD 6')

1 SITE PLAN
1" = 100'-0"

MINTURN MILE/GAME CREEK PARKING TO RELIEVE TAYLOR

LARGE CENTRAL PARK

50' ROW ENLARGED TO ALLOW FOR LARGER BIKE PATH/ SNOW STORAGE. ALSO NECESSARY FOR GRADING



Density	72 lots - (189 Max Units total -IF all lots are improved with Max. entitlement)
Parks & Open Space	Phase One Asphalt sidewalk along west side of Minturn Rd to just north of 4th Street Phase Two Game Creek trail Central Park remaining asphalt sidewalk along west side of Minturn Road
Snow	internal snow storage area at Parks, Game Creek Open Area area for storage at Multi-family lots multiple windrow areas throughout west side length of Minturn Road to be used n Winter for snow.

UNIT TYPE SUMMARY					PHASE ONE	PHASE TWO
Lot Type	Min. Lot Size	# Lots	Max Units	Rq'd SFE	#/max/SFE	#/max/SFE
Standard	5,000sf	22	44	44	11 / 22 / 22	11 / 22 / 22
Compact	4,000sf	35	70	52.5	14 / 28 / 21	21 / 42 / 31.5
Cottage	2,500sf	10	10	10	1 / 1 / 1	9 / 9 / 9
North MF	-	1	40	40	0 / 0 / 0	40 / 40 / 40
Multi-Family	-	3	24	24	3 / 24 / 24	0 / 0 / 0
		71	188	170.5	29 / 74 / 67	63 / 106 / 91.5*

proposing 31% deed restricted to include 40 "Locals Only" MF units



301 Boulder St, #333
Minturn CO 81645

Minturn North PUD
Minturn, Colorado 81645

PROJECT
Minturn North PUD
PROJECT NO.
18_MIRRPUD-0001

ISSUE
30 September 2021

RELEASE
Site RVS

SITE REVISION

A00

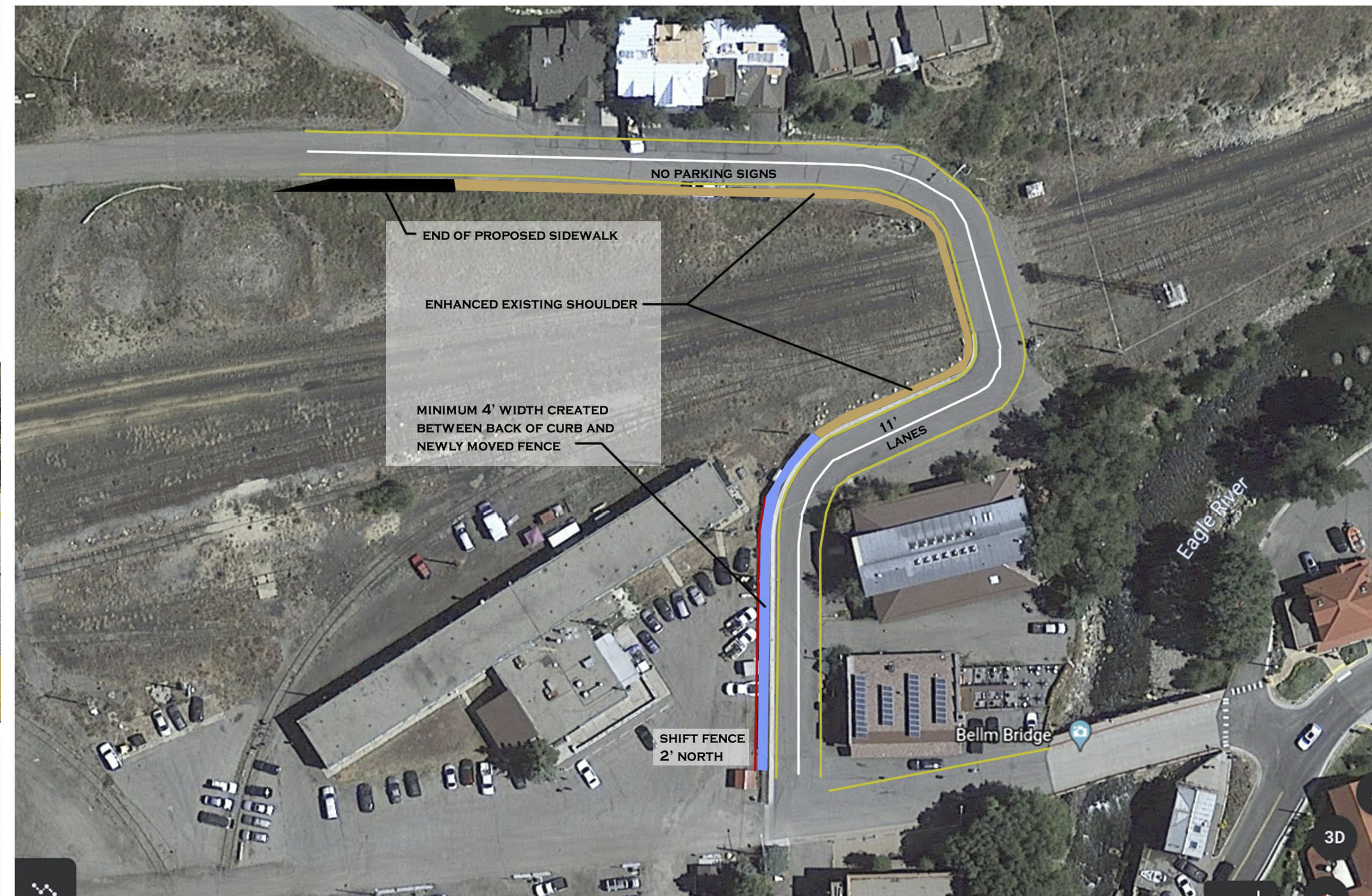


SHIFTING OF INTERSECTION FARTHER NORTH TO PROVIDE ADEQUATE DRAINAGE AND ACCESS FOR THE EXISTING MINTURN TOWNHOMES.



301 Boulder St, #333
Minturn CO 81645

SOLUTIONS TO MAKE S-CURVE SAFER .



MINTURN NORTH - S CURVE MITIGATION

- ROAD STRIPING - CURRENT WIDTH IS ADEQUATE FOR TWO 12' LANES. WE PROPOSE 11' AS THIS HELPS SLOW TRAFFIC
- REDUCE SPEED LIMIT TO 15MPH
- NO PARKING SIGNS AT TOWNHOMES TO HELP WITH VISIBILITY
- IMPROVE SHOULDER TO CREATE ALTERNATIVE TO ROAD SURFACE PASSAGE
- MOVE FENCE AT TURNTABLE 2' NORTH TO CREATE PEDESTRIAN ACCESS

-ECOS RECORDS FOR LAST 10 YEARS SHOW 4 ACCIDENTS AT THE CROSSING AND THE INTERNATIONAL BUILDING CORNER.

Minturn North PUD
Minturn, Colorado 81645

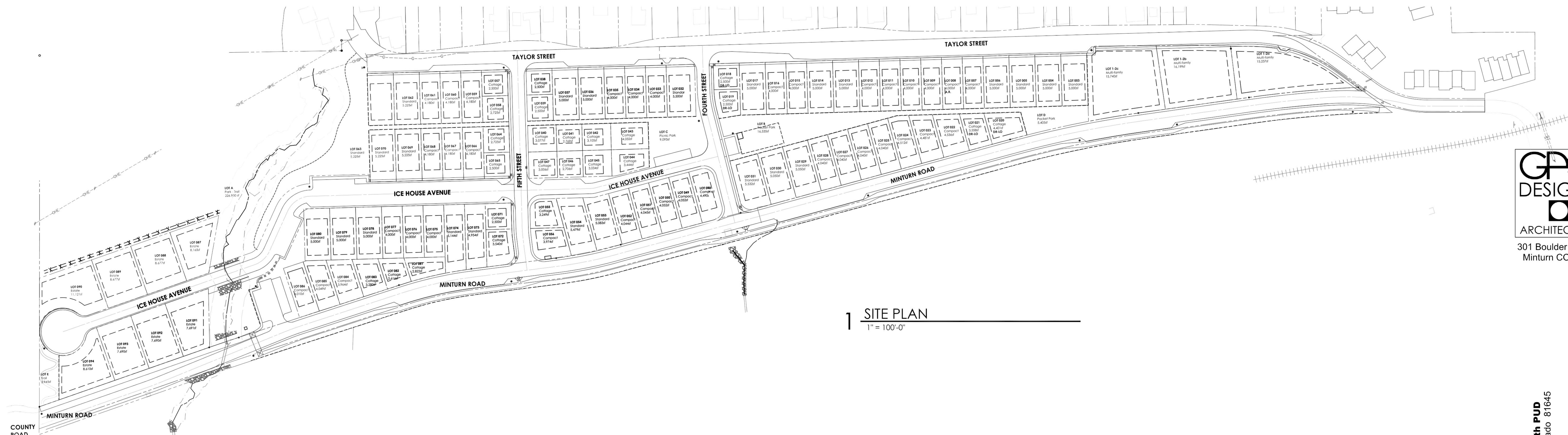
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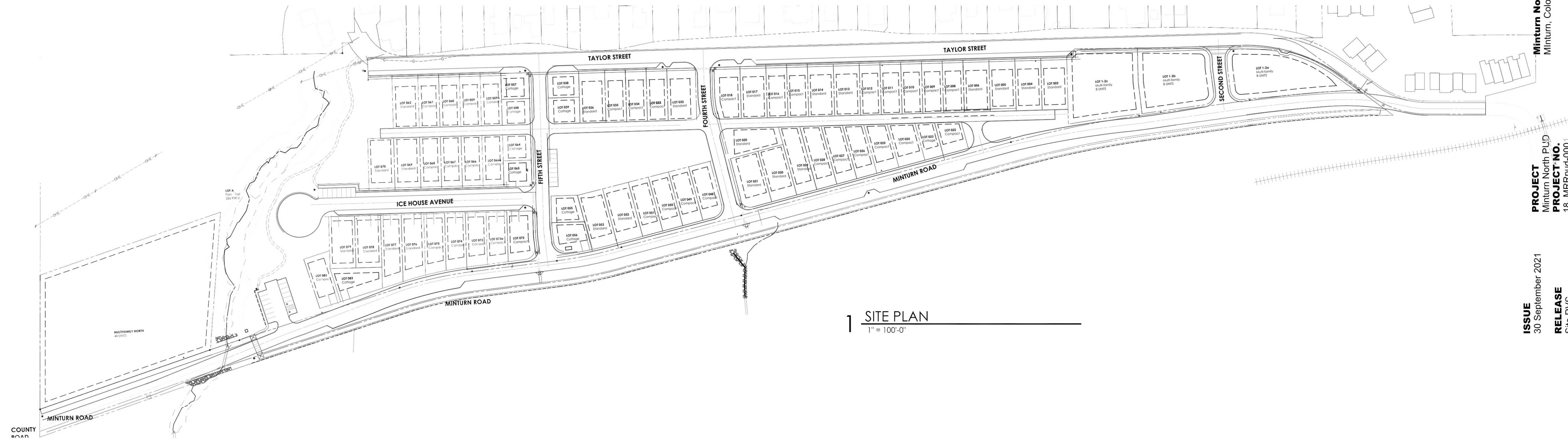
response to
planning
commission

A01



1 SITE PLAN
1" = 100'-0"

GPS
DESIGNS
ARCHITECTURE
301 Boulder St. #333
Minturn CO 81645



1 SITE PLAN
1" = 100'-0"

PROJECT
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Minturn, Colorado 81645

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shift of
density

A02

TAYLOR FUTURE EAST BORDER, PLANNED R.O.W.
PROVIDES FOR STREET PARKING, CURB AND
GUTTER ON WEST SIDE

SOFT SURFACE TRAIL WITH SPLIT RAIL FENCE
ON NORTH SIDE WITH SIGNAGE TO KEEP OUT
OF THE BUFFER AND CREEK AREA

GAME CREEK

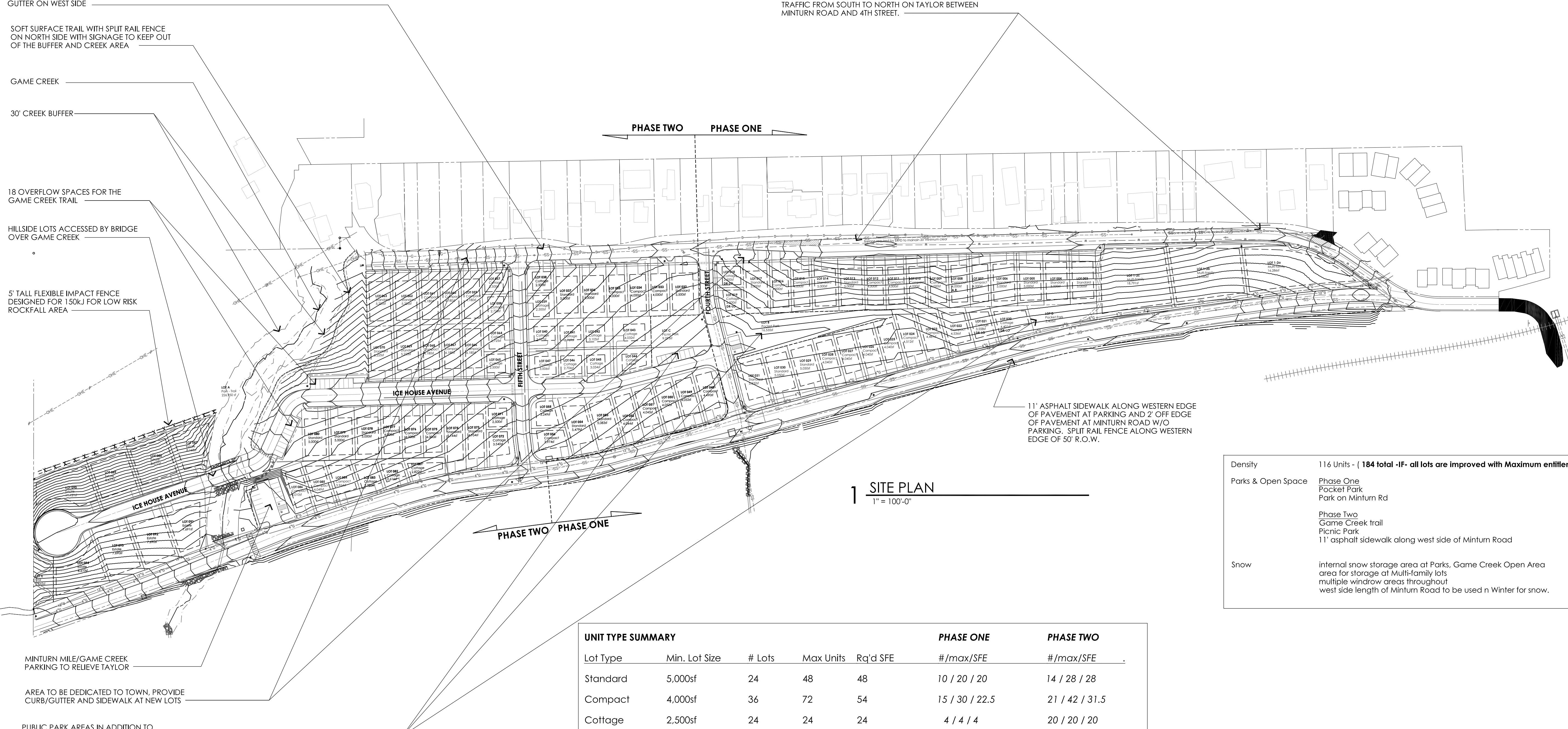
30' CREEK BUFFER

18 OVERFLOW SPACES FOR THE
GAME CREEK TRAIL

HILLSIDE LOTS ACCESSED BY BRIDGE
OVER GAME CREEK

5' TALL FLEXIBLE IMPACT FENCE
DESIGNED FOR 150KJ FOR LOW RISK
ROCKFALL AREA

TAYLOR STRIPED AND PAVED TO PROVIDE ONE WAY
TRAFFIC FROM SOUTH TO NORTH ON TAYLOR BETWEEN
MINTURN ROAD AND 4TH STREET.



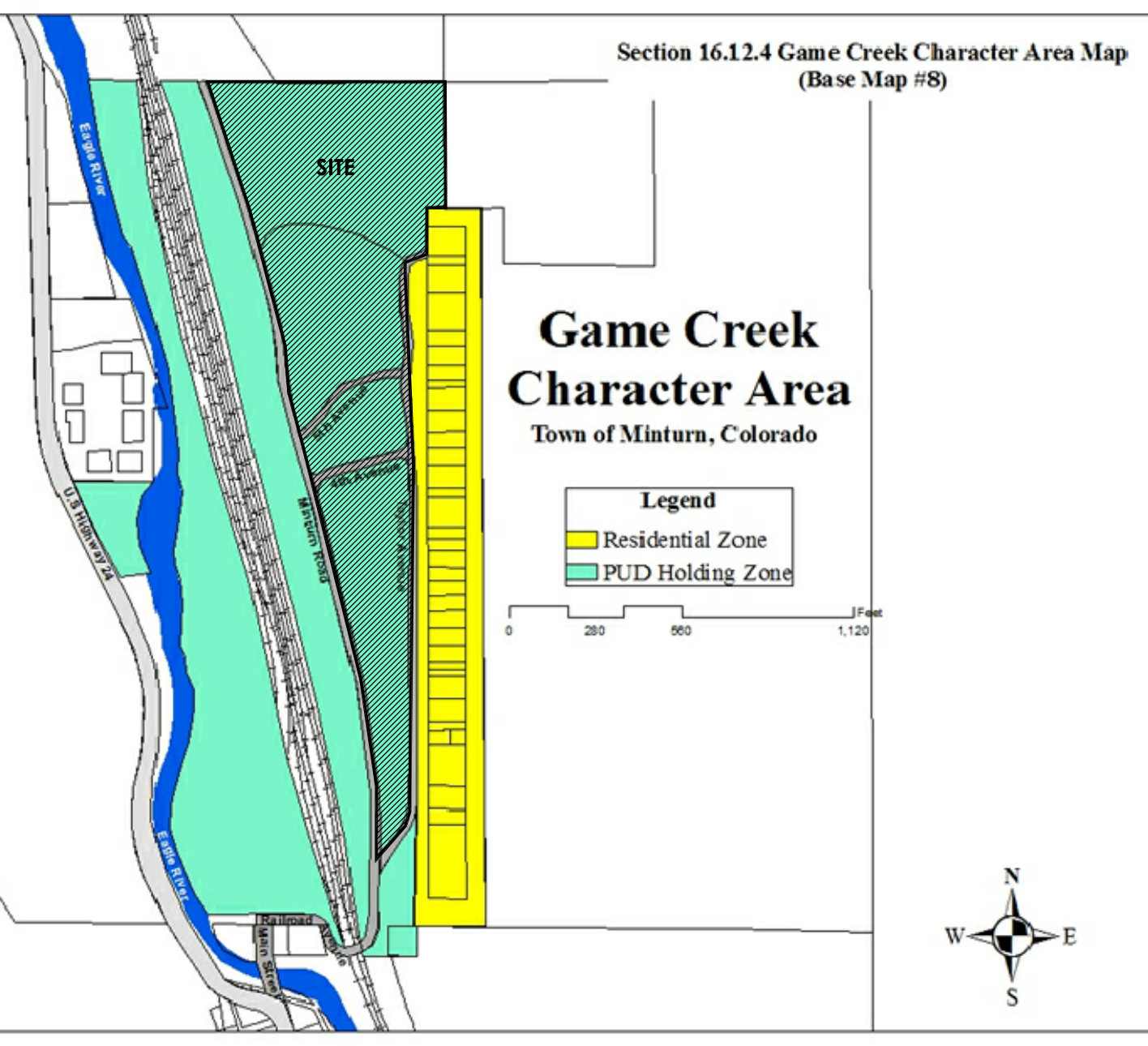
1 SITE PLAN
1" = 100'-0"

Density	116 Units - (184 total -IF- all lots are improved with Maximum entitlement)
Parks & Open Space	Phase One Pocket Park Park on Minturn Rd Phase Two Game Creek trail Picnic Park 11' asphalt sidewalk along west side of Minturn Road
Snow	internal snow storage area at Parks, Game Creek Open Area area for storage at Multi-family lots multiple windrow areas throughout west side length of Minturn Road to be used n Winter for snow.

UNIT TYPE SUMMARY					PHASE ONE	PHASE TWO
Lot Type	Min. Lot Size	# Lots	Max Units	Rq'd SFE	#/max/SFE	#/max/SFE
Standard	5,000sf	24	48	48	10 / 20 / 20	14 / 28 / 28
Compact	4,000sf	36	72	54	15 / 30 / 22.5	21 / 42 / 31.5
Cottage	2,500sf	24	24	24	4 / 4 / 4	20 / 20 / 20
Estate	>7,137sf	8	16	12	0 / 0 / 0	8 / 16 / 12
Multi-Family		3	24	24	3 / 24 / 24	0 / 0 / 0
		95	184	162	32 / 78 / 70.5*	63 / 106 / 91.5*

proposing 21% deed restricted to include 24 "Locals Only" Lots - Cottage Lots

* Phase One is limited to 70SFE, 0.5 SFE will be withheld from Lot 008 identified with **A.R.** on map, until additional SFE becomes available.



ZONING CODE ANALYSIS (deviations are in Bold)		MINIMUM LOT SIZE	MAX LOT COVERAGE	MAX IMPERVIOUS	SIDE SETBACKS	FRONT SETBACK	REAR SETBACK	MAXIMUM HEIGHT
EXISTING GAME CREEK/RESIDENTIAL ZONE		5,000sf	40%	50%	5'	20'	10'	28'
PROPOSED PUD	Estate ¹	6,000sf	45%	50%	5'	20'	10'	28'
	Standard ²	5,000sf	45%	50%	5'	20'	10'	28'
	Compact ¹	4,000sf	45%	50%	5'	20'	10'	28'
	Cottage	2,500sf	45%	50%	5'	10'	5'	28'
	Multi-Family	10,000sf	45%	50%	5'	10'	10'	28' (32'@50%)

-JUSTIFICATION FOR THE SMALLER LOT SIZES IS TO ENCOURAGE SMALLER, MORE AFFORDABLE HOMES.

1 - ESTATE LOTS AND COMPACT LOTS ALLOW FOR ADU'S
2 - STANDARD LOTS ALLOW FOR DUPLEX CONSTRUCTION OR ADU'S

Michelle Metteer
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Town Council
Mayor – John Widerman
Mayor Pro Tem – Earle Bidez
Council Members:
Terry Armistead
George Brodin
Brian Eggleton
Eric Gotthelf
Gusty Kanakis

October 6, 2021
Manager Update

Anchor Point Wildland Fire Assessment

At the September 15th meeting, Council requested Minturn provide comments for the next round of the USFS Holy Cross Energy Powerline application NEPA process. Included with that request was a deeper dive into the risks and vulnerabilities associated with threats from wildland fire attributable to powerlines in the area. Richard Peterson-Cremer and I had a call with Chris White of the Anchor Point Group to discuss their ability to model and assess such vulnerabilities for the Town of Minturn. The proposal by Anchor Point has been approved and they will begin work immediately on the modeling. This work product will supplement Richard's overall comment document for the NEPA submission. The proposal from Anchor Point is attached to this memo for review.

Minturn Evacuation Plan Prep

I had my first meeting with the Sheriff, Undersheriff, Deputies and Director of Eagle County Emergency Management to begin the undertaking of creating a Minturn Evacuation Plan. Next steps will be to secure the necessary IGA's (or MOU's) for all services related to an evacuation. Rental of evacuation locations, contracts for nearby bus services, large equipment, etc. are all needed. It is important to have these contracts in place before an emergency arises. Much more to come on this matter.

Eagle River Fund Feasibility Report

Minturn is part of the Eagle River Fund Feasibility process. We had our second meeting this week and the team unanimously approved moving forward with the design work for the Fund. This Fund will be likened to a clearing house for financial contributions to go toward many of the projects already outlined in other watershed and river management plans. All of this is with the goal to improve the health and sustainability of the Eagle River. Moving forward I will be participating on the Fund's Governance committee.

Joint Meeting Request – Historic Preservation

The Planning Dept has worked to obtain information about the options available to Minturn for a potential historic designation program. This program can be set up in a variety of different ways. Staff is requesting Council's approval for a joint meeting of the Commission and Town Council at the regularly scheduled Planning Commission meeting on October 27th to see a presentation from Dr. Lindsey Fleewelling, Preservation Planner and Certified Local

Government (CLG) Coordinator for History Colorado which will be followed by a discussion around the best program option for Minturn moving forward.

Community Plan Update – Steering Committee Formation

A call for letters of interest went out to residents for the formation of the Community Plan Update Steering Committee. We're excited to announce that staff has received quite a few letters of interest from willing residents. Council representatives for this committee are Gusty Kanakis and Terry Armistead.

CDOT Revitalizing Main Street Grant – 2nd Application

Jenna Siegel, Stolfus Engineering, and I met with representatives of CDOT to discuss Minturn's Revitalizing Main Street Grant application. Minturn was not one of the 16 applications chosen in the original application process however CDOT has identified that funding for a second round of applications will open in the coming months and they believe Minturn's application would be quite competitive. We will plan to submit an updated application when the second grant cycle opens.

WILDFIRE RISK ASSESSMENTS

September 30, 2021

Prepared for city of :



By:

Anchor Point Group, LLC
2131 Upalnd Ave.
Boulder, CO 80304
303-665-3473

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LETTER OF INTRODUCTION

September 2021

RE: Powerline Wildfire Risk Assessments

Anchor Point (AP) has over 20 years of history conducting wildfire risk assessments in multiple countries and throughout the U.S. We have a long history of working in Colorado for fire departments, cities, counties and multiple National Forests including projects in and around the White River National Forest.

The foundation of our risk assessment is the No-HARM model. This model was built by experienced data scientists and wildland fire professionals. Anchor Point's principals and staff have extensive national wildland fire qualifications including a certified **Fire Behavior Analyst (FBAN)**, **Long Term Analyst (LTAN)** and **Structure Protection Specialist (STPS)**. We are proposing an approach which we believe meets the discussed needs of the EA review and comment opportunity.

1. Anchor Point just released Version 4 of our No-HARM wildfire risk model for the state of Colorado. No-HARM is a 30M, up-to-date wildfire risk assessment which covers all lands and jurisdictions in Colorado. No-HARM is described later in the proposal. The first step of our service would be to plot the proposed powerline on No-HARM to understand the fuel (vegetation) weather and topography that will effect fire behavior near the proposed infrastructure. A shapefile of the distribution line would need to be provided to AP.
2. Step 2 Anchor Point will conduct an evaluation of the data, with a short report as this elements final deliverable. The evaluation will look at the fuel profile and predicted fire behavior of the landscape at and between the above ground sections of the line and the town of Minturn.
3. Once the evaluation is complete, the report as well as a perpetual license of the No-HARM data for the city of Minturn will be delivered. The data will be provided in Shapefile format for use in a GIS as well as a Google Earth compatible file so that any desktop with Google Earth can visualize the data. We believe this would be the most beneficial deliverable so that the underlying data utilized for the evaluation can be revisited by Minturn staff as needed.

TEAM HISTORY

Anchor Point Group, LLC (Anchor Point or AP) is one of the premier wildfire consulting firms in the United States and was formed in 1999 in Boulder, Colorado. Anchor Point develops and supports sound wildland fire solutions, from planning through implementation. Our number one goal is accurate analysis to foster life safety and the protection of property. We reduce risk and realize long term cost savings for our partners and ensure environmental health on the landscapes where we work. We accomplish this by integrating expertise, technology, and a collaborative process to analyze and address our partners' needs.

Our in-house core competency is the utilization of cutting-edge fire science and mitigation technology to provide the highest quality risk assessments available today.



FEMA

National Fire Programs

The principals and staff of Anchor Point have an extensive history in wildland urban interface (WUI) management. Our expertise has been utilized to participate in and provide development assistance with:

- Western Governors Association (WGA) review of the National Fire Plan and development of the 10-Year Comprehensive Strategy
 - International Code Council (ICC) development of the Wildland Urban Interface Code, the Nation's first building code for construction in the WUI
 - Initial development team for the National Fire Protection Association (NFPA) FireWise
 - Development committee for the National Hazard and Risk Assessment Methodology
 - FireWise update to the "Hazard and Risk Assessment Methodology"
 - National Wildfire Coordinating Group (NWCG) project team to define qualifications for the Structure Protection Specialist technical position
 - International Association of Fire Chiefs (IAFC) "Leaders Guide to the Community Wildfire Protection Plan"
 - IAFC /NWCG Firefighter Safety in the Wildland Urban Interface video series
 - International Structure Protection Plan development committee
 - U.S. Fire Administration (USFA) firefighter training crosswalk program
- Federal Emergency Management Agency (FEMA) MAT response team Chimney Tops 2 Fire.

PROJECT APPROACH

Wildfire Risk Assessments – No-HARM

The Anchor Point approach is based on applying a proven, well-defined, scientifically based methodology that employs hazard and risk modeling and geospatial analysis. This multi-tiered approach enables us access to critical information and allows us to integrate fire behavior into the risk assessment. Anchor Point's methodology produces accurate, quantifiable, and repeatable data that are a crucial precursor to comprehensive mitigation planning. The key tasks that make up our approach are as follows:

Fire behavior modeling plays an important role in the methodology. Determining potential wildfire behavior focuses the risk to the town and highlights potential mitigation recommendations. Model inputs such as fuels, elevation, aspect, slope, and local weather data are used to derive key fire behavior outputs, including Rate of Spread, Flame Length, Crown Fire Potential and Ember Distance. These results are derived using established USFS fire behavior models and programs, such as Behave+2 and FlamMap¹. No-HARM integrates this fire behavior and combines it with a multitude of other attributes to produce an accurate risk rating for all lands within the study area. No-HARM evaluates site specific elements such as distance to fire stations and water sources but it also incorporates area-wide components such as probability of a fire occurring and the volume of embers that may impact the town. By doing this the overall evaluation of the Area of Interest (AOI) includes both severity and probability. Minturn would need to provide a map or polygon of the town boundaries which will be integrated with the proposed transmission line to create an AOI.

No-HARM Base Ratings

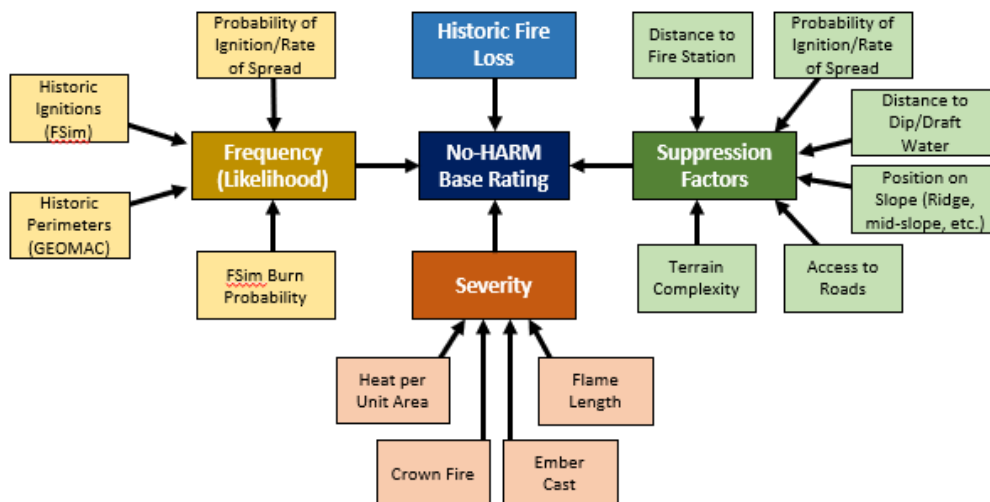


Figure 1 No-HARM methodology flow chart

¹ Finney, M. FlamMap. Available online at <https://www.firelab.org/project/flammap>.

As mentioned above, the No-HARM model has been very recently updated. This graphic of No-HARM in California shows the differentiation of risk throughout the landscape as well as an example of the data rich attributes available for each site.

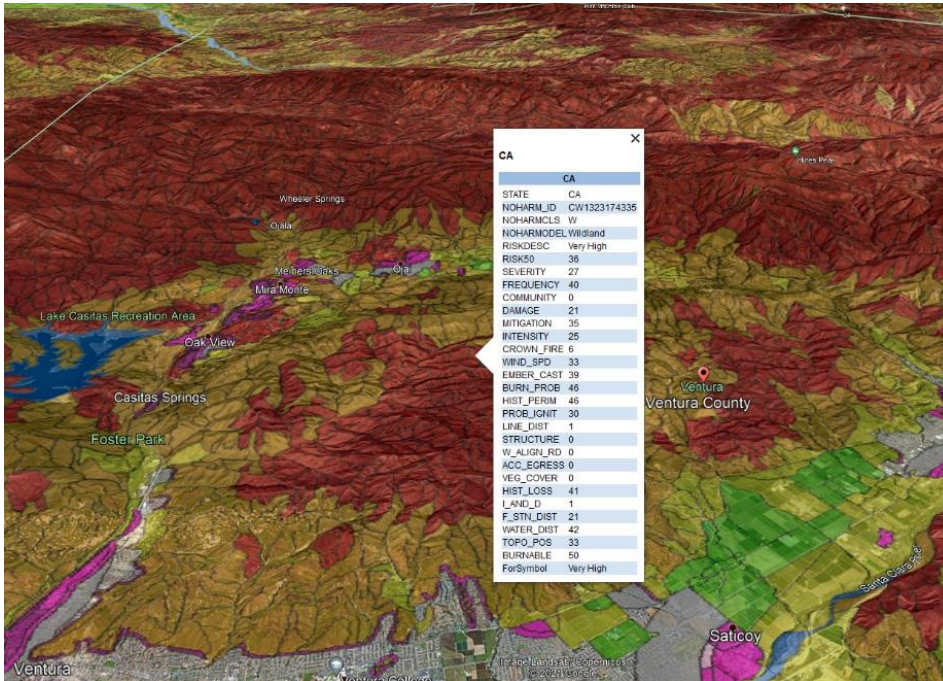


Figure 2 No-HARM Risk Map

Evaluation of the data

By evaluating the input variables to No-HARM we can get a better understanding of the potential impacts to Minturn. Fuel models and the resultant fire behavior give us a multitude of data. For instance, Fuel Model 122 is represented in the area. The fuel model provides us with two very important elements, rate of spread (how fast a fire will move) and Flame Length, a good indicator of severity and potential to damage built infrastructure. Anchor Point will use this data in combination with No-HARM to develop an opinion on the potential impacts, that a fire started under the line could have on Minturn. This opinion will be based on fire science.

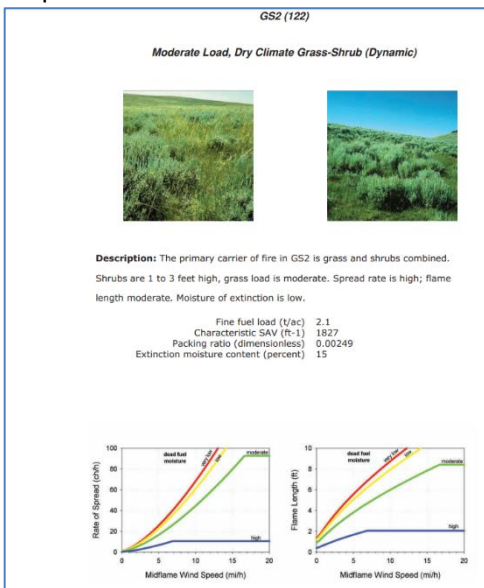


Figure 3 Fuel Model 122

Perpetual license of the No-HARM data

After the No-HARM analysis, data can then be visualized in map format. A map of the No-HARM risk ratings and the proposed line will be provided as well as the No-HARM data for the AOI. Delivery of the data will be provided with a perpetual license so that the city of Minturn can access the data either in a GIS or within Google Earth. This will allow additional maps or analysis to be conducted in-house as needed.

Final Deliverables

- No-HARM risk data for Minturn and project area.
- Risk determination to Minturn from adjacent fuels.
- Time to arrival of a fire starting at the line and running toward Minturn (based on local fuel model and 90th percentile winds).
- Written opinion of conditions.
- GIS data package deliverable including No-HARM for any other (in-house) visualization and decision support.

Time Frame

Anchor Point proposes an aggressive timeline. We believe we can deliver within 7 working days from the time we receive the needed data from Minturn (power line data, possible footprint data of structure locations and a city boundary).

Fee

Wildfire Risk Assessment for Minturn and Proposed Line	Subtotal
No-HARM assessment with licensed data	\$15,000

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Town Council
 Mayor – VACANT
 Mayor Pro Tem – Earle Bidez
 Council Members:
 Terry Armistead
 George Brodin
 Eric Gotthelf
 Gusty Kanakis
 Tom Sullivan

Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS
October 6, 2021
Rezoning of 504 Eagle River Street and 502 Main Street Ordinance
Bunkhouse Variance Resolution
261 Main Street Variance Resolution
Action Item: Acceptance of the 2022 Fiscal Budget (Draft)
Executive Session – Battle Mountain Agreements
October 20, 2021
2018 Building Code Adoption Ordinance
Union Pacific Conditional Use Permit renewals
Rezoning of 504 Eagle River Street and 502 Main Street Ordinance
Council Committee Assignments
November 3, 2021
FY 2022 Budget – Public Hearing
Ordinance __ - Series 2021 not allowing puppy mill animals sold in town
Rezoning of 504 Eagle River Street and 502 Main Street Ordinance
November 17, 2021
Eagle County Gives Proclamation
DATE TO BE DETERMINED
An Ordinance adopting Specified Sustainability Building Codes