



**Planning Commission Agenda
Wednesday June 28, 2023 – 6:30 PM
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

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. This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/89841716881>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 898 4171 6881**

Please note: all virtual participants are muted. In order to be called upon and be unmuted, you will need to use the “raise hand” feature in the Zoom platform. When it’s your turn to speak, the moderator will unmute your line and you will have five (5) minutes for public comment.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Madison Harris, Planner I, prior to the meeting and will be included as part of the record.

- 1. CALL TO ORDER – 6:30 PM**
- 2. ROLL CALL & PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MINUTES**
3.1 June 14, 2023
- 4. APPROVAL OF AGENDA** *Opportunity for amendment or deletions to the agenda.*
- 5. DECLARATION OF CONFLICTS OF INTEREST**
- 6. PUBLIC COMMENT** *Citizens are invited to comment on any item not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Planner. Those who are speaking are requested to state their name and address for the record.*
- 7. SPECIAL PRESENTATIONS**

8. DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

8.1 987 S Main Street – Exterior Modifications to Existing Commercial Buildings

8.2 Minturn North PUD – Railroad Planned Unit Development Review

8.2.1 Preliminary Plan

8.2.2 Preliminary Plat

8.2.3 Amendment to the Character Area and Zone District Map

9. DISCUSSION / DIRECTION

10. STAFF REPORTS

11. PLANNING COMMISSION COMMENTS

12. FUTURE MEETINGS

12.1 July 12, 2023

12.2 July 26, 2023

13. ADJOURN



**Planning Commission Official Minutes
Wednesday June 14, 2023 – 6:30 PM
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO**

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/83349706090>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 833 4970 6090**

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PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Madison Harris, Planner I, prior to the meeting and will be included as part of the record.

1. CALL TO ORDER – 6:30 PM

Lynn Teach called the meeting to order at 6:30 p.m.

2. ROLL CALL & PLEDGE OF ALLEGIANCE

Those present at roll call: Planning Commission Chair Lynn Teach and Planning Commission Members Amanda Mire, Michael Boyd, and Jeff Armistead.

Staff Members Present: Planning Director Scot Hunn, Town Attorney Richard Peterson-Cremer, and Planner I Madison Harris.

Note: Sage Pierson and Tom Priest are excused absent.

3. APPROVAL OF MINUTES

3.1 May 24, 2023

Motion by Jeff A., second by Michael B., to approve the minutes of May 24, 2023 as presented. Motion passed 4-0.

Note: Tom P. and Sage P. are excused absent.

4. APPROVAL OF AGENDA Opportunity for amendment or deletions to the agenda.

Motion by Jeff A., second by Michael B., to approve the agenda as presented. Motion passed 4-0.

Note: Tom P. and Sage P. are excused absent.

5. DECLARATION OF CONFLICTS OF INTEREST

No conflicts of interest.

- 6. PUBLIC COMMENT** *Citizens are invited to comment on any item not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Planner. Those who are speaking are requested to state their name and address for the record.*
No public comment.

7. SPECIAL PRESENTATIONS

8. DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

8.1 Ordinance TBD – Series 2023 Amending Article 4, Chapter 17 Administrative Replat Regulations of the Minturn Municipal Code

Richard P.-C. introduced the ordinance. Staff is proposing a text amendment to Chapter 17, Article 4, Administrative Replat Procedures. This section of code allows the Planning Director to administratively approve minor replats such as lot line adjustments and vacations for up to 4 lots when the total number of lots does not increase. However, the existing language at Sec. 17-4-10 requiring the replat to be “within the boundaries of one (1) subdivision” has proven problematic and serves no real policy purpose in the dense layout of Minturn where subdivisions are indistinguishable and most public infrastructure has already been built out. Instead, many owners wishing to make simple lot line adjustments and vacations have been required to bring Amended Final Plats through Planning Commission and Town Council. We are proposing to remove the requirement that the land all be within a single subdivision and allow for a streamlined process, as most municipalities do, for these types of minor adjustments. The Planning Department will ensure that adequate public infrastructure is in place or required as part of a development, and ensure compliance with existing zoning and engineering standards, as it currently does for administrative replats within a single subdivision. Existing call-up and referral procedures will also continue to allow Planning Commission and Town Council the opportunity to review these if desired. Staff also reviewed the rest of Article 4 and made some tweaks throughout the match the code’s other standards, procedures, and general practices that have not been updated since this was adopted. The existence of plat standards within this article is somewhat odd, and we will be working soon on a consolidated plat standards article in chapter 17 where this will live with revised standards.

Lynn T. said that under the third Whereas it should be 2023.

Scot H. has one correction in the intent paragraph.

Amanda M. asked if this was compared to other municipalities or if we relied on the Town Engineer to come up with the language.

- Richard P.-C. said that most of this was based on his, Scot’s, and the Town Engineer’s experience rather than comparing to specific jurisdictions.

Jeff A. asked in 17-4-50 is it still common to submit 24x36 Mylar’s rather than digitally.

- Scot H. said that it is.

Public comment was opened.

No public comment.

Public comment was closed.

Motion by Jeff A., second by Michael B., to approve Ordinance TBD – Series 2023 amending Article 4, Chapter 17 Administrative Replat Regulations of the Minturn Municipal Code. Motion passed 4-0.

Note: Tom P. and Sage P. are excused absent.

8.2 335 Pine Street – New Addition to Existing Single Family Residence

Madison H. introduced the project. The Applicants request Final Plan review of a new, one-bedroom, 1,404 square foot addition to an existing 3-bedroom single-family residence located at 335 Pine Street in the Old Town Residential Zone District. The plans show a two-level structure with a new master bedroom above a new two car garage accessed off of Meadow Lane. The building height - measured to the midpoint of the roof from finished grade – is shown at 25 feet and .5 inches, well within the maximum 28-foot allowable height limit within the Old Town Residential Zone District. Parking is adequate, with three off-street spaces provided (two in the garage and one surface space at the front of the lot). The single family residence requires two spaces, and the addition requires one. This application was submitted before the updated snow storage guidelines went into effect, and so this is being reviewed underneath the previous regulations which state that 5% of the driveway area shall be devoted to snow storage. As presented, the plans comply with the Code in effect at the time of application. However, staff would like to request that the Applicant comply to the fullest extent possible with the updated snow storage guidelines. Staff believes that the design and scale of the proposed structures incorporate a simple central form with additive features. The awning on the rear of the structure does encroach into the rear setback, however, Sec. 16-2-50 (g)(3) permits awnings to encroach if they are maintained a minimum of five feet from the rear lot line.

Michael Pukas, PO Box 288 Gypsum, CO 81637.

The concept was to add a 2-car garage with a master suite on top. The design concept was to honor the historic nature of the building with the roof pitches, the forms, and the colors of the materials. Original structure is small, so the new structure is taller to accommodate new building standards. The original structure has horizontal white siding, the new structure has vertical white siding. Would like to keep the muntins only on the Pine Street side, and the addition is going in a more modern direction. Are proposing to change all of the existing windows in the house, and only the windows on Pine St will have muntins.

Public comment was opened

No public comment.

Public comment was closed.

Nicole Magistro, 335 Pine St.

Moved to town last June. Was an employee of the Town in the early 2000's for 3 years.

Liked the historic nature of the house.

Jeff A. likes the house and the design. Thinks this is appropriate and the windows are good as is.

Amanda M. agrees with Jeff A. that this is a beautiful design and fits with the character.

Lynn T. asked if the driveway was allowed to be in the 10' rear setback.

- Madison H. said yes.

Lynn T. asked the difference between 522 sq. ft. and 536 sq. ft. on the plans.

- Mr. Pukas said that it's a software issue.

Lynn T. asked for the mechanical room to be explained.

Michael B. asked if there will be gutters put on the side with the neighbors

- Mr. Pukas said that they will be.
- Michael B. clarified that they aren't doing anything about the neighbor's shed.
- Mr. Pukas said they aren't touching that.
- Michael B. stated for the record that the Snow Removal plan states that Meadow Dr is a secondary street. There is no access from Norman St in the winter, and so your access will be from the south. Also, currently we are approving an addition, not a lock-off or an ADU. Later, if you decided, the .5 tap would be a good investment.

Motion by Michael B., second by Jeff A., to approve 335 Pine St as presented. Motion passed 4-0.

Note: Tom P. and Sage P. are excused absent.

9. DISCUSSION / DIRECTION

9.1 2023 Community Plan Review – Chapter 7

- Action 7.1.1: No comment.
- Action 7.1.2: No comment.
- Action 7.1.3: Lynn T. would like to investigate this further not knowing what this means. Scot H. suggested that we round up the Association standards and get those to the Planning Commission. Michael B. said that the street lights in the 100 Block should be brighter, but is interested in seeing the guidelines. Lynn T. asked if there are areas where street lights can be on like the commercial areas, but everywhere else the lights have to be off. Scot H. said that there are complex and simple dark sky compliant regulations. Amanda M. does not know if the lighting component is always enforced completely, so we will need to take that into account.
- Action 7.2.1: No comment.
- Action 7.2.2: No comment.
- Action 7.2.3: No comment.
- Action 7.2.4: Lynn T. said that we should start talking to Walking Mountains

- about education for children.
- Action 7.2.5: Jeff A. said that since that is owned by the School District, it is up to the Planning Commission, Town Council, and staff to keep this action item in the back of our minds when talking to them about development. Michael B. agrees.
 - Action 7.3.1: Lynn T. said that Tom Priest was proposing a Senior Citizen class at the Minturn Fitness Center. Jeff A. said that we should continue advocating for connecting Minturn to our neighboring communities for the bike path.
 - Action 7.3.2: No comment.
 - Action 7.3.3: No comment.
 - Action 7.3.4: No comment.
 - Action 7.3.5: No comment.
 - Action 7.4.1: Lynn T. said that we have talked about hoping this happens in the future.
 - Action 7.4.2: No comment.
 - Action 7.4.3: Lynn T. said that we can request developers, especially in South Town, to add something more accessible for that end of Town. Jeff A. suggested the land by the amphitheater as it is in a rockfall zone so it can't be developed except with temporary natures such as a community garden.
 - Action 7.5.1: Scot H. said that he talked with CPW about their concerns about impacts to wildlife. Lynn T. said that we can invite Devin to the next meeting to discuss this. We have noticed a diminished size of the elk herd. Amanda M. agrees that she would like to hear from Devin. Jeff A. said that the VVMTA has done a great job of educating the public, but a lot of the issues stem from people going up the trails before they are supposed to. Lynn T. asked that we approach the Forest Service to increase the parking at Grouse. Amanda M. said that 30-40% of those cars are just used as a shuttle.
 - Action 7.5.2: No comment.
 - Action 7.5.3: No comment.
 - Action 7.5.4: No comment.
 - Action 7.5.5: No comment.
 - Action 7.6.1: Scot H. said that this has been adopted, and we can go through a similar process with that plan as we have with the Community Plan.
 - Action 7.6.2: No comment.
 - Action 7.6.3: No comment.
 - Action 7.6.4: No comment.
 - Action 7.7.1: No comment.
 - Action 7.7.2: Lynn T. said that this is a good place to bring the kids in again.
 - Action 7.7.3: No comment.
 - Action 7.7.4: Jeff A. said that CPW called him in relation to the Fishing is Fun grant at the Boneyard.
 - Action 7.8.1: Scot H. said that this is something we should keep on the radar, but is not a burning priority. This might be a good plan to talk about Capital Improvements. Jeff A. said that it is important to connect Tigiwon to Dowd Junction as much as possible.
 - Action 7.8.2: No comment.

- Action 7.8.3: No comment.

10. STAFF REPORTS

11. PLANNING COMMISSION COMMENTS

Jeff A. said that the concert series starts the first Thursday in July, and will go every Thursday for 7 weeks. It will be more female centric this year. Independence Day celebration is on July 2nd.

Lynn T. said that the Market starts this weekend. Starts with 2 mini markets, one for Father's Day and one a Maker's Market. The children's section is being expanded.

Amanda M. said that the Town of Vail will be doing their fireworks show this year so people should keep their dogs inside.

12. FUTURE MEETINGS

12.1 June 28, 2023

12.2 July 12, 2023

13. ADJOURN

Motion by Jeff A., second by Michael B., to adjourn the regular meeting of June 14, 2023 at 8:02 p.m. Motion passed 5-0.

Note: Tom P. is excused absent.

Lynn Teach, Commission Chair

ATTEST:

Scot Hunn, Planning Director



Design Review Board Hearing

Final Plan Review for Exterior Modifications to Existing Commercial Structures

987 S Main Street

Hearing Date:	June 28, 2023
File Name and Process:	Exterior Modifications to Existing Commercial Structures Final Plan Review
Owner/Applicant:	Jeff Armistead
Representative:	Jeff Armistead, 10 th Mountain Builders
Legal Description:	Subdivision: South Minturn Addition Lot: 11 & 13
Address:	987 S Main Street
Zoning:	South Town Character Area – Commercial Zone District
Staff Member:	Madison Harris, Planner I
Recommendation:	Approval

Staff Report

I. Summary of Request:

The Applicant requests Final Plan review of exterior modifications to two existing commercial structures located at 987 S Main Street in the South Town Commercial Zone District. Although the DRB has not reviewed any conceptual plans, the Applicant Jeff Armistead, has been proactive in meeting with Town staff prior to submitting plans for the exterior modifications and has provided a relatively complete and thorough set of site and architectural plans allowing staff to conduct a final plan level review of the project.

Proposed Plans

The plans show two commercial structures being joined together into a two-level structure with three residential apartments above a warehouse area and garage bay. The building height - measured to the midpoint of the roof from finished grade – is well within the maximum 28-foot allowable height limit within the South Town Commercial Zone District.

Additionally, the massing, forms, and scale of the proposed structure, as well as proposed exterior materials, textures and detailing also appear to achieve the design objectives of Appendix B – Design Guidelines and Standards.

Parking is adequate, with four off-street spaces able to fit in the garage, five spaces proposed in the driveway, and eleven spaces across the private street. The warehouse requires thirteen spaces, and the three dwelling units require six.

According to staff’s analysis of development standards and dimensional limitations in Section III below, the project appears to meet the Town’s standards.

Staff believes that the Applicant has provided a complete, detailed set of plans necessary to complete a thorough final plan review.

As a reminder, the Planning Commission has the option to review the proposal as a “conceptual” plan review if the Commission feels that the plans are *not* sufficient or are in need of revisions and additional review prior to final plan approval; or, the Commission may take action to approve, approve with conditions, or deny the Final Plans.

Staff is **recommending approval**.

II. Summary of Process and Code Requirements:

This is a final plan-level of review for exterior modifications on a legally created lot within the Town of Minturn. This is a formal hearing providing the Applicant and staff the opportunity to discuss the proposal with the Planning Commission, acting as the Design Review Board, and to address the DRB’s concerns or feedback regarding suggested revisions to the project.

If the DRB feels that the plans are complete, appropriate, and meet the intent and purposes of the Minturn Municipal Code, Chapter 16, the DRB has the option to take final action to approve or approve with specific conditions and giving the Applicant and staff clear direction on any recommended revisions to the plans.

No variances are required or requested at this time.

Design Review Process

Appendix ‘B’ of the Minturn Municipal Code, Section 16-21-615 - *Design Review Applications*, subsection “d” below outlines the criteria and findings necessary for DRB review and approval of all new, major development proposals:

(d) Administrative procedure.

(1) Upon receipt of a completed and proper application, the application for Design Review will be scheduled for a public hearing. The hearing will be conducted in accordance with the procedures set forth in this Chapter.

- (2) *Criteria and findings. Before acting on a Design Review application, the Planning Commission, acting as the Design Review Board (DRB), shall consider the following factors with respect to the proposal:*
- a. *The proposal's adherence to the Town's zoning regulations.*
 - b. *The proposal's adherence to the applicable goals and objectives of the Community Plan.*
 - c. *The proposal's adherence to the Design Standards.*
- (3) *Necessary findings. The Design Review Board shall make the following findings before approving a Design Review application:*
- a. *That the proposal is in conformance with the Town zoning regulations.*
 - b. *That the proposal helps achieve the goals and objectives of the Community Plan.*
 - c. *That the proposal complies with the Design Standards.*

Staff suggests that the final plans for 987 S Main Street meet or can be revised to meet the required findings ‘a,’ ‘b,’ and ‘c’ or subparagraph 3 – *Necessary findings*.

III. Zoning Analysis:

Zoning

The subject property is located within the “South Town Character Area” Commercial Zone District, described as follows:

- (a) ***The South Town Commercial Zone is bisected by Main Street or Highway 24 and is characterized by a mix of retail, service businesses and residential areas. The South Town Commercial Zone provides services to both residents and the passing motorist. The commercial development can grow but should not significantly impact the residential areas.***
- (b) ***The purpose of this area is to provide convenient commercial services to residents and motorists while minimizing the impact on nearby residential uses. South Town provides an area for commercial activities that are not easily accommodated in Old Town while maintaining the visual character and scale. An objective is to facilitate small business development and economic vitality with land uses that are compatible and supportive, such as retail, office, services and institutional uses.***

- Town of Minturn Town Code Section 16-7-30

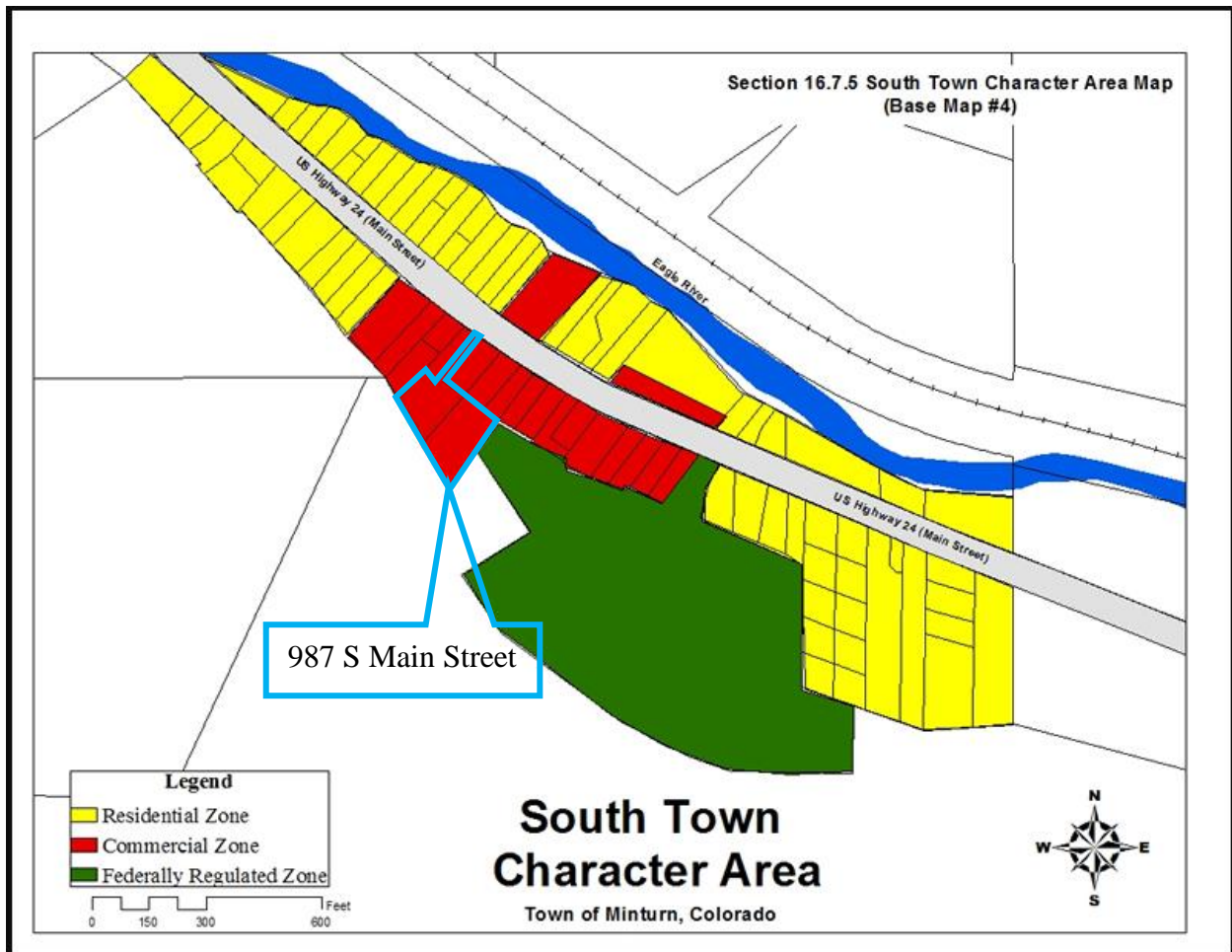


Figure 1: South Town Character Area Zoning Map

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:	7,500 sq. ft.	38,856 sq. ft. (.892 ac.)
Maximum Building Height:	28 feet	22 feet
Minimum Front Setback:	20 feet	Existing not changing
Minimum Side Setback:	5 feet	Existing not changing
Minimum Rear Setback:	10 feet	Existing not changing
Maximum Lot Coverage:	80% (31,084.8 sq. ft.)	8,958.23 sq. ft. (23.05%) Proposed
Maximum Impervious Coverage:	90% (34,970.4 sq. ft.)	18,129.23 sq. ft. (46.66%) Proposed
Minimum Snow Storage Area:	5% of Driveway	20,726 sq. ft. open space

	(9171 sq. ft. x .05 = 458.55 sq. ft.)	
Parking:	3 spaces	3 spaces

Note: the above calculations are based on the following:

**Lots 11 & 13 = .892 acres x 43,560 sq. ft./acre = 38,856 sq. ft.
 9,171 sq. ft. driveway x .05% = 458.55 sq. ft. (**Required Snow Storage**)**

IV. Applicable Standards and Design Guideline Criteria:

Design

In addition to the development standards listed above, the following general design principles are provided for reference.

Appendix B(III)(3) – South Town Character Area.

“This area is characterized by larger lots than those found in other areas of the Town. Existing commercial areas are auto-oriented (and should remain so); however, the mixed use character discourages the allowance of high-impact commercial uses. Limited retail businesses are appropriate, along with low-impact service-oriented activities.

Parking along the front of Highway 24 is discouraged; however, if location is approved, the parking shall be broken-up into smaller areas, well-landscaped or screened from the highway and adjacent structures.

The incorporation of unifying elements would further define and characterize this area. These elements could include common color and material of structures, awnings, common fencing and pedestrian interconnections.”

Staff Response:

With the two buildings joining into one, and the full façade receiving a “facelift”, this will address the incorporation of unifying elements as referenced above.

Final Site, Grading and Drainage Design

The design guidelines encourage designs that integrate or account for snow storage and snow shed from roof structures, along with ensuring that the orientation of buildings – to street frontages and neighboring properties – is considered.

Staff Response:

This application was submitted before the updated snow storage guidelines went into effect, and so this is being reviewed underneath the previous regulations which state that 5% of the driveway area shall be devoted to snow storage. As presented, the plans comply with the Code in effect at the time of application.

The proposed design maintains the structures within required setbacks, thus allowing for full use of large portions of the property for snow shed and drainage. There is no grading proposed with this application. The Town Engineer has reviewed the application and deemed it sufficient.

Mass and Form

The following excerpts from the Design Guidelines should be considered by the Design Review Board when reviewing the proposed project:

Appendix B(II)(A)(1)(c). Massing and Scale

“Building mass, form, length and height shall be designed to provide variety and visual interest while maintaining a scale that is similar or compatible to adjacent structures.”

Appendix B(II)(A)(2)(b) Façade

“Vast expanses of a blank facade are not considered appropriate in Minturn due the mass and scale of the existing buildings in the Town. Therefore, facades must be interrupted every 15' at minimum. This interruption can occur through the use of projections and recessions for doors and windows, balconies or porches or any other element that creates visual interest. The use of architectural elements such as horizontal and vertical architectural details and floor articulation (delineation of 'floors' in a building) can be utilized to create a vertical human scale to the structure.”

Staff Response:

Staff believes that the design and scale of the structure is appropriate for the zone district and character on nearby parcels. Proposed roof forms and pitches, materials and textures are compatible and complimentary to the surrounding built and natural environments. The Applicant has created an interesting façade with changes in materials and windows at regular intervals.

V. Issues and Areas of Non-Conformance:

Issues or Required Plan Revisions

There are no issues that staff has identified at this time.

VI. Staff Recommendation and Suggested Conditions:

Staff suggests that the Final Plans for 987 S Main Street **comply** with applicable provisions of Chapter 16 and the Town of Minturn Design Standards (Appendix 'B') of the Minturn Town Code.

Staff is, therefore, recommending approval of the Final Plans, with no conditions.

Design Review Application

Submission Info

User	67.190.140.200
Submission Id	2d7a6bac-8b55-4cae-9d01-de5aafbd3c4c
Start Date	2/23/2023 10:33:52 AM
Receipt Id	203032500
IP Address	67.190.140.200
Receipt Date	2/23/2023 10:46:09 AM
Status	Submitted
Workflow Completed Date	
Submitted Date	2/23/2023 10:46:09 AM

Response Data

Town of Minturn - Design Review Application - Project Information

Section Title: Project Information

Is this a Minor or Major DRB Project?:

Major

Project Name:

SteamMaster Warehouse Renovation

Street Address:

987 Main Street

City:

Minturn

State:

Colorado

Zip:

81645

Zoning:

South Town Commercial

Application Request:

Review Exterior Scopes of work and add to existing Building Permit (#22Minren-027)

Town of Minturn - Design Review Application - Applicant Information

Section Title: Applicant Information

Name:

10th Mountain Builders

Mailing Address:

PO Box 955

City:

Minturn

State:

CO

Zip:

81645

Phone:

970-471-0618

Email:

jafamilyman@gmail.com

Is the Property Owner different than the Applicant?:

Yes

Town of Minturn - Design Review Application - Property Owner Information

Section Title: Property Owner Information

Name:

Midtown Lofts LLC

Mailing Address:

PO Box 955

City:

Minturn

State:

CO

Zip:

81645

Phone:

970-390-4420

Email:

jprave@comcast.net

February 20, 2023

Town of Minturn Planning Department

Attn: Madison Harris / Scot Hunn

Minturn, CO. 81645

Re: SteamMaster Warehouse Exterior Renovation DRB Review Letter of Intent

Thank you for your consideration and review of the proposed renovation of this old warehouse.

Background Information: The original post and beam structure of this warehouse was built in the 1930's and it has been in a state of disrepair for decades.

Current Use: The main levels of the 2 buildings served as the headquarters of Alpine Glass for many years. Recently, it has been warehouse for SteamMaster. They store all of their emergency services equipment, homeowner content and work on their vehicles. The 2 buildings also contain 3 residential apartments on the second floor which are being brought up to current building code and completely renovated.

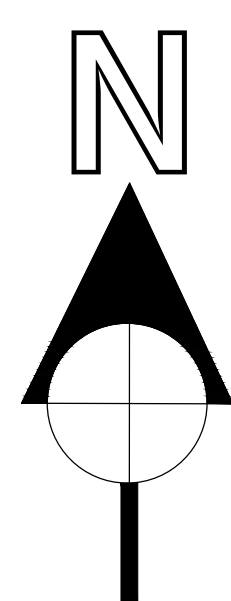
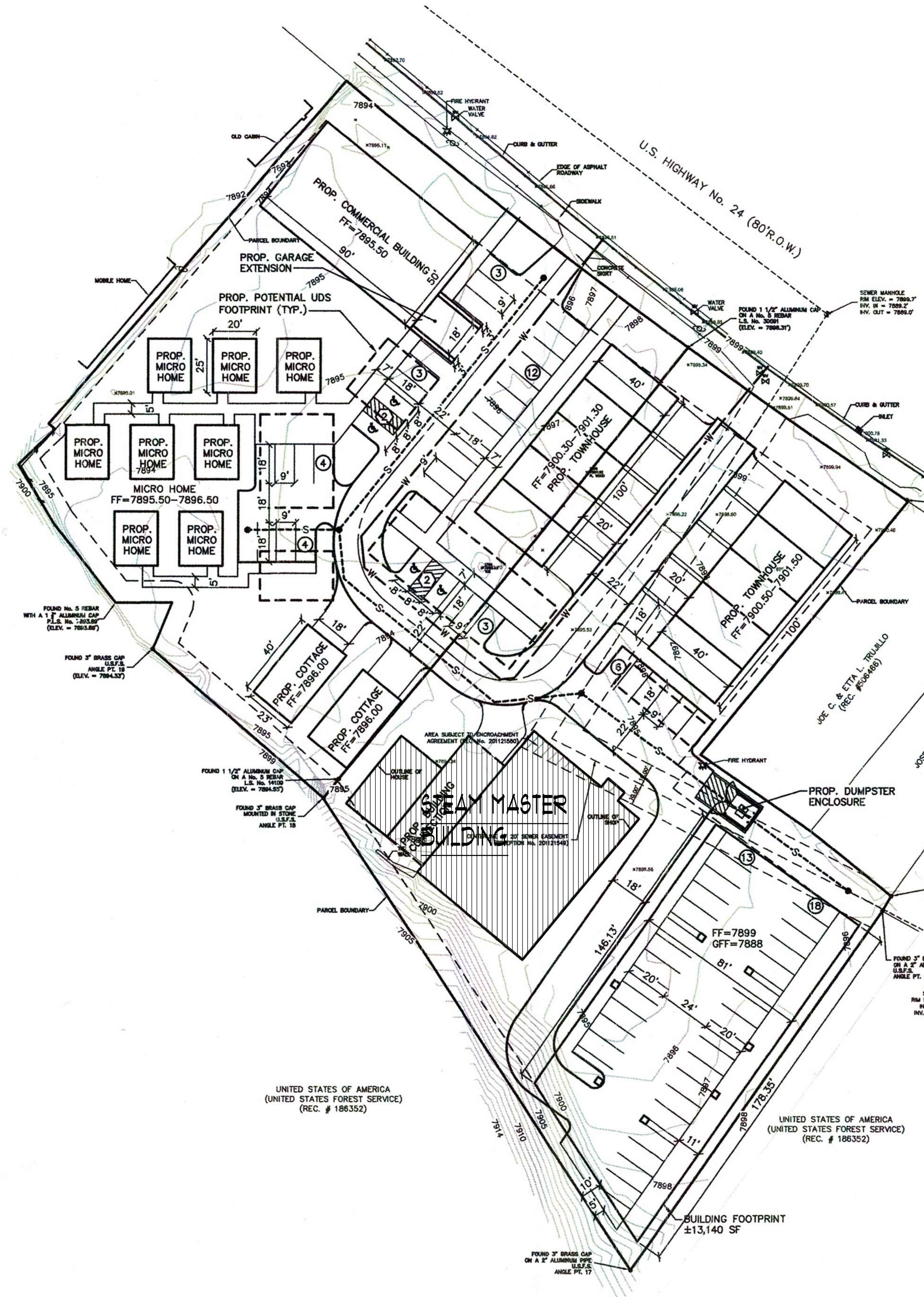
Proposed Use: The building will remain as a long term lease for SteamMaster with the main level being used as warehouse / storage space. The area that is proposed to tie the 2 buildings together will serve as a bay for them to work on their vehicles (change tires, clean equipment). The 3 residential apartments will serve as employee housing.

Scopes of Work: The building will receive a full "facelift" consisting of new siding and trim, code compliant window replacement including Egress windows for all bedrooms, electrical service panel replacements, upgraded insulation in walls and roof and new roofing. One of the larger scopes is to tie the 2 buildings together thereby creating a new Garage Bay. The new space will consist of slab on grade construction and Pre-Engineered Roof Trusses resting on posts. Due to the age of the buildings, it was important for the engineers to design the new structure with no bearing on any old walls or foundation. A new exterior stairwell is also shown to access the residential "C" Unit.

Exterior Materials: Exterior siding is proposed to be a combination of painted Hardi Brand cementitious wall panels, painted metal accents with a Stone wainscot on the front facade. Windows Trim will consist of Hardi 2x6 and 2x4 boards. All new Roofing materials will match the existing metal roofing which was replaced on the main structure 4 years ago.

Relevant Information: This Building is also part of the Midtown Village PUD which is currently being under Preliminary PUD Plan review.

ARMISTEAD MIDTOWN VILLAGE PUD STEAMMASTER BUILDING RENOVATION EAGLE COUNTY, CO



PARTIAL SITE PLAN - REFERENCE ONLY

SCALE: 3/32" = 1'-0"

NOTE:
SITE INFORMATION PROVIDED BY CORE RANGE SURVEYING LLC, DATED 11/2021. REFER TO CIVIL DRAWINGS BY OTHERS FOR ADDITIONAL INFORMATION.

CODES	
BUILDING CODE 2021 OF COLORADO	MECHANICAL CODE 2021 OF COLORADO
EXISTING BUILDING CODE 2021 OF COLORADO	NATIONAL ELECTRICAL CODE 2020 OF COLORADO
FIRE CODE 2021 OF COLORADO	LIFE SAFETY CODE - 2012 OF COLORADO
PLUMBING CODE 2018 OF COLORADO	
BUILDING CODE DATA	
OCCUPANCY (SECTION 504 & 510):	B (BUSINESS) & R-2 RESIDENTIAL (APARTMENTS)
TYPE OF CONSTRUCTION (TABLE 601):	VB
FIRE RATING (TABLE 601):	
PRIMARY STRUCTURAL FRAME	0
BEARING WALL (EXTERIOR)	0
(INTERIOR)	0
NON BEARING WALLS & PARTITIONS (EXTERIOR)	0
(INTERIOR)	0
FLOOR CONST. & ASSOC. SECONDARY MEMBERS	0
ROOF CONST. & ASSOC. SECONDARY MEMBERS	0
FIRE PARTITION (420.2 / 708)	
CORRIDOR (1020.3)	1 HR (OPT. REDUCE TO 1/2 HR PER EXCEPTION W/ SPRINKLER SYSTEM)
HORIZONTAL SEPARATION (808.3.3 / 708.4)	1 HR
SEPARATION OF OCCUPANCIES (TABLE 808.4)	1 HR
EGRESS STAIR ENCLOSURE (1013.2.1 / 1013.1)	1 HR
FIRE PROTECTION SYSTEMS (420.2 / CHAPTER 9)	
	SPRINKLED PER NFPA 13R
GENERAL BUILDING HEIGHTS AND AREA (CHAPTER 5):	
ALLOWABLE BUILDING HEIGHT (TABLE 504.3 / 508.3.2)	ALLOWED: 60 FT. ACTUAL: 25'-5" (AT MAX. PEAK)
ALLOWABLE STORES ABOVE GRADE (TABLE 504.4 5/18.3.2)	ALLOWED: 3 ACTUAL: 2
ALLOWABLE AREA (TABLE 506.2)	BUSINESS ALLOWED: 21,000 SF ACTUAL: 1915 SF RESIDENTIAL ALLOWED: 1,000 SF ACTUAL: 3878 SF
MIXED USE ALLOWABLE BUILDING AREA (508.4.2)	BUSINESS 1915/21000 = 0.293 RESIDENTIAL 3878/1000 = 0.844 SUM = 0.857
SUM OF THE RATIOS SHALL NOT EXCEED 1	
MEANS OF EGRESS (CHAPTER 10):	
NUMBER OF EXITS REQUIRED (TABLE 1006.2.1/1006.3.1)	2

PLAN DRAWING INDEX

CIVIL	
	SITE - REFER TO PLANS BY OTHERS
L1	LANDSCAPE PLAN BY OTHERS
ARCHITECTURAL BUILDING COMPOSITION	
D1	DEMOLITION / EXISTING FIRST FLOOR PLAN
D2	DEMOLITION / EXISTING SECOND FLOOR PLAN
A1	FOUNDATION PLAN
A2	FIRST FLOOR PLAN
A3	SECOND FLOOR PLAN
A4	FRONT / LEFT ELEVATION
A5	REAR / RIGHT ELEVATION / ROOF PLAN
A6	WALL SECTION / BUILDING SECTIONS / DETAILS



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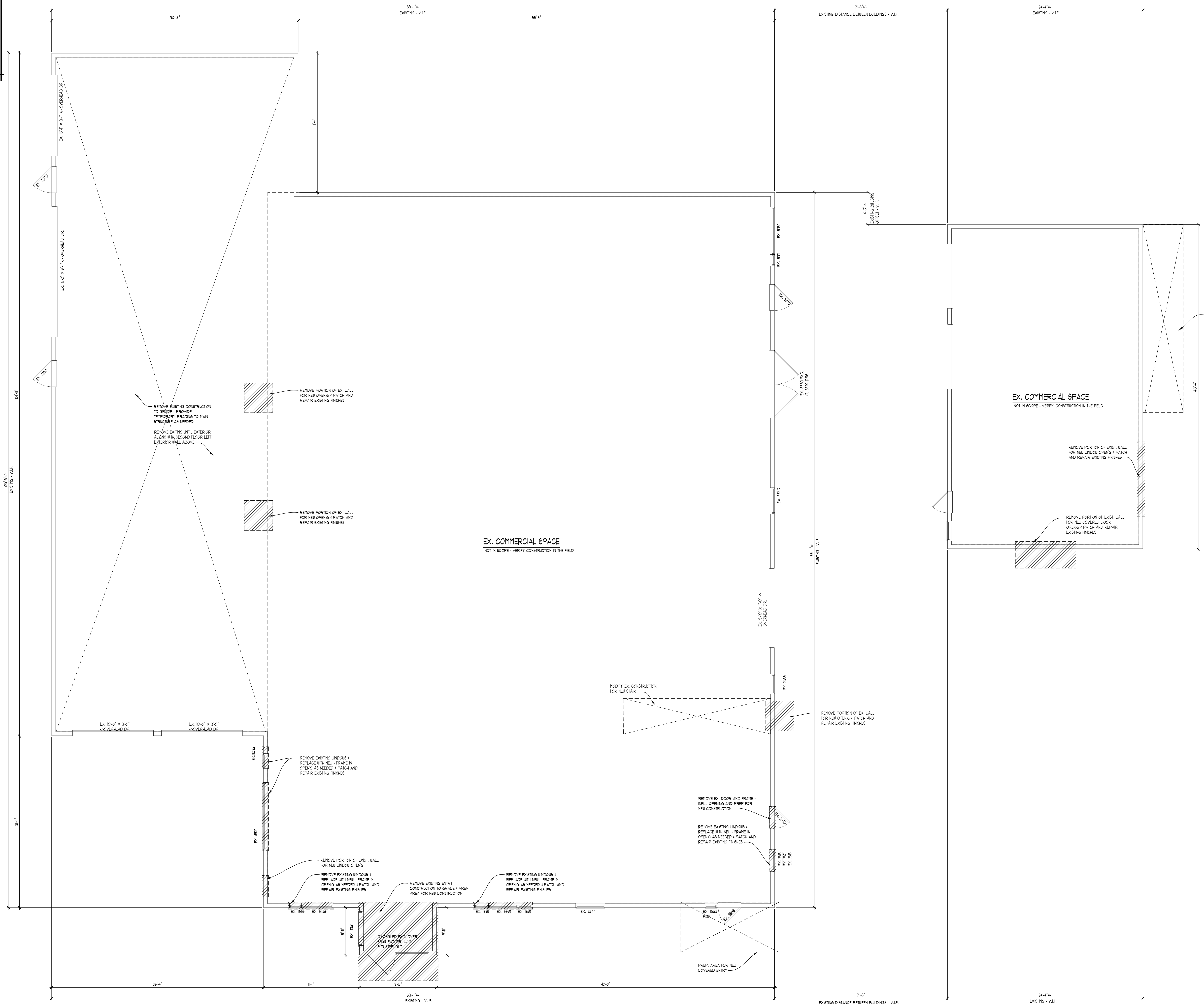
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NOTE:
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- EXTERIOR WALL THICKNESS
- EXISTING ROOF PITCH
- EXISTING HEEL HEIGHT
- OVERHANG DIMENSIONS
- OVERALL DIMENSIONS ACROSS TOP PLATES
- EXISTING FLOOR JOIST AND ROOF FRAMING DIRECTION PRIOR TO BIDDING / TRUSS FABRICATION / MATERIAL TAKEOFF

DEMOLITION NOTES

1. EXTERIOR GRADE SHALL BE INSPECTED AND LOCATIONS WHERE THE GRADE IS WITHIN 8" OF THE SILL PLATE INSPECT CLOSELY FOR SIGNS OF ROT. ANY ROTTED WOOD SHALL BE REMOVED AND REPLACED AND THEN SPOT TREATED WITH TBORON OR AN EQUIVALENT PRESERVATIVE.
2. NEW SILICONE SEALANT SHALL BE APPLIED AROUND ANY OPENINGS THROUGH THE FOUNDATION PERMS UNDER EDCI.
3. ALL VERTICAL CRACKS NOTED SHALL BE TUCK POINTED WITH AN EPOXY MORTAR.
4. GENERAL CONTRACTOR IS RESPONSIBLE FOR ALL SUB-TRADES.
5. ALL WORK IS TO BE DONE BY LICENSED CONTRACTORS.
6. CONTRACTOR SHALL VERIFY ALL ON-SITE CONDITIONS & DIMENSIONS AND TO NOTIFY TK DESIGN & ASSOCIATES OF ANY DISCREPANCIES OR OMISSIONS PRIOR TO CONSTRUCTION/DEMOLITION.
7. CONTRACTOR IS RESPONSIBLE FOR REMOVAL OF ALL CONSTRUCTION RELATED DEBRIS, TRASH, RUBBER, ETC. AND TO DISPOSE OF ALL MATERIALS IN A LEGAL MANNER. CONTRACTOR IS TO KEEP THE PROJECT AREA CLEAN AT ALL TIMES.
8. CONTRACTOR SHALL NOTIFY, COORDINATE AND SCHEDULE ANY AND ALL DISCONNECTIONS OF EXISTING UTILITY SERVICES WITH THE OWNER PRIOR TO THE WORK BEING DONE.
9. REPAIR DEMOLITION PERFORMED IN EXCESS OF THAT REQUIRED, RETURN STRUCTURES AND SURFACES TO REPAIR TO CONDITION EXISTING PRIOR TO COMMENCEMENT OF SELECTIVE DEMOLITION WORK. REPAIR ADJACENT CONSTRUCTION OR SURFACES SOILED OR DAMAGED BY SELECTIVE DEMOLITION WORK.
10. MAINTAIN EXISTING UTILITY SERVICES AND PROTECT AGAINST DAMAGE DURING ALL PHASES OF CONSTRUCTION.
11. IF HAZARDOUS MATERIALS ARE ENCOUNTERED DURING DEMOLITION OPERATIONS, COMPLY WITH APPLICABLE REGULATIONS, LAWS, AND ORDINANCES CONCERNING REMOVAL, HANDLING, AND PROTECTION AGAINST EXPOSURE OR ENVIRONMENTAL POLLUTION.
12. ALL DRAWINGS ARE SCHEMATIC. EXTENT OF DEMOLITION SHOWN IS APPROXIMATE. FIELD VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
13. ALL STRUCTURAL MEMBERS ARE TO REMAIN (TYP. UNLESS NOTED OTHERWISE).

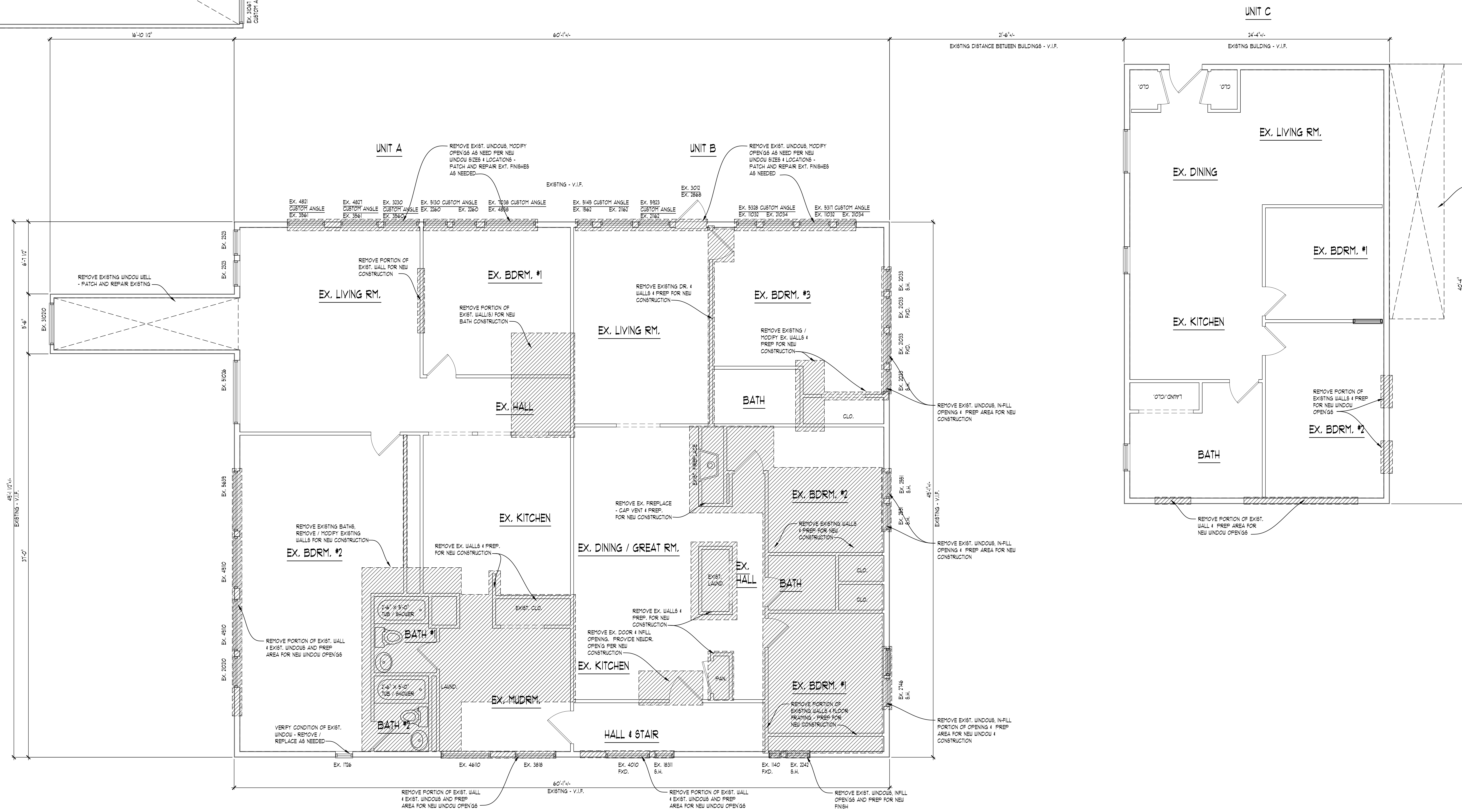
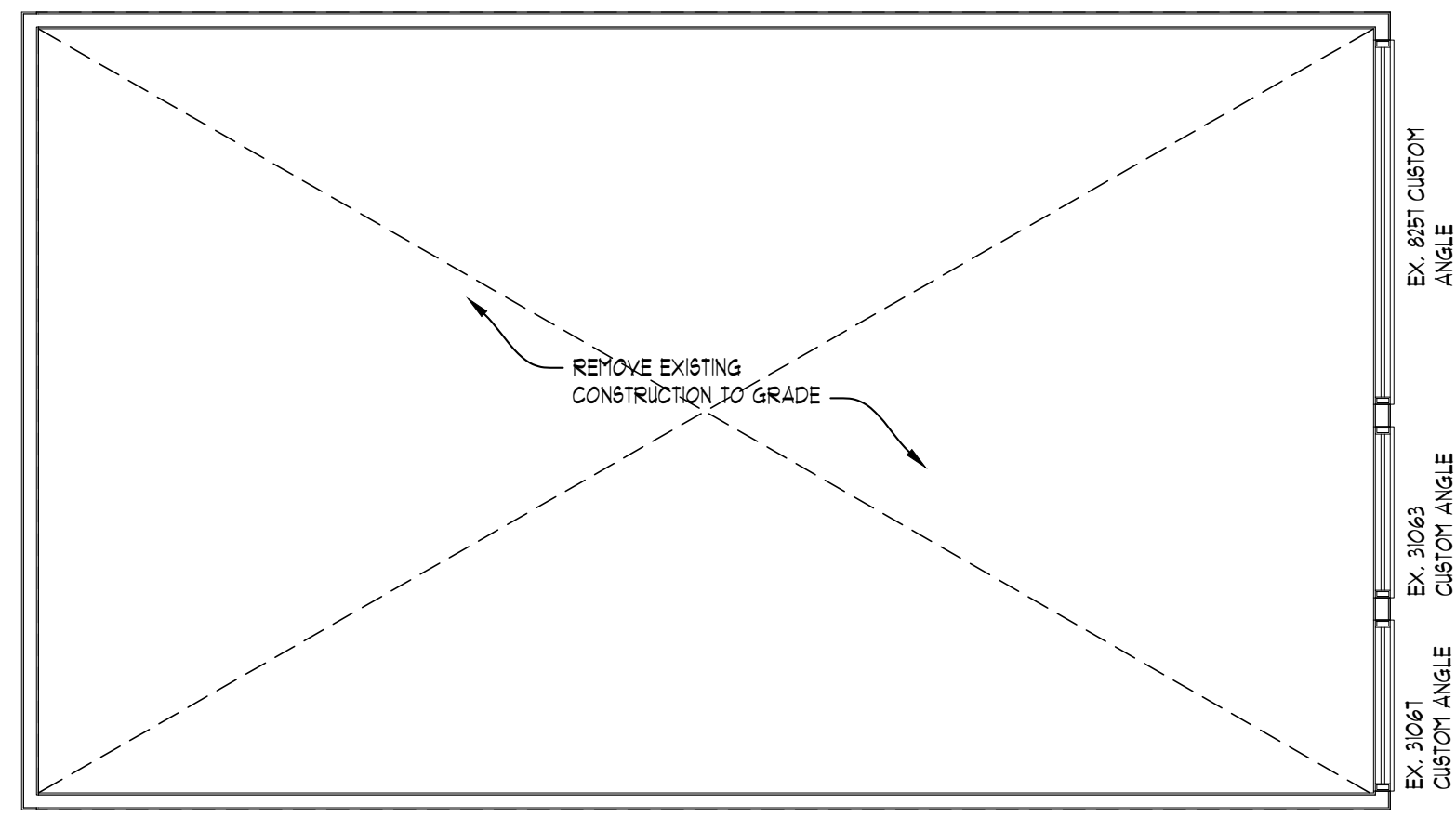


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10. MAINTAIN EXISTING UTILITY SERVICES AND PROTECT AGAINST DAMAGE DURING ALL PHASES OF CONSTRUCTION.
11. IF HAZARDOUS MATERIALS ARE ENCOUNTERED DURING DEMOLITION OPERATIONS, NOTIFY WITH APPLICABLE REGULATIONS, LAWS, AND ORDINANCES CONCERNING REMOVAL, HANDLING, AND PROTECTION AGAINST EXPOSURE OR ENVIRONMENTAL POLLUTION.
12. ALL DRAWINGS ARE SCHEMATIC. EXTENT OF DEMOLITION SHOWN IS APPROXIMATE. FIELD VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
13. ALL STRUCTURAL MEMBERS ARE TO REMAIN (TYP. UNLESS NOTED OTHERWISE).



EXISTING / DEMOLITION SECOND FLOOR PLAN

SCALE: 1/4" = 1'-0"

SCOPE OF WORK NOTES:

1. REMOVE EXISTING FIRST FLOOR GARAGE EXTENSION
2. REMOVE EXISTING STAIRS, FRAME IN OPENING AND PREP FOR NEW STAIR
3. REMOVE EXISTING SECOND FLOOR APARTMENT WALL FINISHES TO FACE OF STUD
4. REVISE / UPDATE SECOND FLOOR APARTMENT MECH. / ELECT. / PLUMBING (NOT IN SCOPE)



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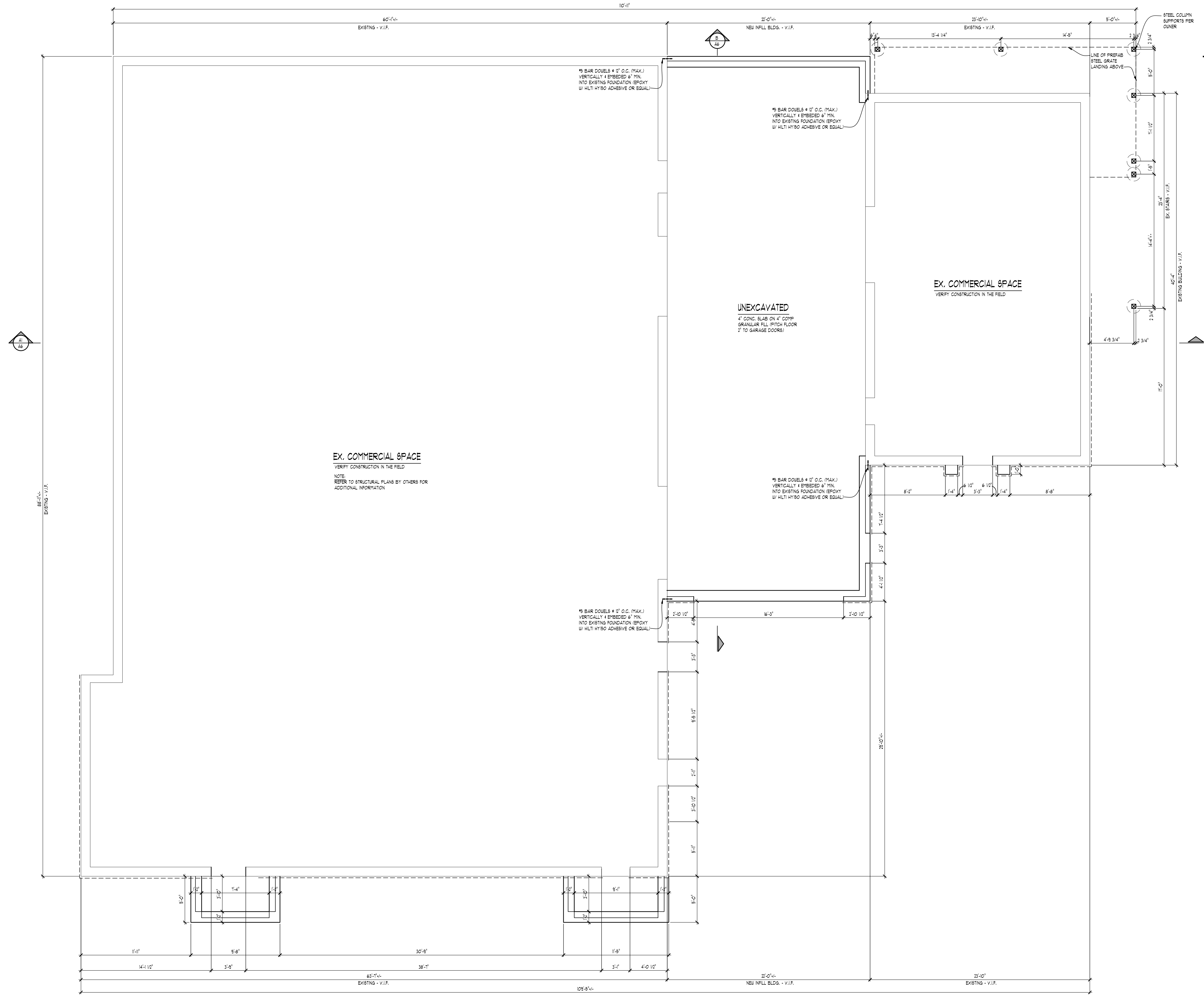
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NOTE:
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- EXISTING FLOOR JOIST AND ROOF FRAMING DIRECTION

PRIOR TO BIDDING / TRUSS FABRICATION / MATERIAL TAKEOFF



FOUNDATION NOTES

NOTE:
 ALL FOOTINGS ARE DESIGNED FOR 3000 P.S.F. SOIL BRG. CAPACITY & 80 P.S.F. ROOF SNOW LOAD PER EARLE COUNTY CODES.

1. ALL COLUMNS SHOWN SHALL BE 3" DIA. SCHEDULE 40 STANDARD STEEL PIPE COLUMN ON 30" X 30" X 8" DEEP CONC. PIG. TOP OF CONCRETE PIG. TO BE 4" BELOW FINISH EXISTING SLAB. (TYPICAL UNLESS NOTED OTHERWISE)
2. WHERE STEEL BEAMS REST ON FOUNDATION WALLS, SIZE BEAM POCKET APPROPRIATELY AND BHM AS REQUIRED.
3. AS REQUIRED DROP FOTER FLOOR SHEATHING 3/4" FOR MUDSET TILE INSTALLATION.
4. VERIFY ALL UTILITY LOCATIONS W/ BUILDER.
5. PROVIDE GUARDRAIL AT STAIRS DURING CONSTRUCTION.
6. PROVIDE LADDERING UNDER ANY WALL RUNNING PARALLEL W/ JOIST THAT DOES NOT LAND DIRECTLY ON A JOIST.
7. PROVIDE SQUASH BLOCKS UNDER ALL BEARING CONDITIONS.
8. GROUT SOLID # BEARING CONDITIONS WHERE BLOCK IS USED.
9. PROVIDE 2" X 24" MIN. R-20 RIGID PERIMETER INSULATION AT ALL BASEMENT SLABS THAT ARE LESS THAN 42" BELOW EXTERIOR FINISH GRADE.

NOTE:
 PROVIDE MIN. 2" X 4" HEADER AT ALL INTERIOR & EXTERIOR DOOR & WINDOW OPENINGS (UNLESS NOTED OTHERWISE).

NOTE:
 PROVIDE MIN. (1) JACK STUD & (1) KING STUD AT EACH END OF ALL HEADERS (UNLESS NOTED OTHERWISE).

NOTE:
 PROVIDE MIN. (1) JOIST OR LADDER BRACING UNDER ALL UPPER FLOOR PARALLEL PARTITIONS.

NOTE:
 GROUT ALL CONCRETE BLOCK CORES SOLID THAT SUPPORT POINT LOADS FROM ABOVE (TYPICAL)

NOTE:

— LOOP BEAM
 — STEEL BEAM

▤ BRG. WALL
 ▤ BRG. WALL ABOVE
 ▤ BRG. WALL & BRG. WALL ABOVE

■ POINT LOAD
 □ POINT LOAD FROM ABOVE

AREA SUMMARY:

OVERALL FLOOR AREA	
EXIST. FIRST FLOOR (USE B)	8633 S.F.
NEW FIRST FLOOR (USE B)	280 S.F.
USE B AREA	8913 S.F.
EXIST. SECOND FLOOR (USE R-2)	3878 S.F.
NEW SECOND FLOOR	0 S.F.
USE R-2 AREA	3878 S.F.
TOTAL BUILDING S.F. = 12791	

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FOUNDATION FLOOR PLAN

SCALE: 1/4" = 1'-0"

NOTE:
 REFER TO STRUCTURAL PLANS BY OTHERS FOR ADDITIONAL INFORMATION

PLAN NOTES

- INTERIOR WALLS:**
1/2" GYPSUM WALL BOARD ON EACH SIDE OF 2x4 WOOD STUDS @ 16" O.C. 3/4" THICK TYPICAL (UNLESS NOTED OTHERWISE). ALL DIMENSIONS TAKEN FROM STUD EDGES.
- EXTERIOR WALLS:**
KING AND/OR PRINCEY WITH AIRSPACE MOISTURE BARRIER PAPER (AUGER WRAP) ON 16" O.S.B. BEAMS ON 2x6 WOOD STUDS @ 16" O.C. OR AS NOTED. MIN. R-10 WALL CONSTRUCTION. 1/2" GYPSUM WALL BOARD (AUGER & SCREW). WALL TO BE 6" THICK WITH EDGES AND 8" THICK WITH MANUFACTURED STONE (TYPICAL UNLESS NOTED OTHERWISE). ALL DIMENSIONS TAKEN FROM FINISH FLOOR PLANS (OR FOUNDATION CORNERS PRODUCTION PLAN).
- VENT ALL EXHAUST FANS TO EXTERIOR.
 - WHEN POSSIBLE DIRECT ALL FLUES AND VENTS THAT PENETRATE ROOF BEHIND MAIN RIDGE.
 - INSTALL WATER SUPPLY AND DRAIN BOX (GRAY BOX) AT WASHING MACHINE LOCATION.
 - USE MOISTURE RESISTANT DRYWALL AT ALL AREAS SUSCEPTIBLE TO MOISTURE.
 - ALL FIRST FLOOR INTERIOR DOORS TO BE FRAMED 4-8" TALL. ALL SECOND FLOOR INTERIOR DOORS TO BE FRAMED 6-8" UNLESS NOTED OTHERWISE. VERIFY W/ BUILDER.
 - PROVIDE GUARDRAIL AT STAIRS DURING CONSTRUCTION.
 - PROVIDE SQUASH BLOCKS UNDER ALL BEARING CONDITIONS.

NOTE:
PROVIDE MIN. (2) 2 x 4 HEADERS AT ALL INTERIOR & EXTERIOR DOOR & WINDOW OPENINGS (UNLESS NOTED OTHERWISE).

NOTE:
PROVIDE MIN. (2) JACK STUD & (2) KING STUD AT EACH END OF ALL HEADERS (UNLESS NOTED OTHERWISE).

NOTE:
PROVIDE MIN. (2) JOIST OR LADDER BRACING UNDER ALL 1ST FLOOR PARALLEL PARTITIONS.

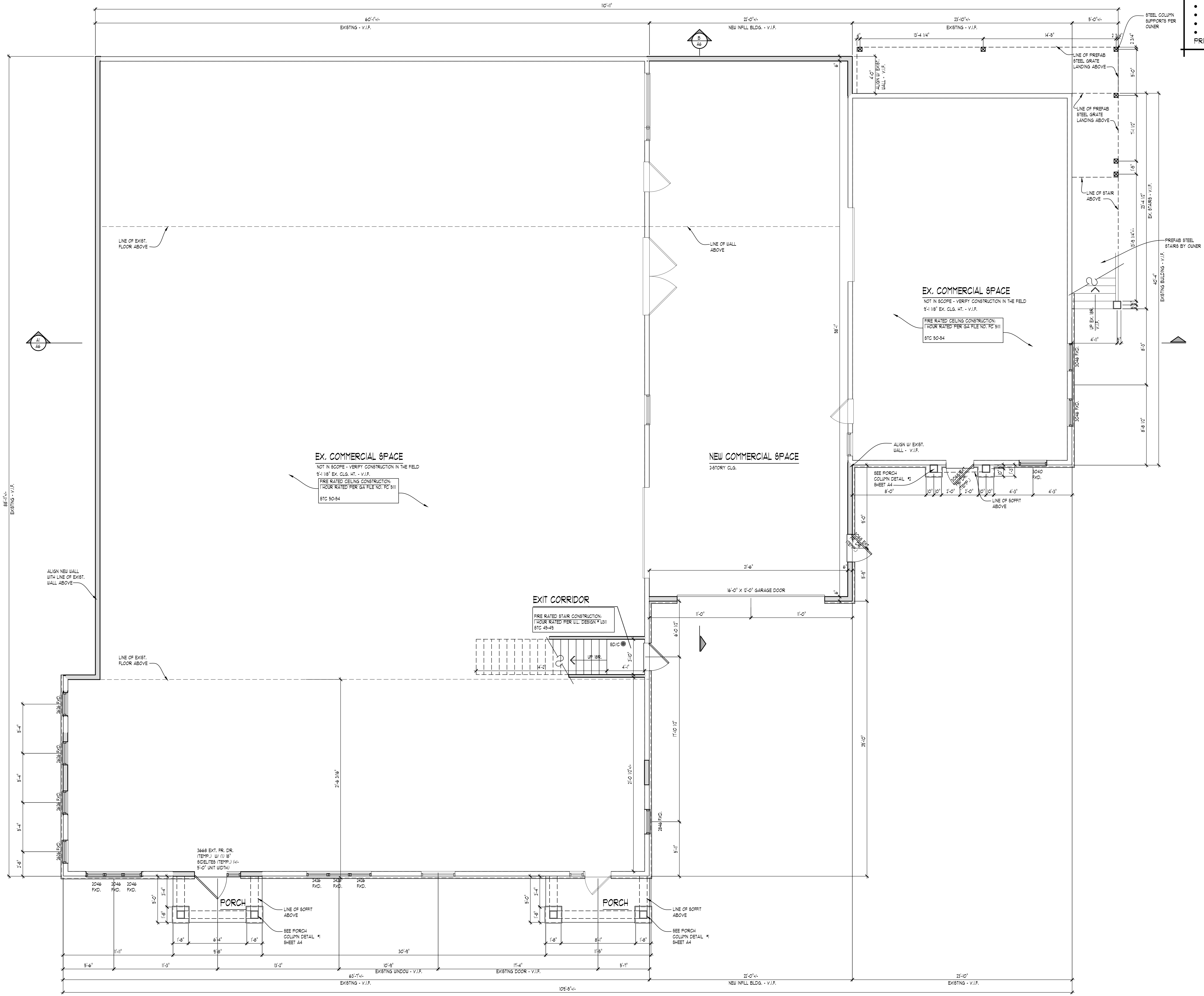
WALL KEY
NEW STUD WALL
EXISTING STUD WALL TO REMAIN

NOTE:
S.D. (SMOKE DETECTOR)
B.D. (BATTERY BACKUP)
ALL SMOKE & CARBON MONOXIDE DETECTORS INTERCONNECTED W/ BATTERY BACKUP PER CODE.

NOTE:
DOOR & WINDOW LOCATIONS
ALL DOORS & WINDOWS ARE ASSUMED TO BE EITHER IN THE CENTER OF THE WALL, 1/4" OR 1/2" INCHES FROM FINISH GLAZER WALL FOR CASING UNLESS NOTED OTHERWISE.

FIRE SEPARATION NOTE
FIRE SEPARATION (RES201)
GARAGE SPACE BETWEEN HABITABLE ROOMS SHALL BE SEPARATED FROM ALL HABITABLE ROOMS ABOVE BY NOT LESS THAN 5/8-INCH TYPE X GYPSUM BOARD OR EQUIVALENT. WHERE THE SEPARATION IS A FLOOR-CEILING ASSEMBLY, THE STRUCTURE SUPPORTING THE SEPARATION SHALL ALSO BE PROTECTED BY NOT LESS THAN 1/2-INCH GYPSUM BOARD OR EQUIVALENT. ALL OTHER GARAGE SPACE SHALL BE SEPARATED FROM THE RESIDENCE AND ITS ATTIC AREA BY NOT LESS THAN 1/2-INCH GYPSUM BOARD APPLIED TO THE GARAGE EGGS. DOOR CLOSURE FLX. REV. INCLUDE MECHANICAL AND STRUCTURAL ELEMENTS VERIFY W/ BLDG.

NOTE:
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• EXISTING ROOF PITCH
• EXISTING HELL HEIGHT
• OVERHANG DIMENSIONS
• OVERALL DIMENSIONS ACROSS TOP FLATES
• EXISTING FLOOR JOIST AND ROOF FRAMING DIRECTION
PRIOR TO BIDDING / TRUSS FABRICATION / MATERIAL TAKEOFF



AREA SUMMARY:

OVERALL FLOOR AREA:	
EXIST. FIRST FLOOR (USE B1)	6635 S.F.
NEW FIRST FLOOR (USE B1)	1500 S.F.
USE B' AREA:	1985 S.F.
EXIST. SECOND FLOOR (USE R2)	3875 S.F.
NEW SECOND FLOOR	0 S.F.
USE R2 AREA:	3375 S.F.
TOTAL BUILDING S.F. = 1754	



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NEW FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

PLAN NOTES

INTERIOR WALLS:
1/2" GYPSUM WALL BOARD ON EACH SIDE OF 2x4 WOOD STUDS @ 16" O.C. 3/4" THICK TYPICAL (UNLESS NOTED OTHERWISE). ALL DIMENSION TAKEN FROM 5/8" EDGES.

EXTERIOR WALLS:
8" CONCRETE BLOCK WITH AIRSPACE MOISTURE BARRIER PAPER (AUGER LEAD ON 1/4" DIA. ANCHORS ON 2x4 WOOD STUDS @ 16" O.C. ON 48" NOTES). MIN. R-10 WALL CONSTRUCTION, 1/2" GYPSUM WALL BOARD (SHE 1 SORSE). WALL TO BE 8" THICK WITH BOND AND 8" THICK 1/4" MANUFACTURED STONE (TYPICAL UNLESS NOTED OTHERWISE). ALL DIMENSION TAKEN FROM FRAMING FLOOR PLANS OR FOUNDATION CORNERS FOUNDATION PLAN.

1. VENT ALL EXHAUST FANS TO EXTERIOR.
2. WHEN POSSIBLE DIRECT ALL RUES AND VENTS THAT PENETRATE ROOF BEHIND MAIN ROSE.
3. INSTALL WATER SUPPLY AND DRAIN BOX (GREY BOX) AT WASHING MACHINE LOCATION.
4. USE MOISTURE RESISTANT DRYWALL AT ALL AREAS SUSCEPTIBLE TO MOISTURE.
5. ALL FIRST FLOOR INTERIOR DOORS TO BE FRAMED 4'-8" TALL, ALL SECOND FLOOR INTERIOR DOORS TO BE FRAMED 4'-0" UNLESS NOTED OTHERWISE. VERIFY BY BUILDER.
6. PROVIDE GUARDRAIL AT STAIRS DURING CONSTRUCTION.
7. PROVIDE SQUASH BLOCKS UNDER ALL BEARING CONDITIONS.

NOTE:
PROVIDE MIN. (2) 2x4 HEADER AT ALL INTERIOR & EXTERIOR DOOR & WINDOW OPENINGS (UNLESS NOTED OTHERWISE).

NOTE:
PROVIDE MIN. (1) JACK STUD & (1) KING STUD AT EACH END OF ALL HEADERS (UNLESS NOTED OTHERWISE).

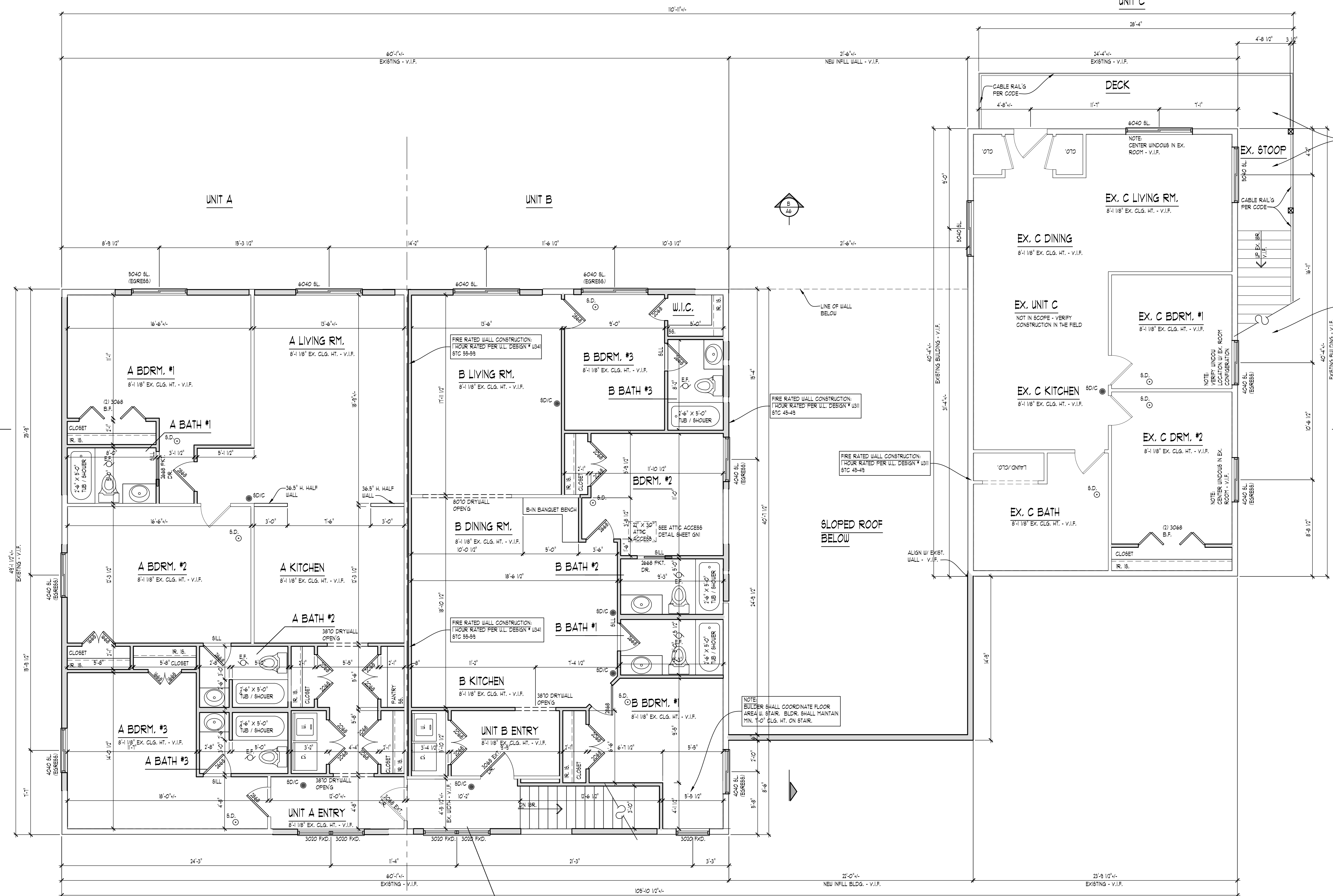
NOTE:
PROVIDE MIN. (1) JOIST OR LAGGER BRACING ABOVE ALL UPPER FLOOR PARALLEL PARTITIONS.

WALL KEY
NEW STUD WALL
EXISTING STUD WALL TO REMAIN

NOTE:
S.D. (S) ALL SMOKE & CARBON MONOXIDE DETECTORS INTERCONNECTED BY BATTERY BACK-UP PER CODE.

NOTE:
DOOR & WINDOW LOCATIONS:
ALL DOORS & WINDOWS ARE ASSUMED TO BE EITHER IN THE CENTER OF THE WALL (WALL OR MIN. 4" SIDES) FROM PERPENDICULAR WALL FOR CASING UNLESS NOTED OTHERWISE.

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SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"

HALL & STAIR
8'-0" EX. CLG. HT. - V.I.F.
FIRE RATED WALL CONSTRUCTION
1/2 HOUR RATED PER U.L. DESIGN # 1443
ETC 48-48

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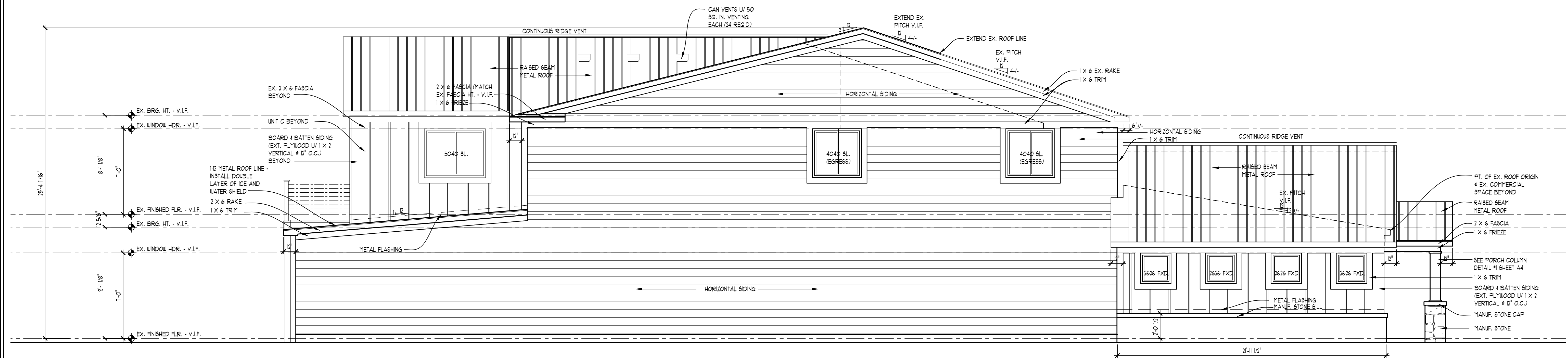
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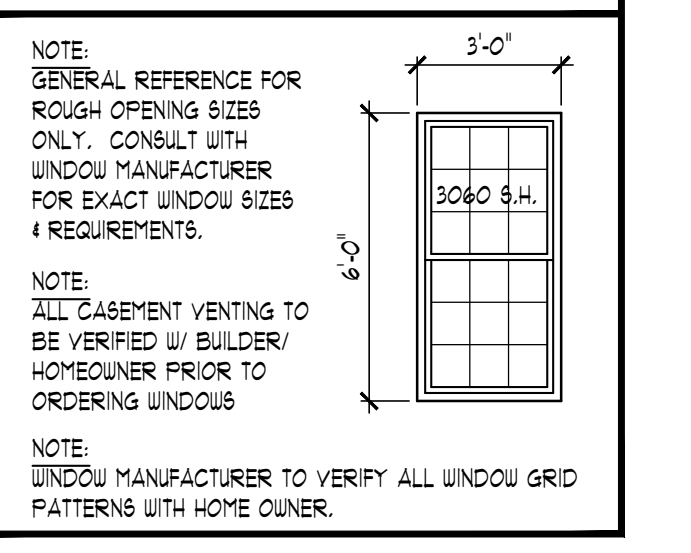


LEFT ELEVATION
SCALE: 1/4" = 1'-0"

ELEVATION NOTES

- ALL ROOF EAVES TO BE C.A.B. FINISHED WITH ICE & WATER SHIELD AND BUNGLES.
- PROVIDE ICE & WATER SHIELD MIN. 4'-0" COVERAGE AT ALL VALLEYS.
- PREPLACE FLEECE TO BE DETERMINED PER MANUFACTURER'S SPECIFICATION.
- METAL FLASHING AS REQUIRED BY CODE.
- ROOF & SOFFIT VENTS AS REQUIRED BY CODE.
- PROVIDE GUTTERS & DOWNPOUTS FOR DRAINAGE OF ROOF WATER. DOWNPOUTS ARE TO BE LOCATED SO THAT THE DISCHARGE WILL NOT SPILL ON OR FLOW ACROSS ANY PORCHES, WALKS OR DRIVES.
- CARPENTER TO VERIFY THICKNESS OF MASONRY PRIOR TO BUILDING BRICK RACK.

TYPICAL WINDOW DESIGNATION

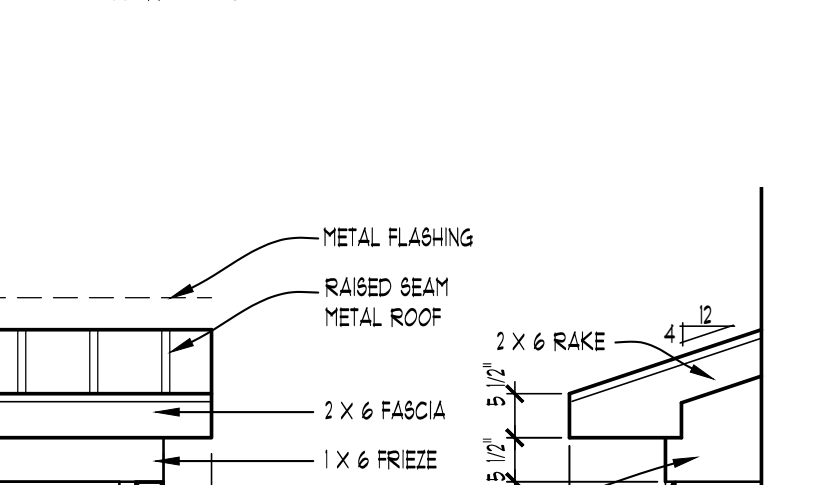


NOTE:
OVERHANG DIMENSIONS (O.A.) ARE FROM SHEATHING U.L.O.

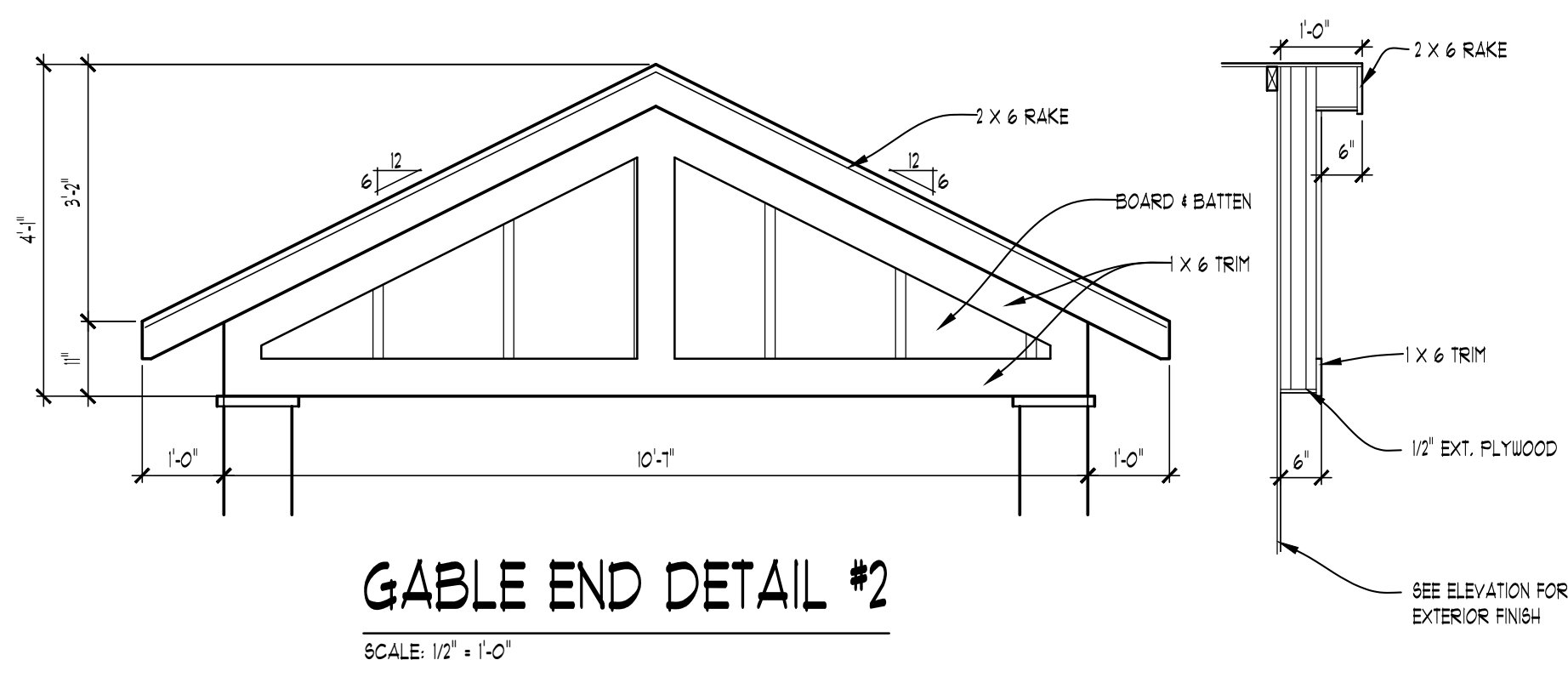
NOTE:
ALL UNDOOR BILLS OVER 4'-0" ABOVE EXTERIOR GRADE OR SURFACE BELOW TO BE "MINOR" AT ABOVE FINISHED FLOOR OR HAVE BASH LAMBERS PER CODE REQUIREMENTS.

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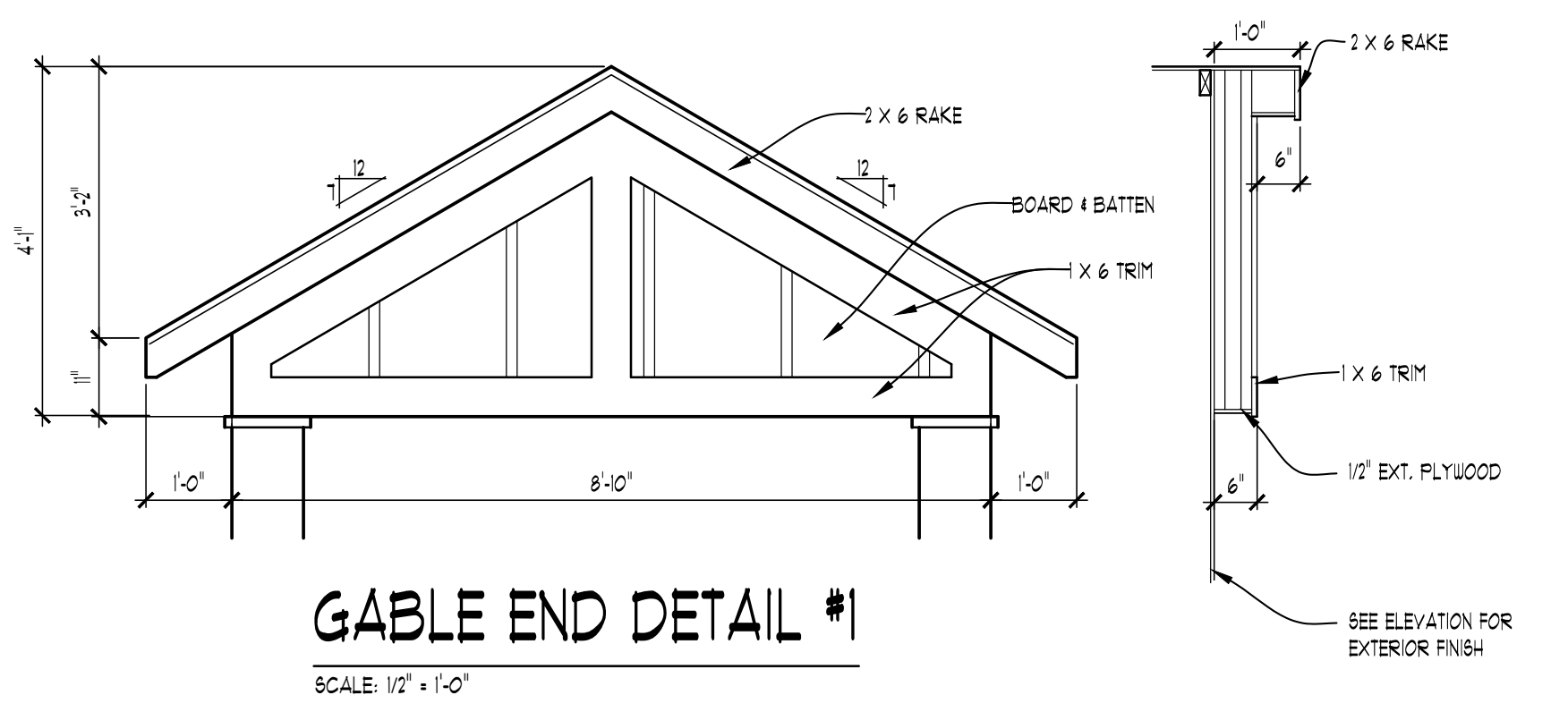
BRACKET DETAIL
SCALE: 1" = 1'-0"



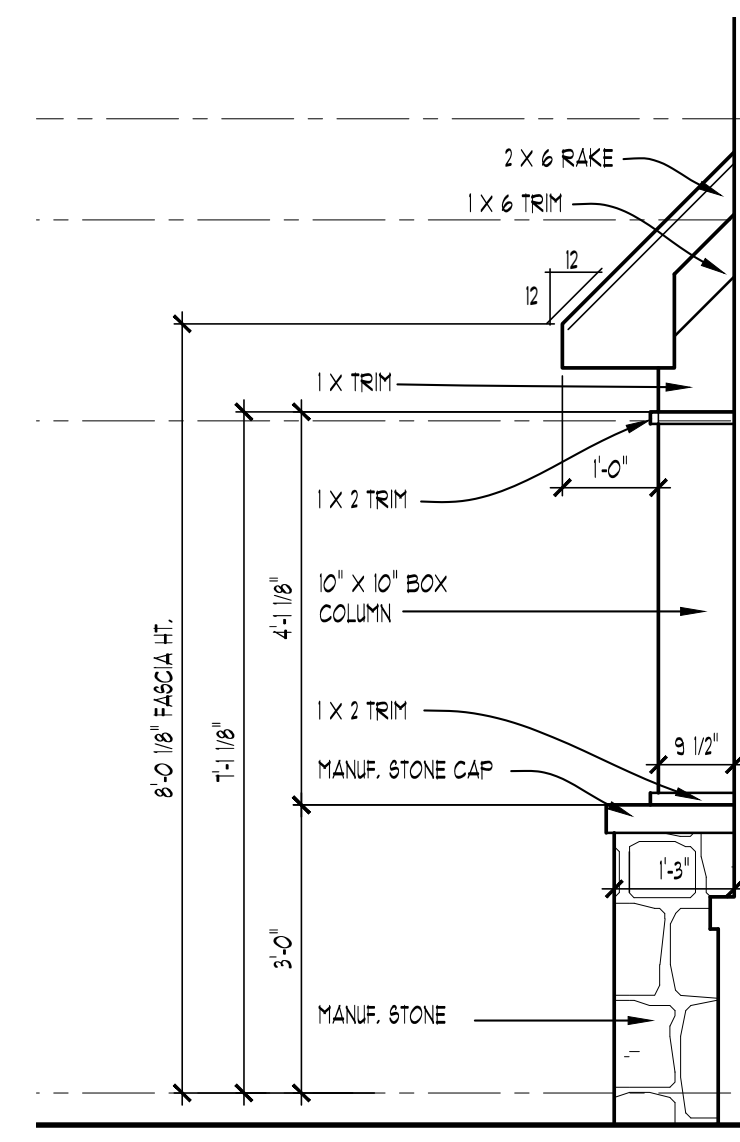
SHED ROOF DETAIL
SCALE: 1/2" = 1'-0"



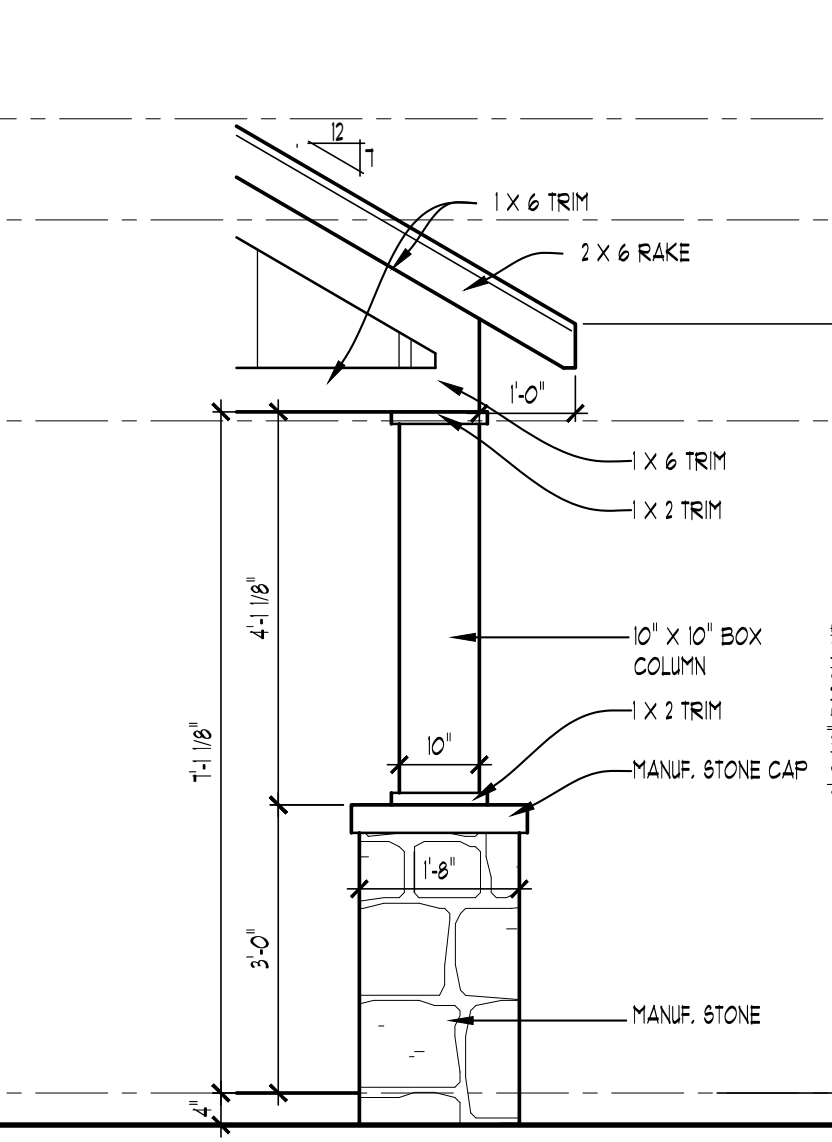
GABLE END DETAIL #2
SCALE: 1/2" = 1'-0"



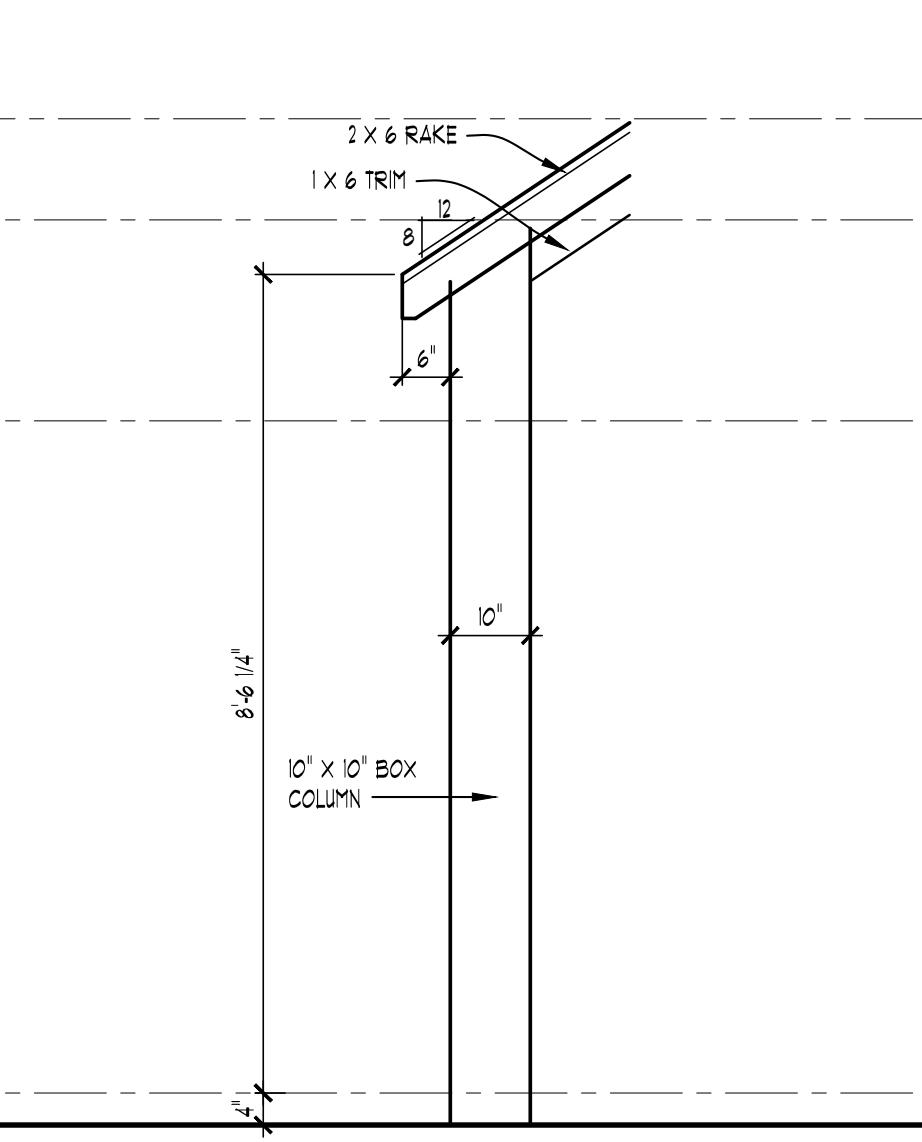
GABLE END DETAIL #1
SCALE: 1/2" = 1'-0"



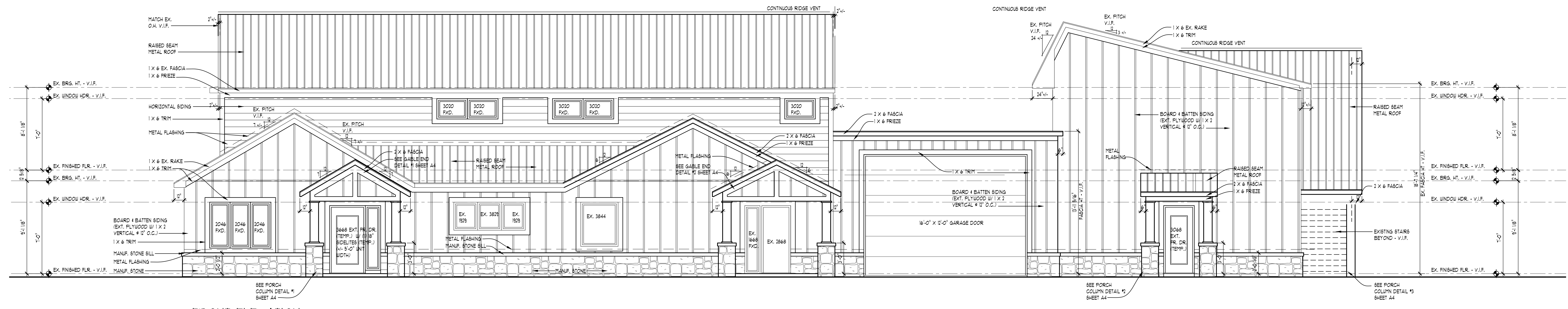
PORCH COLUMN DETAIL #2
SCALE: 1/2" = 1'-0"



PORCH COLUMN DETAIL #1
SCALE: 1/2" = 1'-0"



PORCH COLUMN DETAIL #2
SCALE: 1/2" = 1'-0"



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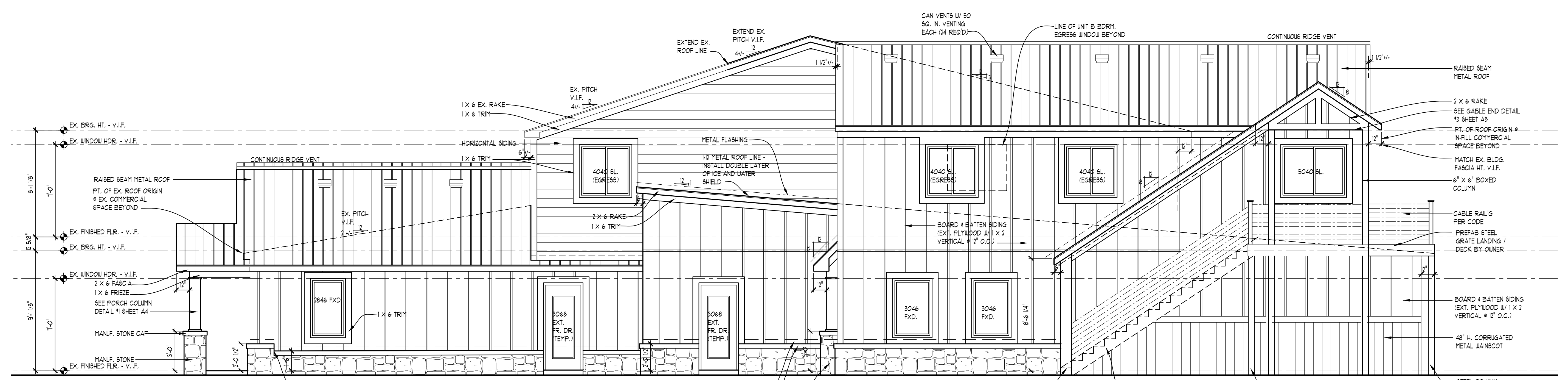
2000 N. HIGHWAY 100, SUITE 100
NORTH LITTLE ROCK, AR 72117
PHONE: 501-888-1999
FAX: 501-888-1991

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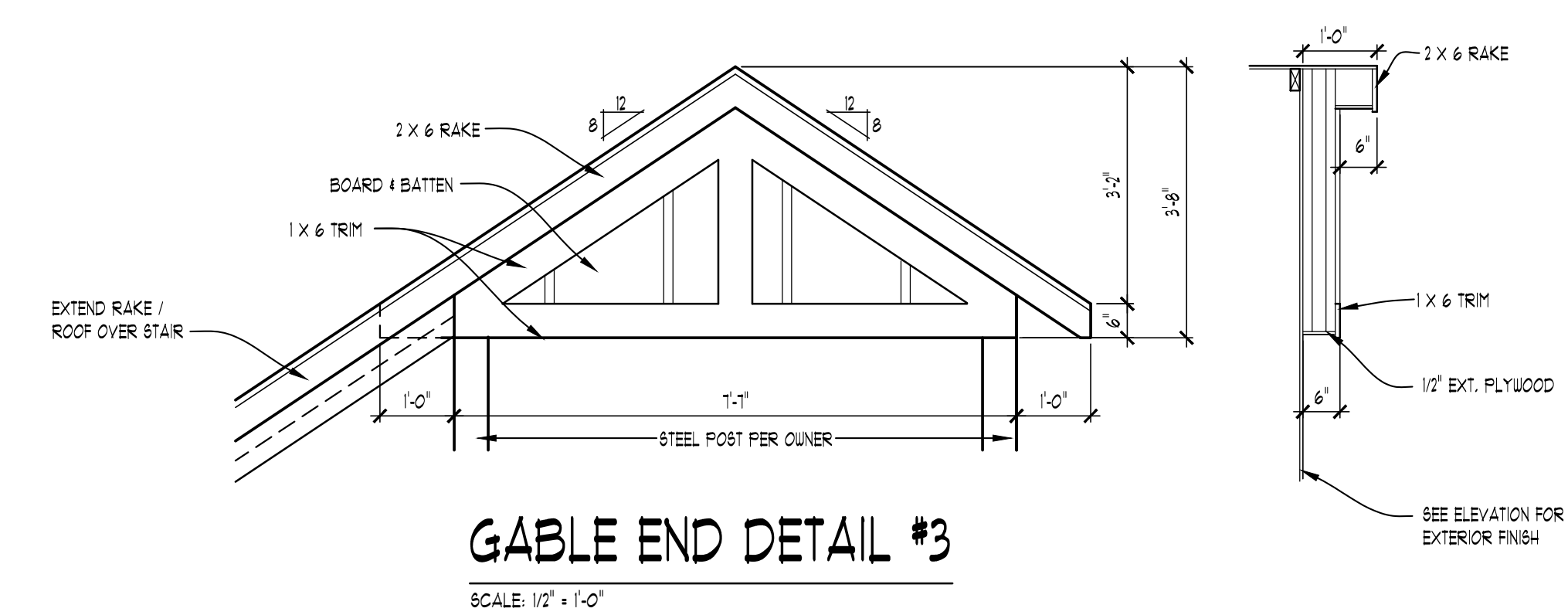
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DRAWN: AG
CHECKED: -
REVIEW: 8-11-22
FINAL: 9-2-22
REVISED: 11-16-22

SCALE:
PER PLAN

SHEET #
A-4



RIGHT ELEVATION
SCALE 1/4" = 1'-0"



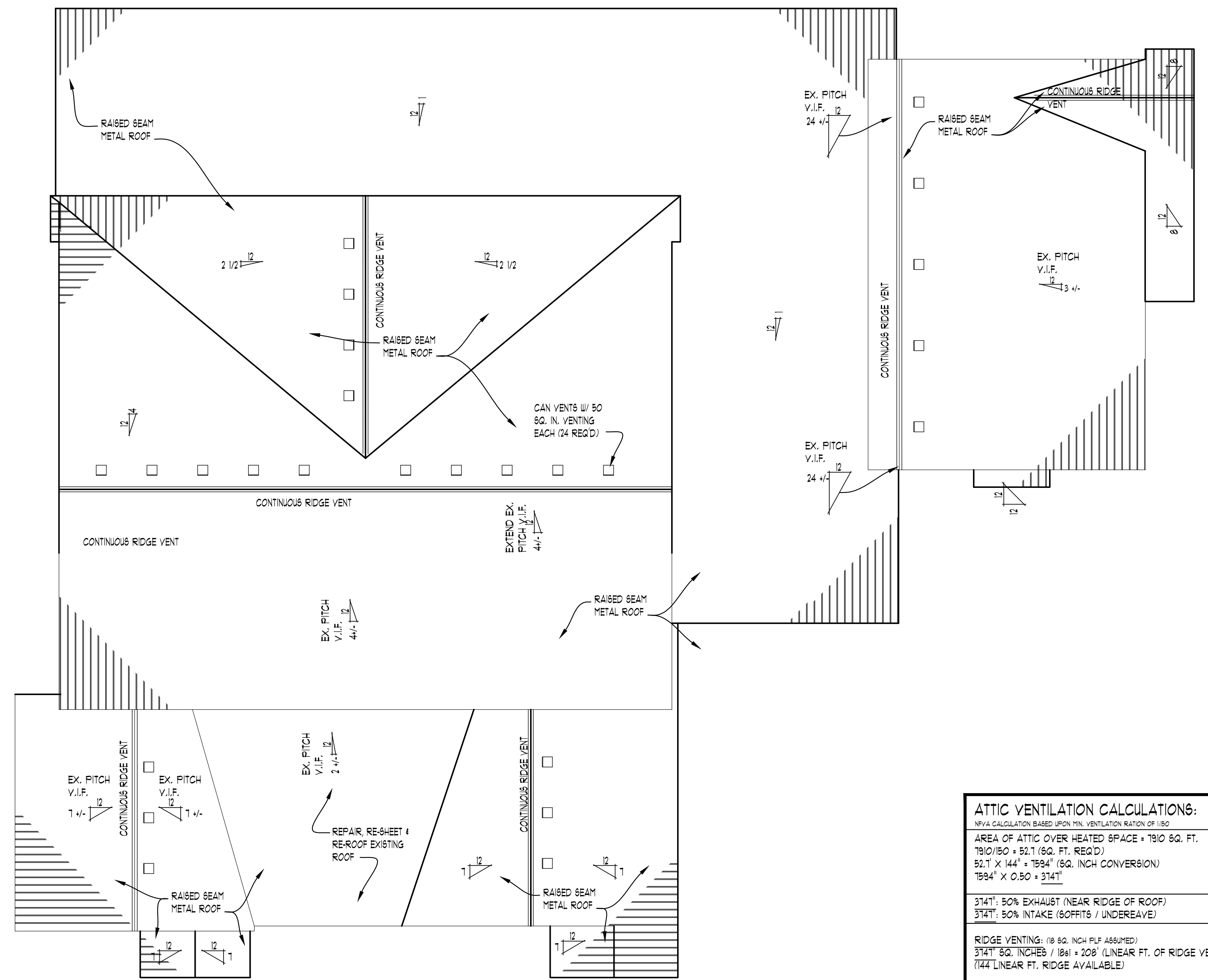
GABLE END DETAIL #3
SCALE 1/2" = 1'-0"

NOTE:
INFORMATION DEEMED RELIABLE BUT NOT GUARANTEED. ALL DIMENSIONS ARE APPROXIMATE. TRUSS MANUFACTURER AND GENERAL CONTRACTOR TO VERIFY ALL FIELD CONDITIONS INCLUDING BUT NOT LIMITED TO:
 • EXTERIOR WALL THICKNESS
 • EXISTING ROOF PITCH
 • EXISTING HEAD HEIGHT
 • OVERHANG DIMENSIONS
 • OVERALL DIMENSIONS ACROSS TOP PLATES
 • EXISTING FLOOR JOIST AND ROOF FRAMING DIRECTION
 PRIOR TO BIDDING / TRUSS FABRICATION / MATERIAL TAKEOFF

ELEVATION NOTES
 1. ALL ROOF RAFTERS TO BE O.S.B. SHEATHED WITH ICE & WATER SHIELD AND BUNGLES.
 2. PROVIDE ICE & WATER SHIELD MIN. 4'-0" COVERAGE AT ALL VALLEYS.
 3. REPLACE FLEECE TO BE DETERMINED PER MANUFACTURER'S SPECIFICATION.
 4. ROOF & SOFFIT VENTS AS REQUIRED BY CODE.
 5. PROVIDE GUTTERS & DOWNPOUTS FOR DRAINAGE OF ROOF WATER. DOWNPOUTS ARE TO BE LOCATED SO THAT THE DISCHARGE WILL NOT SPILL ON OR FLOOD ACROSS ANY PORCHES, WALKS OR DRIVES.
 6. CARPENTER TO VERIFY THICKNESS OF MASONRY PRIOR TO BUILDING BRICK RACK.

NOTE:
OVERHANG DIMENSIONS (O.A.) ARE FROM SHEATHING G.L.O.

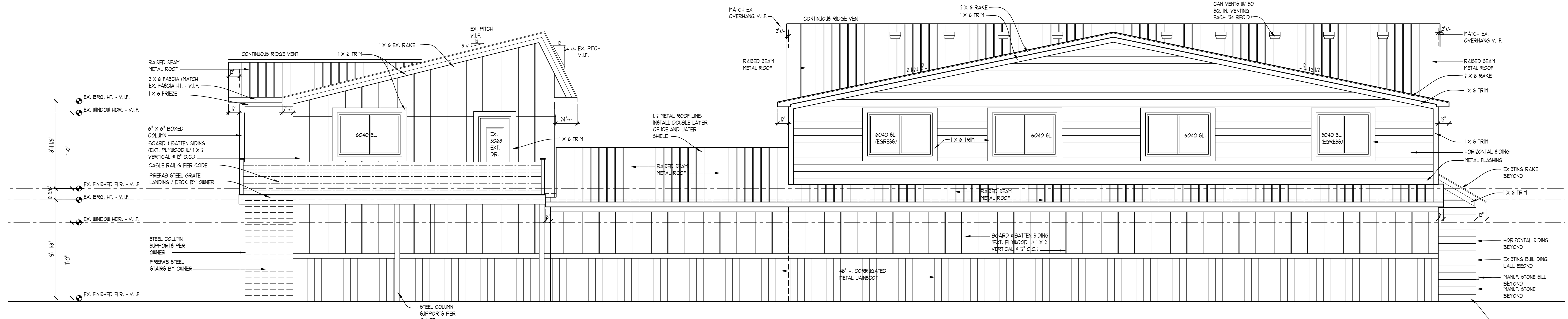
TYPICAL WINDOW DESIGNATION
 NOTE: GENERAL REFERENCE FOR WINDOW OPENING SIZES ONLY. CONSULT WITH WINDOW MANUFACTURER FOR EXACT WINDOW SIZES & REQUIREMENTS.
 NOTE: ALL CASHEMINT VENTING TO BE VERIFIED BY BUILDER/HOMEOWNER PRIOR TO ORDERING WINDOWS.
 NOTE: WINDOW MANUFACTURER TO VERIFY ALL WINDOW GRID PATTERNS WITH NOTE OWNER.



ROOF PLAN
SCALE 1/8" = 1'-0"

ATTIC VENTILATION CALCULATIONS:
 AREA OF ATTIC OVER HEATED SPACE = 790 SQ. FT.
 (8'0" HIGH x 98'10" LONG) (10'0" HIGH CONVERSION)
 794" x 98" x 10"
 314" 30" EXHAUST (NEAR RIDGE OF ROOF)
 314" 30" INTAKE (SOFFITS / UNDEREAVE)
 RIDGE VENTING: 18 SQ. INCH PER LINEAR FT. OF RIDGE VENT (SEE NOTE)
 18" x 18" x 18" (18" x 18" LINEAR FT. OF RIDGE VENT)
 18" x 18" x 18" (18" x 18" LINEAR FT. OF RIDGE VENT)
 LEAVE OR CORNER VENTING: 18" x 18" x 18" (18" x 18" LINEAR FT. OF RIDGE VENT)
 18" x 18" x 18" (18" x 18" LINEAR FT. OF RIDGE VENT)

UNVENTILATED ATTIC VENTILATION CALCULATIONS:
 UNVENTILATED RIDGE
 144" (ACTUAL AVAIL. RIDGE) x 108" (REQUIRED RIDGE) = 64"
 64" x 8" x 18" (REMAINING SQ. INCHES) / 50. INCH P.L.F. (AS REQUIRED)
 18" / 50" = 36" (36" ROOF VENTS REQ'D.)



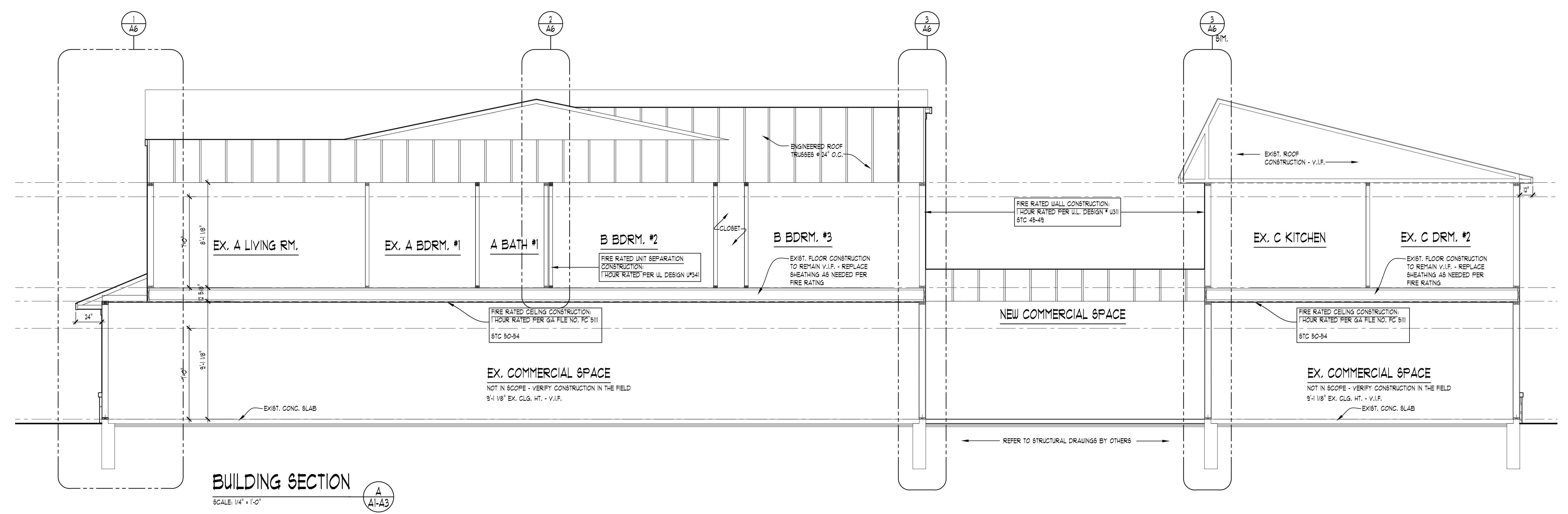
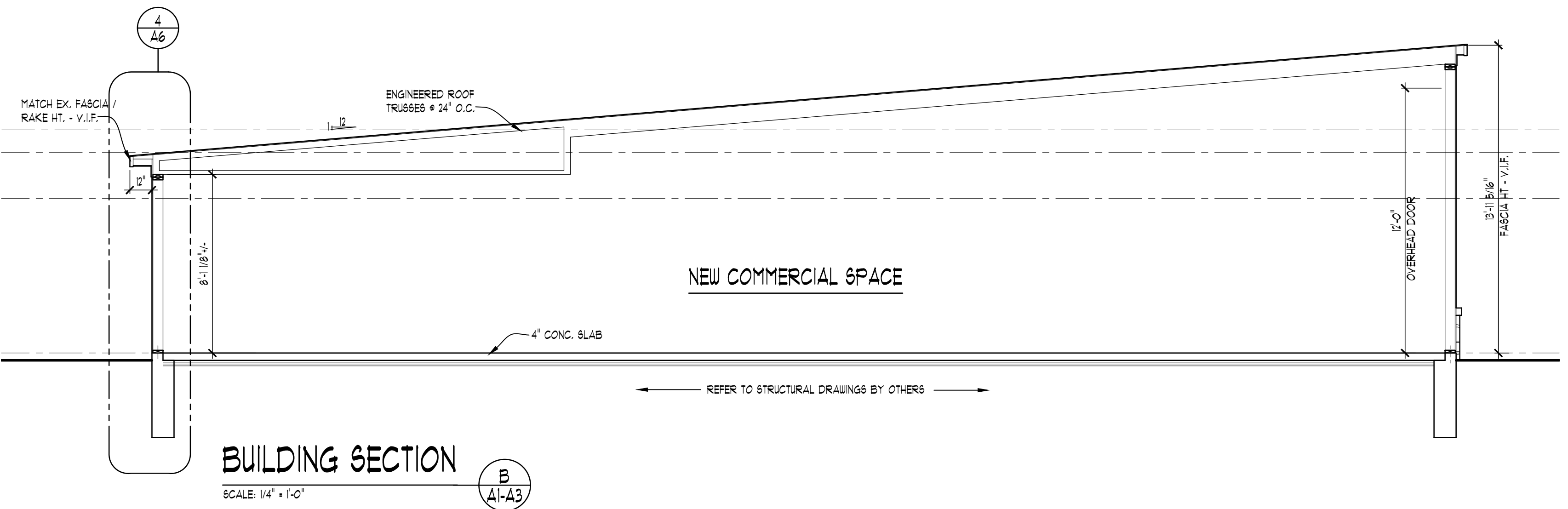
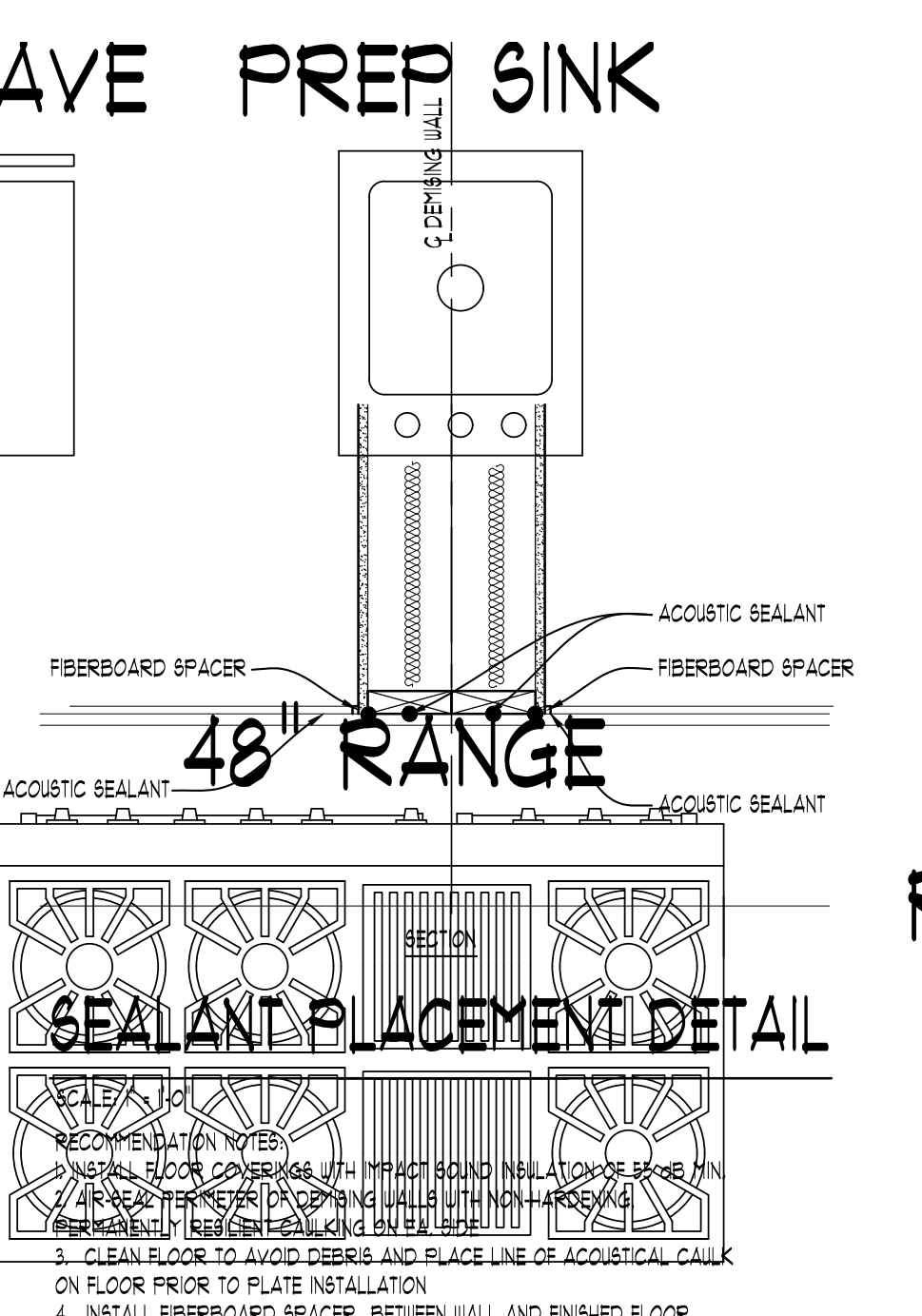
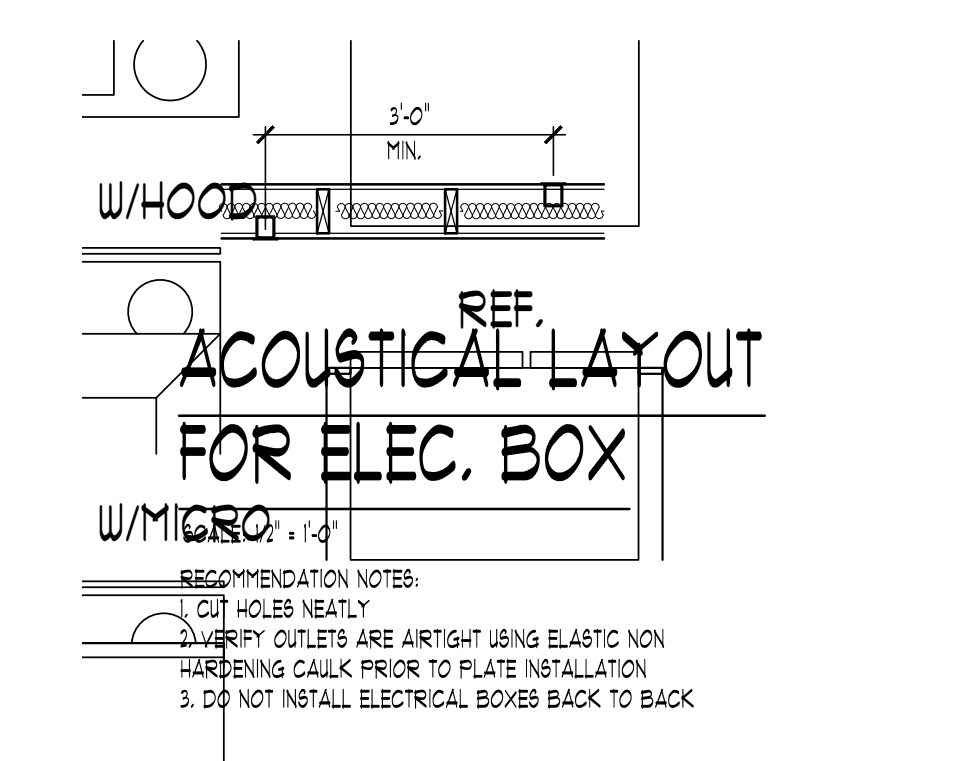
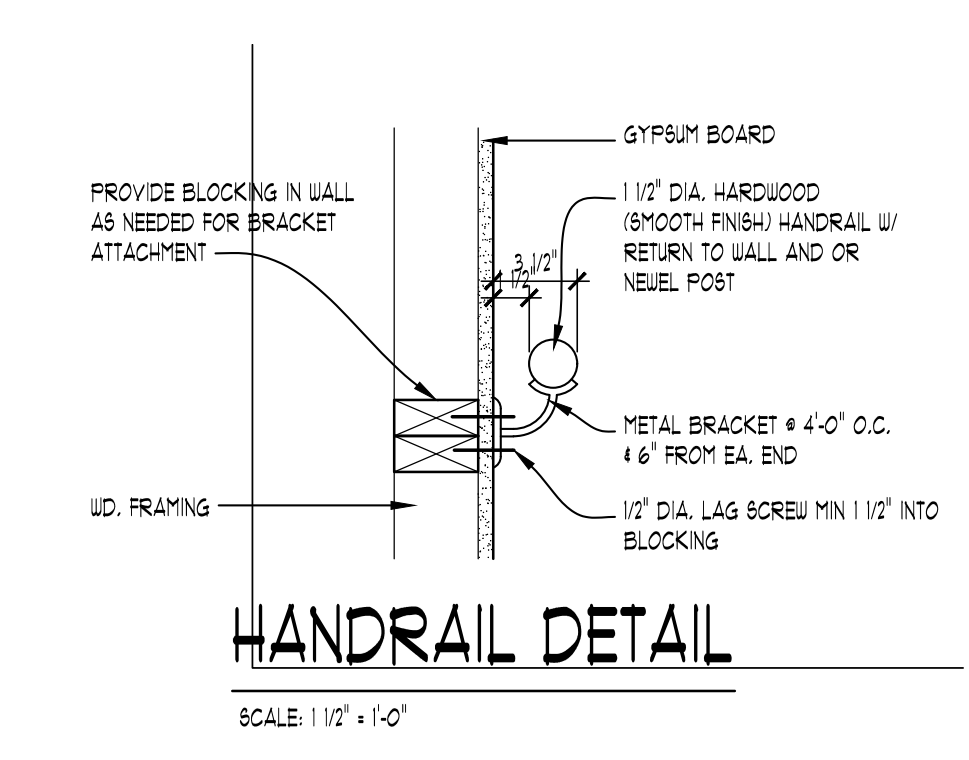
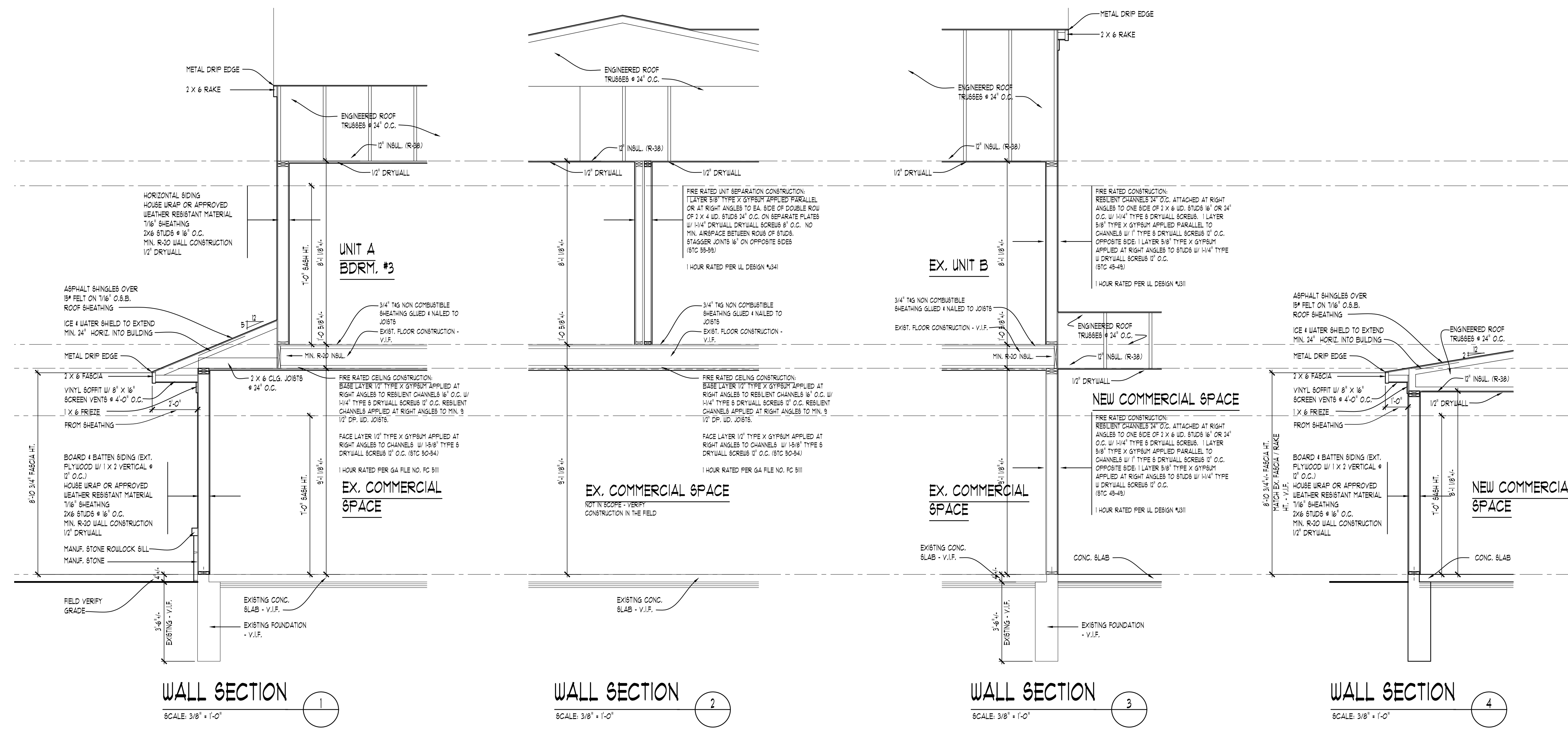
REAR ELEVATION
SCALE 1/4" = 1'-0"

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 FAX: (238) 446-1961

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 MIDDLETOWN VILLAGE
 STEAMMASTER
 BUILDING
 RENOVATION
 EAGLE COUNTY, CO

JOB No.: 21-290
DRAWN: AG
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SCALE:
 PER PLAN
SHEET #
A-5



UL DESCRIPTIONS

GA FILE NO. WP 3647	PROPRIETARY*	1 HOUR FIRE
GYPSUM WALLBOARD, RESILIENT CHANNELS, MINERAL FIBER INSULATION, WOOD STUDS		
Resilient channels 24" o.c. attached at right angles to ONE SIDE of 2 x 4 wood studs 16" or 24" o.c. with 1-1/4" Type S drywall screws. One layer 5/8" proprietary type X gypsum wallboard or gypsum veneer base applied parallel to channels with 1" Type S drywall screws 12" o.c. End joints backblocked with resilient channels. 3" mineral fiber insulation, 2.0 pcf, in stud space.		
OPPOSITE SIDE: One layer 5/8" proprietary type X gypsum wallboard or gypsum veneer base applied at right angles to studs with 1-1/4" Type W drywall screws 12" o.c.		
Vertical joints staggered 48" on opposite sides. Sound tested with studs 16" o.c. and open face of mineral fiber insulation blankets toward resilient channel-side of stud space. (LOAD-BEARING)		
PROPRIETARY GYPSUM BOARD		
CertainTeed Gypsum Inc. 5/8" CertainTeed® Type C Gypsum Board		
Continental Building Products 5/8" Firecheck® Type C		
Georgia-Pacific Gypsum LLC 5/8" ToughRock® Fireguard C® Gypsum Board		
National Gypsum Company 5/8" Gold Bond® Brand FIRE-SHIELD C® Gypsum Board		
PABCO Gypsum 5/8" FLAME CURB® Super C®		
Thickness:	5-1/4"	
Approx. Weight:	7 psf	
Fire Test:	Based on UL R360-7, 11-12-87, UL R2717-61, 8-18-87, UL Design U311	

GA FILE NO. WP 5508	PROPRIETARY*	1 HOUR FIRE	55 to 59 STC SOUND
GYPSUM WALLBOARD, WOOD STUDS			
One layer 5/8" proprietary type X gypsum wallboard applied parallel or at right angles to each side of double row of 2 x 4 wood studs 24" o.c. on separate plates with 1-1/4" drywall screws 8" o.c. No minimum airspace between rows of studs.			
Joints staggered 16" on opposite sides.			
Sound tested with 1" air space between rows of studs and 3-1/2" glass fiber insulation in stud cavity on both sides. (LOAD-BEARING)			
PROPRIETARY GYPSUM BOARD			
American Gypsum Company LLC 5/8" FireBloc® Type X Gypsum Board			
Thickness:	9-1/2"		
Approx. Weight:	10 psf		
Fire Test:	UL R14196, 06NK07241, 3-13-06, UL Design U341		
Sound Test:	RAL TL11-160, 7-11-11		

GA FILE NO. WP 3008	PROPRIETARY*	1/2 HOUR FIRE	40 to 44 STC SOUND
GYPSUM WALLBOARD, WOOD STUDS			
One layer 5/8" proprietary gypsum wallboard applied parallel or at right angles to each side of 2 x 4 wood studs 16" o.c. with 1-1/4" Type W or Type S drywall screws 16" o.c. Vertical joints centered over studs and staggered one stud cavity on opposite sides. Horizontal joints need not be staggered or backed. (LOAD-BEARING)			
Sound tested with resilient channels on one side and 3-1/2" glass fiber insulation.			
PROPRIETARY GYPSUM BOARD			
American Gypsum Company LLC 5/8" LightRec® 30 Gypsum Board			
Thickness:	5-3/8"		
Approx. Weight:	6 psf		
Fire Test:	UL R14196, 4786409617, 8-14-14, UL Design W433		
Sound Test:	RAL TL14-268, 7-30-14		

GA FILE NO. FC 5111	GENERIC	1 HOUR FIRE	50 to 54 STC SOUND
WOOD I-JOISTS, GYPSUM WALLBOARD, RESILIENT CHANNELS			
Base layer 1/2" type X gypsum wallboard applied at right angles to resilient channels 16" o.c. with 1-1/4" Type S drywall screws 12" o.c. Resilient channels applied at right angles to minimum 9-1/2" deep wood I-joists, with minimum 1-1/4" deep x 1-1/2" wide flanges and minimum 3/8" webs, 24" o.c. with 1-1/4" Type W drywall screws. Face layer 1/2" type X gypsum wallboard applied at right angles to channels with 1-5/8" Type S drywall screws 12" o.c. Face layer end joints located midway between channels and attached to base layer with 1-1/2" Type G screws 12" o.c. Edge joints offset 24" from base layer edge joints. Wood I-joists supporting 5/8" oriented strand board applied at right angles to I-joists with 8d common nails 12" o.c.			
ON FLOOR PRIOR TO PLATE INSTALLATION			
4. INSTALL FIBERBOARD SPACER BETWEEN WALL AND FINISHED FLOOR			
Approx. Ceiling Weight:	5 psf		
Fire Test:	NRCC A-4440.1 (Revised), 6-24-97		
Sound Test:	NRCC B-3150.2, 6-30-00		
IIC & Test:	(88 C & P), NRCC B-3150.2, 6-30-00		

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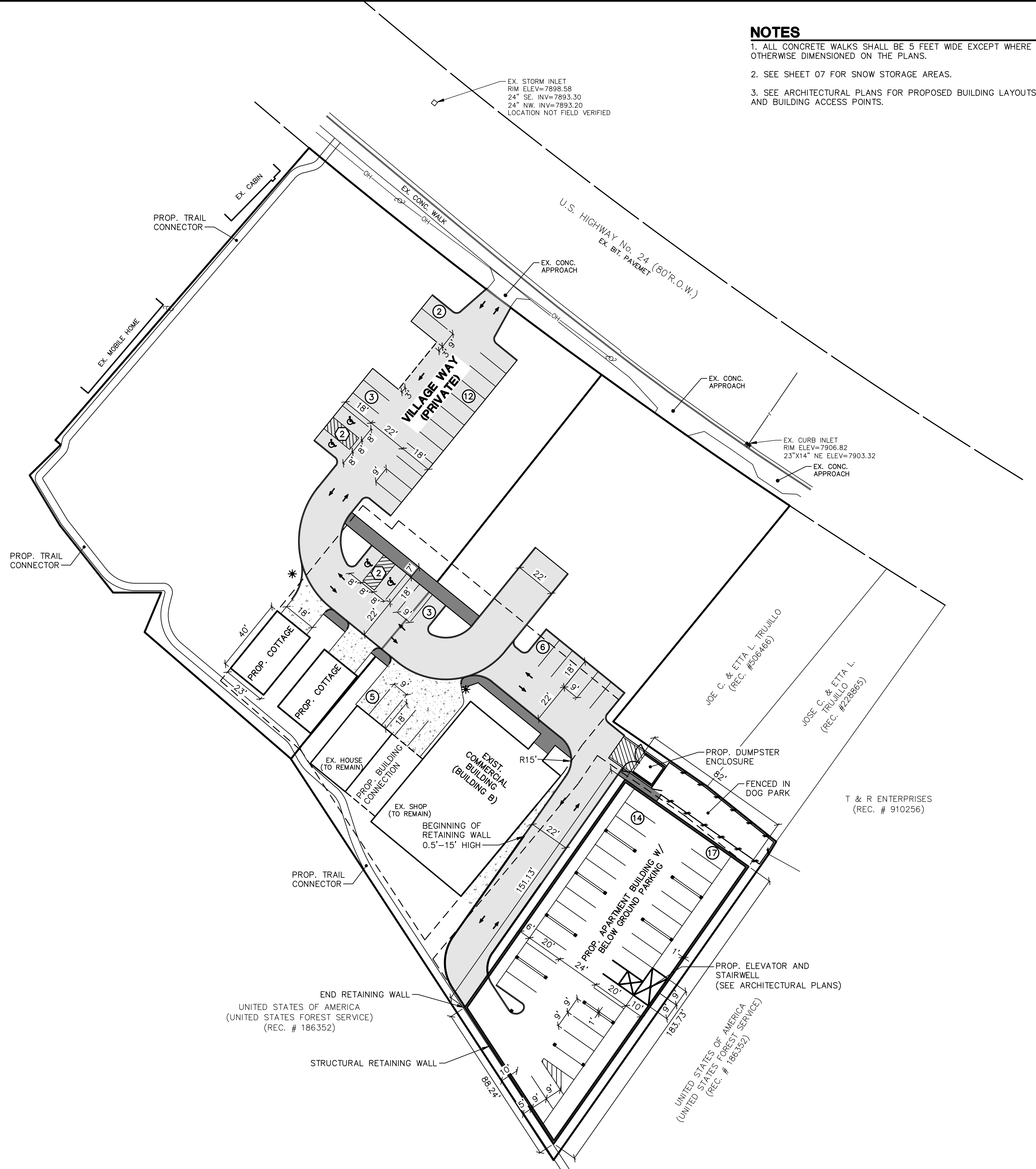
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EAGLE COUNTY, CO

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SCALE:
PER PLAN

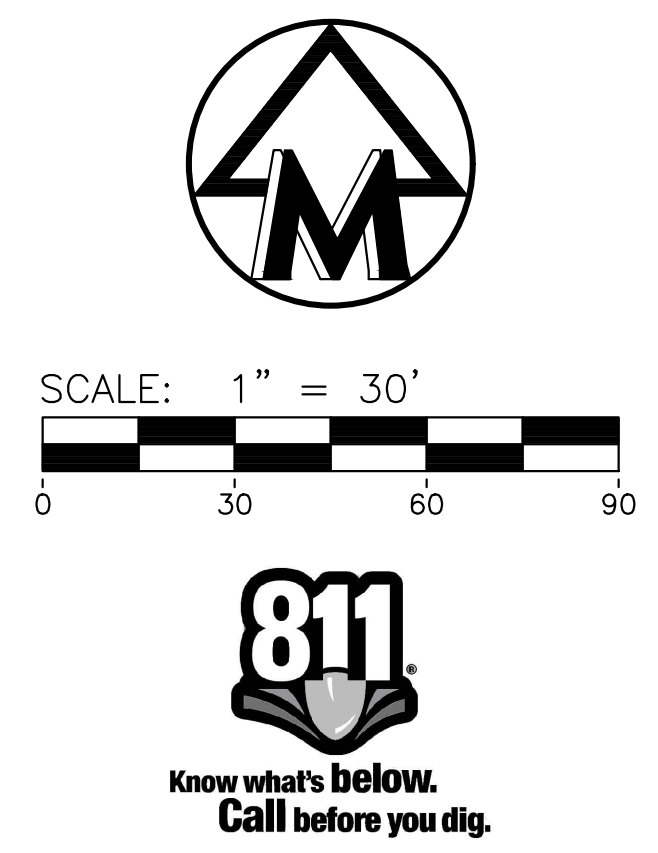
SHEET #
A-6

M:\Civ\132_Proj\20067\Site Plan\20067SP1.dwg, 1/27/2023 10:03 AM, Charly A. Richards, 06 SITE PLAN PHASE 1, MLLC PDF, pp.3
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NOTES

1. ALL CONCRETE WALKS SHALL BE 5 FEET WIDE EXCEPT WHERE OTHERWISE DIMENSIONED ON THE PLANS.
2. SEE SHEET 07 FOR SNOW STORAGE AREAS.
3. SEE ARCHITECTURAL PLANS FOR PROPOSED BUILDING LAYOUTS AND BUILDING ACCESS POINTS.



LEGEND

	EXIST. UTILITY POLE
	EXIST. OVERHEAD UTILITY LINE
	EXIST. HYDRANT
	EXIST. WATER VALVE
	EXIST. STORM SEWER
	EXIST. CATCH BASIN OR INLET
	EXIST. SANITARY SEWER
	SIGN
	POST
	EXIST. GAS VALVE
	WELL
	FENCE
	PROPOSED CONC. WALK
	PROPOSED BIT. PAVEMENT
	PROPOSED CONC. PAVEMENT
	NUMBER OF STANDARD PARKING SPACES IN ROW
	NUMBER OF BARRIER FREE PARKING SPACES IN ROW
	TRAFFIC DIRECTION ARROWS
	PROP. LIGHT POLE

The underground utilities shown have been located from field survey information and existing records. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area, either in-service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. Although the surveyor does certify that they are located as accurately as possible from the information available.

MIDWESTERN CONSULTING
 3855 Plaza Drive Ann Arbor, Michigan 48108
 (734) 995-0000 • www.midwesternconsulting.com
 Land Development • Land Survey • Institutional • Municipal
 Wireless Communications • Transportation • Landfill Services

CLIENT
 10TH MOUNTAIN BUILDERS
 1632 MAIN STREET
 MINTURN, CO 81645
 JEFFREY D. ARMISTEAD
 970-471-0618

MIDTOWN VILLAGE PUD
 SITE PLAN PHASE 1

06

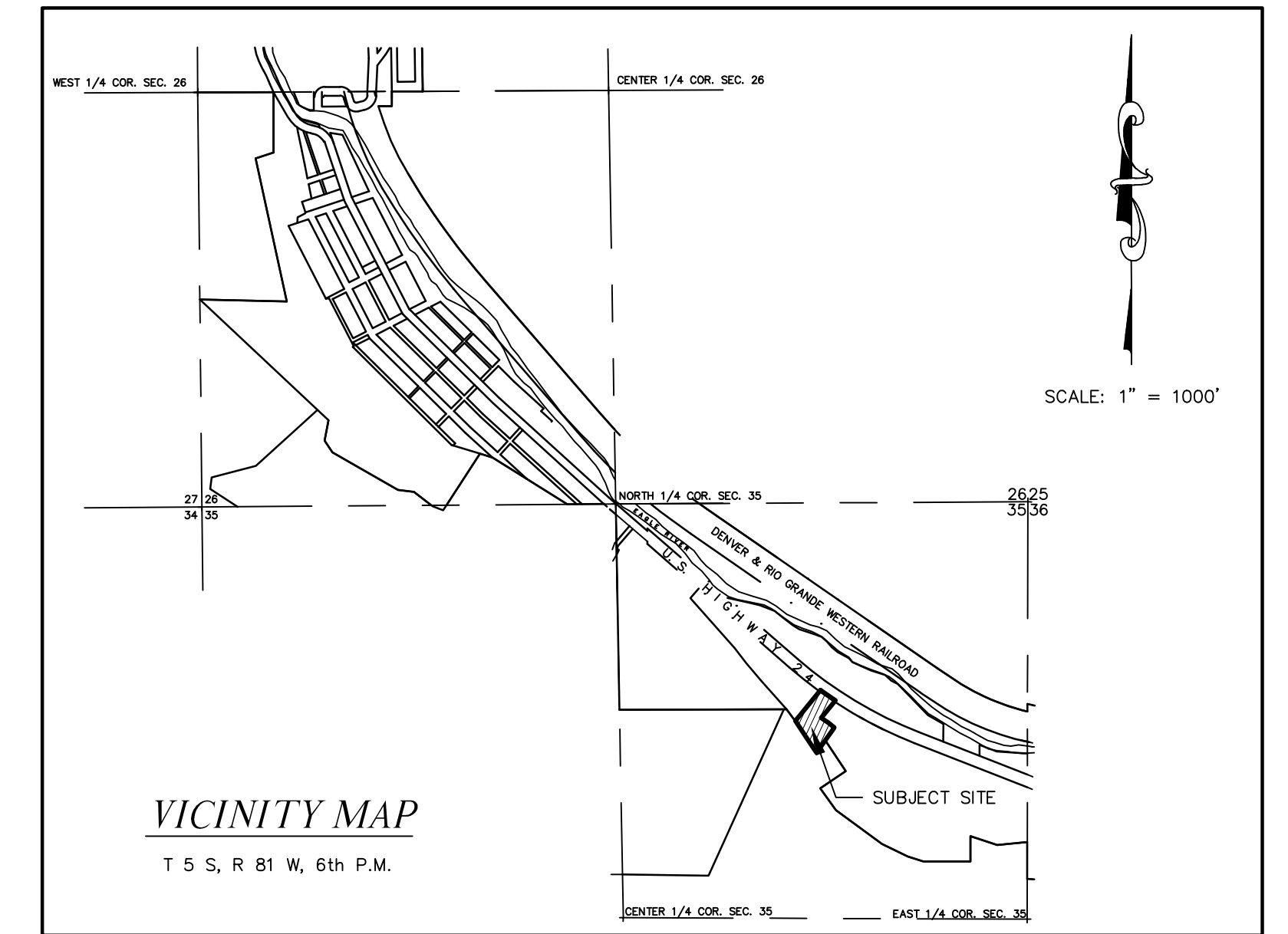
JOB No. **20067**

DATE: 1/24/23
 SHEET 06 OF 28

REV. DATE
 CADD:
 ENG. ROW
 PM: KEB
 TECH: /20067SP1

ALTA/NSPS LAND TITLE SURVEY

A PART OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M. TOWN OF MINTURN, EAGLE COUNTY, COLORADO



NOTES:

1) PROPERTY DESCRIPTION (MEASURED):
A PARCEL OF LAND SITUATED IN A PART OF SECTION 35, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3" BRASS CAP MONUMENT ON A 2" PIPE FOUND IN PLACE MARKING ANGLE POINT No. 17 OF THE "FOREST PROPERTY BOUNDARY SURVEY" RECORDED IN BOOK 469 AT PAGE 371 IN THE OFFICE OF THE EAGLE COUNTY CLERK AND RECORDER, FROM WHENCE A 3" BRASS CAP MONUMENT FOUND IN PLACE MARKING ANGLE POINT No. 18 OF SAID "FOREST PROPERTY BOUNDARY SURVEY" BEARS N33°12'13"W 260.01 FEET, SAID LINE FORMING THE BASIS OF BEARINGS FOR THE FOLLOWING DESCRIPTION; THENCE ALONG SAID LINE BETWEEN SAID ANGLE POINT No. 17 AND ANGLE POINT No. 18 N33°12'13"W 132.25 FEET TO A 1 1/2" ALUMINUM CAP SET ON A No. 5 REBAR, L.S. No. 30091; THENCE N33°12'13"W 127.76 FEET TO SAID 3" BRASS CAP MONUMENT FOUND MARKING ANGLE POINT No. 18; THENCE N39°38'36"E 11.52 FEET TO A 1 1/2" ALUMINUM CAP FOUND ON A No. 5 REBAR, L.S. No. 14109; THENCE N39°37'37"E 105.96 FEET TO A 1 1/2" ALUMINUM CAP SET ON A No. 5 REBAR, L.S. No. 30091; THENCE N38°26'58"E 150.48 FEET TO A 1 1/2" ALUMINUM CAP SET ON A No. 5 REBAR, L.S. No. 30091, SAID POINT BEING ON THE RIGHT OF WAY OF U.S. HIGHWAY No. 24; THENCE 124.33 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2905.00 FEET, AN INTERIOR ANGLE OF 02°27'08" AND A CHORD WHICH BEARS S55°09'35"E 124.32 FEET ALONG SAID RIGHT OF WAY TO A 1 1/2" ALUMINUM CAP SET ON A No. 5 REBAR, L.S. No. 30091; THENCE DEPARTING SAID RIGHT OF WAY S39°16'47"W 151.25 FEET TO A 1 1/2" ALUMINUM CAP SET ON A No. 5 REBAR, L.S. No. 30091; THENCE S55°26'40"E 61.91 FEET TO A 1 1/2" ALUMINUM CAP FOUND ON A No. 5 REBAR, L.S. No. 4551; THENCE S51°17'48"E 47.93 FEET TO A 1 1/2" ALUMINUM CAP FOUND ON A No. 5 REBAR, L.S. No. 4551; THENCE S31°12'22"W 7.97 FEET TO A 3" BRASS CAP MONUMENT ON A 2" PIPE FOUND MARKING ANGLE POINT No. 16 OF SAID "FOREST PROPERTY BOUNDARY SURVEY"; THENCE S35°07'11"W 202.79 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 1.327 ACRES, MORE OR LESS.

2) DATE OF ALTA/NSPS LAND TITLE SURVEY: 5/12/2023

3) BEARINGS BASED UPON THE LINE CONNECTING THE MONUMENTS FOUND MARKING UNITED STATES FOREST SERVICE PARCEL ANGLE POINTS 17 AND 18, BEING N33°12'13"W (SEE DRAWING).

4) 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.

5) THE BOUNDARY DIMENSIONS, EASEMENTS AND RIGHTS OF WAY SHOWN HEREON ARE PER FIELD SURVEY PERFORMED BY GORE RANGE SURVEYING, LLC AND TITLE SEARCH PERFORMED BY LAND TITLE GUARANTEE COMPANY, ORDER No. V50069271, WITH AN EFFECTIVE DATE OF MAY 22, 2023 AT 5:00 P.M.

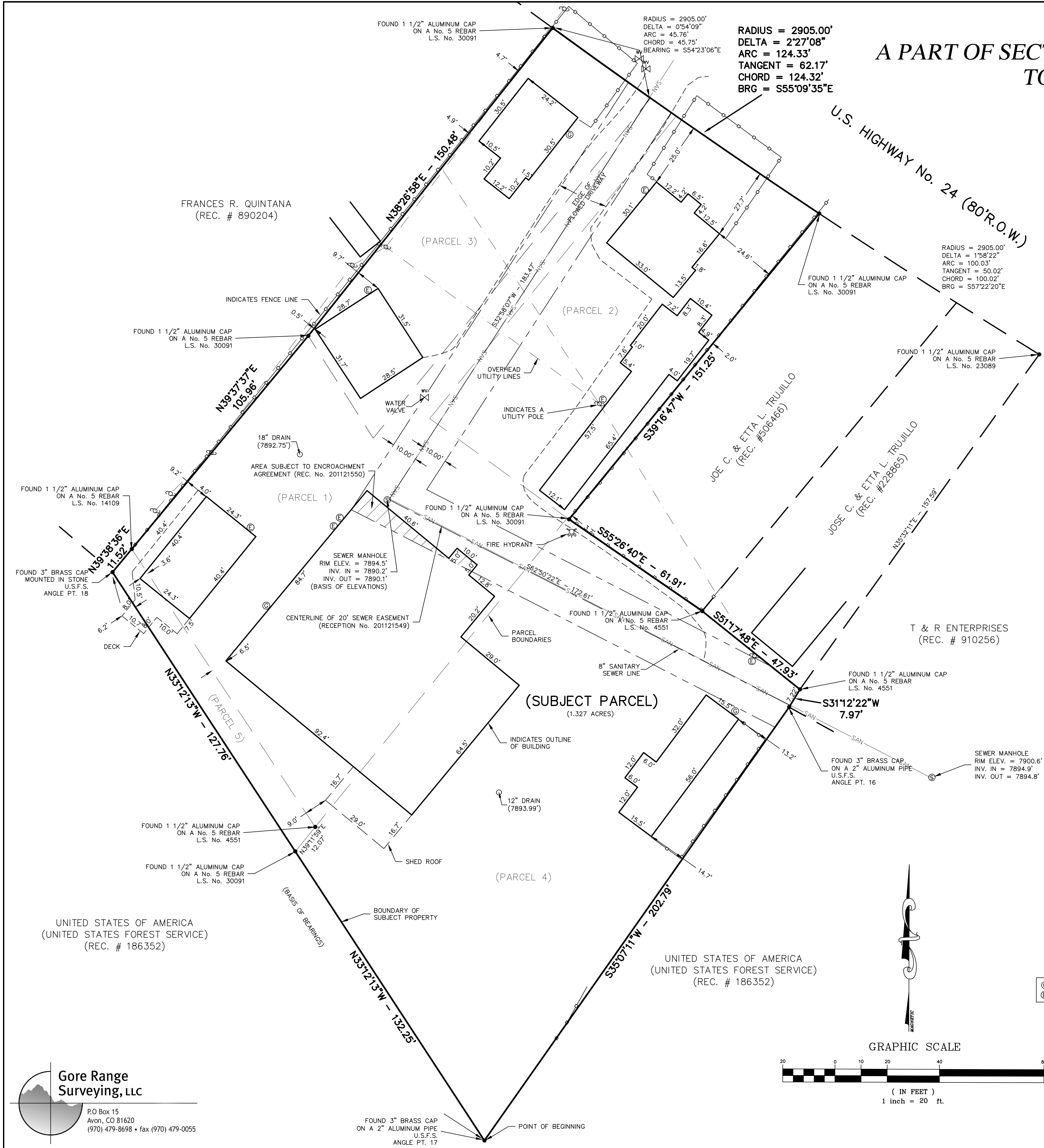
SURVEYOR'S CERTIFICATE

TO: MIDTOWN LOFTS, LLC, THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 7(a), 8 AND 11(a) OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 12, 2023.

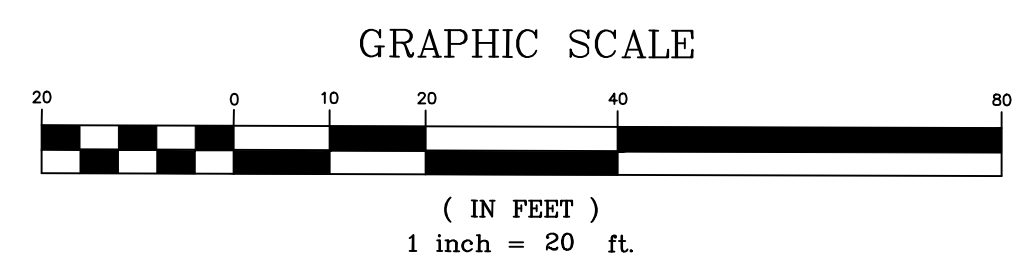
SAMUEL H. ECKER
COLORADO P.L.S. No. 30091
FOR AND ON BEHALF OF
GORE RANGE SURVEYING LLC



DRAWN BY:	SE	DATE:	6/1/2023
CHECKED BY:	SE	DRAWING NO.:	06-360
JOB NO.:	06-360	SHEET	1 OF 1



Gore Range Surveying, LLC
P.O. Box 15
Avon, CO 81620
(970) 479-8698 • fax (970) 479-0055



Minturn Planning Department
Minturn Town Center
301 Boulder Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Michael Boyd
Amanda Mire
Sage Pierson
Tom Priest

Town of Minturn Planning Commission Public Hearing

Minturn North Planned Unit Development

Updated Preliminary Development Plan for PUD Updated Preliminary Subdivision Plat Updated Zone District Amendment

Hearing Date: June 28, 2023
File Name/Process: Minturn North Planned Unit Development (PUD) Preliminary Plan
Owner/Applicant: Minturn Crossing, LLC.
Representative: Rick Hermes, Resort Concepts
Legal Description: A parcel of land located in the NW ¼ of the NW ¼ of Section 26, Township 5 South, Range 81 West of the 6th Principal Meridian.
Existing Zoning: Game Creek Character Area – PUD Holding Zone District
Proposed Zoning: Minturn North PUD Overlay Zone District
Staff: Scot Hunn, Planning Director
Madison Harris, Planner I
Jeffery Spanel, Town Engineer
Richard Peterson-Cremer, Assistant Town Attorney

Staff Recommendation: **Approval with Conditions**

I. Executive Summary:

The following report has been prepared for the benefit of the Minturn Planning Commission, the Applicant, and the general public as the Town of Minturn continues its public review of the **Minturn North Planned Unit Development (PUD)**.

Summary of Request

The Applicant requests review by the Planning Commission of the *updated* Minturn North Preliminary Plan for PUD as well as companion applications for a Preliminary Subdivision Plat (to legally subdivide and create underlying parcels associated with the proposed PUD), and an application for Amendment to the Official Zone District Map (to change the underlying/existing zoning from Game Creek Character Area "PUD Holding Zone" to the "Minturn North PUD Overlay Zone"), collectively referred to in this report as the "Updated Preliminary Plan."

Background and Updated Plans

The Minturn North PUD proposal has been in the Town's review process - first for a Conceptual Plan review, followed by several rounds of Preliminary Plan review - since 2019. The following is a general background and timeline of previous plan reviews before the Town related to the Minturn North Planned Unit Development proposal:

- November 2019 – The Applicant, Minturn Crossing, LLC., applied for a Conceptual Planned Unit Development review.
- December 2019/January 2020 – The Applicant completed a Conceptual Plan review of a residential PUD (Planned Unit Development) before the Minturn Planning Commission and Town Council. No formal action was required or taken other than the Planning Commission recommending that the Applicant could proceed forward to the next stage in review, the Preliminary Plan for PUD application.
- Spring 2020– The Applicant applied for a Preliminary Plan review – the second in a three-step approval process. A global pandemic as well as several months of review and commentary by the Town and referral agencies resulted in the Applicant making significant changes to the Preliminary Plan application, causing significant delays in bringing the proposal before the Planning Commission for review.
- Summer 2021 - The Minturn North Preliminary Plan for PUD, along with companion subdivision and zone change applications, were reviewed by the Planning Commission from April-August 2021, with the Planning Commission ultimately recommending denial of the proposal.

- Fall/Winter 2021/2022 - The Applicant then revised the Preliminary Plan based upon Town staff comments, referral agency comments, as well as Planning Commission, Town Council, and citizen testimony before presenting a revised Preliminary Plan to the Town Council at a special meeting held May 5, 2022.
- At their special meeting of May 5, 2022, the Town Council remanded (sent back) the Preliminary Plan to the Planning Commission with suggested revisions for further review.

Based upon feedback from the Town Council at their special meeting of May 5, 2022, the Applicant revised the Minturn North Preliminary Plan for PUD proposal again to address overarching concerns related to project density, design and layout of the subdivision (grading, drainage, and other infrastructure-related improvements), and off-site impacts. Below is a brief summary of the changes made by the Applicant based on direction given by the Town Council on May 5, 2022:

- The previous proposal was a 19-acre, two-phase, 73 lot residential development with up to 193 proposed dwelling units of varying types and sizes.
 - The Updated Preliminary Plan is now a single-phase, 11-acre residential development with up to thirty-nine (39) proposed single-family dwelling units on 39 lots, along with a "Dedication Parcel" that will be deeded to the Town for Town purposes including but not limited to open space/park land, snow storage area(s), parking, or community/employee housing.
- The previous proposal included single-family and duplex style residential units, with allowances for accessory dwelling units (ADUs) and multi-family buildings that would have been constructed in two phases along with parks and open space dedications.
 - The Updated Preliminary Plan proposal now includes 100% single-family style residential structures with no provisions for accessory dwelling units or apartments.
- Previous plans included voluntary "Locals Only" housing commitments (the latest plan reviewed by the Town Council in May 2022 included up to 31% of the overall units - the multi-family units that were proposed - as deed restricted for "Locals Only," along with a 1% transfer tax to generate funds that would have gone to the Town for housing or other discretionary purposes.
 - The Updated Preliminary Plan proposes six (6) single-family homes on Lots 34-39 to be deed restricted as "Locals Only," while Lots 1-33 will also carry a deed restriction requiring a 1% assessment to be paid to the Town by any non-resident buyer.

- Previous plans included two phases spread over nearly 19 acres, including lands lying north of Game Creek. Infrastructure (roads, water, sewer, sidewalks, for example) would have been constructed by the developer, while lots would have been sold on the open market and developed over an unspecified/unlimited time frame by individual owners who would build according to Town building regulations and Minturn North Design Guidelines.
 - The Updated Preliminary Plan proposal includes one phase to be constructed on 11 acres, with all infrastructure and homes to be built by the developer according to Minturn North Architectural Design Guidelines and the Town's building regulations.
 - House plans for each lot have been pre-designed to suit each proposed lot and can be further customized to individual buyers' needs.
- Previous plans included a "PUD Guide" as required by the Town of Minturn Municipal Code to provide regulations on overall development, along with architectural design guidelines.
 - Updated Preliminary Plans also include a PUD Guide and Design Guidelines documents, both of which have been significantly revised based on the current proposal.
- Previous plans included provisions for density transfers between phases.
 - The Updated PUD Guide does not permit or propose density transfers as the Applicant is proposing to construct the PUD in one phase.
- Previous plans included significant improvements to Taylor Avenue, including realignment and a complete reconstruction of the roadway, as well as the creation/formalization of on-street parking along the west side of Taylor Avenue.
 - Updated Preliminary Plans do not propose improvements to Taylor Avenue, but will include open space, snow storage areas, drainage improvements, and landscaping along the west side of Taylor Avenue while not precluding the continued use of the Taylor Avenue roadway and shoulder area for parking.
- Previous plans included provisions for improvements to Minturn Road, the inclusion of an extension to the future Eagle County Regional Trail, and improvements to pedestrian infrastructure (sidewalks) within the development.
 - The Updated Preliminary Plans also include the same improvements to Minturn Road; an internal sidewalk linking Taylor Avenue south along a new 4th street to the future ECO Trail improvements slated to be

constructed along the east side of Minturn Road; and enhanced pedestrian improvements over the railroad tracks and along the north side of Railroad Avenue.

- Previous plans included significant open space to be provided over two phases, with the majority of open space occurring north of Game Creek in a second phase that may not have ever been constructed.
 - The Updated Preliminary Plan proposal exceeds the Town's recommended 25% open space standard by providing 31% open space within one (1) phase, in addition to a .98 acre land dedication to the Town for Town uses including potential open space, or park areas, housing, parking or other civic uses.
 - The Updated Preliminary Plan is designed to better integrate open spaces within and around the subdivision, while a more "open" and less dense approach to lot layout that fits the site better lends itself to a more rural feel.
- Previous plan iterations included extensive (and expensive) infrastructure improvements inclusive of more roadways, curb & gutter improvements and more sidewalk areas that would also require more maintenance, repairs and replacements over the life of the neighborhood.
 - The Updated Preliminary Plan includes fewer overall infrastructure improvements and, importantly, a more simplified layout and design that should lend itself to less costly initial construction costs as well as less costly long-term maintenance of the neighborhood.
- Previous plan proposals included public and private ownership of infrastructure improvements, and the Applicant previously proposed to share the cost of off-site infrastructure improvements (extensive improvements to Taylor Avenue, for example) with the Town.
 - The Updated Preliminary Plan still proposes to include public and private improvements (with private streets and common areas being maintained by a Homeowners Association) but the Applicant is no longer requesting or proposing a cost-sharing arrangement to fund infrastructure. The Applicant is proposing to pay for improvements to Minturn Road, Railroad Avenue, the ECO Trail, and a new 4th Avenue cross street connecting Taylor Avenue to Minturn Road.

Pursuant to the Town of Minturn Municipal Code, the Council's actions on May 5, 2022, resulted in the Minturn North Preliminary Development Plan for PUD application being **remanded, or sent back, to the Planning Commission for additional review** – with

specific feedback and/or recommendations for the plans to be updated and revised - before being presented to the Town Council again.

The Applicant has been working with the Town since that time to revise and resubmit the Updated Preliminary Plan - complete with updated technical studies and impact analyses that are based on the updated density, design, and development plans - based on feedback by the Council, and to effectively start the Preliminary Plan for PUD review process over.

Process Overview

The Preliminary Development Plan for PUD review before the Town of Minturn Planning Commission and Town Council is the second of a three-stage public review and approval process necessary for the creation of any Planned Unit Development within the Town of Minturn. The following outlines the steps involved in the Town of Minturn PUD approval process:

1. Concept Development Plan Review (*Completed winter 2020*).
2. **NOW - PUD Preliminary Development Plan Review (inclusive companion applications for a Preliminary Subdivision Plat and Amendment to the Zone District Map).**
3. Final Plan and Final Subdivision Plat for PUD (inclusive of a Subdivision Improvements Agreement).

The Preliminary Plan for PUD application and review process is detailed in nature and is intended to demonstrate the feasibility of the project from financial, technical/design, regulatory, and community need standpoints. The numerous plans, reports, legal documents and other graphic materials required by the Town of Minturn Municipal Code (MMC) are intended to give staff, decision makers, partner referral agencies, and the general public detailed information and understanding of:

- How the proposal aligns with the Town's Strategic and Community Plan goals, policies and priorities.
- How and over what time period the property will be developed.
- How development and ongoing maintenance of public and private property within the PUD will be managed.
- What costs, revenues and other benefits are expected over time.
- What areas of non-compliance, if any, there are with regard to Town requirements and what potential solutions or mitigation might look like.
- What issues may need to be addressed as conditions of Preliminary Plan approval prior to any Final Plan/Final Subdivision Plat application being filed with the Town.

As a reminder, the Minturn North Preliminary Plan for PUD application was originally received by the Town in late winter/early spring of 2020, prior to the Town's adoption of inclusionary housing requirements, and prior to the adoption of the recently adopted 2023 Minturn Community Plan.

Although the Minturn North Preliminary Plan for PUD has been revised several times since the Town initially received the application, the application has never been withdrawn and the Applicant has pursued revisions - often at the direction of the Planning Commission, Town Council, or staff - and the resolution of issues consistently and in good faith. Accordingly, the application has been "active" since 2020 and, therefore, is not subject to new regulations or community plan policies adopted after the initial Preliminary Plan application in 2020.

That being said, any Final Plan/Plat for PUD application that is submitted to the Town will be reviewed in context to the 2023 Minturn Community Plan.

Following review by the Planning Commission of the remanded and Updated Preliminary Plans the Planning Commission will send the three applications along with three separate recommendations - for approval, approval with conditions, or denial - to the Town Council for review. The Town Council's review will result in action by the Council to approve, approve with conditions, or deny one or more of the applications.

All public hearings will be advertised and the general public is encouraged to participate in the public review process by reviewing the Minturn North Preliminary Plan for PUD application and associated materials at the Town's website (<https://www.minturn.org/planning-zoning/pages/active-planning-applications>), by submitting any written comments to the Town by emailing "Planner I" (planner1@minturn.org), or by attending the public hearings and giving public comment.

Summary of 2021 Planning Commission Review of Preliminary Development Plan for PUD

Starting in April 2021, the Minturn Planning Commission held four public meetings over the course of four months to review previous versions of the Preliminary Development Plan for PUD, Preliminary Subdivision Plat, and Amendment to the Official Zone District Map applications.

During the review period, and specifically as part of the Planning Commission's public hearing process, the Applicant and Town staff 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 redesigned and refined certain aspects of the project to address areas of concern.

During the Planning Commission's previous review, the Commission discussed the following topics:

- Subdivision design, including several variations to Town standards (minimum lot size, lot coverage, and setbacks, for instance)
- Snow Management and Storage
- Traffic Impacts and Road Improvements
- Visual Impacts and Proposed Building Placement and Massing
- Density and Compatibility
- Public Amenities and Open Space Plan
- Sidewalk Design and Accessibility
- Parking (on site for each lot and on-street)
- Roadway Design, Driveway Placement and Alleyways

On August 25, 2021, the Planning Commission held their last public hearing to consider the previous Preliminary Plan application package and voted unanimously to recommend *denial* of the Preliminary Plan for PUD, while also forwarding a recommendation to the Minturn Town Council to approve of the Preliminary Subdivision Plat and the Zone District Amendment. Staff had recommended approval of the Preliminary Plan, with several detailed conditions that would have had to be addressed and resolved 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 previous Preliminary Plan was based, in part, on the Commission's finding that the previous Preliminary Plan did not comply with all applicable Town standards for approval of a PUD. Specifically, while the Commission members individually expressed support for the PUD, in concept, the Commission pointed to concerns regarding proposed density at full build-out, the potential for a protracted build-out period, existing off-site conditions/safety concerns at the "S-Curve" on Railroad Avenue, and the potential for the PUD to exacerbate those conditions – without further mitigation - as reasons for denial.

Following the Planning Commission's 2021 recommendation for denial, the plans were revised once again to address concerns expressed by the Planning Commission, staff, consultants and adjacent property owners residing on Taylor Avenue.

The revised plans were presented to the Town Council at a public hearing on October 6, 2021. At that meeting, the Council determined that the changes made to the Preliminary Plan since Planning Commission's action to deny the Preliminary Plan were not of a nature that significantly changed the character of the Preliminary Plan, nor substantial

enough to warrant remanding the Preliminary Plan back to the Planning Commission for further review.

From October 2021 to April 2022, the Applicant worked on further revisions to the previous Preliminary Plans while continuing to work with Town staff and consultants to address previously identified issues related to design, engineering, and legal aspects such as obtaining necessary easements and/or agreements ensuring long-term access across UPRR lands.

In April 2022, the Applicant requested review of the previous Preliminary Plan by the Minturn Town Council to ensure that plan revisions were responsive to previously stated concerns and issues. However, upon further review by the Town Council at a special meeting held on May 5, 2022, the Council acted to remand the previous Preliminary Plans back to the Planning Commission due, in part, to:

- Concerns over total project density
- Water capacity and/or the Town's ability to serve the entire two-phase build-out
- Layout, engineering and infrastructure design
- Construction impacts
- Lack of usable open space
- Potential impacts on local infrastructure and pedestrian safety.

Overall Summary

Following action on May 5, 2022, by the Town Council to remand the Preliminary Plan back to the Planning Commission for further review, with specific feedback from the Council to the Applicant to revise the plans, the Applicant began working to revise the Preliminary Plan to:

- Lower project density while remaining generally consistent with previous subdivision layout iterations, with residential lots oriented primarily along road alignments traversing the site from south to north, thus working with the natural contours of the property as well as sun angles and views.
- Simplify the land plan (including layout and design of roads, water and sewer lines; grading and drainage plans; phasing plan; open space and recreation plan)
- Reevaluate the real estate product and timing of the project development and absorption by the local market - focusing more on single-family units custom built by the developer within one phase, and less on the provision of a wide variety of residential unit types that would have been built by individuals and developers over a protracted period based on local market conditions.

While significantly less dense and presumably less expensive (from an infrastructure cost standpoint) than previous residentially-oriented Preliminary Plan proposals, the Updated Preliminary Plan proposal is still significant from the standpoint of the potential positive and negative impacts of additional residential development within the Town after decades of relatively stable or stagnant population growth.

The Applicant has spent considerable time and resources re-evaluating and revising all plans and associated technical studies to:

- Resolve all outstanding issues related to legal access and other agreements required from Union Pacific Railroad.
- Work with the Town and UPRR to address existing conditions at the “S” Curve and Railroad Avenue and to commit to construction of pedestrian improvements (sidewalk and widened railroad track crossing surface).
- Work with partner agencies like Eagle County Road and Bridge and ECO Trails to coordinate improvements to Minturn Road as well as the regional ECO Trail.

The Town has invested considerable time and resources as well during the continued review and analysis of the Updated Preliminary Plan application - from pre-application meetings and coordination between the Applicant and the Town, to this Planning Commission Hearing - to provide a thorough, transparent, and timely review and, ultimately, to facilitate a fair and efficient hearing process.

It is worth noting that such investment of Town resources - focused on the review of the proposed PUD - has been based, in part, by the fact that this type, location, and style of development and density is 1) reflective of and supported by the Town’s growth and development policies and goals, and 2) in substantial conformance with the concept development plan that was unanimously endorsed by the Town of Minturn Planning Commission and Town Council in 2020.

It is also fair to say that neither the Town, the property owner (UPRR), the Applicant or perhaps even the service providers and other stakeholders realized in 2019 how difficult it would be to design a project that met market demand and local needs, while addressing significant, decades-old infrastructure issues that will affect any development of the subject property.

In other words, the Union Pacific Railroad property has consistently and appropriately been identified in the Town of Minturn Municipal Code as well as the 2009 Town of Minturn Community Plan as the most logical, efficient, and cost effective location to extend and invest in public infrastructure and to, therefore, manage the design and development of growth that compliments rather than overpowers the Town. Yet, the UPRR property is a deceptively difficult property to develop. Staff suspects that several town officials and citizens arrived at the same conclusions during previous reviews of the Preliminary Plan.

Staff believes that the Updated Preliminary Plan that has been presented benefits from 3-4 years of planning, design, analysis of previous Preliminary Plan iterations, and public feedback. Ultimately, staff believes the last 3 plus years of critique and revisions to previous Preliminary Plans has also resulted in the realization - by the Applicant and perhaps by the Town - that the UPRR property and, specifically, the surrounding transportation infrastructure (local roads serving the existing Taylor Addition and Minturn Towne Homes) likely cannot support the type and amount of density previously proposed in earlier Preliminary Plan iterations.

The Updated Preliminary Plan appears to address most, if not all, previous concerns - namely the project density, the complexity of the engineering, the layout of the subdivision, the cost of infrastructure needed to support previous plans, and timing/phasing of the project - while achieving conformance with the requirements of the Minturn Municipal Code without the need for significant amounts of variation requests.

Staff Observations and Findings

Staff finds that the Updated Preliminary Plan is compliant with the purposes and intents of the "PUD Overlay District" (Chapter 16, Article 15 of the Minturn Municipal Code) as well as several guiding policies and strategies outlined in the 2009 Minturn Community Plan.

Staff further suggests that while some outstanding issues must be discussed during the Planning Commission's review of the Updated Preliminary Plan, this iteration of plans and reports has generated significantly fewer (and less technical) issues or concerns by staff, Town consultants, and referral agencies than previous Preliminary Plan iterations.

Of those concerns or issues, most items are of a technical nature and are expected to be resolved following Preliminary Plan review and prior to any Final Plan/Final Plat and Subdivision Improvement Agreement (SIA) submission by the Applicant. Other issues such as referral agency concerns regarding hazards and natural resource protection deserve additional discussion with the Planning Commission; however, staff believes that these issues also can be addressed by the Applicant prior to any Final Plan/Plat applications and that, ultimately, the project can be designed to meet all town requirements and standards while eliminating or fully mitigating any potential hazards while minimizing potential impacts on the natural environment. **Outstanding Issues and discussion topics are outlined in Section IX (starting on pg.49).**

Additionally, staff and the Town's consultant team have determined that the proposal meets a preponderance of 1) the Town of Minturn Preliminary Development Plan for PUD standards and findings, and 2) the goals and policies of the 2009 Minturn Community Plan.

Recommendation

Based on overall findings of conformance with the applicable standards and approval criteria of the Minturn Municipal Code (MMC) as well as with the 2009 Minturn Community Plan, staff is recommending:

1. Approval of the Updated Preliminary Plan, with conditions.
 2. Approval of the Updated Preliminary Subdivision Plat, with conditions.
 3. Approval of the Amendment to the Zone District Map, without conditions.
-

Report Organization

The remainder of this report briefly summarizes and addresses:

- Section II: Project Description
- Section III: PUD Overlay Zone District - Intent, Purpose, & Process
- Section IV: Summary of Process and Code Requirements
- Section V: Zoning and Compatibility Analysis
- Section VI: Community Plan Conformance
- Section VII: Staff Analysis and Findings for Preliminary Plan, Preliminary Plat, and Zone Change Criteria
- Section VIII: Variation Requests
- Section IX: Outstanding Issues & Discussion Topics
- Section X: List of External Referral Agencies
- Section XI: Staff Recommendations, Suggested Conditions, and Motions

This report contains "Staff Response" or "Staff Comment" sections throughout the document responding to PUD standards and recommending specific aspects of the project that the Applicant will be required or, in certain instances, *encouraged* to address prior to, or concurrent with, any Final Plan and Final Plat application (the next stage of review). **These recommendations and requirements correlate to suggested "conditions of approval" found at the end of this document under Section XI (starting on pg. 55).**

II. Property and Project Description:

Property History

The Minturn North PUD project is proposed on land located at the north end of Town on the Union Pacific Railroad parcel within the Game Creek Character Area, generally between Minturn Road to the west and Taylor Avenue to the east. Historically, this parcel has been used for heavy industrial uses - railroad and rail yard purposes as well as residential uses (several mobile homes have been in use on a small portion of the property).

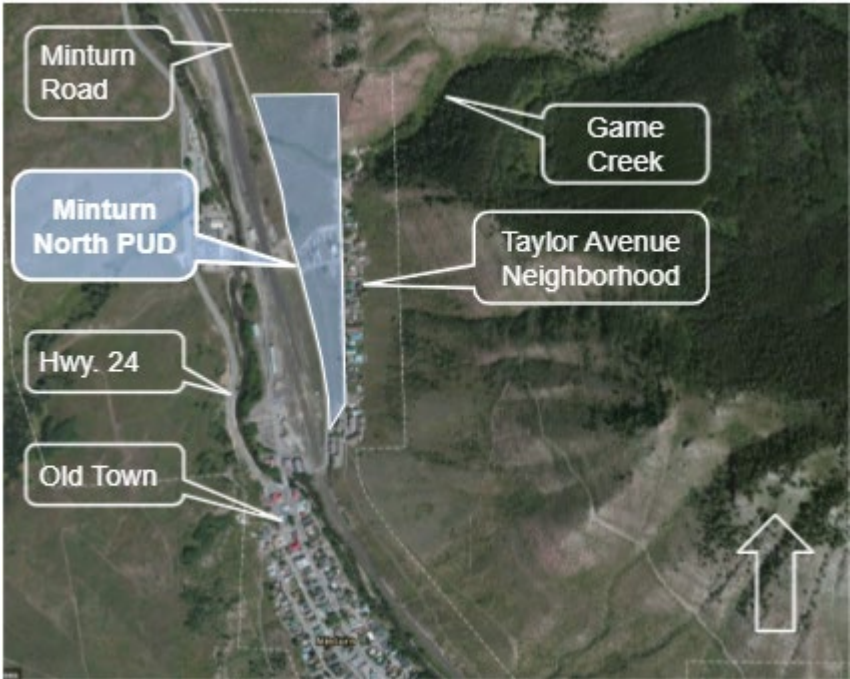


Figure 1: Minturn North PUD Vicinity Map

Property and Project Overview

According to the Updated Preliminary Plan application, the PUD is envisioned as a strictly residential neighborhood with lots, streets, sidewalks, and various open spaces designed to closely complement and respect the scale and development pattern of the existing Taylor Avenue neighborhood as well as other established neighborhoods in Minturn. The updated plans also provide amenities and off-site improvements to

serve the project and the Town. The following narrative has been updated in the application's PUD Guide document to reflect the updated PUD design and layout:

"The Minturn North PUD transforms an 'infill' dormant property into a thoughtful, diverse and inclusive 39 single-family residential neighborhood. This PUD Guide seeks to acknowledge the rich heritage of the Town of Minturn by providing an appropriately scaled built environment interconnected by open space, play space, and connective circulation patterns. Minturn North resident lifestyle and service needs are provided within walking distance to the Town of Minturn core."

- PUD Narrative by Applicant

The Minturn North PUD property has approximately .4 miles of frontage along Minturn Road and .38 miles of frontage along Taylor Avenue. It is surrounded by the following uses:

North	UPRR Property/Vacant
South	100 Block Downtown; Private Residential Uses
East	Private Residential and Home Business Uses
West	Light Industrial/Business Uses (Rail Yard & Meadow Mountain Business Park)

The Updated Preliminary Plan includes a total of 39 lots of varying sizes accessed by Minturn Road, Taylor Avenue, and a series of internal roads (4th Street, Miles End Lane, and Silverstar Trail). The updated plans also include open spaces (various buffer areas and open space tracts within Planning Area 3, or PA-3 as depicted on the Updated Preliminary Plan site plan) that will provide open air, landscaped areas.

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These open space tracts will also play a critical function as part of the updated stormwater and drainage plan, while providing naturalized and/or preserved buffers along Game Creek, as well as snow storage capacity along local streets. The Updated Preliminary Plans also include the provision of one larger (.98-acre) parcel at the far south end of the PUD as a "Town Dedication Parcel," as well as a significant extension of the regional ECO trail and dedicated parking for the Game Creek trailhead.

Use	Lot Size Range	Lots	Max # of Units
Single-Family Residential	6839 - 11456 sq. ft.	1-33	33 Units

Single-Family Residential	4312 - 5619 sq. ft.	34-39	6 Units
Total:	284577/6.533 acres	39 Lots	39 Units

III. PUD Overlay Zone District - Intent, Purpose & Process:

Purpose and Intent of Preliminary Plan for PUD Review

The Preliminary Plan for PUD application is the second in a three stage PUD approval process, starting with Conceptual Development Plan review - a high level "schematic" review meant to present concepts and ensure that proposed developments generally meet the Town's PUD standards and Community Plan goals and policies - and ending in the Final Plan and Final (subdivision) Plat stage - a very technical and detailed review of the final details of a proposed subdivision and associated development agreements setting forth how and when public infrastructure will be constructed and financed.

PUD Overlay Zone District Purpose and Intent

PUDs have been used extensively in Eagle County to create master planned communities and to allow incorporated towns as well as Eagle County government to evaluate and to encourage proposals that achieve better design, phasing and financing of development to avoid hazards, to respond to market conditions, to increase open space and environmental protection through clustering of residential and commercial development on a site, and to otherwise avoid rigid standards prescribed by typical zoning, development, and subdivision regulations.

Section 16-15-10 - *Purpose and General Provisions*, from the Minturn Municipal Code sets forth the purpose and intent of the PUD Overlay Zone District:

*"The purpose of the Planned Unit Development (PUD) Overlay Zone District is **to allow flexibility for landowners to creatively plan for the overall development of their land and to achieve the purpose and objectives of this Code and the Community Plan**. An applicant for a PUD must demonstrate that departure from existing ordinances is warranted and that the proposed PUD significantly contributes to the following:*

"The proposed PUD is consistent with the Community Plan and the character of the Town and:

- *Provides for new technology and promotes innovative and efficient land use patterns;*
- *Permits the integration of land uses and contributes to trails and pedestrian circulation;*
- *Preserves valued environments and natural resources and achieves a more*

desirable environment;

- *Maintains or improves air and water quality;*
- *Provides for a wide range of housing opportunities;*
- *Improves the overall design character and quality of new development;*
- *Permits the integration rather than separation of uses, so that necessary facilities are conveniently located in relation to each other;*
- *Establishes land use patterns that promote and expand opportunities for public transportation and trails and for safe, efficient, compact street and utility networks that lower development and maintenance costs and conserve energy;*
- *Preserves valued environmental, historic or mineral resource lands and avoids development in natural hazard areas;*
- *Maintains and enhances surface and ground water quality and quantity;*
- *Provides applicants the opportunity to contribute to the Town's multi-use trail system; to provide and maintain access to public lands and rivers;*
- *Establishes incentives for applicants to encourage the provision of long-term affordable housing; and*
- *Is consistent with the purposes and goals of the Community Plan and these Land Use Regulations."*

IV. Summary of Process and Code Requirements:

Planned Unit Development (PUD) Approval Process

As noted above, the Applicant is requesting review of a Preliminary Development Plan for PUD pursuant to Section 16-15-130 – *PUD preliminary development plan application* and Section 16-15-140 - *Preliminary development plan submittal requirements* of the Town Code.

Additionally, the Applicant is proposing to rezone the subject property from Game Creek Character Area “PUD Holding Zone District” to the “Minturn North PUD Overlay Zone District,” requiring an amendment to the Town’s official zoning map pursuant to Section 16-21-410 – *Amendments to Text of Land Use Regulations or Character Area and Zone District Map*, MMC, which is being evaluated during the Preliminary Plan for PUD stage of review.

Preliminary Development Plan Review Purpose and Criteria

The Preliminary Development Plan review is the second step in the review of the proposed PUD. The Town Code, Section 16-15-130 – *PUD preliminary development plan application*, provides the following description of the Preliminary Development Plan review purpose and process:

- “(a) *The purpose of the preliminary plan review is for the applicant to specifically respond to the issues and concerns identified during concept plan review and to propose detailed, properly engineered solutions to those problems that conform in all respects to the approved concept plan. The burden at the preliminary plan stage is on the applicant to provide detailed information and mitigation proposals to be evaluated by the Town. The preliminary plan shall include a Community Plan and Development Guidelines to the development of the PUD (hereinafter the “PUD Community Plan and Development Guidelines”), specifying the standards and limitations that will guide the future development of the property.*”

Section 16-15-140: Preliminary development plan submittal requirements.

The Preliminary Plan submission is intended for the applicant to respond to the issues and concerns identified during concept plan review and to formulate detailed, properly engineered solutions to those issues and concerns that conform to the approved sketch

plan. The preliminary plan stage is when the applicant is to provide more detailed information and mitigation proposals to be evaluated by the Town. Preliminary Plan submittal requirements are listed below along with staff commentary regarding whether the Applicant's submittal meets the Town's requirements.

1. *PUD Guide specifying the limitations that will guide the future development of the property.*

Staff comment:

An updated PUD Guide was provided and meets the Town's requirements.

2. *A Community Plan and Development Guidelines that illustrates the proposed land uses, building locations, and housing unit densities.*

Staff comment:

Updated Design Guidelines have been submitted and meet the Town's requirements.

3. *An open space, park and recreation plan that identifies the areas of common open space, parks and recreation lands and describes any agreement proposed to preserve the open space, parks and recreation lands and how this will be implemented by deed or other agreement. This plan shall also describe the source of funds for long-term maintenance.*

Staff comment:

An updated open space, park and recreation plan that identifies the areas and proposed ownership of open space, park and/or recreation lands has been submitted. Final level details concerning land dedication of public or common open space and associated ownership and/or maintenance responsibilities will be finalized as part of the Subdivision Improvements Agreement process during any Final Plan review.

4. *A traffic study*

Staff comment:

An updated traffic study was submitted with the original Preliminary Plan application and has now been updated by the project's traffic engineering company to reflect the most current design of the PUD. (Note: access permits were previously issued by CDOT for the project for the previous iteration of Preliminary Plan; new access permits have applied for reflecting the current plans and current, reduced traffic generation numbers.)

5. *Proposed trails, sidewalks and traffic circulation patterns, including snow removal patterns and snow storage areas, and the proposed status of street ownership.*

Staff comment:

These items were provided and are depicted on site plans and civil engineering plans.

6. *Proposed grading and drainage plans.*

Staff comment:

Updated grading and drainage plans have been provided and reviewed by the Town Engineer.

7. *Detailed descriptions and commitments for the proposed source of legal and physical water supply and engineering plans for the proposed storage and distribution system for water supply (domestic and irrigation) and sewage disposal.*

Staff comment:

Updated engineering plans for domestic water and sewer infrastructure have been provided, along with updated consumptive (water) use calculations which have been reviewed by the Town's engineering and water rights consultants.

The Eagle River Water and Sanitation District (ERWSD) reviewed the original Preliminary Plan application and has since reviewed the most recent, updated plans. The District recently confirmed that the proposed design can meet the District's requirements.

8. *Economic data and supporting market analysis to justify any proposed commercial and industrial elements.*

Staff comment:

There are no proposed commercial or industrial elements within the proposed PUD. However, the Applicant has provided a Fiscal Impact Report detailing estimated costs and revenues to be generated by the proposed PUD. This report has been updated to reflect the most recent, Updated Preliminary Plan.

9. *Proposed development covenants, deed restrictions or other applicable codes.*

Staff comment:

Updated HOA covenants and deed restriction documents have been submitted and reviewed by the Town Attorney.

10. *An environment assessment or environmental impact report, unless waived by the Town Planner.*

Staff comment:

Environmental Site Assessment Reports as well as an Environmental Impact Report have been submitted and have been reviewed by the Town's consultants and referral agents.

11. *An impact analysis that describes the impact of the proposed PUD upon the school district.*

Staff comment:

The Applicant submitted an Ability to Serve letter from Eagle County School District confirming the fact that the Town does not have school land dedication (or fee-in-lieu-of) requirements; but that the Applicant had voluntarily offered to pay the District to offset any impacts from the PUD.

12. *A fiscal impact analysis of the estimated demands for Town services and a statement of projected Town tax revenue based upon the historic Town tax levy and a schedule of projected revenue.*

Staff comment:

An updated Fiscal Impact Analysis and a statement of projected Town costs and/or tax revenues associated with the PUD has been provided and reviewed by Town staff and UMB Bank, the Town's fiscal and municipal finance consultant.

13. *Final site plans and architectural forms planned for the first phase of the proposed development.*

Staff comment:

Updated, detailed site plans, draft architectural guidelines, and 3D architectural renderings have been submitted and reviewed by the Town and consultant team. These documents have been found to meet the Town's requirements and/or provide the necessary level of detail and information.

14. *Detailed plans for fire protection and emergency medical services.*

Staff comment:

Updated 'Ability to Serve' letters from the Eagle River Fire Protection District, Eagle County Sheriff's Office, and Eagle County Paramedic Services were submitted.

15. *The PUD shall include a phasing plan that demonstrates that the PUD can be completed within a reasonable period of time, which shall be determined prior to final approval of the PUD.*

Staff comment:

A phasing plan will not be necessary as this proposal is now a single-phase PUD. However, the Applicant has provided plans, information, and cost estimates for on- and off-site improvements that will be updated and finalized (to 100% construction level drawing) following any Preliminary Development Plan for PUD approval, and used to formulate a Subdivision Improvement Agreement (SIA) as part of any Final Plan/Final Plat application specifying construction timing, cost estimates, and financial guarantees for the construction of all infrastructure and public improvements necessary to serve the development. Updated plans are generally viewed by staff and consultant team members as simplified and more financially feasible to construct and serve than previous iterations of Preliminary Plan designs. Additionally, staff believes that full build-out of the PUD within a reasonable period of time can be achieved.

16. *If development is proposed to occur in phases, then financial guarantees shall be proposed to ensure that project improvements and amenities are constructed as presented and approved.*

Staff comment:

While a traditional phasing plan is no longer proposed or necessary, the Applicant has provided detailed, preliminary level infrastructure plans and cost estimates along with a draft SIA and indications of financial contributions toward on- and off-site public improvements as well as indications of financial guarantees that will be used as collateral for construction of public improvements. Final details regarding the timing of improvements and corresponding financial guarantees will be negotiated and approved at the time of Final Plan/Plat and Subdivision Improvements Agreement (SIA).

17. *The preliminary plan application shall be accompanied by an application for an amendment to the Character Area zoning map.*

Staff comment:

The Applicant has provided an application for an Amendment to the Official Zone District Map in compliance with the Town's requirements to permit rezoning of the property from Game Creek Character Area "PUD Holding Zone District" to "The Minturn North PUD Overlay District."

18. *The PUD shall consider the recommendations made by the applicable analysis documents, as well as the recommendations of referral agencies.*

Staff comment:

The Preliminary Plan has been designed to respond to several comments received during the previous Preliminary Plan application review stage in 2021-22.

The Updated Preliminary Plan has been re-referred to the same referral agencies and a **list of agencies that provided comments is provided Section X (pg. 55)** of this report. The Applicant has provided written responses to most, if not all, of the referral agency comments and, in several cases, has considered and/or incorporated suggested revisions into the application. In limited instances, and in response to certain referral agency comments provided in spring 2023, staff suggest that additional discussion is recommended during the Planning Commission hearing process.

Additionally, staff has crafted recommended conditions of approval to address outstanding issues raised by referral agencies and the Town Engineer based on the premise and the collective opinion of several Town staff and consultants that the issues, while substantive, are also not likely to affect the overall design of the PUD but which may lead to more technical design and layout revisions that may be completed prior to any Final Plan/Plat application and review process. **Condition(s) 1 & found in Section XI pertain to certain referral agency recommendations.**

v. Zoning and Compatibility Analysis

Existing Zoning

The Minturn North Planned Unit Development (PUD) property is located within the "Game Creek Character Area - PUD Holding Zone District."

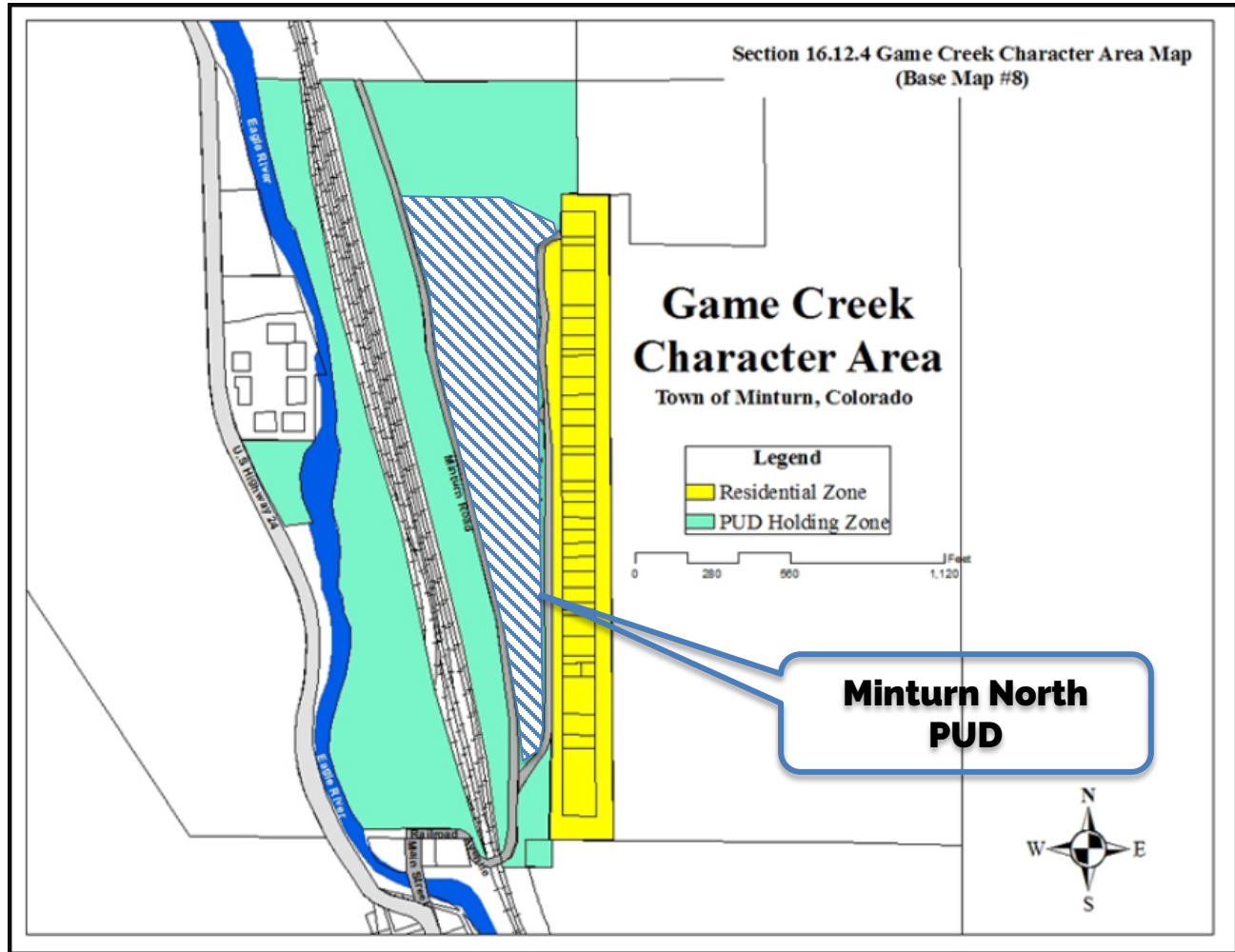


Figure 2: Game Creek Character Area Zoning Map

Although the subject property is "zoned" within the character area, there are no approved uses or development standards for the PUD Holding Zone area. Effectively, then, there is no zoning for the property in a traditional sense, but rather more of a policy "placeholder" setting forth the intent of the area and requiring review of a PUD plan to

establish site specific zoning and land use entitlements before any development may take place on the subject property.

The following excerpts from the Minturn Municipal Code (MMC) provide background information regarding the Game Creek Character Area as well as the purpose of the Planned Unit Development (PUD) overlay zone district. Section 16-12-10 – *Character Area Characteristics* of the Minturn Municipal Code (MMC) describes the railroad property located on the north side of Town as follows:

*“The Game Creek Character Area is visually prominent from the north entryway into the Town. The area is predominantly devoted to railroad use and will require a comprehensive planning effort prior to redevelopment. In addition to the rail yard, the area contains the Taylor Avenue neighborhood, some commercial uses and a community parking lot. The area is bisected by the railroad right-of-way, which is intended to remain as a continuous transportation corridor. Most of the area lacks adequate street rights-of-way and utilities. **The Community Plan has identified this area as an appropriate area for extension of the Old Town commercial core, mixed-use and residential development; however, high impact industrial uses are discouraged.** Enhancement of the Eagle River corridor is a community priority.”*

Section 16-12-30 - *Game Creek PUD Holding Zone* of Minturn's Town Code provides the following general description of the site:

*“This area is currently owned by the Union Pacific Railroad; however, trains are no longer utilizing the corridor or the rail yard. **The historic industrial zoning is no longer appropriate due to the probable abandonment of the rail line and potential conflict with future commercial and residential development. Redevelopment of this area will have a significant impact on the future character and size of the Town.**”*

The MMC provides further direction as to the Town's stated goals for redevelopment and future use of the railroad properties:

“It is an objective of the Town to plan and redevelop the rail yard as a master planned development that is compatible with the existing Town character. Future development and land use decisions for this area need to incorporate community input and involve an open public process. **The PUD Holding Zone and the PUD review process will provide for the flexibility, innovation and public input necessary to achieve the goals and objectives of the Community Plan and this Chapter. This area has been identified in the Community Plan as an area suitable for expansion of Old Town and as a “potential Town Center” site. Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing**

neighborhood. *The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans."*

Although the Union Pacific Railroad has entertained sale of this property in the past, staff is not aware of any formal PUD proposals that have been brought forth for review prior to Minturn North PUD.

Proposed Zoning and Compatibility

The proposed "Minturn North PUD Overlay Zone District" will create, or "overlay" the existing Game Creek Character Area "PUD Holding Zone" designation. This district will allow for residential and recreation/open space uses. Effectively, while the property is technically zoned ("PUD Holding Zone"), the Minturn Municipal Code does not prescribe any "permitted uses" or development controls (setbacks, limits on building height or lot coverage) within the Game Creek Character Area PUD Holding Zone. Therefore, this parcel is a bit of a "blank slate" other than the direction given in the Town Code regarding envisioned residential and/or mixed-use development.

The adjacent Taylor Avenue area and the Minturn Towne Homes development are both zoned "Residential" within the Game Creek Character Area and have similar if not slightly higher densities (units per acre) in comparison to the proposed PUD.

The proposed PUD zoning and regulating plan (the "Minturn North PUD Guide") calls for two primary use categories - Residential and Open Space - to be created or overlaid upon the Property to allow for residential and recreation/open space uses.

Surrounding land uses primarily include single-family, duplex (two-family), and multi-family (townhome) residential uses with similar densities and lot configurations as are being proposed within the Minturn North PUD. Additionally, railyard and contractor storage uses remain on U.P. properties to the west and north. Adjacent and nearby residential development is predominantly one and two-story structures, with some three-story buildings, all with similar lot and block configuration (lengthwise, from north to south, and east to west), similar densities of units per acre, and similar development patterns.

Design and Layout of Subdivision

Staff believes the proposed uses, specifically the types, numbers, and sizes of residential lots and dwelling units, as well as the design of streets, sidewalks and public open

spaces and/or recreational areas within the PUD are designed to respond to existing neighborhood layout and characteristics found along Taylor Avenue (the Taylor Addition) as well as other residential development patterns elsewhere in Town. Per the application narrative:

“The average lot within the Minturn North neighborhood is slightly smaller than the average lot within the adjacent Taylor Street neighborhood. All homes within Minturn North are subject to a 28’ height limitation as defined in the Town of Minturn Code. Homes have been designed to provide for a diverse range of users from young family to empty nester retiree, and range in size from 1,700 s.f. to 4,500 s.f., compatible with the size of existing single-family, townhome, and duplex structures within the immediate area.”

Additionally, staff provides the following observations and opinions regarding the Updated Preliminary Plan’s layout and design relative to the Town’s standards and guiding policies:

- The Updated Preliminary Plan design and layout generally responds better to Minturn Municipal Code and/or community plan language that supports development of the subject property for “appropriate” and context sensitive levels of residential uses that respect the character of surrounding residential development.
- The previous Preliminary Plan iterations had proposed numerous variations or “variances” to achieve a certain neo-traditional block and lot pattern as well as a certain density level. The Updated Preliminary Plan proposes minimal variance requests for minimum lot size, minimum lot dimension, and maximum lot coverage. **Staff suggests that of these variation requests, the Planning Commission and Applicant should review and discuss proposed variations to lot (building) and impervious coverage limits.**
- The previous Preliminary Plan iterations were based on a traditional (what is typically referred to as “Neo-Traditional” neighborhood design) with a grid pattern street and lot configuration generally running north-south on the property. While grid pattern street, block and lot patterns are ubiquitous in most towns and are not exclusive to flat areas or building sites, staff suggests that the previous Preliminary Plan design and layout proved difficult (and expensive to design and construct) given the UPRR property’s shape and topography or slope.
- The Updated Preliminary Plan includes a similar north-south internal road and lot layout, but significantly reduces the amount of overlot grading and infrastructure (roads, alleys, curbs, gutters, stormwater/drainage facilities, and sidewalks) required to build. Rather, the updated plans are simplified and include more Low

Impact, rural elements to match existing conditions on Taylor Avenue, including less formalized roads with shoulders, landscape buffers and drainage ditches, but no curb and gutter.

Building Massing and Architectural Character

From a massing and character standpoint, the PUD proposes the same building height (28') and setbacks (20' front yard, 10' rear yard, and 5' side yard) as are required in the adjacent Game Creek Character Area "Residential Zone District." However, the Applicant is requesting consideration of variations to Building Lot Coverage and Impervious/Impermeable Surfaces Limits that are well in excess of typical residential zone coverage limits. **These particular variation requests should be further considered and discussed during the Planning Commission's review.**

Design Guidelines have been provided and used to reflect homes that have, effectively, been pre-designed (staff is of the understanding that most if not all lots and homes have been pre-sold at the time of writing this report) to fit the proposed lots and to comply with the proposed design guidelines and architectural standards offered with the updated Preliminary Plan application. Per the application narrative:

"The homes that have been designed, and the Design Guidelines included in the submittal, promote the Town's eclectic style by incorporating architectural elements and materials commonly used throughout the Town. Each home will be customized to suit the individual personalities of each homeowner. The primary exterior building form colors range from painted white to dark stain. An eclectic mix of colorful accents are encouraged to be used on additive building forms, shutters, windows, and doors to personalize each residence to its inhabitants."

Overall, staff believes the proposed updated layout and design of lots, setbacks, and other development controls prescribed in the Updated Design Guidelines and Updated PUD Guide documents, will create and promote a style, massing and architectural character that respects existing neighborhood characteristics apparent in the "Taylor Addition," the Minturn Towne Homes neighborhood, as well as other well-established neighborhoods in Minturn.

VI. Community Plan Conformance:

Community Plan Purpose and Vision

The 2009 Town of Minturn Community Plan is the guiding document setting forth a community-generated vision, values and goals for future growth, the character of the town, and fiscal decision-making to ensure the vibrancy of the Town is preserved and enhanced:

"Many of the activities and responsibilities of local government such as development plan approval, capital improvements, infrastructure and facility planning and zoning recommendations require conformance to a community's master plan. The Town of Minturn 2009 Community Plan will serve as a guide for these and other decision-making processes in the future. In short, this Community Plan will help establish the compass bearing for the Town of Minturn, and like any good navigation aid, should be periodically adjusted as changing conditions warrant."

- Town of Minturn Community Plan (p. 6)

The 2009 Community Plan provides the following background regarding the Town's vision and values relative to growth and development:

"Throughout the recent past, Minturn has strived to maintain its own identity separate from the other communities in the Eagle Valley. In 2008, residents voted to approve the annexation of approximately 4,300 acres on Battle Mountain to be used as a private ski and golf resort community. The prevailing sentiment of the residents was the desire to guide their own future by controlling the development on Battle Mountain, while maintaining the authentic 'small mountain town character' of the original town site. Any potential growth will require effective master planning to serve the newly developed areas, as well as to mitigate any potential impact upon services of the current Town. This in mind, the Town set out in late 2008 to begin a comprehensive update of its Community Plan, the specific name the Town of Minturn has chosen to give to its Master Plan."

- Town of Minturn Community Plan (p. 5)

Last, the Town's vision statement is clearly articulated on page 9 of the Plan:

"The Town of Minturn values:

- *Its natural environment*

- *Its people living in community*
- *Its history*
- *Its funky, eclectic style**

"From our roots as a mining and railroad town, Minturn has evolved into a one-of-a-kind Rocky Mountain town with a vibrant sense of community. We have built and continue to foster a unique environment which is sensitive to its natural setting, with a wide variety of housing opportunities. We possess a diverse economy based on the support of local business and complementary land development."

- *Town of Minturn Community Plan (p. 9)*

Community Plan Organization – Goals and Strategies

The Community Plan is organized around the following topics or sections:

- Community Character/Urban Design
- Sustainability and Green Building Practices
- Land Use/Transportation
- Affordable Housing
- Public Services and Facilities
- Economic Development
- Natural Resources
- Parks and Recreation

The following is a brief listing of applicable goals, objectives and strategies outlined in the plan for each policy area:

Community Character and Urban Design:

Goal (CCG1): Maintain, Build Upon and Promote the Town's Image as a Unique, Eclectic Non-Resort Town with a Strong Sense of Community

- (CCS 1.1) Encourage and promote the use of public venues for a wide range of community events*
- (CCS 1.2) Consider size limits for residential structures*
- (CCS 1.3) Develop town signage including information kiosks, gateway signs and way-finding system*

- (CCS 1.4) *Develop and implement methods to maintain the town's eclectic architecture, scale and vibrant color palette*
- (CCS 1.5) *Investigate methods to preserve and protect historic structures*
- (CCS 1.6) *Incorporate local public art into new development and public improvements*
- (CCS 1.7) - *Support and enhance the Minturn Market as an integral part of downtown*
- (CCS 1.8) *Enforce ordinances aimed at maintaining the health, safety, welfare and aesthetic of the town – snow, trash, nuisance abatement and zoning/land use*
- (CCS 1.9) *Encourage development to utilize non-intrusive lighting systems*
- (CCS 1.10) *Examine existing hillside development regulations for improvement*
- (CCS 1.11) *Allow a variety of lot sizes (small and large lot) as appropriate to specific areas*

Staff Response:

The Updated Preliminary Plan and associated PUD Guide, Design Guideline, and HOA Covenant documents limit the size of homes while also addressing requirements and plans for snow management and storage, trash, nuisance abatement, lighting, zoning, and land use. The PUD is not located on a property that would require or be subject to Hillside Development regulations by the Town.

Sustainability and Green Building Practices

Goal (SGG 1): Encourage Green and Sustainable Practices Throughout the Community

- (SGS 1.1) *Develop and incorporate green building guidelines that address energy and resource efficiency, indoor air quality and on-site energy generation*
- (SGS 1.2) *Incorporate low impact development (LID) standards for site design into development requirements*
- (SGS 1.3) *Promote and encourage increased opportunities for businesses, residents and town government to reduce waste*
- (SGS 1.4) *Incorporate "Firewise" guidelines in building and site-planning practices*

Goal (SGG 2): Develop and Practice Green and Sustainable Processes

- (SGS 2.1) *Incorporate the concept of green infrastructure into the planning and design of improvements to town systems*
- (SGS 2.2) *Develop and ensure the integrity of a comprehensive recycling program for town facilities*
- (SGS 2.3) *Ban the use of plastic bags in the town*

Staff Response:

Per the application narrative, the Applicant is proposing specific measures - through infrastructure design and individual home design - that will support the Town's sustainable and/or green building goals and policies. Each lot will be developed with an electric vehicle (EV) charging station, as well as firewise materials and firewise, waterwise landscape design principles. From a neighborhood wide perspective, the application highlights the fact that infrastructure (roads and other hard, impervious surfaces) have been kept to a minimum while stormwater and drainage facilities have been designed with naturalized, "Low Impact Development" or LID standards and principles in mind.

Land Use/Transportation

Goal (LUG 1): Enhance the Town's Status as a Walkable and Bikeable Community

- (LUS 1.1) Develop and comply with a future land use plan for the entire town (land use element of this Community Plan) which encourages a compatible mix of land uses promoting mass transit, the use of bicycles and increased walkability/accessibility*
- (LUS 1.2) Develop comprehensive parking plan for the town which offers alternative parking strategies/standards specific to Minturn - aimed at increasing parking efficiency and ease of development/redevelopment*
- (LUS 1.3) Promote the development of a cohesive downtown*
- (LUS 1.4) Support and promote the expansion of public transit service to outlying communities*
- (LUS 1.5) Promote redevelopment areas as mixed-use centers*
- (LUS 1.6) Partner with owners of large land holdings on mutually beneficial redevelopment projects*

Staff Response:

The Updated Preliminary Plan generally achieves a higher level of conformance with the 2009 Minturn Community Plan Future Land Use Map (FLUM) than previous Preliminary Plan iterations. The Updated Preliminary Plan also can be viewed favorably with respect to the provision and design of internal circulation (roads, sidewalks and trail connections) as well as external circulation improvements (off-site improvements to Minturn Road as well as pedestrian safety improvements along Railroad Avenue) which should enhance walkability and multimodal (bikes, pedestrians and vehicles) transportation in and around the Game Creek Character Area. Such improvements should be considered important from the standpoint of supporting transportation, mobility, as well as the mass transit goals of the Town.

Affordable Housing

Goal (AHG 1): Promote Affordable Housing

- (AHS 1.1) *Promote the development of housing opportunities for all income levels throughout all areas of town*
- (AHS 1.2) *Allow a variety of lot sizes (small and large lot) as appropriate to specific areas*
- (AHS 1.3) *Develop an affordable housing program, to include housing assistance for town employees, qualified town residents and other eligible Eagle County employees*
- (AHS 1.4) *Leverage town-owned property for the development of affordable housing*

Staff Response:

In June 2020, the Town adopted its first “Inclusionary Housing” Ordinance setting forth specific requirements for mitigating housing affordability and focusing on “locals only” restrictions for any new development proposed over five (5) dwelling units. The Minturn North PUD Preliminary Plan was submitted *prior* to passage of the ordinance; therefore, the Town’s inclusionary housing regulations do not apply to this PUD.

Nevertheless, the Applicant has consistently (since original Preliminary Plan application) offered to voluntarily restrict a portion of the overall lots or units as “Locals Only” in previous Preliminary Plan iterations, and (in previous iterations) to dedicate the proceeds from a 1% transfer fee on all real estate sales to a “Community Land Trust” which would then provide funding for affordable housing (perhaps down payment assistance) within the Town. However, details of how such land trust would work or how proceeds from the transfer fee would be used/administered were never finalized.

The Updated Preliminary Plan includes a housing plan with similar, voluntary “Locals Only” restrictions on Lots 34-39, as well as eligibility criteria for the Town to administer. Additionally, the Updated Preliminary Plan includes a 1% Transfer Tax on all sales of Lots 1-33 to non-residents. This mechanism is offered to first encourage local ownership, or, alternatively to generate funds from sales to non-residents that can be used in the future to fund down payment assistance and other tools that the Town might use to support local ownership and renters in the Town.

Public Services and Facilities

Goal (PFG 1): Ensure that Public Facilities are Planned and Implemented to Support New Growth and Existing Population Centers

- (PFS 1.1) Implement streetscape improvements with pedestrian-scale site elements including sidewalks, paving, signage, lighting and site furnishings*
- (PFS 1.2) Develop a Capital Improvement Plan prioritizing upgrades to existing infrastructure including roads, water and storm water drainage and pedestrian/bicycle amenities*
- (PFS 1.3) Ensure that impacts from new development on existing infrastructure are mitigated*
- (PFS 1.4) Incorporate the concept of green infrastructure into the planning and design of improvements to town systems*
- (PFS 1.5) Develop and implement a comprehensive sidewalk and trails plan addressing both accessibility and bicycles*
- (PFS 1.6) Develop and implement a plan to bury utilities throughout the community*
- (PFS 1.7) Support and promote infrastructure which is attractive to small business – snow removal, loading zones, sidewalks*
- (PFS 1.8) Incorporate the future use of alternative energies into planning processes*
- (PFS 1.9) Develop a comprehensive parking plan that addresses the needs of both the business community and residents*

Staff Response:

The proposed PUD is expected to have significant positive and negative benefits, impacts, and effects on the Town and its infrastructure, public facilities, and services. The plans include significant improvements such as sidewalks, connection to the regional Eco Trail, paved streets, drainage improvements to serve the PUD and neighboring residential development. Additionally, the plans include burying of existing overhead utilities, as well as the installation of a stormwater management system that currently does not exist in the Taylor Avenue area.

Impacts from increased residential development – on transportation, sewer and water infrastructure; police and emergency service providers; as well as the general enjoyment of existing town amenities – have been evaluated using fiscal and financial impact studies and analyses prepared by qualified professionals as part of the Preliminary Plan for PUD application process. Additionally, the Updated Preliminary Plan application includes 'Ability to Serve' letters from Emergency Service Providers. Importantly, the proposal includes demonstration of mitigation - either through design and construction, or via the voluntary provision of fees and contributions - for things such as school land dedication and off-site road and sidewalk improvements.

Economic Development

Goal (EDG 1): Diversify the Town's Economy

- (EDS 1.1) Encourage and provide incentives for business to locate in the downtown area*
- (EDS 1.2) Encourage the development of flexible space in commercial areas – space which can be easily adjusted as market conditions permit (office to retail to restaurant)*
- (EDS 1.3) Attract essential services necessary to form a “complete” community – grocery, pharmacy, hardware store, movie theater*
- (EDS 1.4) Develop a comprehensive marketing strategy promoting the town*
- (EDS 1.5) Utilize redevelopment opportunities to help expand and diversify the town's economic/employment base*
- (EDS 1.6) Support and promote practices which are attractive to small business infrastructure, taxes, city services*
- (EDS 1.7) Investigate opportunities for future annexations*
- (EDS 1.8) Develop a web-portal which promotes the town*
- (EDS 1.9) Promote the town's unique history to capitalize on the heritage tourism market*

Staff Response:

The Updated Preliminary Plan proposes residential housing products that, according to the Applicant, have largely been pre-sold to existing Minturn residents, or individuals currently residing in Eagle County. Additionally, the Updated Preliminary Plan application includes voluntary “Locals Only” deed restrictions and eligibility requirements, as well as voluntary transfer assessment on “non-local” or non-resident purchases to contribute to the Town's community housing goals and policies. Such voluntary provisions should serve to “expand and diversify the town's economic and employment base” and “Support and promote practices which are attractive to small business infrastructure, taxes, city services.”

No commercial development is proposed.

Additionally, the design of the PUD as well as the architectural design standards that have been developed for the project will “promote the town's unique history,” the project can be seen as complementing the Town's image.

Natural Resources

Goal (NRG 1): Protect and Promote the Eagle River as a Community Asset

- (NRS 1.1) Support and fund ongoing river restoration efforts*

- (NRS 1.2) *Improve and enhance public access to the Eagle River*
- (NRS 1.3) *Strengthen development standards supporting habitat restoration and protection of the river*
- (NRS 1.4) *Promote the Eagle River as a focal point of the community/gathering space*

Goal (NRG 2): Protect and Promote USFS lands as a Community Asset

- (NRS 2.1) *Maintain and improve access to public lands*
- (NRS 2.2) *Promote development of USFS lands where appropriate*

Goal (NRG 3): Preserve, Protect and Enhance Environmentally Sensitive Lands

- (NRS 3.1) *Examine existing hillside development regulations for improvement*
- (NRS 3.2) *Maintain historic wildlife migration corridors*
- (NRS 3.3) *Support efforts to mitigate the impact of the mountain pine beetle infestation*
- (NRS 3.4) *Incorporate "Firewise" guidelines in building and site planning practices*

Goal (NRG 4): Preserve, Protect and Enhance Ridgelines and View Corridors

- (NRS 4.1) *Develop methods to regulate development on ridgelines and preserve specific view corridors*

Staff Response:

The proposed PUD will have direct and lasting impacts on the achievement of the above goals and strategies aimed at protection and/or enhancement of community amenities and treasured natural resources such as the Game Creek drainage and access to public lands by directing development away from sensitive, valued, or hazardous natural areas such as hillsides and ridgelines, floodplains or floodways; and, by directing development toward an area of town that has been previously impacted by industrial uses and, importantly, where public infrastructure and services already exist – where density and reinvestment in existing infrastructure *should be* directed in an efficient manner.

No development is proposed on ridgelines and no specific view corridors have been mapped or designated in Town planning documents within or around the subject property. Plans include significant improvements and forethought with regard to preserving and enhancing trailhead parking and access to the Game Creek trail. Additionally, the Updated Preliminary Plan, like previous Preliminary Plan iterations, includes appropriate live stream setbacks to ensure that improvements on specific lots (Lots 1-7) do not encroach upon or impact Game Creek and associated riparian areas.

Condition Nos. 1 & 2 found in Section XI addresses outstanding issues or recommendations from partner referral agencies with regard to hazard analysis and/or mitigation evaluation, and natural resource protection that, if agreed to and implemented, should serve to increase the project's overall compliance with the Town's community plan goals and policies.

Parks and Recreation

Goal (PRG 1): Enhance Recreational Opportunities for all Town Residents and Visitors

- (PRS 1.1) Support and promote the development of a regional trail system*
- (PRS 1.2) Support and promote the development of a centralized gathering space in the downtown area*
- (PRS 1.3) Investigate opportunities for the development of playgrounds and parks*
- (PRS 1.4) Promote, maintain and improve access to open space*
- (PRS 1.5) Promote, maintain and improve access to the Eagle River*
- (PRS 1.6) Support and promote the development of recreational facilities and programs for multiple user groups*
- (PRS 1.7) Promote existing recreational opportunities/facilities*

Staff Response:

The PUD provides or enhances access to public lands and open space through the dedication of open space in excess of the Town's recommended amounts as well as a commitment to construct a significant section of the future regional Eco Trail segment planned to connect the north side of Town to the segment of trail located in Dowd Junction. Importantly, the Plan shows improved Game Creek trailhead parking areas..

The PUD provides just over 4-acres (184,259 sq. ft.) of open space (or roughly 31% of the overall land area in the PUD).

Previous iterations of the Preliminary Plan proposed more open space, however a significant portion of that open space was to be provided within the then proposed "Phase II," on a steep, mostly undevelopable parcel located north of Game Creek. That area would have qualified as open space based on the Town of Minturn's code requirements, however there was no guarantee that Phase II would have ever been developed, and there were significant concerns by the Division of Wildlife that the hillside area in question was valuable wildlife habitat and perhaps not the best place for additional impacts by recreational users (if a trail had been developed, for instance), even if mitigated by seasonal closures.

For these reasons, there were questions about the previously proposed Minturn North PUD Open Space Plan that staff believes have now been fully addressed and mitigated.

VII. Staff Analysis and Findings:

The following section outlines the evaluation criteria that the Planning Commission must consider in any action to approve, approve with conditions, deny or continue the Minturn North Preliminary Development Plan for PUD, Preliminary Plat, and Zone District Amendment.

Preliminary Plan for PUD - Overview of Staff Findings and Observations:

The following summarizes staff's overall interpretation of how the Minturn North Preliminary Plan for PUD addresses the stated goals of a PUD overlay zone district:

- Staff believes that the Updated Preliminary Plan supports several goals, policies and implementation strategies of the 2009 Town of Minturn Community Plan as well as the Minturn Municipal Code.
- The Updated Preliminary Plan demonstrates efficient land use patterns by locating development close to existing development and infrastructure within the Town of Minturn, thus directing residential growth and density inward and, therefore, avoiding costly sprawl and undesirable impacts to sensitive or valued environmental areas elsewhere in or around the Town.
- Because the Updated Preliminary Plan is proposed to be constructed in one phase, there is no traditional Phasing Plan required or necessary. However, the Updated Preliminary Plan is accompanied by detailed engineering plans, as well as preliminary level cost estimates, a draft Subdivision Improvements Agreement (SIA), and indications of financial guarantees and feasibility to construct the project in a reasonable time period.
- The Updated Preliminary Plan has been reviewed in light of the 2009 Community Plan goals and policies that encourage infill development and logical extensions of utilities and services to serve future development.
- The Preliminary Plan integrates various lot sizes and homes on all 39 lots will be custom designed to "fit" each lot (lot topography and setbacks, for instance) while providing variation in the home size and design from one lot to the next. Additionally, the Updated Preliminary Plan will contribute to trails and pedestrian circulation.

- The Updated Preliminary Plan has been designed to maintain or improve air and water quality through controls written into the PUD Guide and Design Guideline documents, as well as the Homeowner’s Association covenants.
- The Updated Preliminary Plan proposal includes improvements to existing infrastructure designed to upgrade existing utility and infrastructure in the area, while proposed improvements/contributions toward sidewalk and trail connections promote safe, efficient, pedestrian and multi-modal networks. Further, proposed trail and public trailhead parking improvements appear to provide public benefits to the residents of the PUD as well as the general public.

Staff Findings

The following section outlines the Town staff’s findings related to Preliminary Plan for PUD standards and criteria:

1. *Preliminary development plan evaluation criteria:*
 - a. *The resulting development will be consistent with the Community Plan and the proposed PUD reflects the character of the Town.*

Staff Response/Finding:

The Preliminary Plan and the proposed development appears to address and meet the intent of the 2009 Community Plan and a preponderance of 2009 Community Plan goals and implementation strategies. (Please refer to Section VI of this staff report.)

- b. *The area around the development can be planned to be in substantial harmony with the proposed PUD.*

Staff Response/Finding:

The Updated Preliminary Plan has been planned to a significant degree to be harmonious and in character with the type and density of residential development existing in the surrounding neighborhood and the applicant has worked with the Town and public service providers to address needed improvements and particular design issues related to existing and proposed public infrastructure.

Planning for Minturn North infrastructure and public facilities (roads, sidewalks, water, sewer, snow storage, drainage, utilities and

stormwater improvements and/or replacements to existing improvements) has involved careful coordination with Town staff, Eagle River Water and Sanitation District, and other service providers to ensure that required infrastructure and proposed upgrades to existing infrastructure in the immediate vicinity of the PUD have been planned to be in substantial harmony with the surrounding areas.

The Applicant has also provided detailed demolition/construction management, and erosion control plans demonstrating that potential impacts from construction of the PUD can be properly mitigated while minimizing temporary impacts on neighboring properties.

One prominent issue that has been discussed and addressed at length between the Applicant, Town staff, and U.P. is the existing conditions of the "S-Curve" along Railroad Avenue. The Applicant has worked closely with the Town and the Union Pacific Railroad to provide necessary easements and agreements, as well as preliminary engineering for sidewalk and railroad crossing improvements to enhance pedestrian safety from the PUD as well as existing residential uses already located in the Taylor Avenue area.

- c. *The adjacent and nearby neighborhoods will not be detrimentally affected by the proposed PUD.*

Staff Response/Finding:

The Updated Preliminary Plan represents an infill development on previously disturbed industrial lands that meshes well with the surrounding residential neighborhood, and which has been planned to provide logical improvements, extensions and connections to existing public infrastructure (roads, water, sewer, and stormwater improvements for example).

One could view any development of currently vacant land next to an existing residential neighborhood - any change to an existing condition - as a significant change. During the review of previous Preliminary Plan iterations, neighbors to this potential development had expressed concerns about the placement and reconstruction of Taylor Avenue relative to existing conditions (existing driveways, existing parking configurations, and existing improvements such as retaining walls) and future conditions (placement of new driveways, on-street parking, and snow storage areas). The Updated Preliminary Plan no longer proposes any improvements to Taylor Avenue.

Overall, staff believes that the PUD has been planned and updated to enhance rather than to detrimentally affect the nearby neighborhood while responding to neighborhood concerns over density, traffic, and overall subdivision design. Care has been taken to understand and plan around (or in many cases integrate with and upgrade) existing conditions and infrastructure,

- d. *The mass and scale of individual buildings and the overall density of the PUD shall be consistent in scale and character to avoid abrupt and/or severe differences with the surrounding area.*

Staff Response/Finding:

The Updated Preliminary Plan has been designed with densities and dimensional limitations (lot sizes, lot coverage standards, setbacks and height restrictions) to produce a mass and scale that matches or is similar to the requirements of the adjacent Game Creek Character Area "Residential Zone District." **Variations to lot coverage and impervious materials coverage should be discussed further with the Planning Commission.**

- e. *The PUD can be completed within a reasonable period of time, which shall be determined prior to final approval of the PUD.*

Staff Response/Finding:

Staff believes that all horizontal and vertical construction within the PUD can be completed within a reasonable time frame. This is a single-phase PUD and the Applicant/Developer intends to construct all horizontal and vertical improvements within a 2-3 year period.

- f. *The PUD provides for the appropriate treatment of the Eagle River corridor as a community recreational amenity and focal point.*

Staff Response/Finding:

The PUD is not adjacent to and does not have any frontage along the Eagle River. However, Game Creek traverses the northernmost portion of the PUD. The proposed 30' Game Creek Live Stream Setback as well as the proposed construction of, and/or upgrades to, drainage and stormwater systems that do not currently exist on the subject property or within the Taylor Avenue area, are viewed as benefits to the overall health of the Eagle River by providing enhanced treatment of stormwater entering and exiting the PUD. The only recommended revision to planning and development control documents is to ensure that the live stream setback is measured from the Ordinary High Water

Mark (OHWM) rather than to the centerline of the creek in conformance with the Town Code requirements.

- g. The residents of the PUD have easy access to recreational amenities.*

Staff Response/Finding:

The Updated PUD Preliminary Plan includes usable open spaces as well as proximity and access to recreational amenities such as the Game Creek trail and other hiking/biking trails in the vicinity in the same manner as existing residential uses occurring along Taylor Avenue. However, development of the PUD should be viewed as providing enhancements to connectivity and safety (sidewalks and ECO Trail improvements) that will benefit the larger community as well as residents of the PUD.

- h. Any increase in density proposed above what is permitted in the underlying zone shall be mitigated by increasing the land dedications to open space, recreational amenities or other public facilities and services.*

Staff Response/Finding:

Although the subject property is zoned "PUD Holding Zone" within the Game Creek Character Area, there are effectively no permitted uses associated with this zoning classification. Therefore, there are no "underlying" densities listed for the Holding Zone.

Additionally, while there are six (6) existing mobile homes on the property, any new residential development will effectively equate to a significant increase in density compared to what has existed historically on the subject property.

However, based on previous analyses conducted by Town staff during the conceptual review in 2019, the existing density on Taylor Ave. is approximately 6-7 units per acre. This does not reflect full build out of the lots in this area (which, historically, have been developed well below the maximum allowable for units and for lot coverage). For example, if lots within the "Taylor Addition" were built to their full potential (i.e., lots developed as duplex units or if more single-family homes included accessory dwelling units), the density could be as high as 11-12 units per acre.

Based on consistent feedback - from the Planning Commission, Town Council, and citizens - provided during the review of previous Preliminary Plan proposals, the updated Preliminary Plan for PUD has

been revised to reduce the number of lots and units. The 39 units now proposed to be constructed on 13.5 acres (Parcel 2 of the proposed UPRR Subdivision) will result in a gross density of approximately 3 units per acre.

Additionally, per the application materials, the average lot size in the Taylor Addition is 0.168 acres, while the updated Minturn North Preliminary Plan for PUD proposes the exact same average lot size of 0.168 acres.

The PUD provides significant open space and recreational amenities in excess of Town requirements. For instance, "recommended" open space within a PUD is 25% of the total land area included within the PUD. The Applicant is proposing 31% of the Minturn North PUD be reserved for open space and/or common area uses. Open space calculations do not include an additional .98 acres of land (the "Dedication Parcel") located on the southernmost end of the PUD and which is intended to be dedicated to the Town.

Last, sidewalk and trail networks are proposed that will connect residents and visitors to existing trailheads while enhancing walkability in this area of the Town.

- i. Any proposed commercial or industrial development can be justified.*

Staff Response/Finding:

No commercial or industrial development is proposed in this PUD.

- j. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area.*

Staff Response/Finding:

Proposed street networks and/or improvements to existing roadways serving the area are or can be planned to be adequate to support the anticipated traffic. The Updated Preliminary Plan for PUD includes a similar road layout as previous plan iterations, with a cross street running east to west proposed at or near the location of existing "4th Avenue" to connect Taylor Avenue with Minturn Road; and another road (Miles End Lane) running north to south through the PUD to provide internal circulation.

The Applicant has worked closely with the Town of Minturn Town Engineer (Jeff Spanel, Intermountain Engineering), Town Attorney

(Michael Sawyer and Richard Peterson-Cremer, Karp Neu Hanlon), the Union Pacific Railroad, and Eagle County Road and Bridge Department to ensure that 1) road layout, rights-of-way, grades, and design profiles meet or exceed Town standards and/or locally accepted best practices for road design, and 2) on-site and off-site road improvements will be adequate to support anticipated traffic.

- k. *Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.*

Staff Response/Finding:

The Updated Preliminary Plan application includes detailed plans for grading, drainage and stormwater improvements/facilities throughout the PUD as well as off-site areas. These proposed improvements, while required in most instances as part of the project, should be viewed as a vast improvement over existing conditions along Taylor Avenue and across the subject property where there are few drainage or stormwater treatment facilities. Specifically, the PUD drainage and stormwater facilities were designed, in part, to address and handle existing drainage patterns and volumes originating from off-site (uphill and running through existing lots on Taylor Avenue).

- l. *Residential density and intensity of other uses shall be limited as required by the Town Council, upon consideration of the Community Plan, the Official Zone District Map and the specific characteristics of the subject land.*

Staff Response/Finding:

Staff believes that the proposed 100% residential use and proposed density conforms to the 2009 Community Plan, is similar to if not less dense than the surrounding residential development patterns and densities, and is appropriate for this location, particularly considering the feedback given during previous Preliminary Plan reviews where Planning Commission members, Town Council members and citizens expressed concerns regarding previously proposed lot layout, density, and potential impacts.

- m. *A favorable finding is made on the environmental assessment or environmental impact report.*

Staff Response/Finding:

An Environmental Impact Report was provided and reviewed by staff, Town consultants, and referral agencies charged with reviewing and

assessing the overall environmental impacts associated with this updated Preliminary Plan application. Overall, staff believes that a favorable finding can be made that the project has been designed properly and in accordance with the Town's standards and, importantly, that additional revisions can be made to the plans, if required, to further mitigate any potential environmental impacts.

- n. *The preliminary plan for PUD shall comply with the following open space and recreation standards:*
- i. *A minimum of twenty-five percent (25%) of the gross land area shall be reserved for common recreation and usable open space. Parking areas, street rights-of-way and minimum yard setbacks shall not be counted when determining usable open space. Water bodies, lands within critical wildlife habitat, riparian ecosystems and one-hundred-year floodplains that are preserved as open space shall count towards this minimum standard, even when they are not usable by or accessible to the residents of the PUD.*
 - ii. *All common open space and recreational facilities shall be shown on the preliminary plan for PUD and shall be constructed and fully improved according to the development schedule established for each development phase.*
 - iii. *All privately owned common open space shall continue to conform to its intended use, as approved in the preliminary plan. To ensure that all the common open space identified in the preliminary plan will be used as common open space, restrictions and/or covenants shall be placed in each deed to ensure their maintenance and to prohibit the division of any common open space.*

Staff Response/Finding:

The original Preliminary Plan iterations included approximately 32% open space including the setting aside of steep hillside areas located north of Game Creek and "Lot 73" shown on previous plans as occurring in "Phase II." This area is no longer being considered as part of the PUD.

That being said, within the Updated Preliminary Plan, several open space tracts are to be platted (created on a subdivision plat) and preserved resulting in a total open space provision of 31%. Open space tracts are located along the entirety of the property's easternmost boundary along Taylor Avenue; these open space areas will be critical to provide buffering/landscaping, drainage and stormwater facilities, as well as snow storage in the wintertime. Open space "Tract B," which encompasses that portion of the Game Creek drainage traversing the northernmost portion of the PUD, a 30' live stream setback from Game Creek is proposed to

preserve and protect the riparian corridor in full compliance with Town of Minturn live stream setback requirements.

Open space areas, unless proposed to be dedicated to the Town, will be privately maintained through the Minturn North Home Owner's Association.

Taken as a whole, the updated Preliminary Plan exceeds the Town's standards and recommendations for the provision of common recreation and/or usable open space.

Preliminary Plat:

Section 17-5-80 - *Preliminary plat review*, of the Minturn Municipal Code outlines the following standards or criteria for the Town Council's review of the Preliminary Plat:

"The Town shall consider the following in its review of the preliminary plat:

- 1. Information requested or required by the Town.*
- 2. Whether the proposed subdivision conforms to these and other applicable regulations, policies and guidelines of the Town.*
- 3. Review of reports on file, and others as available, pertaining to geologic, soils, wildfire, flood, pollution and other hazards, mineral resource areas and significant wildlife areas. The review shall consider the guidelines and recommendations, as prepared by the appropriate agency, to mitigate hazards and to protect resources."*

Staff Response:

There are some technical details that still need to be worked through between the Applicant and staff. However, staff and the Town's consultant team agree that all remaining issues are, indeed, technical in nature and can be addressed prior to or as part of any final plat for subdivision application.

Amendment to the Zone District Map:

Section 16-21-450 - *Standards*, of the Minturn Municipal Code outlines the following standards or criteria for the Town Council's review of the Amendment of the Zone District Map:

"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.
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.
3. *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.
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
5. *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
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.
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:

The proposed rezoning from the Game Creek Character Area "PUD Holding Zone" District to the "Minturn North PUD Overlay District" conforms with the goals and policies of the 2009 Community Plan.

The proposed zone district amendment (and the resultant residential development) is compatible with surrounding residential and open space uses; responds to changing market conditions and community needs; presents a land development pattern that is efficient and in keeping with logical and orderly growth; and considers impacts to the environment and the public's interest.

VIII. Variation Requests:

As is permitted and encouraged with any Planned Unit Development, the Applicant may request variations ("variances") from the Town's standards that would otherwise apply to any new development located in one of the Town's established zone districts.

Staff has outlined in detail the purposes and objectives of the PUD Overlay Zone District and process which include allowing flexibility in the design and construction of a new development to achieve certain goals such as compact development patterns, preservation of valued environmental areas and/or open spaces, and the provision of local's housing.

In this case - and in stark contrast to previous iterations of the Preliminary Plan - the Applicant is requesting minimal variances as part of the Updated Preliminary Plan for PUD and has provided justifications for each request - to increase maximum lot and impervious coverage, as well as to reduce minimum lot dimensions and minimum lot area for certain lots.

Generally, staff suggests that because there is effectively no underlying zoning or development restrictions currently applicable to the underlying "PUD Holding Zone," staff and the Town can only review the Updated Preliminary Plan in context to surrounding development controls and dimensional limitations.

Staff is generally supportive of all requested variations to Town standards as a means to incentivize and permit creativity and flexibility in the design of the PUD - a major tenet of the PUD Overlay Zone District purpose and intent. Specifically, the request to allow for minimum lot sizes of 4,000 square feet and/or reductions in required lot frontage appear reasonable and in-line with either existing lot sizes found elsewhere in Town currently, or with anticipated changes to the Town's Zoning Code (Chapter 16) in the future.

Staff suggests that the Planning Commission discuss with the Applicant the proposed variations from lot and impervious coverage standards during the hearing process to better understand proposed coverage limits and to ensure that such variations will not produce adverse impacts or a development pattern that is wholly inconsistent with existing development patterns and/or the Town's community development goals and policies.

IX. Updates and Outstanding Issues:

The following section outlines updates to the Minturn North Preliminary Plan for PUD since the Applicant last presented plans to the Planning Commission and the Town Council in 2021 and 2022, respectively.

Traffic Impacts:

The Planning Commission scrutinized the previous Preliminary Plan's impact on existing traffic and transportation networks in the Town due to the previously proposed project density. Specifically, the Planning Commission discussed what level and type of improvements would be necessary to improve existing roads and/or intersections serving the development.

Staff Comment: Based on the updated traffic study submitted by the Applicant, verification by the Town Engineer, and requirements by CDOT, there will still need to be turn lanes added at the intersection of Hwy. 24 and the County road to accommodate existing (background) traffic utilizing that northern route (Minturn Road to County Road). CDOT had previously approved access permits for the project, however those previous permits have expired. The Applicant has re-applied for access permits based on the Updated Preliminary Plan and what should be viewed as a significant downward departure in offsite impacts from traffic due to reduced density of the project.

The Planning Commission based its denial of the previous Preliminary Plan, in part, on the potentially negative impacts of additional traffic generated from the previous Preliminary Plan on the "S-Curve" and Railroad Avenue. Since the Planning Commission hearings in 2021, the Applicant has responded by 1) reducing overall project density and, 2) working with UPRR and the Town to present additional improvements on the north side of the S-Curve and along the north side of Railroad Avenue to provide sidewalk connections that presently do not exist.

Lot and Impervious Coverage Limits - Variation Requests

The Updated Preliminary Plan, specifically the proposed PUD Guide document which will set forth all zoning and development controls/dimensional limitations (setbacks, building height limits, and lot coverage limits) - includes allowances for lot and impervious coverage by buildings and other non-permeable surfaces such as driveways, patios and walkways that exceed coverage limits permitted in other strictly low-density, single-family residential zone districts within the Town.

The Applicant is asking for a variation from underlying zoning requirements and dimensional limitations to allow for a range of 60-75% coverage (depending on the lot), with higher coverage limits proposed on smaller lots (Lots 34-39), and lower coverage limits proposed for larger lots with a 5,000 sq. ft. minimum lot size. Staff understands that these percentages may be higher than actually required to accommodate the size of homes (and patios and driveway areas) contemplated for each of the lots as a matter of overestimation or caution; ensuring that final designs for certain lots - particularly Lots 34-39 - account for all surfaces that could be construed as impervious per the Town's definitions, even though those surfaces may actually be permeable (permeable paver patios, for instance).

Additionally, staff understands that the proposed maximum coverage limit by buildings and impervious materials for Lots 34-39 is so high (75%) because the Applicant is accounting for the surface of Silver Star Trail which will be constructed within an easement burdening Lots 34-39. This is a unique situation which certainly should be considered by the Planning Commission.

It is worth noting again that the "PUD Holding Zone" within the Game Creek Character Area lists no allowed uses or dimensional limitations. Therefore, it is difficult from a practical standpoint to determine the percentage or degree of requested variation because there is no starting point (e.g., 40%) provided by underlying dimensional limitations.

That being said, staff (and the Applicant) have used the dimensional limitations applicable within the adjacent Game Creek Character Area "Residential Zone District" as the basis for comparison of the proposed PUD and typical Town standards.

Staff suggests that while variations to lot and impervious coverage limits may 1) be justified, and 2) be warranted and/or appropriate to achieve Town goals and objectives, **the Applicant should be prepared to discuss the requested variations with the Planning Commission.**

Referral Agency Comments and Recommendations

While the Town received referral responses from several of the agencies that the Updated Preliminary Plan was sent to, two of the Town's referral agency partners - the Eagle River Watershed Council (ERWC) and the Colorado Geological Survey (CGS) - provided comments aimed at concerns and recommendations related to hazards identification, evaluation and mitigation, as well as recommendations related to bolstering natural resource protection.

Staff Comment:

The following commentary is offered to explain the staff's position(s) relative to referral comments received from the Eagle River Watershed Council and the Colorado Geological Survey. Staff has provided recommended conditions of approval for the Preliminary Development Plan for PUD application based on these referral agency comments and recommendations.

ERWC

The Eagle River Watershed Council provided written comments in response to the Town's referral of the Updated Preliminary Plan application. Primary issues identified by ERWC included:

- Stormwater Modeling - ensuring that the proposed Preliminary Plan and associated water runoff modeling use consistent percentages of lot and/or impervious coverage.
 - The Applicant's response to this issue confirms that additional revisions will be made to project drainage reports and/or civil engineering drawings specifically to address ERWC's comments prior to or concurrent with any Final Plan/Plat application.
 - The Town Engineer reviewed the ERWC comments and the response from the Applicant and provided additional comments reiterating that the Town Engineer will also require final drainage infrastructure details for any Final Plan/Plat application.
- Stormwater Approach - recommendations for onsite water quality and retention, along with comments questioning the methodology used in technical reports.
 - The Applicant's response stated disagreement with ERWC's recommendations and critiques on this issue stating that the project team's approach to modeling and design of stormwater and proposed onsite conveyance and treatment was "wholistic" to include on-site and offsite drainage.
 - The Town Engineer reviewed ERWC's comments and provided additional comments reiterating that the Town Engineer will also require final drainage infrastructure details for any Final Plan/Plat application.
 - The Town Engineer also reiterated that the Town of Minturn Municipal Code does not require the developer to address off-site stormwater but does require the developer to ensure that drainage coming from offsite needs to be properly accommodated and designed for within the PUD (again, referring back to previous comments by Intermountain Engineering that final drainage details including sizing of all drainage facilities)

needs to be provided at Final Plan/Plat and final construction drawings.

- Alluvial Fan Geomorphology and Flood Hazard/Fluvial Hazard Risk - ERWC comments were extensive on topics ranging from alluvial fan/hazard risk, to recommendations on flood hazard analyses and the design of proposed mitigation (berming) intended to address flood hazards in proximity to Game Creek.
 - The Applicant's response to these comments highlighted the existing floodplain limits and the fact that the civil engineering plans had been designed to reduce risk while remaining outside the floodplain with proposed (berm) improvements.
 - The Town Engineer has reviewed this comment by ERWC and has agreed with ERWC that additional analysis ("flood, mud, and debris flow hazard evaluation") should be performed as part of any Final Plan/Plat application.

- Riparian Buffers - ERWC points out that the 30' live stream setback for the PUD should be measured to the Ordinary High Water Mark, not the centerline of Game Creek, in accordance with best practice as well as the Town's regulations. ERWC also recommends that the Town require "full legal dedication of stream tracts and live stream setback areas directly to town ownership" to provide the highest level of management and enforcement.
 - The Town staff agrees with the recommendation/clarification that live stream setback should be measured from OHWM. These changes will be noted on any Final Plan/Plat application.
 - The Town staff does not agree with ERWC regarding ownership requirements of stream tracts.

- Water Quality Monitoring - ERWC recommends that the Town require the developer to provide baseline and ongoing water quality monitoring.
 - The Applicant responded by stating that additional monitoring should not be required or warranted (as a burden on the developer) based on the level of impacts contemplated within proximity to Game Creek.
 - Staff suggests that the Town may consider this recommendation in the future.
 - The Town Engineer agrees with the Applicant in this case that monitoring should not be the developer's responsibility.

CGS

- CGS comments addressed potential for landslide, avalanche and/or debris flow hazards in the area of the Game Creek Character Area and

the recommendation for additional hazards analyses that may impact project design, particularly proposed improvements and mitigation such as ditches and berms. CGS also provided recommendations regarding steep (2:1) slopes proposed on Lots 2-7.

- The Applicant provided a response to CGS stating that the application already adequately addresses stated concerns and potential risk factors and that portions of the previous Preliminary Plan iterations that included proposed development north of Game Creek (an area thought to pose increased rockfall and debris flow hazards) had been removed from this proposal.
- The Town Engineer reviewed CGS's comments as well as the Applicant's response and states that the Applicant should address landslide, avalanche and debris flow specifically as part of any Final Plan/Plat application.

X. External Referral Agencies:

The Town sent the Updated Preliminary Plan application package to 11 external agencies and/or stakeholder groups on April 18, 2023 and received comments from the following agencies:

1. Colorado Department of Transportation (CDOT)
2. Colorado Parks and Wildlife
3. Eagle River Water and Sanitation District
4. Xcel Energy
5. Eagle County
6. Eagle River Fire Protection District
7. Colorado Geologic Survey
8. Eagle River Watershed Council

A copy of all referral commentary as well as the Applicant's response to referral agency comments is attached hereto under **Attachment 1 starting on page 60**.

XI. Staff Recommendations and Suggested Conditions:

The following sections outline staff's recommendations for three, separate but related applications required for preliminary plan approval:

- Preliminary Development Plan for PUD Application
- Preliminary Plat Application
- Zone District Amendment Application

Preliminary Development Plan for PUD:

Staff believes the Minturn North Preliminary Development Plan for PUD application **conforms** to a majority of Town goals and policies and the applicable requirements of the Town of Minturn Municipal Code.

Staff is **recommending approval with conditions** of the Preliminary Development Plan for PUD based on a finding that applicable standards are met or can be met as conditioned.

The following suggested conditions of approval are provided as an initial list (to be added to during the hearing process if necessary and appropriate):

1. The Applicant shall work with the Town Engineer prior to or concurrent with any Final Plan/Plat application to address referral comments related to further evaluation of hazards that may impact final design of all civil engineering and/or subdivision design(s).
2. The Applicant shall work with the Town Engineer prior to or concurrent with any Final Plan/Plat application to adequately address all remaining technical plat and/or civil engineering details and suggested revisions outlined in letters from Intermountain Engineering dated May 22, 2023, and June 20, 2023.
3. The Applicant shall work with the Town to finalize any/all outstanding issues related to the draft Subdivision Improvements Agreement and associated 100% construction level plans prior to or concurrent with Final Plan/Plat application submittal.

Preliminary Plat:

Staff believes the updated Minturn North Preliminary Plat application **generally conforms** to the requirements of the Minturn Municipal Code but that several revisions must be completed prior to the Applicant submitting a final plat for consideration by the Town. Staff is **recommending approval of the Preliminary Plat** with one condition requiring the Applicant to resolve all outstanding issues and technical revisions already identified by the Town staff.

The following suggested condition of approval is provided in the event the Planning Commission takes action to recommend approval of the Preliminary Plat with conditions:

1. The Applicant shall work with Town staff to update the Minturn North PUD Preliminary Plat prior to or concurrent with any Final Plan/Plat application to address any/all outstanding technical and/or legal requirements as noted in previous staff and consultant referral comments.

Zone District Amendment:

Staff believes the application for Amendment to the Official Zone District Map - from the Game Creek Character Area "PUD Holding Zone District" to the Minturn North PUD Overlay Zone District **complies** with the applicable standards and criteria of the Minturn Municipal Code.

Staff is **recommending approval of the Zone District Amendment** and staff does not believe conditions of approval are necessary in the event the Planning Commission forwards a recommendation for approval to the Town Council.

Suggested Motions - Alternatives:

The Planning Commission will have the following options available when taking action on each of the applications - Preliminary Development Plan for PUD application, Preliminary Plat, and Zone District Amendment:

1. Approval
2. Approval with conditions
3. Denial
4. Continuance

The following suggested motion language is offered to assist the Planning Commission:

Preliminary Development Plan for PUD:

Approval:

"I move the Minturn Planning Commission forward a recommendation for approval of the Minturn North Preliminary Development Plan for PUD with staff recommended findings because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Approval with Conditions:

"I move the Minturn Planning Commission forward a recommendation for approval, with conditions, of the Minturn North Preliminary Development Plan for PUD with staff recommended findings because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Denial:

"I move the Minturn Planning Commission forward a recommendation for denial of the Minturn North Preliminary Development Plan for PUD, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Note that in the event of a denial motion, the Planning Commission may request staff assistance in making appropriate findings to support such action.

Continuance:

"I move the Minturn Planning Commission continue the Minturn North Preliminary Plan to a date certain."

Preliminary Plat:

Approval:

"I move the Minturn Planning Commission forward a recommendation for approval of the Minturn North Preliminary Plat, with staff recommended findings because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Approval with Conditions:

"I move the Minturn Planning Commission forward a recommendation for approval, with conditions, of the Minturn North Preliminary Plat, with staff recommended findings because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Denial:

"I move the Minturn Planning Commission forward a recommendation of denial of the Minturn North Preliminary Plat, because the application does not conform to the

applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Note that in the event of a denial motion, the Planning Commission may request staff assistance in making appropriate findings to support such action.

Continuance:

“I move the Minturn Planning Commission continue the Minturn North Preliminary Plat to a date certain to allow staff and/or the Applicant additional time to address issues and concerns by the Planning Commission.”

Zone District Amendment:

Approval:

“I move the Minturn Planning Commission forward a recommendation of approval of the Amendment to the Official Zone District Map with staff recommended findings because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.

Approval with Conditions:

“I move the Minturn Planning Commission forward a recommendation of approval, with conditions, of the Amendment to the Official Zone District Map, with staff recommended findings because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Denial:

“I move the Minturn Planning Commission forward a recommendation of denial of the Amendment to the Official Zone District Map, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Note that in the event of a denial motion, the Planning Commission may request staff assistance in making appropriate findings to support such action.

Continuance:

“I move the Minturn Planning Commission continue the Amendment to the Official Zone District Map to a date certain to allow staff and/or the Applicant additional time to address issues and concerns by the Planning Commission.”

Attachments:

1. Staff and Referral Agency Review Comments
2. Applicant June 2, 2023 Response to Referral Agency Review Comments
3. Written Public Comments Received as of 6.23.23

June 23, 2023

TO: MINTURN PLANNING COMMISSION AND TOWN COUNCIL

FROM: TOWN ATTORNEY

RE: PROPOSED EASEMENT AND CROSSING DOCUMENTS FROM UPRR

As part of the approval of the Minturn North PUD and subdivision plat, the applicant is required to demonstrate adequate legal and physical access to the property together with any off-site improvements associated with the proposed development. In the situation of Minturn North, certain easements and rights-of-way will be created on the subdivision plat. Other easements for public roads are being granted by Union Pacific Railroad (“UPRR”) to facilitate the new uses of the Minturn North property. This memorandum evaluates the easements granted by UPRR.

Minturn Road and Railroad Ave.

Historically, Minturn Road has existed within current Town boundaries by virtue of an Easement Deed from the Denver and Rio Grande Railroad Company to Eagle County granted in 1904. **Exhibit A.** With the passage of time and construction of new roadway improvements, the physical location of Minturn Road in certain places no longer follows the easement granted almost 120 years ago. Further, the location of Railroad Ave. (from north Main Street to the track crossing) does not appear to be in any deeded right-of-way benefiting Minturn. Instead, this portion of Railroad Ave. is located on Union Pacific Railroad Company (“UPRR”) property. This memorandum does not discuss potential rights that the Town may have for these two roadways by virtue of adverse possession.

As part of the proposed Minturn North subdivision, UPRR has proposed to grant the Town new easements for both Minturn Road and Railroad Ave. UPRR has proposed an arrangement that contemplates vacating the old easement for Minturn Road and granting a new easement for both Minturn Road and Railroad Ave. **Exhibit B.** Eagle County as the party who received the easement in 1904 would vacate the old easement for Minturn Road.

The new proposed easement for Minturn Road and Railroad Ave. is contained in one document. **Exhibit C.** The new easement gives the Town the right to construct, use and maintain specific defined areas for “roadway, sidewalk, and utilities.” UPRR has asked that the westerly 25 feet within the Minturn Road easement not be used for Sidewalk purposes. The intent is to keep pedestrian traffic on the east side of Minturn Road and away from the railyard (previously UPRR had required that Minturn construct and maintain a fence if a sidewalk/trail was to be located on the west side of the roadway). The Town may grant licenses to third parties for

installation of utilities after providing UPRR with 14 days notice and a plan set for the location of the utilities.

UPRR retains the right to install fiber optic and signal lines, telephone and electric poles and lines, within the easement area subject to providing the Town with 14 days notice and a plan set. UPRR's reserved rights in the Minturn Road and Railroad Ave. easements may not interfere with the Town's use for public road and utility purposes. The Town has an obligation to maintain the improvements within the easement "consistent with the requirements of Colorado law" and in such a manner as to not interfere with UPRR tracks. The Town has an agreement to "indemnify, defend and hold harmless" the UPRR for the Town's "performance of its obligations in the Easement – subject to said obligation being lawful under TABOR.

The easement granted for Minturn Road is 50 feet in width. The easement for Railroad Ave. is variable width between 29 and 40 feet in width to be confirmed and possibly modified subject to UPRR survey work confirming that the proposed improvements fit within the easement. The Railroad Ave. easement allows for the installation of a sidewalk along the north side of the existing roadway. Town staff have evaluated that the improvements associated with the Minturn North development can be physically accommodated within the Minturn Road easement.

Railroad Ave. Crossing Agreement

Railroad Ave. crosses the tracks at what is referred to as the "S" curve. At this location, UPRR has proposed a different form of Easement Deed for the Town's interest to maintain the roadway at this location. **Exhibit D.** The easement for the "S" curve is only for "an at at-grade public road crossing and sidewalk" and does not include the right to locate utilities in the easement. The easement is generally 40 feet in width. UPRR retains the right to maintain its tracks and appurtenances in the area (e.g. utility lines) so long as they do not unreasonably interfere with Minturn's use of the easement. Railroad uses of the crossing are deemed not to interfere with the roadway uses.

The easement is subject to a Public Highway At-Grade Crossing Agreement. The Crossing Agreement requires the Town to have contractors performing work within the "S" Curve to have insurance and execute a Right of Entry Agreement. If UPRR determines that the Town's facilities constitute a threat to the Railroad's operations, UPRR may perform work to fix the problem and send the bill to the Town. Any "non-railroad" facilities placed within the "S" curve area must be approved by UPRR. Council should consider Section 11 A. which provides that if the tracks are reactivated, that the Railroad will work with Minturn to determine what improvements are necessitated by the reactivation, which may include cost allocations to Minturn.

The Crossing Agreement allows the Railroad to require upgrades to the crossing under various circumstances. These include need to change the grades of the crossing, the installation of warning devices, and the installation of roadway improvements in between tracks. In these situations, the Town would be liable for some or all of the upgrade costs. The Crossing Agreement also contains detailed provisions about the requirements for performing work within the UPRR right-of-way (including reimbursing various UPRR costs). Finally, the Crossing Agreement does

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include an indemnification provision for damage caused to UPRR facilities. The indemnity provisions are subject to the Constitutional limitations imposed by TABOR.

It is worth noting that the Crossing Agreement as presented to Council for consideration does include modifications from the form originally presented by UPRR. Because this Crossing is part of an application that allows UPRR to sell property, changes to the form were permitted that otherwise would not be allowed for other municipal crossings.

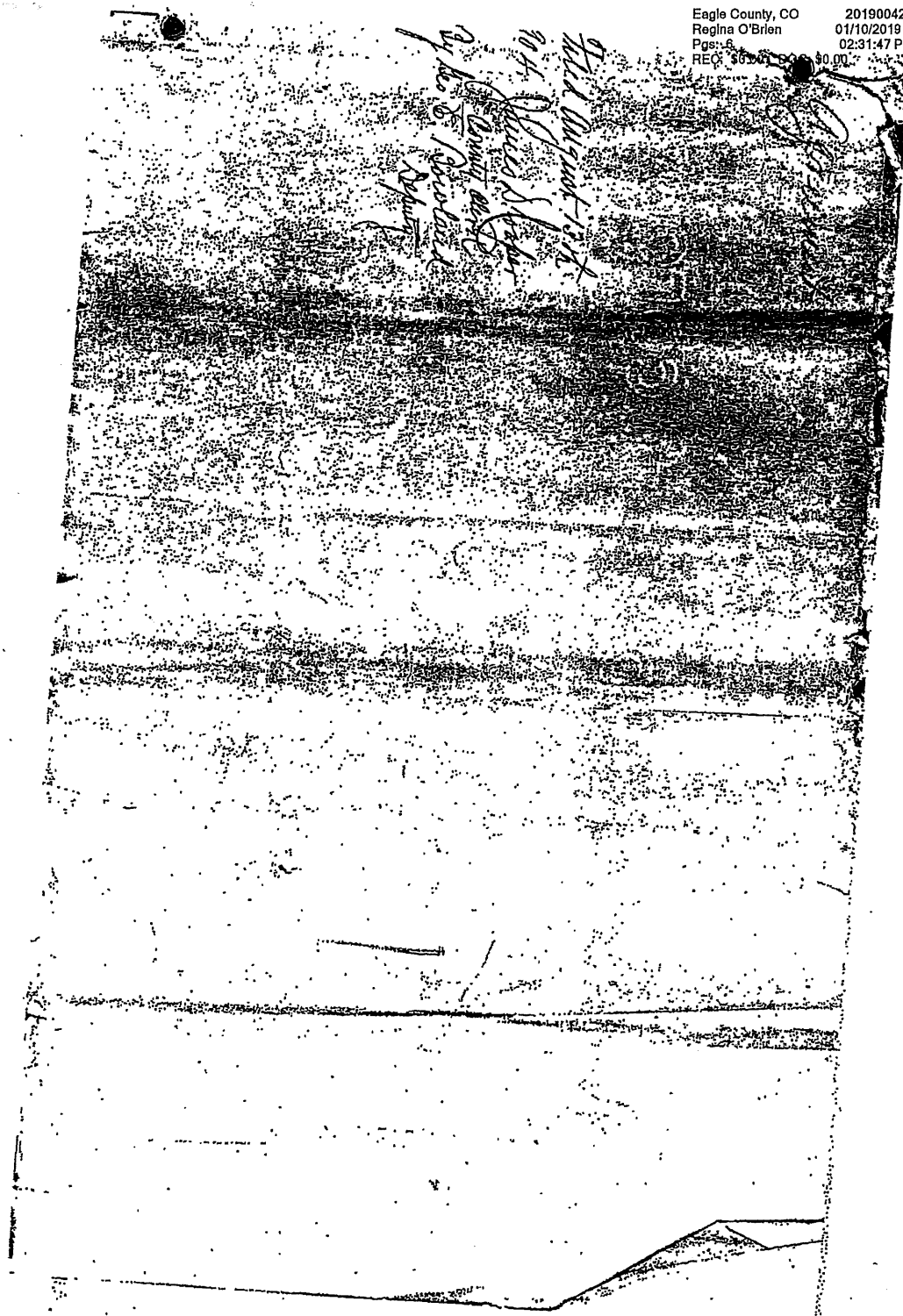
Dowd Junction Crossing Agreement

An identical Crossing Agreement is proposed for the crossing of Minturn Road (County Road 14) near Dowd Junction. **Exhibit E.** The Crossing Agreement for this location does raise a couple of issues. It is worth noting that the crossing of Minturn Road at Dowd Junction is within the municipal boundaries (which stop at the east side of the railroad ROW). However, the roadway headed east and north is a County Road at this location, not a Minturn Town road. Further, the bridge crossing the Eagle River is a County bridge. UPRR is proposing to grant the Town the Crossing Agreement at this location because it is tied to a Town project (Minturn North). However, the roadway and bridge on either side of this crossing are owned by Eagle County.

Process for Adopting

Minturn will not formally approve the various UPRR documents until approval of the Final Plat for Minturn North. UPRR is proposing to execute the documents now. All documents would be placed in an escrow until approval of a final plat for Minturn North (**Exhibit F**).

Handwritten notes:
Bill [unclear]
[unclear]
[unclear]
[unclear]
[unclear]



James A. Weber

Filed August 1978

304 James A. Weber

Committee

on the

Environment

by Hon. J. P. [unclear]

THIS AGREEMENT, made and entered into this 13th day of August, A. D. 1904, by and between THE DENVER AND RIO GRANDE RAILROAD COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Colorado, and hereinafter referred to as the Railroad Company, party of the first part, and the COUNTY OF EAGLE, organized and existing under and by virtue of the laws of said State, and hereinafter referred to as the County, party of the second part, WITNESSETH THAT

WHEREAS, the use by the public of the lands, premises and yards of the Railroad Company at or near the town of Minturn, in said county and state for public travel, and the crossing of its tracks within said yards by the public as heretofore practiced, involve great danger to the public, and danger and annoyance to said Railroad Company, and an impediment and hindrance to its operations, and

WHEREAS, it is the desire of said Railroad Company and of said County that there shall be located, laid out and constructed public roads in the vicinity of said yards, in such manner as to avoid as far as possible such dangers, annoyances and hindrances, and

WHEREAS, the people of the said town of Minturn have petitioned the Board of County commissioners of said County to construct such bridge over the said Eagle River and to locate, lay out and construct such roads, and to provide for such crossing over the tracks of said Railroad Company in the vicinity of said yards as shall better accommodate the public and minimize the dangers to public travel in said vicinity, and the dangers and hindrances to said Railroad Company;

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter set forth, to be by the respective parties hereto kept, done and performed, it is agreed by and between said parties as follows, to-wit:

201900427

1. Said Railroad Company agrees to grant and does hereby grant unto said County an easement for a right of way for a public road forty (40) feet wide over and across the lands and premises of said Railroad Company in the West Half of the Northwest Quarter of Section Twenty-six (26), Township Five (5) South of Range Eighty-one (81) West of the 6th Principal Meridian, between the points hereinafter designated and as shown on the attached blue print, which is made and accepted as part and parcel of this agreement.

a. From a point marked B on said blue print to a point marked D thereon;

b. From a point marked E on said blue print to a point marked A thereon;

c. From a point marked H on said blue print to a point marked I thereon;

d. From a point marked F on said blue print to a point marked G thereon.

2. Said Railroad Company agrees to permit said County to use for the purposes of a public highway, and in order to afford ingress to and egress from Block B on the northerly side of the Eagle River, a strip of land as and of the dimensions shown on said blue print between a point marked B and a point marked J thereon, for such period of time as said Railroad Company shall not require the use thereof for an extension or enlargement of its round-house or other facilities, and until said Railroad Company shall furnish to said County for the use of the public other lands for a highway to afford ingress to and egress from the said Block B as aforesaid; provided, however, that said Railroad Company shall have the right at any time to terminate and discontinue the use by the public and said County of said last de-

201900427

scribed strip of land, upon furnishing to said County for the use of the public other lands for a highway to afford ingress to and egress from said Block B as aforesaid.

3. Said Railroad Company also agrees to permit the public to cross its lands, premises and tracks along the roadways now in use for such period of time as shall be required hereunder for said County to locate and construct the proposed new bridge over Eagle River between the points designated A and B on the attached blue-print and the proposed new highways between the points designated C to H to I, and B to J on said blue print, but not longer than until November 15th, 1904, except as to the present traveled road from L to M and from M to the south line of said Railroad Company's lands in said Section 26, the license to use which last described portions of roadways is provided for in Section 8 of this agreement.

4. Said Railroad Company further agrees at its sole cost and expense to install at the earliest practicable date, and thereafter to maintain and operate an alarm gong at the site of the proposed new crossing of its tracks in the south end of its said Minturn yard, between the said points B and C, as shown on said blue print, said gong to be connected with its double main tracks only, and further agrees to construct and thereafter to maintain a sixteen (16) foot plank crossing satisfactory to the County Commissioners of said County, over and across its tracks between said points B and C, as shown on said blue print.

5. Said County agrees, at its sole cost and expense, to locate, construct and complete ready for use by the public on or before November 15th, 1904, and as a part of its system of highways a new wagon bridge of sufficient strength and of such dimensions as shall safely subserve the public convenience across the Eagle

201900427

River between points marked A and B on said blue print, together with the necessary approaches thereto, and thereafter to forever maintain the same in good, safe and serviceable condition and repair.

6. Said county further agrees, at its sole cost and expense, to enter at once upon the construction of, and thereafter with reasonable diligence to complete ready for public use highways on the easterly side of said Railroad Company's yard at Minturn along the lines hereinbefore designated and between the points B and E, H and I, and J and B, as shown on attached blue print, and after the completion thereof, to forever maintain the same, in good safe and serviceable condition for the use of the public as highways.

7. Said County further agrees by appropriate action to at once vacate for public use, and as a part of its system of highways, two bridges across said Eagle River, designated on said blue print as bridge No. 1, in the vicinity of the point designated X on said blue print, and bridge No. 2, near the point designated L thereon.

8. Said County further agrees at once by appropriate action to vacate for public use, and as a part of its system of public highways or roads, used by the public or any portion thereof, all and singular the lands and premises within the exterior boundary lines of the lands and premises of said Railroad Company at or in the vicinity of said town of Minturn, as shown on said attached blue print between the points designated thereon as follows:

B to C, X to P, E to M, H to N and M to K, provided however that said roads designated on said print as extending from H to C from M to P and from M to N shall not be closed to public travel by said Railroad Company until said County shall have completed the construction of said new bridge between said points

all its rights in and to

marked A and B on said blue print, and the approaches thereto, and until said Railroad Company shall have completed the proposed new crossing over its tracks between the points B and C, as shown on said blue print, and provided, further, that said bridges designated on said blue print as Bridges No. 1 and No. 2, and said roads from L to M and from M to the south line of said Railroad Company's lands in the northwest quarter of said Section 26 shall not be closed to public travel by the said Railroad Company prior to December 31st, 1965, unless said County prior to said December 31st, 1965, shall have completed the construction of the proposed new public road on and along the right of way herein provided for between the points designated F and G on said blue print.

IN WITNESS WHEREOF, said Railroad Company has caused these presents to be duly executed by the hand of its Manager, and said County has caused these presents to be executed by the Chairman of its Board of County Commissioners, and its corporate seal to be hereunto affixed and attested by its Clerk, they being thereunto duly authorized by resolution of said Board of County Commissioners on the day and year first above written.

THE DENVER AND RIO GRANDE RAILROAD COMPANY,

By James Jackson
Manager.

THE BOARD OF COUNTY COMMISSIONERS OF EAGLE COUNTY, COLORADO,

ATTEST:

James D. Loofer By Arthur M. Kingis
Clerk. Chairman.

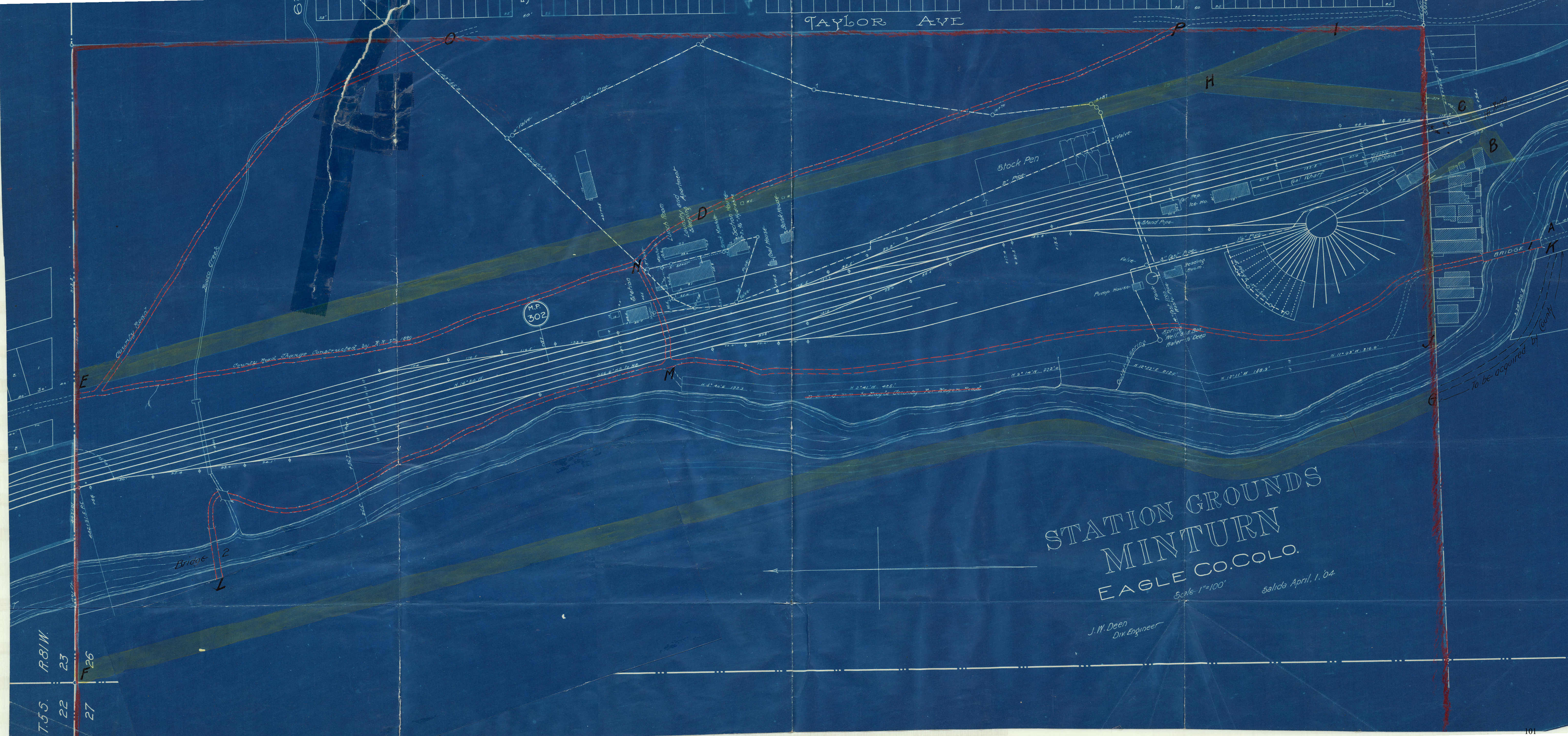
Arthur M. Kingis
Jack Loofer
John Auld

Board of County Commissioners of Eagle County, Colorado.

(C:R:10:64)

201900427

TAYLOR AVE



STATION GROUNDS
 MINTURN
 EAGLE CO. COLO.
 Scale 1"=100'
 Salida April, 1, '04

J. W. Deen
 Div. Engineer

T.55. R.81/W
 22 23
 27 F.26

EASEMENT TERMINATION

This EASEMENT TERMINATION ("**Termination**") is executed as of _____, 2023 ("**Effective Date**") by **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("**UP**"), successor-in-interest to The Denver and Rio Grande Railroad Company, and **EAGLE COUNTY, COLORADO** a body corporate and politic ("**Eagle County**").

RECITALS:

WHEREAS, pursuant to that certain Agreement dated August 13, 1904, by and between The Denver Rio Grande Railroad Company, predecessor-in-interest to UP, and Eagle County, recorded January 10, 2019 at reception number 201900427 ("**Rio Grande Easement**"), certain easement rights and obligations were created for purposes of a right-of-way for public roads and bridges over portions of the real property as more particularly described in the Rio Grande Easement attached hereto as **Exhibit A**;

WHEREAS, the Rio Grande Easement was for the benefit of Eagle County, and includes certain roads and bridges that no longer exist and are no longer needed by Eagle County:

WHEREAS, UP and Eagle County desire to terminate the Rio Grande Easement.

AGREEMENT:

NOW, THEREFORE, UP and Eagle County hereby declare as follows:

1. As of the Effective Date, the Rio Grande Easement is hereby terminated and shall be of no further force or effect.

(Signature Pages to Follow)

EXHIBIT A

**RIO GRANDE EASEMENT
(TO BE ATTACHED)**

**RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:**

Town of Minturn
Attn: Town Manager
301 Boulder Street, #309
Minturn, Colorado 81645

(Space Above for Recorder's Use Only)

3185-08

EASEMENT DEED
FOR MINTURN ROAD AND RAILROAD AVENUE

This EASEMENT DEED FOR MINTURN ROAD AND RAILROAD AVENUE ("Easement Deed") is made this ____ day of _____, 2023, between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("**Grantor**"), and the **TOWN OF MINTURN**, a municipal corporation or political subdivision of the State of Colorado ("**Grantee**"), whose address is 301 Boulder St., #309, Minturn, Colorado 81645.

Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, to it paid by Grantee, the receipt whereof is hereby confessed and acknowledged, grants to Grantee, its successors and assigns, a non-exclusive easement ("**Easement**"), for the purpose of constructing, using, maintaining, repairing, renewing and reconstructing a public roadway, sidewalk, and utilities (collectively, "**Easement Improvements**") on, along, across and under certain property in Eagle County, State of Colorado, described and depicted in **Exhibits A-1, A-2, and A-3**, each of which are attached and by reference made a part hereof (collectively, the "**Easement Area**") for access to Grantee's adjacent property.

The Easement is granted for the purpose described above only; PROVIDED, HOWEVER, that Grantee is prohibited from using the Westerly twenty-five feet (25') of that certain portion of the Easement Area described and depicted in **Exhibit A-2** for sidewalk or pedestrian/bike trail purposes. The Easement is in gross and personal to Grantee, and may not be assigned, in whole or in part, without Grantor's prior written consent, which may be withheld in Grantor's sole discretion. Grantee may grant licenses and sub easements in the Easement Area for utilities. Prior to granting a license or sub easement, Grantee shall provide Grantor with information and a plan set showing the proposed location and configuration of the proposed license or sub easement agreement and allow Grantor fourteen (14) days to provide written comments. Any use of the Easement by Grantee or Grantee's licensees and sub easement holders shall be

coordinated with Grantor to ensure that such use will not harm or frustrate Grantor's then existing use(s) of the Easement Area.

Grantor, its successors and assigns, reserves the right to construct and to maintain at any and all times, fiber optic or signal lines and facilities, pipe, telephone, and electric pole and wire lines, over, under and across the Easement Area, but in such a way as to not unreasonably interfere with Grantee's use of the Easement; it being understood that the rights so reserved by Grantor, its successors and assigns, are retained along with the general right of Grantor, its successors and assigns, to use of the Easement Area for any purpose not inconsistent with Grantee's use of the Easement. Prior to installing any new use within the Easement Area or repairing or reconstructing an existing use, Grantor shall provide Grantee with information and a plan set showing the proposed location and configuration of the proposed use and allow Grantee fourteen (14) days to provide written comments. Any use of the Easement by Grantor or Grantor's licensees shall be coordinated with Grantee to ensure that such use will not harm or frustrate Grantee's use of the Easement, and that any damage to the Easement Improvements caused by the activities of Grantor or Grantor's licensees are repaired and replaced to as substantially similar of a condition that existed before any work was undertaken.

Any notices required or desired to be given under this Easement Deed shall be in writing and personally served, given by overnight express delivery, or given by mail. Any notice given by mail shall be sent, postage prepaid, by certified mail, return receipt requested, addressed to the party to receive at the following address or at such other address as the party may from time to time direct in writing:

Grantor: UNION PACIFIC RAILROAD COMPANY
ATTN: Gregg A. Larsen, Senior Manager-Real Estate
1400 Douglas Street, Mail Stop 1690
Omaha, Nebraska 68179
Telephone: (402) 544-8552
Email: galarsen@up.com

Grantee: TOWN OF MINTURN
ATTN: Michelle Metteer, Town Manager
301 Boulder St, Suite # 309
Minturn, Colorado 81645
Telephone: (970) 827-5645, Extension No. 8
Email: manager@minturn.org

The Easement is granted subject to all outstanding leases, licenses and other outstanding rights, including, without limitation, those for pipe, telephone, electric and fiber optic lines and the right of renewals and extensions of the same, and subject also to all conditions, limitations, restrictions, encumbrances, reservations or interests of any person that may affect the Easement Area, whether recorded or unrecorded.

The Easement is also limited to such rights as Grantor may have in the Easement Area and is granted without warranty, express or implied. No damages shall be recoverable from

Grantor because of any dispossession of Grantee or because of failure of, or defect in, Grantor's title.

Grantee shall maintain and repair the Easement Improvements consistent with the requirements of Colorado law. Grantee shall also maintain and repair such Easement Improvements in such manner not to cause any interference with Grantor's tracks and appurtenances or rail operations, or the facilities or access rights of utility companies or other occupants of the Easement Area. If Grantee fails to perform its maintenance obligations and continues in default in the performance of any provision of this Easement Deed for a period of sixty (60) days after written notice from Grantor to Grantee specifying such default, Grantor may, at its sole discretion, initiate an action in the District Court of Eagle County to enforce this Easement Deed.

To the extent it may lawfully do so and subject to the conditions and limitations imposed by the Taxpayer Bill of Rights in the Colorado Constitution, Grantee shall indemnify, defend, and hold harmless Grantor and its affiliates, its and their officers, agents, employees, successors or assigns (the "Indemnitees"), against and from any and all liability (including, without limitation, strict, consequential or punitive damages), claims, demands, actions, causes of action, costs and expenses of whatsoever nature including, without limitation, court costs and attorneys' fees, arising from Grantee's performance of its obligations described herein, except to the extent caused by the negligence or intentional conduct of the Indemnitees. The term "affiliate" (or "affiliates" as the case may be) as used in this Easement Deed means any corporation which directly or indirectly controls, or is controlled by, or is under common control with Grantor. NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER BY GRANTEE OF ANY OF THE IMMUNITIES AVAILABLE TO GRANTEE PURSUANT TO THE PROVISIONS OF THE COLORADO GOVERNMENTAL IMMUNITY ACT, C.R.S. § 24-10-101 ET. SEQ.

Nonuse of the Easement Area or any portion thereof, for a period of two (2) year will be deemed an abandonment of the Easement Area, whereupon Grantor will notify Grantee, its successors or assigns, in writing that the Easement will cease and terminate, and the title to the Easement Area will be freed from the burden of the Easement. Upon receipt of Grantor's written notice of intent to terminate based on abandonment by Grantee, its successors or assigns, Grantee will have thirty (30) days after its receipt of such termination notice to object in writing to the intent to terminate. If no objection is timely received, Grantee will be deemed to have abandoned any possessory rights. If an objection is timely received, the parties will mediate the dispute. If a resolution cannot be reached through mediation, either party may file a District Court action in Eagle County, Colorado for a factual determination of abandonment. Within one hundred eighty (180) days after termination or abandonment as contemplated by this Easement Deed, Grantee, at its sole expense, shall (a) peacefully and quietly vacate and surrender possession of the portions of the Easement Area no longer encumbered by the Easement, and (b) deliver to Grantor a fully executed and acknowledged release and quitclaim for such abandoned or terminated portions of the Easement Area in recordable form satisfactory to Grantor.

(Signature Pages to Follow)

EXHIBITS A-1, A-2 AND A-3

**LEGAL DESCRIPTION OF EASEMENT AREA
(TO BE ATTACHED)**

EXHIBIT A-1

A PART OF SECTION 23, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M.
TOWN OF MINTURN, EAGLE COUNTY, COLORADO

PARCEL DESCRIPTION:

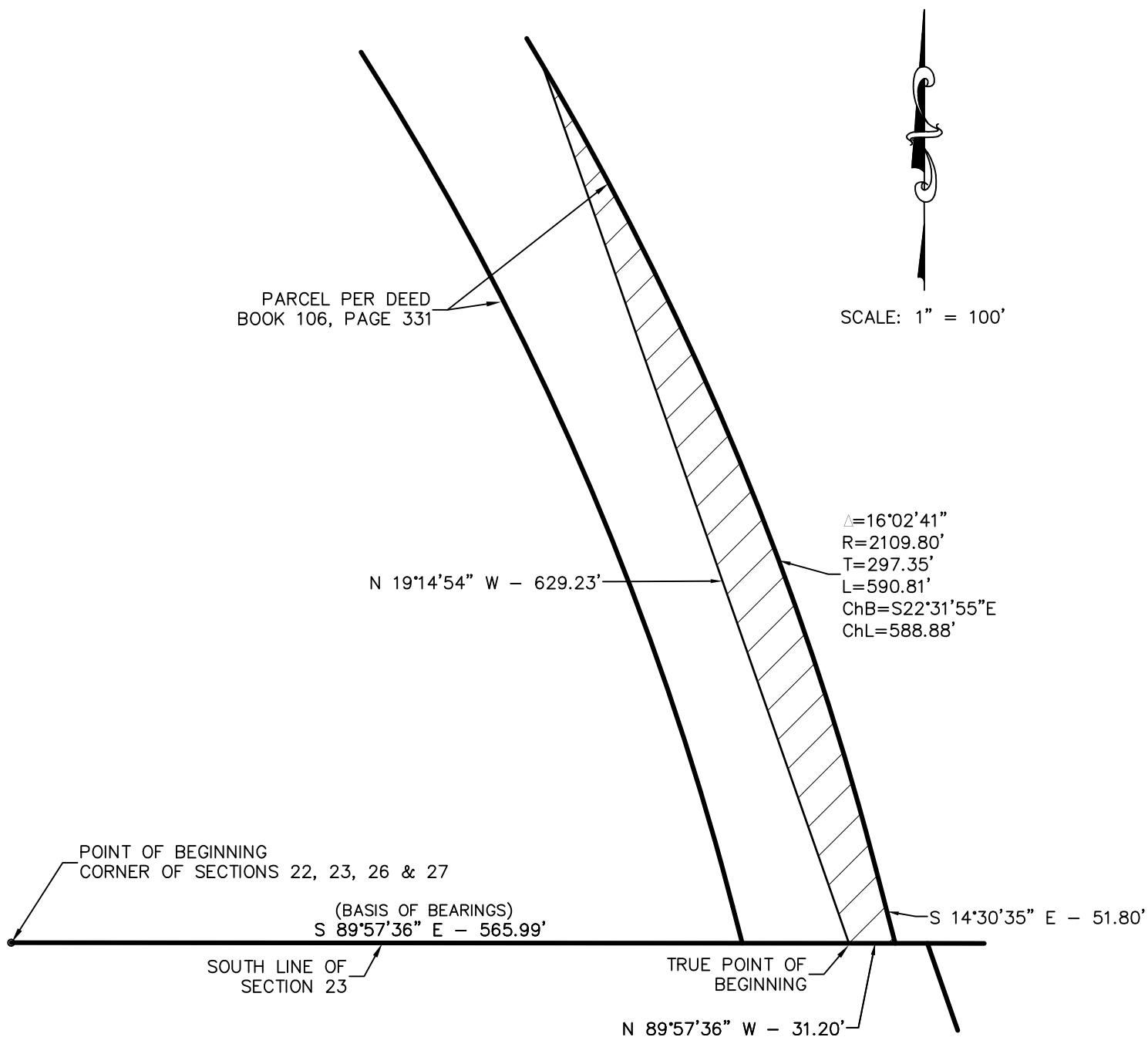
A PARCEL OF LAND SITUATED IN A PARCEL DESCRIBED IN BOOK 106 AT PAGE 331, IN THE OFFICE OF THE CLERK AND RECORDER, COUNTY OF EAGLE, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER OF SECTION 22, 23, 26 & 27, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE ALONG THE SOUTH LINE OF SAID SECTION 23 S89°57'36"E 565.99 FEET TO THE TRUE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE N19°14'54"W 629.23 FEET TO A POINT ON THE EASTERLY BOUNDARY OF SAID PARCEL DESCRIBED IN BOOK 106 AT PAGE 331; THENCE ALONG SAID EASTERLY BOUNDARY 590.81 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 2109.80 FEET, AN INTERIOR ANGLE OF 16°02'41" AND A CHORD WHICH BEARS S22°31'55"E 588.88 FEET; THENCE S14°30'35"E 51.80 FEET TO A POINT ON SAID SOUTH LINE OF SAID SECTION 23; THENCE ALONG SAID SOUTH LINE N89°57'36"W 31.20 FEET TO THE TRUE POINT OF BEGINNING, SAID PARCEL CONTAINING 19,508 SQUARE FEET, MORE OR LESS.



EXHIBIT A-1

A PART OF SECTION 23, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M.
TOWN OF MINTURN, EAGLE COUNTY, COLORADO



 **Gore Range Surveying, LLC**
P.O. Box 15
Avon, CO 81620
(970) 479-8698 • fax (970) 479-0055

EXHIBIT A-2

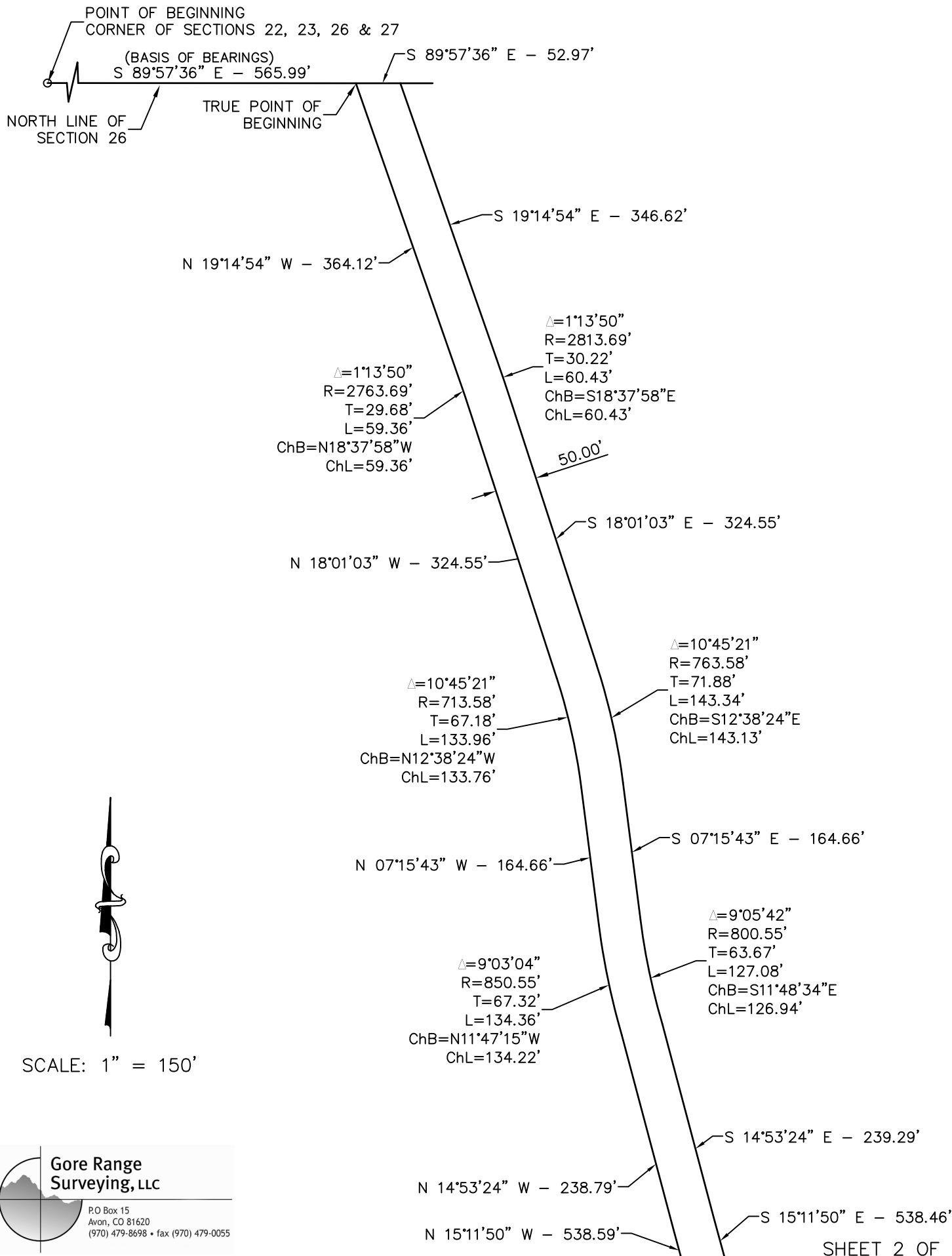
A PARCEL OF LAND SITUATED IN THE NW1/4 SECTION 26,
TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN
EAGLE COUNTY, COLORADO

PARCEL DESCRIPTION:

A PARCEL OF LAND SITUATED IN A PART OF THE NW $\frac{1}{4}$ OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER OF SECTIONS 22, 23, 26 & 27, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE ALONG THE NORTH LINE OF SAID SECTION 26 S89°57'26"E 565.99 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S 89°57'36"E 52.97 FEET; THENCE DEPARTING SAID NORTH LINE S19°14'54"E 346.62 FEET; THENCE 60.43 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2813.69 FEET, AN INTERIOR ANGLE OF 01°13'50" AND A CHORD WHICH BEARS S18°37'58"E 60.43 FEET; THENCE S18°01'03"E 324.55 FEET; THENCE 143.34 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 763.58 FEET, AN INTERIOR ANGLE OF 10°45'21" AND A CHORD WHICH BEARS S12°38'23"E 143.13 FEET; THENCE S07°15'43"E 164.66 FEET; THENCE 127.08 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 800.55 FEET, AN INTERIOR ANGLE OF 09°05'42" AND A CHORD WHICH BEARS S11°48'34"E 126.94 FEET; THENCE S14°53'24"E 239.29 FEET; THENCE S15°11'50"E 538.46 FEET; THENCE 252.18 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2013.41 FEET, AN INTERIOR ANGLE OF 07°10'35" AND A CHORD WHICH BEARS S11°36'33"E 252.02 FEET; THENCE S08°01'15"E 215.43 FEET; THENCE 216.72 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2208.58 FEET, AN INTERIOR ANGLE OF 05°37'20" AND A CHORD WHICH BEARS S05°12'35"E 216.64 FEET TO A POINT ON THE RIGHT OF WAY OF TAYLOR AVENUE AS RECORDED AT RECEPTION No. 928909 IN THE OFFICE OF THE EAGLE COUNTY CLERK AND RECORDER; THENCE ALONG SAID RIGHT OF WAY S35°51'19"W 18.87 FEET; THENCE 117.61 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 188.33 FEET, AN INTERIOR ANGLE OF 35°46'45" AND A CHORD WHICH BEARS S17°57'56"W 115.70 FEET; THENCE N01°18'52"W 82.27 FEET; THENCE 252.86 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2158.58 FEET, AN INTERIOR ANGLE OF 06°42'42" AND A CHORD WHICH BEARS N04°39'54"W 252.72 FEET; THENCE N08°01'15"W 215.43 FEET; THENCE 245.92 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1963.41 FEET, AN INTERIOR ANGLE OF 07°10'35" AND A CHORD WHICH BEARS N11°36'33"W 245.76 FEET; THENCE N15°11'50"W 538.59 FEET; THENCE N14°53'24"W 238.79 FEET; THENCE 134.36 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 850.55 FEET, AN INTERIOR ANGLE OF 09°03'04" AND A CHORD WHICH BEARS N11°47'15"W 134.22 FEET; THENCE N07°15'43"W 164.66 FEET; THENCE 133.96 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 713.58 FEET, AN INTERIOR ANGLE OF 10°45'21" AND A CHORD WHICH BEARS N12°38'23"W 133.76 FEET; THENCE N18°01'03"W 324.55 FEET; THENCE 59.36 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2763.69 FEET, AN INTERIOR ANGLE OF 01°13'50" AND A CHORD WHICH BEARS N18°37'58"W 59.36 FEET; THENCE N19°14'54"W 364.12 FEET TO THE TRUE POINT OF BEGINNING, SAID PARCEL CONTAINING 133,530 SQUARE FEET, MORE OR LESS.





Gore Range Surveying, LLC

P.O. Box 15
Avon, CO 81620
(970) 479-8698 • fax (970) 479-0055

N 15°11'50" W - 538.59'

S 15°11'50" E - 538.46'

50.00'

$\Delta=7^{\circ}10'35''$
 R=1963.41'
 T=123.12'
 L=245.92'
 ChB=N11°36'33"W
 ChL=245.76'

$\Delta=7^{\circ}10'35''$
 R=2013.41'
 T=126.26'
 L=252.18'
 ChB=S11°36'33"E
 ChL=252.02'

N 08°01'15" W - 215.43'

S 08°01'15" E - 215.43'

$\Delta=6^{\circ}42'42''$
 R=2158.58'
 T=126.57'
 L=252.86'
 ChB=N04°39'54"W
 ChL=252.72'

$\Delta=5^{\circ}37'20''$
 R=2208.58'
 T=108.45'
 L=216.72'
 ChB=S05°12'35"E
 ChL=216.64'

S 35°51'19" W - 18.87'*

$\Delta=35^{\circ}46'45''$
 R=188.33'
 T=60.79'
 L=117.61'
 ChB=S17°57'56"W *
 ChL=115.70'

N 01°18'52" W - 82.27'

TAYLOR AVENUE
 (RECEPTION No. 928909)

SOUTH LINE NW $\frac{1}{4}$
 SECT. 26, T5S, R81W, 6th P.M.



SCALE: 1" = 150'

*BEARINGS ROTATED 00°04'02" CLOCKWISE
 FROM RECEPTION No. 928909

Gore Range Surveying, LLC
 P.O. Box 15
 Avon, CO 81620
 (970) 479-8698 • fax (970) 479-0055

EXHIBIT A-3

A PART OF SW1/4 NW1/4 SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M.
TOWN OF MINTURN, EAGLE COUNTY, COLORADO

PARCEL DESCRIPTION:

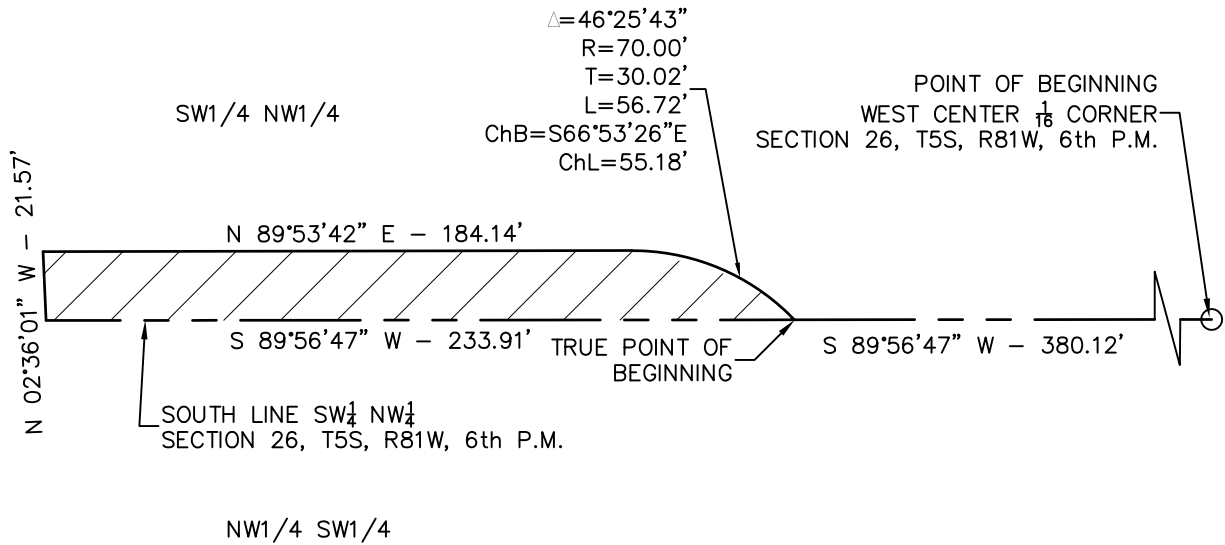
A PARCEL OF LAND SITUATED IN A PART OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 26,
TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
COUNTY OF EAGLE, STATE OF COLORADO, SAID PARCEL BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST CENTER $\frac{1}{16}$ CORNER OF SAID SECTION 26; THENCE
ALONG THE SOUTH LINE OF THE SW $\frac{1}{4}$ NW $\frac{1}{4}$ OF SAID SECTION 26
S89°56'47"W 380.12 FEET TO THE TRUE POINT OF BEGINNING; THENCE
CONTINUING ALONG SAID SOUTH LINE S89°56'47"W 233.91 FEET; THENCE
DEPARTING SAID SOUTH LINE N02°36'01"W 21.57 FEET; THENCE N89°53'42"E
184.14 FEET; THENCE 56.72 FEET ALONG THE ARC OF A CURVE TO THE
RIGHT HAVING A RADIUS OF 70.00 FEET; AN INTERIOR ANGLE OF 46°25'43"
AND A CHORD WHICH BEARS S66°53'26"E 55.18 FEET TO THE TRUE POINT
OF BEGINNING, SAID PARCEL CONTAINING 4,733 SQUARE FEET, MORE OR
LESS.



EXHIBIT A-3

A PART OF SW 1/4 NW1/4 SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M.
TOWN OF MINTURN, EAGLE COUNTY, COLORADO



SCALE: 1" = 60'

**Gore Range
Surveying, LLC**

P.O. Box 15
Avon, CO 81620
(970) 479-8698 • fax (970) 479-0055

PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

RAILROAD AVENUE
DOT NUMBER 253531V
MILE POST 301.66, TENNESSEE PASS SUBDIVISION
MINTURN, EAGLE COUNTY, COLORADO

THIS AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 202_ ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179, Attn: Real Estate Department ("Railroad"), and the **TOWN OF MINTURN**, a municipal corporation or political subdivision of the State of Colorado to be addressed at 301 Boulder St., #309, Minturn, Colorado 81645 ("Political Body").

RECITALS:

Railroad and Political Body desire to document the Political Body's use of an existing at-grade public crossing wherein vehicular traffic on Railroad Avenue traverse on, along and across Railroad's property at Railroad's Mile Post 301.66, DOT Number 253531V, on Railroad's Tennessee Pass Subdivision at or near Minturn, Eagle County, Colorado (the "Crossing Area"). The Crossing Area is shown on the print marked **Exhibit A** and described in the legal description marked **Exhibit A-1** with each exhibit being attached hereto and hereby made a part hereof. The portion of the public crossing located within the Crossing Area on Railroad's property is the "Roadway".

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBIT B

The general terms and conditions marked **Exhibit B** are attached hereto and hereby made a part hereof.

Section 2. GRANT OF EASEMENT

Upon completion of the execution of this Agreement, the Railroad shall execute and deliver to the Political Body a nonexclusive easement in the form Easement Deed marked **Exhibit C**, attached hereto and hereby made a part hereof, for the property described and shown on **Exhibit A** and **Exhibit A-1**, for the sole purposes of constructing,

using, maintaining, repairing, renewing and reconstructing the Roadway and sidewalks located within the Crossing Area.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area, including maintenance and repair work, the Political Body shall require the Contractor to:

- Execute the Railroad's then current Contractor's Right of Entry Agreement;
- Obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- Provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. If the Political Body's own employees will be performing any maintenance or repair work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

Section 5. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS

If Railroad, in its sole and absolute discretion, determines there is a threat to the continuity of Railroad's operations and/or the safety of the Railroad's personnel, trains, property, facilities, operations and/or the public and, in connection with such threat, Railroad performs any work, or as may otherwise be requested by Political Body to perform any work, Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with such work, including, but not limited to, all actual costs of engineering review, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

Section 6. CONDITIONS TO BE MET BEFORE POLITICAL BODY AND/OR CONTRACTOR CAN COMMENCE WORK

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad and Colorado Public Utilities Commission ("CPUC") has provided to Political Body the Railroad's and CPUC's written approval of the Political Body's plans and specifications for any work to be performed within the Crossing Area.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad representative named in the Contactor's Right of Entry Agreement.

Section 7. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required. The Non-Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non-Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non-Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non-Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non-Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to supplement this Agreement, or enter into a separate agreement, with terms and conditions covering the Non Railroad Facilities.

Section 8. EFFECTIVE DATE; TERM; TERMINATION

This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Roadway remains on the Railroad's property, subject to the abandonment provisions contained in the Easement.

Section 9. FUTURE PROJECTS

Projects within the Crossing Area involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until Railroad, CPUC, and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 10. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. Political Body shall not assign this Agreement without the prior written consent of Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

Section 11. SPECIAL PROVISION

A. If the Railroad, in its sole and absolute discretion, reactivates the track at the location of the Crossing Area, Political Body shall cooperate with Railroad to evaluate and implement any improvements necessitated by such reactivation, including without limitation, changes in grade and warning devices, and will enter into separate agreements with Railroad as may be required by Railroad for the construction, cost allocations and continued use of the Roadway.

B. In the event the Political Body fails to perform its obligations set forth in this Agreement and the Railroad, in its sole and absolute discretion, determines there is a threat to the continuity of Railroad's operations and/or the safety of the Railroad's personnel, trains, property, facilities, operations and/or the public, Railroad, without any liability to Political Body, and at the expense of the Political Body, may take any and all action it deems reasonably necessary to remediate the threat, protect the road crossing, restore Railroad's operations and to insure the safety of Railroad's personnel, trains, property, facilities and/or operations.

C. Political Body's covenants to indemnify under the terms of this Agreement (a) shall not be deemed a waiver of sovereign immunity under the Colorado Governmental Immunity Act ("Act"), (b) shall only be effective to the extent of the limits of the Act as set forth in CRS Section 24-10-114, as those may be amended, (c) shall only be effective if the City's obligation to indemnify or pay costs is insured by the Colorado

Intergovernmental Risk Sharing Agency ("CIRSA") or CIRSA's successor as the Political Body's liability carrier.

D. This Agreement is expressly made subject to the limitations of the Colorado Constitution, except for any issues involving this Agreement that are preempted by Federal law. To that end, no financial obligation or covenant to indemnify contained herein shall create a debt or multi-year fiscal obligation or an obligation of future appropriations by the Town of Minturn, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget (or similar applicable funding device) which contains an allocation of sufficient funds for the performance of fiscal obligations (other than in connection with a covenant to indemnify) arising under this Agreement.

E. Notwithstanding anything to the contrary contained in this Agreement, Railroad agrees and understands that Political Body is relying on and does not relinquish or waive, by any provision of this Agreement, any applicable limitations of liability provided to Political Body by the Act.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

UNION PACIFIC RAILROAD COMPANY

(Federal Tax ID #94-6001323)

By: _____
Printed Name: _____
Title: _____

TOWN OF MINTURN

By: _____
Printed Name: _____
Title: _____

EXHIBIT A
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

Exhibit A will be a print showing the Crossing Area (see Recitals)

EXHIBIT A-1
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

Exhibit A-1 will be the legal description for the Crossing Area (see Recitals)

EXHIBIT B
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

SECTION 1. CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipelines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes. In the event the Railroad shall place additional tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the Roadway to conform with all tracks within the Crossing Area.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing Area with all kinds of equipment.

E. INTENTIONALLY OMITTED

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Roadway and its appurtenances, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2. INTENTIONALLY OMITTED

SECTION 3. INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4. RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than the Railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5. MAINTENANCE AND REPAIRS

A. The Political Body shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area and Roadway, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

B. If, in the future, the Political Body elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, repaired or replaced, the Railroad, at the Political Body's expense, shall install such replacement surfacing.

SECTION 6. CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track(s) located within the Crossing Area, the Political Body shall, at its own expense, conform the Roadway to conform with the change of grade of the trackage.

SECTION 7. REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either the Railroad, highway or both, the parties will apportion the expense incidental thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

SECTION 8. SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Roadway, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or

safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws,

regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse, and to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Crossing Area shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. The Political Body will give due consideration to suggestions and recommendations made by Railroad for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be directly plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the

"vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Roadway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice to the Railroad that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for

relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 9. INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

SECTION 10. OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 11. INTENTIONALLY OMITTED

SECTION 12. REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Roadway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Roadway upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 13. MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding

between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

EXHIBIT C
TO PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT

FORM OF EASEMENT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:**

Town of Minturn
Attn: Town Manager
301 Boulder Street, #309
Minturn, Colorado 81645

(Space Above for Recorder's Use Only)

3185-10

EASEMENT DEED

THIS EASEMENT DEED is made this ____ day of _____, 2023, between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Grantor"), and the **TOWN OF MINTURN**, a municipal corporation or political subdivision of the State of Colorado to be addressed at 301 Boulder St., #309, Minturn, Colorado 81645 ("Grantee").

Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, to it paid by Grantee, the receipt whereof is hereby confessed and acknowledged, grants to Grantee, its successors and assigns, a non-exclusive easement ("Easement"), for the sole purposes of constructing, using, maintaining, repairing, renewing and reconstructing an at-grade public road crossing over Railroad Avenue, on, along and across DOT No. 253531V at Railroad's Milepost 301.66 on Railroad's Tennessee Pass Subdivision (the "Roadway"), including any sidewalks adjacent or related thereto, located at or near Minturn, Eagle County, Colorado, as described and depicted in **Exhibit A**, attached and by reference made a part hereof (the "Easement Area").

The Easement is granted for the purposes described above only. Without limitation of the foregoing, this grant does not include the right to install utilities of any nature, including, without limitation, fiber optic, cable television, electrical, gas or liquid distribution, or telephone lines.

Grantor, its successors and assigns, reserves the right to construct and to maintain at any and all times railroad tracks and appurtenances, fiber optic or signal lines and facilities, pipe, telephone, and electric pole and wire lines, over, under and across the

Easement Area, but in such a way as to not unreasonably interfere with Grantee's use of the Easement; it being understood that the rights so reserved by Grantor, its successors and assigns, are retained along with the general right of Grantor, its successors and assigns, to use of the Easement Area for any purpose not inconsistent with Grantee's use of the Easement, including but not limited to any and all general railroad purposes.

The Easement is granted subject to the terms and conditions contained in the separate Public Highway At-Grade Crossing Agreement dated _____, 2023, as signed by Grantor and Grantee, and is also subject to all outstanding leases, licenses and other outstanding rights, including, without limitation, those for pipe, telephone, electric and fiber optic lines and the right of renewals and extensions of the same, and subject also to all conditions, limitations, restrictions, encumbrances, reservations or interests of any person that may affect the Easement Area, whether recorded or unrecorded.

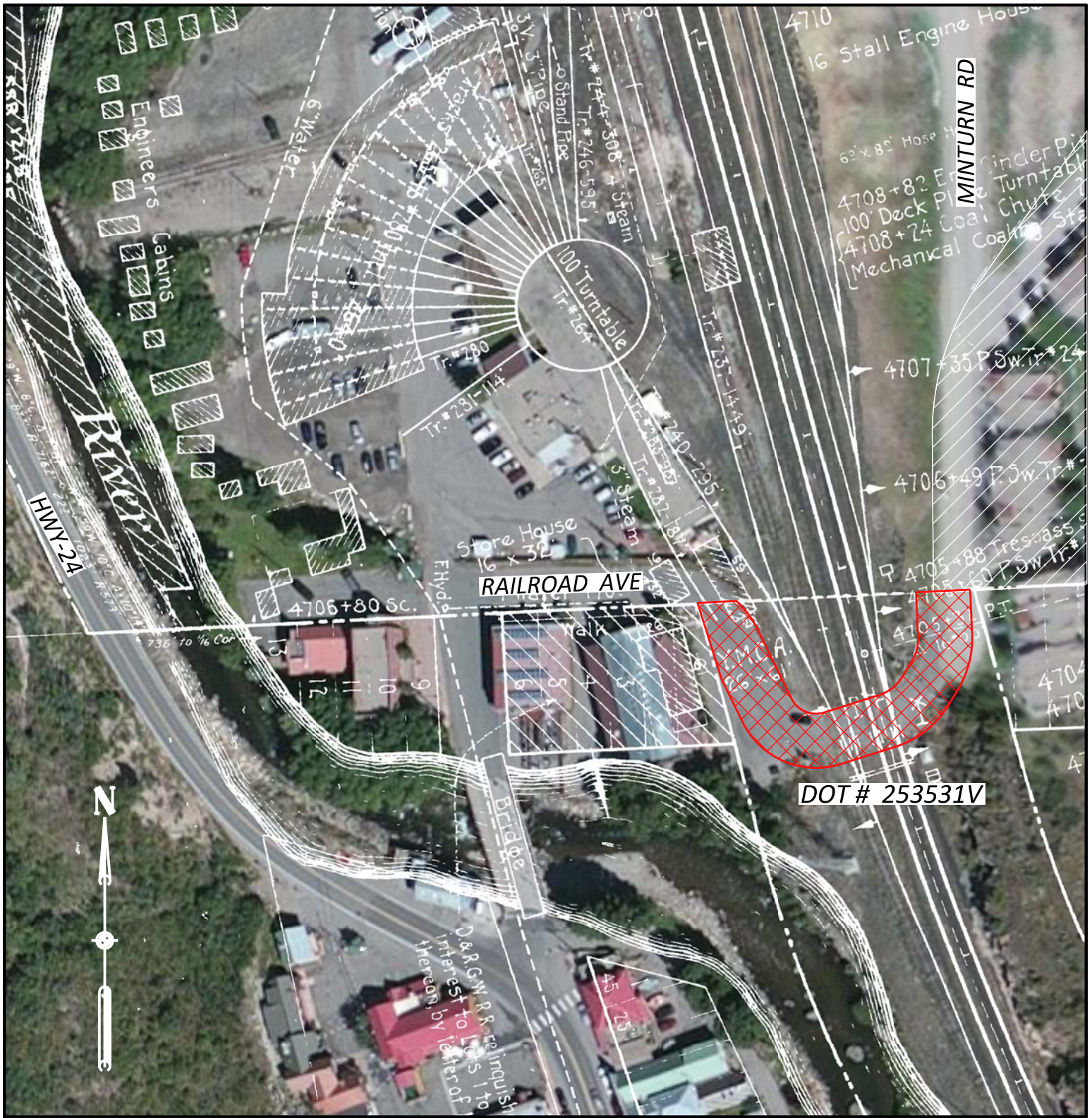
The Easement is also limited to such rights as Grantor may have in the Easement Area and is granted without warranty, express or implied. No damages shall be recoverable from Grantor because of any dispossession of Grantee or because of failure of, or defect in, Grantor's title.

If Grantee, its successors or assigns, abandons the Easement Area or any portion of the Easement Area, the Easement will cease and terminate with respect to the portion of the Easement Area so abandoned, and the title to the Easement Area will be freed from the burden of the Easement. Nonuse of the Easement Area or any portion thereof, for public highway purposes continuing at any time for a period of eighteen (18) months will be deemed an abandonment of the Easement Area or portion thereof not used.


(Signature Pages to Follow)

EXHIBIT A
TO FORM OF EASEMENT DEED

**LEGAL DESCRIPTION OF EASEMENT AREA
(TO BE ATTACHED)**



LEGEND:

CROSSING AREA 

UPRRCO. R/W OUTLINED - - - - -

CROSSING AREA = 11,802 SQ. FT. +/-

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

MINTURN, EAGLE COUNTY, COLORADO

M.P. 301.66 - TENNESSEE PASS SUB.

MAP DRGW V-7A / S-24A

SCALE: 1" = 100'

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 7-7-2021

PJB FILE: 0318510 139

CADD FILENAME	0318510
SCAN FILENAME	X

EXHIBIT A-1

A PART OF THE NW14 SW1/4, SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M.
TOWN OF MINTURN, EAGLE COUNTY, COLORADO

PARCEL DESCRIPTION:

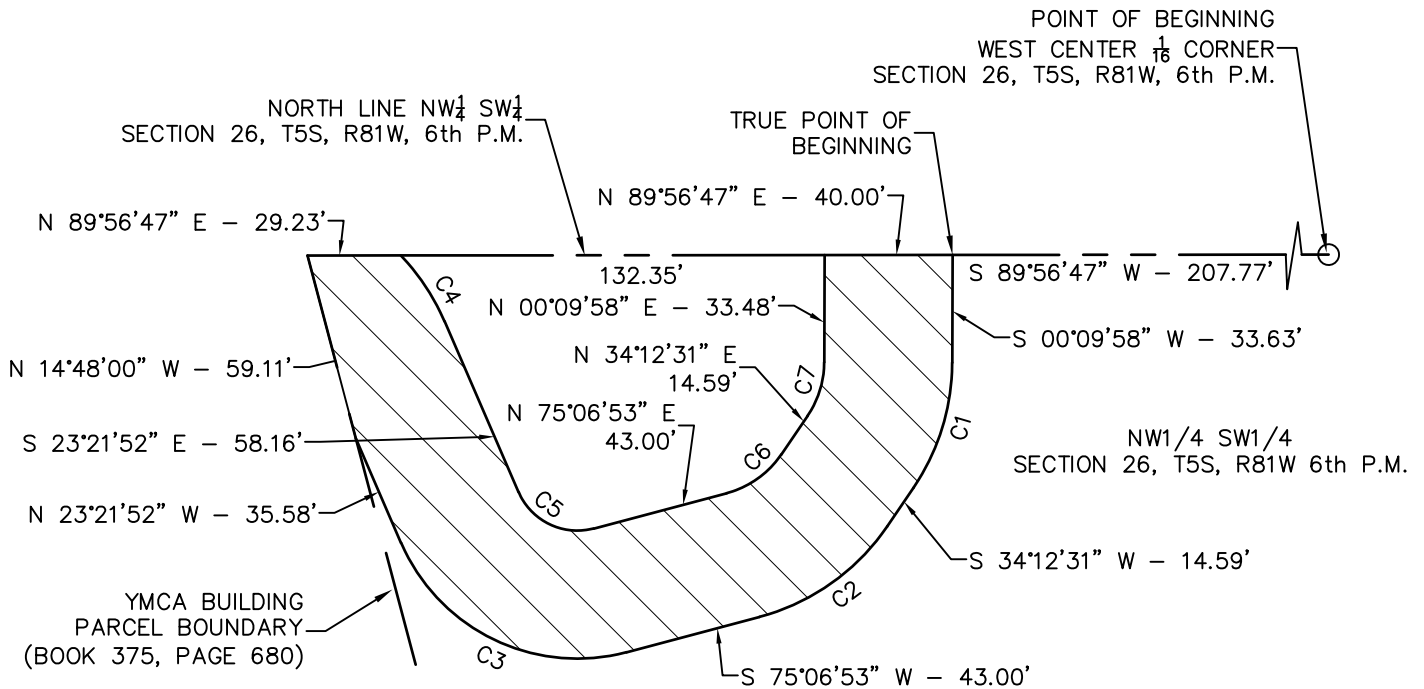
A PARCEL OF LAND SITUATED IN A PART OF THE NW $\frac{1}{4}$ SW $\frac{1}{4}$ SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EAGLE, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST CENTER $\frac{1}{16}$ CORNER OF SAID SECTION 26; THENCE ALONG THE NORTH LINE OF THE NW $\frac{1}{4}$ SW $\frac{1}{4}$ OF SAID SECTION 26 S89°56'47"W 207.77 FEET TO THE TRUE POINT OF BEGINNING; THENCE DEPARTING SAID NORTH LINE S00°09'58"W 33.63 FEET; THENCE 41.59 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, AN INTERIOR ANGLE OF 34°02'33" AND A CHORD WHICH BEARS S17°11'14"W 40.98 FEET; THENCE S34°12'31"W 14.59 FEET; THENCE 49.98 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET, AN INTERIOR ANGLE OF 40°54'22" AND A CHORD WHICH BEARS S54°39'42"W 48.92 FEET; THENCE S75°06'53"W 43.00 FEET; THENCE 85.37 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 60.00 FEET, AND INTERIOR ANGLE OF 81°31'15" AND A CHORD WHICH BEARS N64°07'30"W 78.35 FEET; THENCE N23°21'52"W 35.58 FEET TO A POINT ON THE WESTERLY BOUNDARY OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY SAID POINT ALSO BEING ON THE EASTERLY BOUNDARY OF PARCEL OF LAND DESCRIBED BY DEED RECORDED IN BOOK 375 AT PAGE 680 IN THE OFFICE OF THE EAGLE COUNTY CLERK AND RECORDER; THENCE ALONG SAID COMMON BOUNDARY N14°48'00"W 59.11 FEET TO A POINT ON SAID NORTH LINE; THENCE ALONG SAID NORTH LINE N89°56'47"E 29.23 FEET; THENCE DEPARTING SAID NORTH LINE 24.82 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 70.00 FEET; AN INTERIOR ANGLE OF 20°18'43" AND A CHORD WHICH BEARS S33°31'13"E 24.69 FEET; THENCE S23°21'52"E 58.16 FEET; THENCE 28.46 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 20.00 FEET, AN INTERIOR ANGLE OF 81°31'15" AND A CHORD WHICH BEARS S64°07'30"E 26.12 FEET; THENCE N75°06'53"E 43.00 FEET; THENCE 21.42 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, AN INTERIOR ANGLE OF 40°54'22" AND A CHORD WHICH BEARS N54°39'42"E 20.97 FEET; THENCE N34°12'31"E 14.59 FEET; THENCE 17.82 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 30.00 FEET, AN INTERIOR ANGLE OF 34°02'33" AND A CHORD WHICH BEARS N17°11'14"E 17.56 FEET; THENCE N00°09'58"E 33.48 FEET TO A POINT ON SAID NORTH LINE; THENCE ALONG SAID NORTH LINE N89°56'47"E 40.00 FEET TO THE TRUE POINT OF BEGINNING, SAID PARCEL CONTAINING 11,802 SQUARE FEET, MORE OR LESS.



EXHIBIT A-1

A PART OF THE NW¹/₄ SW¹/₄, SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th P.M. TOWN OF MINTURN, EAGLE COUNTY, COLORADO



CURVE TABLE

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	41.59	70.00	34°02'33"	S17°11'14"W	40.98
C2	49.98	70.00	40°54'22"	S54°39'42"W	48.92
C3	85.37	60.00	81°31'15"	N64°07'30"W	78.35
C4	24.82	70.00	20°18'43"	S33°31'13"E	24.69
C5	28.46	20.00	81°31'15"	S64°07'30"E	26.12
C6	21.42	30.00	40°54'22"	N54°39'42"E	20.97
C7	17.82	30.00	34°02'33"	N17°11'14"E	17.56



SCALE: 1" = 60'

Gore Range Surveying, LLC
 P.O. Box 15
 Avon, CO 81620
 (970) 479-8698 • fax (970) 479-0055

PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

EAGLE COUNTY ROAD 14
DOT NUMBER 253532C
MILE POST 302.93, TENNESSEE PASS SUBDIVISION
EAGLE COUNTY, COLORADO

THIS AGREEMENT ("Agreement") is made and entered into as of the ____ day of _____, 202_ ("Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at 1400 Douglas Street, Mail Stop 1690, Omaha, Nebraska 68179, Attn: Real Estate Department ("Railroad"), and the **TOWN OF MINTURN**, a municipal corporation or political subdivision of the State of Colorado to be addressed at 301 Boulder St., #309, Minturn, Colorado 81645 ("Political Body").

RECITALS:

Railroad and Political Body desire to document the Political Body's use of an existing at-grade public crossing wherein vehicular traffic on Eagle County Road 14 traverse on, along and across Railroad's property at Railroad's Mile Post 302.93, DOT Number 253532C, on Railroad's Tennessee Pass Subdivision at or near Minturn, Eagle County, Colorado (the "Crossing Area"). The Crossing Area is shown on the print marked **Exhibit A** and described in the legal description marked **Exhibit A-1** with each exhibit being attached hereto and hereby made a part hereof. The portion of the public crossing located within the Crossing Area on Railroad's property is the "Roadway".

AGREEMENT:

NOW, THEREFORE, it is mutually agreed by and between the parties hereto as follows:

Section 1. EXHIBIT B

The general terms and conditions marked **Exhibit B** are attached hereto and hereby made a part hereof.

Section 2. GRANT OF EASEMENT

Upon completion of the execution of this Agreement, the Railroad shall execute and deliver to the Political Body a nonexclusive easement in the form Easement Deed marked **Exhibit C**, attached hereto and hereby made a part hereof, for the property described and shown on **Exhibit A** and **Exhibit A-1**, for the sole purposes of constructing,

using, maintaining, repairing, renewing and reconstructing the Roadway and sidewalks located within the Crossing Area.

Section 3. DEFINITION OF CONTRACTOR

For purposes of this Agreement the term "Contractor" shall mean the contractor or contractors hired by the Political Body to perform any work on any portion of the Railroad's property and shall also include the Contractor's subcontractors and the Contractor's and subcontractor's respective employees, officers and agents, and others acting under its or their authority.

Section 4. CONTRACTOR'S RIGHT OF ENTRY AGREEMENT - INSURANCE

A. Prior to Contractor performing any work within the Crossing Area, including maintenance and repair work, the Political Body shall require the Contractor to:

- Execute the Railroad's then current Contractor's Right of Entry Agreement;
- Obtain the then current insurance required in the Contractor's Right of Entry Agreement; and
- Provide such insurance policies, certificates, binders and/or endorsements to the Railroad.

B. If the Political Body's own employees will be performing any maintenance or repair work, the Political Body may self-insure all or a portion of the insurance coverage subject to the Railroad's prior review and approval.

Section 5. WORK TO BE PERFORMED BY RAILROAD; BILLING SENT TO POLITICAL BODY; POLITICAL BODY'S PAYMENT OF BILLS

If Railroad, in its sole and absolute discretion, determines there is a threat to the continuity of Railroad's operations and/or the safety of the Railroad's personnel, trains, property, facilities, operations and/or the public and, in connection with such threat, Railroad performs any work, or as may otherwise be requested by Political Body to perform any work, Political Body agrees to reimburse the Railroad within thirty (30) days of its receipt of billing from the Railroad for one hundred percent (100%) of all actual costs incurred by the Railroad in connection with such work, including, but not limited to, all actual costs of engineering review, inspection, flagging (unless flagging costs are to be billed directly to the Contractor), procurement of materials, equipment rental, manpower and deliveries to the job site and all direct and indirect overhead labor/construction costs including Railroad's standard additive rates.

Section 6. CONDITIONS TO BE MET BEFORE POLITICAL BODY AND/OR CONTRACTOR CAN COMMENCE WORK

Neither the Political Body nor the Contractor may commence any work within the Crossing Area or on any other Railroad property until:

- (i) The Railroad and Political Body have executed this Agreement.
- (ii) The Railroad and Colorado Public Utilities Commission ("CPUC") has provided to Political Body the Railroad's and CPUC's written approval of the Political Body's plans and specifications for any work to be performed within the Crossing Area.
- (iii) Each Contractor has executed Railroad's Contractor's Right of Entry Agreement and has obtained and/or provided to the Railroad the insurance policies, certificates, binders, and/or endorsements required under the Contractor's Right of Entry Agreement.
- (iv) Each Contractor has given the advance notice(s) required under the Contractor's Right of Entry Agreement to the Railroad representative named in the Contractor's Right of Entry Agreement.

Section 7. NON-RAILROAD IMPROVEMENTS

A. Submittal of plans and specifications for protecting, encasing, reinforcing, relocation, replacing, removing and abandoning in place all non-railroad owned facilities (the "Non Railroad Facilities") including, without limitation, utilities, fiber optics, pipelines, wirelines, communication lines and fences is required. The Non-Railroad Facilities plans and specifications shall comply with Railroad's standard specifications and requirements, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines. Railroad has no obligation to supply additional land for any Non Railroad Facilities and does not waive its right to assert preemption defenses, challenge the right-to-take, or pursue compensation in any condemnation action, regardless if the submitted Non Railroad Facilities plans and specifications comply with Railroad's standard specifications and requirements. Railroad has no obligation to permit any Non-Railroad Facilities to be abandoned in place or relocated on Railroad's property.

B. Upon Railroad's approval of submitted Non-Railroad Facilities plans and specifications, Railroad will attempt to incorporate them into new agreements or supplements of existing agreements with Non-Railroad Facilities owners or operators. Railroad may use its standard terms and conditions, including, without limitation, its standard license fee and administrative charges when requiring supplements or new agreements for Non-Railroad Facilities. Non Railroad Facilities work shall not commence before a supplement or new agreement has been fully executed by Railroad and the Non Railroad Facilities owner or operator, or before Railroad and Political Body mutually agree in writing to supplement this Agreement, or enter into a separate agreement, with terms and conditions covering the Non Railroad Facilities.

Section 8. EFFECTIVE DATE; TERM; TERMINATION

This Agreement is effective as of the Effective Date first herein written and shall continue in full force and effect for as long as the Roadway remains on the Railroad's property, subject to the abandonment provisions contained in the Easement.

Section 9. FUTURE PROJECTS

Projects within the Crossing Area involving substantial maintenance, repair, reconstruction, renewal and/or demolition of the Roadway shall not commence until Railroad and Political Body agree on the plans for such future projects, cost allocations, right of entry terms and conditions and temporary construction rights, terms and conditions.

Section 10. ASSIGNMENT; SUCCESSORS AND ASSIGNS

A. Political Body shall not assign this Agreement without the prior written consent of Railroad.

B. Subject to the provisions of Paragraph A above, this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Railroad and Political Body.

Section 11. SPECIAL PROVISION

A. If the Railroad, in its sole and absolute discretion, reactivates the track at the location of the Crossing Area, Political Body shall cooperate with Railroad to evaluate and implement any improvements necessitated by such reactivation, including without limitation, changes in grade and warning devices, and will enter into separate agreements with Railroad as may be required by Railroad for the construction, cost allocations and continued use of the Roadway.

B. In the event the Political Body fails to perform its obligations set forth in this Agreement and the Railroad, in its sole and absolute discretion, determines there is a threat to the continuity of Railroad's operations and/or the safety of the Railroad's personnel, trains, property, facilities, operations and/or the public, Railroad, without any liability to Political Body, and at the expense of the Political Body, may take any and all action it deems reasonably necessary to remediate the threat, protect the road crossing, restore Railroad's operations and to insure the safety of Railroad's personnel, trains, property, facilities and/or operations.

C. Political Body's covenants to indemnify under the terms of this Agreement (a) shall not be deemed a waiver of sovereign immunity under the Colorado Governmental Immunity Act ("Act"), (b) shall only be effective to the extent of the limits of the Act as set forth in CRS Section 24-10-114, as those may be amended, (c) shall only be effective if the City's obligation to indemnify or pay costs is insured by the Colorado

Intergovernmental Risk Sharing Agency ("CIRSA") or CIRSA's successor as the Political Body's liability carrier.

D. This Agreement is expressly made subject to the limitations of the Colorado Constitution, except for any issues involving this Agreement that are preempted by Federal law. To that end, no financial obligation or covenant to indemnify contained herein shall create a debt or multi-year fiscal obligation or an obligation of future appropriations by the Town of Minturn, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget (or similar applicable funding device) which contains an allocation of sufficient funds for the performance of fiscal obligations (other than in connection with a covenant to indemnify) arising under this Agreement.

E. Notwithstanding anything to the contrary contained in this Agreement, Railroad agrees and understands that Political Body is relying on and does not relinquish or waive, by any provision of this Agreement, any applicable limitations of liability provided to Political Body by the Act.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date first herein written.

UNION PACIFIC RAILROAD COMPANY
(Federal Tax ID #94-6001323)

By: _____
Printed Name: _____
Title: _____

TOWN OF MINTURN

By: _____
Printed Name: _____
Title: _____

EXHIBIT A
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

Exhibit A will be a print showing the Crossing Area (see Recitals)

EXHIBIT A-1
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

Exhibit A-1 will be the legal description for the Crossing Area (see Recitals)

EXHIBIT B
TO PUBLIC HIGHWAY AT-GRADE CROSSING AGREEMENT

SECTION 1. CONDITIONS AND COVENANTS

A. The Railroad makes no covenant or warranty of title for quiet possession or against encumbrances. The Political Body shall not use or permit use of the Crossing Area for any purposes other than those described in this Agreement. Without limiting the foregoing, the Political Body shall not use or permit use of the Crossing Area for railroad purposes, or for gas, oil or gasoline pipelines. Any lines constructed on the Railroad's property by or under authority of the Political Body for the purpose of conveying electric power or communications incidental to the Political Body's use of the property for highway purposes shall be constructed in accordance with specifications and requirements of the Railroad, and in such manner as not adversely to affect communication or signal lines of the Railroad or its licensees now or hereafter located upon said property. No nonparty shall be admitted by the Political Body to use or occupy any part of the Railroad's property without the Railroad's written consent. Nothing herein shall obligate the Railroad to give such consent.

B. The Railroad reserves the right to cross the Crossing Area with such railroad tracks as may be required for its convenience or purposes. In the event the Railroad shall place additional tracks upon the Crossing Area, the Political Body shall, at its sole cost and expense, modify the Roadway to conform with all tracks within the Crossing Area.

C. The right hereby granted is subject to any existing encumbrances and rights (whether public or private), recorded or unrecorded, and also to any renewals thereof. The Political Body shall not damage, destroy or interfere with the property or rights of nonparties in, upon or relating to the Railroad's property, unless the Political Body at its own expense settles with and obtains releases from such nonparties.

D. The Railroad reserves the right to use and to grant to others the right to use the Crossing Area for any purpose not inconsistent with the right hereby granted, including, but not by way of limitation, the right to construct, reconstruct, maintain, operate, repair, alter, renew and replace tracks, facilities and appurtenances on the property; and the right to cross the Crossing Area with all kinds of equipment.

E. INTENTIONALLY OMITTED

F. If any property or rights other than the right hereby granted are necessary for the construction, maintenance and use of the Roadway and its appurtenances, the Political Body will acquire all such other property and rights at its own expense and without expense to the Railroad.

SECTION 2. INTENTIONALLY OMITTED

SECTION 3. INJURY AND DAMAGE TO PROPERTY

If the Political Body, in the performance of any work contemplated by this Agreement or by the failure to do or perform anything for which the Political Body is responsible under the provisions of this Agreement, shall injure, damage or destroy any property of the Railroad or of any other person lawfully occupying or using the property of the Railroad, such property shall be replaced or repaired by the Political Body at the Political Body's own expense, or by the Railroad at the expense of the Political Body, and to the satisfaction of the Railroad's Assistant Vice President Engineering-Design.

SECTION 4. RAILROAD MAY USE CONTRACTORS TO PERFORM WORK

The Railroad may contract for the performance of any of its work by other than the Railroad forces. The Railroad shall notify the Political Body of the contract price within ninety (90) days after it is awarded. Unless the Railroad's work is to be performed on a fixed price basis, the Political Body shall reimburse the Railroad for the amount of the contract.

SECTION 5. MAINTENANCE AND REPAIRS

A. The Political Body shall, at its own sole expense, maintain, repair, and renew, or cause to be maintained, repaired and renewed, the entire Crossing Area and Roadway, except the portions between the track tie ends, which shall be maintained by and at the expense of the Railroad.

B. If, in the future, the Political Body elects to have the surfacing material between the track tie ends, or between tracks if there is more than one railroad track across the Crossing Area, repaired or replaced, the Railroad, at the Political Body's expense, shall install such replacement surfacing.

SECTION 6. CHANGES IN GRADE

If at any time the Railroad shall elect, or be required by competent authority to, raise or lower the grade of all or any portion of the track(s) located within the Crossing Area, the Political Body shall, at its own expense, conform the Roadway to conform with the change of grade of the trackage.

SECTION 7. REARRANGEMENT OF WARNING DEVICES

If the change or rearrangement of any warning device installed hereunder is necessitated for public or Railroad convenience or on account of improvements for either the Railroad, highway or both, the parties will apportion the expense incidental thereto between themselves by negotiation, agreement or by the order of a competent authority before the change or rearrangement is undertaken.

SECTION 8. SAFETY MEASURES; PROTECTION OF RAILROAD COMPANY OPERATIONS

It is understood and recognized that safety and continuity of the Railroad's operations and communications are of the utmost importance; and in order that the same may be adequately safeguarded, protected and assured, and in order that accidents may be prevented and avoided, it is agreed with respect to all of said work of the Political Body that the work will be performed in a safe manner and in conformity with the following standards:

A. **Definitions.** All references in this Agreement to the Political Body shall also include the Contractor and their respective officers, agents and employees, and others acting under its or their authority; and all references in this Agreement to work of the Political Body shall include work both within and outside of the Railroad's property.

B. **Entry on to Railroad's Property by Political Body.** If the Political Body's employees need to enter Railroad's property in order to perform an inspection of the Roadway, minor maintenance or other activities, the Political Body shall first provide at least ten (10) working days advance notice to the Railroad Representative. With respect to such entry on to Railroad's property, the Political Body, to the extent permitted by law, agrees to release, defend and indemnify the Railroad from and against any loss, damage, injury, liability, claim, cost or expense incurred by any person including, without limitation, the Political Body's employees, or damage to any property or equipment (collectively the "Loss") that arises from the presence or activities of Political Body's employees on Railroad's property, except to the extent that any Loss is caused by the sole direct negligence of Railroad.

C. **Flagging.**

(i) If the Political Body's employees need to enter Railroad's property as provided in Paragraph B above, the Political Body agrees to notify the Railroad Representative at least thirty (30) working days in advance of proposed performance of any work by Political Body in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of Railroad's track(s) at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. Upon receipt of such thirty (30) day notice, the Railroad Representative will determine and inform Political Body whether a flagman need be present and whether Political Body needs to implement any special protective or safety measures. If flagging or other special protective or safety measures are performed by Railroad, Railroad will bill Political Body for such expenses incurred by Railroad. If Railroad performs any flagging, or other special protective or

safety measures are performed by Railroad, Political Body agrees that Political Body is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

(ii) The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Political Body shall pay on the basis of the new rates and charges.

(iii) Reimbursement to Railroad will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which Railroad is required to pay the flagman and which could not reasonably be avoided by Railroad by assignment of such flagman to other work, even though Political Body may not be working during such time. When it becomes necessary for Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Political Body must provide Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, Political Body will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional thirty (30) days notice must then be given to Railroad if flagging services are needed again after such five day cessation notice has been given to Railroad.

D. **Compliance With Laws.** The Political Body shall comply with all applicable federal, state and local laws, regulations and enactments affecting the work. The Political Body shall use only such methods as are consistent with safety, both as concerns the Political Body, the Political Body's agents and employees, the officers, agents, employees and property of the Railroad and the public in general. The Political Body (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupational safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when work is performed on the Railroad's premises. If any failure by the Political Body to comply with any such laws,

regulations, and enactments, shall result in any fine, penalty, cost or charge being assessed, imposed or charged against the Railroad, the Political Body shall reimburse, and to the extent it may lawfully do so, indemnify the Railroad for any such fine, penalty, cost, or charge, including without limitation attorney's fees, court costs and expenses. The Political Body further agrees in the event of any such action, upon notice thereof being provided by the Railroad, to defend such action free of cost, charge, or expense to the Railroad.

E. **No Interference or Delays.** The Political Body shall not do, suffer or permit anything which will or may obstruct, endanger, interfere with, hinder or delay maintenance or operation of the Railroad's tracks or facilities, or any communication or signal lines, installations or any appurtenances thereof, or the operations of others lawfully occupying or using the Railroad's property or facilities.

F. **Supervision.** The Political Body, at its own expense, shall adequately police and supervise all work to be performed by the Political Body, and shall not inflict injury to persons or damage to property for the safety of whom or of which the Railroad may be responsible, or to property of the Railroad. The responsibility of the Political Body for safe conduct and adequate policing and supervision of the Crossing Area shall not be lessened or otherwise affected by the Railroad's approval of plans and specifications, or by the Railroad's collaboration in performance of any work, or by the presence at the work site of the Railroad's representatives, or by compliance by the Political Body with any requests or recommendations made by such representatives. The Political Body will give due consideration to suggestions and recommendations made by Railroad for the safety and protection of the Railroad's property and operations.

G. **Suspension of Work.** If at any time the Political Body's engineers or the Vice President-Engineering Services of the Railroad or their respective representatives shall be of the opinion that any work of the Political Body is being or is about to be done or prosecuted without due regard and precaution for safety and security, the Political Body shall immediately suspend the work until suitable, adequate and proper protective measures are adopted and provided.

H. **Removal of Debris.** The Political Body shall not cause, suffer or permit material or debris to be deposited or cast upon, or to slide or fall upon any property or facilities of the Railroad; and any such material and debris shall be promptly removed from the Railroad's property by the Political Body at the Political Body's own expense or by the Railroad at the expense of the Political Body. The Political Body shall not cause, suffer or permit any snow to be directly plowed or cast upon the Railroad's property during snow removal from the Crossing Area.

I. **Explosives.** The Political Body shall not discharge any explosives on or in the vicinity of the Railroad's property without the prior consent of the Railroad's Vice President-Engineering Services, which shall not be given if, in the sole discretion of the Railroad's Vice President-Engineering Services, such discharge would be dangerous or would interfere with the Railroad's property or facilities. For the purposes hereof, the

"vicinity of the Railroad's property" shall be deemed to be any place on the Railroad's property or in such close proximity to the Railroad's property that the discharge of explosives could cause injury to the Railroad's employees or other persons, or cause damage to or interference with the facilities or operations on the Railroad's property. The Railroad reserves the right to impose such conditions, restrictions or limitations on the transportation, handling, storage, security and use of explosives as the Railroad, in the Railroad's sole discretion, may deem to be necessary, desirable or appropriate.

J. **Excavation.** The Political Body shall not excavate from existing slopes nor construct new slopes which are excessive and may create hazards of slides or falling rock, or impair or endanger the clearance between existing or new slopes and the tracks of the Railroad. The Political Body shall not do or cause to be done any work which will or may disturb the stability of any area or adversely affect the Railroad's tracks or facilities. The Political Body, at its own expense, shall install and maintain adequate shoring and cribbing for all excavation and/or trenching performed by the Political Body in connection with construction, maintenance or other work. The shoring and cribbing shall be constructed and maintained with materials and in a manner approved by the Railroad's Assistant Vice President Engineering - Design to withstand all stresses likely to be encountered, including any stresses resulting from vibrations caused by the Railroad's operations in the vicinity.

K. **Drainage.** The Political Body, at the Political Body's own expense, shall provide and maintain suitable facilities for draining the Roadway and its appurtenances, and shall not suffer or permit drainage water therefrom to flow or collect upon property of the Railroad. The Political Body, at the Political Body's own expense, shall provide adequate passageway for the waters of any streams, bodies of water and drainage facilities (either natural or artificial, and including water from the Railroad's culvert and drainage facilities), so that said waters may not, because of any facilities or work of the Political Body, be impeded, obstructed, diverted or caused to back up, overflow or damage the property of the Railroad or any part thereof, or property of others. The Political Body shall not obstruct or interfere with existing ditches or drainage facilities.

L. **Notice.** Before commencing any work, the Political Body shall provide the advance notice to the Railroad that is required under the Contractor's Right of Entry Agreement.

M. **Fiber Optic Cables.** Fiber optic cable systems may be buried on the Railroad's property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Political Body shall telephone the Railroad during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) to determine if fiber optic cable is buried anywhere on the Railroad's premises to be used by the Political Body. If it is, Political Body will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for

relocation or other protection of the fiber optic cable prior to beginning any work on the Railroad's premises.

SECTION 9. INTERIM WARNING DEVICES

If at anytime it is determined by a competent authority, by the Political Body, or by agreement between the parties, that new or improved train activated warning devices should be installed at the Crossing Area, the Political Body shall install adequate temporary warning devices or signs and impose appropriate vehicular control measures to protect the motoring public until the new or improved devices have been installed.

SECTION 10. OTHER RAILROADS

All protective and indemnifying provisions of this Agreement shall inure to the benefit of the Railroad and any other railroad company lawfully using the Railroad's property or facilities.

SECTION 11. INTENTIONALLY OMITTED

SECTION 12. REMEDIES FOR BREACH OR NONUSE

A. If the Political Body shall fail, refuse or neglect to perform and abide by the terms of this Agreement, the Railroad, in addition to any other rights and remedies, may perform any work which in the judgment of the Railroad is necessary to place the Roadway and appurtenances in such condition as will not menace, endanger or interfere with the Railroad's facilities or operations or jeopardize the Railroad's employees; and the Political Body will reimburse the Railroad for the expenses thereof.

B. Nonuse by the Political Body of the Crossing Area for public highway purposes continuing at any time for a period of eighteen (18) months shall, at the option of the Railroad, work a termination of this Agreement and of all rights of the Political Body hereunder.

C. The Political Body will surrender peaceable possession of the Crossing Area and Roadway upon termination of this Agreement. Termination of this Agreement shall not affect any rights, obligations or liabilities of the parties, accrued or otherwise, which may have arisen prior to termination.

SECTION 13. MODIFICATION - ENTIRE AGREEMENT

No waiver, modification or amendment of this Agreement shall be of any force or effect unless made in writing, signed by the Political Body and the Railroad and specifying with particularity the nature and extent of such waiver, modification or amendment. Any waiver by the Railroad of any default by the Political Body shall not affect or impair any right arising from any subsequent default. This Agreement and Exhibits attached hereto and made a part hereof constitute the entire understanding

between the Political Body and the Railroad and cancel and supersede any prior negotiations, understandings or agreements, whether written or oral, with respect to the work or any part thereof.

EXHIBIT C
TO PUBLIC HIGHWAY AT GRADE CROSSING AGREEMENT

FORM OF EASEMENT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:**

Town of Minturn
Attn: Town Manager
301 Boulder Street, #309
Minturn, Colorado 81645

(Space Above for Recorder's Use Only)

3286-25

EASEMENT DEED

THIS EASEMENT DEED is made this ____ day of _____, 2023, between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation ("Grantor"), and the **TOWN OF MINTURN**, a municipal corporation or political subdivision of the State of Colorado to be addressed at 301 Boulder St., #309, Minturn, Colorado 81645 ("Grantee").

Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, to it paid by Grantee, the receipt whereof is hereby confessed and acknowledged, grants to Grantee, its successors and assigns, a non-exclusive easement ("Easement"), for the sole purposes of constructing, using, maintaining, repairing, renewing and reconstructing an at-grade public road crossing over Eagle County Road 14, on, along and across DOT No. 253532C at Railroad's Milepost 302.93 on Railroad's Tennessee Pass Subdivision (the "Roadway"), including any sidewalks adjacent or related thereto, located at or near Minturn, Eagle County, Colorado, as described and depicted in **Exhibit A**, attached and by reference made a part hereof (the "Easement Area").

The Easement is granted for the purposes described above only. Without limitation of the foregoing, this grant does not include the right to install utilities of any nature, including, without limitation, fiber optic, cable television, electrical, gas or liquid distribution, or telephone lines.

Grantor, its successors and assigns, reserves the right to construct and to maintain at any and all times railroad tracks and appurtenances, fiber optic or signal lines and facilities, pipe, telephone, and electric pole and wire lines, over, under and across the

Easement Area, but in such a way as to not unreasonably interfere with Grantee's use of the Easement; it being understood that the rights so reserved by Grantor, its successors and assigns, are retained along with the general right of Grantor, its successors and assigns, to use of the Easement Area for any purpose not inconsistent with Grantee's use of the Easement, including but not limited to any and all general railroad purposes.

The Easement is granted subject to the terms and conditions contained in the separate Public Highway At-Grade Crossing Agreement dated _____, 2023, as signed by Grantor and Grantee, and is also subject to all outstanding leases, licenses and other outstanding rights, including, without limitation, those for pipe, telephone, electric and fiber optic lines and the right of renewals and extensions of the same, and subject also to all conditions, limitations, restrictions, encumbrances, reservations or interests of any person that may affect the Easement Area, whether recorded or unrecorded.

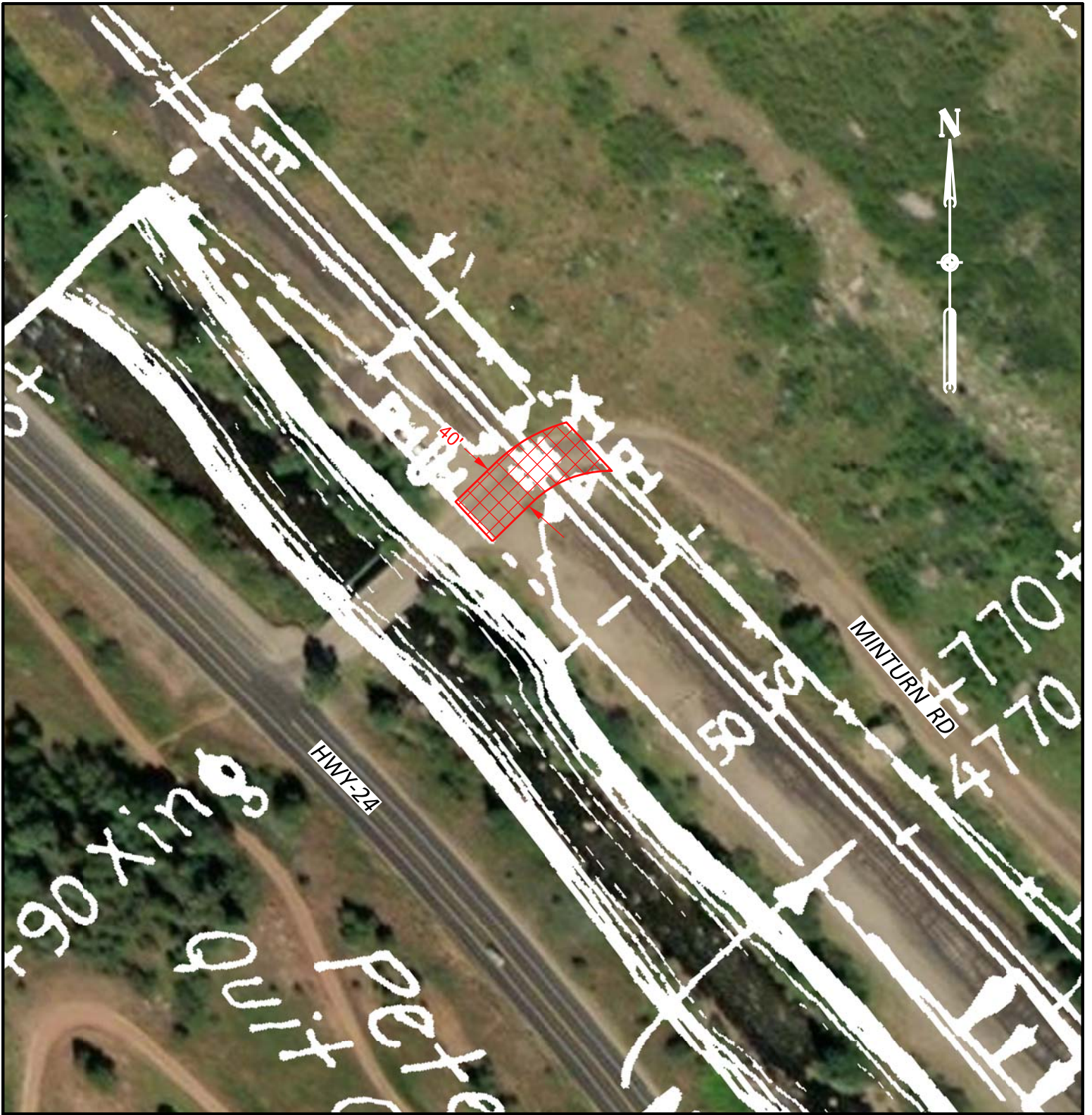
The Easement is also limited to such rights as Grantor may have in the Easement Area and is granted without warranty, express or implied. No damages shall be recoverable from Grantor because of any dispossession of Grantee or because of failure of, or defect in, Grantor's title.

If Grantee, its successors or assigns, abandons the Easement Area or any portion of the Easement Area, the Easement will cease and terminate with respect to the portion of the Easement Area so abandoned, and the title to the Easement Area will be freed from the burden of the Easement. Nonuse of the Easement Area or any portion thereof, for public highway purposes continuing at any time for a period of eighteen (18) months will be deemed an abandonment of the Easement Area or portion thereof not used.


(Signature Pages to Follow)

EXHIBIT A
TO FORM OF EASEMENT DEED

**LEGAL DESCRIPTION OF EASEMENT AREA
(TO BE ATTACHED)**



LEGEND:

CROSSING AREA 

UPRRCO. R/W OUTLINED 

CROSSING AREA = 4,153 SQ. FT. +/-

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A"

UNION PACIFIC RAILROAD COMPANY

MINTURN, EAGLE COUNTY, COLORADO

M.P. 302.93 - TENNESSEE PASS SUB.

MAP DRGW V-7A / 24

SCALE: 1" = 100'

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 9-20-2021

PJB FILE: 0328625 162

CADD FILENAME	0328625
SCAN FILENAME	X

EXHIBIT A-1

PART OF SW 1/4 NE 1/4 SECTION 22, TOWNSHIP 5 SOUTH, RANGE 81 WEST, 6th P.M.
EAGLE COUNTY, COLORADO

PARCEL DESCRIPTION:

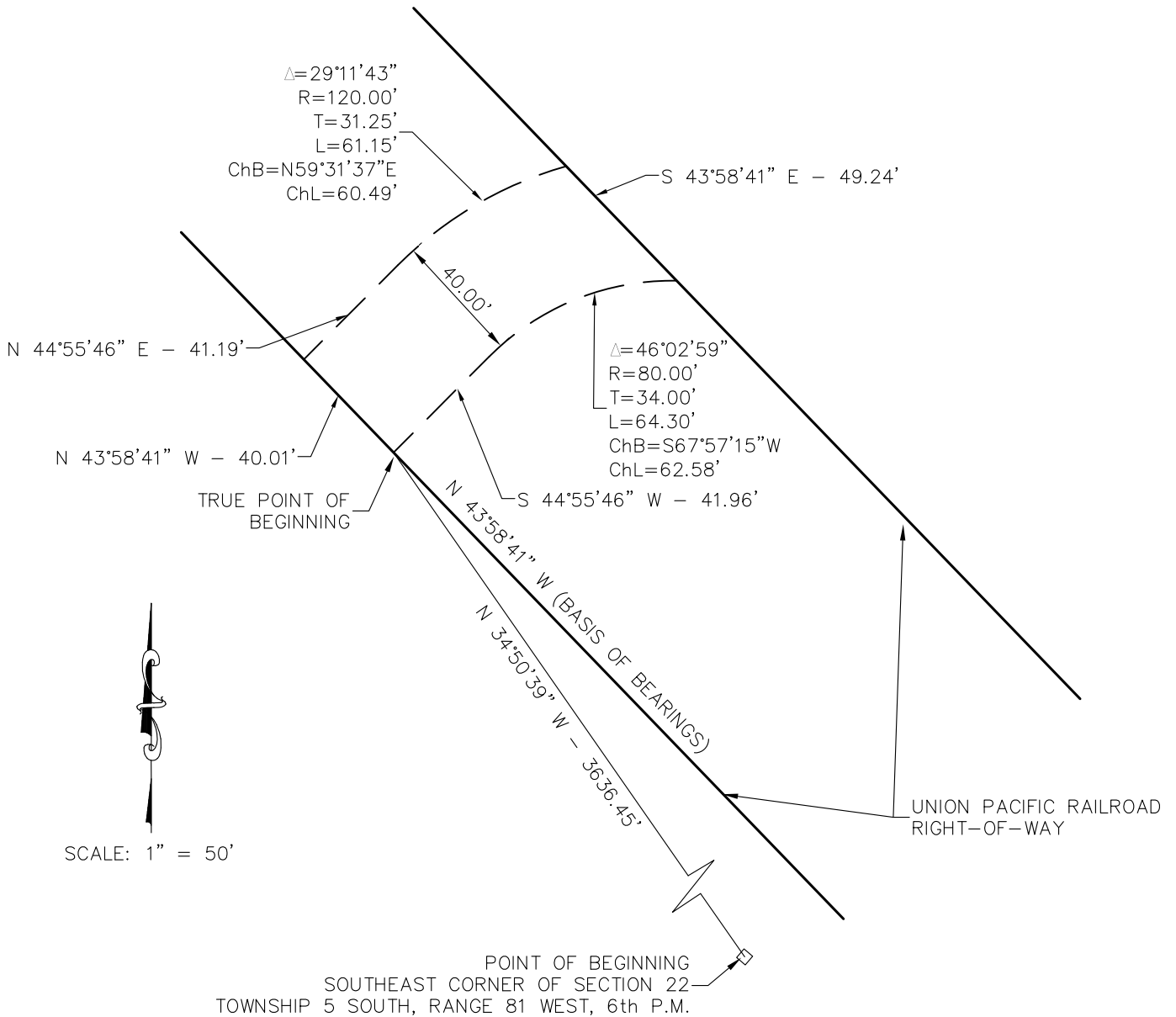
A PARCEL OF LAND, FORTY FEET IN WIDTH, SITUATED IN A PART OF THE SW $\frac{1}{4}$ NE $\frac{1}{4}$ SECTION 22, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE 6th PRINCIPAL MERIDIAN, COUNTY OF EAGLE, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 22; THENCE N34°50'39"W 3636.45 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY N43°58'41"W 40.01 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY N44°55'46"E 41.19 FEET; THENCE 61.15 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 120.00 FEET, AN INTERIOR ANGLE OF 29°11'43" AND A CHORD WHICH BEARS N59°31'37"E 60.49 FEET TO A POINT ON SAID RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY S43°58'41"E 49.24 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY 64.30 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 80.00 FEET, AN INTERIOR ANGLE OF 46°02'59" AND A CHORD WHICH BEARS S67°57'15"W 62.58 FEET; THENCE S44°55'46"W 41.96 FEET TO THE TRUE POINT OF BEGINNING.



EXHIBIT A-1

PART OF SW 1/4 NE 1/4 SECTION 22, TOWNSHIP 5 SOUTH, RANGE 81 WEST, 6th P.M.
EAGLE COUNTY, COLORADO



**Gore Range
 Surveying, LLC**
 P.O. Box 15
 Avon, CO 81620
 (970) 479-8698 • fax (970) 479-0055



June 5, 2023
June 23, 2023

Scot Hunn
Planning Director, Town of Minturn
Sent via email

Re: Legal Review of Minturn North Preliminary Plan Application

Updated Review of June 5 resubmittal in Red Font by Richard Peterson-Cremer

Dear Scot:

I have reviewed the preliminary plan materials submitted by the applicant dated April 11, 2023. I have the following comments on the materials.

Notice

1. The applicant should supply materials demonstrating compliance with the Notification of Surface Development statute CRS 24-65.5.101 et seq. **This has been completed.**
2. Notice of the preliminary plan public hearings before both the planning commission and the Town Council shall be provided per the Town Code. **This has been completed.**

Preliminary Plat

3. The preliminary plat is titled “final plat”. This should read “Preliminary Plat.” **This has been completed.**
4. Is UPRR aware that they are being asked to sign the plat as the owner? I understand that before a conveyance can occur the property must be subdivided. I also think we can do a phased closing / recording of public approval documents so that after the plat is signed, UPRR conveys to the applicant, and then the applicant signs all other Town approval documents which are recorded in the public records. **This has been completed. There will be two plats: one to subdivide the larger parcel into Minturn North and UPRR property; and a second plat to subdivide the smaller single family lots with Minturn North signing as Owner.**
5. The preliminary plat does not depict easements of record impacting the site. The title commitment identifies several easements and property interests that purport to burden the development property. The applicant needs to review the easements in the title

commitment and have any exceptions removed that do not burden the property. For easements that do burden the property, the applicant needs to: (a) show them on the preliminary plat and applicable construction documents to demonstrate that the proposed development does not conflict with recorded easements or property interests of record, or (b) identify those easements which the developer will have legally removed from title prior to the recordation of the final plat. See Schedule B, Part II exception nos. 9, 13, 14, 18, 19, 22, 25, 26, and 29. Note number 4 on the preliminary plat should be updated to reflect the most recent title commitment. **This has been completed but we suggest working with the title company to have the encumbrances removed from the title commitment that the surveyor has determined do not affect this property.**

6. The Town Surveyor/Engineer should confirm: (a) the accuracy of the legal description in the title commitment/preliminary plat, (b) that the legal description properly abuts adjoining Town ROWs and or subdivisions (no gaps), and (c) that the legal description is based off of the correct monument (the “rail monument issue”). **This has been completed; see Town Engineer letter.**
7. Prior to preparation of the final plat, the applicant should consult with the Town attorney about the form of the plat certificates. **This work is ongoing and will be required at Final Plat.**
8. The Town will need to discuss with the applicant and Greg Larson the appropriateness of the easement reservations to UPRR (plat note number 6). UPRR is not dedicating Minturn Road to the Town in fee. Each of the items listed in the reserved easements are generally rights already preserved by UPRR in Minturn Road. The Town does not understand the need for extensive utility and drainage easements not adjacent to the railyard parcel. The Town is concerned about having too many reserved rights for UPRR within this subdivision and the resulting impacts on public utilities. **This was an error and has been corrected.**
9. The preliminary plat identifies several easements to be created. Plat note 6 states that all of the easements are reserved to UPRR. This appears to be an error because many of the easements depicted only benefit a sub-set of lot owners or the HOA. Each easement needs to be clearly identified on the preliminary plat. The recipient of each easement created needs to be clearly identified as well (and the dedications should be moved to the Certificate of Dedication and Ownership). The applicant needs to work with the town on clearly identifying which easements are dedicated to which parties. For easements that may be dedicated to both the Town and the HOA, the parties need to think through potential conflicts (e.g. the Town constructs a trail within the Utility, Drainage, Landscape & Trail Easement and the HOA digs up part of the trail to fix a utility line). **The UPRR reservations were in error and has been corrected. Dedication of easements is a final platting issue that we continue to work on with the applicant in the Certificate of Dedication and Ownership.**
10. On sheet 2 of the preliminary plat please update the numbering to note “sheet 2 of 4”. The easements identified on sheet 2 located on Tract C should be moved to a separate detail

sheet (perhaps a sheet 5) for clarity purposes. **Numbering matter has been addressed. Tract C easements should be separately depicted on entire tract.**

11. On sheet 3 of the preliminary plat, UPRR is only dedicating an easement for Minturn Road. Sheet 3 identifies a “Utility, Drainage & Landscape Easement” which is not listed as an easement in Note 6. Sheet 3 also identifies an “Access, Utility, Drainage & Landscape Easement” which is not listed as an easement in Note 6. On sheet 3 along Miles End Road, there are several 10’ x 5’ boxes that simply say “perpendicular” or “radial”. Are these easements? For whom? Miles End Lane is identified as a “50’ public right-of-way”. The PUD application indicates this will be a private road. Terminology and dedication to the HOA need to be added. **These have been mostly addressed and we will continue to work with the applicant to depict all necessary features on the plat.**
12. On sheet 4 of the preliminary plat, Minturn Road is shown as a “50’ public right-of-way”. This is incorrect. Sheet 3 identifies a “Utility, Drainage & Landscape Easement” which is not listed as an easement in Note 6. For Miles End Lane, the preliminary plat states “50’ public right-of-way.” Looking at the contours of Miles End Lane that is not uniformly correct. The PUD application indicates that Miles End Lane will be owned and maintained by the HOA. The terminology and dedication to the HOA need to be added. Sheet 4 also has 10’ x 5’ boxes that simply say “perpendicular” or “radial”. Are these easements? For whom? Tract G is identified as Right of Way” for Silver Start Trail. To whom is this dedicated (I assume the HOA)? The trail easement needs to extend across Tract G. Same for Tract F open space. **These have been mostly addressed and we will continue to work with the applicant to depict all necessary features on the plat.**
13. The Certificate of Dedication and Ownership needs to list the recipient of the various tracts created by the plat (these likely are either the Town or the HOA). I cannot locate a Tract E. **We provided applicant with Certificate of Dedication and Ownership template language and will continue to work with applicant to finalize to our satisfaction.**
14. Will the Game Creek open space have any public uses? **Question has been answered and no public uses will be allowed.**

Construction Plans

15. All construction plans that depict work outside of the Property, must identify the legal authority under which such work will be performed. This includes property owned by UPRR and Eagle County. Construction sheets showing work along Minturn Road must include an overlay of the easement that UPRR will be granting to the Town so that Staff can confirm that all improvements (including fill slopes and drainage features) are located in an area that the Town has the legal right to maintain in the future (e.g. Sheet Nos. C-3 to C13). The applicant is required to obtain all necessary approvals for work to be performed pursuant to the proposed subdivision. **We have discussed this with the applicant and UPRR. Town engineer has confirmed that all necessary easements have been granted for ongoing maintenance. The S turn/RR Ave. legal rights are in good form for execution subject to updated survey and confirmation that improvements fit within the easement, and**

approval by the Colorado Public Utilities Commission. We are working with Eagle County on conditional approval of the Minturn Road/County Road paving and will work on an agreement potentially including the county as a beneficiary of warranties and construction bonds.

16. The Utility Plan shows a sanitary sewer line running through UPRR property at 4th Street. Please provide the legal authority for that sewer line. **This has been addressed through a license agreement with UPRR.**

Subdivision Improvement Agreement – Final plat matters

17. A Word copy of the draft SIA must be provided to the Town. The form of the SIA must be consistent with the Town's template and provisions of the Town code. Detailed comments on the draft cannot be provided until a redline of the proposed SIA has been prepared. Even without preparing a redline, it appears that there are provisions in the draft SIA that do not conform with the Town's standards. Staff would note that posting security and paying all required Town fees is a pre-requisite to recording the final plat. **This has been provided and we are working on revisions.**
18. The SIA will not be approved until final plat. The following constitutes preliminary comments on that document which will be updated after preliminary plan approval.
19. The engineer's cost estimate only includes Minturn Road offsite improvements. All public improvements must be included in the engineer's cost estimate including internal roadways, utilities, the ECO trail, off-site pedestrian improvements, the gravel parking for game creek, etc. **This has been addressed and is under review by the Town engineer for final plat.**
20. Provision for the dedication of the Game Creek Trail parking easement to the Town needs to be added. **We have discussed a separate form of easement and survey necessary to complete this task at final plat.**
21. The applicant is responsible for providing engineering and cost estimates together with obtaining all approvals necessary to implement its development plans, including approvals from Eagle County and CDOT. The applicant, at the applicant's expense, must pay for all improvements identified in its application materials. Provisions in the draft SIA to the contrary must be changed. **We are working on conditional approval with Eagle County for Minturn Road/County Road. Applicant has submitted necessary CDOT application.**
22. Town staff will not support a 20 year vested rights for this development. For a single phase development 5 to 10 years would be the normal period. **This has been revised to 10 years.**

Missing Components

23. The PUD application does not include any plans to build active recreation areas (Sec. 16-15-140 (a)(2) and (b)(3)). The proposed PUD will create several house sites that will

include children. There are no active recreation areas in north Minturn for children to use. Applicant provided responsive information to this and will be seeking guidance from Planning Commission and Town Council regarding use of open space.

24. The PUD application makes reference to a separate document creating public rights (e.g. emergency vehicles) in the private roads. No such document has been provided. Applicant needs to consider that several public utilities will be located within the private road right-of-way and will need legal easements granted. We will continue working with applicant to resolve/dedicate necessary public easements for public use.
25. The application states “Applicant has also agreed to pay for improvements between the PUD and Bellm Bridge to allow for safe pedestrian access. There are no plan sheets for these improvements. These improvements are also not included in the engineer’s cost estimate. Town Engineer has designed this project and applicant has agreed to pay for construction.

Other Items

26. Review with Town Engineer that all of the property subject to this application was included in the annexation identified as Schedule B, Part II exception nos. 10 and 16. Town Engineer has confirmed this.
27. UPRR should quit claim any interest in the reverter clause included the Dedication of Taylor Avenue recorded as reception No. 144697 (Schedule B, Part II exception no. 12). After the property is developed, Taylor Ave. will not be contiguous with any property owned by UPRR.

PROVIDED, however, that in the event that use of said land for the above-described purposes should ever be abandoned, or the roadway be vacated, then the title to that portion of the presently existing roadway which is situated in the West one-half of the Northwest one-quarter of Section 26, Township 5 South, Range 81 West of the Sixth Principal Meridian, County of Eagle, State of Colorado, shall revert to and vest absolutely in said Grantor, its successors and assigns forever.

UPRR provided a quit-claim deed for this reverter and accepted the Town Attorney’s minor edits. Is now in final form and complete.

28. The Town water attorney will provide separate legal comments on matters involving water rights dedication and calculation of water service to be provided to the proposed development. Holland and Hart has provided separate comments.

Page 6

29. The locals housing deed restriction and the non-resident housing deed restriction will be approved as part of the final plat process. The Town will endeavor to provide comments on these draft documents prior to final plat consideration. Versions of these document in MS Word need to be provided to the Town. **We have reviewed the forms of deed restriction and provided applicant with edits.**

Very truly yours,

KARP NEU HANLON, P.C.



Michael J. Sawyer

MJS:

cc: Michelle Metteer
Jeff Spanel

May 8, 2023

Scot Hunn
Planning Director, Town of Minturn
Sent via email

Re: Legal Review of Minturn North Preliminary Plan Application

Dear Scot:

I have reviewed the preliminary plan materials submitted by the applicant dated April 11, 2023. I have the following comments on the materials.

Notice

1. The applicant should supply materials demonstrating compliance with the Notification of Surface Development statute CRS 24-65.5.101 et seq.
2. Notice of the preliminary plan public hearings before both the planning commission and the Town Council shall be provided per the Town Code.

Preliminary Plat

3. The preliminary plat is titled “final plat”. This should read “Preliminary Plat.”
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5. The preliminary plat does not depict easements of record impacting the site. The title commitment identifies several easements and property interests that purport to burden the development property. The applicant needs to review the easements in the title commitment and have any exceptions removed that do not burden the property. For easements that do burden the property, the applicant needs to: (a) show them on the preliminary plat and applicable construction documents to demonstrate that the proposed development does not conflict with recorded easements or property interests of record, or (b) identify those easements which the developer will have legally removed from title prior to the recordation of the final plat. See Schedule B, Part II exception nos. 9, 13, 14, 18,

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16. The Utility Plan shows a sanitary sewer line running through UPRR property at 4th Street. Please provide the legal authority for that sewer line.

Subdivision Improvement Agreement

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20. Provision for the dedication of the Game Creek Trail parking easement to the Town needs to be added.
21. The applicant is responsible for providing engineering and cost estimates together with obtaining all approvals necessary to implement its development plans, including approvals from Eagle County and CDOT. The applicant, at the applicant's expense, must pay for all improvements identified in its application materials. Provisions in the draft SIA to the contrary must be changed.
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Missing Components

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25. The application states "Applicant has also agreed to pay for improvements between the PUD and Bellm Bridge to allow for safe pedestrian access. There are no plan sheets for these improvements. These improvements are also not included in the engineer's cost estimate.

Other Items

26. Review with Town Engineer that all of the property subject to this application was included in the annexation identified as Schedule B, Part II exception nos. 10 and 16.
27. UPRR should quit claim any interest in the reverter clause included the Dedication of Taylor Avenue recorded as reception No. 144697 (Schedule B, Part II exception no. 12). After the property is developed, Taylor Ave. will not be contiguous with any property owned by UPRR.

PROVIDED, however, that in the event that use of said land for the above-described purposes should ever be abandoned, or the roadway be vacated, then the title to that portion of the presently existing roadway which is situated in the West one-half of the Northwest one-quarter of Section 26, Township 5 South, Range 81 West of the Sixth Principal Meridian, County of Eagle, State of Colorado, shall revert to and vest absolutely in said Grantor, its successors and assigns forever.

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29. The locals housing deed restriction and the non-resident housing deed restriction will be approved as part of the final plat process. The Town will endeavor to provide comments on these draft documents prior to final plat consideration. Versions of these document in MS Word need to be provided to the Town.

Very truly yours,

KARP NEU HANLON, P.C.



Michael J. Sawyer

MJS:

cc: Michelle Metteer
Jeff Spanel

June 20, 2023

Mr. Scott Hunn.
Town of Minturn
PO Box 309
Minturn CO 81645
Via email: scot@vailplanning.com

RE: Minturn North PUD
Preliminary Plan Engineering Review
ERWC & CGS Referral Comments
Project No. 19-0064

Dear Scot:

We reviewed the referral letters from the Eagle River Watershed Council (ERWC) dated May 12, 2023 and the Colorado Geological Survey (CGS) dated May 16, 2023, and offer the following:

Eagle River Watershed Council:

1. Stormwater infrastructure design and calculations:
 - a. Applicant agreed to have Wright Water & Boundaries Unlimited address the comments and provide a revised report prior to final approval.
2. Stormwater approach appears focused on flood heights over water quality:
 - a. “Applicant disagrees with the statement that stormwater is focused on flood heights over quality. The Applicant and consultant team involved in the design of the civil engineering has taken a holistic approach to resolving drainage and water quality including solving for the lack of drainage and water quality measures from Taylor Street”.
 - i. The plans for Taylor Street and the property above the street routes storm flows around and through the development, but no water quality measures are provided. The developer is required to address off-site storm flows such that they do not endanger properties within the proposed development, but the MMC does not require a developer to address storm water quality concerns from adjacent properties.
 - ii. Our May 22, 2023 list of “Items to Be addressed with Construction Plan Submittal” requests the Stormwater Quality Report include commentary regarding the sizing of channels, inlets, riprap, and culverts.
3. Alluvial Fan Geomorphology and Flood Hazard/Fluvial Hazard Risk:
 - a. Applicant feels this concern has been adequately addressed – we do not agree.
 - b. The Wright Water report recommends flood, mud, and debris flow hazard evaluation. We agree this should be studied.

VAIL VALLEY OFFICE

30 Benchmark Road, Suite 216 | PO Box 978 | Avon, CO 81620

DENVER OFFICE

9618 Brook Hill Lane | Lone Tree, CO 80124

970.949.5072 | info@inter-mtn.net

June 20, 2023

Page 2 of 2

Mr. Scot Hunn

RE: Minturn North PUD

Preliminary Plan Engineering Review

ERWC & CGS Referral Comments

Project No. 19-0064

4. Riparian Buffers;
 - a. Applicant feels the home owner's association is best suited to manage riparian areas. We do not have an opinion on this matter.
5. Additional Water Quality Monitoring for Streams Above/Below Project Site Boundaries:
 - a. We agree with the applicant – this should not be a developer's responsibility.

Colorado Geological Survey Comments:

1. Landslide, Avalanche, Debris Flow Hazards:
 - a. Applicant believes qualified professionals including Kumar and CTL Thompson reports adequately address concerns relating to hazards.
 - i. Kumar Report addresses Rockfall north of the development site.
 - ii. CTL Thompson report is a Soils and Foundation investigation.
 - iii. Wright Water report recommends flood hazards, mud, and debris flow evaluation.
 - b. We do not agree with the applicant. None of the reports specifically address landslide, avalanche or debris flow hazards at this site and it would be appropriate for one of the consultants to comment on the risk and recommend if site specific study is warranted.
2. Steep Slopes – Proposed Slopes
 - a. Applicant responded that the steep slope conditions will be addressed with the specific development plan for each lot.
 - b. Our May 22, 2023 list of "Items to Be addressed with Construction Plan Submittal" requests the geotechnical engineer review and provide any necessary stabilization recommendations for the proposed 2:1 slopes.

Please let me know of any questions. Thank you.

Sincerely,

Inter-Mountain Engineering



Jeffery M. Spanel PE

CC: Michelle Metteer; Madison Harris, Richard Peterson-Cremer, Michael Sawyer

May 22, 2023

Ms. Madison Harris
Town of Minturn
PO Box 309
Minturn CO 81645
Via email: planner1@minturn.org

RE: Minturn North PUD
Preliminary Plan Engineering Review
Project No. 19-0064

Dear Madison:

We reviewed the Preliminary Plan resubmittal dated March 10, 2023 for Minturn North PUD. Our review compares the submittal with engineering requirements of Section 16-15-140 and Section 17-5-70 of the Minturn Municipal Code (MMC).

MMC Section 16-15-140:

Subsection (a) General Requirements:

(3). Traffic Study: An update to the Traffic Study prepared October 3, 2022 by CivTrans Engineering Inc. has been provided. The report concludes the reduction in density to 39 single family homes will significantly reduce traffic impacts. Significant information from the report:

- i. Current traffic at the intersection of Main Street and US 24 requires turn lanes; the additional traffic from Minturn North will add to the need for highway improvements.
- ii. Current traffic at the intersection of County Road and US 24 requires turn lanes. The additional traffic from Minturn North adds to the need for improvements. “County Road” as referred to in the report and the CDOT Permits refers to the extension of Minturn Road across the railroad tracks.
- iii. CDOT Access Permits must be submitted with the application for Final Plat.
- iv. The original traffic study recommends changes to the intersection of Minturn Road and Taylor Avenue. The current development plan proposes no improvements to Taylor Ave.

(4). Proposed circulation plan: The Circulation plan shows traffic entering & exiting the property from both Minturn Road & Taylor Ave.

(5). Proposed grading & drainage plans:

Grading & Drainage Plan:

- i. The plan shows off-site grading & storm sewer construction. Agreements for construction & permanent easements must be provided. Plans must be revised to delineate existing & proposed easements both on the property and required for off-site construction.

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Ms. Madison Harris

RE: Minturn North PUD

Preliminary Plan Engineering Review

Project No. 19-0064

- ii. A Limited Phase II Environmental Site Assessment prepared September 23, 2020, by CTL Thompson Inc has been provided. The report identifies an area of contamination which needs to be removed and disposed of at an appropriate disposal site. The limits of the removal along with requirements for excavation & disposal requirements need to be added to the grading plan.
- iii. 2:1 slopes are proposed in the drainage swales and the front portion of lots 1 – 7. The geotechnical engineer should review and provide any necessary stabilization recommendations.
- iv. The inlet at Station 23+74 along Minturn Road should include water quality devices.
- v. “Snout & Bio-skirt” storm water quality control devices are specified. The devices are suitable but not used previously in Minturn. Public Works should review maintenance requirements.

Road Plans

i. General:

- a. There are several road sections which show a steep grade to the adjoining lots, particularly along Miles End Lane. Please explain or demonstrate access to these lots.

ii. Minturn Road:

- a. Minturn Road is proposed as a public street to be maintained by the Town and/or Eagle County.
- b. Plans for Minturn Road Improvements are provided from Taylor Ave. to the northern end of the property. Resurfacing of Minturn Road extending from the north end of the property to US 24 is proposed, and construction plans and details need to be included with the construction set of plans.
- c. The proposed grade matches the existing surface except for a small fill (approximately 2’) at the intersection with Fourth Ave. The maximum slope is 7.4% at the crossing of Game Creek – this matched the existing slope.
- d. Centerline slope meets the requirements of the MMC.

iii. Fourth Ave.

- a. Fourth Ave is proposed as a public street to be maintained by the Town.
- b. Proposed grades meet the requirements of the MMC.
- c. The drainage channel runs along the south side of the roadway and is approximately 5 feet deep with steep slopes. A safety barrier such as a guard rail is required.
- d. The proposed road section is 12-feet with curb and gutter on both sides of the street. Proposed travel lanes are 10.5 feet wide and appropriate.
- e. A 5-foot-wide detached sidewalk is proposed on the north side of the street.

iv. Miles End Lane:

- a. Miles End Lane is proposed as a private road maintained by the home owner’s association.
- b. The proposed road section is 12-feet with mountable curb and gutter on both sides of the street. Proposed travel lanes are 10.5 feet wide and appropriate.
- c. There are several road sections which show a steep grade to the adjoining lots, particularly along Miles End Lane. Please explain or demonstrate access to these lots.

v. Silver Star Trail:

- a. Silver Star Trail is proposed as a private road maintained by the home owner’s association.
- b. The proposed section is 12.5 feet wide with mountable curb on the east (lot side) and vertical curb on the west side of the road. The road is a common driveway to serve two lots. The narrow width will not allow full-sized vehicles to pass, and we suggest the same section as the Driveway to Lots 31 and Lots 6 & & be considered. No turn around is proposed at the dead end; however, the length of the dead end is less than

100 feet and acceptable for this purpose. We recommend review by the Fire Department.

vi. Driveway to lots 31 to 33 and lots 6 & 7:

- a. The driveway is proposed as an access road maintained by the home owner's association.
- b. The proposed section is 15.5 feet wide with mountable curbs on both sides of the road. The road is a common driveway to serve the lots and the narrow width is satisfactory. No turn around is proposed at the dead end; however, the length of the dead end is acceptable for a private drive for this limited number of lots. We recommend review by the Fire Department.

vii. CDOT Access Permits:

- a. Current CDOT Access Permits need to be provided for the "County Coad" and Main Street intersections with US 24 with the application for Final Plat.

viii. Minturn Trail:

- a. The Minturn Trail segment needs to be designed and approved by ECO Trails. Refer to Chapter 4 Trail Design & Construction Standards of the Eagle County Regional Trails Plan.
- b. The proposed trail on the plans stops south of Game Creek. Kevin Sharkey, Trails manager, will require the trail to extend to the north boundary of Minturn North.
- c. The Dowd to Minturn trail is out to bid and plans are to construct the trail this summer. Kevin Sharkey will discuss extending the trail to meet the trail at the Minturn North property with the railroad. Gregg Larsen indicated the railroad will consider granting an easement or license for this trail segment.

(6). Domestic water & sanitary sewer plans:

- i. The plan shows off-site water & sewer lines. Agreements for construction & permanent easements must be provided. Plans must be revised to delineate existing & proposed easements both on the property and required for off-site construction.

Sanitary Sewer: Sanitary sewer service is provided by the Eagle River Water & Sewer District (ERWSD). Their September 1, 2022 "Ability to Serve" letter conditions service pending the review of construction drawings and completion of upgrades to the Dowd Junction Lift Station

- a. Detailed review & approval of the sewer plans by the ERWSD needs to be provided during Preliminary Plan review.
- b. The "Ability to Serve" letter includes conditions pending the completion of upgrades to the Dowd Junction Lift Station - **"we request that the Town limit the issuance of building permits to no more than 85 net new SFEs until the new lift station is operational, effective from the date of our original letter from October 10, 2020"**. The conditions should be evaluated during Preliminary Plan review and the Town should inventory the taps issued since October 10, 2020 to determine the availability of sewer service remaining until the lift station upgrades are complete.

Domestic Water Service:

- a. Water main design & construction must conform to the requirements of the MMC and ERWSD.
- b. Water valve locations must be reviewed & approved by Minturn Public Works prior to construction plan submittal.
- c. Fire hydrant locations must be approved by the Eagle River Fire Protection District.

Ms. Madison Harris

RE: Minturn North PUD

Preliminary Plan Engineering Review

Project No. 19-0064

(9). Environmental Assessment: A Limited Phase II Environmental Site Assessment prepared September 23, 2020, by CTL Thompson Inc has been provided. The report identifies an area of contamination which needs to be removed and disposed of at an appropriate disposal site. The limits of the removal along with requirements for excavation & disposal requirements need to be added to the grading plan.

(12). Final Site Plans: The Overall Site Plan is satisfactory.

(13). Emergency Services Plan: “Ability to Serve” letters have been provided from the Eagle River Fire Protection District (ERFPD), the Eagle County Sheriff’s and Eagle County Paramedic Services have been provided.

(14 & 15) Phasing Plan:

- i. No Phasing is proposed.

Subsection (b) Character Area & Zone District Requirements:

(1). Subdivision: Please refer to the comments in MMC Section 17-5-70 (b) Preliminary Plat below.

(2). Phasing: No phasing is proposed.

MMC Section 17-5-70:

(b) Preliminary Plat:

- i. Please refer to comments in the attached letter from James Kunkle PE & PLS.
- ii. The title commitment identifies several easements and property interests that appear to impact development property. The preliminary plat must depict the easements impacting the site.
- iii. Contiguity with the Taylor Ave and Minturn Road right of way and/or easement must be clearly shown on the plat.

(c) Scale: Maps are drafted to an appropriate scale.

(d) Required maps & reports: The submittal appears to include the required information.

(e) Grading & Drainage Plan: Please refer to the MMC Section 16-15-140 comments above.

(f) Utility plans: Please refer to the MMC Section 16-15-140 comments above

(g) Erosion Control Plans: Please refer to the MMC Section 16-15-140 comments above.

(h) Professional qualifications: Plans & surveys have been prepared by registered professionals.

Subdivision Improvements Agreement:

- a. Engineers Cost Estimate: Several the unit costs are lower than we are seeing in the current market; for example:
 - i. Mobilization is \$15,000, which is approximately 0.6% of the total construction cost. Typically, this category includes equipment mobilization, contractor overhead, bonding cost and contractor profit.
 - ii. The cost should include construction survey, construction period engineering including observation of the work, contract administration and materials testing.
 - iii. Traffic control at \$10,000 seems low.
 - iv. Demolition should expand to include the removal of all underground deep & shallow utilities (plugging pipes is not acceptable), structures trailers, overhead utilities & poles as well.
 - v. Earthwork – please review the unit cost, we have seen costs as high as \$42/YD for export & disposal.
 - vi. The estimate references “Arch CMP Cleaning” The drainage report references several pipes. Does the estimate include all culverts including those off-site?

May 22, 2023

Page 5 of 5

Ms. Madison Harris

RE: Minturn North PUD

Preliminary Plan Engineering Review

Project No. 19-0064

- vii. It would be helpful to group the estimate into categories – General; Stormwater Management; Demolition: etc.
- viii. We have attached the estimate included with the previous submittal – please review the tasks to assure everything has been captured in the estimate.

Please note our comments have been prepared to reflect a Preliminary Plan review.

Thank you for the opportunity to review this plan – we are excited to be a part of this project.

Sincerely,

Inter-Mountain Engineering



Jeffery M. Spanel PE

CC: Michelle Metteer; Scot Hunn, Richard Peterson-Cremer, Michael Sawyer

P.O. Box 3901
Eagle, Colorado 81631

**YARNELL CONSULTING
& CIVIL DESIGN, LLC**

229 Midland Avenue
Basalt, Colorado 81621

(970) 323-7008

3/16/2022

Project Name: North Minturn P.U.D. (Phase 1)

Project No.: 20.004

CONSTRUCTION BID TABULATION: BASE BID

Contractor:

Signature of Preparer:

Item No.	Description	Quantity	Units	Unit Price	Ext. Price
GENERAL					
1	Mobilization	1	LS	\$ 56,000.00	\$ 56,000.00
2	Traffic Control - Barrels & Signage	90	Day	\$ 103.00	\$ 9,270.00
3	Traffic Control - Flagmen	30	Day	\$ 980.00	\$ 29,400.00
STORMWATER MANAGEMENT					
4	Vehicle Tracking Control	1,000	SF	\$ 2.50	\$ 2,500.00
5	Silt Fence	5,000	LF	\$ 2.50	\$ 12,500.00
6	Concrete Wash-out	3	Ea	\$ 650.00	\$ 1,950.00
DEMOLITION					
7	Remove Mobile Home with Associated Appurtenances	6	Ea	\$ 7,600.00	\$ 45,600.00
8	Sawcut	200	LF	\$ 2.65	\$ 530.00
9	Remove 6" Asphalt Pavement	73,070	SF	\$ 0.35	\$ 25,574.50
10	Remove Overhead Utilities	1,590	LF	\$ 1.00	\$ 1,590.00
11	Remove Overhead Utility Pole	11	Ea	\$ 200.00	\$ 2,200.00
12	Remove Below-Grade Electric Utilities	187	LF	\$ 20.00	\$ 3,740.00
13	Remove Below-Grade Natural Gas Utilities	706	LF	\$ 20.00	\$ 14,120.00
14	Remove Below-Grade Communication Utilities	459	LF	\$ 20.00	\$ 9,180.00
15	Remove Communication Pedestal	4	Ea	\$ 125.00	\$ 500.00
16	Remove Fire Hydrant	2	Ea	\$ 1,500.00	\$ 3,000.00
17	Remove 6" Fire Hydrant Lateral	127	LF	\$ 50.00	\$ 6,350.00
18	Abandon Fire Hydrant Lateral Connection at Main	2	Ea	\$ 1,225.00	\$ 2,450.00
19	Remove 8" Sanitary Sewer Main	713	LF	\$ 45.00	\$ 32,085.00
20	Remove Sanitary Sewer Manhole	3	Ea	\$ 2,100.00	\$ 6,300.00
21	Disconnect Sanitary Sewer Service from Main	9	Ea	\$ 1,800.00	\$ 16,200.00

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(970) 323-7008

3/16/2022

Project Name: North Minturn P.U.D. (Phase 1)

Project No.: 20.004

CONSTRUCTION BID TABULATION: BASE BID

Contractor:

Signature of Preparer:

Item No.	Description	Quantity	Units	Unit Price	Ext. Price
EARTHWORK					
21	Strip & Stockpile Topsoil (9-inch Depth)	7,778	CY	\$ 10.25	\$ 79,722.22
22	On-Site Earthwork (Including Moisture-Conditioning and Compaction)	22,500	CY	\$ 12.80	\$ 288,000.00
23	Import Structural Fill	1,000	CY	\$ 38.60	\$ 38,600.00
24	Export Unsatisfactory Soils	1,000	CY	\$ 32.00	\$ 32,000.00
25	Cast-in-Place Concrete Retaining Wall	0	SFF		\$ -
26	12-inch Angular Riprap	50	Tons	\$ 91.80	\$ 4,590.00
SANITARY SEWER UTILITY					
27	Sanitary Sewer Manhole (4' dia.)	7	Ea	\$ 5,760.00	\$ 40,320.00
28	8" PVC Sanitary Sewer Main	1,110	LF	\$ 87.25	\$ 96,847.50
29	Sanitary Sewer Service Connection	32	Ea	\$ 275.00	\$ 8,800.00
30	Sanitary Sewer Service Stub (~25 LF in length per each)	29	Ea	\$ 3,290.00	\$ 95,410.00
31	Sanitary Sewer Clean-out	29	Ea	\$ 750.00	\$ 21,750.00
32	2" PVC Sanitary Sewer Force Main	0	LF		\$ -
STORM SEWER UTILITY					
33	Storm Sewer Manhole (4' dia.)	2	Ea	\$ 5,450.00	\$ 10,900.00
34	Storm Sewer Manhole (5' dia.)	2	Ea	\$ 6,500.00	\$ 13,000.00
35	Storm Sewer Manhole (6' dia.)	2	Ea	\$ 6,920.00	\$ 13,840.00
36	CDOT Type 13 Valley Inlet	13	Ea	\$ 4,270.00	\$ 55,510.00
37	CDOT Type 13 Combination Inlet	14	Ea	\$ 4,770.00	\$ 66,780.00
38	18" HDPE Storm Sewer Main	1,256	LF	\$ 99.60	\$ 125,097.60
39	24" HDPE Storm Sewer Main	619	LF	\$ 119.00	\$ 73,661.00
40	30" HDPE Storm Sewer Main	255	LF	\$ 145.00	\$ 36,975.00

P.O. Box 3901
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(970) 323-7008

3/16/2022

Project Name: North Minturn P.U.D. (Phase 1)

Project No.: 20.004

CONSTRUCTION BID TABULATION: BASE BID

Contractor:

Signature of Preparer:

<i>Item No.</i>	<i>Description</i>	<i>Quantity</i>	<i>Units</i>	<i>Unit Price</i>	<i>Ext. Price</i>
41	3'x6' Reinforced Concrete Box Culvert	0	LF		\$ -
42	Reinforced Concrete Headwall	0	SFF		\$ -
43	18-inch Reinforced Concrete Flared End Section	0	Ea		\$ -
44	24-inch Reinforced Concrete Flared End Section	0	Ea		\$ -
45	30-inch Reinforced Concrete Flared End Section	0	Ea	\$ 1,425.00	\$ -
46	Contech CDS 4045 Unit	2	Ea	\$ 82,500.00	\$ 165,000.00
	WATER UTILITY				
47	8-inch Ductile Iron Water Main with Polywrap	0	LF		\$ -
48	8-inch PVC Water Main with Polywrap on Fittings	360	LF	\$ 105.60	\$ 38,016.00
49	12-inch Ductile Iron Water Main with Polywrap	0	LF		\$ -
50	12-inch PVC Water Main with Polywrap on Fittings	1,620	LF	\$ 145.40	\$ 235,548.00
51	8-inch Fitting with Thrust Block & 30 LF Restrained Joints Either Direction	8	Ea	\$ -	\$ -
52	12-inch Fitting with Thrust Block & 30 LF Restrained Joints Either Direction	2	Ea	\$ -	\$ -
53	Lower Existing 8-inch Water Main & 30 LF Restrained Joints Either Direction	5	Ea	\$ 7,180.00	\$ 35,900.00
54	Lower Existing 12-inch Water Main & 30 LF Restrained Joints Either Direction	5	Ea	\$ 8,690.00	\$ 43,450.00
55	Sacrificial Anode Cathodic Protection System	500	LF	\$ 1.40	\$ 700.00
56	8-inch Gate Valve	7	Ea	\$ 3,450.00	\$ 24,150.00
57	12-inch Gate Valve	4	Ea	\$ 5,320.00	\$ 21,280.00
58	6-inch Ductile Iron Fire Hydrant Lateral with Polywrap	300	LF	\$ 109.70	\$ 32,910.00
59	Fire Hydrant	9	Ea	\$ 12,330.00	\$ 110,970.00
60	6-inch Tee Connection to Existing Water Main	5	Ea	\$ 3,765.00	\$ 18,825.00
61	8-inch Tee Connection to Existing Water Main	2	Ea	\$ 4,360.00	\$ 8,720.00
62	12-inch Tee Connection to Existing Water Main	1	Ea	\$ 4,930.00	\$ 4,930.00
63	3/4-inch Wet Tap	29	Ea		\$ -
64	1-inch Wet Tap	29	Ea	\$ 800.00	\$ 23,200.00

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& CIVIL DESIGN, LLC**

229 Midland Avenue
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(970) 323-7008

3/16/2022

Project Name: North Minturn P.U.D. (Phase 1)

Project No.: 20.004

CONSTRUCTION BID TABULATION: BASE BID

Contractor:

Signature of Preparer:

Item No.	Description	Quantity	Units	Unit Price	Ext. Price
65	3/4-inch Copper Water Service Stub (~25 LF in length per each)	29	Ea		\$ -
66	1-inch PureCore Water Service Stub (~25 LF in length per each)	29	Ea	\$ 2,675.00	\$ 77,575.00
67	3/4-inch Curb Stop	29	Ea		\$ -
68	1-inch Curb Stop	29	Ea	\$ 450.00	\$ 13,050.00
	DRY UTILITY				
69	2-inch Natural Gas Main	2,484	LF	\$ 21.00	\$ 52,164.00
70	Natural Gas Service Stub (~25 LF in length per each)	29	LF	\$ 525.00	\$ 15,225.00
71	Natural Gas Connection to Existing Main	2	Ea	\$ 475.00	\$ 950.00
72	Install 4-inch PVC Electric Conduit from Holy Cross Energy	2,509	LF	\$ 16.00	\$ 40,144.00
73	Install 4-inch PVC Electric Conduit Service Stub (~25 LF in length per each)	29	Ea	\$ 920.00	\$ 26,680.00
74	Install Electric Transformer Pad	15	Ea	\$ 1,750.00	\$ 26,250.00
74	2-inch PVC Conduit for Communication & Cable Utilities	5,018	LF	\$ 14.90	\$ 74,768.20

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& CIVIL DESIGN, LLC**

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3/16/2022

Project Name: North Minturn P.U.D. (Phase 1)

Project No.: 20.004

CONSTRUCTION BID TABULATION: BASE BID

Contractor:

Signature of Preparer:

Item No.	Description	Quantity	Units	Unit Price	Ext. Price
	FLATWORK				
75	3-foot Concrete Pan	1,931	LF	\$ 41.65	\$ 80,426.15
76	6-inch Aggregate Base Beneath Pans	196	Ton	\$ 45.00	\$ 8,798.12
77	6-inch Concrete Sidewalk	16,455	SF	\$ 12.45	\$ 204,864.75
78	6-inch Aggregate Base Beneath Sidewalks	555	Ton	\$ 45.00	\$ 24,991.03
79	Cast Iron Truncated Domes	40	SF	\$ 165.00	\$ 6,600.00
80	6-inch Reinforced Concrete Cross Pan	650	SF	\$ 18.40	\$ 11,960.00
81	6-inch Aggregate Base Beneath Cross Pans	66	Ton	\$ 45.00	\$ 2,961.56
82	4-inch Hot-Mix Asphalt Pavement	1,753	Ton	\$ 200.00	\$ 350,559.00
83	6-inch Aggregate Base Beneath 4" Asphalt Pavement	2,390	Ton	\$ 45.00	\$ 107,557.88
84	3-inch Hot-Mix Asphalt Pavement	253	Ton	\$ 200.00	\$ 50,531.25
85	4-inch Aggregate Base Beneath 3" Asphalt Pavement	227	Ton	\$ 45.00	\$ 10,232.58
86	Concrete Mountable Curb with 18" Gutter	3,163	LF	\$ 40.40	\$ 127,785.20
87	Concrete Vertical Curb with 18" Gutter	1,397	LF	\$ 42.55	\$ 59,442.35
88	6-inch Aggregate Base Beneath Curb/Gutter	385	Ton	\$ 45.00	\$ 17,313.75
89	Grass-Pave2 on 6-inch Aggregate Base Course (need detail for final price)	4,000	SF	\$ 4.95	\$ 19,800.00
	SIGNAGE & STRIPING				
90	Traffic Sign	10	Ea	\$ 470.00	\$ 4,700.00
91	Parking striping	250	LF	\$ 1.15	\$ 287.50
92	Center line striping	3211	LF	\$ 1.05	\$ 3,371.55
93	Construction Testing	1	LS	\$ 125,000.00	\$ 125,000.00
94	Construction Survey	1	LS	\$ 200,000.00	\$ 200,000.00
95	BOND (1.5 %)	1	LS	\$ 58,360.00	\$ 58,360.00
96					

March 6, 2023

Madison Harris
Town of Minturn Planner 1
PO Box 309, 302 Pine Street
Minturn, CO 81645-0309

Plat Review Minturn North Final Plat

My comments are as follows:

1. Subdivision boundary monuments are not shown or described.
2. Conflicting boundary evidence including references to the rail monument for the C-W 1/16th corner of Section 26 should be shown. Existing monuments for Taylor Addition lots should also be shown.
3. Show limits for the 100-yr floodplain of Game Creek, or the 50' setback, whichever covers a larger area.
4. Please submit closure and area calculations for all lots and tracts.
5. A legend for all line types and symbols is needed.
6. The right of way for Minturn Road from Main Street to Highway 24 should be shown.

Please call with any questions.

Jim Kunkel



MEMORANDUM

May 16, 2023

TO: Scot Hunn, Planning Director
Madison Harris, Planner I

FROM: Holland & Hart LLP
Martin and Wood Water Consultants, Inc.

RE: Comments on Minturn North PUD Preliminary Development Plan Application
and Minturn North PUD Consumptive Use Analysis

On behalf of the Town of Minturn, this memorandum sets forth the combined comments of Holland & Hart LLP and Martin and Wood Water Consultants, Inc. regarding the Minturn North PUD (the “Project”) Preliminary Development Application, revised April 11, 2023 (the “Application”), including the Minturn North PUD Consumptive Use Analysis dated March 2023, prepared by Wright Water Engineers, Inc. (the “WWE Report”), and Applicant’s responses dated April 12, 2023, to the Town’s Completeness Review No. 2.

Application – Temporary Irrigation of Common Areas

The Application proposes to use temporary irrigation to establish native seed on approximately 99,000 square feet of Common Areas. *See Appendix W – Preliminary Landscape Plan.* The Application proposes to limit temporary irrigation to a two-year growth cycle, after which the temporary irrigation must be removed by the Applicant unless otherwise approved by the Town Engineer. *See Application Sec. 8.1.*

The irrigation of 99,000 square feet of Commons Areas in a single two-year period is anticipated to place a significant burden on the water treatment plant and the Town’s water supplies. As such, we recommend that temporary irrigation be limited to a maximum of 50,000 square feet in any given year. This would require the Applicant to have at least two phases of temporary irrigation.

We further recommend that the Applicant be required to notify the Town planning department and Town Manager in writing at least 90 days in advance of beginning any temporary irrigation. Such notice should include a map or drawing of the area to be irrigated and indicate when the temporary irrigation will begin and end. We also recommend that that the Applicant be required provide written notification to the Town planning department and Town Manager at the end of each two-year temporary irrigation period. Such notice should state that the temporary irrigation period has ended, identify the plants established within the temporary irrigation area, and describe the plan for removing the temporary irrigation system.

WWE Report

Our comments on the WWE Report are as follows:

Section 1.0. Introduction. The description of the proposed development and the SFE count should be revised to be consistent with the Application.

The Application reflects the following:

	Max. Building Area	Max. Irrigated Area	SFEs per Lot	Total SFEs
Lots 1-33	6,000 sf per Lot	4,000 sf per Lot	2	66
Lots 34-39	3,000 sf per Lot	2,000 sf per Lot	1	6
Common Areas	n/a	2,000 sf total	n/a	1
Total				73

Section 3.1. Residences. This section, including Tables 2 and 3, should be revised to be consistent with the Application, as summarized in the table above.

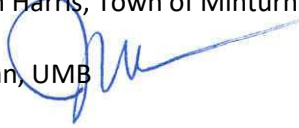
Section 3.2. Common Areas. This section should be revised to be consistent with the Application, which states that irrigated common areas will not exceed 2,000 square feet and will require 1 SFE.

Section 4.0. Consumptive Use Estimate. This section should be revised to be consistent with the proposed development and SFE count described in the Application, and consumptive use calculations should be updated based on the same.

Figure 2. Minturn North PUD – Preliminary Plan Revisions. This figure should be revised to be consistent with the Application.

21468553_v1

Memo

To: Madison Harris, Town of Minturn
From: Jim Mann, UMB 
Date: May 16, 2023
CC:
Subject: Minturn North PUD – Supplemental Review

The developers associated with the Minturn North PUD project have submitted updated documents related to the development, to which the Town has requested review by UMB. In evaluating the materials that have been submitted, we have limited our review to those documents that are financial related, specifically:

- Minturn North Narrative
- Appendix Q Town of Minturn Financial Impact and Estimate
- Appendix R Draft Subdivision Improvement Agreement
- Appendix AA Off-Site Improvements Engineers Cost Estimate

UMB did not review a revised development *pro forma*, as no additional numbers were provided. The developer has significantly modified the original plan to include a reduced number of new housing units with an average market value of \$2.5 MM.

Based on our review of the above documents, excluding a review of a development *pro forma*, we did not note any item of substance that we could not reconcile. Further, it does not appear through the documentation that has been provided, that the Town is being requested to fund, cost share, or otherwise provide any improvements to the benefit of the proposed development.

Therefore, we do not have any comments related to the revised submittals.

Madison Harris

From: Killian - CDOT, Brian <brian.killian@state.co.us>
Sent: Thursday, April 20, 2023 7:55 AM
To: Madison Harris
Cc: karen.berdoulay@state.co.us; kandis.aggen@state.co.us
Subject: Re: Minturn North PUD Referral

Madison,

Thanks for the opportunity to comment. CDOT worked with this development a few years ago on a CDOT access permit and left turn lane design at the County Road/Hwy 24 intersection, however, the permit has since expired. This development will need to resubmit a CDOT access permit application and traffic study to CDOT. CDOT may require a left turn deceleration lane be constructed due to the increase in traffic volumes.

Please let me know if you have any questions.

Thanks,

Brian Killian
Region 3 Access Program Manager
Traffic & Safety



P 970-683-6284 | C 970-210-1101 | F 970-683-6290
222 S. 6th St, Room 100 Grand Junction, CO 81501
brian.killian@state.co.us | www.codot.gov | www.cotrip.org

On Tue, Apr 18, 2023 at 1:13 PM Madison Harris <planner1@minturn.org> wrote:

Dear Ms. Berdoulay, Ms. Aggen, and Mr. Killian,

You are receiving this referral from the Town of Minturn as part of the Town's review of the Minturn North Planned Unit Development proposal. This is an updated application from the version you last viewed in 2021. The referral process is intended to allow our community partners and stakeholders the opportunity to understand the proposal, to assess potential impacts and mitigation efforts, and to provide comment to the Town prior to the plans being reviewed by the Town of Minturn Planning Commission and Town Council. We welcome your comments and will make ourselves available to meet with you if you have questions. [Here](#) is the link to download the files which expires in 7 days.

Please provide comments to Madison Harris, Planner I at planner1@minturn.org by May 16, 2023 at 5:00 pm.

Thank you for taking the time to review this proposal.

Sincerely,

Madison Harris

Planner I

Town of Minturn

Planner1@minturn.org

970-827-5645 Ext. 2

Madison Harris

From: Duval - DNR, Devin <devin.duval@state.co.us>
Sent: Tuesday, May 16, 2023 1:23 PM
To: Madison Harris; Michelle Metteer
Subject: Re: Minturn North PUD Referral
Attachments: Minturn North - CPW Comments.pdf

Madison & Michelle,

Please find attached the Jan 30, 2021 CPW Comment Letter. I am resubmitting this as part of this application, most of the letter is still applicable to the updated PUD app. Additional comments will be submitted once I have my supervisor's signature. Additional comments will pertain to indirect impacts associated with the proposed development, human-wildlife conflict, the development of a Wildlife Mitigation Plan, and future uses of the parcel north of Game Creek. Please let me know if you have any questions. Thanks.

-Devin

On Tue, Apr 18, 2023 at 1:24 PM Madison Harris <planner1@minturn.org> wrote:

Dear Mr. Duval and Ms. Neumann,

You are receiving this referral from the Town of Minturn as part of the Town's review of the Minturn North Planned Unit Development proposal. This is an updated application from the version you last viewed in 2021. The referral process is intended to allow our community partners and stakeholders the opportunity to understand the proposal, to assess potential impacts and mitigation efforts, and to provide comment to the Town prior to the plans being reviewed by the Town of Minturn Planning Commission and Town Council. We welcome your comments and will make ourselves available to meet with you if you have questions. [Here](#) is the link to download the files which expires in 7 days.

Please provide comments to Madison Harris, Planner I at planner1@minturn.org by May 16, 2023 at 5:00 pm.

Thank you for taking the time to review this proposal.

Sincerely,

Madison Harris

Planner I

Town of Minturn

Planner1@minturn.org

970-827-5645 Ext. 2

--

Devin Duval
District Wildlife Manager



C 970.930.5264

0088 Wildlife Way, Glenwood Springs, CO 81601

devin.duval@state.co.us | cpw.state.co.us





COLORADO

Parks and Wildlife

Department of Natural Resources

Area 8 - NW Region
0088 Wildlife Way
Glenwood Springs, CO 81601
P 970.947.2969 | F 970.947.2936

Town of Minturn
Ms. Madison Harris, Planner
Mr. Scot Hunn, Contract Planner
301 Boulder Street #309
Minturn, CO 81645

January 30, 2021

Dear Ms. Harris & Mr. Hunn,

Thank you for giving Colorado Parks and Wildlife (CPW) an opportunity to provide comment on the proposed Minturn North PUD project. CPW has a statutory authority to manage all wildlife species in Colorado. This responsibility is embraced and fulfilled through CPW's mission to protect, preserve, enhance, and manage the wildlife of Colorado for the use, benefit, and enjoyment of the people of the State and its visitors.

The proposed action includes the development of 18.95 acres. The PUD guide states the project will include a total of 116 lots for a total of 184 housing units, with approximately 6.40 acres dedicated as open space.

The proposed action site lies within and immediately adjacent to a variety of wildlife habitat. Furthermore, the development site exists within elk Data Analysis Unit (DAU) E-16, and mule deer DAU D-8. The E-16 DAU has been experiencing significant declines in elk populations, equating to a roughly 60% decline over the last 10 years. Additionally, as of the 2020 updated herd management plan for mule deer, the D-8 population is on a downward trajectory and is under CPW's established objective range. Subsequently, CPW has continued to reduce the mule deer population objective in the area to accommodate for human generated impacts and overall mule deer population decline.

CPW has also dramatically reduced hunting quotas for both elk and mule deer since the mid 2000s. Mule deer doe quotas have been reduced to negligible levels, while limited cow elk licenses have ostensibly been eliminated. These reductions in doe and cow quotas are in an attempt to protect the reproductive, fawn and calf-bearing portion of the herd. While these license reductions are an attempt to recover population levels, reproductive success and recruitment into the population has failed to rebound.

In addition to the pressing issues associated with local ungulate populations, the Eagle Valley has seen a significant increase in human-predator conflicts. These conflicts namely involve mountain lions and black bears. The Town of Minturn lies within the state's only designated Special Management Area (SMA) for mountain lions. Public reports of mountain lions in the SMA were rare 10-20 years ago. Now reports number in the hundreds annually and come from a variety of groups and members of the community. Minturn also lies within a human-black bear conflict area. Black bear conflicts in the Eagle Valley continue to rise compared to historic levels. These issues directly correlate with the human

footprint on the landscape and increasingly require mitigating management actions by local governments.

Specific to the Minturn area, habitat loss, fragmentation, and human disturbance continue to be significant concerns in managing not only the local deer and elk populations, but also a variety of other wildlife species. While the proposed action will result in a net loss of marginal habitat, the indirect impacts to the resource stand to be far more significant. The Minturn, and Dowd Junction areas along with portions of the Highway 24 corridor have been identified or already slated for a variety of developments and infrastructure improvements. As with many of these proposed actions, CPW continues to encourage local governments to approach the assessment of impacts to wildlife and the surrounding landscape through a more holistic and comprehensive lens. Specifically, impacts generated by one particular development will likely be accentuated and heightened due to the impacts generated by other surrounding developments, and vice versa. As such, CPW encourages continued dialogue with town planning staff, and initial dialogue with the applicant to potentially better account for these comprehensive impacts.

While the Environmental Impact Report (EIR) makes mention of a variety of wildlife habitat, it fails to capture the full extent of crucial habitat types (elk and mule deer migration corridors, elk winter concentration area, elk severe winter range, documented golden eagle nests, canada lynx potential habitat, etc), and the extent to which this proposed action will generate and contribute to indirect impacts. The one site visit informing the EIR was conducted in the summer and therefore did not capture the extent to which radiating and indirect disturbances from this parcel will potentially impact migratory and wintering wildlife.

It is with the above in mind that CPW offers the following recommendations:

- Construction & site disturbance should occur outside of the December 1 – April 30th timeframe, annually, to protect wintering elk.
- Open Space or natural sites disturbed during construction should be immediately reclaimed with a CPW-approved big game seed mix to provide adequate forage and reduce the potential for weeds. The site should be monitored for weeds on an annual basis.
- Removal of the proposed recreation path and overlook to the northeast. CPW further recommends that this open space area implement seasonal use restrictions, particularly during winter months, in order to provide for a buffer to elk winter range as well as provide for temporal use by wintering elk or migrating mule deer.
- It is recommended that fencing throughout the parcel should be constructed per CPW Wildlife Friendly fencing guidelines.
- Bear-proof trash canister covenant: The project area lies within a mapped black bear- human conflict zone. To prevent habituation of black bears, CPW recommends all residences utilize bear-proof canisters and dumpsters. CPW encourages enforcement of this practice to ensure effectiveness.
- Vegetation management on the parcel to minimize attractants for black bears, as well as minimize the visual cover available to mountain lions adjacent to buildings and dwellings.
- Adopt appropriate storm water drainage systems to avoid sediment loading into Game Creek.
- CPW recommends continued dialogue with town staff and the applicant on how to avoid excessive disturbance to the Game Creek riparian corridor, creation of social trails, and other human specific degradation of Game Creek that high-density residential development can create.

- The development parcel lies within the CPW recommended 1/4mi buffer for golden eagle nests. However, the current status of this nest is unknown, therefore, CPW recommends the applicant conduct nest monitoring to determine the potential for disturbing an active nest. Additionally, if it is determined that the nest is active, through both monitoring and consultation with CPW, it is further recommended to implement seasonal restrictions to human encroachment within 1/2mi radius of active nests from December 15 through July 15 annually.
- CPW further recommends that the Town of Minturn explore financial funding mechanisms generated by this and future developments to help account for and potentially offset indirect and direct impacts associated with the developments.
- Increasingly critical, CPW recommends the Town of Minturn adopt a holistic approach to assessing cumulative impacts to wildlife and natural resources in the local area. This locale is slated for a wide variety of actions in the near future that will result in both direct and indirect impacts to wildlife. CPW welcomes continued dialogue surrounding how to anticipate, minimize or avoid these impacts.

CPW appreciates the opportunity to provide comments on this project. For additional information or to request clarification on CPW's comments for this project, please contact District Wildlife Manager Devin Duval at (970) 930-5264.

Sincerely,



Matt Yamashita
Area Wildlife Manager

Cc. Devin Duval, District Wildlife Manager
Danielle Neumann, Land Use Specialist

COLORADO GEOLOGICAL SURVEY

1801 Moly Road
Golden, Colorado 80401



Matthew L. Morgan
State Geologist and Director

May 16, 2023

Madison Harris
Town of Minturn
Planner1@minturn.org

Location:
NW¼ NW½ Section 26
T5S, R81W of the 6th P.M.
39.5938, -106.4304

Subject: Minturn North Planned Unit Development
Town of Minturn, Eagle County, CO; CGS Unique No. EA-21-0008

Dear Ms. Harris:

The Colorado Geological Survey has reviewed the revised Minturn North Planned Unit Development (PUD) referral. The applicant proposes a 39-lot residential development on 13.485 acres in Minturn. The site is bordered by Taylor Street on the east, Minturn Road on the west, and Game Creek on the north. With this referral, CGS received a request for review (Email dated April 18, 2023); final plat (Slagle Survey Services, December 9, 2022); civil plans (Boundaries Unlimited Inc., March 1, 2023); drainage report (Wright Water Engineers, Inc. (WWE), December 2022); and other documents. CGS previously reviewed the geologic hazard review (Kumar & Associates, Inc., March 5, 2020) and soils and foundation investigation (CTL Thompson, Inc., August 26, 2020) and provided comments in our January 29, 2021 letter. No new geological or geotechnical information was provided with the referral documents.

According to Eagle County geologic hazard mapping, the steep slope north of Game Creek is mapped as a rockfall hazard. The revised civil plans and plat have eliminated development north of Game Creek; concerns regarding rockfall hazards, as discussed in Kumar's geologic hazard review and our previous letter, have been addressed. However, as discussed in our January 29, 2021 letter, CGS continues to have the following comments/concerns.

Landslide, Avalanche, Debris Flow Hazards. Kumar or CTL did not address the landslides mapped upslope and to the east of the site (Eagle County 1041 geologic hazard mapping). Many other landslides are mapped throughout this area, including the Meadow Mountain Landslide and Dowds #1 Landslide, which are younger-aged landslides. Also, the risk of an avalanche hazard was not addressed by Kumar or CTL. Mears (CGS Special Publication 7, "Colorado Snow-Avalanche Area Studies and Guidelines for Avalanche-Hazard Planning") did not map avalanche paths in the Minturn area, but that does not mean avalanche hazards do not exist in this area. **CGS recommends that a qualified professional evaluate the risk of a landslide and avalanche hazard.**

Landslides and avalanche hazards may also occur off-site, affecting the proposed development due to debris flows or mudflows transferred by creeks/drainages. As shown in the figure below (Figure 1) and as referenced in WWE's drainage study and CTL and Kumar's reports, an alluvial/debris fan is located at the mouth of Game Creek, which could be a source of debris inundation during a flood event. It should also be noted that existing residential structures are located within/adjacent to the mouth of Game Creek and within the alluvial/debris fan.

As indicated by WWE (page 18) in the drainage report, "Evaluations with regard to mud and debris flows should be completed and evaluated with regard to the proposed development." CGS agrees and **recommends the risk of flood hazards, mudflows, and debris inundation emanating from Game Creek to the alluvial/debris fan should be evaluated by a qualified engineering geologist/geotechnical engineer/civil engineer for both the proposed and existing developments prior to PUD approval.** The risk of slope instability and mudflow may also increase as a

result of events that reduce upslope hillside vegetation, such as avalanche, disease, wildfire, grading, creation of defensible space, and other disturbances. The mud and debris flow evaluation study should address these considerations, especially avalanche and wildfire.

As shown on sheet C.6 of the civil plans, a 2.5-high deflection berm is planned between Game Creek and Lots 1-5, and a trapezoidal ditch (24 inches deep) is proposed along the east side of the development. These proposed improvements should be reevaluated to account for the potential of a mud and debris flow emanating from Game Creek.

Steep Slopes - Proposed Slopes. Per the overall grading plan (sheet C.6), Lots 2-7 will consist of 2:1 (horizontal:vertical) grade changes. CTL did not provide specific recommendations for permanent site slopes in their report.

CGS recommends the proposed slopes be analyzed/evaluated and building footprints established with appropriate setbacks from steep slopes.

The PUD guide indicates an approximate 30-foot setback is associated with Game Creek. This setback line and any other setback established during further evaluations should be clearly shown in the civil and drainage plans.

Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at 303-384-2632 or email acrandall@mines.edu.

Sincerely,



Amy Crandall, P.E.
Engineering Geologist

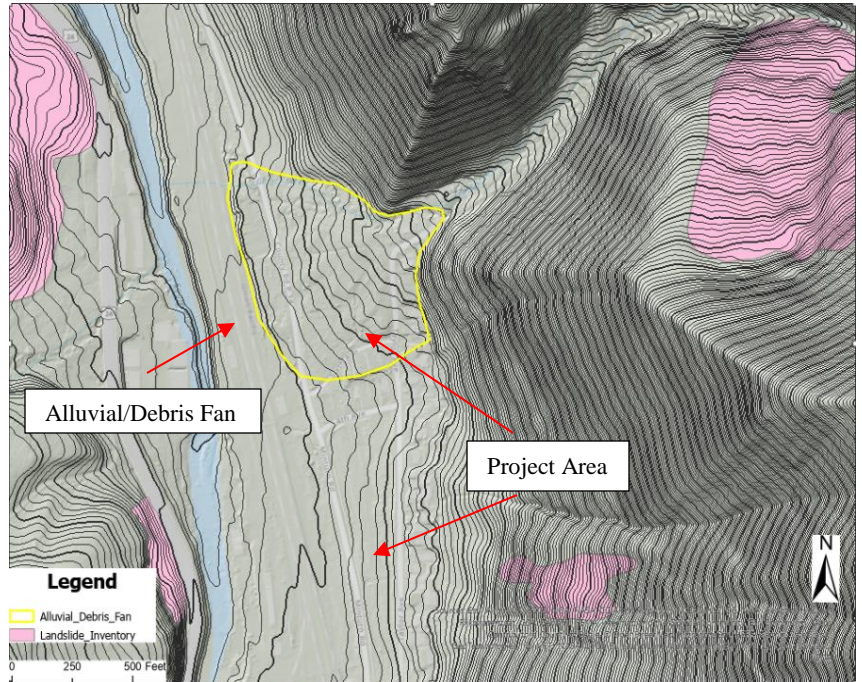


Figure 1: Alluvial/Debris fan and mapped landslides within/adjacent to the project site.



Community Development

Janet Aluise

970-328-8739

janet.aluise@eaglecounty.us

www.eaglecounty.us

June 21, 2023

Town of Minturn
Attn: Madison Harris, Planner I
301 Boulder Street, # 309
Minturn, CO 81635

[Via Email planner1@minturn.org]

Re: IAR-9349-2023 - Interagency Referral - Minturn North PUD

Dear Ms. Harris:

Thank you for the opportunity to participate in the planning process of the Minturn North Planned Unit Development in the Town of Minturn. Please consider the following comments from Eagle County Departments:

Planning Comments: No additional comments from the Planning Division.

Open Space/Natural Resources Comments:

Eagle County Natural Resources staff noted the changes to Section 4.3 Planning Area 3 (PA-3) – Open Space of the PUD Guide (Appendix C) and appreciate the clarification of permitted uses within PA-3. The concerns outlined below remain to be addressed from the initial referral. Game Creek should be protected from development related impacts because not only do the water resources in Eagle County provide safe and clean water for human consumption, Game Creek also provides important habitat for terrestrial and aquatic wildlife, including four Federally endangered fish species, and is an integral part of healthy and resilient landscapes.

Below are policies from the 2005 Eagle County Comprehensive Plan relevant to this application for the Applicant's consideration. The Town of Minturn may also consider these comments in the decision on this application:

1. Water Quality
 - a. 3.6.3.f - Water quality in Eagle County should meet the highest applicable standards;
 - b. 3.6.3.g - Surface and groundwater supplies should be protected from agricultural, industrial and development related impacts.

Measurement of the stream setback. Section 4.3 (B) of the PUD indicates that the "Setback shall be platted and no less than 30' from stream centerline," however, Section 16-2-50 (b) of the Minturn Municipal Code states that a live stream setback is a strip of land measured horizontally from the ordinary high water mark on each side of any live stream, river, or creek.

It appears that the PUD Guide should be updated to replace 'centerline' with 'ordinary high water mark.'

Width of the stream setback. Eagle County Natural Resources staff noted that the proposed minimum 30' setback from the centerline of Game Creek is quite narrow. While the required stream setback is 30 feet, the Town of Minturn's Municipal Code states that if necessary to protect the live stream, river or creek, additional setback distances may be required by the Planning Commission. The Planning Commission may wish to evaluate whether a 30 foot setback is adequate to protect the important water quality and riparian habitat provided by Game Creek and the adjacent wetlands. The report for the wetland delineation performed in July 2020 will be critical to this evaluation as setbacks are crucial for protecting wetlands. The full wetland delineation report was not provided in Appendix AC – Birch Ecological Wetlands Memorandum. The standard stream setback requirement per Section 3-340.C.6 of the Eagle County Land Use Regulations for unincorporated Eagle County is a minimum of 75', which allows for the protection of water resources, including wetlands and riparian areas. Stream setbacks are environmentally important because they can provide stream bank stabilization, stream shading, flood water storage, wildlife habitat, and water quality protection by capturing and filtering sediment and pollutants from stormwater and landscaping irrigation runoff and snowmelt. Stream setbacks also help to minimize human disturbance of riparian areas and wetlands.

Uses in the stream setback. Currently the PUD Guide lists the following proposed uses for PA-3 (stream setback, Section 4.3 (A)) in addition to native vegetation and greenspace: stormwater and drainage, snow storage, and uses determined to be similar by the Town of Minturn Town Manager. Per Minturn's Code, a stream setback shall be protected in its natural state free from human made structures or other improvements and appurtenances, and vegetated with natural riparian vegetation. Placing stormwater drainage facilities, such as the detention berm proposed in the Drainage Report (Appendix M.4) and storing snow within the setback is likely to introduce a potentially significant quantity of pollutants into the stream and is not in compliance with the Code, therefore, Eagle County staff recommends that these activities take place in a different planning area.

Stormwater Runoff and Drainage. Upon review of the Drainage Report (Appendix M.4) and the Stormwater Quality Report (Appendix M.5), stormwater will be conveyed off-site through culverts that drain to the Eagle River and Game Creek. Water resources in Eagle County, including the Eagle River, continue to face impacts to water quality and aquatic life due, in part, to pollution from urban runoff. Low Impact Design has been incorporated into the civil engineering drainage plans, however, staff recommends that specific stormwater quality Best Management Practices (BMPs) be included in the PUD Guide. The revised application proposes a variance to the Town of

Minturn's maximum impervious surface area requirement of 50% to have greater than 50% impervious surface areas in Planning Area 1 (PA-1, maximum 65% impervious surface area) and Planning Area 2 (PA-2, maximum 75% impervious surface area). Impervious surfaces prevent absorption of water into the ground and increase runoff of stormwater and other pollutants, which have the potential to impact the water quality of Game Creek and the Eagle River. Staff recommends that the proposed stormwater drainage improvements provided in the Drainage Report (Appendix M.4) appropriately mitigate the proposed increase in impervious surface area throughout the development.

2. River and Riparian Habitat

a. 3.6.4.h - Aquatic and riparian habitats should be protected from agricultural, industrial and development related impacts.

Upon reviewing the Environmental Impact Report (EIR) for the subject property in Appendix O, Game Creek provides habitat for four Federally endangered fish species. Staff recommends a wider stream setback to mitigate impacts to the aquatic and riparian habitat of Game Creek.

3. Water Quantity

a. 3.6.2.c - Water conservation efforts by all water users in Eagle County should be implemented

Staff appreciates the Applicant's proposed minimal use of sod in PA-5, Open Space. However, staff recommends that the proposed 1,595 square feet of permanent irrigation for sod on single family lots found in the Preliminary Landscape Plan (Appendix W) be reduced in size to maximize water conservation efforts. Staff believes this could be accomplished while still providing adequate usable outdoor space for residents.

4. Wildlife Concerns

a. 3.7.2.a - The integrity, quality and interconnected nature of critical wildlife habitat in Eagle County should be preserved;

b. 3.7.2.b - The well-being of wildlife species of economic importance should be actively monitored and protected;

c. 3.7.2.c - The well-being of wildlife species of less economic importance and those on the rare and endangered species list should be actively monitored and protected;

d. 3.7.3.d - Development in areas critical to the continued well being of Eagle County's wildlife populations should not be allowed;

e. 3.7.3.e - Where disturbances to wildlife habitat cannot be avoided, development should be required to fully mitigate potential negative impacts.

The EIR (Appendix O) for the subject property states that approximately 2.5 acres in the northeastern portion of the PUD occur within elk severe winter range. However, the Natural Resource Findings (Appendix U) states that 0.25

acres of elk severe winter range is located on the PUD. Staff recommends that the Applicant clarify the inconsistency between Appendix O and Appendix U regarding the acreage of elk severe winter range on the property. The PUD also occurs in mule deer and moose summer range. Elk and mule deer are wildlife species of economic importance in Eagle County and both mule deer and elk populations have been steadily declining within the County. Development within elk severe winter range can impact the integrity and connectivity of critical wildlife habitat within Eagle County. Staff recommends that development within elk severe winter range be avoided to the greatest extent practical to preserve critical wildlife habitat and that the Applicant work with Colorado Parks and Wildlife on any additional mitigation measures. Additionally, the EIR and Natural Resource Findings report identify important mitigation measures for protecting wildlife, and Eagle County staff recommends that the Applicant integrate these measures into the PUD Guide.

In addition, the proposed development is close to Game Creek, which is habitat for four Federally endangered fish species. Staff recommends the Applicant provide mitigation strategies for impacts to fish habitat in Game Creek. The EIR identified potential habitat for migratory birds that are protected under the Migratory Bird Treaty Act. Staff recommends that the Applicant adhere to the recommendations provided in the EIR to mitigate impacts to migratory birds.

- f. 3.7.5.g - Wildlife friendly measures should be incorporated into the design of individual home sites and neighborhoods;
- g. 3.7.5.h - Measures designed to protect wildlife from contact with human activities and disturbances should be implemented and enforced.

Staff appreciates the Applicant's proposed mitigation strategies to reduce conflict with wildlife such as bears and mountain lions. Staff recommends that the fruit bearing native shrubs proposed in the Preliminary Landscape Plan (Appendix W) be removed to align with the Minturn North Design Guidelines (Appendix K) and to reduce potential wildlife conflicts. In addition, staff recommends the outdoor feeding of domestic animals and wild birds be prohibited as an additional important mitigation strategy.

ECO Trails Comments: No additional comments from ECO Trails.

ECO Transit Comments: No additional comments from ECO Transit.

Road and Bridge Comments: No additional comments from Road and Bridge.

Please contact me at (970) 328-8739, or at janet.aluise@eaglecounty.us if you have questions or would like to request a meeting to discuss these comments. Eagle County reserves the right to offer additional comments as more information is provided.

Sincerely,

Janet Aluise
Senior Planner
[Via Email]

Cc: Trent Hyatt, Deputy Community Development Director
Ben Gerdes, P.E., County Engineer
Maureen Mulcahy, Natural Resources Policy Manager
Emily Seddon, Natural Resources Planner
Kevin Sharkey, Trails Program Manager
Tanya Allen, Director of Regional Transport
John Harris, Road and Bridge Director
File



Community Development

Janet Aluise

970-328-8739

janet.aluise@eaglecounty.us

www.eaglecounty.us

May 16, 2023

Town of Minturn
Attn: Madison Harrison, Planner I
301 Boulder Street, # 309
Minturn, CO 81635

[Via Email planner1@minturn.org]

Re: IAR-9349-2023 - Interagency Referral - Minturn North PUD

Dear Ms. Harris:

Thank you for the opportunity to participate in the planning process of the Minturn North Planned Unit Development in the Town of Minturn. Please consider the following comments from Eagle County Departments:

Planning Comments:

The 2005 Eagle County Comprehensive Plan provides an overview for growth within unincorporated areas, but these policies may seem relevant to this application for the decision-makers in the Town of Minturn:

1. Development Policies
 - a. 3.2.4.e. Urban and suburban type growth should be appropriately designed and should be located within or immediately contiguous to existing towns and community centers;
 - b. 3.2.4.g - Redevelopment and or revitalization of currently underdeveloped, outdated, rundown, or otherwise dysfunctional areas should be encouraged;
 - c. 3.2.4.j - Development should be fully responsible for the mitigation of development related impacts upon both the natural and built environment.
2. Community and Character
 - a. 3.2.5.k - Local communities should establish unique venues, attractions and design standards directed toward enhancing individual community character and developing a sense of place.
 - b. 3.2.6.f - New developments should include a mix of housing types;
 - c. 3.3.3.d - d. The potential impacts of second-home ownership and an aging resident population in Eagle County should be identified and incorporated into the decision making process.
3. Efficient Transportation
 - a. 3.5.2.b - Pedestrian paths should be safe, well-designed, well maintained and appropriately networked within and between communities;
 - b. 3.5.2.d - Bike paths should be safe, well designed, well maintained and appropriately connected within and between communities.

4. Water Quantity
 - a. 3.6.2.c - Water conservation efforts by all water users in Eagle County should be implemented;
 - b. 3.6.2.e - Collaborative efforts on regional land and water use planning efforts to address future growth, water supply, and stream flow protection should be encouraged.

Open Space/Natural Resources Comments:

Below are policies from the 2005 Eagle County Comprehensive Plan relevant to this application that may be considered in the decision on this application by the Town of Minturn:

1. Water Quality
 - a. 3.6.3.f - Water quality in Eagle County should meet the highest applicable standards;
 - b. 3.6.3.g - Surface and groundwater supplies should be protected from agricultural, industrial and development related impacts.

Measurement of the stream setback. Section 4.3 (B) of the PUD indicates that the "Setback shall be platted and no less than 30' from stream centerline," however, Section 16-2-50 (b) of the Minturn Municipal Code states that a live stream setback is a strip of land measured horizontally from the ordinary high water mark on each side of any live stream, river, or creek. It appears that the PUD Guide should be updated to replace 'centerline' with 'ordinary high water mark.'

Width of the stream setback. Eagle County Natural Resources staff noted that the proposed minimum 30' setback from the centerline of Game Creek is quite narrow. While the required stream setback is 30 feet, the Town of Minturn's Municipal Code states that if necessary to protect the live stream, river or creek, additional setback distances may be required by the Planning Commission. The Planning Commission may wish to evaluate whether a 30 foot setback is adequate to protect the important water quality and riparian habitat provided by Game Creek and the adjacent wetlands. The report for the wetland delineation performed in September 2020 will be critical to this evaluation as setbacks are crucial for protecting wetlands (the full wetland delineation report was not provided in the Environmental Impact Report). The standard stream setback requirement per Section 3-340.C.6 of the Eagle County Land Use Regulations for unincorporated Eagle County is a minimum of 75', which allows for the protection of water resources, including wetlands and riparian areas. Stream setbacks are environmentally important because they can provide stream bank stabilization, stream shading, flood water storage, wildlife habitat, and water quality protection by capturing and filtering sediment and pollutants from stormwater and landscaping irrigation runoff and snowmelt. Stream setbacks also help to minimize human disturbance of riparian areas and wetlands.

Uses in the stream setback. Currently the PUD Guide lists the following proposed uses for PA-3 (stream setback, Section 4.3 (A)) in addition to native vegetation and greenspace: stormwater and drainage, snow storage, and uses determined to be similar by the Town of Minturn Town Manager. Per Minturn's Code, a stream setback shall be protected in its natural state free from human made structures or other improvements and appurtenances, and vegetated with natural riparian vegetation. Placing stormwater drainage facilities, such as the detention berm proposed in the Drainage Report (Appendix M.4) and storing snow within the setback is likely to introduce a potentially significant quantity of pollutants into the stream and is not in compliance with the Code, therefore, Eagle County staff recommends that these activities take place in a different planning area.

Stormwater Runoff and Drainage. Upon review of the Drainage Report (Appendix M.4) and the Stormwater Quality Report (Appendix M.5), stormwater will be conveyed off-site through culverts that drain to the Eagle River and Game Creek. Water resources in Eagle County, including the Eagle River, continue to face impacts to water quality and aquatic life due, in part, to pollution from urban runoff. Low Impact Design has been incorporated into the civil engineering drainage plans, however, staff recommends that specific stormwater quality Best Management Practices (BMPs) be included in the PUD Guide.

2. River and Riparian Habitat

a. 3.6.4.h - Aquatic and riparian habitats should be protected from agricultural, industrial and development related impacts.

Upon reviewing the Environmental Impact Report (EIR) for the subject property in Appendix O, Game Creek provides habitat for four Federally endangered fish species. Staff recommends a wider stream setback to mitigate impacts to the aquatic and riparian habitat of Game Creek.

3. Water Quantity

a. 3.6.2.c - Water conservation efforts by all water users in Eagle County should be implemented

Staff appreciates the Applicant's proposed minimal use of sod in PA-5, Open Space. However, staff recommends that the proposed 1,595 square feet of permanent irrigation for sod on single family lots found in the Preliminary Landscape Plan (Appendix W) be reduced in size to maximize water conservation efforts. Staff believes this could be accomplished while still providing adequate usable outdoor space for residents.

4. Wildlife Concerns

a. 3.7.2.a - The integrity, quality and interconnected nature of critical wildlife habitat in Eagle County should be preserved;

- b. 3.7.2.b - The well-being of wildlife species of economic importance should be actively monitored and protected;
- c. 3.7.2.c - The well-being of wildlife species of less economic importance and those on the rare and endangered species list should be actively monitored and protected;
- d. 3.7.3.d - Development in areas critical to the continued well being of Eagle County's wildlife populations should not be allowed;
- e. 3.7.3.e - Where disturbances to wildlife habitat cannot be avoided, development should be required to fully mitigate potential negative impacts.

The EIR (Appendix O) for the subject property states that approximately 2.5 acres in the northeastern portion of the PUD occur within elk severe winter range. However, the Natural Resource Findings (Appendix U) states that 0.25 acres of elk severe winter range is located on the PUD. Staff recommends that the Applicant clarify the inconsistency between Appendix O and Appendix U regarding the acreage of elk severe winter range on the property. The PUD also occurs in mule deer and moose summer range. Elk and mule deer are wildlife species of economic importance in Eagle County and both mule deer and elk populations have been steadily declining within the County. Development within elk severe winter range can impact the integrity and connectivity of critical wildlife habitat within Eagle County. Staff recommends that development within elk severe winter range be avoided to the greatest extent practical to preserve critical wildlife habitat and that the Applicant work with Colorado Parks and Wildlife on any additional mitigation measures. Additionally, the EIR and Natural Resource Findings report identify important mitigation measures for protecting wildlife, and Eagle County staff recommends that the Applicant integrate these measures into the PUD Guide.

In addition, the proposed development is close to Game Creek, which is habitat for four Federally endangered fish species. Staff recommends the Applicant provide mitigation strategies for impacts to fish habitat in Game Creek. The EIR identified potential habitat for migratory birds that are protected under the Migratory Bird Treaty Act. Staff recommends that the Applicant adhere to the recommendations provided in the EIR to mitigate impacts to migratory birds.

- f. 3.7.5.g - Wildlife friendly measures should be incorporated into the design of individual home sites and neighborhoods;
- g. 3.7.5.h - Measures designed to protect wildlife from contact with human activities and disturbances should be implemented and enforced.

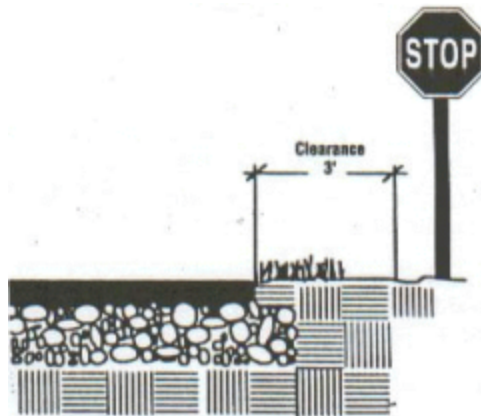
Staff appreciates the Applicant's proposed mitigation strategies to reduce conflict with wildlife such as bears and mountain lions. Staff recommends that the fruit bearing native shrubs proposed in the Preliminary Landscape Plan (Appendix W) be removed to align with the Minturn North Design Guidelines (Appendix K) and to reduce potential wildlife conflicts. In addition,

staff recommends the outdoor feeding of domestic animals and wild birds be prohibited as an additional important mitigation strategy.

ECO Trails Comments:

1. The application includes a 25 foot wide Utility, Drainage, Landscape, and Trail Easement to accommodate the first Minturn segment of the Eagle Valley Trail. The easement runs along the east side of Minturn Road from the south edge of the development to a point just short of the north end of the development property. Eagle County has the following comments about the proposed Eagle Valley Trail segment on the Minturn North PUD application:

- a. Overall, the conceptual drawings seem to incorporate the ECO Trails [Design and Construction Standards](#) for Eagle Valley Trail. Please continue to follow these standards as the design advances.
- b. The trail width (10 feet) and easement (25 feet) meet the standards.
- c. The cross slope appears to be somewhere between 2% to 3% - which is the standard.



3 feet or more of horizontal clearance is desirable.

- d. 3 feet or more of horizontal clearance is desired for clearance from trees, poles, walls, fences, railings. Please double check the horizontal clearance of the following items:
 - i. The hydrant near Tract C seems less than 3 feet away from the Eagle Valley Trail edge of asphalt.
 - ii. There is an overhead electric power pole that seems less than 3 feet from the Eagle Valley Trail by Lot 17.
 - e. It is unclear if the pavement and road base thickness and shoulder width meet ECO Trails Design Standards. Please add a typical pavement section to the detail sheet including pavement and road base thickness, and shoulder width. Please see Chapter 4, starting on page 2 for ECO Trails Design Standards.
2. The future Eagle Valley Trail from this project to Highway 24 has been designed and the project is currently out for bid with the goal of completing the trail in 2023. The trail will be

located on the northeast side of the Minturn/County Road. Due to wildlife concerns, the trail will be closed in the winter. Please add a connection to the new trail at the next design phase.

ECO Transit Comments:

From an ECO Transit perspective, we do not currently provide direct, fixed-route service to this area and we likely would not in the future, given the proposed density and potential value of the homes in question likely resulting in homeowners with multiple personal vehicles, as well as the fact we would not want to deviate from existing service on Highway 24. What would be nice, however, would be improvements to the pedestrian access from this neighborhood and the adjacent existing homes to the Meadow Mountain Business Park. We have an existing bus stop at that location (Highway 24 & Meadow Mountain Business Park) that would benefit from easier pedestrian access from/to these neighborhoods. As far as I can tell, those neighborhoods have already created a desired path/social trail along the railroad tracks that would benefit from real pedestrian improvements, but I know how challenging it can be to deal with railroads. ECO Transit supports this development's inclusion of accessible pedestrian and cyclist access to the Eagle Valley Trail.

Road and Bridge Comments:

Eagle County Road and Bridge understands that this project will pave the County's portion of Minturn Road. If this is indeed the case, Road and Bridge does not have any issues with the project.

Please contact me at (970) 328-8739, or at janet.aluise@eaglecounty.us if you have questions or would like to request a meeting to discuss these comments. Eagle County reserves the right to offer additional comments as more information is provided.

Sincerely,

Janet Aluise
Senior Planner
[Via Email]

Cc: Trent Hyatt, Deputy Community Development Director
Ben Gerdes, P.E., County Engineer
Maureen Mulcahy, Natural Resources Policy Manager
Kevin Sharkey, Trails Program Manager
Emily Seddon, Natural Resources Planner
Tanya Allen, Director of Regional Transport
John Harris, Road and Bridge Director
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Advocates for our rivers.

5/12/2023

Madison Harris
Planner 1, Town of Minturn
planner1@minturn.org

RE: Referral comments for new Minturn North PUD Development

Dear Ms. Harris,

Thank you for the opportunity to provide comments regarding the new Minturn North project. The Eagle River Watershed Council (ERWC) advocates for the health and conservation of the Eagle River and its tributaries in order to protect and enhance the high-quality natural and human values provided to our communities by rivers. Vigorously protecting our aquatic systems ensures they will continue to provide their numerous social, economic, and ecosystem benefits in perpetuity. Although a project like Minturn North will impact the community of Minturn in variety of ways, our comments remain specifically concerned with potential impacts to stream and aquatic ecosystem health.

The project application proposes a single-family housing subdivision between Taylor Street and the Minturn Road/County Rd. ERWC previously submitted comments regarding stormwater, riparian buffers, geologic risks on the Game Creek alluvial fan, and the benefits of tying funding for additional instream water quality monitoring on reaches of the Eagle River near the development to the project. Due to significant changes to the original project, we have reviewed the new plans for this submission in full. Many of the original comments remain relevant to the new development, and we urge staff to review those as well.

Stormwater

1) Potential error in runoff calculations for stormwater appurtenances

The engineering firm appears to have used an incorrect impervious coverage assumption from Minturn town code in runoff calculations that may result in a significant underestimation of runoff volumes and associated culvert dimensional needs. ERWC may be misinterpreting the report and does not mean to suggest the consultant's calculations have produced an error, rather, we suggest clarification may be warranted on input values for some of the runoff model parameters.

In the Appendix M.4 Section 2.2 Hydrologic Criteria, paragraph 4 states:

"The offsite drainage basins were modeled historically with an imperviousness of 2%.
Imperviousness of single-family residential areas were set at 50% as based on Town Code and the design guidelines. Routing of flows for the modeling was developed with the Kinematic wave equation as outlined in the USDCM."

The developer has requested an impervious coverage of up to 75% for the 6 deed restricted lots and up to 65% percent for lots 1-33 (see Appendix PUD guide and Appendix G Dimensional Limitations). Runoff modelling using 50% impervious coverage versus these significantly larger numbers will underestimate the runoff volume produced and potentially underestimate the required culvert and stormwater appurtenance size required to pass and treat these volumes.

The report further states that 2 of the 3 existing culverts under the railroad tracks are currently inadequate to convey the existing 100 year storm flow and are not proposed to be modified. Given these conditions, if this interpretation of the report is correct, it may be necessary to re-perform the drainage analysis to ensure culvert and treatment train process volumes are adequate to pass and treat storm flows.

2) *Stormwater approach appears focused on flood heights over water quality*

In Section 1.2 General Approach bullet 5, the consultant states that ‘moving stormwater from the site to the receiving waters prior to peaks from other nearby drainages’ is a guiding principle of system design. This appears to reference the ‘beat the peak’ methodology in stormwater, although it is not explicitly referenced and Town of Minturn has no peak timing analysis required in its code that ERWC is aware of. ERWC urges caution in this approach, as it maximizes a single metric of concern in stormwater (instream flooding of downstream areas) over all other metrics of equal or greater concern (water quality, local aquifer recharge, localized erosion from increased ‘flashiness’ of stream hydrology, etc.)

For a more-thorough discussion of stormwater impacts to water quality and instream habitat, please see our original comments regarding the avoidance of detention and infiltration strategies on this site, they are still relevant and attached separately for your reference.

We note that in addition to drainage conveyances, designers have identified a series of active treatment technologies (Snouts and Bio Skirts) in drainage inlets. If properly maintained, these will provide some measure of treatment for pollutants like fine sediment and oils/grease/hydrocarbons. They will provide a lesser degree of treatment for pollutants like pesticides/herbicides, nitrogen, etc. An increased preference for some level of onsite detention and infiltration would likely provide higher water quality protection for receiving waters than rapid removal and discharge to streams.

Alluvial Fan Geomorphology and Flood Hazard/Fluvial Hazard Risk

We note that although the engineer responsible for the Drainage Plan recommends a mudflow hazard analysis for the Game Creek alluvial fan, none is currently contemplated for this project.

Section 4.4 of the Appendix M.4 Drainage Report notes that the:

“proposed development is located near a historical alluvial fan. Evaluations with regard to mud and debris flows should be completed and evaluated with regard to the proposed development.”

We would also offer this correction: the proposed development, specifically portions to the north of existing 4th St, are located on a historical alluvial fan, not ‘near’ one.

The north portion of the project area straddling the mouth of Game Creek canyon lays atop an alluvial fan formation. Alluvial fans are fluvial geomorphological features that form when steep streams suddenly decrease in slope at valley mouths and the stream water no longer has the ability to carry the

sediment load accrued from erosion and mass wasting in the upper watershed. Prior to interference and hardening of watercourses during western settlement, streams on alluvial fans typically and regularly moved their channels back and forth across these features on a relative short time scale as their sediment transport capacity suddenly decreased from confined upstream reaches and the sediment load is deposited on the lower-gradient fan, causing channel fill and lateral movement.

Traditional FEMA flood hazard analyses that consider only flood inundation elevations from clearwater flows, and may greatly underestimate the risks for channel avulsion and non-clearwater flow events such as sediment or debris flows to rapidly shift a water course on fan features, triggering large damages. Although alluvial fans do not have a wide floodplain like traditional valley bottom river, they should not be considered free of stream-related hazard due to their relatively high risk for channel avulsions. Increasing amounts of flood-related damage and financial loss to human developments located outside of traditional FEMA flood hazard zones in recent years have prompted the Colorado Water Conservation Board (CWCB) to issue a mapping protocol and guidance/education to communities about fluvial hazard zones.¹ These materials, in conjunction with further guidance from FEMA, suggest that channel avulsion hazards and non-traditional flood risk on features like alluvial fans should not be treated lightly.²

CWCB staff has suggested in addition to municipalities considering more stringent zoning and planning in these areas, that it may be highly appropriate encourage residents in fluvial hazard zones to purchase flood insurance, *even when they are not in the traditionally mapped Special Flood Hazard Zone* (i.e., not in the 100-year floodplain).

According to the project plan, a soft surface ditch will divert runoff from the upper end of Taylor Street and a constructed berm will provide protection to residences on the south side of Game Creek from overbanking or debris flows in Game Creek.

Recommendation:

We recommend the proposed berm should be constructed in all locations beyond the 30' riparian setback from the stream channel and vegetation and soils within the setback should remain undisturbed. This will allow some level of continued minor lateral movements by the channel while preserving a water quality and habitat protective buffer.

Riparian Buffers

By far the simplest, most robust, and most cost-effective method to protect water-resource related community values like water quality, instream aquatic life, flood attenuation and protection, and animal habitat, is to provide strong, enforceable protections and setbacks for riparian corridors on our valley's streams. The plan identifies a 30' live stream setback, consistent with Minturn code (which specifies measurement from the high-water mark, not the centerline), to be managed as naturalized open space within the PUD. ERWC applauds the developer's intention to protect stream habitat and water quality with this design.

¹ <https://www.coloradofhz.com/about>

² FEMA. 2016. Guidance for Flood Risk Analysis and Mapping: Alluvial Fans. Guidance Document #75.

ERWC has observed that stream setbacks maintained on private lands in Eagle County are routinely ignored, encroached, or otherwise degraded, with little authority for true legal enforcement available to homeowners associations or private residences. The Town of Vail in particular has faced repeated difficulties in enforcing live stream setbacks in locations where the town does not own the stream tract. Similarly in Edwards, developments like Brett Ranch originally set strong conservation goals for seasonal protections for wildlife and vegetation protections to prevent bank erosion, but with no actual regulatory authority, they find themselves completely at a loss to prevent homeowner incursions including mowing and removal of streamside vegetation, proliferation of social trails, and frequent pet incursions during nesting seasons. Thus, ample evidence suggests that voluntary stream setbacks are frequently used in Eagle County by developers to paint their design plan as 'stream friendly' then quickly forgotten and ignored in the following years by residents once the development is complete

ERWC strongly recommends that the Town of Minturn specifically require full legal dedication of stream tracts and live stream setback areas directly to town ownership for management and enforcement, rather than allowing them to be maintained as undevelopable open space solely within the subdivision HOA legal entity.

Additional water quality monitoring for streams above/below project site boundaries

Eagle County and other municipalities have previously implemented water quality monitoring requirements for many new developments in the region in order to transparently and publicly track potential water quality impacts from continuing urbanization. Implementing stream monitoring locations above and below the developments provides bracketing of project impacts and the ability to separate out background influences on water quality from impacts specific to the project. We recommend Minturn consider adding a stream monitoring requirement to the project approval that species sufficient funding for field data collection, lab analytics, and public reporting.

Monitoring should seek to establish baseline conditions prior-to and during project build-out, and for at least five years after final project completion. Data collection and analysis should follow an approved QA/QC plan and be archived in a public-facing, long-term repository such as the CDSN AWQMS database or the EPA/USGS Water Quality Portal. If specific impacts such as declines in aquatic life index scores or other water quality metrics related to urban runoff are identified and reasonably tied to the project, sufficient contractual and financial obligations should be placed on the developers as project approval requirements in order require construction of additional water quality improvement BMPs onsite at their expense.

Closing

Thank you for providing the opportunity to comment on this project. We look forward to the additional level of detail in any continuing development plans to better-understand the full level of aquatic impacts that may arise as Eagle continues to grow along the river corridor. If you have additional questions on our comments or require additional information, please contact ERWC at your convenience.



Regards,
James Dilzell
Executive Director
Eagle River Watershed Council



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Advocates for our rivers

Madison Harris
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970-827-5645 Ext. 2

RE: Referral comments for Minturn North PUD Plan

Dear Ms. Harris,

Thank you for the opportunity to provide comments regarding the Minturn North project. The Eagle River Watershed Council (ERWC) advocates for the health and conservation of the Eagle River and its tributaries in order to protect and enhance the high-quality natural and human values provided to our communities by rivers. Vigorously protecting our aquatic systems ensures they will continue to provide their numerous social, economic, and ecosystem benefits in perpetuity. Although a project like Minturn North will impact the community of Minturn in variety of ways, our comments remain specifically concerned with potential impacts to stream and aquatic ecosystem health.

The project application proposes a variety of housing types and higher residential densities laid out between Taylor Street and the Minturn Road/County Rd. The proposal has many exciting aspects, including redevelopment of brownfields, clustering new development near Minturn’s existing urban core, and maintaining or improving public access to public lands and trails in Game Creek. ERWC applauds the developer’s consideration of these values in planning. We have identified some specific concerns with the initial design related to stormwater systems and stream buffers around Game Creek.

Although it is too soon to assess the final stormwater plan until the development has reached a finer design resolution, the proponents’ general preference to rapidly route stormwater to receiving streams without onsite treatment or infiltration is highly worrisome. We hope that final stormwater systems will instead be optimized to target water quality improvement prior to discharge to the Eagle River, and not solely designed around meeting hydrologic milestones for detention and runoff attenuation. We also hope that riparian protections around Game Creek will be enhanced more explicitly described in final approvals.

Stormwater

In the Drainage Report, project designers have specified a design that promotes rapid conveyance to receiving streams as the priority for stormwater systems.

“It is understood that detention will not be provided as part of the Project. The goal of this Project will be to effectively convey the drainage to Game Creek and the Eagle River prior to the peaks of those drainages reaching the Project area.”

– Wright Water Engineers Drainage Report, page 13

We find this design paradigm as currently described in the project to be conceptually deficient and socially out-of-step with the general trend being pushed in Eagle County projects towards favoring increased onsite treatment, detention, and infiltration of stormwater via Low Impact Design/Green Infrastructure techniques, rather than rapid routing of stormwater to receiving watercourses. The

overarching goal of the project's drainage design should be decreasing connected impervious areas, not increasing them.

As the wounds of Colorado's mining history and other point source pollution issues in mountain towns have been addressed over time, urban runoff has moved forward to become a central driver of water quality degradation. Urban and suburban runoff, in addition to delivering pollutants to receiving waters, cause physical changes to surface waters as a result of the volume and energy of stormwater discharges. Further, scientific literature implicates common pollutants in urban runoff from impervious surfaces (primarily roads and highways, parking lots and roofs) as a key factor in water quality degradation (Schueler2003).¹ "Urban Stream Syndrome" is a term used to describe the consistently observed ecological degradation of streams draining urban lands and generally includes the following symptoms: riparian buffer degradation, water chemistry changes, temperature changes, a 'flashier' runoff hydrograph, altered base flows, and instream habitat alterations.²

While it is understandable that this project does not wish to be responsible for water quality treatment and infiltration of stormwater originating from large hillslopes northeast of Taylor Street (i.e., basins OS1 – OS7 described in the Drainage Report), the project should absolutely be responsible for enhanced stormwater treatment for runoff originating in basins S4, S2, and the lower portions of S1 (A3-5 and B1-15 in the Proposed Condition Drainage Map). It is these basins that will be subject to the large increases in impervious surface area and associated new pollutant loading from urban residential land use practices. It should no longer be considered acceptable in planning and design to directly route polluted runoff to receiving streams from developed areas. Decreasing, not increasing, the amount of directly connected impervious surfaces should be a primary design paradigm for the project. Implementing these concepts may require dedication of significantly more aerial coverage within the developable project space than the proponents have contemplated within their current design. On the other hand, failing to implement these concepts may result in very significant future monetary and social costs to Town of Minturn and the greater community in the event of water quality degradation in receiving streams down the line. Although ERWC recognizes that neither of these streams are in entirely pristine conditions within town boundaries, lower Game Creek and the Eagle River in Minturn should not be viewed merely as convenient effluent endpoints for untreated stormwater runoff from new developments. Taken in sum, new projects currently underway or being contemplated in Maloit Park, the Martin Creek area, North Minturn/Taylor Street, and Dowd Junction represent a significant transformation of pervious surfaces to urban/impervious surfaces in the valley, and the potential for cumulative effects to the Eagle River and its tributaries should not be underestimated.

Within the last decade in Vail and Avon, adverse water quality impacts to aquatic life have been identified and increasingly linked to near-stream suburban and urban development, increases in near-stream impervious areas, and lack of functional riparian buffer.³ Gore Creek and the urbanized portions of small tributaries like Red Sandstone Creek were placed on the state's 303(d) of impaired waters. The Town of Vail is currently investing several million dollars in attempted corrective actions including reclamation of riparian buffer right-of-ways, restoration of degraded riparian vegetation, and enhanced stormwater treatment systems. Partner organizations like ERWC and Eagle River Water & Sanitation District (ERWSD) have invested significant time and resources in addressing these issues as well. It would be a short-sighted loss to inflict similar impacts to Game Creek and the Eagle River in Minturn, when the knowledge and regulatory tools and opportunities already exist to proactively avoid this type of

¹ Schueler, T., 2003. Center for Watershed Protection. Impacts of Impervious Cover on Aquatic Systems.

² Walsh, C. J., Roy, A., Feminella, J., Cottingham, P., Groffman, P., Raymond, M., 2005. The urban stream syndrome: current knowledge and the search for a cure. The North American Benthological Society.

³ Leonard Rice Engineers. 2013. Gore Creek Water Quality Improvement Plan. Report prepared for Eagle River Watershed Urban Runoff Group.

water quality issue. Retrofitting water quality improvements and riparian protections in the future to address regulatory water quality impairments is very expensive and can be avoided. In terms of stream and river protection, the adage ‘an ounce of prevention buys a pound of cure’ is highly applicable.

ERWC recognizes that just beyond the project boundary, Game Creek was long ago covered over by the railroad company and what used to be a lively natural stream confluence is now represented by several hundred feet of steel pipe. At some point, lower Game Creek could be fully daylighted and no longer sit as the forgotten barrier to aquatic organism passage that it currently is. In keeping with this vision, it is better to push for the best possible stream-friendly stormwater systems in the new neighborhood, so that if opportunities arise in the future to reconnect the lower creek, the community is already well-positioned to take advantage of them and not further hamstrung by non-treated stormwater issues tied to the Minturn North development.

Alluvial Fan Geomorphology and Flood Hazard/Fluvial Hazard Risk

The north portion of the project area straddling the mouth of Game Creek canyon lays atop an alluvial fan formation. Alluvial fans are fluvial geomorphological features that form when steep streams suddenly decrease in slope at valley mouths and the stream water no longer has the ability to carry the sediment load accrued from erosion and mass wasting in the upper watershed. Prior to interference and hardening of watercourses during western settlement, streams on alluvial fans typically and regularly moved their channels back and forth across these features on a relative short-time scale as their sediment transport capacity suddenly decreased from confined upstream reaches and the sediment load is deposited on the lower-gradient fan, causing channel fill and lateral movement.

The fan feature, which is a distributory stream channel type, is clearly identifiable in the high-resolution topographic survey completed for the project and included in the ‘Existing Conditions Drainage Map.’ In this context, we believe the application errs in describing the north portion of the site as ‘minimal flood hazard’. Several relict/inactive paleochannels appear present in the surface topography on this map, indicative of shifting outflow channels in the relative recent geologic past. Although Game Creek has been in its current location since at least 1960 (based on review of aerial photographs available from USGS Earth Explorer web application) and likely longer since the railroad construction circa ~1887, this is a relatively short time period for inferring stream channel stability. The project proponents have also proposed an additional culvert stream crossing for Icehouse Road. In a very high flow event, culvert crossings are much more likely than bridges to become plugged either with sediment debris or woody material, raising flood heights far beyond those estimated by clearwater inundation models like HECRAS, or triggering an avulsion event into the neighborhood.

Traditional flood hazard analyses that consider only flood inundation elevations from clearwater flows may greatly underestimate the risks for channel avulsion and non-clearwater flow events such as sediment or debris flows to rapidly shift a water course on fan features, triggering large damages. Although alluvial fans do not have a wide floodplain like a traditional valley-bottom river, they should not be considered free of stream-related hazard due to their relatively high risk for channel avulsions. Increasing amounts of flood-related damage and financial loss to human developments located outside of traditional FEMA flood hazard zones in recent years have prompted the Colorado Water Conservation Board (CWCB) to issue a mapping protocol and guidance/education to communities about fluvial hazard zones.⁴ These materials, in conjunction with further guidance from FEMA, suggest that channel avulsion hazards and non-traditional flood risk on features like alluvial fans should not be treated lightly.⁵ CWCB staff has suggested in addition to municipalities considering more stringent zoning and planning in these areas, that

⁴ <https://www.coloradofhz.com/about>

⁵ FEMA. 2016. Guidance for Flood Risk Analysis and Mapping: Alluvial Fans. Guidance Document #75.

it may be highly appropriate to encourage residents in fluvial hazard zones to purchase flood insurance, *even when they are not in the traditionally mapped Special Flood Hazard Zone* (i.e., not in the 100-year floodplain).

Riparian Buffers

By far the simplest, most robust, and most cost-effective method to protect water-resource related community values like water quality, instream aquatic life, flood attenuation and protection, and animal habitat, is to provide strong, enforceable protections and setbacks for riparian corridors on our valley's streams. The PUD application specifies future creation of a Riparian Corridor Plan to protect aquatic and terrestrial vegetation resources in the Game Creek riparian zone, but we found few additional details available as to the scope and intent of this item. We believe the application can be strengthened by increasing riparian buffer widths and providing stronger specific language on riparian protections, as well as removing the Icehouse Road culvert crossing from the plan.

Minturn Town Code Appendix B, Section II article C describes setbacks guidelines for water bodies including the Eagle River as well as tributary creeks and wetlands, and generally encourages setbacks to be conformant with water resource protection goals and objectives outlined in the Eagle River Watershed Plan. Unfortunately, the code does not further-identify or mention specific actual distances that target protection of water quality or habitat based on best-available science. For comparison elsewhere in the valley, Eagle County currently specifies a 75' setback from surface waters. Town of Eagle specifies a 50' setback, and may revisit city code in the future to increase this distance. Town of Vail currently promotes a tiered approach, with larger setbacks on the mainstem of Gore Creek and somewhat smaller setbacks on tributary streams. Vail's planning guidance recommends a 30' setback from stream center on smaller tributary streams, but in the near future they may consider adopting a 10' minimum prohibition of clearing or disturbance to riparian vegetation from the stream's ordinary high-water mark (defined by the 2-year return flow elevation) plus an additional 25' setback for buildings.

In general, the vague character of Minturn's current code makes it comparatively deficient to other local peer governments in terms of tangible stream protections and could benefit from updates that are more reflective of current scientific water quality guidance. Because the PUD process provides municipalities with a degree of flexibility in variances to code, opportunities exist to specify designs that meet *or exceed* current town code. This provides Town of Minturn with a suitable opportunity to require more-stringent water quality protections than existing ordinance language might require for Minturn North.

Based on estimates from the application's Environmental Impact Report Figure 2 ('Site Plan') the current stream buffer on Game Creek appears to be approximately 25' on either side of the creek centerline. Depending on the additional provisions governing landscaping and building envelopes on the adjacent lot and the parking areas and community park, this may be an inadequate distance both to protect water quality and to preserve native streamside vegetation communities. We recommend increasing this distance and providing enforceable guidance for riparian vegetation protection to prevent encroachment by streamside landowners or park users. This will ensure that Game Creek's riparian corridor continues to preserve its existing functions of stormwater pollutant attenuation, flood shear stress dissipation and bank stabilization, and habitat and movement corridors for terrestrial and semi-aquatic animal species. This issue is likely to impact Lots 080, 086, 087, 091, Icehouse Road, and the Lot A-East Park and Lot-A West trailhead parking.

Within a riparian setback, no clearing, alteration, removal, or disturbance of native vegetation should be allowed, especially the current existing woody *Populus-Salix* (willow-cottonwood) communities. It is further recommended that these setback corridors are maintained as fully undevelopable right-of-ways and ownership is transferred either directly to the town as a condition of project approval, or maintained

as undevelopable open space in perpetuity within the subdivision HOA legal entity. Use of landscaping chemicals including pesticides and herbicides should be prohibited at streamside locations and limited on the edges of the buffer. Non-native plantings and turf grasses should be prohibited as well. This protects both the habitat value provided by the vegetation, as well as the flood attenuation and water quality-protective benefits of the buffer. Disturbance or encroachment for water, sewage, or transportation infrastructure should be minimized or avoided whenever possible. Even within an undeveloped setback, the incursion of soft surface trails, pedestrian access, pets, etc., will likely permanently diminish the areas' values for terrestrial and aquatic-dependent wildlife. ERWC recognizes that within municipal areas, protecting water quality and realizing socially desirable values like stream access will sometimes outweigh additional aquatic-dependent values like wildlife.

The biological assessment and wetlands mapping identified 0.36 acres of wetland within the project site adjacent to Game Creek and generally specified prohibition of development within this zone as the primary mitigation strategy. The proposed Icehouse Road crossing will incur some level of wetlands encroachment and filling, for which the proponents have identified purchase of credits in a wetlands bank as the preferred mitigation route. It should be noted that no mitigation banks exist in the Eagle River watershed, therefore purchased mitigation credits will accrue out-of-basin and provide no ecological or social benefits locally to the Eagle River watershed generally or in Minturn specifically. Additionally, banking systems sometimes fail to produce functional benefits equal to the loss of the existing naturally-functioning wetlands they replace. We question the need generally for access to the parcels north of Game Creek by an additional road crossing closely parallel to the existing County Road. The proposed cul-de-sac location and design for the larger 'estate' lots north of the creek could be reconfigured to access the County Road directly and forgo the need for incursion to the existing stream channel, wetlands, and riparian buffer.

If a separate access to the north lots is desirable by the town and a new stream crossing for the project becomes a forgone conclusion, we believe the culvert design should be discarded in exchange for a bridge that spans either the full width of the 100-year flow delineated by the engineering analysis, or the full width of the mapped wetland corridor and riparian vegetation community, whichever distance is greater. In addition to providing a much higher level of ecological protection of the Game Creek corridor than the proposed culvert, this will also provide stronger protections against a debris blockage during high flow events that may cause channel avulsion or direct flood flows into the nearby residential parcels and will cleanly avoid the significant aquatic organism passage (AOP) problems posed by the culvert. Based on rough estimates from the provided engineering drawings, this span is likely to be in the range of 30-40 feet. For the same set of reasons (ecological enhancement/AOP, sediment transport, and increased flood clearance), we strongly recommend the town require replacement of the existing County Road culvert with a free span bridge at that location as well. It is also worth noting that the currently estimated capacity of the County Road culvert and the steel pipe under the railroad are both well below the 100-year return period storm flow estimate provided in this application for Game Creek, meaning that even without the infrastructure changes proposed by this project, the County Road crossing and lower culvert under the railroad property is currently at high failure risk during flood flows.

Additional water quality monitoring for streams above/below project site boundaries

Eagle County and other municipalities have more recently begin to implement water quality monitoring requirements for many new developments in the region in order to transparently and publicly identify and track potential water quality impacts from continuing urbanization. Implementing stream monitoring locations above and below the developments provides bracketing of project impacts and the ability to separate out background influences on water quality from impacts specific to the project. We recommend Minturn consider adding a stream monitoring requirement to the project approval that specifies sufficient funding for field data collection, lab analytics, and public reporting. Monitoring should seek to establish

baseline conditions prior-to and during project build-out, and for at least five years after final project completion. Data collection and analysis should follow an approved QA/QC plan and be archived in a public-facing long-term repository such as the CDSN AWQMS database or the EPA/USGS Water Quality Portal. If specific impacts such as declines in aquatic life index scores or other water quality metrics related to urban runoff are identified and reasonably tied to the project, sufficient contractual and financial obligations should be placed on the developers as project approval requirements in order to require construction of additional water quality improvement BMPs onsite at their expense.

Closing

Thank you for providing the opportunity to comment on this project. We look forward to the additional level of detail in any continuing development plans to better-understand the full level of aquatic impacts that may arise as Eagle continues to grow along the river corridor. If you have additional questions on our comments or require additional information, please contact ERWC at your convenience.

Sincerely,

Holly Loff
Executive Director
970-827-5406
loff@erwc.org

Bill Hoblitzell
Water Resources Program advisory staff
970-471-6216

Madison Harris

From: Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>
Sent: Friday, April 28, 2023 12:10 PM
To: Madison Harris
Subject: RE: Minturn North PUD Referral
Attachments: Minturn North comments 4-28-23.docx; utility site plan - with comments.pdf

Hi Maddison-

After I sent this review to you, Phil Harris from the Minturn North project sent me a new site plan. (dated 3.20.23) He is making progress with meeting XCEL standards, but there are still a few corrections to be made.

I have attached the latest comments and concerns to this email. My main concerns are still:

- 1) There needs to be a point of connection (transformer or pedestal on each lot) .
- 2) The electric equipment needs to be more on the property line in order to serve two lots
- 3) The electric equipment needs to be at least 5' from water / sewer taps – 10' is preferred. Does the town have a specific clearance requirement between water / sewer taps and electric equipment?
- 4) Distribution must be along the front of the lots. – no rear lot distribution. I think Silver Star Trail is the only concern at this point.
- 5) The CTV can not go in the electric Feeder trench. – it can go in the electric distribution / gas trench.

I still I did not have building out lines or elevation plans. It is important to note:

- 1) There are strict standards in regards to transformer clearances. Maintaining a 20' separation from transformer to building, will meet all clearance requirements regarding transformers and houses. Please refer to the blue book for specific guidance.
- 2) Meters can not be under a drip edge of the roof line. They must be in a safe, easily accessible location, on the front third of the house. Please refer to the "blue book" for specific guidance.

Please fee free to reach out at any time with any questions or concerns,

Ryan Selchert
Xcel Energy
970.390.5628

From: Selchert, Ryan J
Sent: Wednesday, April 26, 2023 9:44 AM
To: Madison Harris <planner1@minturn.org>
Subject: RE: Minturn North PUD Referral

Hi Madison-

I have completed the review for Minturn North PUD. Please see the referral notes and Utility site plan comments attached.

There are a quite a few corrections that will need to be made. Please let me know if you would like to set up a meeting to go over the XCEL comments and concerns.

Through out the review I made a comment that 10' separation is required between gas / electric trench and sewer / water. That is a typical clearance that towns / and county's request from their sewer and water. While 10' is still recommended, if Minturn is ok with sewer and water being closer to the utility trench, I am happy to reconsider the 10' requirement.

A few quick comments: (please see attached "referral notes" for a full list of comments)

- 1) the gas and electric trench can not be in ROW and need to be within 10' easement.
- 2) There needs to be a point of connection (transformer or pedestal on each lot)
- 3) There needs to be gas main on each side of the road.
- 4) Proper clearances need to be met from the electric and gas trench.
- 5) Distribution must be along the front of the lots. – no rear lot distribution.

I did not see building out lines or elevation plans. It is important to note:

- 1) There are strict standards in regards to transformer clearances. Maintaining a 20' separation from transformer to building, will meet all clearance requirements regarding transformers and houses. Please refer to the blue book for specific guidance.
- 2) Meters can not be under a drip edge of the roof line. They must be in a safe, easily accessible location, on the front third of the house. Please refer to the "blue book" for specific guidance.

Please feel free to reach out at any time with any questions or concerns,

Ryan Selchert
Xcel Energy
970.390.5628

From: Madison Harris <planner1@minturn.org>
Sent: Tuesday, April 18, 2023 1:56 PM
To: Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>
Subject: RE: Minturn North PUD Referral

EXTERNAL - STOP & THINK before opening links and attachments.

Hi Ryan,

Both the zip folder and the pdfs are pretty large. Do you mind trying this sharepoint link to see if maybe that works? [Minturn North PUD Referral](#)

Thanks,
Madison

Madison Harris
Planner I
Town of Minturn
Planner1@minturn.org
970-827-5645 Ext. 2

From: Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>
Sent: Tuesday, April 18, 2023 1:31 PM

To: Madison Harris <planner1@minturn.org>

Subject: RE: Minturn North PUD Referral

Hi Madison-

Is there a way you can send me the proposal in a PDF form or Zip drive? I can not access the link on XCEL computers.

Thank you,

Ryan Selchert
Xcel Energy
970.390.5628

From: Madison Harris <planner1@minturn.org>

Sent: Tuesday, April 18, 2023 1:12 PM

To: Flenniken, Kelly <Kelly.Flenniken@xcelenergy.com>; McCloud, Brad D <Brad.D.McCloud@xcelenergy.com>;
britt.mace@xcelenergy.com; Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>

Subject: Minturn North PUD Referral

EXTERNAL - STOP & THINK before opening links and attachments.

Dear Ms. Flenniken, Mr. McCloud, Mr. Selchert, and Ms. Mace,

You are receiving this referral from the Town of Minturn as part of the Town's review of the Minturn North Planned Unit Development proposal. This is an updated application from the version you last viewed in 2021. The referral process is intended to allow our community partners and stakeholders the opportunity to understand the proposal, to assess potential impacts and mitigation efforts, and to provide comment to the Town prior to the plans being reviewed by the Town of Minturn Planning Commission and Town Council. We welcome your comments and will make ourselves available to meet with you if you have questions. [Here](#) is the link to download the files which expires in 7 days.

Please provide comments to Madison Harris, Planner I at planner1@minturn.org by May 16, 2023 at 5:00 pm.

Thank you for taking the time to review this proposal.

Sincerely,

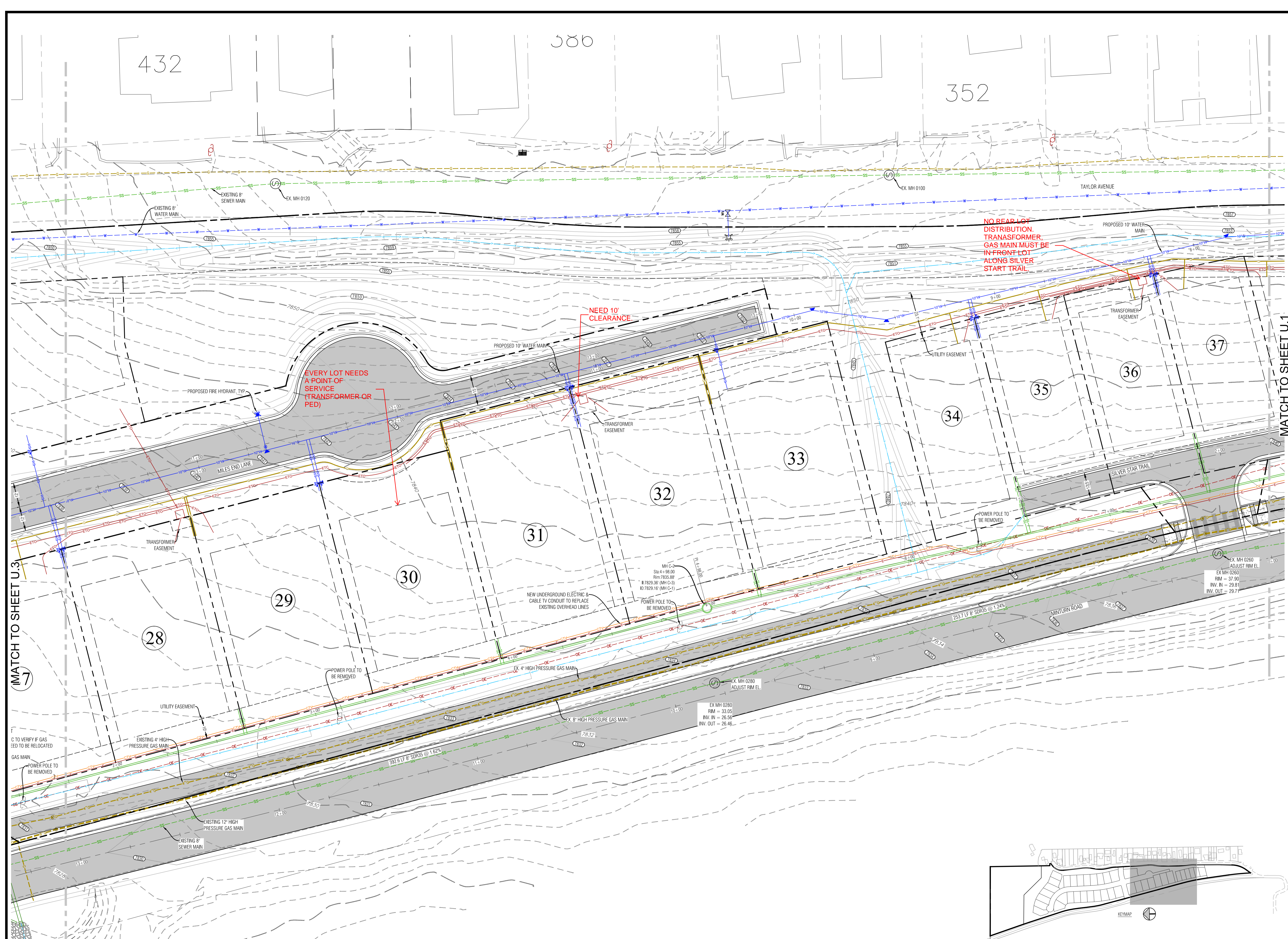
Madison Harris

Planner I

Town of Minturn

Planner1@minturn.org

970-827-5645 Ext. 2



Boundaries Unlimited
 923 Cooper Ave.
 Glenwood Springs,
 (T) 970.945.3
 www.bu-inc.

Subsurface Utility Engineer
 Required Project: **TBD**
 If "Yes", SUE Certification by
 Firm: **TBD**
 Job #: **TBD**
 Date: **TBD**

Engineer or Surveyor

NOT FOR CONSTRUCTION

Client Information
MINTURN NORTH LAND
 PO BOX 963
 EDWARDS, CO 80624
 970 926-1722

Scale: 1" = 20'

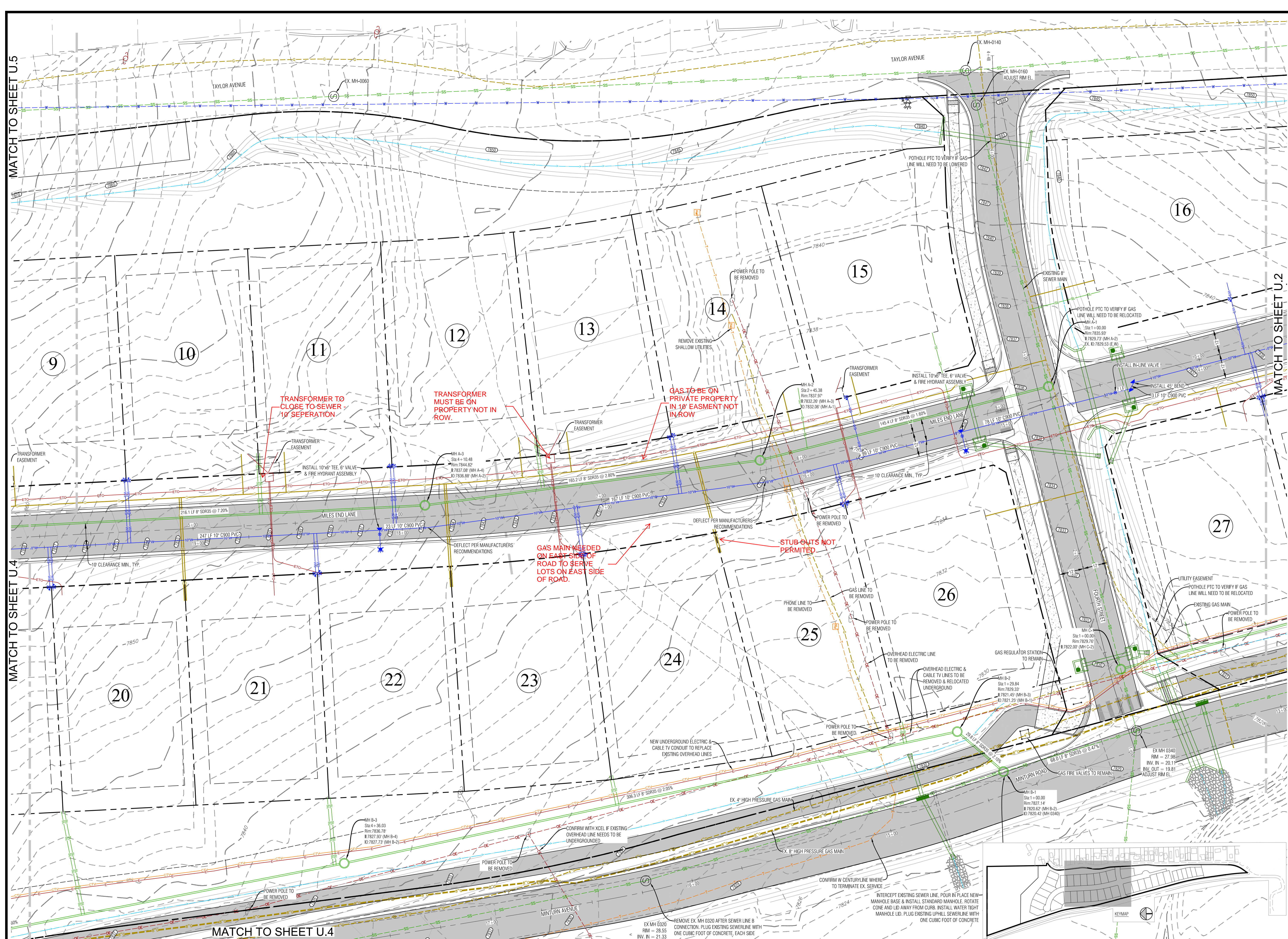
811
 Know what's below
 Call before you dig

TOWN OF MINTURN, COLORADO
Minturn North P.U.D.

No.	Date	Revision
1		
2		
3		
4		
5		

PROJECT NO. **22036**
 Designer: **PAH**
 RWI: **PAH**
 Date: **12/25/22**

By: _____
 Date: _____



MATCH TO SHEET U.5

MATCH TO SHEET U.4

MATCH TO SHEET U.4

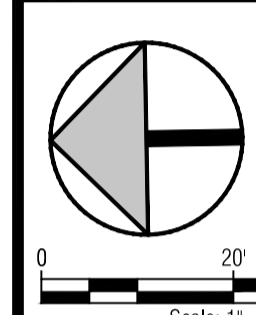
MATCH TO SHEET U.2

Boundaries Ultimate
 923 Cooper Ave.
 Glenwood Springs,
 (T) 970.945.3
 www.bu-inc.

Subsurface Utility Engineer
 Required Project: TBD
 If "Yes", SUE Certification by:
 Firm: TBD
 Job #: TBD
 Date: TBD



Client Information
 MINTURN NORTH LAND
 PO BOX 263
 EDWARDS, CO 81632
 970 926-172

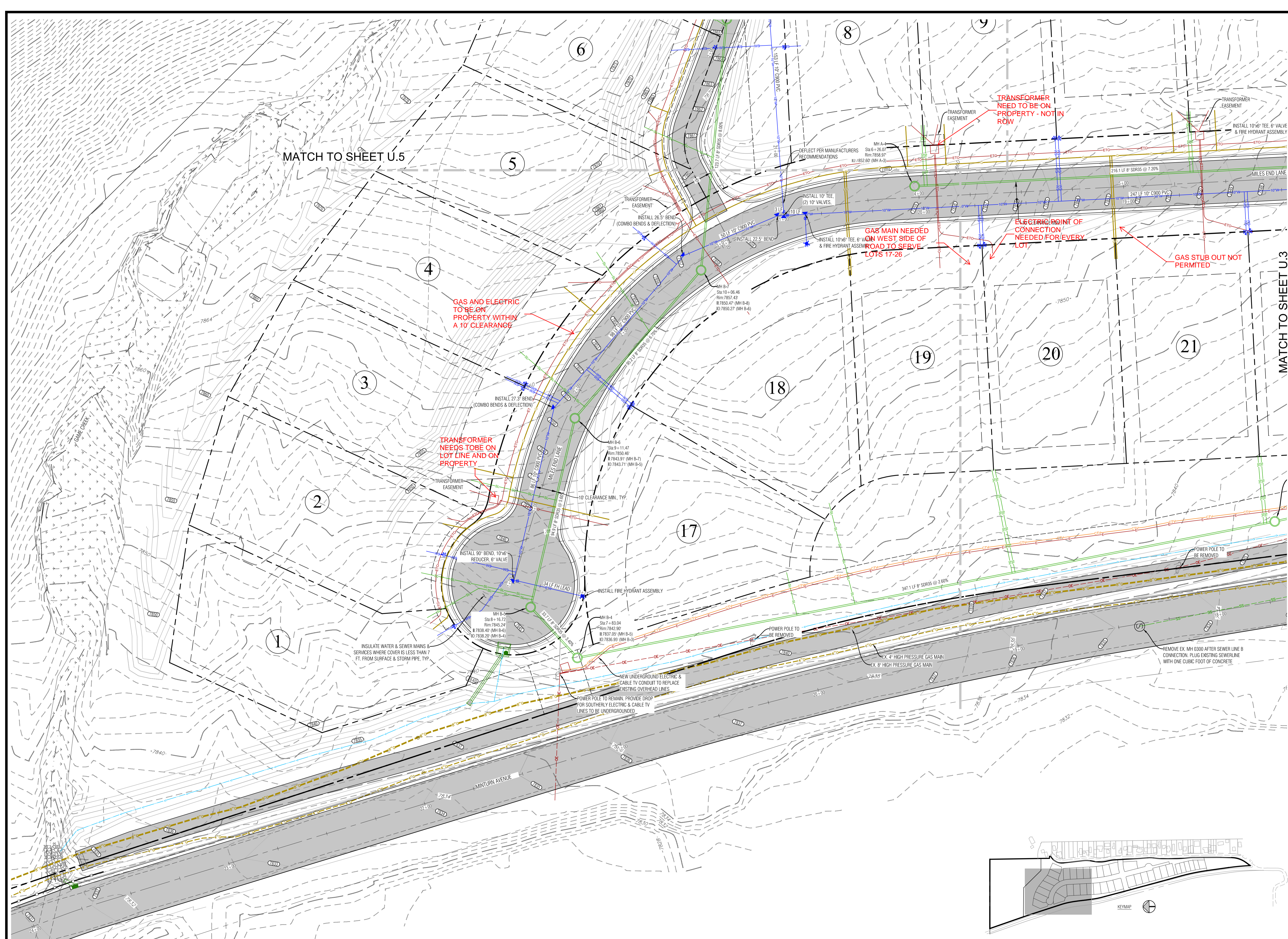


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TOWN OF MINTURN, COLORADO
Minturn North P.U.D.

No.	Date	Revision
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2		
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5		

PROJECT NO. 22036
 Designer: PAH
 Checker: BWW
 Date: 12/25/22
 F:\22036\22036 c-utility.dwg



MATCH TO SHEET U.5

MATCH TO SHEET U.3

GAS AND ELECTRIC TO BE ON PROPERTY WITHIN A 10' CLEARANCE

TRANSFORMER NEEDS TO BE ON LOT LINE AND ON PROPERTY

TRANSFORMER NEED TO BE ON PROPERTY - NOT IN ROW

GAS MAIN NEEDED ON WEST SIDE OF ROAD TO SERVE LOTS 17-26

ELECTRIC POINT OF CONNECTION NEEDED FOR EVERY LOT

GAS STUB OUT NOT PERMITTED

INSULATE WATER & SEWER MAINS & SERVICES WHERE COVER IS LESS THAN 7 FT. FROM SURFACE & STORM PIPE, TYP.

NEW UNDERGROUND ELECTRIC & CABLE TV CONDUIT TO REPLACE EXISTING OVERHEAD LINES

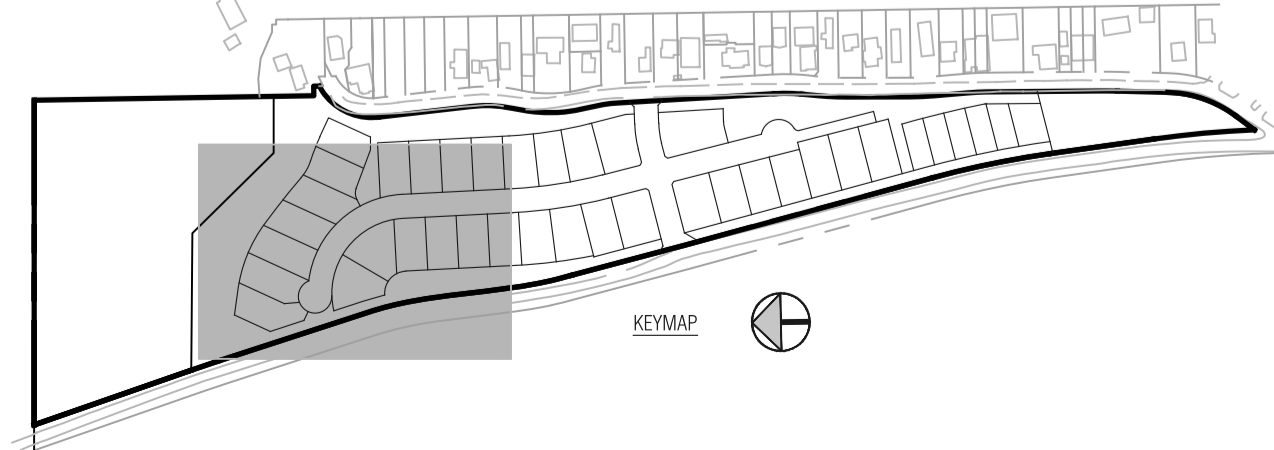
POWER POLE TO REMAIN. PROVIDE DROP FOR SOUTHERLY ELECTRIC & CABLE TV LINES TO BE UNDERGROUND

POWER POLE TO BE REMOVED

EX. 4" HIGH PRESSURE GAS MAIN

EX. 8" HIGH PRESSURE GAS MAIN

REMOVE EX. MH 0300 AFTER SEWER LINE B CONNECTION. PLUG EXISTING SEWERLINE WITH ONE CUBIC FOOT OF CONCRETE



Boundaries Unlimited
923 Cooper Ave.
Glenwood Springs,
CO 81601
(T) 970.945.3333
www.bu-inc.

Subsurface Utility Engineering
Required Project: TBD
If "Yes", SUE Certification by:
Firm: TBD
Job #: TBD
Date: TBD

Engineer of Survey
NOT FOR CONSTRUCTION REVIEW

Client Information
MINTURN NORTH LAND
PO BOX 963
EDWARDS, CO 81632
970 926-1722

Scale: 1" = 20'
811
Know what's below
Call before you dig

TOWN OF MINTURN, COLORADO
Minturn North P.U.D.

By	Date	Revision

PROJECT NO. 22036
Designer: PAH
Checker: RWJ
Date: 12/25/22
F:\22036\22036 c-utility.dwg

Minturn North comments – 4/28/23 – based on plans dated 3.20.2023

- 1) CTV can not go in same trench as 600 AMP electric feeder. CTV can go in 200 Amp electric distribution trench .
- 2) Electric distribution for Silver Star trail needs to be in front of the lots – no rear lot distribution.
- 3) Each lot needs a point of distribution for electric service (ped or transformer)
- 4) Ped transformer needs to be on property line in order to serve two lots – W / sewer taps need to have 5' clearance 10' preferred.
- 5) XCEL does not allow “gas stub outs”

Minturn North XCEL comments 4-26-23

- 1) The 600 AMP electric feeder, depicted on map, must maintain a 5' separation from All other utilities. Must maintain 10' separation from sewer and water. Feeder must be in sole trench.
- 2) The 200-amp electric / gas trench needs to maintain 10' separation from water / sewer
- 3) On lots 34 – 39, it appears the intent is to run gas services from the rear lot. The electric / gas services must be fed from front lot distribution. The distribution must be along silver Star Trail.
- 4) Every lot will need a point of connection for electric service. (Transformer or pedestal) Point of connection can be on lot line and serve 2 lots.
- 5) Transformers must have 10' clearance from water sewer taps.
- 6) Gas main to be on property within 10' easement not in ROW
- 7) Gas main to run along east and west side of miles end lane. (Double main)
- 8) Gas “stub outs” are not allowed.
- 9) Lots 17– 26 need an electric point of connection. (Transformer or pedestal)
- 10) Transformers need to be on lot line, to serve 2 lots.

Bill Hoblitzell and Kristin Thomas

262 Taylor Street

June 21, 2023

Re: Public comment to Minturn Town Council regarding events and processes surrounding the Minturn North PUD application

Hello Council and Staff,

I am here once again to discuss Minturn North.

What began earlier this year as a disheartened feeling regarding the progression of circumstances around this development application has now, based on recent information and review of the PUD plan, moved to deepening distrust, frustration, and anger.

As you are aware, the project last year changed hands from the Comerford/Sparhawk vehicle and will next week, after close to one year, finally receive the first public oversight and review of the new project. The original project proposed a development that attempted to be openly and honestly responsive to Minturn community values regarding physical development types and patterns in our small town. Although it was progressing iteratively through successive rounds of public feedback, that project's funders pulled support, ending its journey in local hands. It is apparent in hindsight or post mortem analysis that it mostly failed under its own weight, as the 190 and then approximately 120 units that were proposed were simply too much to be accepted by the community on that site.

In the intervening time, the project rights were purchased by Rick Hermes / Resort Concepts. Subsequently, this developer substantially altered the scope and character beyond recognition, eventually submitting back to planning staff something that is completely unrecognizable in concept and character from the earlier project.

Although it has the same name and purports to merely be responsive and accommodating to the issues identified by town residents with the earlier project, it is not. It is an entirely different project. Anyone paying attention can clearly see this. Those who claim otherwise, I would declare at this juncture, are blind, uninformed on details, or potentially, being willingly disingenuous.

The new project should not have proceeded to a later and higher level design phase (it has now proceeded to approximately 80% design or whatever planning and engineering staff would wish to call the level) without first being brought back before the public at a very high concept level (i.e., 10-20% design) for initial and early public input. Since this did not happen, the developer, in collaboration with town planning staff, has been able to glide through our planning process with almost zero public feedback or oversight for almost a calendar year. Since the new project was allowed to proceed under the earlier progress approvals of the earlier project, the PUD application has technically remained open throughout and town residents have been prevented from direct and public discourse with town leadership when it was needed most.

Town staff's decision to consider this the 'same' project placed a de facto community gag order on both community leadership and community residents for nearly a year, a time when we as a community more than ever needed to conduct a post-mortem examination on the original project. Although it collapsed, the first project spoke directly and positively in numerous ways to previously-identified community goals and intrinsic community values articulated in our collective master planning documents including the 2009 Community Plan and Minturn 2030 Future Landuse Map, and our Strategic Housing Plan.

Despite its attempt to be a project that spoke directly to Minturn's desire for continued modestly-sized residential development laid out 'as a real town', and its attempts to create the conditions for home development that avoided the high-end real estate tendencies of the rest of the Eagle County by providing potential options for first time home buyers as well as existing local families, targeting working-class sensibilities in size, and acknowledging Minturn sensibilities in allowing for individual aesthetics and style options, it failed.

For those of us who attended all the meetings, it is obvious there is no single 'one' reason, but quite a combination—too many units overall, potentially drawn out building timelines, safety issues with existing overloaded road infrastructure, and later, geotechnical acrobatics in the grading plans. In particular, a vocal opposition from Taylor St residents voiced overwhelming objections to several aspects of the proposal. I live on Taylor Street as well, and I recognize that Taylor Street in particular experiences the impacts from any railroad development much more so than other residents. Many of Taylor Street's concerns were genuine and important, while others may have been less so. Despite this, I still do not think this a 'Taylor Street *only*' issue or decision. I think all residents of town have legitimate hopes, concerns, and valid input to provide on major town decisions, and many components of that proposal were highly aligned with previously articulated Minturn community values and plans.

The current project speaks to few or none of those values.

The new development has been able to exploit legitimate (but solvable!) resident concerns about total unit numbers and density, Taylor Street parking and snow storage impacts, traffic and safety, and other issues. It has exploited these as social cover to swap the previous development plans instead for a semi-private, high-end resort style suburb development. In allowing the developer to do so, residents, staff and council are now also allowing him to wipe away and ignore all the *good* aspects of the original Minturn North proposal

He has thrown the baby out with the bathwater, and we are helping him do it.

Relative affordability of homes has become irrelevant.

Minturn's repeatedly stated community desire for authenticity and individuality of development is long-forgotten or being willfully ignored.

Our community's proportion of full time owner-occupied residences is currently among the highest in the valley. The stated community desire to avoid decisions that drive this statistic in the wrong direction, towards that of our neighboring resort communities, is being kicked squarely in the teeth.

Legal agreements to cede a significant portion of town land use authority from our existing municipal government forever into the hands of a private development corporation specializing in high end

vacation real estate is being slid across the table right under our faces, and everyone seems to be trying their hardest not to look down.

The proposed covenants demanded by the developer for private streets, enforceable architectural controls, and ongoing contractual requirements to use their own staff for all Design Review will cover nearly 60% of the Hollywood Heights land area, and over 10% of the total households in Minturn.

All of our currently remaining water taps are being demanded to provide two taps per lot for a mere 33 residences, even on lots with houses proposed well-under the 3000 sqft SFE equivalency ratio for a single tap requirement.

In my reading of the PUD details, it also appears to explicitly state that all remaining unused taps previously awarded by the town will still be owned by the private neighborhood—whether are used for a completed house or not.

It is difficult to identify a public need or reason for this voracious thirst beyond the developer's private need to ensure that he maintains enough water permanently tied to the development to be able to maintain and market the potential for increasing home size in future remodels or rebuilds.

In addition to ensuring the potential for prospective wealthy buyers to build homes that are greatly out of character in Minturn, a significant portion of our town's remaining human drinking water supply is being pledged to outdoor irrigation--over a football field and a half of it by my calculation--to ensure the individual homes on oversized lots in the development remains as perpetually green and flowery as the peer communities in Beaver Creek, Arrowhead and Edwards that this project so clearly seeks to emulate.

This is a raw deal for the community, and there is no need to point out which of the two parties is on the receiving end.

Considering these circumstances, I am requesting the following actions from council at the earliest possible time, preferably tonight at the June 21, 2023 meeting:

- 1) These events have exposed a clear flaw in our planning processes and code, in that there are apparently no off-ramps within the process that provide opportunity for council and staff to identify points where and when a project significantly changes and revert it back to a basic high- or concept-level public review and design approval before proceeding towards a more complete design level. 'High level community consensus' for any PUD layout should include at a minimum street layout, general lot and residence size, and community governance structure. Once these are agreed upon by the community at a conceptual level, then and only then, should the project proceed towards higher design levels.

Such criteria for identifying project change and triggering a new concept-level public review might include: change in ownership, major change in design or character, significant change in size (either up or down), change in operational/governance characteristics, or other criteria not identified here. Should these triggering criteria occur, it is time for staff to take an application back to the people and the elected leadership before proceeding further. If such 'offramps' or process decision points existed already, we would not be once again heading into what may well become yet another contentious community fight.

Please explicitly direct legal and planning staff at your earliest reasonable time to review our town's planning processes and develop these criteria in a reasonable time frame.

If such offramps or decision points actually already exist in our code, please direct staff to provide a public report of which parts of our code are responsive to this need, and to provide a publicly-available and code-referencing narrative account of their reasoning and how they came to the decision that Resort Concepts could proceed under previous project approvals without review or public input for the last year.

- 2) I also request that town council direct staff to immediately prepare and publicly publish a financial update detailing and itemizing the total cost of planning and legal staff time that has been spent reviewing Minturn North matters since the time the project ownership changed hands last year, with costs to Town of Minturn reported in both hours and dollars
- 3) It has been related to me second hand or anecdotally that town staff has apparently stated (or perhaps bragged?) that Minturn North P&Z review will either '*get done in one P&Z meeting*', or '*will not take more than one meeting*', or something similar to that effect. It is beyond difficult to describe the level of deep frustration, anger, and now distrust, of our planning staff that arises in hearing about a potential or even just rumored intention of staff to rush what is likely the most significant development project downtown Minturn will face for a decade through our review process—presumably to avoid prolonged public review and discourse, and avoid the potential conflict or opposition to their planning decisions that they know or fear may await.

In response, I request that council provide explicit and clear direction to staff immediately, during tonight's council meeting, that the P&Z process will not be rushed, and will be provided as much hearing time at both the P&Z level and the council level (should it receive P&Z recommendation) as is necessary to honor our community resident's needs for investigation, feedback, input, and dialogue with both our elected and appointed leadership committees.

- 4) In light of the effective year-long gag order that has been placed over this new project in terms of public oversight, and either the perception or actual existence of staff bias towards ramming a project approval recommendation through P&Z and council, I am requesting that council remove public comment time limits for all matters related to Minturn North review and approval at both P&Z hearings and council hearings—as long as comments being provided are substantive in nature and germane to both the specific and conceptual-level community development issues that have arisen in association with this project. I request this to acknowledge that input from actual community residents is of the highest value and importance in the planning process—and not secondary or inferior to that of the project proponent—who has at this time now received dozens or likely hundreds of hours of personal time and attention from town staff in the last year. Please remove time limits immediately, beginning with the June 28th hearing, and extending for any subsequent P&Z and council meetings pertaining to Minturn North until explicitly re-instated by council.

- 5) The final request is harsh in tone, but I feel due to circumstances of the last year is now necessary. I request that council explicitly and in no uncertain terms remind planning staff where and to whom their professional obligations lay. That is: staff serves at the pleasure of council, and council serves on behalf of the residents of Minturn. Staff does not work for real estate developers, and should not be unduly spending its time and Minturn's community financial resources to potentially pave the way for a biased planning process and/or public hearings. At least within the context of Minturn North, it has sometimes become difficult to discern whether staff continues to or still desires to operate within this context.

I realize that I am making direct and strong criticism of staff actions, and I am aware of the tone and potentially controversial and divisive nature of these requests to council.

However I feel the public process and potential situation in terms of permanently marring both the physical and social character of our community has significantly moved off the rails. The avenues for alternative collaborative actions and choices surrounding Minturn North are slowly closing out on town residents, apparently via our own town staff's help.

Please consider these requests carefully, and if possible, please act on them promptly.

Regards,

Bill Hoblitzell and Kristin Thomas

Minturn Residents, 262 Taylor Street

970-471-6216

Madison Harris

From: Hannah Conoley <hconoley95@hotmail.com>
Sent: Thursday, June 22, 2023 10:14 AM
To: Madison Harris; scot@hunnplaning.com
Subject: Public Comment: Minturn North Concerns

Hello!

I am reaching out to share my concern about the Minturn North development. Regretfully, I was unable to attend the 6/21 meeting and wanted to ensure my comments and concerns were shared!

My partner and I moved to Minturn in 2020, relocating from Avon, because we were in search of a local and supportive community. In Avon, where we lived for over 7 years, we were surrounded by empty 2nd homes or short-term rentals with disrespectful visitors. Minturn, at first, provided an awesome and friendly community... full-time year-round local neighbors & kids playing in the streets. We loved the community we moved into and the small-town culture Minturn has worked so hard to protect. In the last 3 years we have seen many beloved houses around us being sold for crazy prices which has influenced the increase of 2nd homeowners and short-term rentals....which in turn has led to a steep decline in the friendly and supportive community atmosphere Minturn is known for. Now, I am more often greeted by empty and dark houses, unfriendly 2nd homeowners, rowdy short-term rental guests and the general feel in Minturn has become up-tight.

I am extremely worried about the Minturn North development and the lack of effort in gearing new developments towards locals and young people who would love to raise their families in this town (me!). Based on the information I inquired about and received from Minturn North/Resort Concepts, the prices and lot sizes seem very geared towards weekend warriors and 2nd home owners. An extremely small percentage of this development is "affordable" for our community's workforce and along with the high density plans I have viewed; this development would take away from the quality of living for "local" residents and create a neighborhood that is likely empty for significant portions of the year. Additionally, I am concerned about the creation of an HOA style neighborhood which encourages an "us vs. them" mentality within the community, as can be seen in many Avon developments and most clearly, Eagle Ranch. Lastly, the increase of water taps for the Minturn North development seems out of line with the goals of our community, such as continuing to push for water conservation and allowing older, existing homes to grow as needed for the residents.

Thank you for taking the time to read my concerns and I hope they are taken into serious consideration before council moves this project forward any further.

Sincerely,
Hannah Conoley
501 Main St. Minturn



Minturn North Planned Unit Development

Due to the size of the Minturn North PUD application, it has been converted to an Adobe Cloud link. Please either click the following link or copy and paste it into your browser's search bar.

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:a3b791d9-1f60-4a70-bfc9-a8f20aa16582>

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