



AGENDA

MEETING OF THE MINTURN PLANNING COMMISSION Minturn, CO 81645 • (970) 827-5645

The public is welcome to join in person at 302 Pine Street or using the following methods:

<https://us02web.zoom.us/j/86556612029>

Phone:

+1 651 372 8299 US

+1 301 715 8592 US

Meeting ID: 865 5661 2029

OR 302 Pine Street Council Chambers for In-Person Option

Wednesday, August 25, 2021

Executive Session – 6:00 PM

Regular Session – 6:30 PM

CHAIR – Lynn Teach

COMMISSION MEMBERS:

Jeff Armistead

Elliot Hovey

Tom Priest

Christopher Manning

Jena Skinner

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

Executive Session – 6:00pm

1. Executive Session

An Executive Session to conference for the purpose of consulting with the Town Attorney(s) under CRS 24-6-402(4)(b) for the purpose of legal advice concerning PUD procedures.

Regular Session – 6:30pm

2. Call to Order

- Roll Call
- Pledge of Allegiance

3. **Approval of Agenda**
 - Items to be Pulled or Added
 - Declaration of Conflicts of Interest
4. **Approval of Minutes**
 - August 11, 2021
5. **Public comments on items, which are NOT on the agenda (5min time limit per person)**
6. **Planning Commission Comments**

DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

7. **76 Meek Avenue – New Garage Addition Conceptual Plan Review**
Conceptual review of a garage addition at 76 Meek Avenue.

Recommendation: N/A
8. **261 Main Street – Continued Review of the Faircloth Residence Variance Request**
Continued review from July 14, 2021 of a variance request for a garage addition with a bedroom below and a dining room extension at 261 Main Street.

Recommendation: Approval with Conditions
9. **Minturn North PUD – Railroad Planned Unit Development Preliminary Plan Review**
Continued review from July 28, 2021 of a PUD Preliminary Plan.

Recommendation: Approval with Conditions

PROJECTS AND UPDATES

10. **Project Updates**
 - Community Plan Update
11. **Planning Director Report & Minor DRB Approvals by Director**
 - Appeal of the Planning Director’s Determination of Mikvah as a Club
12. **Future Meetings**
 - September 8, 2021
 - September 22, 2021
13. **Adjournment**



OFFICIAL MINUTES

MEETING OF THE MINTURN PLANNING COMMISSION Minturn, CO 81645 • (970) 827-5645

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Meeting ID: 875 6687 3957

OR 302 Pine Street Council Chambers for In-Person Option

**Wednesday, August 11, 2021
Regular Session – 6:30 PM**

CHAIR – Lynn Teach

COMMISSION MEMBERS:

Jeff Armistead

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Regular Session – 6:30pm

1. Call to Order

- Roll Call

Lynn T. called the meeting to order at 6:30 pm.

Those present at roll call: Lynn T., Elliot H., Jena S., and Jeff A.

Staff Members Present: Town Planner Scot Hunn and Planner I Madison Harris.

Note: Tom P. and Chris M. are excused absent.

- Pledge of Allegiance

2. Approval of Agenda

- Items to be Pulled or Added
Motion by Jeff A., second by Jena S., to approve the agenda as presented.
Motion passed 4-0.
Note: Tom P. and Chris M. are excused absent.
- Declaration of Conflicts of Interest
No Conflicts of Interest.

3. Approval of Minutes

- July 28, 2021
Lynn T. had a one minor correction.
Motion by Jena S., second by Jeff A., to approve the minutes of July 28, 2021 as amended. Motion passed 4-0.
Note: Tom P. and Chris M. are excused absent.

4. Public comments on items, which are NOT on the agenda (5min time limit per person)

No Public Comment.

5. Planning Commission Comments

Jena S. said that there is brunch time bingo on Friday at the Agora for the seniors.

Elliot H. said that the Affordable Art Fair at the Agora was awesome and everyone should go next year.

DESIGN REVIEW AND LAND USE PUBLIC HEARINGS

6. Dowd Lift Station 4 Replacement

Review of the Dowd Lift Station 4 Replacement.

Recommendation: Approval

Scot H. introduced the project. ERWSD needs to replace the lift station at Dowd. Staff looked at this conceptually last year. Because ERWSD is a quasi-public entity, the Town exempted them from the 1041 permitting process. It would be helpful for ERWSD to show the Planning Commission the building design, and they will have to come through the building permit process.

Jeff Schneider 489 Pine Street.

Thanked Town staff for working through everything with the District. Very important for various reasons to replace the lift station.

Jenna Beairsto, 32239 Hwy 6, Edwards, CO.

The existing lift station has reached capacity, so it will be demolished and a new one with better equipment will be constructed. Could be a net gain in parking for recreational use. There will be temporary impacts to the rec parking and the bike path during construction. Will be using solar energy to offset the energy use.

Jeff A. appreciates that ERWSD came and gave a presentation.

Lynn T. asked about the 8' chain link fence.

Jena S. asked about the construction timeline.

- Mr. Schneider said the lift station will be built before the old one is demolished. It is doubling capacity. The station has redundancy.

Public Comment was opened and closed.

Motion by Jeff A., second by Jena S., to approve the Dowd Lift Station 4 Replacement. Motion passed 4-0.

Note: Tom P. and Chris M. are excused absent.

7. 832 Main Street – Jones Residence Alteration of Approved Plans for New Single Family Residence

Review and approval of minor alterations to plans originally approved March 24, 2021.

Recommendation: Approval

Scot H. introduced the project. This is a previously approved set of plans. There was ground water encountered and so the building needed to be raised.

Michael Pukas, PO Box 288 Gypsum, CO 81637.

Due to the water table level, there needed to be changes to the depth of the foundation. Shortened the footings, reduced the basement ceiling a foot. Changed the roof pitch. No change to square footage, building coverage, lot coverage, or site grading at the surface. Having to install an underdrain system.

Jeff A. asked about whether the underdrain is daylighted or pumped.

- Mr. Pukas said that it is daylighted and located 2 feet above the 100 year floodplain.

Public Comment opened and closed.

Motion by Jeff A., second by Jena S., to approve the 832 Main Street alteration of approved plans for new single family residence. Motion passed 4-0.

Note: Tom P. and Chris M. are excused absent.

8. 151 Main Street – Conceptual Review of a Mikvah

Conceptual review of a mikvah at 151 Main Street.

Recommendation: N/A

Scot H. introduced the project. Has been speaking with the representative since December. It is a building that would be used for religious purposes. Would either continue existing commercial uses or rebuild and continue a commercial use. There is a use in the code that allows for this: “Club”. The preference of the Town is to preserve the existing historic structure on the lot. Originally going to construct it on the west side of Williams. However that didn’t turn out to be feasible. It is now being constructed on the east side (Main Street side).

Kyle Webb, 125 Eagle Crest Road, Edwards, CO 81632.

This is on behalf of Chabad Vail. It is an intricate process and is deeply meaningful for Orthodox Jews. The building only needs to be about 1000 sq. ft. Didn’t want to tear down the house, but it’s getting to the point where there might not be a choice. Will construct the Mikvah on the back of the lot, and recreate what is there on the front of the lot. Would like the input of the PC of what should be on the front. Should it be a house? A storefront to match the neighbors? Don’t need or want to maximize square footage on the lot.

Jeff A. thinks that it is commendable that they don’t have to maximize the square footage. Likes option 2 (the house) better than option 1 (storefront). Likes that it is setting back and keeping the character of the old house. This is the first redevelopment of the 100 Block.

Jena S. prefers option 2. Asked about the use of the commercial space.

- Mr. Webb said that there would be retail continued with the thought that it might become a kosher deli in the future.
- Jena S. asked about parking.
- Mr. Webb said that the use would be infrequent. Women use it once a month and the men use it in the morning. It is a destination. There will be certain months where it gets used 50-75 people per month. Minimal impact to parking.
- Jena S. asked about noise concerns.
- Mr. Webb said that it will be a sound proofed building.

Elliot H. likes that something like this is coming to Minturn. Asked about limitations to materials.

- Mr. Webb said that there is no limitations for exterior materials, but that there are for the interior.

Lynn T. prefers the second option. Pointed out that the fence is not on the property, but in CDOT ROW. Asked about the size of the retail space.

- Mr. Webb said that it will probably be larger than it is today.
- Lynn T. likes the idea of keeping green space on the front as that is one of the only spaces in downtown. People love the old Colorado feel, so anything we can

do to keep that part. Asked about the walkway between the buildings.

- Mr. Webb said that setbacks will be maintained so the walkway will be maintained.

Jena S. asked if there would be a shuttle bringing people in.

- Mr. Webb said that it is an online reservation system.

Scot H. asked about the sequencing of construction.

- Mr. Webb said there hasn't been a timeline yet, but it will most likely happen simultaneously. The concrete work has to be done first.

Jena S. said that if there was a studio above the shop, then that would be nice.

Lynn T. said that what is most important is to keep it set back, a little smaller, and if there is a peaked roof with a studio she would be fine with it. Pointed out that the cottonwood will need to be removed, but asked that something else replace it.

Kelly Toon, 531 Main Street.

Has worked with Mr. Webb in the past. Would prefer not to lose another old building. Agrees with Lynn T. People come here because we are not like the rest of the county with Old Town Charm. Pains him to see that there is no protection for old buildings. There wouldn't be enough room for a restaurant/deli. Doesn't think this is an appropriate place for a peaceful, zen experience. Would like to see more density than what has been created. Prefers Option 2. Asked if there are zoning issues.

- Scot H. said that this is allowed as a limited use in this zone district.
- Mr. Toon thinks that the owners of the property have not spent time in Town.

Public comment closed.

Lynn T. said that the important part is keeping a little part of the downtown as the downtown.

- Mr. Webb asked if there was a place to move the existing store.
- Scot H. asked if it would be structurally sound enough to move.
- Mr. Webb said that it would need a new foundation and the roof probably doesn't comply with building code.
- Jeff A. has a few ideas of where it can be moved. Will do research.
- Mr. Webb asked if there was a possibility of moving into the rear setback in order to keep the front setback/greenspace area.
- Lynn T. said that if there is a little loss on the front that would be ok.
- Mr. Webb asked if the housing component was important.
- Lynn T. said that the scale should be maintained, but is ok with the apartment on top.

Public Comment reopened

Kelly Toon, 531 Main Street.

Would like to see give and take on issues. If we could come up with a plan to save the building, ease up on the code requirements. Would like to save this building at all cost.
Public Comment Closed.

Jena S. asked about the use process.

- Scot H. said it is a limited review use.

Lynn T. asked if a residence could go on top of the mikvah.

- Mr. Webb said that there could be.

Jena S. said that it should be fairly easy to replicate the materials used in the original structure for the new structure.

Elliot H. pointed out that there must be grants for moving the original structure.

Jena S. recommended that everything be photographed for historical reference before a building is taken down.

Jeff A. stated that the fence should be maintained.

Note: 5 minute recess called at 8:20 pm.

PROJECTS AND UPDATES

9. Project Updates

- Community Plan Update
 - Scot H. stated that interviews have taken place and that the Town is hoping to partner with the SE Group for this project.

10. Planning Director Report & Minor DRB Approvals by Director

- 105 Williams Street – Sign for RDC Architecture
- 152 Main Street – Sign for Helen’s House
- 195 Pine Street – Flag Pole for Firehouse
- 223 Boulder Street – Fence Approval
- 511 Main Street – Fence Approval
- 160 Railroad Avenue – Agaves Temporary Sign

11. Future Meetings

- August 25, 2021
- September 8, 2021

12. Adjournment

Motion by Jena S., second by Jeff A., to adjourn the regular meeting of August 11, 2021 at 8:35 pm. Motion passed 4-0.

Lynn Teach, Commission Chair

ATTEST:

Scot Hunn, Planning Director

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Lauren Dickie
Burke Harrington
Christopher Manning
Jena Skinner

Design Review Board Hearing

Wilson Residence – Conceptual Plan Review for Garage Addition

76 Meek Avenue

| | |
|-------------------------------|---|
| Hearing Date: | August 25, 2021 |
| File Name and Process: | Single Family Residence Final Plan Review |
| Owner/Applicant: | Paul and Sherri Wilson |
| Representative: | Tom Warzecha |
| Legal Description: | Lot 39, Block 1, Baldauf Addition |
| Address: | 76 Meek Avenue |
| Zoning: | Old Town Character Area – Residential Zone District |
| Staff Member: | Scot Hunn, Planning Director Madison Harris, Planner I |
| Recommendation: | Conceptual Approval |

Staff Report

I. Summary of Request:

The Applicants, Paul and Sherri Wilson, request review of conceptual plans involving the demolition of an existing garage and the construction of a new garage at their residence located at 76 Meek Avenue.

Proposed Plans

The plans show the removal of an existing two-car garage structure and the reconstruction of a new two car garage structure with a height of eleven (11') to the mid-point of the roof above existing grade, and with a maximum height of thirteen (13') feet measured from existing grade to the ridge of the roof. The existing garage and proposed reconstructed garage are located on west side of the property.

Also shown on the plans is the addition of a new master bathroom in an area previously covered by the existing garage. This bathroom addition is more akin to a reconfiguration of existing habitable space and is not proposed to add any additional building lot coverage.

Parking is adequate, with two spaces provided within the garage, and one space in front of the garage.

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

The plans are fairly complete and normally staff would recommend a final plan review and approval. However, the plans do not include a current topographical survey which will be needed prior to any final plan approval.

The subject property is unique in that it fronts on three streets (Boulder to the east, Meek to the South, and Pine to the West). Per the Town of Minturn Municipal Code, the front yard/lot line is the side of the lot fronting along Meek due to the placement of the front door and entrance. Therefore, side lot lines – and side yard setbacks - are prescribed along the Boulder and Pine sides of the property.

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 plans as “Final.”

Staff is recommending conceptual approval with the condition that the Applicant return before the Design Review Board with a topographical survey and final site plan showing all existing and proposed grading and drainage.

II. Summary of Process and Code Requirements:

This is a conceptual plan level of review for a garage. This is an informal 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.

As noted above, if the DRB feels that the plans are complete, are appropriate, and that the plans 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.

Applicable Definitions

The following definitions from Article 2 – *Definitions*, Minturn Municipal Code, are relevant to this review:

Yard, front means that portion of a yard between the street line and the front door of the building and between the two (2) side lot lines, the depth of which shall be the least distance between the front lot line and the building.

Yard, side means all the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

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 701 Boulder Street meet or can be revised to meet the required findings ‘a,’ ‘b,’ and ‘c’ of subparagraph 3 – *Necessary findings*.

III. Zoning Analysis:

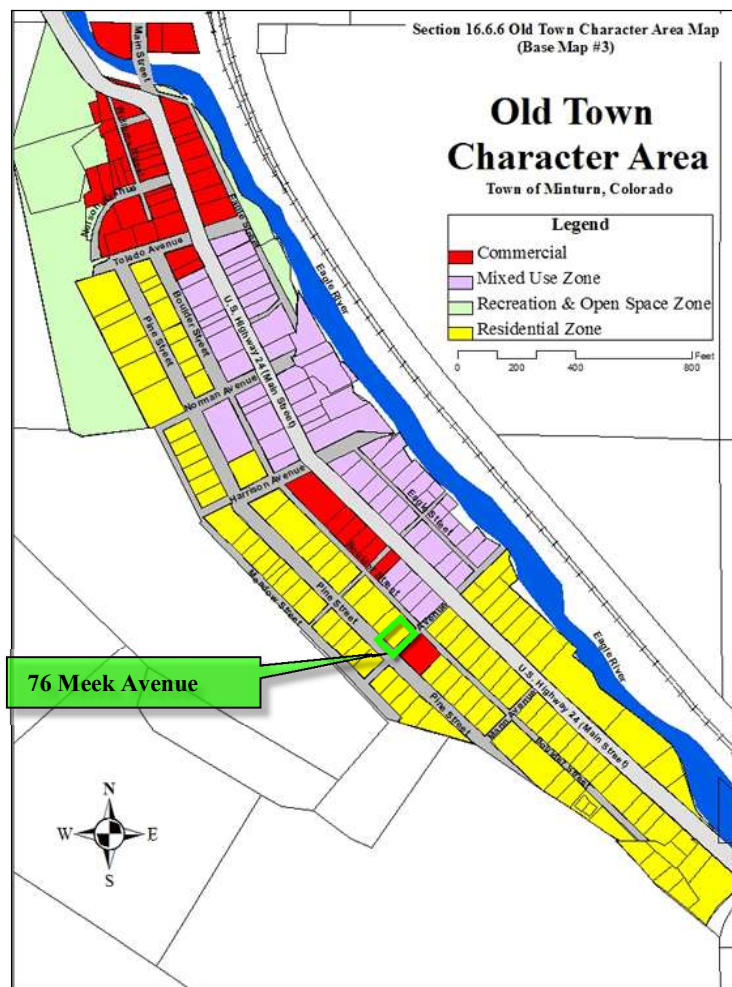
Zoning

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

- (a) *The neighborhood is bisected by Highway 24 and is characterized by single-family residences with a mix of business and institutional uses. The residences are typically one (1) and two (2) stories, with outbuildings and minimal setback between structures.*
- (b) *The purpose of this zone is to provide for continued residential use and redevelopment that preserves the unique character and scale of the neighborhood. An objective is to retain the historically residential areas as quiet and safe neighborhoods while allowing for limited home-based occupations and home-based businesses to encourage permanent residency. This area can accommodate reasonable growth where land and services are available.”*

- Town of Minturn Town Code Section 16-6-20

Figure 1: Old Town Character Area Zoning Map



Dimensional Limitations and Development Standards

The following tables summarize the lot, development and dimensional standards and limitations applicable to Lot 2 pursuant to Section 16-2-40. - *General lot requirements and dimensional standards*; Section 16-16-20 – *Parking Required for Residential and Lodging Uses*; and Section 16-6-80 - *Old Town Character Area Limited Use Standards*.

| Regulation | Allowed/Required | Proposed/Existing |
|------------------------------|---|--|
| Minimum Lot Area: | 5,000 sq. ft. | 5,000 sq. ft. |
| Maximum Building Height: | 28 feet | 13 feet |
| Minimum Front Setback: | 10 feet | 10 feet |
| Minimum Side Setback: | 5 feet | 5 feet |
| Minimum Rear Setback: | 10 feet | 10 feet |
| Maximum Building Coverage: | 45% (2,250 sq. ft.) | Existing - 2,158.8 sq. ft. (43.17%), Proposed - 2,058.7 sq. ft. (41.17%) |
| Maximum Impervious Coverage: | 55% (2,750 sq. ft.) | Existing - 2,213.47 (44.26%), Proposed – 2,113.37 (42.26%) |
| Minimum Snow Storage Area: | 5% of Driveway/Parking Area (15.69 sq. ft.) | Unknown |
| Parking: | 3 spaces | 3 spaces |

Note: the above calculations are based on the following:

$$\text{Lot 39} = .115 \text{ acres} \times 43,560 \text{ sq. ft./acre} = 5,000 \text{ sq. ft.}$$

$$313.81 \text{ sq. ft. parking area} \times .05\% = \underline{15.69} \text{ sq. ft. (Required Snow Storage)}$$

IV. Applicable Standards and Design Guideline Criteria:

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

Overall 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 relative to solar access, to street frontages, and in relation to neighboring properties is considered. For this property and project the existing lot dimensions and the location of the home on the lot are dictating the location of the new garage.

The subject property is relatively flat and the proposed design generally takes advantage of and responds the existing site. Importantly, the plans show the removal of existing garage structure and existing encroachments into side and rear yard setbacks. The proposed

structure will be located entirely within setbacks and the project will actually reduce building lot coverage and impervious coverage on the lot.

Mass and Form

The following excerpt from the Design Guidelines is applicable to the proposed home design:

“c. Massing and Scale

“A simple central form with additive features shall be designed. This style creates visual interest and is appropriate for the community due to its compatibility with existing structures. Buildings and improvements should complement, rather than overpower, the adjacent natural and built environment. Homes are encouraged to be sheltering in nature, with consistent setbacks from the street with prominent porches or overhanging eaves.

“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.”

-Town of Minturn Design Guidelines

Staff Response:

Staff believes that the design and scale of the proposed structure incorporates a simple central form with additive features and is complimentary to the existing single-family residential structure on the lot, as well as the character of the surrounding built environment. Staff further suggests that the scale of the project is appropriate and will not overpower surrounding natural and built. Proposed roof forms and pitches, materials and textures are compatible and complimentary to the surrounding built and natural environments.

V. Issues and Areas of Refinement:

Issues or Required Plan Revisions

The following issues or areas of refinement have been identified by staff that must be addressed prior to any building permit submittal:

Topographic Survey and Final Site Plan

The plans are fairly complete but for the inclusion of a recent topographic survey and detailed site plan showing existing and proposed grades, as well as proposed drainage. These details should be provided prior to final plan approval. At a minimum, these details should be required as part of a building permit submission should the DRB approve the plans as “Final” and authorize the Applicant to move forward with building permit application.

Snow Storage

The plans are fairly complete but do not show snow storage in relation to the driveway. This detail should be provided prior to final plan approval. At a minimum, this detail should be required as part of a building permit submission should the DRB approve the plans as “Final” and authorize the Applicant to move forward with building permit application.

VI. Staff Recommendation and Suggested Conditions:

Staff suggests that the Final Plans for 76 Meek Avenue generally **comply** with or exceed the applicable provisions and/or minimum standards of Chapter 16 and the Town of Minturn Design Standards (Appendix ‘B’) of the Minturn Town Code.

Staff is **recommending conceptual approval** of the with the direction to the Applicant to provide a topographic survey and final, detailed site plan showing existing and proposed grading and drainage.

In the event the Planning Commission, acting as the Town of Minturn Design Review Board, approves of the Final Plans, staff respectfully suggests the following conditions of approval:

1. The Applicant shall provide a topographic map and site plan showing existing and proposed grades, as well as proposed drainage prior to, or concurrent with, the Building Permit application process.
2. The Applicant shall provide a site plan showing adequate and realistic snow storage prior to, or concurrent with, the Building Permit application process.



DESIGN REVIEW APPLICATION

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

Project Name:

WILSON GARAGE RENOVATION

Project Location

Street Address: 76 Meek Ave

Zoning: RESIDENTIAL

Parcel Number(s): 2103-263-15-023

Application Request:

REMOVE AND REPLACE GARAGE.
PER DRAWINGS

Applicant:

Name: PAUL & SHERRI WILSON

Mailing Address: PO BOX 868
MINTURN, CO 81645

Phone: 970-260-0778

Email: MINTURNPAINT@GMAIL.COM

Property Owner:

Name: PAUL & SHERRI WILSON

Mailing Address: PO BOX 868
MINTURN, CO 81645

Phone: 970-260-0778

Email: MINTURNPAINT@gmail.com

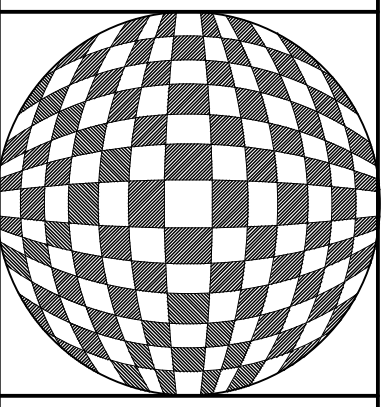
Required Information:

| Lot Size: | Type of Residence (Single Family, ADU, Duplex): | # of Bedrooms | # On-site Parking Spaces |
|---------------|---|------------------------------|---------------------------------|
| 5000 sq. ft. | SINGLE FAMILY | 2 | 2 |
| # of Stories: | Snow storage sq ft: | Building Footprint sq ft: | Total sq ft Impervious Surface: |
| 1 | 200 sq. ft. FRONT YARD | 2113.37 2058.7 | 2113.37 |

Signature:

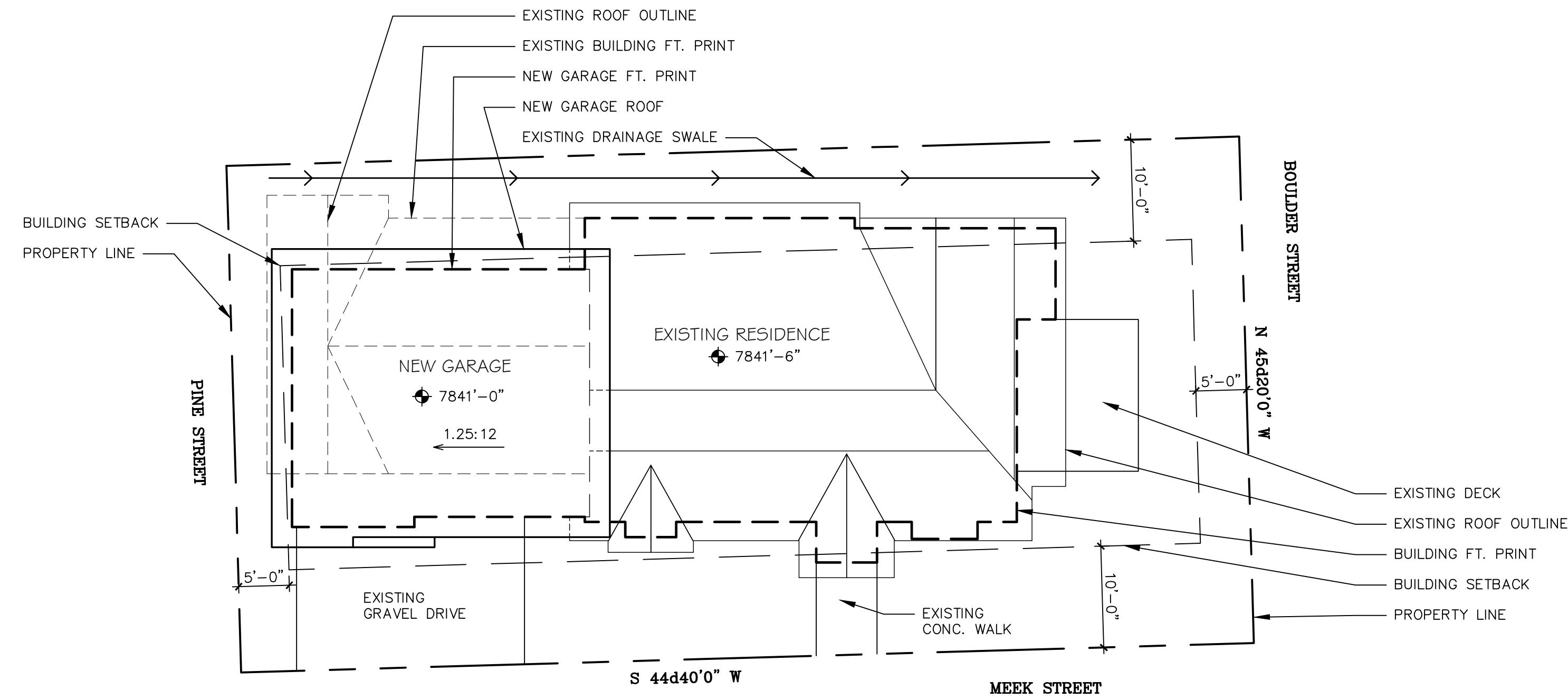
Sherril Wilson

Fee Paid: 200- Date Received: 7/29/21 Planner: Maelzon

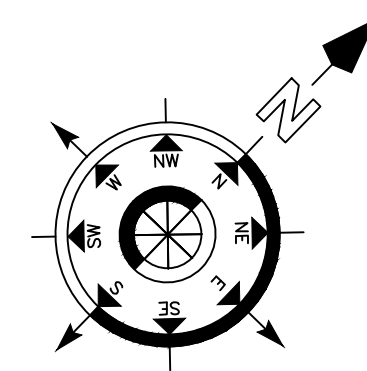


WILSON GARAGE REMODEL
76 MEEK STREET
MINTURN, COLORADO 81645

NOTE: PROPERTY LINE LOCATION ESTIMATED.
INFORMATION TAKEN FROM IMPROVEMENT LOCATION CERTIFICATION
LOT 39, BLOCK 1, BALDAUF ADDITION TO THE TOWN OF MINTURN
PREPARED BY LELAND LEGHNER P.L.S. P.O.BOX 3462, VAIL, CO.
DATED 11-30-92



NOTE: NO CHANGE TO EXISTING GRADES OR DRAINAGE.
NEW GARAGE REMAINS AT EXISTING ELEVATION.



SITE DEVELOPMENT PLAN

1" = 10'-0"

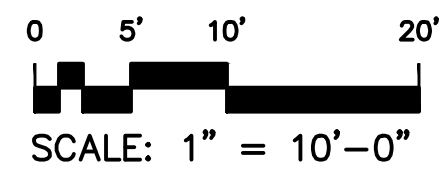
LOT SIZE = 5,000 SQ. FT.
MAX. LOT COVERAGE = 45% = 2,250 SQ. FT.
MAX. IMPERVIOUS = 55% = 2,750 SQ. FT.

EXISTING LOT COVERAGE:
HOUSE AND GARAGE = 2,158.80 SQ. FT.
= 43.17%

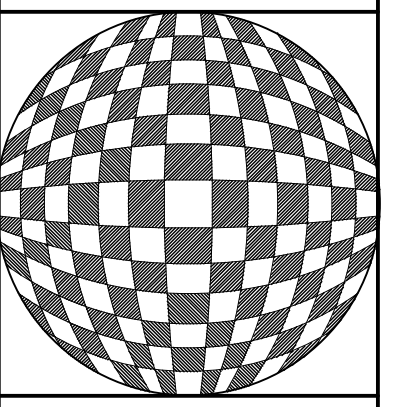
EXISTING IMPERVIOUS:
HOUSE AND GARAGE = 2,158.80 SQ. FT.
HOUSE AND GARAGE = 54.67 SQ. FT.
ENTRY WALK = 2,213.47 SQ. FT.
TOTAL = 44.26%

PROPOSED LOT COVERAGE:
EXISTING HOUSE = 1,339.58 SQ. FT.
NEW GARAGE = 633.14 SQ. FT.
NEW BATH = 85.98 SQ. FT.
TOTAL = 2,058.70 SQ. FT.
= 41.17%

PROPOSED IMPERVIOUS:
EXISTING HOUSE = 1,339.58 SQ. FT.
EXISTING HOUSE = 54.67 SQ. FT.
EXISTING ENTRY WALK = 719.12 SQ. FT.
NEW GARAGE AND BATH = 2,113.37 SQ. FT.
TOTAL = 42.26%

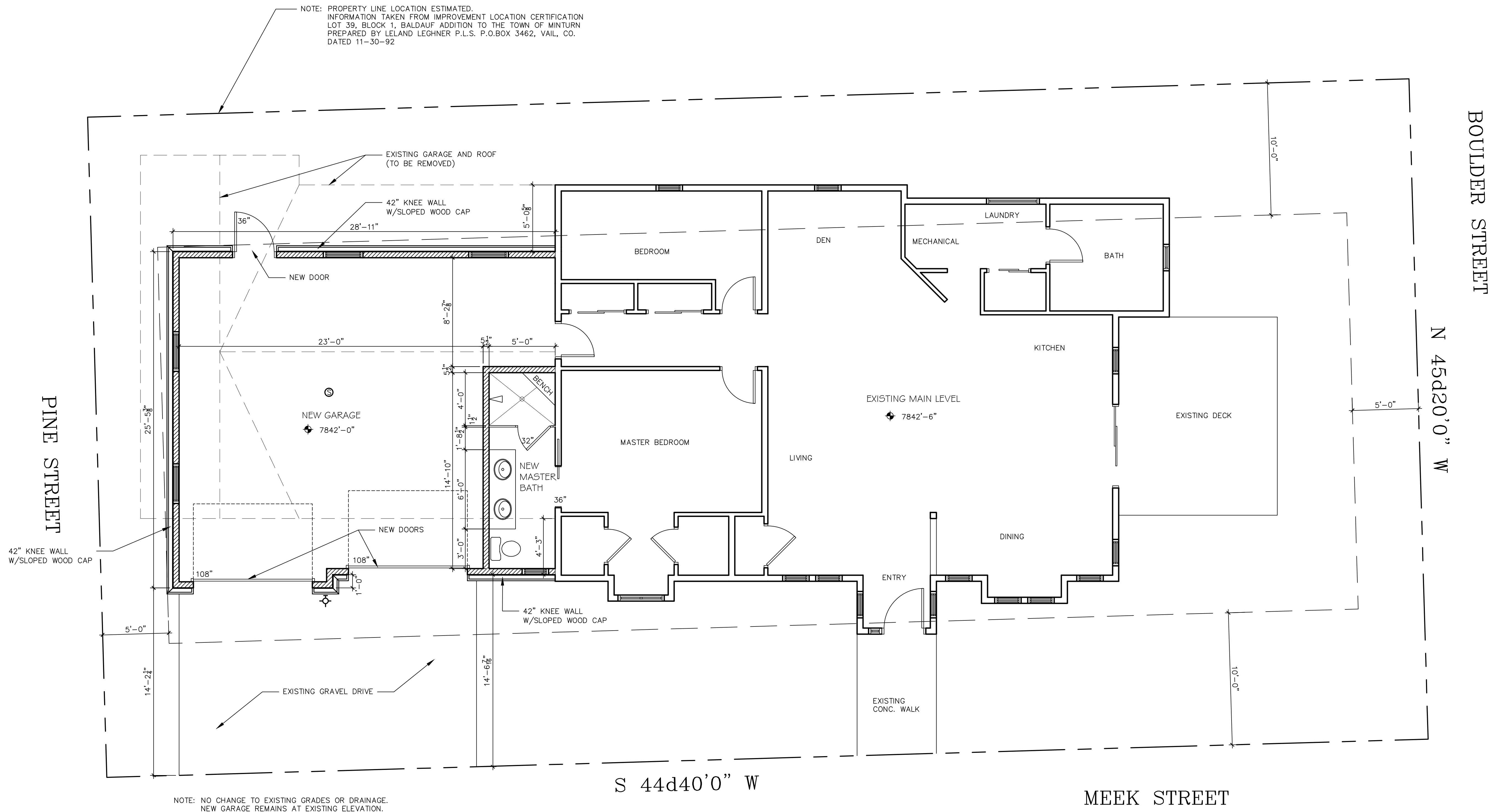


| | |
|------------|----------------|
| JOB NUMBER | 21-3 |
| DRAWN BY | TH |
| DATE | AUGUST 3, 2021 |
| ROLE | DRB |
| # | REVISION DATE |
| | INITIAL |

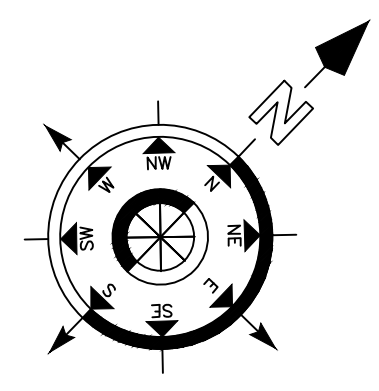


WILSON GARAGE REMODEL
76 MEEK STREET
MINTURN, COLORADO 81645

JOB NUMBER: 21-3
DRAWN BY: TH
DATE: AUGUST 3, 2021
ROLE: DRB

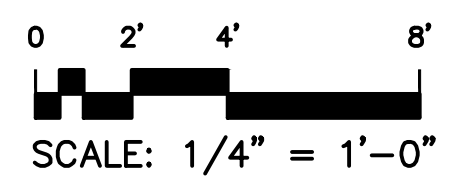


NOTE: NO CHANGE TO EXISTING GRADES OR DRAINAGE.
NEW GARAGE REMAINS AT EXISTING ELEVATION.

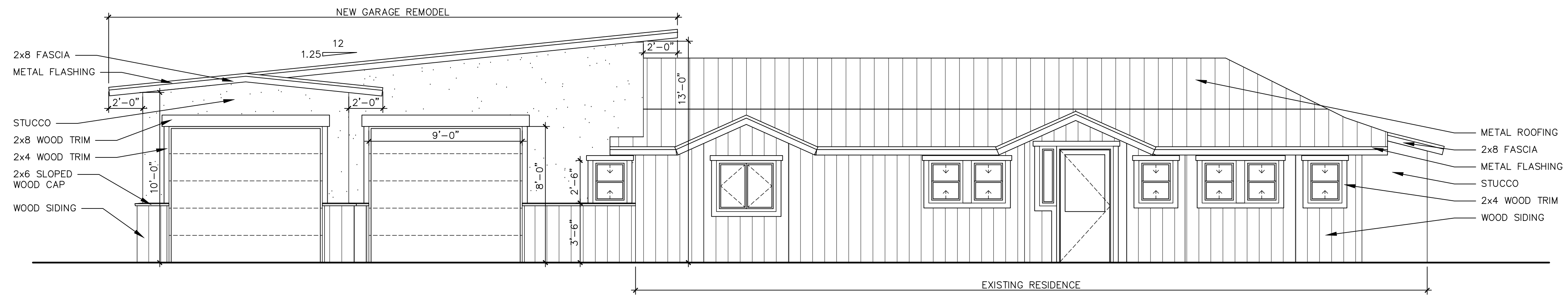


MAIN LEVEL FLOOR PLAN
1/4" = 1'-0"
NEW ADDITION: GARAGE = 633.14 SQ. FT.
BATH = 85.96 SQ. FT.
TOTAL = 719.11 SQ. FT.

▨ = NEW WALLS

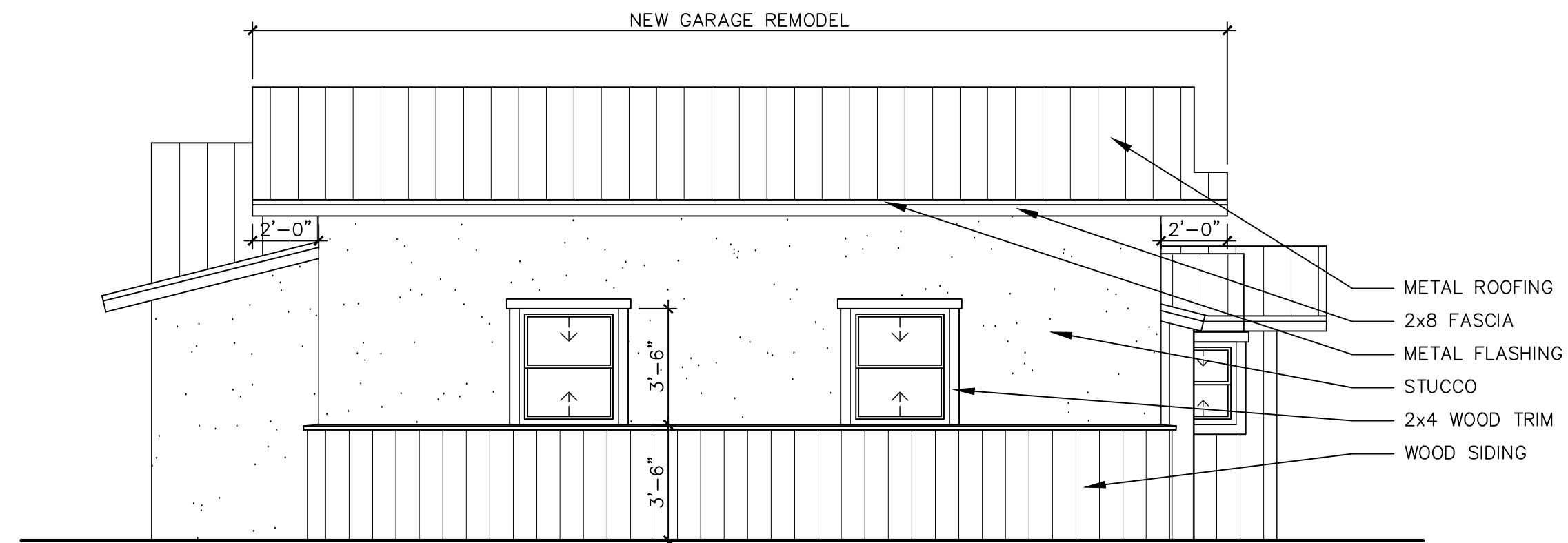


- ⊕ EXTERIOR LIGHTING - VERIFY W/OWNER/ARCHITECT
- ⊙ EXTERIOR WALL SCONCE: LEONLITE OUTDOOR WALL SCONCE #88978 O.A.E.
- ⊙ SMOKE DETECTOR/CARBON MONOXIDE-SILHOUETTE LOW-PROFILE SMOKE ALARM O.A.E.



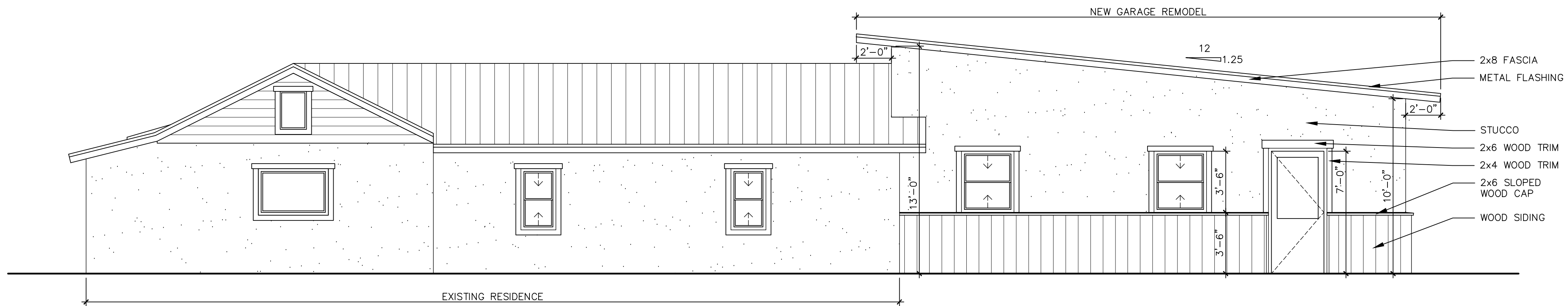
1 SOUTH EAST ELEVATION
 $1/4" = 1'-0"$

NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



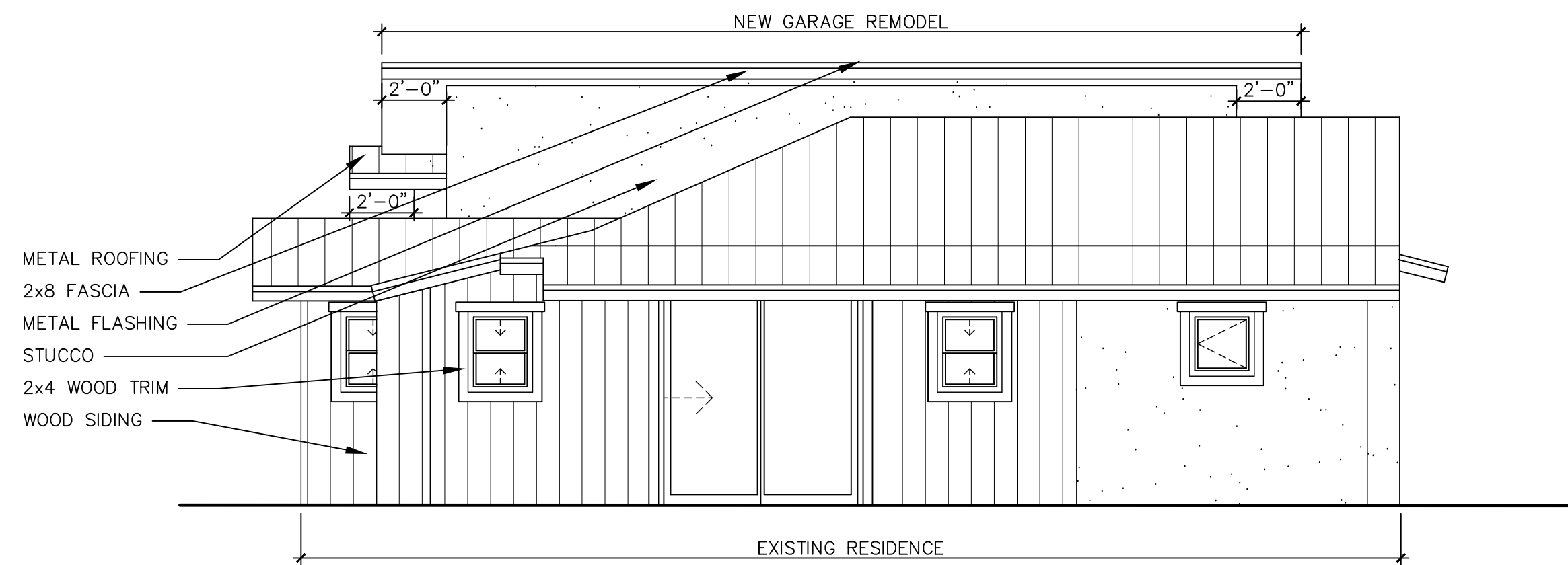
2 SOUTH WEST ELEVATION
 $1/4" = 1'-0"$

NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



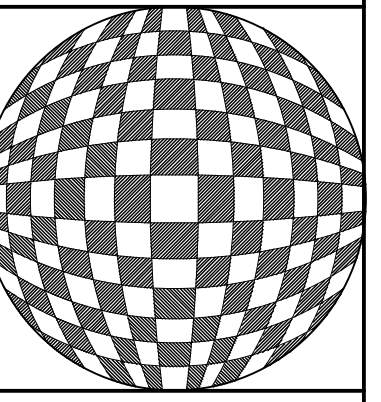
3 NORTH WEST ELEVATION
 $1/4" = 1'-0"$

NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



4 NORTH EAST ELEVATION
 $1/4" = 1'-0"$

NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
 SIDING, TRIM, ROOFING ECT.



WILSON GARAGE REMODEL
 76 MEEK STREET
 MINTURN, COLORADO 81645

| | |
|---------------|----------------|
| JOB NUMBER | 21-3 |
| DRAWN BY | TH |
| DATE | AUGUST 3, 2021 |
| SCALE | DRB |
| REVISION DATE | INITIAL |

















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



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

To: Planning Commission
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: August 19, 2021
Re: 261 Main Street – Faircloth Residence Variance Continued

This is an addendum to the staff report from July 14, 2021 which is also in this packet.

The Applicant, Heather Faircloth, owner of 261 Main Street, requests continued review of the variance to allow for an increased amount of lot and impervious coverage. The variance was first reviewed by the Planning Commission on July 14, 2021 and was continued to August 25, 2021. The Applicant's Representative is Tom Warzecha.

Summary of Discussion at July 14, 2021 Meeting:

There was concern expressed about the lack of grading and drainage details, as well as the variance request not asking for the bare minimum relief from the code. The Applicant's Representative received instruction to remove the breezeway from the plans, provide grading and drainage details, revise the site plans to show all proposed exterior light locations, and provide details and dimensions for all proposed exterior materials, finishes and fixtures.

Update:

The Applicant's Representative submitted new plans that have removed the breezeway, added drainage details, and added more details concerning the exterior including light locations. The building coverage of the lot now sits at 1,955.99 sq. ft. (52.16%), and the impervious coverage is 2,255.22 sq. ft. (60.14%). The Town Engineer has provided comments on the drainage which are attached to this memo.

Staff is recommending **approval with conditions**.

1. The Applicant shall address Intermountain Engineering's concerns prior to, or concurrent with, the Building Permit application process.
2. The Applicant shall provide final cut sheets/specifications for proposed exterior light fixtures prior to, or concurrent with, the Building Permit application process to ensure compliance with the Town's lighting standards as well as consistency with fixtures found on the existing residential structure on the subject property.

August 11, 2021

Ms. Madison Harris
Town of Minturn
301 Boulder Street
Minturn, CO 81645
Via email: planner1@minturn.org

Re: 261 Main Street
Grading Plan resubmission
Project No. 21-0049

Madison:

Todd Hatami called to discuss the additional information submitted on August 10, 2021. This included a “Garage Addition Binder” along with a revised Site Grading Plan & Drainage Plan. The drawing package provides additional topographic and grading information for 261 Main Street.

- 1) A better copy of the 6/18/18 topographical map is included in the binder. Topographical information is provided for the entire property.
- 2) The revised Grading Plan includes the entire property:
 - a. The Main Street side of the home shows a positive slope away from the house towards the street.
 - b. The main portion of the house is existing and located within a few feet of the adjoining property lines. The topography shows the main floor of the house is higher than the neighboring properties and the existing topography shows drainage currently flows away from the structure to the neighboring properties. There is very little room to work, but the revised plan shows a small drainage swale would be constructed along both sides of the house to help redirect drainage toward Boulder Street. This new swale is an indication of intent; but is not tied to the contour lines and not part of the grading plan.
 - c. The Boulder Street frontage shows positive slope away from the structure to the street.
- 3) The current plan shows intent and is adequate for planning purposes; however, the permit plans need to include more detail. The drainage swale needs to be made a part of the grading plan by incorporating the swale into the finished contours and spot elevations added at building corners, street connections and any other detail that cannot be shown with contour lines.
- 4) Minturn code requires grading plans be prepared by a Professional Engineer or Architect.

Please feel free to call with any further questions.

Inter-Mountain Engineering



Jeffery M. Spanel PE
CC; Michelle Metteer, Scot Hunn

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

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Tom Priest
Christopher Manning
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Design Review Board Hearing

Faircloth Residence Garage Addition / Variance Request 261 Main Street

Hearing Date: July 14, 2021

File Name and Process: Faircloth Garage Addition / Variance Request

Owner/Applicant: Heather Faircloth

Representative: Tom Warzecha

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

Address: 261 Main Street

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

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

Recommendation: **Approval, with Conditions**

Staff Report

I. Summary of Request:

The Applicant, Heather Faircloth, requests review of a new garage addition with a breezeway connecting it to the main structure, and the expansion of the dining room located at 261 Main Street in the Old Town Mixed Use Zone District. The DRB has reviewed conceptual plans and the Applicants have been proactive in meeting with Town staff prior to submitting plans and have provided a relatively complete and thorough set of site, landscaping, and architectural plans allowing staff to conduct a final plan level review of the project.

The design shows a two-car garage with a maximum building height of approximately 11 feet above existing grade on the Boulder Street elevation of the proposed structure. The structure measures approximately 23' above grade on the downhill, or east elevation between the proposed garage and the existing house. The space below the proposed garage structure will be a bedroom and bathroom. The Applicant is proposing a new breezeway connecting the garage to the main structure on the property, plus an expansion of the dining area. The expansion of the dining area attached to the existing house will not affect lot or impervious coverage.

To necessitate the construction of a garage, the Applicants are also seeking a variance from Lot Coverage and Building Coverage requirements. Surveys included for review show that the existing residence (building footprint) is currently compliant with maximum allowable lot (building) coverage. Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (40.72%). The total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43.28%).

However, the proposed 664.6 sq. ft. garage addition along with the breezeway addition to the existing residence will result in a maximum building coverage of approximately 2,043.05 sq. ft., or approximately 54.48% building coverage, and a maximum lot coverage of approximately 2,342.28 sq. ft., or approximately 62.46% lot coverage with the new driveway and exterior stairs.

Proposed Plans

The plans show a new garage addition with a maximum building height of 22.5 feet above proposed grade, well within the maximum allowable 28-foot limit within the Old Town Mixed Use Zone District. This structure will have a bedroom and bathroom beneath the garage. There will be a breezeway connecting the garage addition to the primary structure. Additionally, the dining area in the main structure is proposed to be expanded.

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 provided: two in the proposed garage and two in front of the garage.

According to staff's analysis of development standards and dimensional limitations in Section III below the project appears to meet the Town's standards in all but two areas.

Staff has identified the following minor issue needing to be addressed prior to or concurrent with building permit application or during the construction process:

- **Exterior Light Fixtures** – the floor plans and elevations should be updated prior to building permit to show all exterior lighting locations as well as cut sheet/specifications.

With the exception of the above issue, staff believes that the Applicant and their representative have provided a complete, detailed set of plans necessary to complete a thorough final plan review. The plans (Sheet A2.01) calls out that exterior materials will match the existing residential structure. Building permit set of plans should show exterior material dimensions and architectural detailing. (Photos of the existing residence are attached for the DRB's reference).

The Applicant is requesting a variance from the following:

- **Building Lot Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable building coverage is approximately 1,687.5 sq. ft. (45% max.); existing lot coverage is estimated at approximately 1,526.9 sq. ft. (40.72%). However, the proposed 664.6 sq. ft. garage addition along with the breezeway addition to the existing residence will result in a maximum building coverage of approximately 2,043.05 sq. ft., or approximately 54.48% building coverage.
- **Impervious Surface Coverage** - Based on the lot acreage of .086 acres (3,750 sq. ft. lot) the total allowable impervious coverage is approximately 2,026.5 sq. ft. (55% max.); existing impervious coverage is estimated at approximately 1,623.0875 sq. ft. (43.28%). However, with the proposed 664.6 sq. ft. garage addition along with the breezeway addition, the new driveway and the exterior stairs there is a maximum lot and impervious coverage of approximately 2,342.28 sq. ft., or approximately 62.46% lot coverage.

As a reminder, the Planning Commission, acting as the DRB, 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 recommend approval, approval with conditions, or denial to the Town Council regarding the Final Plans and the variance request.

Staff is **recommending approval**, with conditions of the Final Plans as well as a variance request from the strict interpretation and application of the Town's Lot and Impervious Coverage limits.

II. Summary of Process and Code Requirements:

This is a final plan-level of review for a new garage structure on a legally created lot within the Town of Minturn. This is a formal public 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.

As noted above, 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.

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

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 261 Main Street meet or can be revised to meet the required findings ‘a,’ ‘b,’ and ‘c’ or subparagraph 3 – *Necessary findings*, as long as the variance request is approved..

III. Zoning Analysis:

Zoning

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

- a. This area allows a compatible mix of **residential uses**, low-impact commercial uses and institutional uses that serve residents and visitors. The Old Town*

Mixed-Use Zone can accommodate various types of development if found not to significantly impact nearby properties.

- b. The Old Town Mixed-Use Zone is intended to **provide sites for combined residential and low-impact commercial and service uses which maintain a predominantly residential appearance. This area can accommodate reasonable growth where land and services are available and when services and amenities are needed for residents and visitors.**

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

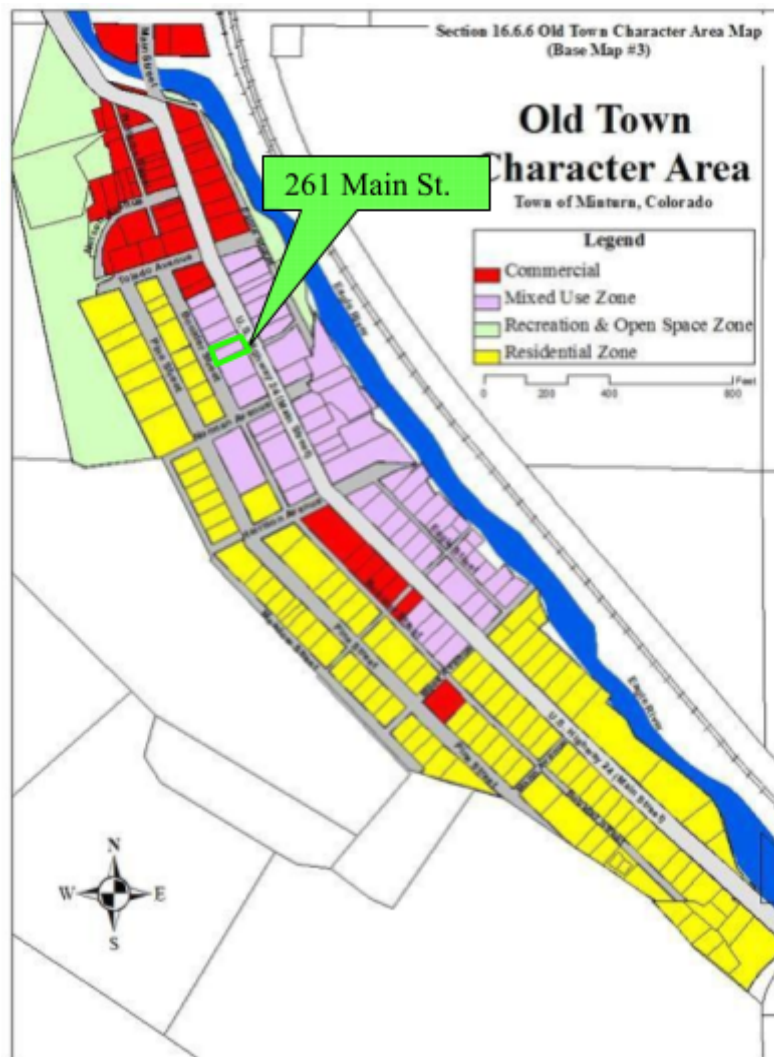


Figure 1: Old Town Character Area Zoning Map

Dimensional Limitations and Development Standards

The following table summarizes the lot, development and dimensional standards and limitations applicable to the subject property pursuant to Sections 16-2-40. - *General lot*

requirements and dimensional standards and 16-16-20 – Parking Required for Residential and Lodging Uses.

| Regulation | Allowed/Required | Proposed/Existing |
|------------------------------|--|--|
| Minimum Lot Area: | 5,000 sq. ft. | 3750 sq. ft. |
| Maximum Building Height: | 28 feet | 22.5 feet |
| Minimum Front Setback: | 10 feet | No Change |
| Minimum Side Setback: | 5 feet | 5 feet |
| Minimum Rear Setback: | 10 feet | 10 feet |
| | | |
| Maximum Lot Coverage: | 45% (1687.5 sq. ft.) | 1,526.9 sq. ft. (40.72%) Existing 2,043.05 sq. ft. (54.48%) Proposed |
| Maximum Impervious Coverage: | 55% (2,062.5 sq. ft.) | 1,623.0875 sq. ft. (43.28%) Existing 2,342.28 sq. ft. (62.46%) Proposed |
| Minimum Snow Storage Area: | 5% of Driveway Area (20.2235 sq. ft.) | 75 sq. ft. (18.54%) |
| | | |
| Parking: | 3 spaces | 4 spaces |
| | | |

Note: the above calculations are based on the following:

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

IV. Applicable Standards and Design Guideline Criteria:

Design

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

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.

Mass and Form

The following excerpt from the Design Guidelines is applicable to the proposed garage design:

“Buildings and improvements should complement, rather than overpower, the adjacent natural and built environment. Homes are encouraged to be sheltering in nature, with consistent setbacks from the street with prominent porches or overhanging eaves.

“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.”

-Town of Minturn Design Guidelines

Staff Response:

Staff believes the proposed design and scale of the proposed garage structure is generally complimentary to the existing single-family residential structure as well as adjacent properties and improvements. The placement of the proposed garage relative to the edge of the pavement of Boulder Street is similar, if not more compliant than, other structures on adjacent properties.

Variance

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

Sec. 16-21-690. - Variances.

(a) Purpose of provisions; limitations.

(1) In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this Chapter as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.

(2) Variances may be granted only with respect to the development standards prescribed for each zone, including lot area and site dimensions, setbacks, distances between buildings, height, density, site coverage, usable open space, landscaping, site development and parking and loading requirements.

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

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

(1) The relationship of the requested variance to other existing or potential uses and structures in the vicinity;

(2) The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this Chapter without grant of special privilege;

- (3) *The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities and public safety; and*
- (4) *Such other factors and criteria as the Planning Commission and Zoning Board of Appeals deem applicable to the proposed variance.*

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

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

Staff Response:

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

In this instance, the Applicant will be required to demonstrate an ‘extraordinary circumstance,’ ‘physical hardship,’ and/or ‘practical difficulty’ when the regulations are applied strictly and literally to their property.

Staff suggests that while the subject property is not unlike other lots in the vicinity (it is a typical, regularly shaped lot), it is, however, an undersized lot (the lot is 3,750 sq. ft. instead of the required 5,000 sq. ft.). Therefore, there may be a case for physical hardship and/or a practical difficulty associated with this property that makes construction of a typically sized garage difficult without a variance.

That said, the Applicant is not asking for the minimum amount of relief from the strict application of the regulations, another criteria for consideration of any variance request. Staff respectfully suggests that the plans could be modified to reduce coverage and by eliminating the breezeway. By staff’s calculations, removal of the breezeway would reduce the total lot and impervious coverage by approximately 3.7%, bringing the total at or below 60%.

In this respect, staff respectfully suggests that the Planning Commission consider the amount of relief sought by the Applicant from the strict interpretation and application of the Code. Meaning, if the main objective of this project - and perhaps the primary benefit

to the property owner and the Town - is to provide on-site parking for existing residential uses, the plans could be modified to reduce the total amount of relief sought without taking away from the main objective of the project - to construct a garage.

Staff is recommending approval of this request with the condition that the breezeway be removed from the plans to reduce the overall, or total lot coverage and impervious coverage to no more than 60%, allowing for a total variance from the Town's standards of no more than 5%.

V. Issues and Areas of Non-Conformance:

Issues or Required Plan Revisions

The following issues or areas of refinement have been identified by staff that must be addressed prior to any building permit submittal:

Exterior Light Fixtures

The plans should be updated to show exterior light locations. Light fixtures and lighting solutions are to be dark sky compliant.

VI. Staff Recommendation and Suggested Conditions:

Staff suggests that the Final Plans for 261 Main Street generally **comply** with or exceed the applicable provisions and/or minimum standards of Chapter 16 and the Town of Minturn Design Standards (Appendix 'B') of the Minturn Town Code, with the exception of lot and impervious coverage limits. Staff further recommends that the Applicant's request for a variance for relief from the strict application of the Town's Lot and Impervious Coverage limits may be granted as the request generally meet all variance criteria, particularly for physical hardship and practical difficulty.

Staff is **recommending approval** of the Final Plans, with a variance from the strict interpretation of the regulations for lot and impervious coverage, with the following recommended condition(s):

1. The Applicant shall provide final grading and drainage details, including an updated survey showing spot elevations, for review by the Town Planner and Engineer prior to the submittal for building permit.
2. The Applicant shall revise the site and/or floor plans to show all proposed exterior light locations and provide final cut sheets/specifications for proposed exterior light fixtures prior to or concurrent with building permit applications to ensure compliance with the Town's lighting standards as well as consistency with fixtures found on the existing residential structure on the subject property.
3. The Applicant shall revise the Final Plans to remove the breezeway and/or revise other aspects of the plan to reduce overall, total impervious surface coverage to no more than 60%.
4. The Applicant shall provide final details and dimensions for all proposed exterior

materials, finishes and fixtures prior to or concurrent with building permit application. Exterior materials and dimensions are to match those existing on the existing residential structure on the property to the highest degree practical.



VARIANCE APPLICATION

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

Project Name:

Faircloth Garage addition

Project Location**Street Address:**

261 Main Street Minturn.Co

Zoning:

Mixed use

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

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

Applicant:**Name:**

Wei Construction

Mailing Address:

P.O.Box 1384 Vail,Co 81645

Phone:

970-390-3674

Email:

wei04@comcast.net

Property Owner:**Name:**

Heather Ehrhardt Faircloth

Mailing Address:

216 Main street

Phone:

720-320-9333

Email:

Faircloth@gamil.com

Required Information:

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

Signature:

Fee Paid: \$575-

Date Received: 6/22/21

Planner: Madison Hurns

VARIANCE APPLICATION

SUBMITTAL CHECKLIST REQUIREMENTS (TO BE INCLUDED WITH APPLICATION)

Applicant Staff

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

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

RESPOND TO THE FOLLOWING QUESTIONS:

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

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

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

The lot is small 3750 sqft.

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

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

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

Also the adjacent properties are over there lot coverage

So the project seems to be consitent with neighborhood

Vicinity Map

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

- Zoning of Property

Improvement Location Certificate of Survey (ILC or ILS)

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

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

Madison Harris

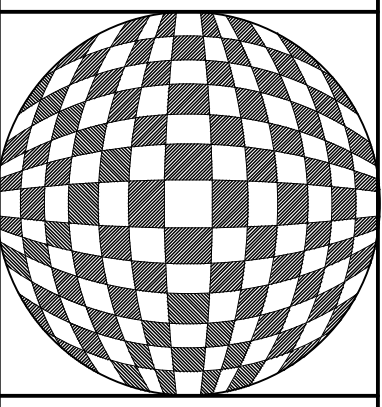
From: wei04@comcast.net
Sent: Friday, July 2, 2021 7:28 AM
To: Madison Harris
Subject: FW: Variance representation

From: Heather Faircloth <fairclothh@yahoo.com>
Sent: Thursday, July 1, 2021 4:38 PM
To: Tom Warzecha <wei04@comcast.net>
Subject: Variance representation

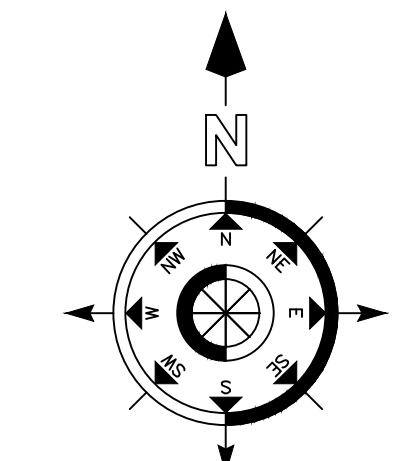
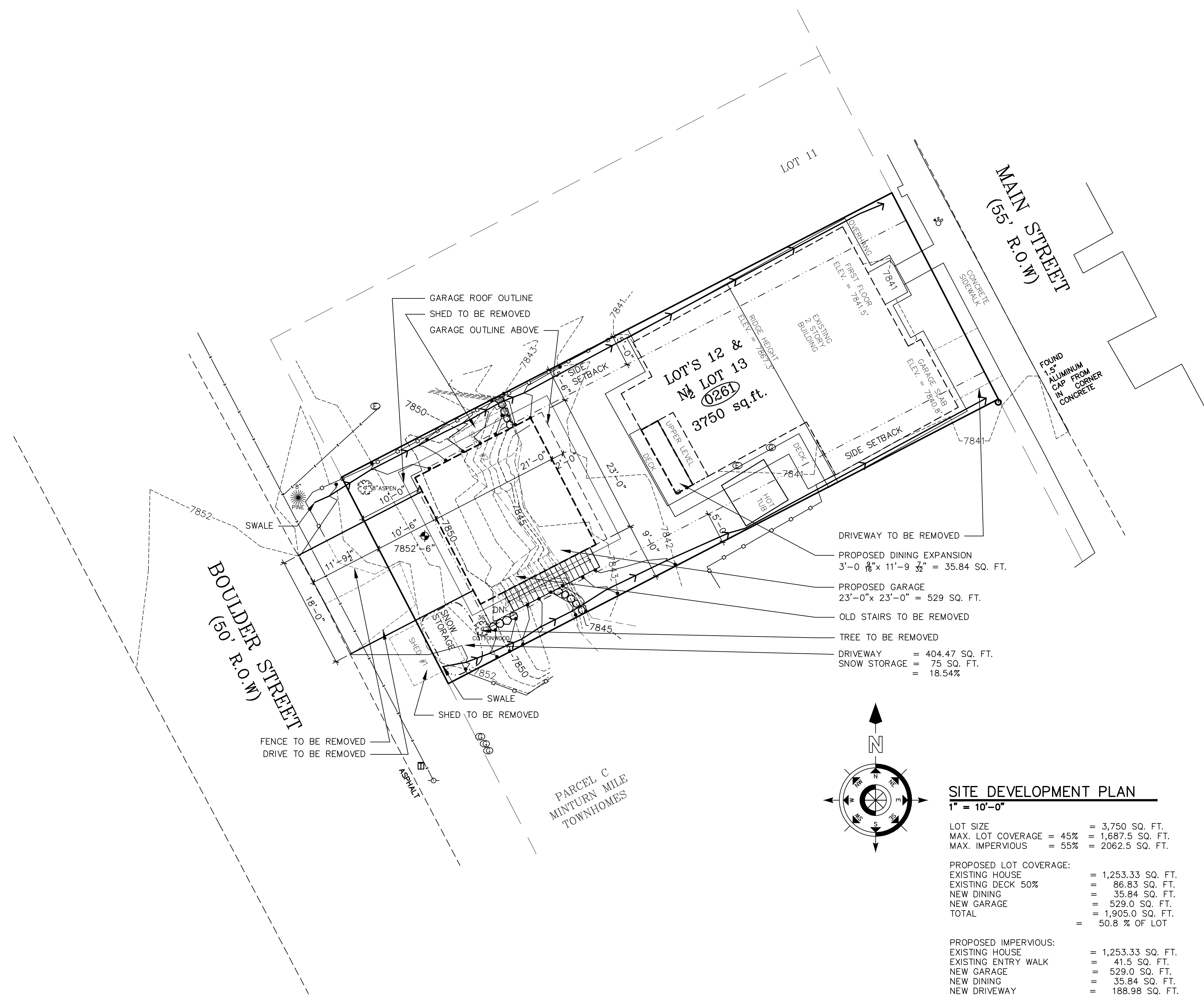
To whom it may concern

I would like Tom Warzecha to represent me in the application for variance regarding 261 Main Street in Minturn, Colorado

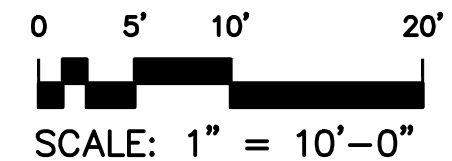
Heather Ehret- Faircloth
Kentwood Real Estate
Residence XXV
Denverheather@kentwood.com
720-320-9333 cell



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

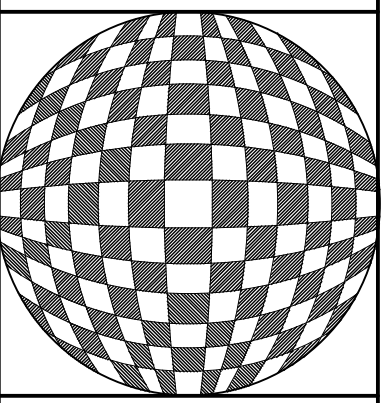


SITE DEVELOPMENT PLAN
 1" = 10'-0"

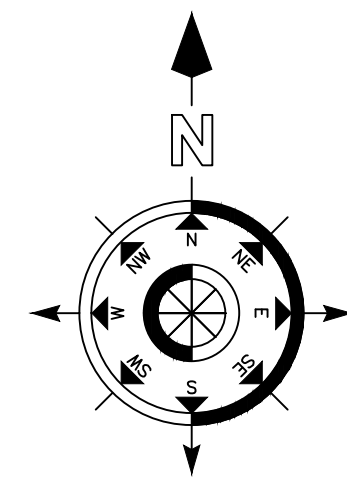
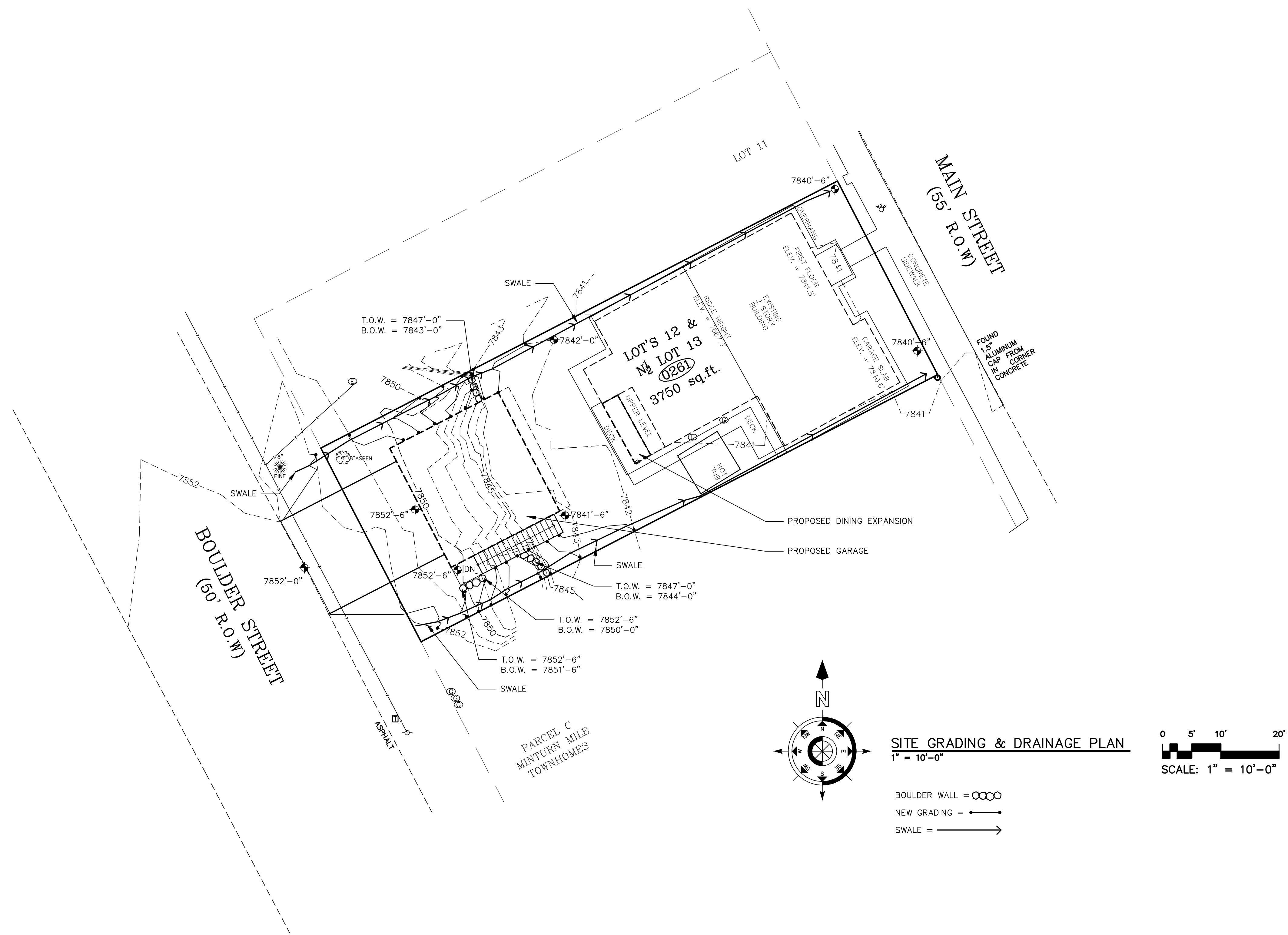


| | | |
|-------------------------------|---|------------------|
| LOT SIZE | = | 3,750 SQ. FT. |
| MAX. LOT COVERAGE = 45% | = | 1,687.5 SQ. FT. |
| MAX. IMPERVIOUS = 55% | = | 2062.5 SQ. FT. |
| PROPOSED LOT COVERAGE: | | |
| EXISTING HOUSE | = | 1,253.33 SQ. FT. |
| EXISTING DECK 50% | = | 86.83 SQ.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

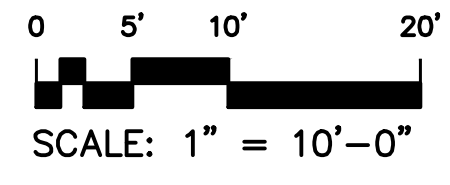
| | |
|---------------|----------------|
| JOB NUMBER | 20-5 |
| DRAWN BY | TH |
| DATE | AUGUST 3, 2021 |
| TITLE | VARIANCE |
| REVISION DATE | INITIAL |



GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645



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



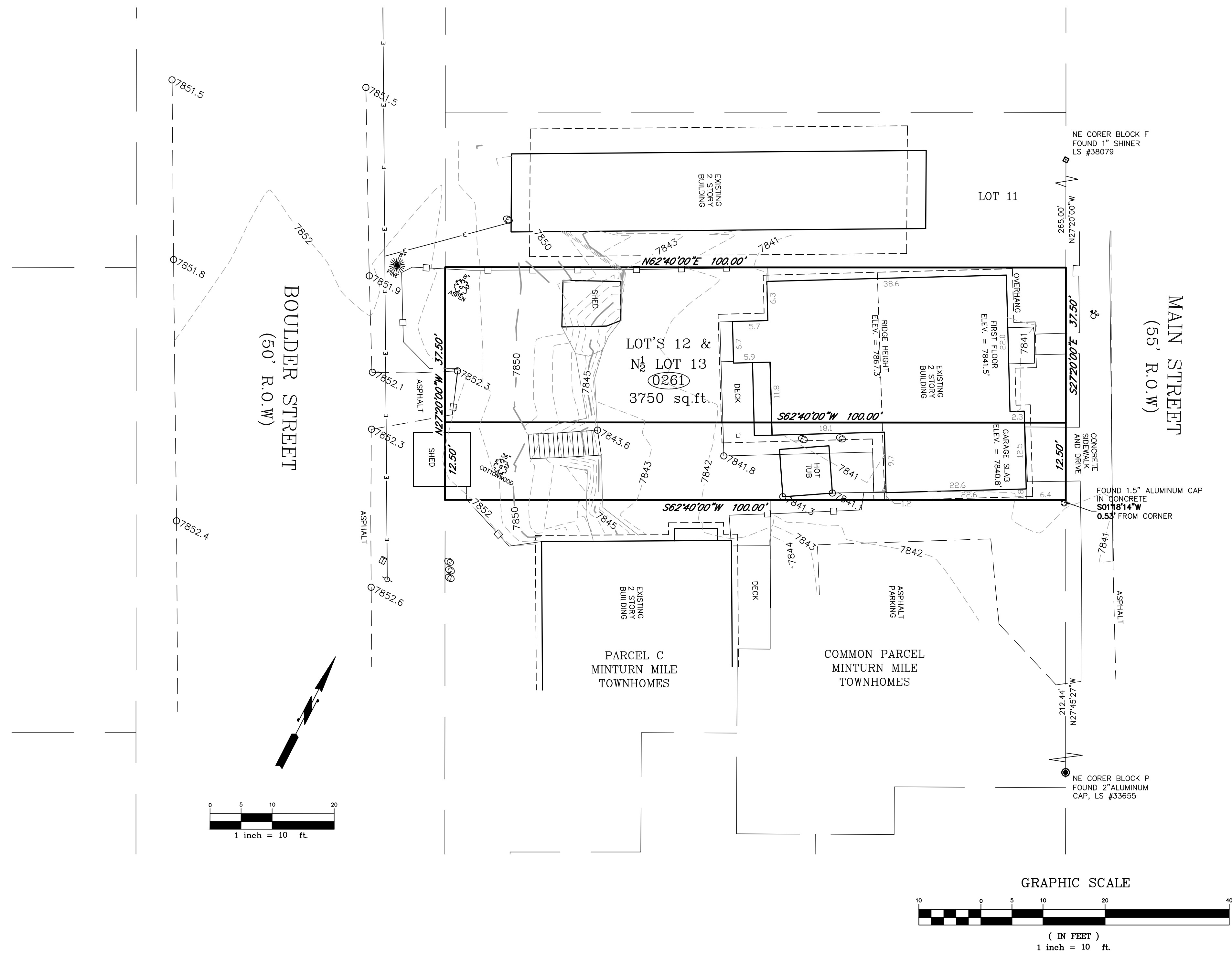
- BOULDER WALL = ○○○○
- NEW GRADING = —●—
- SWALE = —>—

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

TOPOGRAPHIC SURVEY

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

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



LEGAL DESCRIPTION:

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

NOTES:

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

CERTIFICATION

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



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

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

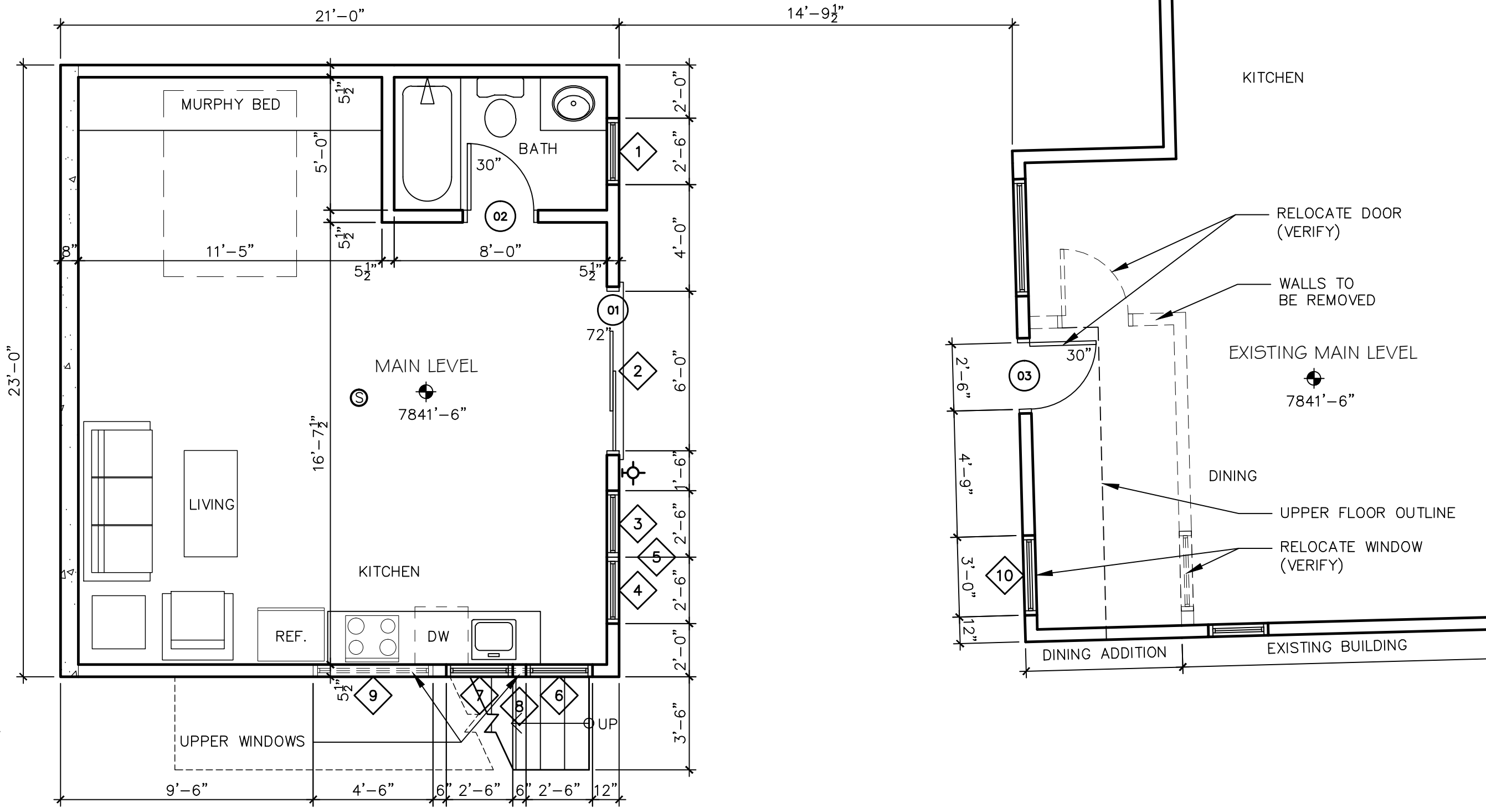
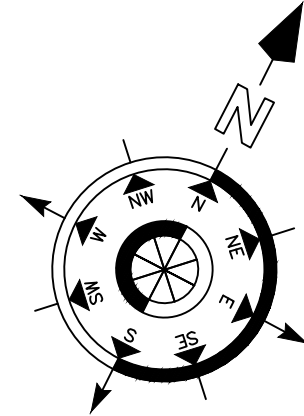
| | | | |
|---|---------------|--|--|
| KIPP LAND SURVEYING | | TOPOGRAPHIC SURVEY | |
| RANDY KIPP P.L.S. P.O. Box 3154 Eagle, CO 81631 (970) 390-9540 email: randy@kipplandsurveying.com web: kipplandsurveying.com | | LOT 12 AND N $\frac{1}{2}$ LOT 13, BLOCK F Booco's Addition To Minturn Town of Minturn,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

MAIN LEVEL DOOR SCHEDULE

| MAR | DOOR | | Style | FIRE RATING LABEL | NOTES |
|-----|-------|-------|------------------------------|-------------------|--------------------|
| | SI | E | | | |
| | D | HGT | | | |
| 1 | 6'-0" | 7'-0" | Sliding - Double - Full Lite | -- | -- |
| 2 | 2'-6" | 7'-0" | Hinged - Single | -- | -- |
| 3 | 2'-6" | 7'-0" | Hinged - Single - Half Lite | -- | Existing, relocate |

MAIN LEVEL WINDOW SCHEDULE

| MAR | SI | | Style | Sill Height | NOTES |
|-----|-------|--------|----------|-------------|--------------------|
| | IDTH | HEIGHT | | | |
| 1 | 2'-6" | 3'-6" | Casement | 3'-6" | -- |
| 2 | 6'-4" | 1'-6" | Picture | 7'-6" | -- |
| 3 | 2'-6" | 3'-6" | Casement | 3'-6" | -- |
| 4 | 2'-6" | 3'-6" | Casement | 3'-6" | -- |
| 5 | 5'-0" | 1'-6" | Picture | 7'-6" | -- |
| 6 | 2'-6" | 3'-6" | Casement | 3'-6" | -- |
| 7 | 2'-6" | 2'-6" | Casement | 4'-6" | -- |
| 8 | 5'-6" | 1'-6" | Picture | 7'-6" | -- |
| 9 | 4'-6" | 1'-6" | Picture | 7'-6" | -- |
| 10 | 3'-0" | 4'-0" | Casement | 3'-0" | Existing, relocate |

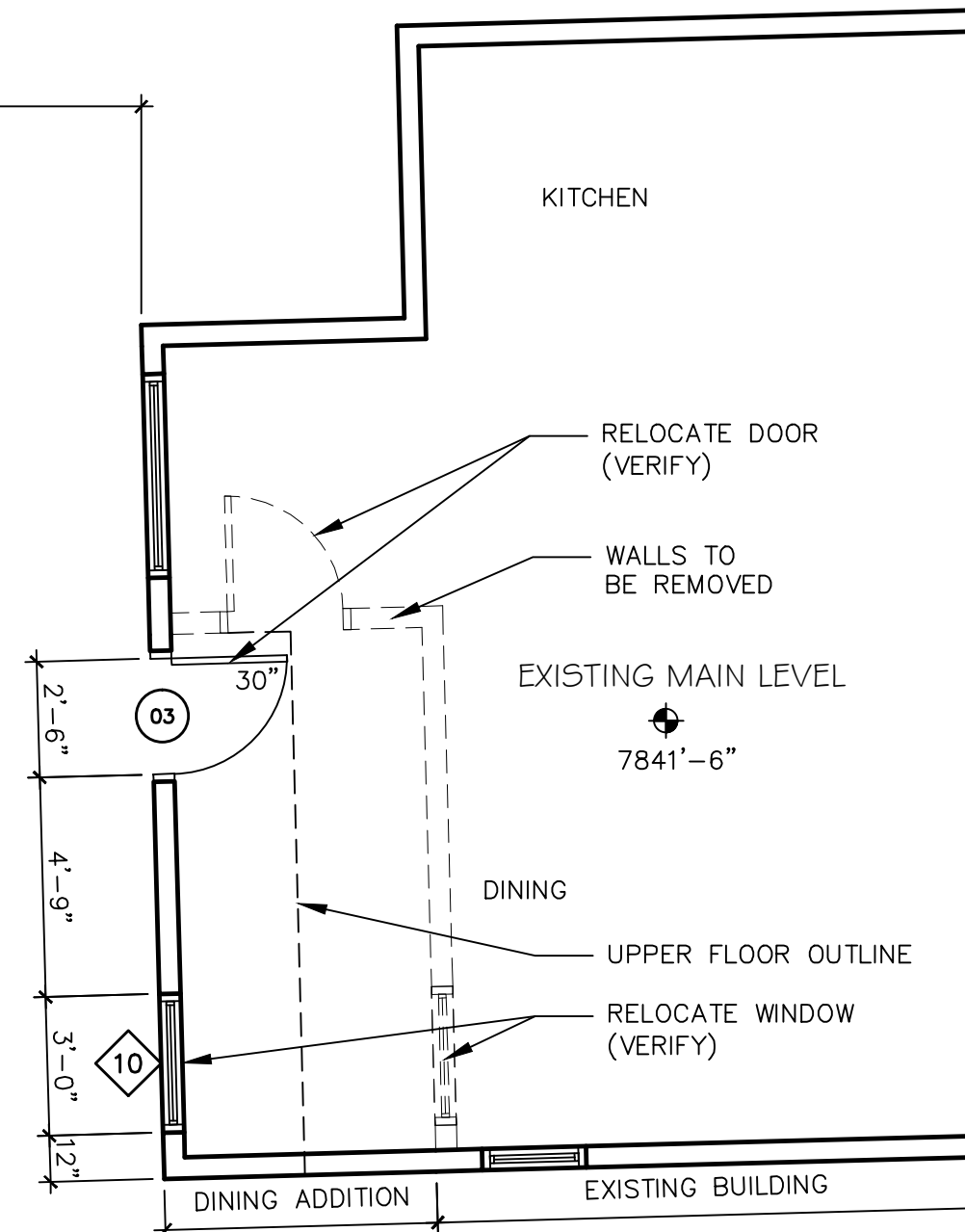


MAIN LEVEL FLOOR PLAN

1/4" = 1'-0"
 MAIN LEVEL = 483.00 SQ. FT.
 DINING = 35.84 SQ. FT.
 TOTAL = 518.84 SQ. FT.

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

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

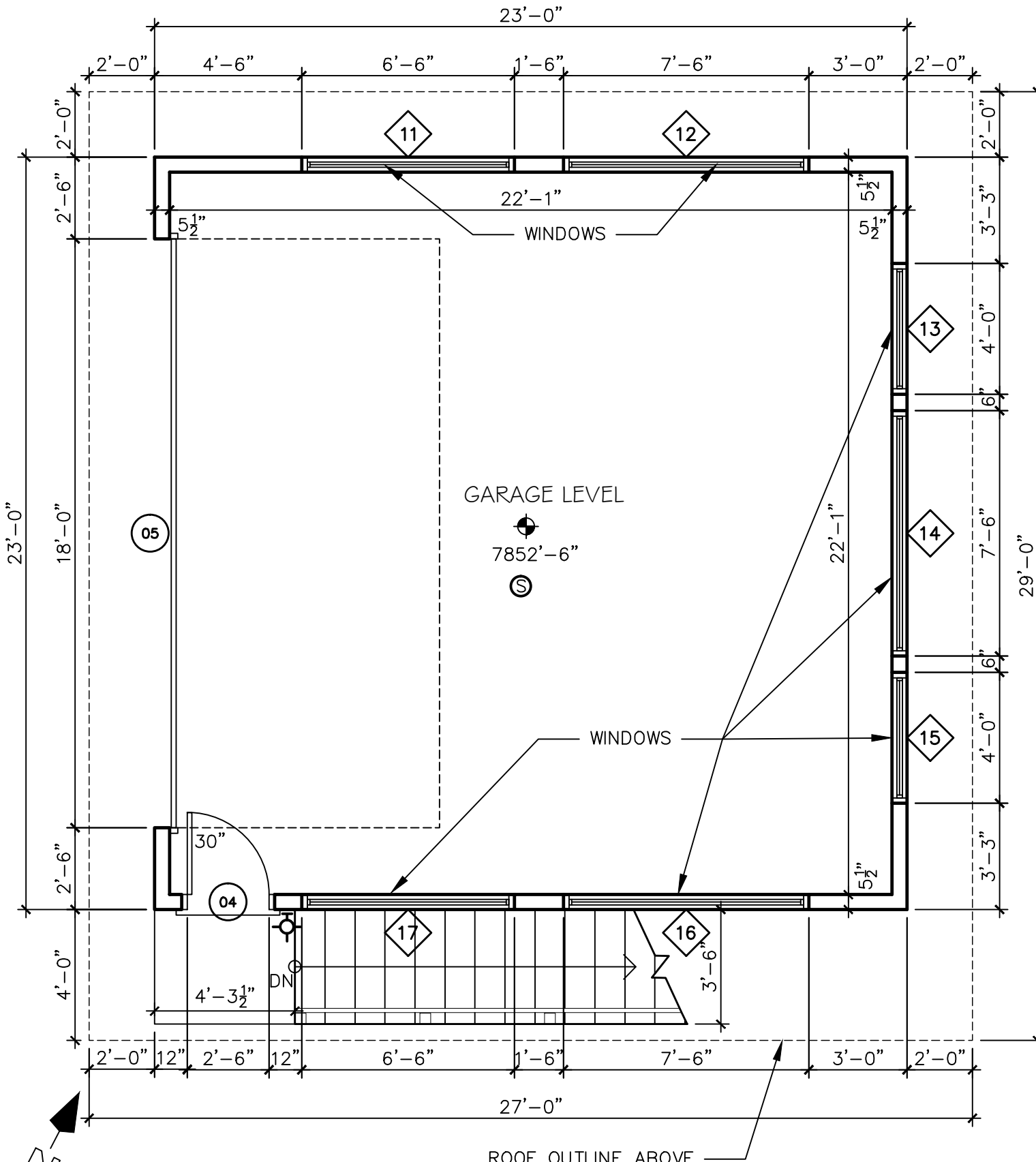
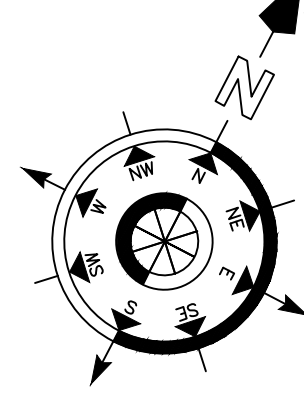


UPPER LEVEL DOOR SCHEDULE

| MAR | DOOR | | Style | FIRE RATING LABEL | NOTES |
|-----|--------|-------|--------------------------------------|-------------------|----------|
| | SI | E | | | |
| | D | HGT | | | |
| 4 | 2'-6" | 8'-0" | Hinged - Single - Exterior Half Lite | 20 MIN. | W/closer |
| 5 | 18'-0" | 8'-0" | Overhead - Sectional | -- | -- |

UPPER LEVEL WINDOW SCHEDULE

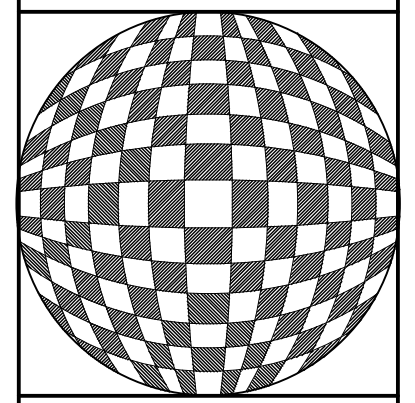
| MAR | SI | | Style | Sill Height | NOTES |
|-----|-------|--------|----------|-------------|-------|
| | IDTH | HEIGHT | | | |
| 11 | 6'-6" | 4'-0" | Picture | 4'-0" | -- |
| 12 | 7'-6" | 4'-0" | Picture | 4'-0" | -- |
| 13 | 4'-0" | 4'-0" | Casement | 4'-0" | -- |
| 14 | 7'-6" | 4'-0" | Picture | 4'-0" | -- |
| 15 | 4'-0" | 4'-0" | Casement | 4'-0" | -- |
| 16 | 7'-6" | 4'-0" | Picture | 4'-0" | -- |
| 17 | 6'-6" | 4'-0" | Picture | 4'-0" | -- |



GARAGE LEVEL FLOOR PLAN

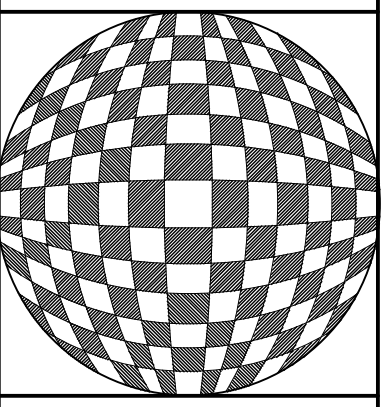
1/4" = 1'-0"
 GARAGE = 529 SQ. FT.

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

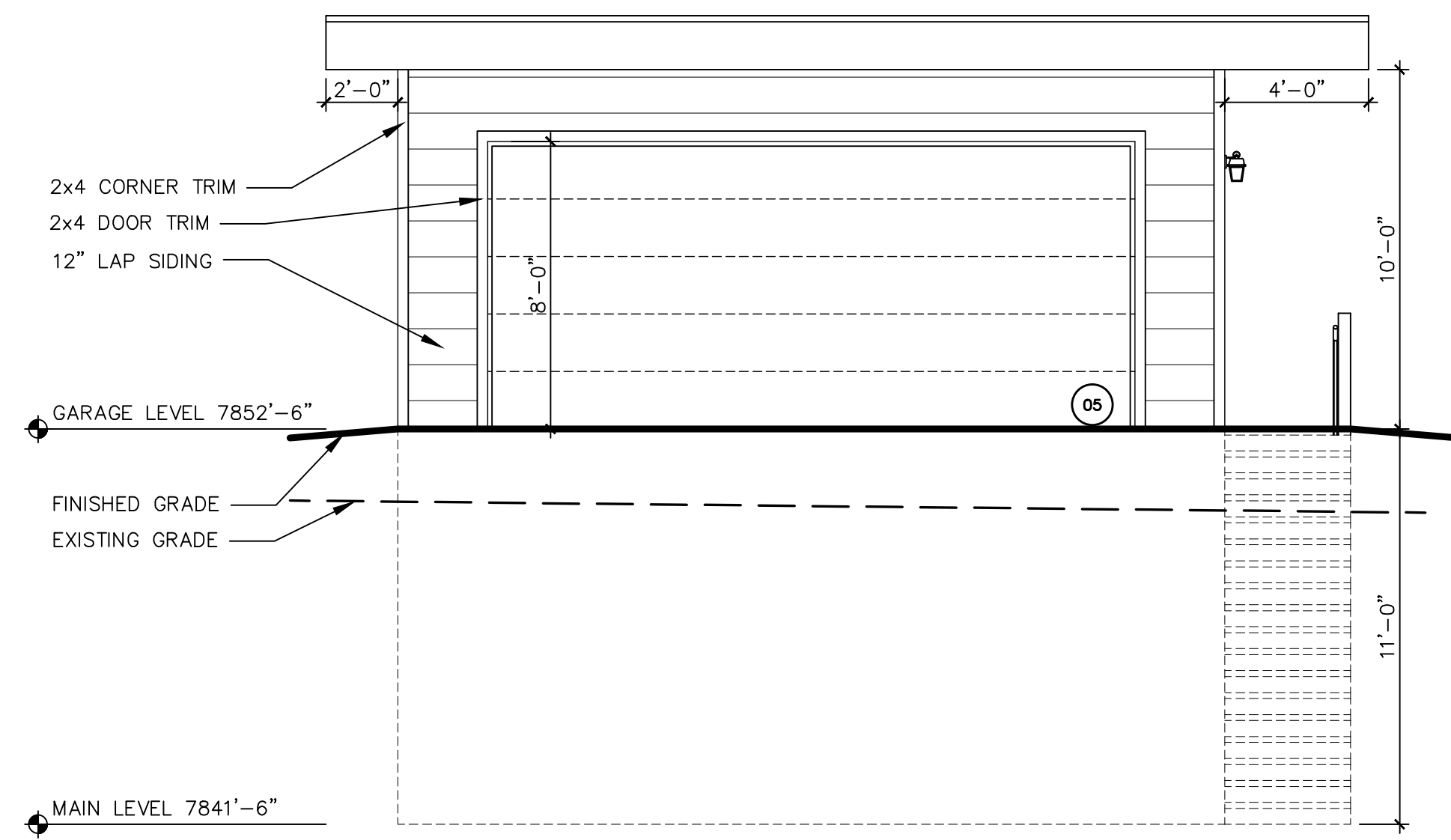


GARAGE ADDITION
 261 MAIN STREET
 MINTURN COLORADO 81645

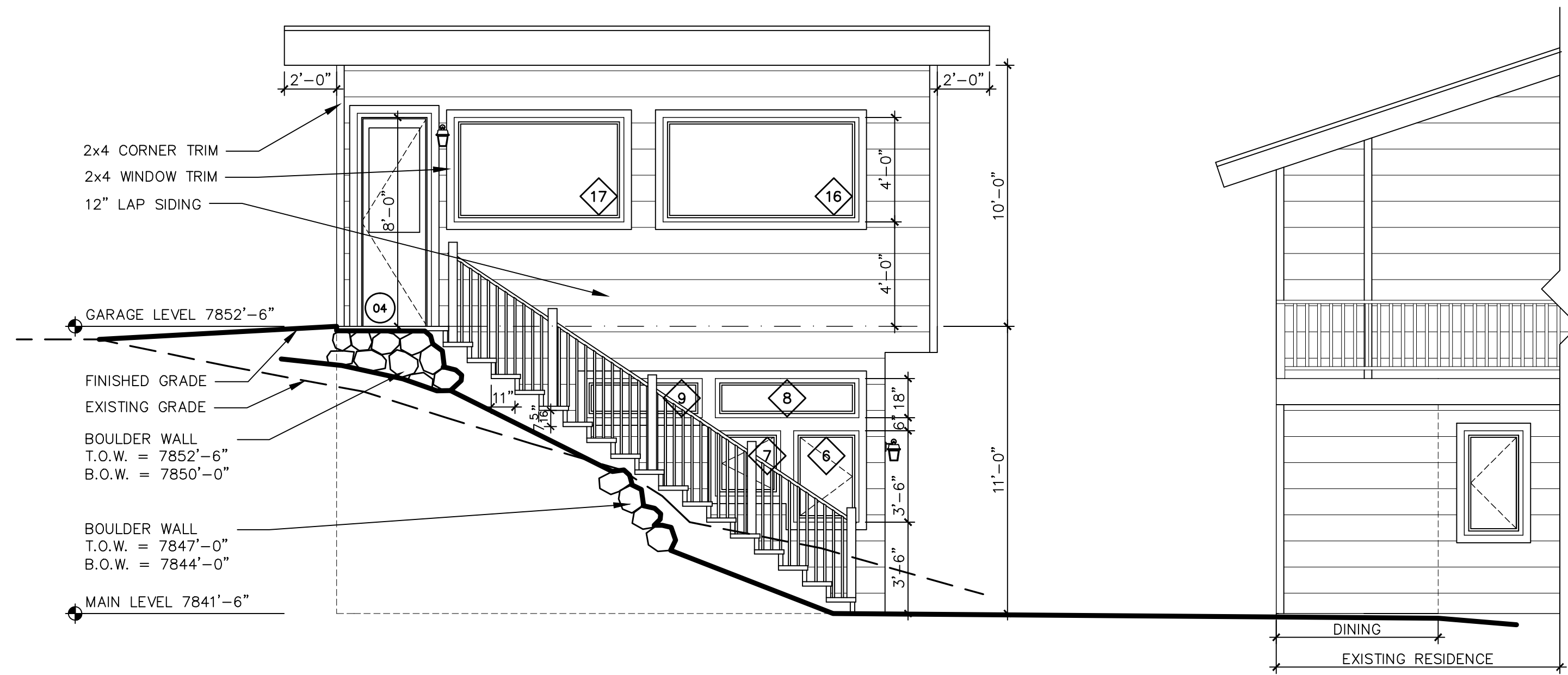
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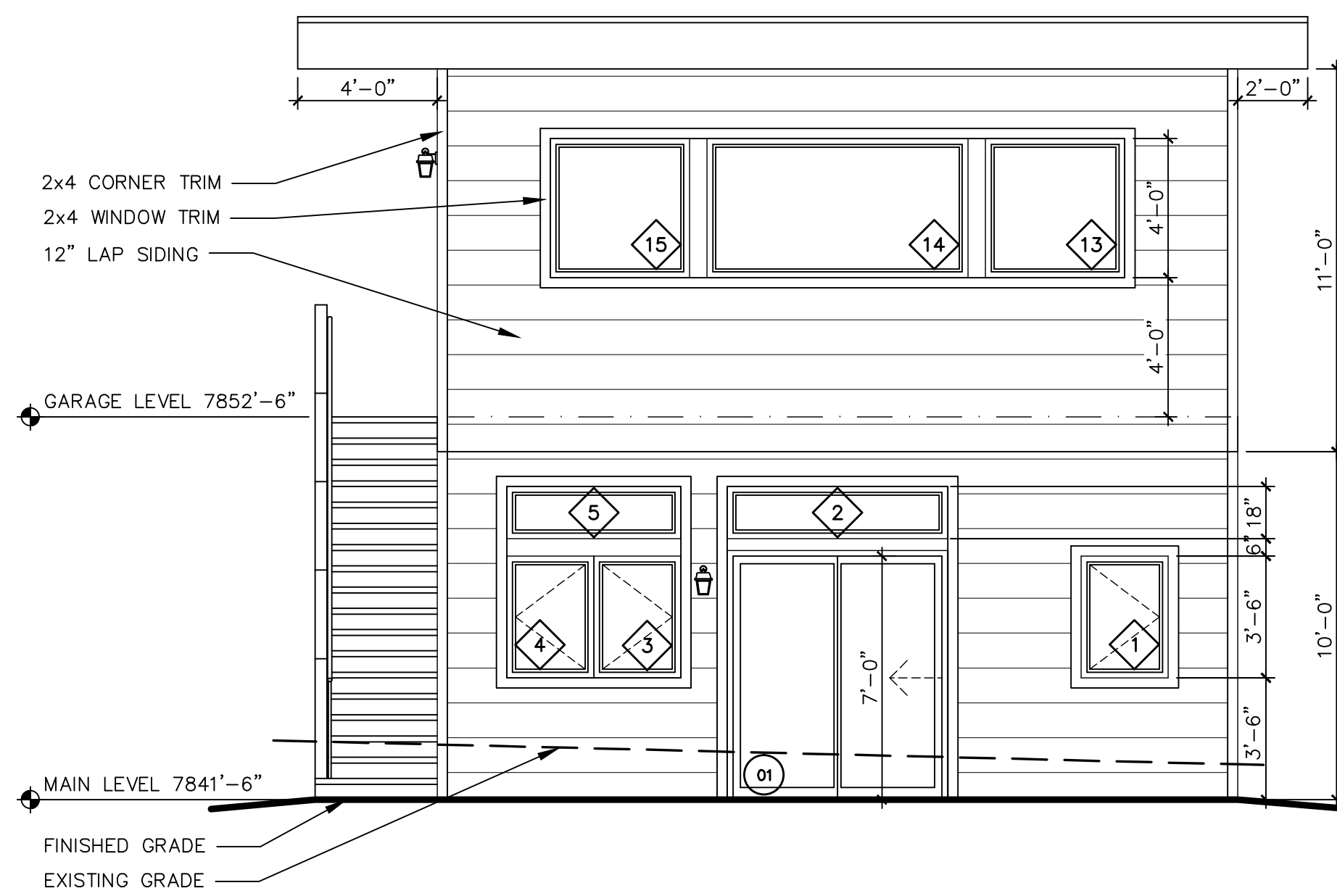
GARAGE ADDITION
261 MAIN STREET
MINTURN COLORADO 81645



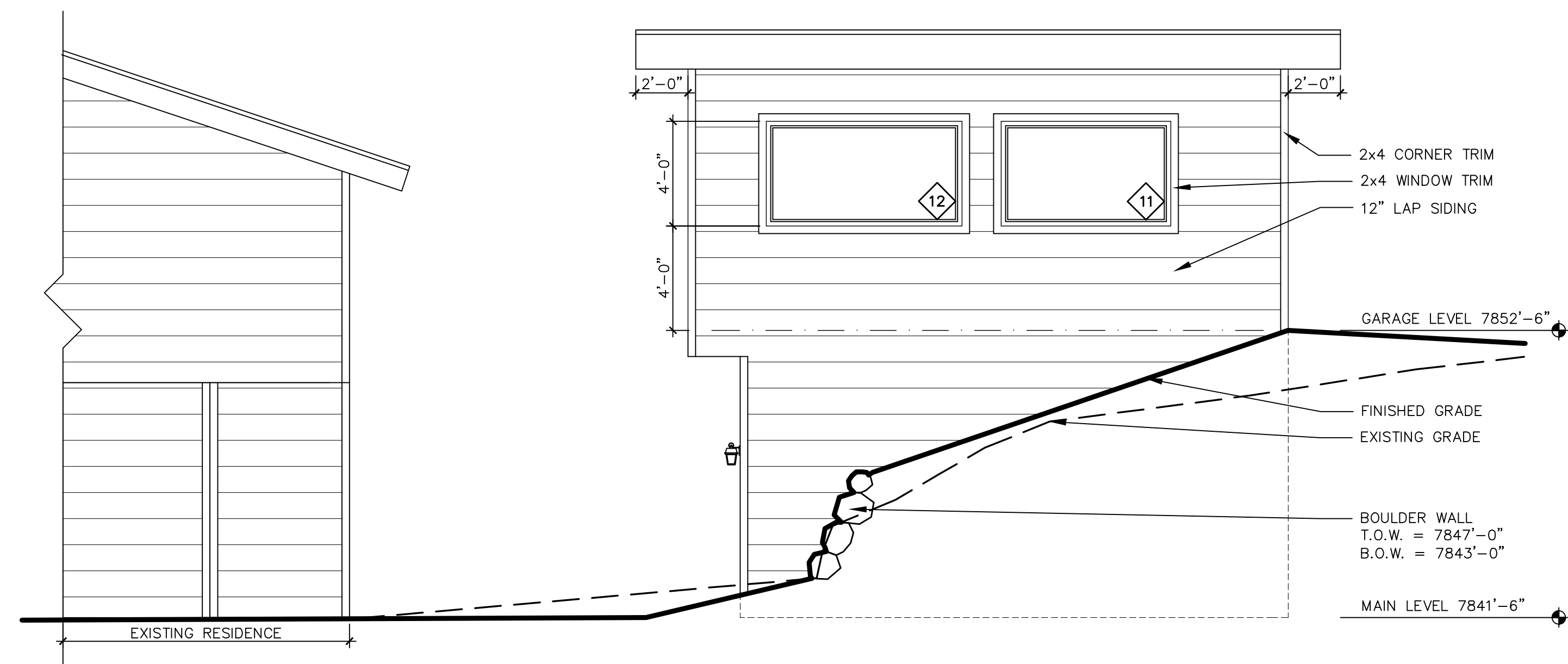
1 **SOUTHWEST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.



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



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

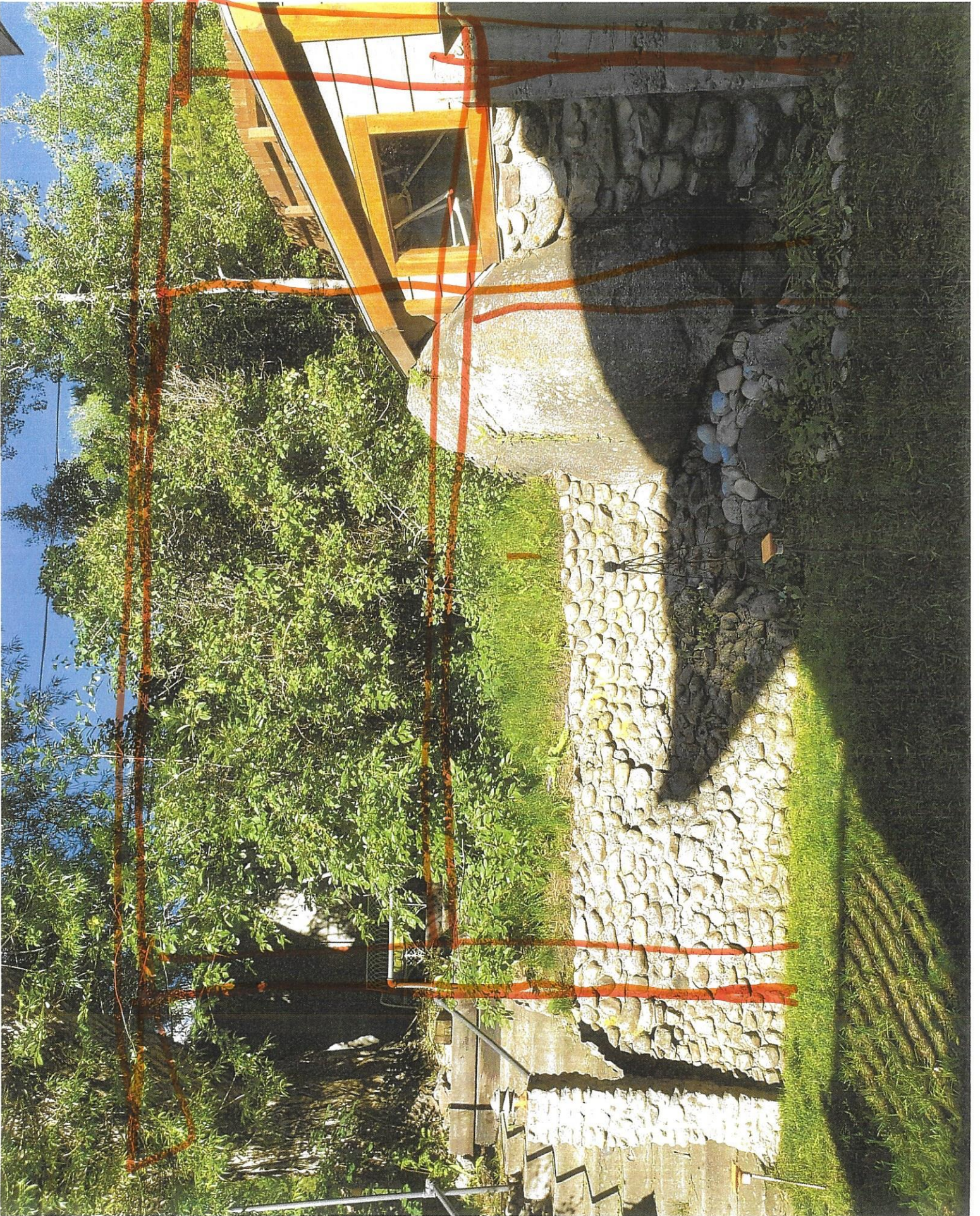


4 **NORTHWEST GARAGE ELEVATION**
1/4" = 1'-0"
NOTE: MATCH EXISTING MATERIALS OF MAIN RESIDENCE:
SIDING, TRIM, ROOFING ECT.

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













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



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

MEMORANDUM

To: Planning Commission
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: August 20, 2021
Re: Minturn North Staff Report Update Memo

I. Introduction:

This is an addendum to the full Minturn North Preliminary Plan for PUD staff report issued for the July 28, 2021 public hearing which is attached to this packet.

The Applicant, Minturn Crossing, LLC, requests continued review of the *Preliminary Development Plan* for the Minturn North Planned Unit Development (PUD). The Preliminary Plan was reviewed in detail at the July 28th, 2021 hearing before the Planning Commission and consists of 95 lots across two phases that can accommodate between 116 and 184 residential units on the 18.95 acres parcel of Union Pacific Railroad land at the north end of Town within the Game Creek Character Area PUD Holding Zone.

Preliminary Plan review is the second of a three-stage required public review and approval process necessary for the creation of a PUD within the Town of Minturn.

The first Planning Commission public hearing to introduce the Minturn North Preliminary Plan for PUD application was held on April 14, 2021 and was continued to the Planning Commission meeting of June 23, 2021 to allow the Applicant time to address several outstanding issues and concerns identified by staff and external review agencies during their review of the application. At the June 23rd meeting, the Applicant presented a brief update on their progress toward providing responses to staff and they requested an additional continuance to the regular meeting of July 28, 2021 to be able to continue working with the Town and their own project team to address myriad concerns and outstanding issues.

At the July 28th meeting, Town staff and the Applicant presented detailed overviews of the PUD standards and process, the Preliminary Plan, as well as details regarding how the Applicant had responded to previously stated concerns and outstanding issues. Several topics were discussed by the Planning Commission, public comment was taken, and the Planning Commission identified specific issues needing further refinement and/or revisions – to be presented and

discussed at a subsequent public hearing. The Planning Commission voted unanimously to continue the review until August 25, 2021.

Since the July 28th meeting, the Applicant, Town staff and consultants have met several times, focusing on specific site design and engineering issues and solutions. In addition, the Applicant has successfully resolved several if not most (minor) outstanding issues of a technical nature related to the PUD Guide and HOA covenant documents.

Staff anticipates a robust discussion on the remaining outstanding topics that are enumerated below and then a recommendation to the Town Council made by the Planning Commission at this hearing.

Staff is recommending approval of the Preliminary Plan for PUD with several detailed conditions listed below.

II. Summary of Discussion at July 28, 2021 Meeting and Staff Updates:

Following the first two planning commission hearings where the Applicant sought to introduce the project and receive initial input from the Planning Commission on some key issues, the project was reintroduced at the July 28th meeting and Town staff provided an overview of the PUD approval process and standards, as well as outstanding issues and discussion topics needing to be addressed during the hearing.

The Applicant provided an update on progress made to resolve several outstanding issues and items that had been discussed at the April 14th and June 23rd meetings. Despite the Applicant's work to address several concerns first identified before the April 14th hearing, the Applicant clarified during the July 28th hearing that he is seeking "Phase I" approval only at this time, as additional technical studies related to Phase II are still being completed.

Staff suggested during the meeting that while the Applicant may be focused on Phase I approvals only, the Town's best interest may be served by approving vesting (vested rights) for both Phase I and Phase II at the same time; this is typical with most PUDs or larger subdivision applications. Approval of both phases at the Preliminary Plan stage - when project vesting is granted - merely allows the developer to move forward with final plans and final platting (laying out of final subdivision of lots) for the first phase of development while reserving (for a specified period of time, typically) any additional review of technical, engineering and subdivision platting details for subsequent phases until the developer and/or the Town are in a position to move forward.

It is important to keep in mind that vesting - the conveyance of the right to move forward with a development - is typically time limited (typically 3-5 years) and is often negotiated between an applicant and the Town decision makers, the Town Council. Once granted, a vested property right is "perfected" once a property owner/developer has taken certain action(s) to move forward with the project. This is usually structured as part of the final plan, plat and Subdivision Improvements Agreement (SIA) stage of review – the last stage of PUD review and approval.

The Town Attorney has provided a memo outlining the PUD approval process, vested property rights, PUD approval standards and the roles of both the Planning Commission and the Town Council during the PUD approval process.

Below is a summary of the main discussion points and the topics raised by public at the July 28th hearing, along with an update (as of August 20, 2021) from staff as to how issues/concerns have been addressed, whether there are still outstanding issues and if there are associated conditions of approval recommended by staff to further resolve any outstanding issues:

Legal Access:

One major outstanding issue that remained at the time of the July 28th hearing was the issue of legal access to and from the project. Access currently exists through the subject property, but the Town and Union Pacific Railroad have been working for months to finalize details and agreements related to providing long-term agreements that will satisfy the Town's requirements for legal access in perpetuity to Taylor Avenue and Minturn Road. At the time of the July 28th hearing, the Town and UPRR had not finalized legal access agreements.

Update (August 20, 2021):

A memo from the Town Attorney dated August 19, 2021 has been provided in this packet concerning the successful resolution of all access agreements necessary to demonstrate positively that the PUD may be served by adequate public access. Specifically, Minturn Road will be dedicated to the Town; A crossing agreement will be provided for Railroad Avenue; and, a crossing agreement for Minturn Road near Dowd Junction will be provided in final documents presented to the Town Council during the Council's review of the Preliminary Plan.

Traffic Impacts and Public Infrastructure Improvements:

There was concern expressed about the capacity of Minturn Road to handle the daily increase in peak hour traffic to and from the PUD, as well as the safety concerns of utilizing the S-curve across Railroad Avenue to access the property. Turning Taylor Avenue into a one-way from the Towne Homes to Fourth Street also caused significant concern – by Town staff, Planning Commission members and local residents - and the Planning Commission agreed that in its current iteration, the one-way concept would be problematic and suggested that the Applicant explore alternatives to realign Taylor Avenue and the intersection with Minturn Road to be a ninety degree intersection.

Update (August 20, 2021):

Minturn Road - Taylor Avenue Intersection:

Staff (Planning and Engineering Departments) held a meeting with the Applicant's Civil Engineer on August 10, 2021 to review all outstanding engineering and site design-related comments. During that meeting, the Minturn Road-Taylor Avenue intersection and the proposed one-way on Taylor Avenue was discussed at length. It was confirmed at that time that the one-way solution would be problematic for several reasons, including impacts to existing residents on Taylor Avenue as well as practical issues related to enforcement by the Town of the one-way travel lane.

During the meeting on August 10th, the Applicant shared a concept of a proposed road realignment and “T” intersection design. This conceptual design (a couple different options of the same concept) is attached to this update memo as part of the Applicant’s response to the Town’s recent list of outstanding issues and concerns.

The Applicant will be prepared to discuss the pros and cons of the proposed realignment and new intersection geometry at the August 25th meeting. While the one-way solution has its limitations and challenges, so does any realignment of the intersection due to existing grades and the implications of constructing (raising) the intersection grades while trying to avoid grading and disturbance on UPRR property due to right-of-way constraints. Staff had provided preliminary comments back to the Applicant with regard to the location of the realigned intersection and the placement of driveway cuts (from Minturn Towne Home units A-1, A-2, and A-3; 130, 131, and 132 Taylor Avenue, respectively) at the curve of the realigned Taylor Avenue; staff has proposed a modification that would shift the intersection slightly to the north and allowing for the creation of a landscape buffer between the road and the Minturn Towne Home driveways. This modification, if feasible from an engineering perspective, would necessitate a private driveway situation where the existing driveways from Units A-1, A-2, and A-3 would need to be connected with the main Minturn Towne Home access driveway before exiting the property. The existing access to these lower units from Taylor Avenue would be closed off. This appears to be a safer solution than loading the Taylor Avenue curve with two or three additional driveway cuts.

At a subsequent meeting between Town staff and the Applicant on August 19, 2021, the updated concept for the T intersection was discussed showing an internal driveway redesign for Units A-1, A-2, and A-3. At the August 25th meeting, the Applicant will present their original concept showing driveway cuts onto Taylor Avenue, as well one concept showing the staff suggested design that creates a private driveway option for Units A-1, A-2, and A-3.

Minturn Road to County Road – Improvements and Cost Estimates

The Applicant has provided an updated plan (Sheet EX-5) titled “County Road Improvements Concept” by Yarnell Consulting and Civil Design LLC showing a 60’ right-of-way as well as a proposed road profile and site plans illustrating potential geometry and associated improvements. Previous submittals included potential costs of the Applicant’s proposed regrading and overlay of the County Road. Detailed designs (construction level) and associated detailed cost estimates by the Project Engineer of Record should be included in any Final Plan, Final Plat and SIA application for Phase I and the Town and Applicant should discuss timing of improvements for this segment of Minturn Road/County Road.

Density and Layout of the Proposed Subdivision:

There was concern expressed by several members of the public that the current subdivision layout was too dense and that other design/layout concepts - such as designing alleyways behind lots to take the driveways off of Minturn Road and Taylor Avenue – would produce fewer lots and fewer new driveways along Taylor Avenue. Additionally, members of the public expressed concerns regarding how the layout of lots would potentially create drainage issues between lots.

Update (August 20, 2021):

Please see supplementary discussion “**PUD Design and Smart Growth Principles**” by staff below under Section IV on page 9.

Housing Plan and Affordability of the Project:

Several comments were received during the hearing with regard to the overall affordability of the project; that the lots created would not be affordable by locals despite the voluntary “locals only” deed restriction being offered by the Applicant. Staff also had suggested revisions and/or requests to continue working with the Applicant to bolster the PUD’s housing plan further and to work with partner agencies such as the Eagle County Housing and Development Authority (ECHDA) to find creative solutions to increase the number of locals only lots, or to potentially buy down the price of lots/units in the future.

Update (August 20, 2021):

Although staff nor the Applicant have been able to meet with ECHDA staff to discuss the proposed housing plan since the July 28th hearing, staff has proposed **Condition of Approval No. 13** requiring the Applicant to continue working with the Town and ECHDA to further refine the voluntary housing plan. As a reminder, this PUD application is not subject to the Town’s recently adopted “Inclusionary Zoning” housing ordinance; all efforts by the Applicant to provide deed restrictions and/or impose a transfer fee are voluntary.

Potential Impacts to Adjacent Properties:

There was concern expressed by several residents of Taylor Avenue and the Minturn Towne Homes about the potential impacts to the existing residents located on Taylor Avenue such as construction duration during build-out of the project, noise, perceived reduction in existing street parking, adequacy of snow storage, potential on sewer and water service during construction of infrastructure, the one-way on Taylor Avenue, as well as stormwater management and drainage.

Update (August 20, 2021):

Adverse Impacts Definition and Town Standards

The Town Attorney has provided a memo in this packet that addresses the standard laid out in 16-15-160(c) which states “*The adjacent and nearby neighborhoods will not be detrimentally affected by the proposed PUD.*”

Construction Management, Timelines and Service Outages:

The Preliminary Plan drawings and other documents provide details of construction management plans during the installation, inspection and approval process for all public infrastructure. During recent meetings with the Applicant and the Applicant’s representatives to discuss construction management plans as well as coordination of planned service outages when existing utility lines are planned to be taken off line in order to upgrade and/or install new lines, staff suggested that the Applicant can provide additional “operations plans” or protocols for the project whereby details such as who is in charge at the site, what the protocols will be for any incidents that may impact

nearby residents, and/or notification requirements and time limits for planned service outings. **Conditions No. 15-16** have been suggested by staff to address this issue.

Beyond the construction management plans already provided and presuming that an operations plan can and will be developed, staff respectfully acknowledges the concerns of several neighboring property owners regarding the potential impacts from single-lot development over the build-out of the Minturn North PUD. However, staff also suggests that this (gradual buildout of a platted subdivision based on market absorption and conditions) is typical; and, that master planned communities built by one or perhaps two or three “master developers” perhaps in a more condensed time frame is more the exception in Eagle County. Village Homes in the Eagle Ranch Subdivision in Eagle, Colorado, is an exception to this, along with other developments like Stratton Flats in Gypsum. That said, both examples still took (or are still taking) several years to completely build-out. Additionally, the Town has endorsed the Applicant’s concept to allow for the purchase of lots and the gradual construction of individual homes which is more in-line with how development and growth has happened in Minturn, historically.

Snow Storage Plans and Parking Impacts:

Over the course of the review of this PUD – from Concept Plan review to the current Preliminary Plan for PUD review - Town staff has met with the Applicant several times to discuss and critique proposed snow management and storage solutions. This (snow management and storage) has also been a reoccurring concern mentioned by area residents who are accustomed to existing conditions where snow is moved from private property onto Taylor Avenue, then plowed by the Town on to private property (Union Pacific Railroad property).

The Town staff – Town Manager, Planning Department, Town Engineer, and Public Works Supervisor – met with the Applicant and the project Engineer on August 19th to focus specifically on proposed snow storage plans and to discuss areas of concern while identifying potential solutions. At this meeting, the realignment (straightening) of Taylor Avenue was discussed relative to existing parking arrangements and snow storage. This discussion confirmed that 1) existing parking along the east side of Taylor Avenue would largely not be affected by the realignment and resurfacing of Taylor Avenue, but that 2) parking along both sides of Taylor Avenue would likely present challenges for Town staff during snow events. Specifically, existing parking – perpendicular in some places, parallel in others - along the east side of Taylor Avenue is largely haphazard and occurs in many areas within the Town’s Taylor Avenue right-of-way rather than on private property. These existing conditions should not be affected in most instances by the project.

However, the Minturn North plans show parallel parking along the west side of Taylor Avenue which, due in part to the haphazard nature of existing parking arrangements along the east side of Taylor Avenue, may complicate snow management and removal during a snow event if parking along the east side of Taylor Avenue does not change or is not properly managed (if cars within the Taylor Avenue right-of-way are not also parked in a parallel manner in the future). Specifically, the plans call for signage to be installed within the Minturn North neighborhood stating “No Parking” 9am to 4pm on

either Tuesdays and Thursdays, or Mondays and Wednesdays, November 1 – April 1, depending on the east or west side of the given street. Signage on both sides of Taylor Avenue was identified as a potential solution and the Applicant agreed to continue working with the Town to find additional solutions.

Additionally, snow storage areas within open spaces located on the north side of the development as well as snow storage in pocket parks on either side of 4th Street were discussed. The concern by Town staff is that pocket parks would need to be open – no permanent playground equipment, for instance – during the winter months to allow for storage and piling of snow. Additionally, the open space area located between Game Creek and the northern most single family lots slated for snow storage would need to be accessed by Public Works staff; currently access to this large area is limited and/or too steep to safely maneuver a loader and other equipment during the winter months. A potential solution will be to relocate Lot 63 (northwestern most standard lot along Taylor Avenue) to the west and relocated next to existing Lot 70; this would displace parking spaces along Icehouse Avenue but would provide a viable solution and additional snow storage areas for plowing coming off of the northern most extent of Taylor Avenue. Town staff supports this revision to the plans. **Condition No. 4 is suggested to further address and resolve issues related to snow storage and management.**

Based on the discussion that occurred at the July 28th hearing, staff, the Applicant, and the Applicant’s representatives have met several times to clarify issues and concerns, discuss potential solutions and mitigation measures that can be incorporated into the PUD Preliminary Plan, and the Applicant has, in most instances, provided updated plans and/or evidence to demonstrate a higher level of conformance with applicable Town standards. Additionally, Michelle Metteer, Town Manager, attended a meeting with several residents of Taylor Avenue and the Minturn Towne Homes on August 2, 2021 to discuss resident concerns as well as potential solutions. Those concerns have been conveyed to the Applicant, the Applicant’s project team, as well as the Town staff and Town consultant team, and several revisions have either been made to the plans and/or proposed to address and mitigate Planning Commission concerns or suggested revisions, staff’s outstanding issues, or the concerns of neighboring property owners.

III. Outstanding Issues:

As mentioned above, the Applicant has made significant progress addressing several substantive issues and areas of concern and has met with staff and the Town’s consultant team several times since the July 28th hearing. While a majority of issues have been resolved, staff has outlined below (by topic area) those issues or technical aspects of the application that are outstanding but which staff - Planning Department, Attorney’s Office, Public Works Department, and Town Engineer - believe are generally minor in nature and/or can be addressed as “Conditions of Approval” - to be addressed prior to any Final Plan and Final Plat application.

PUD Guide and HOA Documents Issues (Condition of Approval No. 1)

The Applicant has made several revisions to the PUD Guide document and HOA Documents for the PUD in response to staff and agency comments during the review and referral process. That being said, there remain additional items associated primarily with the PUD Guide that

staff is recommending be revised to ensure that the Town can effectively, efficiently administer, interpret and enforce the provisions of the PUD. **Condition of approval number 1 below** is recommended to address and capture all outstanding issues related to the PUD Guide and HOA Documents.

Engineering and Civil Plan Issues (Conditions of Approval Nos. 2-10)

There remain outstanding issues or details needing to be resolved on civil engineering and site plans. Staff and the Applicant agree that most of these issues or items are generally minor in nature and can be resolved prior to or concurrent with any Final Plan, Final Plat and SIA application as the civil engineering plans are brought up to 90-100% construction level drawings. One outstanding issue that has not been discussed in public hearings to date is staff's recommendation (condition No. 3) to add sidewalk sections along the east side of Minturn Road. This will be particularly important for accessibility and safety for future residents living along Minturn road due to the proposal by the Applicant to use the ECO Trial along the west side of Minturn Road for snow storage during the winter months. **Conditions of approval numbers 2-10 below** are suggested to address the engineering and civil plan issues.

Phasing Plan Issues (Conditions of Approval Nos. 11-12)

During the course of Preliminary Plan review, staff and the Applicant have discussed the phasing plan and the need to clarify and finalize the timing of public improvements as well as final construction details and cost estimates that will be addressed during Final Plan, Final Plat, and SIA application process. The Applicant has made certain revisions to the Phasing Plan and certain plan sheets, however staff has included **conditions of approval 11 and 12** to ensure that the phasing plan is accurate across all formats.

Housing Plan (Condition of Approval No. 13)

As mentioned previously, the housing program offered by the Applicant is strictly voluntary. The Applicant has met with representatives from the Eagle County Housing and Development Authority during the Preliminary Plan process, yet both the Applicant and staff still desire to continue a dialog with the County staff to seek their expertise as local housing experts in ways to bolster, partner, or otherwise deliver additional deed restricted "locals only" housing and to identify the best ways to leverage the proposed 1% transfer fee. Therefore, **condition of approval number 13 below** is suggested to require that the Applicant continue to work with ECHDA and the Town toward this end.

Construction Management (Condition of Approval Nos. 14-15):

As mentioned in this update memo, staff has discussed the existing construction management plans and the need for or possibility of additional construction impact mitigation and planning with the Applicant. Staff is recommending **condition Nos. 14 and 15** to address these issues and concerns further and to work cooperatively with Town staff and residents of Taylor Avenue and the Minturn Towne Homes to mitigate impacts on residents to the highest extent possible.

Subdivision Improvements Agreement (Condition of Approval Nos. 16-21)

As with any project of this size, a Subdivision Improvements Agreement is necessary to ensure that the project, particularly if phased, is carried out and completed in a timely, orderly manner; and, that the Town has accurate cost estimates and corresponding financial guarantees from the Developer prior to authorizing any construction activities of public infrastructure and

amenities. Much of the information and negotiation used to formulate final plan details and SIA terms are technical and/or legal in nature. **Condition Nos. 16-21** are intended to address those legal, technical or financial related SIA details that should be addressed by staff and the Town Council during Final Plan and Final Plat approval.

Additional Permitting (Condition of Approval No. 22)

There remain additional permitting and/or license agreements that will be necessary to permit construction of the project on or impacting other UPRR property outside the boundaries of the proposed Minturn North PUD. Staff has included a boilerplate **condition No. 22 below** requiring the Applicant to provide evidence that such permitting has been obtained and that final details for any such “off-site” improvements on UPRR property are shown on final construction drawings along with corresponding cost estimates.

IV. PUD Design and Smart Growth Principles

As permitted with any Planned Unit Development, the Minturn Municipal Code allows and encourages applicants for new development to request variations (“variances”) from the Town’s standards that would otherwise apply to any new development using standard zoning. In previous reporting and public presentations, staff has outlined in detail the purposes and objectives of the PUD Overlay Zone District 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. Another way to understand why Town staff is supportive of the variations requested and, specifically, of directing new residential development to this area has to do with principles of smart growth and development that the Town embraces.

First, the Game Creek Character area - the Union Pacific Railroad property, specifically - has been identified in numerous Town documents as appropriate for low to medium density residential and mixed-use infill development. Second, this is an area where existing infrastructure exists and/or can be upgraded in a cost-effective manner to serve more than this single development. One could reasonably conclude that directing future growth to this area made sense in 2009 when the Community Plan was developed, for several reasons:

1. Development proposals had already been contemplated for this same property prior to 2009 but UPRR never went through with sale of the property and the Town was clearly anticipating and articulating a reasonable vision for future growth in this area by placing a “PUD Holding Zone” designation within Chapter 16 and providing Future Land Use Map designations of “Low Density,” “Medium Density,” and even “High Density” residential uses adjacent to or in close proximity to existing Taylor Avenue;
2. The Town recognized the opportunity to capitalize on one of the last remaining private (large) inholdings close to the Town core and the need to take advantage of/leverage Town tax dollars by using and upgrading existing infrastructure in the area during development of a PUD rather than extending infrastructure further away from the existing core area of Town;
3. The Town and residents agreed that placing new population in close proximity to existing services, walking and biking infrastructure, and, therefore reducing the distances and vehicle

miles traveled by residents to reach jobs, services and recreation would be in line with the values and vision statement expressed in the 2009 Community Plan;

4. Directing growth inward in this area would protect other areas of within and outside of Town from sprawl and the inefficient, costly extension of services and infrastructure away from the core area of Town.

In land use planning terms, these principles are typically referred to as, or are synonymous with, “smart growth.” Essentially, smart growth principles include directing growth into areas already served by infrastructure and critical community services, increasing density where appropriate (to leverage or maximize the utility of existing public infrastructure, not necessarily maximizing profits for developers), creating or enhancing multi-modal transportation opportunities (i.e., creating walkable communities in close proximity to amenities and services) and generally taking development pressure off of inappropriate areas that are to either environmentally sensitive or too costly for tax payers to develop and maintain. Some towns and cities discourage sprawl through their taxing structures and/or impact fee policy (i.e. the further out a development is, the more it will cost up front to serve). Conversely, some communities actively *incentivize* infill development and “smarter,” more compact and walkable development by using the same tax and fee policies – often waiving or reducing fees, or providing incentives for density bonuses to direct more dwelling units and/or commercial development into areas that are already served by infrastructure – to enhance or bolster walkability or mass transit ridership, for instance or are identified in community plans as being ready to serve with new infrastructure as a matter of sound fiscal/growth management policy.

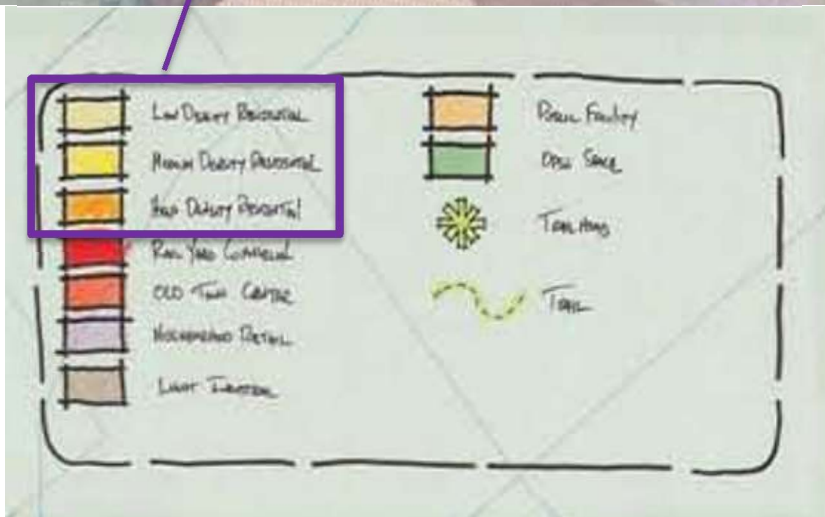
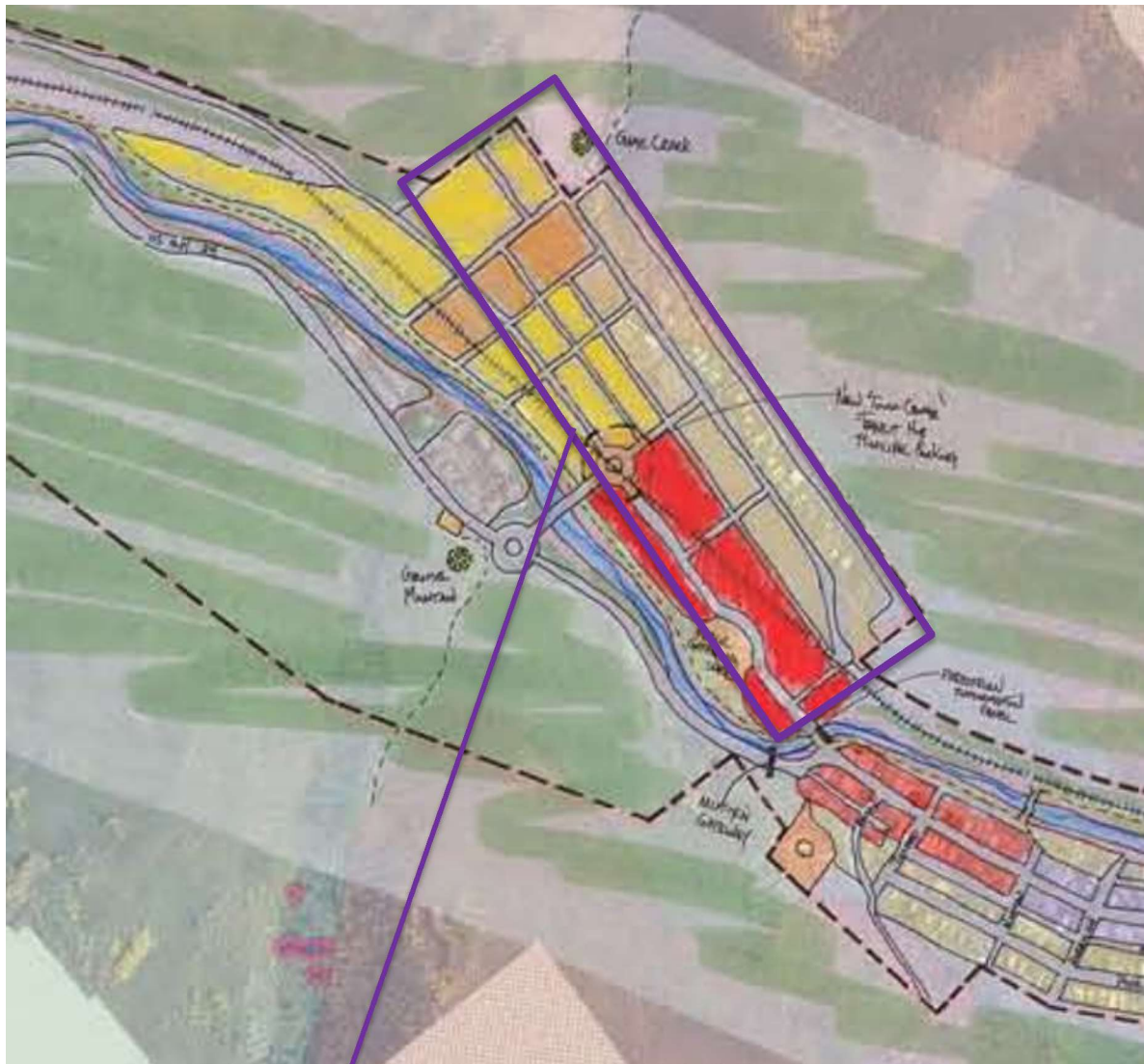
Development proposals that achieve smart growth principles often are Planned Unit Developments (or PUD Overlay Districts) that are incentivized to utilize variations from the underlying zone district standards (one size fits all restrictions that that are passed from one jurisdiction to the next when towns, cities and counties adopt codes from other jurisdictions) in order to permit and encourage flexibility in design and, therefore to create certain efficiencies that, ultimately, are beneficial to the jurisdiction and the tax payer.

In this case, the Applicant is requesting a modest number of variances and has provided justifications for each request. The Applicant has provided an updated list of variation requests along with updated responses and rationale as to why these are justified. This information is in the packet for the August 25th meeting. Additionally, the full Staff Report of July 28, 2021 provided detailed commentary regarding the requested variances and whether staff believes the purposes and objectives of the Planned Unit Development Overlay Zone District are being met.

Density

During the Conceptual Plan for PUD review for Minturn North, staff analyzed and presented calculations demonstrating that the existing density in the Taylor Avenue neighborhood matches or actually exceeds the potential maximum density (measured in units per acre) of the proposed Minturn North PUD. Although staff understands the arguments put forth by citizens who object to the proposed density, staff respectfully suggests that the Town’s guiding policy documents clearly support the type and number of residential units being proposed within the Minturn North PUD. Similar to staff’s brief commentary regarding “Variations List and Smart Growth” provided above, staff offers the following additional considerations to the Planning Commission in support of directing residential density to the Game Creek Character Area – PUD Holding Zone: :

- The 2009 Minturn Community Plan - Land Use and Transportation Section (inclusive of the Future Land Use Designations and Future Land Use Map (pp. 14-16; and, p. 22 respectively) clearly indicate the following:



- The Taylor Avenue neighborhood is identified as “Low Density Residential” (LDR) at 6-10 dwelling units per acre.
- The Union Pacific Railroad (UPRR) property directly adjacent to or across Taylor Ave. is identified as being appropriate for LDR as well as “Medium Density Residential” (MDR) at 10-20 dwelling units per acre, and even some areas of “High Density Residential” (HDR) at 20 dwelling units or more per acre.
- The 2009 Community Plan clearly identifies the Game Creek Character Area and, specifically, the “PUD Holding Zone” as an area that should be planned using “flexibility,” and “innovation” to achieve the goals of the Community Plan and, importantly that the area is *“suitable for expansion of Old Town and as a ‘potential Town Center’ site.”* The Plan also states that *“Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood.”* Staff respectfully suggests that the Minturn North PUD absolutely represents “appropriate residential” land uses matching or approximating those existing along Taylor Avenue today and that the proposed plans, along with revisions that the Applicant has or will be required to make to the plans will mitigate and minimize any potential impacts to the existing neighborhood. Staff also believes that the words “and low-impact” land uses were intended to denote or encourage other non-residential uses such as parks, open spaces, or possibly low-impact recreational uses.
- The area where the Minturn Towne Homes are located was shown in the 2009 Minturn Community Plan Future Land Use Map as being appropriate for “Low Density Residential,” or 6-10 units per acre; incidentally, the Towne Homes were built to a density of approximately 13 dwelling units per acre.
- The Future Land Use Map shows a conceptualized development pattern on the UPRR properties that includes a traditional lot and block pattern, including the re-alignment (straightening) of Taylor Avenue.
- The proposed base density (6 units per acre without full build-out of all permitted duplex and Accessory Dwelling Units) is in line with the existing dwelling unit count within the Taylor Avenue neighborhood (currently calculated at approximately 6 units per acre using available data from the Eagle County Assessor’s Office and no counting any unknown lock-off apartments that may exist in the area. As mentioned in previous reports, Taylor Avenue is currently underdeveloped; meaning, with redevelopment of certain lots and/or infill opportunities, the density in this area could increase while still being compliant with the standards (setbacks, building height, lot and impervious coverage) for the Game Creek Character Area - Residential Zone District.
- The 2009 Minturn Community Plan states the following: *“In areas where redevelopment on more than a single lot basis is possible, it is the intent to approximate existing densities on shared boundary lines, minimizing aesthetic and functional impacts to existing residents, while allowing for an incremental increase of density toward the core of new development areas.”* While there are no shared boundary lines between existing properties located along Taylor Avenue and the UPRR property, the proposed Preliminary Plan does demonstrate - through the placement of compact, standard and to a lesser extent the cottage lots along the majority of the Minturn North PUD’s Taylor Avenue frontage - a clear intent to match, or “approximate” existing densities and development patterns while also adhering to the 2009 Future Land Use Map, where the Low Density Residential, Medium Density Residential and even High Density Residential designations are shown adjacent to

or in close proximity to Taylor Avenue. PUD-specific design guidelines or standards (above and beyond any that apply to other lots in the Town); adherence to dimensional limitations such as the 28' building height limitation for the majority of all lots in the PUD; on-site parking requirements that match town code provisions; the imposition of four times the amount of snow storage typically required of other individual lots in town; HOA covenants governing everything from personal storage and maintenance of property, to hours of construction; and, the requirement for landscaping and exterior lighting in conformance with existing Town of Minturn standards are intended to address aesthetic and functional impacts on surrounding properties and residents.

In these ways, despite calls from some members of the public during public testimony for the Minturn North PUD to “follow the rules” (by denying all requested variations and by sticking to zoning and dimensional limitations that apply to existing Game Creek Character Area Residential Zone District), one can reasonably view the proposed Preliminary Plan as conforming - closely and in substantive ways - with the existing standards applicable to the Game Creek Character Area Residential Zone District (Taylor Avenue neighborhood) while strategically utilizing variations from certain Town standards and for certain lot types to achieve a better overall design; and, to deliver a modest number of cottage and compact lots with the intent to create “small lot zoning” similar to other areas in the Country that have actually adopted “Small Lot Zone Districts” in hopes of producing more affordable housing solutions and using land more efficiently. Additionally, there are several examples within Minturn where lot sizes are either substandard (below 5,000 square feet) or have purposefully been created at less than 5,000 square feet to allow for the type of development desired by the Town at the time.

Importantly, the design of the Minturn North subdivision as well as the proposed governing documents that will aid the Town in enforcing the terms of the PUD (PUD Guide, Covenants, Design Guidelines, Construction Management Plans) overall can and should be considered as adhering to and furthering the purposes, intents, goals and policies of the Town’s guiding land use and growth management policy document - the 2009 Minturn Community Plan.

Again, staff respectfully acknowledges the concerns expressed by members of the public with regard to the changes inherent with *any* new development in this area of the Game Creek Character Area. Further, staff suggests that as the proposed PUD has been reviewed, several concerns stated by neighboring property owners – at Conceptual Review and during Preliminary Plan review – have, indeed, been evaluated, considered and, in some tangible ways, addressed through plan revisions and/or attempts to satisfy the Town’s standards and policies, the existing Taylor Avenue residents, as well as the goals of the developer.

That being said, staff suggests the Planning Commission should consider the following when weighing applicable PUD approval criteria and findings:

- The 2009 Minturn Community plan clearly contemplates a recognition and desire by the Town for additional, well-planned and well-placed growth, specifically a large amount of it, in the Game Creek Character Area (See Future Land Use Map).
- The Minturn North PUD places wanted growth in an area that can readily be served by extending and/or upgrading existing infrastructure, thus minimizing and leveraging the associated capital improvements costs needed to facilitate the type of development and development sought by the Town. Adequacy of public utilities, services, amenities and

infrastructure to serve the development has been demonstrated during the course of the Preliminary Plan review and staff is recommending conditions to address any outstanding issues and/or to increase the Preliminary Plan's conformance with Town standards and approval criteria.

V. Proposed List of Conditions:

For the July 28th regular meeting of the Planning Commission, staff presented a detailed staff report and analyses of the PUD. At that time, while staff did have a list of outstanding items and issues needing to be addressed, staff did not put forth a detailed list of suggested "conditions of approval" for the Planning Commission's consideration. This was done for two reasons: 1) staff had not completed a full review of updated material submissions by the Applicant just days prior to the July 28th staff report being sent to the Planning Commission; and, 2) staff wanted to allow for public testimony as well as Planning Commission input before formulating a more complete and detailed list of conditions.

The following list represents the most up-to-date set of conditions based on the Applicant's ability (recently) to respond to staff's concerns related to everything from the PUD Guide and HOA covenants documents, to engineering and phasing information not previously provided, or which needed revisions.

As of the writing of this update memo, a majority of outstanding issues – most technical and/or minor in nature, and some significant and more substantive - have been addressed and resolved by the Applicant to the Town's satisfaction.

Staff is recommending approval, with conditions of the Minturn North Preliminary Plan for PUD and the following list of suggested or recommended conditions are presented for the Planning Commission's consideration should the Commission act to recommend approval to the Minturn Town Council. (Suggested motions – for approval, approval with conditions, or for denial - for the Minturn North PUD Preliminary Plan, Preliminary Plat, and Zone Change Amendment are outlined in the full July 28, 2021 staff report.

The following list is organized by topic area for ease of reference:

PUD Guide and HOA Documents:

1. The Applicant shall work with the Town to address outstanding issues or items of a minor or largely non-substantive nature in the PUD Guide and HOA documents. Areas where additional revisions and refinement may be requested include:
 - a. Overall formatting and grammatical revisions;
 - b. Section 8 - Density Transfer Policies, Procedures and Criteria;
 - c. Section 9 - Open Space, Buffer Area and Recreation Amenity Management Plan;
 - d. Section 10 - Sustainability Plan;
 - e. Section 13 - Master Sign Program;
 - f. Section 15 - Snow Management Plan; and
 - g. Section 19 - Definitions and Illustrations.

Engineering and Civil Plans:

2. The Applicant shall provide design, engineering, or material standards for bridge (culvert), foot paths identified in plans, trails identified in plans, parks and park equipment, restroom facility prior to or as part of any Phase II Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application.
3. The Applicant shall revise the plans accordingly prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvement Agreement (SIA) application to add sidewalk segments along the east side of Minturn Road - through Phase I and Phase II - to increase the PUD's conformance with the 2009 Minturn Community Plan and the purposes and intents of the Minturn Municipal Code with regard to pedestrian access and mobility.
4. The Applicant shall revise the plans and/or provide amendments to the snow storage and management plans to allow year-round use of the ECO Trail segment along Minturn Road; the Applicant shall provide an alternative solution (removal, and/or storage in an alternative location) to snow storage on that trail segment during the winter months.
5. The Applicant shall work with the Town prior to or concurrent with any Final Plan, Final Plat, and Subdivision Improvements Agreement (SIA) application submissions to provide details related to off-site improvements to Minturn Road, from the northern boundary of the PUD to the intersection at Hwy. 24. Plans, engineering specifications and cost estimates shall be provided for needed improvements agreed upon by the Town and Applicant.
6. The Applicant shall revise the civil drawings to include plans for off-site improvements (turn lanes) at Hwy. 24 north of the PUD prior to or concurrent with any Final Plan, Final Plat, and Subdivision Improvements Agreement (SIA) application submissions.
7. Estimates of all costs associated with all on- and off-site improvements shall be provided in the form of the "Engineer's Opinion of Cost" and stamped/sealed by the Engineer of Record on the project.
8. The Applicant shall update the civil drawings to rectify all topographic and limits of disturbance information.
9. The Applicant shall provide additional information to verify that adequate clearance is provided between water and sewer line installations, including or accounting for insulation. Additional flow fill (to protect pipe integrity) may be required by the Town after the Town has reviewed all final construction details and specifications.
10. The Applicant shall work with the Town and/or Eagle County prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application submission to clarify the right-of-way requirements for that portion of Minturn Road/County Road located between the northern boundary of the PUD and extending north to the intersection of Hwy. 24.

Phasing Plan:

11. The Applicant shall work with the Town will work toward agreement on the Minturn North PUD Phasing Plan which is to include development and usage triggers, as well as detailed cost estimates for any and all public improvements, to be broken out by phase.
12. The Applicant shall work with the Town to address discrepancies between the phasing lines shown on the architectural planning drawings and the civil engineering plans. Match lines shall be resolved on both sets of drawings prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application.

Housing Plan:

13. Applicant and Town will continue to discuss terms and conditions of deed restriction for community housing plan and the Applicant shall work with the Town and the Eagle County Housing and Development Authority (ECHDA) prior to or concurrent with any Final Plan, Final Plat Subdivision Improvements Agreement (SIA) application to further refine and/or bolster the voluntary locals only deed restriction program as well as the terms and viability of the voluntary 1% transfer fee.

Construction Management:

14. The Applicant shall create a Construction “Operations Plan” or management identifying the Minturn North HOA, developer & contractor representatives and their contact information; as well as specifications for all construction management and incident protocol, and specifically addressing notification and time limit requirements for any and all utility suspensions needed to demo and/or install utility service lines. The operation plan will be shared with the neighboring property owners as well as the Minturn Towne Home HOA representatives.
15. The Applicant shall work and coordinate with the Town of Minturn Public Works department to approve and document each fire hydrant proposed to be re-used during installation of infrastructure.

Subdivision Improvements Agreement (SIA):

16. The Applicant shall provide a final list of park improvements and landscape standards for all open space and park parcels prior to or concurrent with any Final Plan, Final Plat, and Subdivision Improvements Agreement (SIA) application.
17. The Applicant shall provide details and final designs for retaining structures at the trailhead parking area with the SIA.
18. The Applicant shall work with the Town and the United States Forest Service with regard to the design and construction of a monument sign at the Game Creek Trailhead.
19. The Applicant shall work with the Town and the Town's Water Consultant team to verify all final outdoor consumptive use calculations and all final outdoor irrigation limits per SFE prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application submission.
20. The Applicant shall work with the Town prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application submission to confirm public and/or private ownership of all roadways within Phases I and II.
21. The Applicant shall work with the Town prior to or concurrent with any Final Plan, Final Plat and Subdivision Improvements Agreement (SIA) application submission to finalize civil engineering plans and specifications, costs, timing and financial guarantees for those portions of Minturn Road between the northern boundary of the PUD and the intersection of Hwy. 24 to the north.

Additional Permitting:

22. The Applicant shall obtain all required licenses and/or approvals for improvements on UPRR property, approved to form by Town. Any such improvements including drainage and stormwater management infrastructure intended for dedication and/or assignment to the Town

of Minturn shall be engineer designed and shall be included in final construction drawings along with corresponding cost estimates.

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



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

Planning Commission Public Hearing

Minturn North Planned Unit Development

Preliminary Development Plan for PUD Review

| | |
|------------------------------|---|
| Hearing Date: | July 28, 2021 |
| File Name/Process: | Minturn North Planned Unit Development (PUD) Preliminary Plan Review |
| Owner/Applicant: | Minturn Crossing, LLC. |
| Representative: | Greg Sparhawk, GPS Designs |
| 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 6 th Principal Meridian. |
| Existing Zoning: | Game Creek Character Area – PUD Holding Zone |
| Proposed Zoning: | Planned Unit Development (PUD) |
| Staff: | Scot Hunn, Planning Director Madison Harris, Planner I Jeffery Spanel, Town Engineer Michael Sawyer, Town Attorney Richard Peterson-Cremer, 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, Minturn Crossing, LLC., and the general public as the Town of Minturn continues its public review of the **Minturn North Planned Unit Development (PUD) Preliminary Plan** application.

Request

The Applicant requests review of the Minturn North Preliminary Plan for PUD, a two-phase, residentially oriented subdivision located on the north side of the Town of Minturn on an 18.95-acre, vacant “Union Pacific Railroad” parcel between Taylor Avenue and Minturn Road. The Town has also received companion applications for a Preliminary Plat for Subdivision to legally create parcels within the development and a Zone District Amendment application to change the underlying/existing zoning (Game Creek Character Area PUD Holding Zone) to the PUD Overlay Zone.

Process

Preliminary Plan review before the Town of Minturn Planning Commission is the second of a three-stage public review and approval process necessary for the creation of a 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 in winter 2020*)
2. **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 Subdivision Improvements Agreement)

The Preliminary Plan for PUD submittal is detailed in nature and is intended to demonstrate the feasibility of the project from financial, technical/design, and community need standpoints. The numerous plans, reports, legal documents and other graphic materials required by the Town of Minturn Municipal Code (MMC) and provided by the Applicant are intended to give staff, decision makers, partner referral agencies and the general public detailed knowledge of how 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; and, what issues may need to be addressed prior to any Final Plan/Final Subdivision Plat application being filed with the Town.

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 signing up to speak during “public comment” periods of both Planning Commission and Town Council hearings.

Background

To start the process of review, a conceptual plan was presented to the Town in late 2019 and early 2020. That concept was generally well received and the Town staff, consultants and, importantly, the Town of Minturn Planning Commission provided valuable feedback for the Applicant’s use in refining concepts, addressing potential areas of concern and developing detailed plans and reports for the Preliminary Plan application.

During the Applicant's Conceptual Development Plan for PUD review that took place between December 2019 and January 2020, general conformance with the above purposes and intents of the Town's PUD overlay zone district was determined and the Applicant was given direction by the Planning Commission to submit a Preliminary Plan application. The Planning Commission provided the following recommendations for the Applicant's consideration when preparing the Preliminary Plan for PUD application:

Snow Management and Storage:

The Planning Commission discussed existing snow storage and plowing that occurs along Taylor Avenue and the Union Pacific Railroad Property. Specifically, the Planning Commission noted that, currently, snow removed from Taylor Avenue residents and from the public Right-of-Way (Taylor Avenue) often ends up on private property (UPRR). There were general questions asked about the Applicant's plans to address snow removal/plowing and snow storage, and the Planning Commission encouraged the Applicant to work with the Town to provide detailed snow storage plans taking into account the concerns of Town public works staff.

Staff Comment: The Applicant has provided a snow storage plan for the property utilizing windrows and the open space parcels to store the snow. Staff notes that Applicant has been proactive in meeting with Town staff to better understand issues related to snow removal and storage and has made adjustments to the proposed plans. That said, staff continues to have concerns related to overall snow storage and management which are **addressed in Condition No. 2** in Section XI of this staff report. Staff intends to continue working with the Applicant to refine civil and architectural site plans and snow storage plans to ensure functionality and adequacy of this important aspect to development, livability and maintenance of the proposed neighborhood.

Traffic Impacts:

Planning Commission members asked questions about and expressed concern about added traffic to Minturn Road/County Road. Specifically, the Planning Commission discussed what level and type of improvements would be necessary to improve existing roads and/or bridges serving the development

Staff Comment: Based on the traffic study submitted by the Applicant, verification by the Town Engineer, and requirements by CDOT, there will need to be a left hand turn lane from Highway 24 onto County Road bridge in order to accommodate the increase in traffic utilizing that entrance to the project. Additionally, significant off-site road improvements are planned for Taylor Avenue and Minturn Road. However, additional discussion related those improvements, solutions to issues at Minturn Road and Taylor Avenue intersection, and the future ownership, design improvements and long-term maintenance of the County road serving the development to the north will be required during this hearing process.

Visual Impacts and Massing:

The Planning Commission discussed the relationship of the proposed residential development to existing residences located to the east along Taylor Avenue. Questions were asked regarding the approximate difference in elevation between the Taylor Avenue residential structures and the

estimated location and building height of Minturn North structures located to the west of the existing Taylor Avenue residences. The Applicant was encouraged to provide a physical or three-dimensional model, photo-simulated renderings (to scale) and/or cross sections to try to represent massing and potential building heights of new structures.

Staff Comment: Although some cross sections showing street profiles and adjacent, “typical” development on adjacent lots have been supplied within the plan set for, no cross section has been provided showing the relationship of the PUD with existing development on the east side of Taylor Avenue. There have been no renderings submitted but the applicant has created a physical model.

Density and Accessory Dwelling Units:

The Planning Commission discussed the overall number of dwelling units being proposed as well as the proposed variations in lot sizes, the allowance for duplex units and Accessory Dwelling Units (ADUs). One Planning Commission member expressed concern about smaller (4,000 sq. ft.) lots allowing ADUs and suggested that ADU size or bedroom count should be limited.

Staff Comment: The Applicant is still proposing to allow ADUs on the “Compact” (4,000 sq. ft.) lots. However, duplexes are restricted to the Standard (5,000 sf) lots. The ADUs are defined by how the Minturn Municipal Code defines them. Additional staff commentary and analysis regarding proposed density and compatibility of the proposal is provided later in this report.

Buildout and Buyer Restrictions:

The Planning Commission discussed the proposed controls on how many individual lots can be purchased by the same entity (a developer or home builder), with the suggestion that developers should not be permitted to buy blocks of lots; that the intent of the proposal according to the Applicant’s representations is to facilitate local ownership and opportunities to buy and develop on lots.

Staff Comment: The Applicant has clarified that no lots bought by one developer can be next to one another, and staff is of the understanding that the Applicant has considered imposing a limit on the total number of lots that any one developer may purchase and/or where the developer-owned lots need to be located to ensure enough separation and to preserve the intent of the PUD in providing varied architectural character and designs throughout the PUD.

Public Amenities and Open Space Uses:

The Planning Commission discussed the overall open space plan and the potential need for public amenities such as community gathering spaces or buildings, playground equipment, a bus stop, and public restrooms to serve residents and visitors to the proposed park and trailhead areas.

Staff Comment: The Applicant has worked with Town staff during the creation and review of the Preliminary Plan for PUD to understand the need for or interest (from the Town’s perspective) in improvements such as public restrooms, a public ice rink, or gathering

spaces (a community building) associated with planned open space and park land areas. The Town and the Applicant continue to discuss potential amenities and, importantly, whether such improvements would be publicly or privately maintained. Ultimately, the Town has indicated that the Town does not desire to take ownership and maintenance obligations for most of the proposed park areas; and, that the Town likely will not have the capacity to maintain improvements such as public restrooms. (This is one reason that public rest rooms and ideas such as a public ice rink have been removed from consideration in the PUD). Details regarding proposed on-site amenities and proposals for ownership and maintenance are addressed later in the report.

Sidewalks and Access:

The Planning Commission discussed connectivity and accessibility through the project, suggesting ADA compliant sidewalks and a pedestrian connection from the cul-de-sac (end of Icehouse Avenue) to Minturn Road.

Staff Comment: The plans have been updated to show a pedestrian trail connecting the cul-de-sac to Minturn Road. There are sidewalks along all roads within and bordering the project to provide connectivity.

Parking:

The Planning Commission discussed the necessity for adequate, functional parking throughout the subdivision.

Staff Comment: The PUD currently requires provision of parking for each individual lot on-site and there are 103 off-site, public parking spaces. In addition to the 14 parking spots at the trailhead, there are 18 overflow spots along Icehouse Avenue. On-street parking is proposed along the west side of the reconstructed and re-aligned Taylor Avenue.

Road Alignment:

The Planning Commission expressed concern about driveway cuts onto Minturn Road and suggested an alley behind those lots to present a more appropriate street frontage. There was also discussion about straightening out Railroad Avenue to create a safer corridor.

Staff Comment: Some driveways have been pulled off of Minturn Road, but several lots with access onto Minturn Road remain. Staff respectfully suggests that the Applicant explore additional opportunities to reduce or remove driveway access points along Minturn Road (instead accessing off of Icehouse Avenue). Railroad Avenue cannot be fixed based on discussions with UPRR.

Over the past fifteen months, the Applicant has worked with the Town to submit a Preliminary Plan application and to provide the required level and amount of information, detailed studies, and engineered plans necessary to facilitate a comprehensive review of the proposal by the Town. Likewise, the Applicant has spent considerable time responding to comments from referral agencies and the Town's staff and consultants who all requested additional information or suggested revisions to the plans based on identified issues of concern.

In many instances, the Applicant has addressed concerns posed by the Town as well as external referral agencies (public and non-profit agencies such as CDOT, Colorado Parks and Wildlife, Colorado Geologic Service, for example) along the way. With certainty, the staff can report that because of the cooperative relationship between the Applicant and the Town, certain aspects of the proposed PUD design have been improved upon, resulting in higher overall conformance with the Town's governing documents - the Minturn Municipal Code and the 2009 Minturn Community Plan.

Summary

This proposal is 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. Detailed analyses of the PUD process, application submittal requirements, Town standards and requirements and staff's recommendations on behalf of all Town staff and consultant team members are provided in subsequent sections of this report.

The Town has spent considerable time and resources to review the proposal, to work with referral agencies, consultants and the Applicant to refine and update plans and proposed subdivision control documents to address neighborhood concerns, to mitigate or eliminate technical and legal issues, and to consider best practices when it comes to governance and ownership of private and public spaces within the Minturn North PUD.

Staff believes that while some outstanding issues remain unresolved, and although the Applicant has requested several variations to Town standards in order to achieve the Applicant's preferred design for the subdivision, the Preliminary Plan that has been presented and updated over the past fifteen months is largely compliant with the purposes and intents of the "PUD Overlay District."

Staff further suggests that while some outstanding issues must be resolved during the Preliminary Plan for PUD hearing process (prior to Preliminary Plan for PUD Approval), most items or issues are of a technical nature and can be resolved following Preliminary Plan review and prior to any Final Plan/Final Plat and Subdivision Improvement Agreement (SIA) submission by the Applicant. **Outstanding Issues and discussion topics are outlined in Section IX (pg. 40).**

This report contains "Staff Response" 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 XIII (pg. 44).

Overall, staff's assessment of the Minturn North Preliminary Plan for PUD, along with the companion Minturn North Preliminary Plat and Zone District Amendment applications indicates that while there remain some significant outstanding issues needing to be resolved, the proposal supports, and is supported by, the goals and strategies of the 2009 Town of Minturn Community Plan, and that the project appears to meet or exceed most PUD Preliminary standards and findings as well as the intents of the Town of Minturn Municipal Code.

The actions required by the Planning Commission following review of the three separate Minturn North PUD applications is to forward recommendations to the Town Council for approval, approval with conditions, or denial of the project.

Recommendation

Staff is recommending **approval, with conditions** of the Preliminary Plan, Preliminary Plat, and Amendment to the Zone District Map 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.

Report Organization

The remainder of this report briefly summarizes and addresses:

- Section II: PUD Overlay Zone District - Intent, Purpose & Process
- Section III: Project Description
- 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 – Preliminary Plan, Plat and Zone Change Criteria
- Section VIII: Variation Requests
- Section IX: Outstanding Issues
- Section XI: External Referral Agency Comments and Concerns
- Section XII: Staff Recommendations and Suggested Conditions and Motions

II. 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.”*

Following review of the Minturn North Conceptual Development Plan for PUD before the Town of Minturn Planning Commission in December 2019 and January 2020, the Applicant submitted a Preliminary Plan application in March 2020. Staff provided detailed comments regarding the completeness of the application at that time and the Applicant resubmitted the application in October 2020. Following additional completeness comments by staff, the Applicant submitted again in November 2020. While some outstanding details remained, the application was deemed “complete” in December 2020 for the purpose of sending the application and associated plan documents out for review by public agencies and outside entities/stakeholder groups. The public referral process commenced in January 2021 and the file has been under review since that time. The

Applicant has addressed many of the comments and issues raised by Town staff, Town consultants, and public referral agencies who have reviewed the application.

III. Project Description:

Property History

The project is proposed on one lot located at the north end of Town on the Union Pacific Railroad parcel within the Game Creek Character Area, located 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). The properties were acquired by the Applicant, Minturn Crossing, LLC, with the goal to properly plan and design a residential neighborhood serving locals.



Figure 1: Minturn North PUD Vicinity Map

Property and Project Overview

According to the application by Minturn Crossing LLC, the PUD envisions the creation of a strictly residential neighborhood with lots, streets, sidewalks, internal pathways, parks and open spaces designed to closely compliment and respect the scale and development pattern of the existing Taylor Avenue neighborhood as well as other established neighborhoods in Minturn, while providing amenities and off-site improvements to serve the project and the Town:

“Our intent with this project is to not only avoid large scale resort development, but to provide a natural growth scenario that matches the existing town. By creating several different types of lots, we are offering the opportunity for holistic growth. In addition to

this, we are proposing a small amount of medium density, multi-family housing adjacent to the current Minturn Townhome project. Buyers will be regulated by a generous set of design guidelines that are specific to this development but that also promote the essence that flows through Minturn— character, uniqueness and history. In selling lots to individuals and allowing them to proceed as they desire (within Town of Minturn guidelines), we believe this PUD is a great sell to the Town of Minturn. The speed of the project will be gradual as lots are built-out and residents will slowly move in. This is a desirable alternative to having many new homes being built and residents moving in all at one time.”

- PUD Narrative by Applicant

The Minturn North PUD property has approximately .5 mile of frontage along Minturn Road and .38 mile of frontage along Taylor Avenue. It is surrounded by the following uses:

| | |
|--------------|---|
| North | U.S Forest Service/Vacant Land |
| South | 100 Block Downtown; Private Residential Uses |
| East | Private Residential and Home Business Uses |
| West | Business Uses (Meadow Mountain Business Park) |

According to the application, the Minturn North PUD is envisioned as an extension of the community geared toward “a high level of individual expression and uniqueness which goes hand in hand with the existing landscape of Minturn’s architecture and home styles as they currently exist” (Minturn North PUD Narrative). The project consists of 100% residential development including a mix of cottage homes, single-family, duplex, and multi-family structures, along with vehicular access and sidewalks, parking areas, drainage and snow storage improvements, new public infrastructure and utilities, as well as open space, active recreation areas, trails and trailhead amenities.

The PUD includes ninety-five (95) lots of varying sizes serviced by Minturn Road, Taylor Avenue, and a series of internal roads and sidewalks, along with the provision of three public parks throughout the neighborhood and trailhead access to Game Creek Trail. A total of 116 units are being proposed, with the potential buildout of 184 units, with cottage homes, single-family, and duplex structures located on the majority of the lot, and multi-family structures located at the south end of the property.

The Applicant proposes to develop the project in two phases but **is only seeking approval for Phase I of the project at this time**. This will permit development of up to 29 residential lots and three multi-family lots, for a total or potential (maximum) of up to seventy-eight (78) units (54 single-family, duplex and single-family plus Accessory Dwelling Unit (ADUs), plus twenty-four (24) multi-family units). Buildout and the phasing plan are based on market demand and absorption of available lots, the Applicant’s ability to address outstanding issues related to development of Phase II, as well as the timing of available water taps from the Town.

The proposal generally includes the following:

- Creation of ninety-five (95) residential lots, subdivided in two phases, and ranging in size from 2,500 sq. ft. to 10,000 sq. ft.
- Creation of three (3) multi-family lots to accommodate the construction of twenty-four (24) multi-family residential units.
- Dedication of 5.99 acres of open space inclusive of open air, active and passive recreation facilities (pocket parks, trails, and trailhead parking areas).
- Development of new roadways; on-street parking areas; sidewalks; stormwater and drainage improvements; a regional trail segment; sewer and water line improvements and gas lines as well as undergrounding of existing overhead utility lines.
- Improvements to off-site public facilities at Hwy. 24 and along Minturn Road based on a cost sharing agreement with the Town that has yet to be fully negotiated.
- Provision of a voluntary Housing Plan inclusive of commitments from the Applicant to deed restrict 21% of the lots (24 total lots) created for “Locals Only” purchase.
- A PUD Guide, Architectural Design Standards or “guidelines,” and Homeowners Association covenants to govern development of the subdivision.

Per the Application, the developer does *not* intend to construct homes. Rather, the plans would be geared toward the subdivision and development of lots and infrastructure, allowing for individuals to buy lots and design their own homes based on the zoning and design standards that will be created for the PUD subdivision. The following table provides a break-down of proposed lot types by parcel size:

| Use | Lot Size | Lots | Max # of Units |
|-------------------|-----------------------|----------------|------------------|
| Standard Lot** | 5,000 sq. ft. | 24 Lots | 48 Units |
| Compact Lot* | 4,000 sq. ft. | 36 Lots | 72 Units |
| Cottage Lot | 2,500 sq. ft. | 24 Lots | 24 Units |
| Estate Lot* | 6,000 -11,000 sq. ft. | 8 Lots | 16 Units |
| Multi-Family Lots | 10,000 sq. ft. | 3 Lots | 24 Units |
| Total: | | 95 Lots | 184 Units |

* Estate and Compact lots are proposed to allow for Accessory Dwelling Units.

** Standard Lots are proposed to allow for duplex, or single family and Accessory Dwelling structures.

Given the above breakdown, and considering that certain lots could, under the current proposal, include the development of more than one unit per lot (i.e., accessory dwelling unit or, in the case of Standard Lots, a duplex structure) the potential range of total *dwelling units* (not lots) permissible within the PUD would be between 116 units and 184 units.

Because of this potential density range, the Town required all studies and analyses created for the Preliminary Plan application such as fiscal and municipal services impact studies, water demand

models and consumptive use analyses, traffic impact analyses, and utility impact analyses to be completed in context to the maximum density/build-out potential for the PUD.

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 a new Planned Unit Development (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 PUD Holding” Zone District to the “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 or Zone District Maps*, 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.

| Item: | Requirement: | Provided? |
|-------|--|-----------|
| (1) | <p><i>PUD Guide specifying the limitations that will guide the future development of the property.</i></p> <p>Staff comment: A PUD Guide was provided. Staff has made comments and some have been addressed by the applicant. Condition(s) 1 found in Section XI pertains to the PUD Guide. Staff will continue to work with the applicant to resolve these outstanding issues.</p> | Yes |
| (2) | <p><i>A Community Plan and Development Guidelines that illustrates the proposed land uses, building locations, and housing unit densities.</i></p> <p>Staff comment: Design Guidelines have been submitted. Staff has made comments and a majority have been addressed by the applicant. Several minor comments and suggested revision or refinements to these documents remain and can be addressed prior to any Final Plan/Final Plat submission by the Applicant.</p> | Yes |
| (3) | <p><i>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.</i></p> <p>Staff comment: An open space, park and recreation plan that identifies the areas and proposed ownership of open space, parks and recreation lands has been submitted. However, negotiations concerning land dedication of public or common open space and associated ownership and/or maintenance costs (to be finalized and negotiated via the Subdivision Improvements Agreement process during any Final Plan review) are ongoing.</p> | Yes |
| (4) | <p><i>A traffic study</i></p> <p>Staff comment: A traffic study has been submitted and found sufficient by the Town Engineer as well as CDOT for their purposes in reviewing and approving traffic improvements and access permits for the project. (Note: access permits</p> | Yes |

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| | have been issued by CDOT for the project.) Please see summary of CDOT comments in Section IX of this document. | |
| (5) | <p><i>Proposed trails, sidewalks and traffic circulation patterns, including snow removal patterns and snow storage areas, and the proposed status of street ownership.</i></p> <p>Staff comment: These items were provided. Staff has made comments and some have been addressed by the Applicant. Condition 2 found in Section XI pertains to snow removal and storage. Condition 6 found in Section XI pertains to the proposed status of street ownership. Staff will continue to work with the Applicant to resolve these outstanding issues.</p> | Yes |
| (6) | <p><i>Proposed grading and drainage plans.</i></p> <p>Staff comment: Grading and Drainage plans have been provided. Staff has made comments and some have been addressed by the Applicant. Staff will continue to work with the Applicant to resolve any remaining issues.</p> | Yes |
| (7) | <p><i>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.</i></p> <p>Staff comment: Detailed engineering plans for water and sewer infrastructure have been provided with this application.</p> <p>ERWSD has stated that they are comfortable with the proposed layout and alignment of the sanitary collection system improvements for the project. There are still minor details to work through, which staff will help facilitate. As stated in Ord. 5 - Series 2020, Minturn Crossing, LLC., has claim to 70 SFEs to serve the first phase of development conditional upon pre-payment of applicable tap and water system improvement fees.</p> | Yes |
| (8) | <i>Economic data and supporting market analysis to justify any proposed commercial and industrial elements.</i> | N/A |

| | | |
|------|--|-----|
| | Staff comment: There are no proposed commercial or industrial elements. However, the Applicant has provided a Fiscal Impact Report detailing estimated costs and revenues to be generated by the proposed PUD. | |
| (9) | <i>Proposed development covenants, deed restrictions or other applicable codes.</i> Staff comment: HOA covenants and deed restriction documents have been submitted and reviewed by the Town Attorney. The Town, the Eagle County Housing and Development Authority (ECHDA) and the Applicant continue to discuss ideas to enhance the Minturn North Housing Plan, and are working to finalize the community housing deed restriction documents that will govern the terms and eligibility of locals housing within the PUD. Condition(s) 4 found in Section XI pertain to the HOA Covenants and Housing Plan. Staff will continue to work with the applicant to resolve these outstanding issues. | Yes |
| (10) | <i>An environment assessment or environmental impact report, unless waived by the Town Planner.</i> Staff comment: Phase 1 and Phase 2 Environmental Site Assessment Reports as well as an Environmental Impact Report have been submitted and have been reviewed by the Town’s consultant, SGM. SGM advised strict black bear stipulations should be in place, and also recommended an aggressive noxious weed management strategy, dust control plan, treated stormwater flows before discharge into Game Creek, and elk and elk habitat protection plan. | Yes |
| (11) | <i>An impact analysis that describes the impact of the proposed PUD upon the school district.</i> Staff comment: The applicant submitted an Ability to Serve letter from Eagle County School District which detailed the impacts of the proposed project which was sufficient. Comments from the School District including confirmation of school land dedication ‘fee-in-lieu’ amounts that the District requests that the Applicant pay prior to or concurrent with any Final Plan and Final Plat application. The Town does <u>not</u> have school land dedication requirements or fee amounts set for ‘in-lieu’ payments at this time; any fees paid will be voluntary and negotiated. Please see summary of Eagle County School District comments in Section IX of this document. | Yes |

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| (12) | <p><i>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.</i></p> <p>Staff comment: A 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 Ehlers Public Finance Advisors, the Town’s fiscal and municipal finance consultant. Ehlers provided the following comments: They recommended a market analysis to support either the planned absorption or the estimated values to be generated from the development. The occupancy analysis should be further explored to ensure accuracy. The calculations utilized for the Water Enterprise fund should be updated to reflect current rate methodology and charges. It appears that there will be a revenue net benefit from the development, and that there will be additional Capital Fund dollars available for town-wide improvement.</p> | Yes |
| | | |
| (13) | <p><i>Final site plans and architectural forms planned for the first phase of the proposed development.</i></p> <p>Staff comment: Detailed Site, plans have been submitted. Planning staff and the Town Engineer have made comments during the referral and review periods and the Applicant has worked to address many of them. Condition 2 found in Section XI pertains to the site plans. The developer is not proposing architectural forms but has provided draft Design Guidelines.</p> | Yes |
| | | |
| (14) | <p><i>Detailed plans for fire protection and emergency medical services.</i></p> <p>Staff comment: Ability to serve letters from Eagle River Fire Protection District, Eagle County Sheriff’s Office, and Eagle County Paramedic Services were submitted with the application. During the referral process ERFPD submitted further comments and requirements concerning which applications need to be applied for. Some of these are still outstanding. Condition 6 found in Section XI pertains to these requirements. Please see summary of ERFPD comments in Section IX of this document.</p> | Yes |
| | | |
| (15) | <p><i>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.</i></p> <p>Staff comment: A phasing plan has been provided and a yet to be completed Subdivision Improvement Agreement (SIA) will be reviewed and approved</p> | Yes |

| | | |
|------|---|-----|
| | with any Final Plat application specifying construction timing, cost estimates, and financial guarantees for the construction of all infrastructure necessary to serve the development. | |
| (16) | <p><i>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.</i></p> <p>Staff comment: A phasing plan has been provided along with detailed infrastructure plans and cost estimates. 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).</p> | N/A |
| (17) | <p><i>The preliminary plan application shall be accompanied by an application for an amendment to the Character Area zoning map.</i></p> <p>Staff comment: A Zone District Amendment application was received by the Town. Zoning is proposed to change from “Game Creek Character Area PUD Holding Zone District” to “PUD Overlay District.”</p> | Yes |
| (18) | <p><i>The PUD shall consider the recommendations made by the applicable analysis documents, as well as the recommendations of referral agencies.</i></p> <p>Staff comment: Since the Conceptual Development Plan for PUD approval in early 2020, the Applicant has made revisions to the PUD - the design, layout and governing documents - based on the Applicant’s own technical reports as well as the recommendations of staff and referral agencies. However, several issues raised by staff and/or referral agencies remain outstanding and/or up for discussion during the Planning Commission hearings. Of those, several are specifically germane to Phase II and will be addressed and/or resolved as part of any future “Phase II” Final Plan and Final Plat review.</p> <p>As noted in this report and the suggested list of conditions of approval, staff believes that most if not all outstanding issues are of a nature that they can reasonably be addressed and resolved by the Applicant prior to or concurrent with the Final Plan/Plat application. Please see summary of referral comments in Section IX of this document.</p> | Yes |

As noted above, required elements of the Preliminary Development Plan for PUD application have been provided in enough detail to allow Town staff, the Planning Commission, and the Town Council to determine conformance with the overall intents and purposes of the PUD Overlay Zone District; with the applicable Minturn Municipal Code standards; and, the goals and policies of the 2009 Town of Minturn Community Plan.

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.

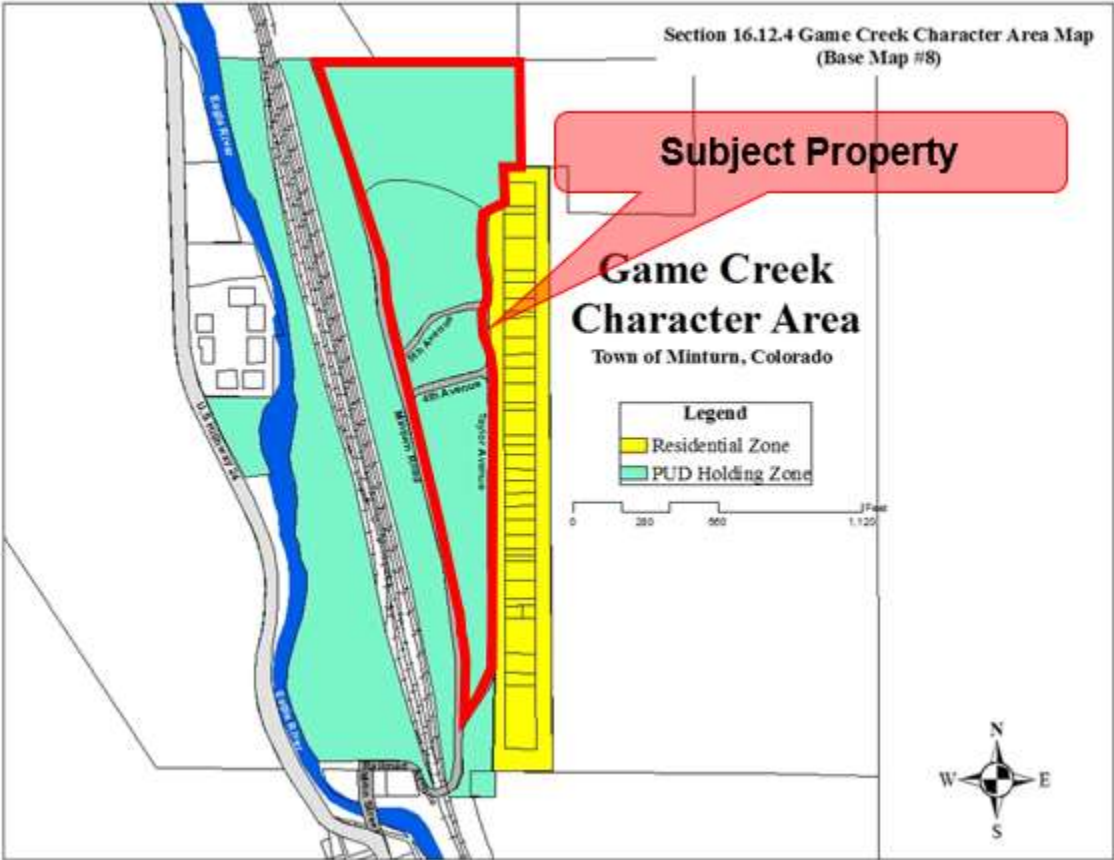


Figure 2: Game Creek Character Area Zoning Map

Although the subject property is “zoned” within the character area, there are no approved uses for the PUD Holding Zone area. Effectively, then, there is no zoning or site-specific development controls for the property and the Town Code requires 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 zoned district within the Town’s land use regulations.

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 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 PUD zoning calls for one zone district to be created, or overlaid upon existing residential zoning, to allow for residential, transportation/mobility, and recreation/open space uses. The parcel currently has effectively no zoning; meaning, there are no “permitted uses” or development

controls (setbacks, limits on building height or lot coverage) within the Game Creek Area PUD Holding Zone.

The PUD zone district is being proposed, in part, to comply with the Minturn Municipal Code (which requires a PUD or special use permit review for any proposed development on UPRR property); to allow for residential uses and appropriate development controls; and, importantly, to allow for and encourage a certain amount of flexibility and creativity in the layout and design of the neighborhood as a means to achieve several of the Town’s stated Community Plan goals and policies concerning land use, growth management, affordable/locals housing, and sustainability.

The proposed PUD zoning and regulating plan (the “Minturn North PUD Guide”) calls for five distinct residential zone districts - Open Space Active, Open Space Restricted, Single-Family Residential, Duplex Residential, and Multi-Family Residential - to be created, or overlaid upon the Property to allow for residential and recreation/open space uses.

Surrounding land uses include primarily single-family residential with similar densities and lot configurations as are being proposed within the Minturn North PUD. Adjacent and nearby residential development is dominated by one and two-story structures, and similar configurations (lengthwise, from north to south) due to similarly shaped properties and neighborhood layout.

Staff believes the proposed uses, specifically the types, number and sizes of residential lots and dwelling units, as well as the design of streets, sidewalks and public open space and/or recreational areas within the PUD generally conform to the Town’s standards, respond to and complement the Town’s goals and policies (outlined below under “Community Plan Conformance”), and are generally designed to be compatible and in-scale with surrounding existing and future land uses.

Discussions regarding compatibility of the proposed PUD with the overall character of the Game Creek Character Area and the immediate surrounding land uses might include topics such as:

1. Potential impacts on existing conditions and existing residents in the area and, importantly, the effectiveness of proposed mitigation and/or controls (PUD Guide and HOA documents);
2. The general character of the surround area relative to the character (land use patterns, infrastructure design and functionality, massing and architecture) of the proposed PUD;
3. The ability to develop and finance the project properly and the Town’s ability to serve the development without injury or degraded service to existing areas of the Town;
4. Whether the proposed development is designed to minimize negative impacts while enhancing existing conditions (public infrastructure and amenities) and reinforcing the vision, values and design characteristics that define the Town of Minturn;
5. Whether the PUD allows for and/or encourages the integration of sustainable development techniques and technologies - does the proposal contribute to the Town’s overall sustainability and energy efficiency/climate action plan goals and priorities;
6. Potential traffic, noise, and light impacts on existing conditions and existing residents;
7. The general character of the area relative to the character (land use patterns, infrastructure design and functionality, massing and architecture) of the proposed PUD;

8. The ability to phase the development properly and the Town’s ability to serve the development without injury or degraded service to existing areas of the Town; and,

Massing and Character

From a massing and character standpoint, the PUD proposes fairly standard setbacks between residential structures. Further, the PUD will limit single-family and duplex structures to a building height of 28’ determined by offsetting the grade plane (setting a limit twenty-eight feet above the grade below, within which all roof forms except minor architectural features must be constructed) which is in-line with the Town’s 28’ height limit for other structures in the surrounding Residential zone district. Additionally, while the Applicant is not proposing to dictate any one architectural style, Design Guidelines have been provided that encourage and/or discourage certain architectural elements, design techniques and exterior materials choices. (See comments later in this report related to proposed building height measurement methods and design standards).

The multi-family structures located at the south end of the property are proposed at 32’ above grade for 50% of the roofline to allow for additional modulation of form with larger buildings. This may be appropriate and in-character with the overall neighborhood given the location of this proposed 32’ building height and mass set across from the Minturn Towne Homes, multi-family units with similar building height and mass. That said, much will depend on the architecture proposed for these structures and, specifically, how roof forms and masses are broken up to provide relief and to ensure that buildings and roof forms/ridgelines are not monolithic.

Additionally, significant improvements to existing infrastructure such as Minturn Road and Taylor Avenue should serve to improve or enhance the character and built environment of the existing neighborhood while proposed street, sidewalk, lot and block patterns complement existing development patterns established along Taylor Avenue.

VI. Community Plan Conformance:

Community Plan Purpose and Vision

The 2009 Town of Minturn Community Plan is the guiding document setting forth 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 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 proposed PUD is oriented toward the provision of a range of lot and housing types, sizes and (presumably) price points. Proposed architectural design standards show a character and intent designed to complement existing development and architectural character apparent throughout the Town.

Additionally, the PUD promotes adherence to the Town’s stated goal of maintaining a “unique, eclectic, non-resort town with a strong sense of community.”

The Preliminary Plans, PUD Guide, Design Guidelines and Homeowner’s Association (HOA) covenants address specific standards for architectural design character, landscaping, drainage, snow storage and removal, trash storage, exterior lighting, and signage.

Staff has worked with the Applicant during the Preliminary Plan review and referral process to suggest revisions to the PUD Guide and Design Standards specifically to bolster a “sustainability” plan - specific requirements and/or incentives aimed at energy efficiency and green building practices, as well as low-impact design and construction of grading, drainage, stormwater and vegetation management. To a certain degree, the PUD Guide and Design Standards have been updated to encourage such elements but not necessarily to require them.

Staff believes that additional opportunities exist to continue working with the Applicant to strengthen sustainability requirements and identify potential incentives within the PUD control documents and to set a higher bar for energy efficient residential construction within the Town. Simply, this project represents the largest single opportunity to date for the Town to influence and integrate sustainability and energy efficiency measures, techniques and technologies on a neighborhood scale; the impact to homeowners, renters, utility providers and the Town by way of cost savings (reduced energy costs/cost of maintaining structures, reduced demand on local energy grids and/or potable water provision) could be significant.

Controls on exterior lighting are found in the application as well as HOA covenant documents. The intent is to allow the Town of Minturn lighting standards - which require downcast, “night-sky compliant” lighting to be used on all new projects.

Condition Nos. 1-7 found in Section XII addresses outstanding issues needing to be addressed prior to any Final Plan for PUD submission as well as recommended revisions suggested to increase the proposal’s conformance with applicable Town standards.

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:

The Concept Development Plan did not suggest any specific green building or low impact design standards, guidelines or techniques when reviewed in early 2020. Following the Conceptual Plan review, the Applicant was encouraged to incorporate specifics in the form of “requirements and/or guidance to encourage green building, as well as low impact development techniques for site grading, drainage and stormwater management.” To a certain

degree, additional details and recommendations were incorporated into the PUD Guide and Design Standards but not to the degree that staff had recommended. Staff believes this aspect of the PUD Guide and other controlling documents represents a missed opportunity for what could be the first new, major subdivision in the Town of Minturn in some years; a development that will set the tone for other future development and - based on the number of new units to be constructed - could have significant impact on the cost of individual home ownership within the development (e.g., the cost of heating and cooling, as well as water and electrical usage for individual residences due to the design and construction techniques used) which, in turn, will impact the affordability of the new units over time and, ultimately, the Town's ability to achieve its strategic goals and policies related to climate action and energy efficient building practices.

Any Preliminary Plans for the PUD should also be informed by wildfire hazard analyses and the PUD Guide and master covenants should include "firewise" guidelines and requirements for the creation of defensible space and vertical construction.

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 Preliminary Plan shows a street, sidewalk and trails network that is similar to the layout shown during Conceptual Plan review in early 2020 and which should enhance walkability and multimodal (bikes, pedestrians and vehicles) transportation in and around the Game Creek Character Area. As stated during the conceptual review, the proposed infrastructure will add to the Town's connectivity and walkability, particularly for residents in the Game Creek Character Area. Staff suggests that the design of the proposed PUD will be important from the standpoint of supporting transportation, mobility as well as the mass transit goals of the Town. Comments and several outstanding issues needing to be resolved with regard to proposed infrastructure designs are noted in this report and are captured in proposed conditions of approval which, among other things, will require the Applicant to work with

Town staff and/or consultants to resolve issues and, in some cases, redesign proposed improvements.

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 ordinance does not apply to this PUD. Nevertheless, the Applicant – anticipating and addressing the Town’s Housing goals and strategies – is voluntarily proposing to dedicate a significant portion (21%) of the overall number of lots to “locals” housing (a percentage in line with the requirements of the Town’s housing ordinance). Additionally, the Applicant is now proposing 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. However, details on how such land trust will work or how proceeds from the transfer fee will be used/administered remain outstanding. Staff is **recommending Condition No. 7** in Section XII below, requiring the Applicant to continue working with Town staff and the Eagle County Housing and Development Authority to refine and finalize the Minturn North Affordable Housing Plan.

Importantly, the PUD includes a range and mix of lot types and sizes, and (presumably) price points that should serve to provide increased opportunities for home buyers (or renters) of all income levels. The proposed Housing Plan for the PUD should be evaluated in context to the Town’s affordable housing goals, with particular attention paid to the timing (phasing), location and overall number of potential ‘locals only’ and/or attainable lots or units within the PUD.

The Applicant should be encouraged to work with the Eagle County Housing and Development Authority - the Town’s partner organization in administering the Town’s housing requirements - to further refine how the housing plan will be administered, who will monitor and manage the provision of deed restricted units or lots, and how the PUD’s housing guidelines will be updated over time to reflect market conditions and needs if desired.

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 will 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, paved streets, signage, and lighting to serve the PUD and neighboring residential development, 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. The PUD - particularly aspects involving on- and off-site infrastructure improvements - have also been reviewed against existing Capital Improvement Plans (CIP).

The Design Guidelines and PUD Guide do include “sustainability” sections, and the Applicant has demonstrated a commitment to encouraging sustainable building design and construction practices. However, staff is still of the opinion that the Applicant can continue to work with the Town and other partner agencies (Walking Mountains, Eagle County/Climate Action Collaborative, Holy Cross Energy) to further sustainability and/or alternative energy goals for the development.

As mentioned in several sections of this report, outstanding issues remain regarding the design, reconstruction and ownership of Minturn Road and the County Road, as well as the final design solution for the intersection of Minturn Road and Taylor Avenue. Last, several technical comments and suggested revisions regarding civil engineering plans and details remain outstanding but staff believes that all or most of these issues may be addressed as conditions of Preliminary Plan for PUD approval.

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 theatre*
- (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 Preliminary Plan proposes a mix of residential housing products. No commercial development is proposed. To the extent that the design of the PUD as well as the architectural standards that will be developed for the project “promote the town’s unique history,” the project can be seen as complementing the Town’s image. Likewise, the addition of the specific types and sizes of residential lots and structures geared toward housing the local population contemplated within the PUD 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.”

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 highly impacted by heavy industrial uses and 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.

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 spaces, while contributing to the continuation or extension of the regional “EcoTrail” segment. Importantly, the Plan shows improved trailhead parking areas and walking paths to connect residents and the general public to the Game Creek trail. The PUD - in two phases - provides about six acres (260,758 sq. ft.) of open space (32% of the overall land area in the PUD) in the form of usable pocket parks as well as preservation-oriented spaces for wildlife habitat. Ownership and maintenance of open space/park areas remains a topic of discussion and negotiation between the Applicant and the Town. The Applicant is currently proposing that park areas in both phases of development will be privately owned and maintained for the benefit of Minturn North residents. The Town is recommending all open spaces be open to the public per the Minturn Municipal Code.

VII. Staff Analysis and Findings:

The following section outlines the evaluation criteria that the Town Council 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:

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 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 Preliminary Plan demonstrates efficient land use patterns by locating development close to existing development and infrastructure within the Town of Minturn - directing residential growth pressure and density inward - thus avoiding costly sprawl and undesirable impacts to sensitive or valued environmental areas. The PUD also adheres to Town policies by proposing a phasing plan to ensure that extensions of utilities and services to serve future development is completed logically based on need and the ability to serve the project; and by proposing a pattern of streets, sidewalks and lots that are compact and which complement the existing fabric established in the Town.
- The Preliminary Plan integrates various lot sizes and unit types, and will contribute to trails and pedestrian circulation.

- The Preliminary Plan and the resultant development of the subject property can be planned and developed to maintain or improve air and water quality through controls written into the PUD Guide document as well as the Homeowner's Association covenants. Controls found in documents provided with the Preliminary Plan do address erosion control, stormwater management, and woodburning, for instance. Comments received from external referral agencies such as the Eagle River Watershed Council indicate that additional controls and protections can be provided in and around existing wetland and riparian areas within the Game Creek drainage.

- The Preliminary Plan proposal includes improvements to existing infrastructure (Taylor Avenue roadway improvements, for example) that may promote safe, efficient, compact street and utility networks that may lower development and maintenance costs and conserve energy. 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. However, as staff has continued to review the proposed layout and designs of public improvements of streets and road grades, intersection designs, and the placement of future residential driveway entrances, staff suggests that several aspects of the proposal do not meet Town standards, or are not in line with best practices and engineering standards. The applicant is requesting several design variations or “variances” for aspects such as road geometries and turning radii at intersections, maximum road grade or slope (proposed 5th Street), grades and slopes at intersections and sidewalk widths.
- At Conceptual Plan review in early 2020, the Town encouraged the Applicant to focus on integration of more sustainable design elements into the PUD Guide and Design Standards for Minturn North PUD, focusing on aspects that will lead to greater efficiencies, connectivity, and integration of “best practices” in building techniques and technology (solar ready homes, other alternative energy technology, re-use of non-potable water resources, energy efficient community lighting, as examples). To a certain extent, the proposal does include language that “encourages” or recommends best practices but does not necessarily require such aspects. Staff suggests that opportunities still exist to bolster sustainability requirements and incentives within the PUD that would go further in promoting and facilitating best practices, innovation and, importantly, the strategic environmental and sustainability goals of the Town Council.

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 Community Plan and a preponderance of Community Plan goals and implementation strategies. (Please refer to Section V 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 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 or replacement) 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 in substantial harmony with the surrounding areas. There are certainly some challenging existing conditions along the Taylor Avenue corridor - the width and existing conditions of the roadway, unsanctioned and haphazard parking within or along the existing public road right-of-way, stormwater drainage (or lack thereof), existing access easements and railroad crossings on other portions of the Union Pacific Railroad,

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.

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

Staff Response/Finding:

The Preliminary Plan is an infill (brownfield) development that meshes well with the surrounding residential neighborhood, and has been planned to provide logical improvements and connections to existing public infrastructure (roads, water, sewer, for example); staff has generally not identified any particular aspect of the proposed PUD that will be detrimental to the surrounding area. One could view any development of currently vacant land next to an existing residential neighborhood - any change to an existing condition - to be impactful or detrimental.

That said, there remain several topics of discussion that are likely important to neighboring property owners and the Town that should be considered during the review of the Preliminary Plan for PUD. Topics such as the adequacy and functionality of snow management and storage plans, traffic and road improvements, public parking, development requirements (building heights, required landscaping, exterior lighting controls and private parking requirements), construction management plans and enforcement, temporary impacts to existing infrastructure and facilities, and the proposed Homeowner's Association covenants will likely be discussed during the public hearing process.

Staff believes that the PUD has been planned to enhance rather than to detrimentally affect or impact the nearby neighborhood. Care has been taken to understand and plan around (or in many cases integrate with and upgrade) existing conditions and

infrastructure, including the planned reconstruction of Taylor Avenue which should provide additional road width and on street parking, vastly improved drainage and stormwater management facilities,

One particular aspect of the current proposal is a one-way road segment on Taylor Avenue. Staff believes that this proposal - to turn Taylor Avenue from Minturn Road to 4th Street into a one-way street - by the Applicant to address or alleviate the poor intersection angle and site triangle existing at the intersection of Minturn Road and Taylor Avenue is not the optimal solution. The Town Engineer has provided comments to this effect and the Town staff strongly recommends that alternative solutions such as rebuilding this intersection to create more of a 90-degree angle at the intersection of Minturn Road and Taylor Avenue must be explored and resolved prior to any Final Plan/Final Plat application.

- 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 Preliminary Plan has been designed with dimensional limitations (lot sizes, lot coverage standards, setbacks and height restrictions) exceedingly similar to the Town's existing requirements and, particularly, in relation to and consistent with neighboring residential development.

- 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 the PUD can be completed within a reasonable time frame and that the proposed phasing plan is appropriate. While the Applicant and the Town continue to discuss phasing and potential cost sharing of required public infrastructure, final details regarding phasing of infrastructure, cost estimates, and the financial guarantees necessary to complete the project will be finalized during Final Plan/Final Plat and SIA.

- 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, the proposed installation of drainage and stormwater systems as part of the PUD in areas of the Game Creek Character Area that do not currently have such systems should benefit the overall health of the Eagle River.

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

Staff Response/Finding:

The PUD is adjacent to or in close proximity to recreational amenities such as the Game Creek trail and Meadow Mountain. Additionally, residents of the PUD will have access to the Eagle River, new regional trail improvements, as well as recreational amenities (open space and parks) proposed within 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 zone district. And while there are six (6) existing mobile homes on the property, any new residential development will equate to an increase in density compared to what has existed historically.

That said, 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 32% of the Minturn North PUD be reserved for open space and/or common area uses. Additionally, sidewalk and trail networks are proposed that will connect residents and visitors to existing trailheads while enhancing walkability in this area of the Town.

Based on previous analysis conducted by Town staff during the conceptual review, the existing density on Taylor Ave. is 6-7 units per acre. If Taylor Ave. was built to its full potential, the density would be 11-12 units per acre. For this proposed development, with the current proposed 116 units the density would be about 6 units per acre, and if every lot that could build a duplex or an ADU did so, the development would result in 184 units with the density results of about 10 units per acre. Either way the density is the same or less than that of Taylor Ave.

- 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. Staff suggests that several aspects of the proposed design require variations from Town standards and/or further discussion with the Town and Eagle County in order to address specific concerns regarding the intersection of Taylor Road and Miturn Road, as well as existing conditions and the timing, costs and responsibilities of the County road. Specifically, this road segment will be critical to serve the PUD and, to a lesser extent, existing residents of the Town in the future. Decisions and agreements regarding who will own the road, what extent of improvements will be necessary to improve the road, and who will pay for such improvements are outstanding and must be resolved prior to any Final Plan/Final Plat and SIA application by the Applicant.

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

Staff Response/Finding:

The application included detailed plans for grading, drainage and stormwater improvements or facilities throughout the development and even within off-site areas. These proposed improvements, while required 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 no drainage or stormwater treatment facilities.

The Town Engineer has provided technical comments and staff is proposing Condition No. 3 to address several outstanding technical issues or comments related to civil engineering plan sheets and details.

- 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 density and intensity of use conforms to the Community Plan, is similar to the surrounding residential development patterns and densities, and is appropriate for this location.

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

Staff Response/Finding:

An environmental assessment was provided and reviewed with this Preliminary Plan application; the assessment was reviewed by SGM, consultant/referral agent, and was found to be in conformance with the Town’s standards.

- 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 Preliminary Plan includes approximately 32% open space including the setting aside of steep hillside areas located north of Game Creek and the “Estate Lots” in Phase II for wildlife habitat; the creation of a 30’ buffer along either side of Game Creek to preserve and protect the riparian corridor (Phase II); and, the provision of continued access to Game Creek Trail (also in Phase II).

In this sense, the Preliminary Plan exceeds the Town’s standards and recommendations for the provision of common recreation and/or usable open space. Staff suggests that issues related to ownership and maintenance of proposed usable, common open space within the PUD should be resolved prior to any Final Plan/Final Plat and SIA application.

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.

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 Game Creek PUD Holding Zone District to PUD Overlay District for a residential Planned Unit Development conforms with the goals and policies of the 2009 Community Plan; is compatible with surrounding residential and open space uses; responds to changing market conditions and community needs conditions; 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 permitted with any Planned Unit Development, the Applicant may request variations (“variances”) from the Town’s standards that would otherwise apply to any new development. 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, the Applicant is requesting several variances and has provided justifications for each request. This section summarizes the requested variances and the Applicant has provided a list of variation requests along with responses and rationale as to why these are justified.

Below is a table provided to staff by the Applicant with a list of the variation requests and the justification behind them. Staff is recommending approval of each requested variance.

| Standard | Town of Minturn Requirement | Minturn North Proposal |
|-------------------|--|------------------------|
| Minimum Lot Sizes | 5,000sf | 2,500sf |
| | <p><u>Applicant Justification:</u> “In order to provide a diversity in housing opportunities we are proposing a minimum lot size of 2,500sf on our Cottage Lots and 4,000sf on the Compact Lots. These lots are still held to similar bulk and mass restrictions and therefore will not result in any greater overall maximum build-out.”</p> | |
| Lot Coverage | 40% | 45% |
| | <p><u>Applicant Justification:</u> “We are proposing a PUD that is similar to other densities found in town and that are more similar to those found close to the downtown core. This extra 5% will provide an incentive to buyers to create storage space and/or ADU apartments offering greater flexibility with diverse floor plans and promoting more affordable housing options.”</p> | |

| | | |
|------------------------------|---|---------------------|
| Snow Storage | 5% | 20% |
| | <u>Applicant Justification:</u> “Snow storage is a challenge within the Town of Minturn. 20% creates more adequate storage area on-site. 5% is not adequate and sometimes causes overflow management onto public streets.” | |
| Building Height | 28’ Mean | 28’ Mean - method |
| | <u>Applicant Justification:</u> “This code seeks to enhance the building height restriction. The current Minturn Code has been interpreted to allow dormer roofs above the maximum height, this has created a loophole where many buildings are measured to their main roof as the 28’ limit, with dormers rising above that. The Minturn North regulation identifies all types of roofs to be considered with the maximum height providing the intent of visual perceived 2.5 story homes as a maximum.” | |
| Multi-Family Building Height | 28’ | 28’ (32’ @ 50%) |
| | <u>Applicant Justification:</u> “This additional height at the Multi-Family parcel only allows for additional modulation of form with larger buildings and relates to the existing Minturn Townhomes in this area.” | |
| Cottage Setbacks | Front 20’ / Rear 10’ | Front 10’ / Rear 5’ |
| | <u>Applicant Justification:</u> “The cottage homes will be smaller by nature and will be more dependent on public parks and trails for recreation. Reduced setbacks will add to the character and charm of these clustered homes.” | |
| Multi-Family Setbacks | Front 20’ | Front 10’ |
| | <u>Applicant Justification:</u> “The reduced setback allows for greater flexibility in structure location and allows greater options for future development to work through parking and snow storage placement.” | |
| Sidewalk Widths | 5’ | 4’ |
| | <u>Applicant Justification:</u> “4’ Sidewalks are not uncommon in neighborhoods and provide for reduced impervious surfaces as well as additional space for low | |

| | |
|--|-------------------|
| | volume windrows.” |
|--|-------------------|

Staff Response:

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.

IX. Outstanding Issues:

As referenced elsewhere in this report, the Applicant has been working through the review process since early 2020. The review of the Preliminary Plan application - from completeness review to the official “referral” period - has produced numerous iterations of issues identified by the Town and referral agencies, as well as responses and revisions offered by the Applicant.

Although a large number of issues and recommended revisions have been addressed, the following section outlines and summarizes the type and extent of issues needing further discussion and resolution, as well as those aspects of the proposal that must be reviewed as variations to applicable standards (a variance) through the review of the Preliminary Plan.

As a majority of outstanding issues are minor and/or technical in nature - having to do with suggested language changes within the PUD Guide and/or Covenants documents, or in relation to details shown on plans - staff has chosen not to enumerate each item here. Nevertheless, these issues or details need to be resolved as a function of any Preliminary Plan approval and, at a minimum, prior to any Final Plan/Plat application being received by the Town.

For that reason, suggested conditions of approval listed at the end of this report are intended to require the Applicant to work with the Town to resolve all outstanding issues of a technical and/or substantive nature prior to or as part of any Final Plan and Final Plat application.

PUD Guide (Conditions of Approval Nos. 1)

The Applicant has made several revisions to the PUD Guide document and Design Guidelines for the PUD in response to staff and agency comments during the review and referral process. That being said, there remain additional items associated primarily with the PUD Guide that staff is recommending be revised to ensure that the Town can effectively, efficiently administer, interpret and enforce the provisions of the PUD.

HOA Covenant (Conditions of Approval Nos. 4)

The Applicant has addressed most issues and comments identified by staff during the review of Homeowners Association documents (declarations/covenants). However, there remain a few outstanding issues or details needing to be resolved in the HOA Covenant document.

Preliminary Plat (Conditions of Approval Nos. 1)

The Applicant has made several revisions to the Preliminary Plat (the preliminary subdivision plat that accompanies the Preliminary Development Plan) in response to town staff's (engineer, attorney, planner) numerous technical, legal and practical recommendations and required revisions. However, there remain a few outstanding issues or details needing to be resolved concerning the Preliminary Plat.

Civil Engineering Sheets (Conditions of Approval Nos. 3)

There remain several outstanding issues or details needing to be resolved on civil engineering and site plans. However, staff and the Applicant agree that these issues are generally minor in nature and can be resolved prior to or concurrent with Final Plan application.

Access, Road Improvements and Traffic Impacts (Conditions of Approval Nos. 5)

Access easements and license agreements are being finalized between the Union Pacific Railroad, the Applicant and the Town to provide the Applicant and all future residents of the PUD legal access to and from the subject property over UPRR properties. Staff is of the understanding that negotiations and final review of required documents are nearing completion and staff has been advised by the Town Attorney that this Preliminary Plan review may move forward with the expectation that all necessary easements and/or license agreements will be executed in good faith. Also, per recent comments by the Town Engineer:

“The plans propose to convert a 300-foot portion of Taylor starting at 4th to a northbound one way. Southbound traffic generated north of 4th would be diverted down 4th to Minturn Road. The traffic diversion would be accomplished with signage and street striping – the physical roadway will remain full width and no physical barriers are proposed. Without barriers, one way traffic will be difficult to enforce. In addition, the one-way road section will only divert a portion of the Taylor traffic and does not convert the intersection to one way. There is no indication how much this will reduce traffic at the intersection and the traffic engineer should review the design to show how this would improve the intersection.

“Staff expects existing neighbors to object to the one-way concept and we recommend the realignment of the intersection be explored further. The applicant has represented realignment will be difficult to accomplish, but no engineering studies or alternates have been provided. Please provide engineering documentation to demonstrate why realignment is not feasible.”

Additionally, outstanding issues remain regarding the status of the County road connecting the subject property to the bridge and intersection at Hwy. 24 to the north. This road segment will be critical to serve the Minturn North PUD and there is currently no resolution to future ownership, required improvements and long-term maintenance of this road section. Per recent comments from the Town Engineer:

“The Preliminary Plat shows Minturn Road as a 50' Right of Way and the existing road surface. We understand Minturn Road is a County Road. The estimated Average Daily Traffic (ADT) in the Traffic Report indicates Minturn Road would classify as a “Rural Residential Collector Road”, which requires a 60-foot right-of-way and 11' drive lanes. Additional

coordination between the County and Town should occur to determine the required right-of-way and road improvements.”

X. External Referral Agency Comments and Concerns (Conditions of Approval Nos. 6):

The Town sent the Preliminary Plan application to 12 external agencies and stakeholder groups and received comments from 11 of them.

1. Colorado Department of Transportation:

CDOT submitted comments on the traffic study done by the Applicant which have since been corrected. Access permits at the intersections of both Highway 24/County Road and Highway 24/Bellm Bridge have been issued as long as a left hand turn lane is implemented at the first intersection, and a stop bar and stop sign are implemented at the second intersection.

2. Eagle County School District:

Comments from the School District including confirmation of school land dedication ‘fee-in-lieu’ amounts that the District requests that the Applicant pay prior to or concurrent with any Final Plan and Final Plat application. The Town does not have school land dedication requirements or fee amounts set for ‘in-lieu’ payments at this time; any fees paid will be voluntary and/or negotiated at this time.

3. Colorado Parks and Wildlife:

CPW recommends the following:

- Construction should occur outside of December 1 – April 30th
- Open Space or natural sites should be reclaimed with a CPW-approved big game seed mix
- Removal of the proposed recreation path and overlook to the northeast
- It is recommended that fencing throughout the parcel should be constructed per CPW Wildlife Friendly fencing guidelines
- Black bear aware guidelines: vegetation, trash enclosures
- Storm water drainage systems
- Avoid excessive disturbance to the Game Creek riparian corridor
- The Applicant should conduct golden eagle nest monitoring and implement seasonal restrictions if the nest is found active
- 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
- The Town of Minturn should adopt a holistic approach to assessing cumulative impacts to wildlife and natural resources in the local area

4. Eagle River Water and Sanitation District:

ERWSD submitted the following comments:

- The District will be able to provide wastewater service for the maximum density of 41.5 SFEs subject to the completion of the Dowd Lift Station project.

- The District’s Construction Review Team has requested a hydraulic analysis of the proposed wastewater collection system improvements.
- The Applicant will need to provide an appropriate mechanism to assign responsibility for financing, operation, and maintenance of the private low-pressure wastewater forcemain system needed to serve the eight estate lots such as a separate HOA.
- Service to the Project requiring the extension of mainline infrastructure is subject to the District’s Infrastructure Acceptance Process outlined in Article IX of the District’s Rules and Regulations.

5. Xcel Energy:

Xcel Energy let the Town know that the Applicant has been responsive to their comments and concerns but are still working through a couple of items.

6. Eagle County:

Planning Division Comments:

- Eagle County recommends designating and designing units for older adults.
- The Town of Minturn might consider a feeder system into the existing regional ECO Transit service.
- Eagle County encourages additional parking beyond the 14 spaces being proposed in the project narrative.

ECO Trails Comments:

- Eagle County requests that the Town of Minturn work with the applicant to deliver the trail as envisioned.
- Eagle County requests the developer of the Minturn North PUD to be flexible and open to keeping the Eagle Valley Trail on the southwest side of Minturn Road through this project area rather than crossing Minturn Road in case the County finds that side feasible and decides to construct the Eagle Valley Trail on that side.
- If the Eagle Valley Trail ends up on the original proposed alignment, which is the northeast side of Minturn/County Road, The County requests that the sanitary sewer manhole be moved out of the proposed crosswalk to assist with maintenance and provide improved mobility.

7. Eagle River Fire Protection District:

ERFPD noted the following:

- A concurrency evaluation may be required. The GC shall discuss this with the fire district. NFPA 1 chapter 15
- Turning radius for fire apparatus shall meet previous discussion and plans.
- Water supply shall meet requirements, NPFA and IFC
- Fire sprinklers shall be installed where required by NFPA and IFC.
- Fire Alarms shall be installed as required by NFPA and IFC.

The following permits will be required:

- Fire alarm
- Fire Sprinkler
- Flush and Flow test

- BDA

8. Colorado Geologic Survey:

CGS provided the following comments:

- CGS recommends the town retain Kumar to review the rockfall protection plans when available to ensure that they are consistent with their recommendations and recommends the town require an inspection and maintenance plan for any rockfall mitigation constructed.
- CGS recommends the town require additional evaluation and/or site-specific studies to evaluate the risk for landslides within the proposed development.
- CGS recommends that the risk of an avalanche hazard should be evaluated by a qualified professional.
- The risk for mudflow and debris inundation emanating from Game Creek to the mapped debris fan be evaluated prior to PUD approval.
- CGS recommends the town require Site-specific studies with slope stability analysis to be completed, submitted, and reviewed prior to platting lots within Tract A.
- CGS recommends the town require a local and global stability analysis as part of the overall retaining wall design for walls.
- CGS recommends all disturbed or graded slopes are promptly re-vegetated to control runoff and erosion.

9. Eagle River Watershed Council:

Eagle River Watershed Council provided the following comments:

- The overarching goal of the project's drainage design should be decreasing connected impervious areas, not increasing them.
- It is better to push for the best possible stream-friendly stormwater systems in the new neighborhood.
- It may be highly appropriate to encourage residents in fluvial hazard zones to purchase flood insurance.
- 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.
- 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.
- 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 of water quality.

10. United States Forest Service:

USFS wants to ensure the general public has access to the Game Creek and Cougar Ridge trail system by continuing to provide a trailhead parking lot.

11. Veracity:

Veracity recommends:

- Widening the EVT sidewalk segment to 10 feet.
- The trail crossing of Minturn Road near Game Creek should be evaluated for safety.

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 **generally conforms** to a majority of Town goals and policies and is specifically designed to enhance and complement the existing character, development patterns, architecture and density found in the adjacent neighborhood.

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 draft conditions of approval are provided as an initial list (to be added to during the hearing process if necessary and appropriate). They will be updated and expounded upon in subsequent staff reports or as an addendum to this report.

1. The Applicant shall work with staff to update the Minturn North Unit Development Guide (the "PUD Guide") to resolve outstanding issues and technical revision requests by the Planning Department and Town Attorney prior to or concurrent with any Final Plan/Plat application.
2. The Applicant shall work with staff to update the Architectural Plan Set for Minturn North to resolve outstanding comments by the Town Planning Department, Town Attorney, and Town Engineer prior to or concurrent with any Final Plan/Plat application.
3. The Applicant shall work with staff to update the Civil Engineering Set of plans for Minturn North to address and resolve outstanding issues and technical revision requests by the Town Planning Department, Town Public Works Department, Town Engineer, and Town consultants prior to or concurrent with any Final Plan/Plat application.
4. The Applicant shall work with staff to update the HOA Covenants and deed restricted documents for Minturn North to resolve prior to or concurrent with any Final Plan/Plat application.
5. The Applicant shall work with staff to update the Access, Road Improvements, and Traffic Impacts for Minturn North prior to or concurrent with any Final Plan/Plat application.

6. The Applicant shall work with Town staff and external agencies regarding permitting, construction and financing of off-site improvements.
 7. The Applicant will work with staff and Eagle County Housing and Development Authority to finalize housing details.
-

Preliminary Plat:

Staff believes the 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 designed to require 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 staff to update the Preliminary Plat for Minturn North prior to or concurrent with any Final Plan/Plat application to address all outstanding technical and/or legal requirements as noted in previous staff and consultant referral comments.

Zone District Amendment:

Staff believes the application for zone district amendment from the Game Creek PUD Holding Zone District to the 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 acts to approve the zone district amendment.

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 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 the Minturn North Preliminary Development Plan for PUD 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 deny 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.”

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 Approve the Minturn North Preliminary Plat 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 Approve, with conditions, the Minturn North Preliminary Plat, 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 deny 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.”

Continuance:

“I move the Minturn Planning Commission continue the Belden Place Preliminary Plat to a date certain.”

Zone District Amendment:

Approval:

“I move the Minturn Planning Commission Approve the Zone District Amendment from Game Creek PUD Holding Zone District to the PUD Overlay Zone District 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 Approve, with conditions, the Zone District Amendment from Game Creek PUD Holding Zone District to the PUD Overlay Zone District, 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 deny the Zone District Amendment from Game Creek PUD Holding Zone District to the PUD Overlay Zone District, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Continuance:

“I move the Minturn Planning Commission continue the Zone District Amendment from Game Creek PUD Holding Zone District to the PUD Overlay Zone District to a date certain.”

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

Fax: 970.945.7336

[*Direct Mail to Glenwood Springs](#)

DATE: August 20, 2021
TO: Minturn Planning Commission
FROM: Karp Neu Hanlon, P.C.
RE: Interpretation of Preliminary Plan Standard: Detrimental Affects to Neighbors

We have been asked to provide an interpretation of the PUD evaluation criteria, specifically Code Sec. 16-15-160(1)(c) that “[t]he adjacent and nearby neighborhoods will not be detrimentally affected by the proposed PUD.” The evaluation criteria contained in Sec. 160 is a mix of objective and subjective standards. For example, 160(1)(n).1 requirement that 25% of the gross land be dedicated is an objective standard that can be determined based on measurements provided in the application. However, 160(1)(c) is a subjective standard that can lead to varying conclusions based on individual Planning Commissioners’ experiences and expectations of how development will impact neighboring properties.

We have reviewed a variety of legal sources to compare the PUD code’s “detrimental affect” criterion with other similar standards in the land use context. For these purposes, the words used are interchangeable with terms such as “adverse” and “impact”. A search of other municipal codes in Colorado reveals similar usage, but generally undefined. Gypsum’s PUD code contains a nearly identical undefined standard at the concept plan review stage, but not preliminary plan. Other codes utilize the standard for subdivision reviews, special use permits, use interpretations, 1041 permits, and other environmental-type regulations. These standards often contain a modifier such as “undue”, “significant”, or “material” that implies a certain amount of detrimental or adverse effects are permitted. Colorado’s PUD statute, C.R.S. Sec. 24-67-101 *et seq.* includes “adverse affect” as a standard for the modification an existing PUD Plan, but leaves it undefined. Local and state law often incorporate definitions from federal environmental laws that are administered at the local level such as the Clean Water Act or the National Historic Preservation Act. The latter contains a definition for “adverse effect” that is applicable to a property eligible for historic protection when an activity would “diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.” A review of other federal sources reveals that these standards are oftentimes not intended to be purely prohibitory, but to trigger mitigation requirements to offset those impacts. Similarly, “significant” or “undue” modifiers’ applicability can be tempered by a determination that the impact is temporary as opposed to permanent.

At the local level, it seems reasonable to tie the Town's PUD criteria back to the municipal police powers of protecting the public welfare: health, safety, and morals. Colorado courts have generally permitted aesthetic considerations to be included in the public welfare consideration.

All development will have impacts to neighboring properties and surrounding neighborhoods. Most such impacts are not actionable in law as there is a general right to develop property as the owner chooses, subject to regulation. Only a few permanent nuisance or trespass type claims for permanent or ongoing impacts such as noise, odors, or drainage by a neighboring property owner can be remedied in court by monetary or injunctive relief. Other impacts such as loss of a view, a street parking space, or increased traffic are not cognizable legal claims. While both sets of impacts can impair property values, the latter type are not property rights.

The Town's "detrimental affect" standard seems to be more prohibitory than many similar standards because it does not contain a modifier such as "substantial" to permit some impacts. But this lies in tension with an owner's right to develop property. Some detrimental affects should be permitted to accommodate a level of property development. Those affects that relate to the protection of health, safety, morals, and aesthetics can be considered in reviewing the PUD. The concept of mitigation is also useful to apply here. Mitigation is implied in the PUD code, as the Town can approve variations from zoning and land use requirements that are offset by other benefits to the public welfare provided by the development as a whole. Likewise, the weight of a detrimental affect can be considered based on the temporal nature of that activity – whether it is permanent or temporary.

There is no clear-cut answer to what precisely 106(1)(c) means for any given PUD. The foregoing analysis is intended to provide some examples for Planning Commissioners to consider in weighing the costs and benefits of a proposed development. At the end, it will be a subjective determination based on the facts presented at the hearing and how an individual commissioner interprets those facts to detrimentally affect the public welfare of the surrounding neighborhood. Discussing these considerations during the hearing is beneficial to the exchange of ideas between the Commissioners and to the maintenance of a strong record to support the final decision.

Karp Neu Hanlon^{PC}

ATTORNEYS AT LAW

www.mountainlawfirm.com

Glenwood Springs – Main Office
201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen
323 W. Main Street
Suite 301
Aspen, CO 81611

Montrose
1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Michael J. Sawyer
Partner/Shareholder

mjs@mountainlawfirm.com

Office: 970.945.2261

Fax: 970.945.7336

**Direct Mail to Glenwood Springs*

DATE: August 19, 2021
TO: Minturn Planning and Zoning Commission
FROM: Karp Neu Hanlon
RE: Access to Minturn North Subdivision

As part of the Planning and Zoning Commission's consideration of a PUD application, a determination needs to be made about legal access to the property. As part of the Town Staff's review of the Minturn North application, staff identified the following access issues that required resolution as part of the PUD process: (a) Minturn Road dedication to Town, (b) Railroad Ave. dedication to Town, (c) crossing agreement for Railroad Ave. and (d) crossing agreement for Minturn Road near Dowd Junction.

Over the last few months the Town Attorney and Union Pacific Railroad have traded drafts of these documents. Recently, a set of drafts has been negotiated that resolve the Town Attorney's concerns about access and liability. The drafts resolve the question of legal access to the Minturn North property. The drafts will be considered for approval by the Town Council (the entity with authority to approve such documents). The access documents will be presented to Town Council at the same time as the preliminary plan application which is currently under review by P&Z. The Planning and Zoning Commission should consider these issues have been addressed but condition its recommendation on the Town Council approving the access documents at a later stage of the approval process.

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



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

All Referral Comments Received for Minturn North PUD's Project Application

1. Town Staff and Town Attorney
 2. Town Engineer (Intermountain Engineering)
 3. CDOT
 4. Colorado Geological Survey
 5. Colorado Parks and Wildlife
 6. Eagle County
 7. Eagle County School District
 8. Eagle River Fire Protection District
 9. Eagle River Water and Sanitation District
 10. Eagle River Watershed Council
 11. Ehlers Public Finance Advisors
 12. Holland and Hart/Martin and Wood
 13. SGM
 14. United States Forest Service
 15. Veracity
 16. Xcel Energy
-

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Lauren Dickie
Burke Harrington
Christopher Manning
Jena Skinner

February 15, 2021

Minturn Crossing, LLC
Attn: Gregory Sparhawk
P.O. Box 333
Minturn, CO. 81645

Sent via email: gregs@gpsdesigns.com

Re: Minturn Preliminary PUD Application – Town Staff Referral Comments

Greg:

The Minturn North Planned Unit Development Preliminary Plan application was sent out on a 21-day referral starting on January 11, 2021 and ending on February 1, 2021. You should have received a Dropbox link containing all referral agency comments received by the Town to date; the following letter summarizes the Town of Minturn Planning Department's and Town Attorney's comments.

Planning Department:

1. PUD Guide – General Comments:

- Overall, the PUD Guide is well written and provides the type of information needed to properly administer and enforce the PUD. That said, staff respectfully suggests that certain sections of the document read more like a proposal or marketing narrative instead of a regulatory document. As such, staff suggests that you consider revising the document – particularly on pages 3-4 under Section 1 – Purpose and Intent - to remove references to “we,” “our,” or any discussions of what the developer is proposing. Simply, if the PUD is approved and the PUD Guide becomes the zoning document for the development, the document should be written in a non-speculative nature.
- The “Purpose and Intent” section provides a good overview of the proposal. In that sense, though, certain portions of this section also read more like a proposal found in an application narrative. Staff respectfully suggests that it is more customary – and will be more appropriate for this type of document - for the purpose and intent section of a PUD guide to describe in a more general sense the purposes of the document rather than the intentions of the Developer. For example, the purpose and intent section might read something like:

“The purpose of the Minturn North Planned Unit Development Guide (the “Guide”) is to guide the orderly development of all lands within the Minturn North Planned Unit Development (the “PUD”), a 116 lot residentially-oriented project with open space, public trail dedications and other public and private improvements, located in north Minturn. The PUD is designed to provide a project that will add diversity to Minturn’s housing stock, incrementally increasing the size of the Town of Minturn through an organic method of allowing individual lot ownership and development that will best replicate the historic growth and fabric of the Town.”

“Therefore, it is the intent of the Guide to:

- *Describe the intended character, rationale and design intent for the PUD;*
- *Establish and describe land use categories and permitted uses as a matter of zoning;*
- *Provide definitions specific to the administration of the PUD;*
- *Prescribe dimensional limitations, including but not limited to, building and impervious coverage, building setbacks, and building height limitations;*
- *Describe management plans and standards for open space, parking, locals housing, signage, landscaping, erosion control, exterior illumination, stormwater, wildlife mitigation, riparian areas, and construction.*
- *Create processes for the proper administration and enforcement of the PUD, including but not limited to procedures for major and minor amendments, density transfers, and phasing.”*

You may also consider a similar section to describe the “General Development Principles” used to create the land plan and set forth the controls that the PUD will illustrate; to explain via bullet points or a short narrative how the subdivision was conceived, what the objectives are by way of street and lot layouts/orientation, range of lot sizes, sidewalk and trail improvements (i.e., connectivity), etc.

- Portions of the Purpose and Intent section address the “builder’s rule” and the housing plan. Please consider organizing both topics under their own section heading such as “Lot Mix and Disposition” (including the “Builder’s Rule”) and “Housing Plan.”
- Suggest adding a section covering “Minturn North Home Owners Association/Architectural Design Review Process” – this section could describe in a general sense the establishment and purpose of the HOA and the Architectural Control Committee, while also providing a references to the Declaration of Covenants and the Design Guidelines (the paragraph on page 5 describing the design guidelines could serve this purpose if given a section heading).
- Please consider removing the paragraphs starting at the top of page 4 that describe the developer’s intentions regarding off-site improvements, site clean-up, and potential benefits upon approval of final plat. This information is important for the Town and citizens to understand but may not be needed within the PUD regulatory document.
- Suggest establishing the Minturn North PUD Guide as “the Guide” in the first sections of the document so all subsequent references can be shortened to “the Guide.”
- Suggest creating separate sections to address: “General Development Principles,” “Phasing Plan;” also, suggest integrating maps within and throughout the text/narrative of the PUD to illustrate development tracts and/or lot numbers, and open space parcels.
- Suggest adding a separate “Sustainability” section that discusses sustainability goals, standards (within the PUD Guide) that are intended to encourage energy efficient building and site design (see additional comments regarding the sustainability section included within the draft Design Guidelines document).
- Suggest revising the Land Use/Zoning Categories and Corresponding Tables section on page 6 to include specific reference for allowed alternative energy production uses, including but not limited to small-scale solar energy collection systems and/or small-scale wind energy collection systems, as both terms are defined in Section 19 – Definitions and Illustrations.

2. PUD Guide – Specific Revisions/Comments (by page):

- Page 1 – Phasing Plan Map: Suggest making this image larger for legibility.

- Page 4 – Conflicts Between the PUD Guide and Other Regulations: please remove reference to “and drafted proposed,” – staff suggests if the PUD is approved, reference to a *draft* zoning code will not be relevant.
- Page 5 – Dimensional Limitations Table: Suggest adding new section (4) heading before the dimensional limitations table such as “Dimensional Limitations” or “Development Controls” and remove any listing of “allowed uses” from this table.
- Page 5 – Dimensional Limitations Table: Suggest adding table caption/footnote (e.g., “Table 4.1 – Dimensional Limitations”).
- Page 5 – Dimensional Limitations Table: Suggest not showing proposed variations from Town Code in red in the table as the Town Code standards and dimensional limitations may change in the future in which case the variations will be outdated. This information (variations) is important to the Town’s review of the PUD and should be listed in a separate document outlining any and all planning or engineering related variations sought for the PUD.
- Page 5 – First paragraph after table: suggest removing reference to the current code requirement for snow storage as this standard may change in the future.
- Page 5 – Second paragraph after table: please remove “All applications submitted to the Town of Minturn for construction and landscaping shall be accompanied by a letter of approval from the Minturn North DRB.” The Town will not enforce private covenants and, therefore, cannot withhold Town of Minturn DRB approval or a building permit based on Minturn North DRB approval.
- Page 5 – Last paragraph: suggest distinguishing between encroachments in the front setback vs. the side or rear by changing “Eaves and other roof overhangs may extend a maximum of 2’ into setbacks” to “Eaves and other roof overhangs may extend a maximum of 2’ into side and rear setbacks.”
- Page 5 – Last paragraph: suggest assigning or defining what “minimal amount” means (suggest defining “a minimal amount but in no case more than one (1’) foot”).
- Page 6 – Minor Amendments: Suggest that you incorporate the exact language from the Minturn Municipal Code to introduce this section:

“Minor deviations that may be authorized are those that appear necessary in light of technical or engineering considerations first discovered during actual development and that are not reasonably anticipated during the initial approval process, as long as they comply with the applicable requirements and standards of the Minturn Municipal Code.”
- Page 6 – Minor Amendments: This section allows for adjustments to parcel setbacks; staff suggests this provision allow for minor adjustments in property boundaries as well and that any adjustments to setbacks be further defined and limited (i.e., “no more than one (1’) foot so long as drainage, snow storage and minimum separation distance requirements between structures are maintained in accordance with Town standards and/or applicable building, energy, or fire codes.”) to ensure that other fundamental elements of the PUD standards are upheld. Also suggest removing reference to MMC Sec. 16-15-230(a)(1)(2) as this section may change in the future. However, reference to the “Minturn Municipal Code” is appropriate.
- Page 6 – Major Amendments: Suggest that this section also include language – introducing the section - from the Minturn Municipal Code describing what constitutes a “major” amendment and what the process will be:

“Changes in use resulting in more intensity of development, major rearrangement of lots into areas not previously containing development, overall increases in development intensity or density, and decreases in the area or provisions for open space will require approval by the Town Council following the procedures of this Article for the submittal of a PUD preliminary plan; however, certain submittal requirements shall be waived if determined by

the Planning Director and deemed unnecessary given the information already on file with the Planning Department. At a minimum, a revised development plan shall be submitted showing the proposed changes to the plan. An amendment to a PUD may be filed by any owner within the PUD, subject to any homeowner association rules and regulations.”

- Page 6 – Major Amendments: If the above language is added, proposed language included in this section may still be appropriate to further define what types of changes are considered “major” and staff is supportive of retaining the following statement:
“While some of these items also fall within the Minor Amendment process, they will be deemed Major if the Planning Director deems the changes will substantively affect the character and use of the PUD and its surroundings.
- Page 6 – Major Amendments: Suggest eliminating reference to Planning Director approval of Major Amendments as such amendments will only be approved by the Town Council pursuant to the Minturn Municipal Code.
- Page 6 – Appeals: please revise this statement to read *“Appeals to a determination of a Major Amendment of the PUD may be made and considered in accordance with the provisions of the Minturn Municipal Code.”*
- Page 6 – Under Public Use Category: Suggest providing a separate sentence or description of “Other Recreational” uses; this could be wide ranging and it may be helpful to narrow the potential uses. Also, suggest adding “stormwater infrastructure” to the list.
- Page 6 - Land Use/Zoning Categories and Corresponding Tables: Suggest adding language to either define the types and duration of temporary buildings or structures, or provide a direct reference to the definitions of the Minturn Municipal Code (e.g., “Temporary buildings erected within the PUD will be permitted and maintained in accordance with the applicable definitions and standards of the Minturn Municipal Code.”)
- Page 6 – Land Use/Zoning Categories and Corresponding Tables: Suggest removing “Single Family Attached” as a use type; staff is unsure what is meant by this term as “attached” residential development typically denotes duplexes, townhomes or multi-family which are already listed.
- Page 7 – PUD Summary Table: Suggest creating table caption/footnote (e.g., “Table 5.1 – PUD Summary”).
- Page 7 – PUD Summary Table: Suggest revising the table to list or separate statistics for “Phase I” and “Phase II.”
- Page 7 – Illustration of Public and Private Property Ownership: suggest adding a caption or heading/footnote to this illustration (e.g. “Property Ownership Map” or something to that effect). Also, the graphics and text (“Open Space Calculation,” “Street/Public Dedication Calc” and “Proposed Ownership”) are somewhat difficult to read. Staff suggests revising this graphic to increase the size of labels and consider changing the labels to read “Open Space,” “Street Right of Way/Public Land,” and “Private Land.”
- Page 7 – Density Transfer Policies, Procedures and Criteria: Suggest removing references to the “proposal;” consider using the word “project” instead. Also, please consider adding “pursuant to the requirements of the Minturn Municipal Code” after “A transfer of density may be approved as a major amendment to the PUD...”
- Page 7 – Density Transfer Policies, Procedures and Criteria: Suggest removing any mention of prepayment of taps and the developer’s ability to sell or transfer/use those taps as this information does not appear germane to transfer of development rights.
- Page 7 – Open Space, Buffer Area and Recreation Amenity Management Plan: Suggest removing any reference to plan sheets provided for the Preliminary Plan submittal since they will likely not be available or attached as exhibits to the PUD Guide; any mapping that is necessary to communicate the open space parcel locations and sizes should be a

separate illustration or figure (with labels for each open space or trail parcel such as “Parcel 1”) within the text of the PUD Guide. Another way to communicate this information (in addition to a map exhibit) would be to create a general narrative (e.g., “*Open space within the Minturn North PUD is provided for the enjoyment of residents of Minturn North as well as the general public. Trails, passive and active open space parcels, park land and community garden areas provide public benefits for recreation, pedestrian travel and connectivity, as well as critical infrastructure for drainage, stormwater and snow management.*”) along with a table outlining each parcel, its acreage, intended use, and ownership.

- Page 8 – Phases: Suggest this information related to open space improvements by phase should either be removed (with the understanding that the information will be provided to the public, Planning Commission and Town Board during the review of the PUD Preliminary Plan proposal, and included within the SIA for Phase I), or moved to a separate “Phasing Plan” section.
- Page 8 – Housing Plan: This section contains great information and description of the overall development intent and principles for the PUD, as well as details on phasing and infrastructure. Staff respectfully suggests that this information be contained on the first page or pages of the PUD Guide under “Purpose and Intent,” “Phasing Plan” or under “General Development Principles” to provide additional overview of the objectives of the PUD.
- Pages 8-9 – Housing Plan: Suggest that the Housing Plan section should contain a general description of the affordable or “Locals Only” housing approach; the challenges presented by the sale of lots rather than units; descriptions of how the program will work (i.e., the first right of offer and/or any restrictions on short term rental to comply with the Town’s requirements); and, the intent of the PUD with regard to distribution and restriction of 20% locals only deed restrictions. (Staff will have separate comments regarding the overall housing plan for community housing in a later section of these comments.)
- Page 9 – Roads and Parking: This section provides a great overview of the design and intent of public roads and parking areas, as well as the intended requirements that must be met for private parking on each individual lot. Only suggestions are to 1) consider removing specific reference to the design dimensions of road lane widths due to the fact that, through the review of the application, the design may change slightly; and 2) consider providing a map exhibit showing public parking areas and on-street parking areas.
- Page 10 – Offsite Improvements: Suggest removing this section as this information is important but will not be enforceable through the PUD Guide; it will, however, be addressed in the SIA documents for both Phase I and Phase II. If you believe that this information should remain in the PUD Guide document, staff suggests that it be moved to the section covering “Phasing Plan.”
- Page 10 – Master Sign Program: Thank you for adding this section to the PUD Guide. On line two in the first paragraph of Section 11, please change “Town of Minturn Public Works” to “the standards of the Minturn Municipal Code.” Also, suggest creating subparagraphs or sections to address “Way Finding Signs,” “Temporary Signs” (for real estate sales and construction management), permanent “Neighborhood Identification and Monument Signs” to correspond to the graphics provided. One thing to keep in mind for this section is that you can label each graphic with a caption/footnote (e.g., “Example of Temporary Signage”) along with your disclaimer “Image graphics here are for dimension information only...” Additionally, this section can be where you describe intended materials and lighting to be used for monument and other temporary signs.
- Pages 12-13 – Illumination Standards: This section provides great information regarding the intent of the developer to limit artificial lighting throughout the PUD. Only

suggestion is to consider removing any reference to “proposed lighting” and specific photos of potential pole light fixture design; this information will likely change at construction (as noted in the text) and would be more appropriate in the Draft Design Guidelines and/or in the SIA for Phase I.

- Page 13 – Illumination Standards: Suggest revising the sentence regulating holiday lighting to read something like: *“An exception to the Minturn North PUD Illumination Standards is made for temporary holiday lighting and displays. Such lighting and displays may be installed on private property for a period not exceeding forty-five (45) days before, during and after the following nationally recognized holidays...”* Alternatively, you could specify each Holiday where lighting is allowed with the dates “From” and “To” during which lighting and displays (other than the United States Flag in the case of the Fourth of July) may be displayed and turned on. For instance, the period of outdoor holiday lighting spanning Halloween, Thanksgiving, Christmas and New Years could start October 15 and terminate January 31 of each year.
- Page 13 – Landscaping and Erosion Control Standards: Suggest revising the first sentence to include “and publicly maintained property” after “open spaces.”
- Page 13 – Landscaping and Erosion Control Standards: Suggest considering a graphic to illustrate the site triangle restricted planting area. Also, staff respectfully requests that you revise the paragraph:
 - Remove “application” after Town of Minturn DRB” in the 8th line down from the top;
 - Remove the sentence *“DRB applications to the Town of Minturn from homes within this PUD are required to be accompanied by a signed approval from the Minturn North Design Review”* as this will not be something the Town enforces. If such requirement is stated in a private covenant, the Town may recognize such restriction but will not enforce a private covenant (i.e., the Town cannot legally deem a Town DRB application or building permit application incomplete; or otherwise deny issuance of a permit based on the inability of the applicant to provide evidence of Minturn North DRB approval).
- Pages 13-14 – Landscaping and Erosion Control: The erosion control standards or requirements are helpful and appropriate. However, it is difficult to determine if the standards apply to the Developer responsibilities undertaken during initial horizontal construction of infrastructure, over lot grading and utility installation during both phases; or, if they will apply to construction on individual lots.
- Page 14 – Snow Management Plan: Suggest removing reference to plan sheets which may not be available or attached to the PUD Guide document, and instead provide a graphic (map or maps) within the narrative section showing where snow storage will be provided. Also, suggest the following revision to text: “All private parcels will be held to a minimum requirement of twenty percent (20%) of ~~adjacent~~ paved surfaces for snow storage.”
- Page 14 – Snow Management Plan: Suggest adding a sentence informing the reader that “For all lots fronting public sidewalks, removal of snow from sidewalks is the responsibility of individual lot owners or as required in accordance with applicable Town of Minturn ordinances.”
- Page 14 – Wildlife Management/Mitigation Plan: Suggest removing the word “current” in front of “Game Creek area.” Also, suggest adding provisions and/or working with the Colorado Parks and Wildlife Division (CPW) to integrate wildlife sensitive standards into the PUD Guide and/or the Design Guidelines, including requirements or suggested standards for exterior illumination, exterior landscaping (wildlife resistant plant materials/avoidance of attractant plants such as ornamental and fruit bearing trees), and refuse controls (bear proof trash containers).

- Page 14 – Construction Management: Thank you for adding this section regarding construction management. Please consider removing specific reference to plan sheets of the PUD submittal as well as details regarding phasing (since these will or should be addressed elsewhere in the PUD Guide and/or SIA) and, instead, consider adding a graphic within the narrative section if needed to illustrate development of the project. Additionally, construction management plan sections of PUD guide documents and/or covenant documents typically address general construction management and best practices that will apply to the development of individual tracts or lots rather than specifying details horizontal construction of infrastructure and public improvements by the master developer. Hours of construction, how the master developer will address things like erosion control and mitigation of mud and debris being tracked off site, construction screening and/or fencing (for master developer and for individual lot construction), security and/or limits on trash during construction (bear proof containers and daily site inspection to ensure trash clean-up as requirements) should be included in this section.
- Page 15 – Riparian Corridor Plan: Suggest adding specific reference to “Game Creek” in front of “the Riparian corridor.” Also, it may be helpful to provide a graphic of the Game Creek Corridor, specifying the location of “crossings” or other improvements, delineating any wetlands and/or setbacks to the live stream, as well as more narrative describing the current state of the riparian area, specific enhancements or management techniques to be used during and after construction to ensure protection and enhancement of the riparian areas (e.g., additional plantings, annual clean-up days, partnerships with schools and/or non-profits to monitor or “adopt” the riparian corridor) as an added public benefit.
- Pages 15-17 – Definitions: Please see comments and/or make the following revisions to proposed definitions:
 - *“Affordable Housing Lot/Unit – Shall mean any lot or dwelling unit within the Minturn North PUD that is deed restricted in perpetuity as “locals only” or resident occupied; or, which meets the requirements of the Town of Minturn community housing guidelines and administrative procedures in effect at the time of development of the lot or unit.”*
 - “Building Height” – Please either define “grade mesh” or provide more descriptive illustrations with labels. Also, consider deferring to the Town of Minturn Building Height definition and calculation methods, as well as including mention of “wind energy collection systems” as an element – similar to solar panels or mechanical vents – that may project no more than 4’ higher than the allowable building height.
 - “Density Transfer” – *Shall mean the re-assignment by Major PUD Amendment process of allowable residential density, calculated in dwelling units, from one parcel or phase of development to another.* (Note: the density transfer process should not permit transfer of square footage since the entitlements sought by the developer have been presented as maximum number of units, not on a maximum residential square foot basis).
 - “Developer” – suggest striking all text in this definition following the word “either” in the fifth line; language regarding the process or requirement for assignment is important but should be included in the SIA and/or other document.
 - “HERS” – this is defined but does not appear to be mentioned or described as a primary objective of the PUD development or design guidelines. Staff is in support of more robust standards or statements of intent with regard to sustainability and the achievement (in individual building projects) of specific HERS related goals or standards.
 - Setback – change “with” in the first line to “within” and add “on individual building lots” after “behind” on line two. Also, this definition references a

'build-to' line which may be interpreted differently than a building envelope line or setback line. Please consider removing language specifying which minor deviations are permitted and replace with a general statement "(See the Minturn North Design Guidelines for processes for review and approval of minor deviations to, and allowable encroachments within, prescribed setback areas)"

- *"Short Term Rental – Shall mean the renting or leasing of any residential dwelling unit for a period of less than thirty (30) days or as defined by the Town of Minturn Municipal Code in effect at the time."*

3. Design Guidelines:

- General Comment: The guidelines are well thought out and drafted in a manner that future residents or builders wanting to build in Minturn North will understand the design intentions and process for gaining approval. That said, the Town has historically not encouraged separate, HOA controlled architectural/design review boards or processes independent of the Town of Minturn Design Review Board.
- General Comment: Will the Design Guidelines provide a process for major and minor deviations to setbacks or building envelopes?
- Section 3 - Scoping and Submittal Requirements (page 4): It may be obvious or implicit in the document, but it may be helpful to add language (under "Scoping") in this section specifying that property owners are required to go through a Minturn North process prior to Town review. Also, under the same section, if the Town ultimately votes to permit a separate HOA DRB process, it will be helpful to provide details regarding the process – who does someone apply to; using what forms (perhaps attach a Minturn North DRB Application Form as an exhibit or attachment to the Design Guidelines); in what time frames/general description of the frequency meetings; and what the criteria for approval will be.
- Section 5 – Materials (pages 7-9): On page 9 under "Colors," please consider adding language to more expressly encourage an eclectic mix and vibrancy of colors and provide images to reinforce the existing palette or fabric evident in Minturn. One of the defining characteristics of "funkiness" in Minturn emanates from the bright colors often used for the main body color and/or trim colors found throughout the community.
- Section 9 – Sustainability (page 15): This section starts to lay the groundwork for a built environment that may very well raise the bar for sustainable, energy efficient construction within a major new neighborhood in the Town. In this sense, staff encourages you to integrate more specifics and requirements ("shall" rather than "should") into the Design Guidelines as the primary tool to implement and enforce sustainable practices. While the PUD Guide can also establish requirements and set the tone for sustainable design, the Guidelines document will be enforced via private covenants and can be used to not just require but incentivize the use of certain fixtures and best practices. This section is also a place where the information, photos (Do/Don't) could be used to illustrate the integration of solar and/or small-scale wind for alternative energy production on individual homes/lots.
- Section 10 – Construction Management (page 16): This section along with details provided on Sheet A08 set forth great information and requirements for managing the impacts from construction. Staff suggests that this section can be bolstered by providing a few more specifics/requirements addressing how to manage erosion control (including graphics/renderings of best practices such as silt fencing, installation of gabion rock on site and/or gravel pads to deal with mud from tires, or washing stations on site), as well as securing and/or screening sites and a map similar to Sheet A08 (but at a different scale) showing locations and examples of truck wash-outs and the preferred location of

erosion control fencing on a typical site. Is it the intention of the developer/HOA to require fencing around sites and, if so, will mesh screening be required?

- Section 10 – Construction Management (page 16): Please consider adding a requirement for a pre-construction meeting with the Minturn North DRB Administrator to ensure that, prior to construction site disturbance limits are established; any required erosion control and/or security fencing is installed; and, in-line with Section 5.3 – *Procedures* of the Declaration of Covenants, any/all construction deposits are in place.

4. Declaration of Covenants:

- Section 6.3 – Miscellaneous Structures: Request further information as to what types of “refrigerating, cooling or heating apparatus” the Declarant may install in the future and why such equipment would not benefit from being screened.
- Section 6.7 – No Nuisance Light, Sounds or Odors: Suggest this section reference or provide the same controls on holiday lighting as proposed within the PUD Guide.
- Section 6.8 – Restrictions on Parking and Storage: This section restricts parking of certain classes of vehicles, trailers and recreational equipment, in part, on “streets.” Staff’s understanding is that the majority of streets within the development will be publicly owned and maintained. Please review if this section needs to be revised to specify or differentiate between public and private streets.
- Section 6.10 – Garbage and Refuse Disposal: Suggest adding language that specifically requires “bear proof” or “wildlife resistant” trash or refuse containers. Also, please consider revising this section to allow for “composting” when discussing the use of an “appropriate, clean container suitably located” on the Property (e.g., add “for composting and” before “garbage pickup.”)

5. Housing Plan:

- Although the Town has not yet received referral comments from the Eagle County Housing and Development Authority, staff believes more collaboration working with the County is needed with regard to the proposed “Locals Only” housing plan.
- Staff recognizes that the Minturn North Locals Only Housing Plan is voluntary at this juncture; the Preliminary Plan was submitted for review prior to the Town adopting inclusionary housing requirements (Ordinance No. 7, Series 2020). In this sense, the proposal to deed restrict up to 20% of the overall number of for sale lots to locals (as defined in the housing plan), to provide eligibility requirements and restrictions on short-term rentals is recognized as an overall benefit to the community.
- That said, staff is also aware anecdotally that upwards of 90% of the lots for which the Developer has taken deposits/reservations in Phase I have been reserved by local Eagle County residents. This is indicative of the severe housing needs in the valley, the project’s unique and convenient location in the Eagle River Valley, and a desire by locals to be able to design and build their own homes. Staff requests that you continue to work with the Town and Eagle County Housing and Development Authority representatives to further refine the housing plan, possibly increasing the minimum percentage of deed restricted lots from 20% to a minimum of 50% (again given the strong demand by locals in the first round of reservations), and that you consider additional techniques such as the creation of a local Community Land Trust for the Minturn North PUD that would, through a transfer tax or other funding mechanism, provide money for the CLT to buy certain “Locals Only” lots, particularly in Phase II. Such land leases, along with deed restrictions, would be intended to not only ensure local ownership but would serve maintain controls on costs of ownership – from one owner to the next - into the future through resale price appreciation caps that work with eligibility requirements.

Town Engineer:

1. Comments from Town Engineer, Jeff Spanel, Intermountain Engineering, are attached and have been provided to the Applicant on February 11, 2021.

Town Attorney:

1. Plats, Plans and Surveys:

- Lots 87 to 94 (located on Icehouse Ave. north of the bridge) will need to be part of a sub-Association. The Town will not take ownership of the bridge and roadway to serve these lots. Further, the lots require permanent rockfall mitigation. The Town will not take ownership of the rockfall mitigation. These common elements should be conveyed to a sub-Association specific to these lots.
- The “half street” that is located off of Fifth Street is essentially a private driveway. The Town will not take ownership of this driveway. A sub-Association will need to be established that owns and maintains this street area.
- The project presents a dense development scenario with limited common parking. Parking areas next to the park/open space areas could be used as overflow parking for the development. The developer needs to propose restrictions that prevent these spaces from being monopolized by residents of the development.
- Driveway access along the public roads should be located to maximize on-street parking opportunities.
- Rock fall hazard is identified on the north side of the creek. The developer needs to submit a report from a qualified engineer providing a design for the rockfall hazard mitigation and describing how this hazard can adequately be mitigated in order to protect property and human life.
- Snow storage is provided in park areas behind lots. The grading and drainage plan needs to demonstrate that snow melt will not infiltrate adjoining yards.
- Grading plan identifies grading below Minturn Road. The drainage plan also identifies that drainage will be carried in swales and culvers on the UPRR property. Developer must demonstrate the legal right to undertake this work on the UPRR lands.
- The easement agreement for Minturn Road requires construction of a buckrail fence along boundary with RR property. Design and cost estimate for the fence needs to be included in the plans.
- Legal access needs to be established for Minturn Road, Taylor Ave. and Railroad Ave. in order to provide access to the project. A separate letter about legal access issues is included in the referral comments.
- The plans identify a trail running between rear lots along the length of the development. The Town is not willing to accept dedication of this property and improvement.
- Developer needs to identify the status of wetlands permitting for areas identified in Phase II. Army Corps of Engineer permits will be required before a final plat for Phase II can be recorded.
- The plans did not include design, engineering, or material standards for: bridge over Game Creek, foot paths identified in plans, trails identified in plans, parks and park equipment, restroom facility. These plans need to be submitted to the Town for review and approval.
- The developer needs to provide evidence that CDOT has agreed that its conceptual level plans for improvements within the CDOT ROW are acceptable. Developer must also identify the point at which it will seek an access permit from CDOT for the approvals.
- The Preliminary Plat needs to depict the schedule B-2 exceptions (in the title commitment) that are easements crossing the property.

2. HOA Covenants:

- Section 2.2(a) needs to be consistent with the limitations of CRS 38-33.3-303.
- Section 3.6 the voting requirement of 2/3 of members to adopt an assessment seems high (and potentially difficult to achieve). Consider lowering to 50 or 55%.
- Section 5.1 only contemplates an Architectural Control Representative appointed by the Declarant. This needs to be scalable as the Declarant starts to transfer control, the Board gets to appoint a representative. Then when Declarant Control ends, the representative needs to be only appointed by the Board.
- Section 5.2 needs to be written so that it applies not only to purchase from Declarant, but from purchases subsequent to the one from Declarant. Architectural control needs to function after Declarant control terminates.
- Section 6.7 should reference the Town's lighting code section.
- Section 6.9 restriction on clotheslines may violate the Town's climate action policy.
- Please note that the activities identified under Section 6.15 may not be permitted under the Town's code and this language is not operative to waive the Town's enforcement in this regard.
- Section 6.16. CCIOA contains restrictions on the use of covenants to waive potential claims against the developer. I will need to review this language with CCIOA lawyer for compliance with these provisions. I am also not comfortable with a mandatory arbitration provision being used as a shield in the covenants.
- The Declaration has detailed provisions about insurance. My understanding is that there are no common elements. Do all of the insurance provisions make sense?
- Sections 9.1 and 10.7 seem to run afoul of CRS 38-33.3-120 and 38-33.3-217.
- The Covenants need to have a provision limiting irrigated landscaping to 2000 square feet per lot unless the lot owner purchases a second SFE from the Town.
- The Covenants need to have provisions for the sub-Associations to own, manage and maintain common elements such as rock fall mitigation and private roadway segments.
- The adequacy of environmental reports needs to be confirmed by an outside consultant.

3. PUD Guide:

- The introduction and descriptive language in the PUD Guide is helpful, but potentially not part of a zoning document. It might fit better with the application cover letter or as provisions in the SIA. Staff can work with the applicant to find the appropriate location for the descriptions.
- The PUD Guide is the zoning for the property. On page 4, the following language should be deleted:
“This PUD has been designed to closely replicate the existing, and drafted proposed, Chapter 16 zoning code for the Town of Minturn. Because this project is specific to a sloping site and promotes alternative lot sizing there are areas where this PUD is in conflict with the existing Zoning regulations. Allowed uses for these lots will conform to the adjacent residential zone per the Minturn Zoning Code, unless identified differently within this guide.”
- On page 5, the Town may not be comfortable with a different methodology for calculating building height.
- On page 6, minor amendments must be approved by Planning Commission per the Code. Major amendments must be approved by Town Council after consideration by the Planning Commission. The PUD cannot vary the code in this manner.
- On page 6, appeals to a determination of a Major amendment “shall be governed by the Minturn Town Code.”
- On page 7, language about specific trail locations, fencing requirements, park equipment and maintenance obligations should be in the SIA, not the PUD Guide.

- Need to confirm lane widths on page 9 with Intermountain Engineering as consistent with Town engineering standards.
- On page 13, there is a discussion about temporary irrigation of landscaping in native areas. The Town and the applicant need to discuss whether non-irrigated landscaping is appropriate in all public areas. The applicant must also identify the number of SFEs associated with landscaping irrigation in publicly dedicated areas for purpose of water rights dedication and payment of system improvement fees.

4. Affordable Housing Deed Restriction

- The developer needs to facilitate referral comments from Eagle County Housing. If the referral indicates that resident/employee occupied housing is the appropriate form of housing mitigation, the Town has a form resident/employee occupied deed restriction.

Greg, one thing each staff member and consultant has commented on during our review is that you and your team have put an enormous amount of effort into this application and have worked diligently to address concerns along the way. As with any application of this type, the amount of information and levels of detail necessary to ensure proper review and, therefore, good decision making, is incredible and time consuming to fully review. We appreciate your patience as we have done our best to review the application in a timely manner and to provide thorough and thoughtful comments aimed at making sure the PUD can be developed and regulated in the best possible manner if ultimately approved by the Town.

As you review these comments and make necessary revisions to the PUD Preliminary Plan, PUD Guide, or Declarations of Covenants, please keep in mind that these documents will provide the backbone for the Town's and the HOA's ability to implement and enforce the terms of the PUD. Our comments are provided in this spirit to ensure clear interpretation and enforcement of the documents and, therefore, the practical application of the design and regulatory intent of the PUD.

Please contact me at (970) 827-5645 or at (970) 343-2161 if you have questions or require further assistance in this matter.

Sincerely,



Scot Hunn, AICP/MPA
Planning Director

Cc: Michelle Metteer
Michael Sawyer
Jeff Spanel
Arnold Martinez
Madison Harris
File

February 8, 2021

Madison Harris
Town of Minturn
PO Box 309
Minturn CO 81645
Via email: planner1@minturn.com

RE: Minturn Crossing, North Minturn PUD
Preliminary Plan Review

Project No. 19-0064

Dear Ms. Harris

Inter-Mountain Engineering reviewed the Preliminary Plan submittal and offers the following comments:

General:

1. All text labels should be “masked” on plans for legibility.
2. The submittal includes a very good set of conceptual plans but lack detail necessary for construction.

Site Overview:

1. The Phase 1 Environmental Site Assessment (ESA) identifies a couple of limitations to their investigation – the site visit occurred with 1-2 feet of snow cover, and the UPRR would not provide any background information. The Phase 2 ESA scope was limited to an investigation of the area identified in the Soil Screening Assessment provided with the conceptual plans. We recommend both ESA reports be directed to a qualified expert for evaluation.

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

February 8, 2021
Madison Harris
Town of Minturn
RE: Minturn Crossing, North Minturn PUD
Preliminary Plan Review
Project No. 19-0064

Preliminary Plat & Topographical Survey

1. Contour interval labels are not shown on the topographical survey.
2. Topographic & as-built utility information for Minturn Road & Taylor Street should be included on the enlarged mapping.
3. Mapping should extend to include the limits of disturbance shown on the infrastructure plans.
4. The point of beginning should be labeled.
5. The bearing for the northerly boundary line should be reversed to match the legal description.
6. Provide closures for all lots and tracts with the final plat.
7. Label right of way widths.
8. Minturn Road is shown much wider than the 40' existing right of way. The plat should include the proposed right of way of at least 60 feet for dedication to the Town. The location of the existing road should be shown on the plat.
9. This project is entirely dependent for access on Minturn Road all the way from Main Street to its connection with HW 24 to the North. Including "Railroad Avenue" adjacent to Booco's first filing. The design does not include any detail of offsite Minturn Road or "Railroad Avenue which belongs to the Railroad.
10. The plat does not show utility, drainage and trail easements depicted on the infrastructure plans. Please revise the plat.

Traffic Study and Road Design:

1. The traffic study recommends changes to the intersection of Minturn Road with Taylor Avenue to improve site distance. Two alternatives are suggested.
 - a. If the intersection is reconfigured, the angle of approach should be no less than 70° and should only be approved as a variance to town standard 90° approach. This may require both horizontal and vertical adjustments of both Taylor Avenue and Minturn Road alignments.
 - b. The report also suggests a ONE-WAY alternative for a portion of Taylor Avenue.
 - c. Neither alternative is developed on the infrastructure plans. Please address.
2. The plan and profile for Fifth Street shows an undesirable situation at the intersection with the common driveway (Spur Road). A steep grade approaching 9% on 5th street on the east side of the intersection could make it difficult for a driver to stop for cars or pedestrians in the intersection, particularly in winter conditions. The approach to the intersection should be no more than 4% for 100 feet. A variance could be requested for up to 6%. It looks like the designer could adjust the profile to improve the situation. The current design looks like density has been maximized ignoring good street design. The proximity of the Spur Road and Ice House Road also magnifies the traffic conflicts in this area. ITE guidelines require these roads to line up or be separated by 125 feet. A redesign of the northern portion of the project (future phase) should be considered to eliminate these safety issues.

February 8, 2021
Madison Harris
Town of Minturn
RE: Minturn Crossing, North Minturn PUD
Preliminary Plan Review
Project No. 19-0064

3. The design and construction of Minturn Road needs to be coordinated with future planning for the northerly end of Minturn. Please provide design drawings for all required improvements to Minturn Road and the access improvements at Minturn Road and Highway 24.
 - a. An ECO Trail extension is in preliminary stages of planning and the location of the road, particularly the proposed crossing for the trail must be considered.
 - b. The future Dowd Junction water main extension should be completed in conjunction with the paving of Minturn Road.
 - c. Currently there is some question regarding the width and location of the existing road. The right of way width is in question; various maps show the width of the right of way to be 40-60 feet. There is also a question if the road is located within an easement a license or a right of way. As a collector road, we recommend this be a minimum 60-foot dedicated right of way, or wider if required for the construction of the road, adjacent bike path, water main and required snow storage.
4. Please provide copies of CDOT Access Permit Applications
5. The geometric design of streets for this project should meet the minimum standards of Section 1102.1 of the CDOT design manual for local off system streets and roads, and the ITE RECOMMENDED GUIDELINES FOR SUBDIVISION STREETS, Refer to TABLE 1102.4A from the CDOT manual. The maximum grade for the Town of Minturn is 6% based on prevailing practice in Eagle County. Minturn Road should be designed as a collector with a design speed of 30mph, and minimum curve radius of 275 feet. Lane widths should be 11 feet not counting the drainage pan width. The rest of streets should be designed as local streets with a design speed of 20mph, and minimum curve radius of 100 feet (ITE GUIDELINE). The lane widths should be at least 10 feet not counting the drainage pan. The curb-to-curb width for local streets should be a minimum of 24 feet. During Conceptual review it was requested the traffic consultant comment on drive lane widths
6. Demonstrate all intersections comply with site distance triangles as shown on Table 1102.4B of the CDOT manual.
7. Proposed widths of right of way widths are narrow. Typical width of residential right of ways is 50' to allow room for road surface, walks and shallow utilities. Utility easements are proposed along the right of way line for shallow utilities – is there a reason this is not just made part of the road right of way?
8. The Typical road sections do not specify the structural cross section. Please provide pavement design for each road.
9. An “Auto-Turn” analysis was requested at conceptual review and must be provided to demonstrate fire & trash truck access.

February 8, 2021
Madison Harris
Town of Minturn
RE: Minturn Crossing, North Minturn PUD
Preliminary Plan Review
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10. The site information provides a count for guest, but not resident parking – please revise the parking plan to provide both. Provide a summary of how many spaces are required and how many spaces are provided organized by street name. List how many off-street parking spaces will be provided for each lot.
11. Wherever public parking spaces are provided on the detailed site plan, label how many spaces of what type are provided at each location.
12. The plans indicate both parallel and head-in guest parking. The 9' width for parallel parking should be adequate, but no dimensioning is provided for the length of parallel spaces. No dimensions are provided for the head-in parking spaces. Please provide a dimensioned parking plan.
13. Please demonstrate access to a lot such as lot 41 or 67 and leave the public parking in the street available.
14. The soils adjacent to public parking areas stipulate Geocell protection as design build. As this is a public improvement, the design of retaining structures should be provided as a part of the design approval.

Site Engineering:

1. Storm sewer, water, sanitary sewer, and shallow utilities do not appear on corresponding drawings. All utilities need to be shown on all construction plans to identify vertical and horizontal conflicts.
2. The north end of Taylor Avenue is outside the proposed right of way and does not match existing conditions. Please address.
3. Snow storage needs to be reviewed by Public Works:
 - a. Snow storage is on the wrong side of the sidewalk in most places.
 - b. There appears to be no storage on most of the west side of Minturn Road.
 - c. The following concerns were identified regarding snow storage in the park areas:
 - i. The storage areas are not readily accessible – this should be discussed with Public Works and corrected.
 - ii. Snowmelt flows onto adjacent lots and into Game Creek.
 - iii. Storm water management plan needs to address storm water quality for these flows.
 - d. Parallel parking along roadways will make snow plowing challenging – snow removal & hauling will be required.
4. Grading and drainage improvements extend onto UPRR property
 - a. Provide details of all off-site improvements.
 - b. Grading plans and underlying topography should extend to catch points.
 - c. Provide evidence of easements or permission for this work.
5. Drainage arrows indicate flow toward the site. Please provide additional grading detail to show there is no resultant ponding.

February 8, 2021
Madison Harris
Town of Minturn
RE: Minturn Crossing, North Minturn PUD
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6. The Wetlands report identifies Jurisdictional Wetlands. Further permitting will be required to carry out the wetlands disturbance identified on the grading plans.
7. Water designs, details and construction must meet ERWSD standards.
8. Is there a highpoint in the watermain between stations 15+00 – 20+50 and 37+46?
9. The plans call for disconnecting water & sewer services to existing homes to the east, including mains. Service interruption must be minimal – provide details of how the service disconnection will be accomplished.
10. The plan calls for removal of existing fire hydrants. Public works should evaluate salvage.
11. Is there a reason a number of fire hydrants are located 10 feet behind sidewalks?
12. The fire department should review proposed fire hydrant locations.
13. The soils in Minturn Road proved to be corrosive when tested for the water interconnect. The soils corrosivity tests included in the application need to be completed.
14. Please provide the ERWSD review of sanitary sewer drawings.
15. Sheet 10.2.13 – The sewer main is missing tie-ins for the Minturn Townhomes.
16. We ask the rockfall path be shown on the site and grading plans. The town should carefully consider avoiding development in rock fall hazard areas all together. Even if the protection is 98% effective as the rock fall report says, the consequences of failure are unthinkable.
17. Streetlights are shown on the road plans – please provide a street lighting plan.
18. Why is the sidewalk 5' wide along Lot 70 and 4' everywhere else?
19. Designs for trails, footpaths, parks, and public restroom need to be provided.

Subdivision Improvements Agreement:

1. The unit prices used to formulate the detailed estimate are consistent with what is being seen in contracts for similar work in the area.
2. Quantities were not verified; however, the following was noted:
3. The estimate includes only 185 feet of 12-inch pipe in Minturn Road Phase 1. It should include all of the 12 “water main along Minturn Road in Phase 1.
4. Cathodic protection, if required, should be included for all of the roads.
5. The off-site Minturn Road costs from the project going north to Highway 24 do not include anything for widening or realignment.
6. The estimate of phase 2 costs includes 8” water line but does not include the 12” water main in Minturn Road.
7. Phasing Break out:
 - a. The cost estimates do not track to the detailed estimate and require additional detail.
 - b. Provide rational for the cost sharing ratios.

February 8, 2021
Madison Harris
Town of Minturn
RE: Minturn Crossing, North Minturn PUD
Preliminary Plan Review
Project No. 19-0064

Please call with any questions.

Sincerely,
Inter-Mountain Engineering

A handwritten signature in blue ink, appearing to read "Jeffery M. Spanel". The signature is stylized with large loops and a long horizontal stroke extending to the right.

Jeffery M. Spanel PE

CC: Michelle Metteer; Michael Sawyer; Scot Hunn



COLORADO
Department of Transportation

Region 3 Traffic Section
222 S 6th St, Rm 100
Grand Junction, Colorado 81501
(970) 683-6270

<<<Email>>>

March 2, 2021

ATTN: Craig MacPhee, P.E.
PO Box 150335
Lakewood, CO 80215

RE: TIS Review Comments for Minturn Crossing PUD.

Dear Mr. Craig MacPhee:

The purpose of this letter is to provide comments to the traffic study for Minturn Crossing PUD dated February 19, 2021 by Craig MacPhee, PE from CivTrans Engineering Inc. CDOT has reviewed the traffic study and we have the following comments.

Review Comments:

1. The 20-year condition should be 20 years out from opening year of the project, which would be at least be year 2042. The difference between 2040 (year used in the study) and 2042 is negligible, so no need to revise the report for this. Just keep this in mind for future traffic studies.
2. Tables 4 & 5, LOS for SWB at US-24 and Main Street - Why does the delay decrease when the Project traffic is added?
3. Please provide all Synchro files when submitting the revised report.
4. As presented, a waiver for sight distance at the US-24 and Main Street intersection will not be approved by CDOT. Even though this is an existing issue, the project is adding significant traffic to the intersection which further increases the risk of crashes. The traffic report must present mitigation options that will be implemented by the developer for this project.
5. Southbound left-turn deceleration lane warrant at US-24 & Main Street - The statement in the conclusion that the forecasted volume "barely exceeds the 25 vph threshold" is quite a stretch. This statement needs to be revised to more accurately represent where the forecasted volume is in relation to the left-turn warrant threshold.

The access application has been place upon hold until these comments have been addressed.
If you have any questions, please let me know.

Respectfully,



Brian Killian
Region 3 Access Program Manager

Cc: Mark Bunnell, CDOT R-3 Traffic Resident Engineer



Madison Harris

From: Amy Crandall <acrandall@mines.edu>
Sent: Friday, January 29, 2021 2:30 PM
To: Madison Harris
Cc: Jill Carlson
Subject: CGS Review - Minturn North PUD
Attachments: EA-21-0008_1 Minturn North PUD.pdf

Hi Madison,

Colorado Geological Survey's review of the Minturn North Planned Unit Development is attached. We do have concerns with landslide, avalanche, and debris flow hazards at this site and recommend the risk associated with these hazards be evaluated prior to PUD approval. Another concern is regarding the proposed steep slopes associated with Lots 87 through 90 (within Tract A).

Please call or email if you have questions or need further review.

Thank you,

Amy Crandall, P.E.
Engineering Geologist
Land Use Review Program
Colorado Geological Survey
1801 Moly Road, Golden, CO 80401
303-384-2632 | acrandall@mines.edu

COLORADO GEOLOGICAL SURVEY

1801 Moly Road
Golden, Colorado 80401



Karen Berry
State Geologist

January 29, 2021

Madison Harris
Town of Minturn
Planner1@minturn.org

Location:
NW NW 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:

Colorado Geological Survey has reviewed the Minturn North Planned Unit Development (PUD) referral. I understand the applicant proposes a 116 lot residential development of up to 184 dwelling units within 19 acres in Minturn. The site is bordered by Taylor Street on the east, Minturn Road on the west, and extends approximately 400 feet to the north of Game Creek. With this referral, CGS received a request for review (Email dated January 11, 2020); Preliminary PUD Architectural Plans (GPS Design, LLC, December 18, 2020); Civil Plans (Yarnell Consulting & Civil Design, LLC, December 18, 2020); Preliminary Plat (Gore Range Surveying, LLC, January 5, 2021); Geologic Hazard Review (Kumar & Associates, Inc., March 5, 2020); Soils and Foundation Investigation (CTL Thompson, Inc., August 26, 2020); Drainage Report (Wright Water Engineers, Inc., December 18, 2020); and other documents.

According to Eagle County geologic hazard mapping, the steep slope to the east of the development and north of Game Creek is mapped as a rockfall hazard. The civil and architectural plans showing the proposed lot layout of Estate Lots 87 through 90 (within Tract A) are exposed to this rockfall hazard. Available LiDAR imaging also indicates areas of steep slopes (up to approximately 40 percent). A portion of the project site is also mapped as underlain by fan deposits. As stated on page 2 of Kumar's report, "The collapse potential of the bearing soils appears low and is expected to be mitigatable with the foundation design." Additionally, CTL stated on page 5 of their report, "Based on our subsurface investigation and the results of our swell consolidation tests, we also estimate the risk of collapsible soil to be low." Kumar's assessment of geologic hazards and recommendations and CTL's characterization of subsurface conditions and geotechnical recommendations are valid. However, CGS has the following comments/concerns:

Rockfall. According to Kumar's Geologic Hazard review (page 2), "Rockfall from the isolated outcrops appears to be an active process." Kumar performed rockfall analysis (CRSP Version 4.0) in the area to the north of Game Creek. As noted on page 4 of their report, "we characterize the risk that a rockfall will reach the proposed development area to be moderate." As recommended by Kumar on page 6, "an effective protection method other than complete avoidance would be an MSE wall or a flexible rockfall barrier located uphill to the east of the proposed building area." The rockfall hazard analysis and mitigation methods recommended by Kumar are valid for the area. However, the proposed mitigation options will require maintenance and repairs to preserve their effectiveness. Maintenance may include cleaning out accumulated debris and replacing damaged, worn, or corroded components. **CGS recommends the town retain Kumar to review the rockfall protection plans when available to ensure that they are consistent with their recommendations and recommends the town require an inspection and maintenance plan for any rockfall mitigation constructed.**

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. Most landslides occur on dip slopes (where the land surface is inclined in the same direction, and at a similar angle, as the underlying rocks), where large masses of rock tend to slide down the dipping slope. However, smaller landslides can be found on hillsides that slope opposite the dip of the underlying bedrock. Although not mapped directly on the proposed development, **CGS recommends the town require additional evaluation and/or site-specific studies to evaluate the risk for landslides within the proposed development.**

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. An avalanche on the Minturn Mile backcountry trail did occur in 2019. **CGS recommends that the risk of an avalanche hazard should be evaluated by a qualified professional.**

Landslides and avalanche hazards may also occur off-site, affecting the proposed development due to debris flows or mudflows transferred by creeks/drainages. **CGS agrees with CTL (page 5) that the risk for mudflow and debris inundation emanating from Game Creek to the mapped debris fan be evaluated 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.

Steep Slopes - Proposed Slopes. Per the Overall Grading Plan (sheet C5.0.0), the area north of Game Creek that includes Estate Lots 87 through 90 will consist of 3:1 to 2:1 (horizontal:vertical) grade changes. CTL did not provide specific recommendations for permanent site slopes in their report. CGS agrees with CTL (pages 5 and 8) that "Site-specific studies with slope stability analysis should be conducted on these lots." **CGS recommends the town require this analysis to be completed, submitted, and reviewed prior to platting lots within Tract A.** Recommendations regarding permanent site slopes should also be provided.

Additionally, retaining walls are noted on the grading plan within the northern portion of Ice House Avenue of Tract A. **CGS recommends the town also require a local and global stability analysis as part of the overall retaining wall design for walls.**

CGS also recommends all disturbed or graded slopes are promptly re-vegetated to control runoff and erosion. In addition, erosional setbacks associated with Game Creek should also be evaluated and, if necessary, included in the drainage plans.

The project team should incorporate Kumar's recommendations regarding rockfall mitigation (pages 5-7) and CTL's recommendations regarding site earthwork (page 6), foundations and the removal of existing fill soils (pages 8 and 9), control of surface drainage and maintenance (pages 16 and 17), subsurface drainage (page 12), and the requirement for additional, site-specific geotechnical studies for Lots 87 through 90 (pages 5 and 8) in project planning and design.

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



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



February 1, 2021

Town of Minturn
Attn: Madison Harris, Planner I
301 Boulder St. #309
Minturn, CO 81645

[Via Email]

Re: Referral - Minturn North PUD Preliminary Plan

Ms. Harris,

Thank you for the opportunity to participate in the planning process for the Minturn North PUD Preliminary Plan. Please consider the following comments as the project is reviewed.

Planning Comments:

1. Under the strategies for Economic Resources, the Eagle County 2005 Comprehensive Plan (the "2005 Plan") states, *"Encourage retirement housing as part of mixed-use developments in existing towns and unincorporated communities."* There are stipulations in Minturn North PUD Guide for local housing; there is no mention of residential units designated for older adults. Eagle County recommends designating and designing units for older adults.
2. In the 2005 Plan, one of the strategies under Transportation is to *"Supplement regional bus systems with town and/or resort transit systems."* As a development of this size, the Town of Minturn might consider a feeder system into the existing regional ECO Transit service.
3. Under strategies for Wildlife Resources in the 2005 Plan, it states, *"Maintain trails and trailhead areas."* Eagle County encourages additional parking beyond the 14 spaces being proposed in the project narrative. The narrative states that overflow parking could occur in the parallel parking spaces on Minturn Road, but does not outline the number of parallel parking spaces available, making it unclear if the parking demand will be reasonably met. On the busiest weekend, the neighbors stated there could be up to 40 cars at the trailhead, and the applicant observed 24 cars on the busiest weekends. The proposed 14 spots do not accommodate typical weekend traffic, and it is unclear if the parallel parking will suffice.

ECO Trails Comments:

1. The application includes an "ECO Trail Extension." However, the trail is not consistent with ECO Trails design standards or the desired user classification. As an example, the application denotes an 8ft sidewalk, when the Eagle Valley Trail Plan envisions a 10 foot multi-use path. Eagle County requests that the Town of Minturn work with the applicant to deliver the trail as envisioned, by updating the application in the following manner:

- a. Overall, please use the ECO Trails [Design and Construction Standards](#) for Eagle Valley Trail (ECO Trail Extension).
 - b. The minimum trail width should be 10 feet. This is an important design standard to ensure enough space for two way multi-use traffic and increase safety for passing.
 - c. When engineering is developed, please make sure the cross slope is somewhere between 2% to 3%.
 - d. When engineering is developed, 3 feet or more is preferred for clearance from trees, poles, walls, fences, railings.
 - e. If possible, 5 feet or more is preferred for separation from parked cars. However, 4 feet as proposed is acceptable since the terrain is difficult.
 - f. 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.
 - g. Based on an initial analysis, the location of the trail may have a steep adjacent slope. Therefore, adjacent slope grades may require safety railing. This can be determined during the engineering process.
 - h. The Eagle Valley Trail network is typically asphalt, but concrete is encouraged because it is easier to maintain. Please see the ECO Trails Design Standards for surfacing in Chapter 4, page 3.
2. The future Eagle Valley Trail from this project to Highway 24 is in the early design stages. The original proposed alignment was for the trail to be on the northeast side of the Minturn/County Road. However, due to wildlife concerns, the County is exploring the feasibility of constructing the Eagle Valley Trail on the other side of the Minturn/County Road. Eagle County requests the developer of the Minturn North PUD to be flexible and open to keeping the Eagle Valley Trail on the southwest side of Minturn Road through this project area rather than crossing Minturn Road in case the County finds that side feasible and decides to construct the Eagle Valley Trail on that side. The County should know the outcome of this issue in the spring of 2021.
 3. If the Eagle Valley Trail ends up on the original proposed alignment, which is the northeast side of Minturn/County Road, The County requests that the sanitary sewer manhole be moved out of the proposed crosswalk to assist with maintenance and provide improved mobility.

Please contact me at (970) 328-8750 or at morgan.beryl@eaglecounty.us if you have questions or would like to request a meeting to discuss these comments.

Sincerely,

Morgan Beryl [via email]
Community Development Director

Cc: File

Madison Harris

From: SANDRA MUTCHLER <sandra.mutchler@eagleschools.net>
Sent: Wednesday, January 13, 2021 6:31 PM
To: Madison Harris
Cc: Tom Braun; Michelle Metteer
Subject: Re: Minturn North PUD Referral
Attachments: Minturn North PUD cash in lieu 9.21.2020.pdf

Madison

Nice to meet you. Attached is the letter we sent in originally. We are still requesting a cash in lieu payment for this development in support of this. Tom Braun, district planner will be in contact and follow up on the status of the Town of Minturn adopting language to define the calculation method used.

Sandra Mutchler
Chief Operations Officer
Eagle County Schools
948 Chambers Avenue
PO Box 740
Eagle CO 81631
970-328-2747 (o)
303-435-5939 (c)

On Mon, Jan 11, 2021 at 11:39 AM Madison Harris <planner1@minturn.org> wrote:

Dear Ms. Mutchler:

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 - a 116 lot residential development where up to 184 dwelling units of varying types and sizes, including accessory dwelling units and multi-family units, would be permitted in two phases along with parks and open space dedications, on- and off-site public infrastructure improvements, and locals' only housing commitments.

The Applicant completed a conceptual review of the proposal in early 2020, and has been working with the Town since March 2020 to bring forth the attached Preliminary Plan proposal.

In order for the Town to facilitate this review:

- Please provide any comments or questions to **Madison Harris, Planner I** at planner1@minturn.org
- The referral period is twenty-one (21) days and **ends on Monday, February 1, 2021 at 5pm.**

The Preliminary Plan review is the second of a three stage review and approval process by the Town for all new, major Planned Unit Development projects.

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 virtually if you have questions.

Please alert Town staff if you require hard copies of any of the Minturn North PUD Preliminary Plan materials.

Here is the link to download the files, please be aware that this link expires on January 18th:

<https://wetransfer.com/downloads/bdba8d691dfb8f06d3ca6d717d165f5820210111182003/242d21c3fae73a301bab54c6061065420210111182004/484159>

Thank you for taking the time to review this proposal.

Madison Harris

Planner I

Town of Minturn

Planner1@minturn.org

970-827-5645 Ext. 2

Sandra Mutchler, C.P.A.

Chief Financial Officer
sandra.mutchler@eagleschools.net



September 21, 2020

Mr. Scot Hunn, Town Planner
Town of Minturn
301 Boulder Street
Minturn, CO 81645

RE: Minturn North PUD Proposal

Dear Scot:

Last month Tom Braun and I met with Greg Sparhawk to discuss the proposed Minturn North PUD proposal. It is our understanding that the Town would like feedback from the Eagle County School District regarding our “ability to serve” students that may be generated by this development. This letter provides our preliminary response based on preliminary project information provided by Greg. I assume we will be included in your referral agency review and we look forward to providing comments on a final application once that is submitted.

Proposed Development

It is our understanding that the project will include townhomes, single-family lots of various sizes (some of which may be developed as duplexes, and the potential on some lots for accessory dwelling units. For the purposes of our analysis of potential student generation, we have assumed duplexes are developed on all lots that allow for them, and we have not included the potential ADU’s (due to their small size they are not expected to generate students). Based on information from Greg and on the above assumptions, we modeled a development with 140 total units:

- 24 townhome units
- 68 single units (68 SF lots)
- 48 duplex units (24 duplex lots)

Student Generation

ECSD has actual student generation data for existing towns, neighborhoods and projects throughout the Valley. Existing student generation rates for townhomes and single-family/duplex units from the Town of Minturn and a sample from the Town of Eagle were used. Based on these samples, the total range of student that we estimate could be generated by this development are:

Sandra Mutchler, C.P.A.

Chief Financial Officer
sandra.mutchler@eagleschools.net



Elementary: 11-30 students
Middle School: 10-18 students
High School: 13-25 students
Total: 34-73 students

School Capacities

Based on current school boundaries, students from the project would attend Red Sandstone Elementary, Homestake Peak Middle School and Battle Mountain High School. Based on our recent school capacity and enrollment forecasting report, each of these schools are expected to have capacity sufficient to accommodate students from this project. It should be noted that this project was included in our enrollment forecasting.

School Land Dedications

State statutes allow local jurisdictions to adopt ordinances requiring school land or cash in lieu dedications for new subdivisions or development projects. The purpose of this dedication is to provide resources (in the form of land or cash) to a school district necessary to serve the residents of a proposed development.

Eagle County and the Town of Vail, Avon, Eagle and Gypsum have adopted school dedication ordinances. It is our understanding that Minturn does not have a school dedication ordinance. While the District has capacity to serve students from this project, students from this project will impact school facilities. ECSD would ask the Town to work with the developer to provide a cash in lieu school dedication for this project. We look forward to discussing this with you in the near future.

Regards

Sandra Mutchler

Sandra Mutchler
Chief Operations Officer



Eagle River Fire Protection District

Occupancy: **MINTURN NORTH DBA MINTURN CROSSING MASTER (PUD)**

Occupancy ID: **TEMP RAILROAD**

Address: **MINTURN RD
MINTURN CO 81645**

Inspection Type: **Plan Review**

Inspection Date: **1/29/2021**

By: Woodworth, Mick (0019)

Time In: **08:00**

Time Out: **11:48**

Authorized Date: **01/29/2021**

By: Woodworth, Mick (0019)

Form: Plan Review
Inspection 1.4

Inspection Description:

**** PLAN REVIEW LETTER - PLEASE READ THE FOLLOWING CAREFULLY ****

The submitted plans have been REVIEWED by Eagle River Fire Protection District and the comments identified below. The issuance of a permit for this project is based on the plans submitted and compliance with the applicable codes. Conditions found, or other data collected or submitted, shall not prevent the fire official from requiring correction of errors found during fire / life safety inspections.

Inspection Topics:

PROJECT / REVIEW INFORMATION:

CODE USED IN REVIEW: The submitted plans have been reviewed for compliance to the 2015 edition of the International Fire Code, as amended, and applicable NFPA Standards.

Code required

Status: COMPLETE

Notes:

GENERAL PLAN REVIEW INFORMATION / SUMMARY:

General notes on the project / review

Status: COMPLETE

Notes:

PLAN REVIEW COMMENTS:

THE FOLLOWING ITEMS WERE NOTED DURING THE FIRE DEPARTMENT PLAN REVIEW:

ITEMS noted and any corrections required.

Status: COMPLETE

Notes: Comments:

- 1) A concurrency evaluation may be required. The GC shall discuss this with the fire district.
NFPA 1 chapter 15
- 2) Turning radius for fire apparatus shall meet previous discussion and plans.
- 3) Water supply shall meet requirements, NPFA and IFC
- 4) Fire sprinklers shall be installed where required by NFPA and IFC.
- 5) Fire Alarms shall be installed as required by NFPA and IFC.

ADDITIONAL PERMITS REQUIRED:

The following additional permits will be required for this project. Please submit plans in electronic format to prevention@eagleriverfire.org

Additional permits

Status: COMPLETE

Notes: Fire alarm

Fire Sprinkler

Flush and Flow test

BDA

Additional Time Spent on Inspection:

| Category | Start Date / Time | End Date / Time |
|---------------|----------------------|-----------------------|
| Code Research | 1/28/2021 8:00:00 AM | 1/28/2021 12:00:00 PM |
| Notes: | | |

Total Additional Time: 240 minutes

Inspection Time: 228 minutes

Total Time: 468 minutes

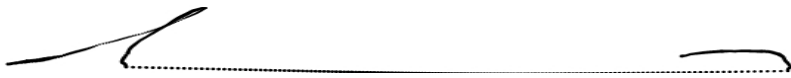
Summary:

Overall Result: Complete

Inspector Notes:

Inspector:

Name: Woodworth, Mick
Rank: Fire Marshal
Work Phone(s): 970-736-5064
Email(s): mwoodworth@eagleriverfire.org
Woodworth, Mick:



Signed on: 01/29/2021 11:49

Signature

Date



February 1 2021

Madison Harris
Town of Minturn
301 Boulder Street #309
Minturn, CO 81645

Transmitted via Email: planner1@minturn.org

Subject: Minturn North PUD Referral

Dear Ms. Harris,

Thank you for the opportunity to provide referral comments on the Minturn North Preliminary Plan for a Planned Unit Development (PUD) and Zone Change (the "Project") on behalf of the Eagle River Water and Sanitation District. Upon our review of the application materials provided by the Town, we submit the following comments:

- On November 5, 2020 we submitted an Ability to Serve letter to the Town requesting that the Town limit the issuance of building permits to no more than 85 net new SFEs effective from the date of that letter until the new Dowd Lift Station is operational due to current capacity limitations at Dowd Lift Station #4. The November 5, 2020 letter referenced 162 SFEs for the Project based upon our understanding of the project at the time. Upon review of the application materials, the District is now aware that the maximum allowed density for the Minturn North PUD could be as high as 184 SFEs. I can confirm that the District will be able to provide wastewater service for the maximum density of 184 SFEs subject to the completion of the Dowd Lift Station project.
- The District is currently reviewing wastewater collection system infrastructure plans submitted by the Applicant and has requested a hydraulic analysis of the proposed wastewater collection system improvements. Further changes to the design and layout of the proposed wastewater collection system infrastructure submitted by the Applicant may be required as we continue our review.
- The Applicant is proposing the use of a privately owned and operated low pressure wastewater forcemain system to provide service to eight "estate" lots. If this determined to be an acceptable alternative to the use of a gravity main to provide wastewater service to the estate lots, the Applicant will need to provide an appropriate mechanism to assign responsibility for financing, operation, and maintenance of the private system serving those eight estate lots such as a separate homeowner's association for the lots that utilize the low pressure wastewater forcemain system.
- Service to the Project requiring the extension of mainline infrastructure is subject to the District's Infrastructure Acceptance Process outlined in Article IX of the District's Rules and Regulations. Following the construction of wastewater collection system infrastructure by the Applicant and subsequent dedication of the infrastructure to the District, individual customers may connect to the wastewater collection system for service subject to the payment of all applicable impact fees.

The District appreciates the opportunity to comment on the proposed Minturn North PUD. Please contact me if you have any questions or need any further clarification on the above comments.

Sincerely,



Jason Cowles
Director of Engineering and Water Resources



461 Railroad Ave, Unit C
PO Box 1477
Gypsum, Colorado 81637

970-827-5406
info@erwc.org
www.erwc.org
Tax ID#: 20-4448864

Advocates for our rivers

Madison Harris
Planner 1, Town of Minturn
planner1@minturn.org
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

MEMORANDUM

TO: Madison Harris, Planner 
FROM: James A. Mann, Senior Municipal Advisor
DATE: January 30, 2021
SUBJECT: Minturn North Planned Unit Development Review

Ehlers has been requested to review the documents submitted respecting the proposed Minturn North PUD. Based on the development plans, it is understood that 92 single-family residential units and 24 multi-family residential units will be constructed resulting in 348 new Town residents. It is anticipated that the development will generate approximately \$119 M of market valuation and will be completed over a four-year build out period.

While Ehlers has not reviewed every document in the files transmitted, we focused our attention on the following documents for both an understanding of the development and the technical information regarding the impact to the Town:

- MinturnNorth_PUD_20-0925 (Civil Designs)
- secIII-DG-Draft-20-0925 (Design Guidelines)
- secII-MINTURN NORTH PUD GUIDE (Overview)
- secIV-MINTURN NORTH SUBDIVISION IMPROVEMENT AGREEMENT
- secVII_a-2020.08.19 Minturn Crossing - Traffic Impact Study (1)
- secVII_b-Impacts_Draft 2 (2) (Potential Incremental Town Revenues)
- secVII_b-NORTHMINTURN_IMPACTS2020_DRAFT2 (2) (Revenue Detail)

While we reviewed the above documents, the majority of our comments are related to the Minturn North Subdivision Improvement Agreement and the potential incremental town revenues and the revenue detail that was provided in the analysis prepared by Stan Bernstein and Associates, dated September 14, 2020.

We do note that there appears to be some disconnect between projection documents on the overall build-out of the proposed development. As an example, the Traffic Impact Study references a build-out trajectory of 65% by 2025 and then completion over the next 10 years, while the financial projection assumes build-out completion by 2024 (2025 if delayed one year). Absorption based on the planned financial impacts may result in the increase traffic counts ahead of what is included in the Traffic Impact Study.

In respect to the Subdivision Improvement Agreement, we offer the following comments:

1. Improvements to be Completed - No Comments
2. Time of Completion - proponent if given broad authority to complete the construction in up to two phases, however there is no stipulation of when the proponent must commence the first phase. Town may wish to consider a start date, that if not met, null and voids the agreement and approvals.
3. Restriction on Building Permits - No comments

4. Partial or Full Release of Plat Restriction – suggest that the lifting of any plat restriction be undertaken with on a letter of credit, bond, cash, or cashiers check in the amount of an engineers estimate of the remaining improvements for that particular phase. A 10% position would not leave the Town adequate resources to complete the improvements. Further, would not suggest than any other “substituted security” or “collateral” be accepted.
5. Responsibility for Utility Installation – suggest the elimination of the statement referencing “...to the extent such utilities can be moved by exercising reasonable efforts...” Reasonable efforts is an extremely broad term and can be interpreted in many different ways.
6. Collateral – collateral should only be in the form of a letter of credit (from a financial institution agreed upon by the Town), bond, cash, or cashiers check.
7. Legal Encumbrance – Town may wish to consider that the approvals are not transferable to another proponent without the Town’s expressed consent.
8. Execution – No Guarantee – No comments.
9. Enforcement – No Comments
10. Blank
11. Standards for Acceptance – no comments
12. Preservation of Other Remedies – no comments
13. Stipulations – no comments
14. Section Headings – no comments
15. Additional Provisions: Vested Rights – 30 years seems to be excessive.
16. Additional Provisions: Model Homes – no comments
17. Additional Provisions: Phasing of Impact Fees – no comments
18. Additional Provisions: Limitation on Fees and Increases – Suggest that the Town reject the ability to raise or implement additional impact fees.
19. Additional Provisions: Impact Fee Recovery – if any impact fee recovery is to be afforded proponent, suggest that a metric be defined to identify the proper percentage of reimbursement. 40% would suggest that the improvements identified in the development exhibits will serve an additional 77 residential units.
20. Additional Provisions: Buffer Tracts – no comments
21. Additional Provisions: Preliminary Plan; Subsequent Final Plats – no comments
22. Additional Provisions – no comments
23. Cost Recovery – suggest rejection of this provision, unless there is new construction that will benefit from the improvements (See comments under sub 19)
24. Rights of Way – No comments
25. Limitation on Increases on Use Taxes – suggest rejection of the provision
26. Administrative Changes to the Final Plat – suggest rejection of the provision
27. Amendment – no comments
28. Notice and Cure – no comments
29. Assignment – suggest any assignment be at the expressed consent of the Town
30. Headings for Convenience Only – no comments
31. Entire Agreement – no comments
32. Severability – no comments
33. Final Plat Approval – no comments

In respect to the report on “Incremental Town of Minturn Revenues, and General Fund Expenditures, By Individual Accounting Funds” report, and supporting documentation, we offer the following comments:

- It does not appear that a market analysis has been undertaken to support either the planned absorption or the estimated values to be generated from the development. This document would be helpful in determining the validity of the numbers presented.
- Ehlers does not question the methodology used by Stan Bernstein and Associates related to the revenue and expense forecasting, however as it relates to several conclusions' the Town may wish additional consideration for:
 - Additional personnel and equipment that may be necessary to meet the service needs of an additional 348 new residents and over what time frame
- The analysis assumes that 80% of the units will be occupied for a full year. The occupancy analysis should be further explored to ensure that the number is accurate. A review of the 2015-2019 Census data identifies that Eagle County as a whole has a 69.8% owner occupancy rate. The assumption used in the analysis should be confirmed.
- Based on the conclusions respecting the General Fund, it would appear that there will be a revenue net benefit from the development
- It would appear that there will be additional Capital Fund dollars available for town-wide improvement. As the improvements within the development will presumably not require significant maintenance in years 1-10, the funds will be available for other areas of the town.
- The calculations utilized for the Water Enterprise Fund do not reflect the Town's current rate methodology and thus are not accurate. Suggest that the analysis be updated to reflect current rate methodology and charges.

Other than the suggestion that the project absorption and values be supported by additional information, owner occupancy percent confirmation, and the updating of the benefit to the water enterprise, Ehlers believes that the from a pure financial position the project would appear to be a net benefit to the Town. This does not take into consideration the comments made regarding the Subdivision Improvement Agreement.

MEMORANDUM

January 31, 2021

TO: Michelle Metteer & Michael Sawyer, Esq.

FROM: Meghan N. Winokur (Holland & Hart) & Cristy Radabaugh, P.E. (Martin and Wood Water Consultants, Inc.)

RE: Comments on North Minturn PUD Consumptive Use Analysis
34284.0014

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. on the North Minturn PUD Consumptive Use Analysis dated December 18, 2020 prepared by Wright Water Engineer, Inc. (“WWE Report”). The WWE Report was prepared on behalf of Minturn Crossing, LLC (“Minturn Crossing”), which is proposing to acquire an 18-acre parcel from Union Pacific Railroad (the “Property”) and obtain developable lots that will be sold for individual development (the “Development”).

Our comments on the WWE Report are addressed in turn as follows:

Section 2.2: Minturn Crossing and the Town must agree upon a definition of Accessory Dwelling Unit (“ADU”) for purposes of the Development and assign an SFE unit to be used for ADUs. If the Eagle River Water and Sanitation District’s definition of an Efficiency or Studio Unit is to be relied upon for the Development, then it must be made clear in all Development planning documents that ADUs are limited to one room with an integral Cooking Facility (as defined in the ERWSD Rules & Regulations) and one bathroom. We agree if ADUs are limited accordingly, then it is acceptable to define an ADU as being equal to 0.5 SFE. If, however, a less restrictive definition of ADU is to be used for the Development, then there should be an independent analysis of the associated water demands to determine the proper SFE designation.

Section 2.3: We have confirmed with Town staff that it is acceptable to rely upon the demand assumptions that SGM used in the Capital Improvement Plan (“CIP”) for the Town in determining the water demands for the Development.

Section 2.4: We understand that six mobile homes located on the Property are currently provided with Town water service. We agree it may be appropriate for this existing use to offset additional demand associated with the Development but it seems likely that the use per mobile home is less than one SFE.¹ The Town may be willing to agree to a six-SFE offset for purposes

¹ Our comments focus on water demands and offsets for existing use, not on the calculation of System Improvement Fees and Tap Fees.

of determining what additional demands are associated with the Development, if the Town's other technical concerns with the WWE Report are addressed to the Town's satisfaction.

Section 2.5: The Town may agree it is preferable that drought tolerant vegetation be required within the Development. However, we wish to point out that drought tolerant plants do not necessarily have a lower watering requirement than non-drought tolerant plants.

Section 3.0: We agree with the SFE definition that is relied upon in the WWE Report. If any lots will have residences that exceed 3,000 square feet, then more than one SFE would need to be assigned to each such lot.

Section 3.0: Table 2: We have two comments on Table 2. First, we would prefer a footnote be added clarifying that only 2,000 square feet of the pervious area may be irrigated. This is a critical fact and we want to assure it is absolutely clear that pervious areas exceeding 2,000 square feet per lot cannot be watered. Second, we recommend that the Development approvals and homeowners association covenants explain the intent and guidelines for the pervious areas that may not be irrigated. For example, will such areas be non-irrigated native vegetation, gravel or mulch?

Section 4.0: The demand estimate figures must be revised to account for all water uses, including but not limited to uses within parks, public restrooms, the "pea patch", community gardens, and open space areas. Such figures must also be expressed in the manner that the Town requires in order to evaluate its ability to serve water and to consider the augmentation requirements associated with the development. Outdoor water use for vegetation should be assumed at an application rate of 17 inches per year with an estimated loss of 20% between the point of diversion and place of delivery.

Section 5.0:

- An indoor consumptive use assumption of 5% of water deliveries is acceptable to the Town. However, please note that indoor use deliveries are 100% depletive to the stream until un-consumed water is returned to the river at the Avon wastewater treatment plant outfall. This does not impact the consumptive use analysis itself but will impact the augmentation requirements associated with indoor uses. We want to make sure Minturn Crossing is aware of this fact.
- An outdoor consumptive use assumption of 85% of water deliveries must be used. This is a standard assumption and consistent with the assumptions used in the Town's approved plan for augmentation in Case No. 07CW225. This revision will have a significant impact on WWE's analysis, and Table 5 must be revised accordingly.
- The WWE analysis can consider a 20% system loss between the point of the diversion and place of water delivery.

- Table 5 should include consumptive use (or impact to the river) as an average annual volume calculated at the following locations: 1) point of diversion, 2) place of delivery (the Development), and 3) below the Avon wastewater treatment plant. The table should include water volumes associated with the entire Development, including residential use and public spaces. The Town will consider these values in its assessment of the payment for cash in lieu of water rights per Ordinance No. 02-2018.
- See below for more information on residential use per SFE, based on the CIP water use values.

**Table 1
Town of Minturn Residential Water Calculations per SFE**

| Diversions | | |
|--|-------------|--------------------------------|
| Diversions for Indoor Use per SFE | 0.20 | af/yr water diversion |
| Diversions for Outdoor Use per SFE | 0.09 | af/yr water diversion |
| Total Diversions | 0.29 | af/yr water diversion |
| Deliveries | | |
| Indoor Delivery per SFE | 0.16 | af/yr water delivery |
| Outdoor Delivery per SFE | 0.07 | af/yr water delivery |
| Total Deliveries | 0.23 | af/yr water delivery |
| Consumptive Use (after wastewater return flows reach the Eagle River) | | |
| Indoor CU per SFE | 0.01 | af/yr water consumption |
| Outdoor CU Per SFE | 0.06 | af/yr water consumption |
| Total Consumptive Use | 0.07 | af/yr water consumption |

- Outdoor use deliveries should be assumed to be 17 inches per year and applied to the anticipated size of irrigated areas.
- The Town will consider the proposed equivalents for non-residential water use based on reasonable engineering assumptions, such as an SFE equivalent associated for public restrooms. The Town does not have an SFE or EQR schedule.

Section 5.1:

- The consumptive use estimate should not be reduced based upon the use of efficient fixtures or the extent of proposed irrigation within the Development. First, the irrigation proposed is 2,000 square feet per lot, which is the maximum allowed per SFE. We recognize that drought tolerant plants are proposed to be required, but even if a low-water vegetation requirement were imposed, this would still not provide the basis for a credit because no such credit is authorized under the Code, and policing such a requirement would be an undue burden on the Town. Second, the demand assumptions set forth in the CIP and used in Section 2.3 of the

WWE Report already consider the use of some water-saving fixtures. It would be inappropriate to give a credit twice for efficient fixtures.

- The proposed temporary irrigation of parks and open space areas has not been accounted for in the consumptive use analysis. Further, we would expect the Town will require at least some permanent irrigation of certain areas within the lands designed for parks and open space uses. Finally, indoor use in all bathroom facilities within public areas such as parks and open space areas must be included in the consumptive use analysis. We do not anticipate that the Town would approve the Development with no permanent irrigation within parks and open space areas. Minturn Crossing needs to work with the Town staff concerning this issue, and the WWE Report should be revised accordingly.

Section 6: As described above, the Town does not agree to Minturn Crossing's proposed assumptions on the lack of irrigation needs for parks/open space, consumptive use (because outdoor use is 85% consumptive and was not considered in the WWE calculations), or credit for water-efficient fixtures and irrigation parameters.

The Town has temporarily limited its future development approvals to 70 SFEs. The WWE Report does not specifically address the phasing associated with the Development, but it is worth repeating that this entire project cannot be served in the immediate future by the Town's water supplies and water system.

Please let us know if you have any questions regarding our comments on the WWE Report. We look forward to evaluating the water demands and consumptive use analysis for the Development in more detail after we have received the additional and revised information described above. Finally, we strongly recommend that Jonathan Kelly, P.E. of Wright Water Engineers review the WWE Report and revised analysis requested herein, as we understand that Mr. Kelly has significant expertise in evaluating water demands and consumptive use calculations for proposed new developments.



Memorandum

To: Michelle Metteer, Minturn Town Manager

From: Cristy Radabaugh, P.E. (Martin and Wood Water Consultants)
Meghan N. Winokur (Holland & Hart)

Date: March 22, 2021

Subject: Comments on North Minturn PUD Consumptive Use Analysis dated March 10, 2021

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. on the North Minturn PUD Consumptive Use Analysis dated March 10, 2021 prepared by Wright Water Engineers, Inc. (WWE Report). The WWE Report was prepared on behalf of Minturn Crossing, LLC (Minturn Crossing), which is proposing to acquire an 18-acre parcel from Union Pacific Railroad (the Property) and obtain developable lots that will be sold for individual development (the Development). We appreciate that the WWE Report incorporates our past comments.

Our comments on the WWE Report are provided below.

Sections 2.1: The Developer has addressed in the WWE Report that accessory dwelling units (ADUs) are actually “accessory apartments” under Minturn’s code. The PUD Guide needs to be clear that the ADUs will meet the “accessory apartment” definition and be attached structures limited to 750 square feet with one bathroom and one kitchen. We suggest adding a note to Figure 4.1 explaining the ADUs and adding the explanation also to the text of the design guidelines.

Section 3.1 and Section 3.4 : Phase 1 is proposed to include 70.5 SFEs for residential uses and 30,266 square feet of outdoor spaces with irrigation water needs. This is in excess of the 70 SFEs that the Town can approve for water service under the growth moratorium. Under the moratorium, the Town considered existing constraints regarding its treatment capabilities and legal and physical water supplies. The water use associated with 70 SFEs was determined to be the maximum additional water use that can be approved by the Town for major development projects. The developer needs to reduce or otherwise modify the Phase 1 development request to fit within the moratorium.

The irrigated spaces associated with parks, windrows, and open spaces in the Development are over 90,000 sq ft, and the entire Development should limit the irrigated areas to 280,000 sq ft. Considering the entire Development as proposed, the developer could reduce the

allowed irrigated areas to 1,300 square feet for each of the 140 SFE-lots considered as follows: up to 1,300 sq ft of outdoor irrigation for each of the 68 cottage, compact, and estate lots; up to 2,600 sq ft of outdoor irrigation for the 48 standard lots (based on 1,300 sq ft for each side of the duplex); up to 10,400 sq ft of outdoor irrigation at the three multi-family lots (based on 1,300 sq ft for each unit). Note that there are no additional outdoor water uses associated with the ADUs. Reducing the irrigated areas in this way will allow the Development to stay within the total allowed irrigated area. Alternatively, the developer could modify the proposal to include fewer residential SFEs in Phase 1 and allocate some SFEs to cover the water uses associated with the irrigated parks, windrows, and open spaces.

Section 3.2 Residences: The Development includes lots that will be sold to individual owners for subsequent development. It is necessary that the Lot Type and associated number of SFEs be clearly identified and communicated so that purchasers understand the maximum development potential on each lot. The developer shall keep track of Lot Types that have been sold, the count of each Lot Type that is remaining unsold, and mapping of same. These materials shall be provided electronically to the Town at least twice annually in May and November, or at another mutually agreed schedule, until all lots are sold under each phase of the project.

Section 3.3 Public Restroom: The proposed 1.5 SFEs for a public restroom with two toilets and two sinks is reasonable.

Section 4.0 Consumptive Use Estimate: The data regarding delivery and consumptive use presented in Table 6 is correct, but it appears “At Point of Diversion” values were calculated as “At Point of Delivery” multiplied by 1.2. The “At Point of Delivery” data should be divided by 0.8 to calculate the “At Point of Diversion” results. The difference between the presented data and the revised calculation is fairly small (0.05 af increase for Phase 1 diversions and 0.11 af increase for Phase 2 diversions). This change impacts Tables 6 through 8.

January 29, 2021

Madison Harris, Planner I
Town of Minturn
301 Boulder Street #309
Minturn, CO 81645

RE: Environmental Review of Minturn North PUD

Dear Ms. Harris,

SGM is providing this letter to document our review of the Minturn North PUD application as it relates to potential environmental impacts, on behalf of the Town. As part of this effort, we reviewed the PUD Narrative (GPS Designs 2020), the Biological Assessment and Cultural Records Review (CTL Thompson 2021), the Limited Phase II Environmental Site Assessment (CTL Thompson 2020), and the Environmental Impact Report (EIR; CTL Thompson 2020).

We offer the following as items that could use additional discussion or clarification.

Dust. Much of the PUD is within previously disturbed areas (which is a good land redevelopment practice); however, railyards are notorious for having a variety of potentially harmful constituents from old practices. The EIR should disclose the results of soil sampling (see CTL Thompson Phase II 2020) and provide a description of the level of risk associated with polycyclic aromatic hydrocarbons, elevated arsenic, and other constituents in site soils when mobilized during construction, or how these constituents would be remediated through removal. The EIR should also discuss a dust control plan to control particulate matter mobilization, especially given the close proximity to residential areas.

Game Creek Protection. Game Creek is a locally important waterway. CPW has documented brown trout (*Salmo trutta*), rainbow trout (*Oncorhynchus mykiss*), and at one time native cutthroat trout (*Oncorhynchus clarkii*) as occurring various segments of Game Creek. The Biological Assessment should provide a discussion of direct, indirect, and cumulative impacts to fisheries and riparian habitats along Game Creek. A discussion of stormwater controls and how drainage from the PUD, and drainage from the roadway crossing and adjacent trailhead parking lot should be presented to ensure that stormwater or drainage flows are not directly delivered to Game Creek. Given the proximity to both Game Creek and the Eagle River, we would recommend stormwater flows are somehow treated (such as use of vegetated discharge ways to help with fine sediment retention, or a dry well installation to help settle out oils, sediments, etc.), prior to discharging into either waterway.

Big Game. A portion of the PUD area occurs within CPW-mapped Elk Severe Winter Range, and based on the application, the proponent would be encouraging and promoting the use of local trails. The Biological Assessment and EIR should review CPW big game data and present a discussion on direct, indirect, and cumulative impacts, especially where more critical habitats (such as Severe Winter Range, or Winter Concentration Areas) are concerned.

At this time, elk populations in this area are seeing unprecedented population declines of around 60 percent over the past 10 years. One theory is that expanded recreational pressures are driving down calf survivorship and calf recruitment. At the very least, a wintertime closure of area trails should be used to prevent disturbance and indirect impacts to wintering elk in the area. Further, with the PUD being within elk Severe

Winter Range, it is inevitable that loose or uncontrolled dogs, or even barking dogs will either directly or indirectly impact wintering elk in the area. Wintering elk are already on a calorie-deficient diet, and harassment by dogs (or humans hiking or skiing through the area) puts additional stress on elk (and deer), which are already physiologically stressed due to winter conditions. The Applicant should provide a plan to prevent dogs from harassing elk, and a plan on how to minimize human impacts on elk wintering in the area. We would encourage the Town and Applicant to meet with CPW to discuss impact issues to big game species, especially in the greater context of indirect impacts and recreational impacts across the Minturn valley.

CPW Species of Greatest Conservation Need. There are other CPW listed Species of Greatest Conservation Need (SGCN) occurring in the area. The EIR and Biological Assessment should review those species and discuss direct, indirect, and cumulative impacts.

Black Bear. The project occurs within black bear (*Ursus americanus*) habitats, and a CPW-mapped Bear-Human Conflict Area; black bears are already known to be an issue in Minturn. The Biological Assessment and EIR should discuss potential black bear issues, and the PUD and development guide should provide “best management practices” to reduce the risk of bear encounters, such as no bird feeding in the summer months, no fruit-bearing trees or shrubs, no feeding pets outside, and use of bear proof trash containers. Bears will be an issue for the PUD, and the developer should take proactive steps to minimize the risks to residents and bears. CPW should also be consulted on minimizing bear issues.

Reclamation and Noxious Weeds. The Biological Assessment and EIR documented the presence of several noxious weed species. Early weed treatment through the use of suitable herbicides is strongly recommended prior to the start of construction to begin reducing the density and seedbank in the project area. A noxious weed management plan, with biannual treatments is recommended given the nearby native habitats, and very high likelihood that noxious weeds will expand their presence and spread into nearby habitats. We also recommend a Reclamation Plan that discusses topsoil retention (and testing), erosion control, and long-term vegetation establishment to further reduce erosion and noxious weed issues.

In summary, the application states that there are no “significant” environmental concerns, which is mostly correct; however, there are several issues that are not addressed, and which should be in order to fully inform the Town of potential impacts. The application should provide more adequate disclosures and proposed mitigation of the anticipated impacts to these resources, or the Town should consider including stipulations to address these concerns.

Thank you for this opportunity to provide comments on the project. If you have any questions please feel free to email me at ericp@sgm-inc.com, or I can be reached by phone at 970-309-5190.



Eric Petterson

Environmental Team Lead

Madison Harris

From: Ebbert, Cynthia K -FS <cynthia.ebbert@usda.gov>
Sent: Friday, January 29, 2021 2:05 PM
To: Madison Harris
Cc: Veldhuis, Leanne -FS
Subject: RE: Minturn North PUD Referral

Dear Madison Harris,

Thank you very much for giving the Forest Service the opportunity to comment on the Minturn North PUD proposal. We will continue to remain engaged with the progress of this project since it is adjacent to National Forest lands. At this time, we want to ensure the general public has access to the Game Creek and Cougar Ridge trail system by continuing to provide a trailhead parking lot. It appears this has already been addressed with the potential relocation of the trailhead parking to a nearby area.

We appreciate our relationship with the Town of Minturn and look forward to staying engaged with this project.

Sincerely,
Cindy Ebbert



Cindy Ebbert
Realty Specialist (Acting)
Forest Service
Eagle-Holy Cross Ranger District
White River National Forest

p: 970-274-9912
cynthia.ebbert@usda.gov

P.O. Box 190
Minturn, CO 81645
www.fs.fed.us



Caring for the land and serving people

From: Madison Harris <planner1@minturn.org>
Sent: Monday, January 11, 2021 11:37 AM
To: Veldhuis, Leanne -FS <leanne.veldhuis@usda.gov>
Subject: Minturn North PUD Referral

Dear Ms. Veldhuis:

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 - a 116 lot residential development where up to 184 dwelling units of varying types and sizes, including accessory dwelling units and multi-family units, would be permitted in two phases along with parks and open space dedications, on- and off-site public infrastructure improvements, and locals' only housing commitments.

The Applicant completed a conceptual review of the proposal in early 2020, and has been working with the Town since March 2020 to bring forth the attached Preliminary Plan proposal.

In order for the Town to facilitate this review:

- Please provide any comments or questions to **Madison Harris, Planner I** at planner1@minturn.org
- The referral period is twenty-one (21) days and **ends on Monday, February 1, 2021 at 5pm.**

The Preliminary Plan review is the second of a three stage review and approval process by the Town for all new, major Planned Unit Development projects.

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 virtually if you have questions.

Please alert Town staff if you require hard copies of any of the Minturn North PUD Preliminary Plan materials.

Here is the link to download the files, please be aware that this link expires on January 18th:

<https://wettransfer.com/downloads/bdba8d691dfb8f06d3ca6d717d165f5820210111182003/242d21c3fae73a301bab54c6061065420210111182004/484159>

Thank you for taking the time to review this proposal.

Madison Harris

Planner I

Town of Minturn

Planner1@minturn.org

970-827-5645 Ext. 2

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Madison Harris, Planner
Town of Minturn
01 Boulder Street, #309
Minturn, CO 81645

January 26, 2021

RE: Minturn North PUD

Dear Madison,

Please see the following comments in response to your request for my review of the Minturn North PUD. I submit these comments in my current capacity as a consultant to the Town of Minturn to provide pedestrian and bicycle multi-use trail planning services.

The proposed Minturn North PUD plan includes a widened sidewalk section that would serve as a route for pedestrians and bicyclists and function as part of the regional Eagle Valley Trail system. My review has focused on this facility with additional minor comments provided on other pedestrian and bicycle facilities proposed for the PUD.

Please advise me if you need additional information or any clarification on these comments provided below.

1. Minturn Road Sidewalk Location and Design:

The proposed EVT sidewalk segment is eight feet wide. Two-way sidewalks intended to serve as routes by bicyclists, solo or groups of pedestrians, with pets or strollers, and joggers or other permitted wheeled devices (e.g., skateboards, etc.) are recommended as 10 feet wide at minimum by AASHTO and CDOT pedestrian and bicycle standards. 8 feet wide may be acceptable for short constrained sections but is considered a one-way route when multi-use is expected and encouraged. Additionally, it is easier to drive a standard-size maintenance vehicle on a 10-foot sidewalk or path, eliminating the need for specialized equipment.

It is advised that the applicant, for the Town's benefit, further amend the roadway design to increase the width of the sidewalk to 10 feet to improve the long-term functionality of the 8-foot width currently proposed, or seek additional property from UPRR to provide additional width.

Parallel parking spaces are proposed adjacent to the sidewalk and may present a challenge for safety and access, with doors opening onto the sidewalk if parking users are encroaching into the concrete gutter pan. Additional sidewalk width may help mitigate this concern. Several Colorado town or city design examples exist where streets have been narrowed to encourage or force traffic calming, with parking provided and ample bicycle and pedestrian routes travel alongside. The current design appears to need refinement and a greater level of detail for the next phase of the review process.

2. Road Crossings and Merging:

An engineer's review and design are recommended for the trail crossing of Minturn Road near Game Creek and revisions incorporated into the construction plans, costs and phasing for the project. The traffic flow and speed on Minturn Road has historically been uninterrupted and it will take some time for a change in habit. Visibility of the crossing location appears to be acceptable but should be reviewed. MUTCD approach and crossing signs, with a crosswalk or other pavement markings provided by the PUD are advised, subject to an engineer's review. A speed table crossing (see West Beaver Creek Road in Avon) might be a beneficial safety feature at this location and help slow traffic down in general as it enters the town.

The plans appear to need refinement where the sidewalk ends near the Taylor Street intersection. On the cover sheet (A01), there appears to be another road crossing proposed where the sidewalk ends near the intersection with Taylor Street. A possible merge into the town-bound road shoulder should be considered for bicyclists at this point as well. Studies of bicycling traffic patterns show that people will use the shortest route

whenever possible and additional review should consider how to anticipate this reality and amend the design to incorporate safety features (signs, markings, etc.) to the extent possible.

3. *Project Timing:*

It's recommended that the construction of the widened sidewalk on Minturn Road be added to the list of Phase I improvements rather than be a part of the undetermined timeline for Phase II improvements. Coordinating with the Town and Eagle County's plans to construct the trail in 2022 or 2023 would be most efficient and likely save on costs for all parties, ensure design compatibility and provide the public benefit in the foreseeable future rather than at an unknown future year with an interim gap in an important community facility.

4. *Game Creek-Minturn Mile Trail Connection:*

My apologies if this item has been addressed in the application as I was unable to find it, but I'm assuming this item has been or will be vetted with neighbors as well as the USFS through this process. I've not provided specific comment.

5. *Ownership and Maintenance:*

Questions and responses appear in various locations in the PUD referral packet regarding proposed ownership and maintenance of certain paths, trails, sidewalks, trailheads, parks and parking in the development. Applicant has proposed that Town take ownership of all infrastructure listed above. No HOA is proposed that might otherwise own and maintain these features, with materials citing that these features might be found in other parts of town and maintained by the Town.

I've attached a list of items customary for path, trail and sidewalk monthly or seasonal maintenance. Personnel and a range of equipment are required for all tasks. The list may be helpful in the conversation between about ownership, maintenance and cost coverage and is excerpted from a recently updated list found in the Eagle County Mid-Valley Trails Plan and similar to the current Eagle Valley Trail Plan. Please see the attached two pages.

It was not clear who will build the internal path that is proposed in-between lots, but applicant will construct the fencing. Is it the applicant's intent that the Town fund the path improvement? The home-front sidewalk construction on streets appears to be associated with the phased costs to be borne by the applicant.

Minturn Road Sidewalk: Snow removal for the sidewalk appears to rely on use of the UPRR adjacent property. Will the lease or sale of property to the developer (and transmitted to the Town) include an additional snow storage area? There appear to be slope and drainage improvements that will be constructed on UPRR property that are affiliated with the road and sidewalk construction. Are those under easement as well and available for snow storage for the trail/road? What commonly occurs on these types of adjacent facilities using a constrained space is snow is plowed onto the sidewalk or trail, and then must be cleared from the pedestrian-bicycle facility. It can laborious and require additional maintenance efforts. This is a maintenance question the Town may want to contemplate and review if public or private property is available for snow removal.

Thank you for your request for my review and please do not hesitate to contact me if you have any questions regarding my comments as submitted.

With kind regards,

Ellie Caryl

Ellie Caryl, Planner/Partner

www.veracitygws.com

Ellie Caryl, Planner/Partner: elliecaryl@gmail.com / mobile: 970-618-2228

Andrew McGregor, Planner/Partner: amcgregor555@gmail.com / mobile: 970-618-0860

Mail/Delivery: 48 Wildwood, Glenwood Springs, CO 81601

- Benches and picnic tables, with shade structures.
- Landscaping.
- Restrooms.
- Drinking fountains
- Bike repair stations

Recommended Trail and Shared Roadway Maintenance Schedule:

The maintenance standards below are recommended as a minimum level that all managing jurisdictions should strive to achieve monthly and annually. These standards are nationally accepted for paved or unpaved trail networks.

MONTHLY:

Sweeping:

- ❑ Sweep paved surfaces, to anticipate higher use levels in early April through mid-November.
- ❑ Sweep trail sections that are heavily impacted by debris from adjacent road gravel or hillsides more frequently, and inspect after storm events.
- ❑ Sweeping is often cited in trail-user surveys as the most deficient item in trail maintenance.

Surfacing:

- ❑ Repair hazardous surface conditions as soon as possible upon discovery. Root heaves, settled areas and holes are very wide cracks are paved surface hazards that can have serious consequences if not corrected.

Drainage:

- ❑ Clean culverts as needed.
- ❑ Correct adjacent areas of poor drainage causing gravel or water to wash over trail surface.
- ❑ Deflect water from singletrack trails to prevent erosion or gully development due to water flow.

Vegetation:

- ❑ During the growing season, perform weed and vegetation control including mowing and clipping up to 2 feet on each side of the trail as needed.
- ❑ Maintain a 10-foot minimum overhead clear zone on paved trails, 8 feet on singletrack trails.

Litter:

- ❑ Empty trash containers as needed.
- ❑ Remove trash from adjacent ground as needed.

Inspections:

- ❑ Inspect trail surface, shoulders and structures such as bridges, walls, signposts every two weeks or each month at minimum. A checklist is a common tool and ensures consistency by varied staff and jurisdictions.

SEASONALLY:

- ❑ In spring, after the snow has fully melted and the paved trail has been swept for the first time, a meticulous inspection should be performed.
- ❑ Perform seasonal inspections of unpaved routes to remove debris and restore trail tread.
- ❑ Repaint trail or road crosswalk or bike lane striping as needed.
- ❑ Install or replace signs
- ❑ Inspect and repair (or add) trail furniture and fencing as needed.
- ❑ Repair and retrofit general trail surface cracks or holes, shoulder erosion, structure damage.
- ❑ Seal-coat to protect asphalt surface to the extent possible. Every 5 years is encouraged to prolong asphalt life.
- ❑ Inspect bridge structures periodically, as recommended by the manufacturer or a structural engineering professional (typically two to five years).
- ❑ Plow trails identified as 4-season routes as soon as practicable after each snow-event.
- ❑ In the case of widened shoulders or specially designated bike lanes on Town, County, State or Federal roads, seasonal maintenance should include restriping, debris clearing, pavement repair of edges and potholes, and chip seals.
- ❑ Clear snow from roadways to the edge of asphalt if possible, to accommodate the use of roadways by pedestrians or winter-bicyclists as linking routes between disconnected trail segments or sidewalks.
- ❑ Seasonally, inspect the roadway for hazards that may not affect motorists but could pose challenges for bicyclists. Focus shoulder inspection of raveled edges, ruts and cracks and striping wear.
- ❑ Review annually the need for safety sign installation, install in the spring if possible in preparation for biking and tourism high-use seasons.
- ❑ If possible, sweep shared roadways prone to drainage or erosion issues and also popular as cycling routes on an additional monthly or as-needed basis. Shoulders free of debris enable to stay as far to the right of the roadway as possible and avoid conflicts with motorized vehicles.

Madison Harris

From: Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>
Sent: Wednesday, January 13, 2021 2:13 PM
To: Mace, Britt; Madison Harris
Subject: RE: Minturn North Referral

Hi Madison-

I would like to add a couple other comments to the Minturn North PUD Referral.

In addition to the pocket easements Britt mentioned for the transformer and pedestals XCEL will also need:

- 1) 2 pocket easements, 20' by 20' for the switch gear. (One on the North end of the property, and one on the south) They will also need to be outside of the dedicated snow storage area.
- 2) A 10' easement along the South side of fourth St. on front of lots 18 and 19.
- 3) A 10' easement along the footpath that follows the game creek trail.

XCEL will need to bore gas and electric utilities under Game Creek where the bridge for Icehouse Ave. crosses Game Creek.

There is existing 2" gas main along Taylor Ave that services the existing houses on the East side of the street. Each of the units along Taylor Ave will tie into the existing 2" Main for gas service. The following is a potential for each service installation:

- 1) Road cut / repair might be required
- 2) Curbs and side walks might need to be cut / replaced
- 3) Gas installation may be restricted to summer months if a Town Moratorium is in place for digging in ROW.

If you have any questions or concerns please feel free to reach out at any time.

Thank you,

Ryan Selchert

Xcel Energy

Planner, Mountain Division

200 W 6th Street, PO Box 1819

Silverthorne, CO 80498

P: 970.262.4068 C: 970.390.5628

E: Ryan.J.Selchert@xcelenergy.com

My Office Hours: Tuesday to Friday, 6:00-4:30

From: Mace, Britt <Britt.Mace@xcelenergy.com>
Sent: Tuesday, January 12, 2021 8:34 AM
To: Madison Harris <planner1@minturn.org>
Cc: Selchert, Ryan J <Ryan.J.Selchert@xcelenergy.com>
Subject: Minturn North Referral

Hi Maddison,

Thank you so much for sending all the information! Sorry it was such a hassle! Thank you for your time.

I see that the snow storage is located in the utility easement; however transformers and pedestals cannot be located in dedicated snow storage areas as that will lead to our above ground equipment to be buried in snow and could damage our equipment, delay outages and emergencies.

Also each transformer will need a 10x10' pocket easement and each pedestal will need a 5x5 pocket easement. The above ground equipment will not be installed on top of the newly installed electrical lines, they will be installed along the property lines offset from the electrical lines.

Other instructions for customer:

- You must apply for each address that will need service in the building and any common/house meters needed. (common/house meter usually runs common lights in stairwells, signs, snowmelt, irrigation, Etc.)
- Will need to know total loads for gas and electric to determine if main will need reinforcement for your project. If reinforcement is needed it will be at customer cost.
- Must let Xcel know if you need 3Ph or 1Ph power.
- If temp power is needed then a transformer will need to set in a permanent location and you must apply for temp power.
- New transformers on the lot must located 10' away from buildings, 20' away from doors and 10' away from windows, reference Standards for Electric Installation and use (blue book) [Xcel Energy Standard for Electric Installation and Use \(Blue Book\)](#) Drawings CR-30A
- If the buildings do not own their own lot, and the lot is owned by HOA the meters will need to be located on the building at a single point of service.
- If house/common meter is needed, customer must run the electric service lateral to the Transformer or Pedestal (point of distribution).
- **Meter Locations:** Meters cannot be located inside the building and must be accessible. We do not allow ice or snow shields. Meters must be located under a non-drip edge and there shall be no adjacent rooflines, which will drip directly on or towards a neighboring meter installation. See Standards for Electric Installation and use (blue book) Section 4.3, under number 3, page 33 ***"Note: Due to excessive snowfall, ice and snow shields will not be permitted in the following Colorado counties: Eagle, Lake, Park and Summit. Meters shall be installed on the gable or non-drip side of a building or in an approved remote location from the building or structure in these counties."*** [Xcel Energy Standard for Electric Installation and Use \(Blue Book\)](#)

Please note – this is not a final assessment of what the new service request will entail. There may be additional things in the field I cannot see. Once an application has been submitted to XCEL we can start the full design process and identify the scope of work that will need to be done for this request.

Thanks!

Britt Mace

Xcel Energy

Designer, Mountain Division

200 W. 6th St. PO.Box 1819 Silverthorne, CO 80498 -1819

P: [970.262.4032](tel:970.262.4032) F: [970.262.4038](tel:970.262.4038)

E: britt.mace@xcelenergy.com

Office Hours: Monday - Friday 8:30am - 4:00pm. For immediate concerns please contact the front desk [970.262.4025](tel:970.262.4025)

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



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

Minturn North PUD Update to Application Since Last Hearing:



August 13, 2021

Town of Minturn
Planning and Zoning

Hello,

We are submitting the following information as updates to our application package.

- Revised PUD Guide (addressing KNH redlines)
- Exhibit _ - Minturn Road proposed improvement
- Exhibit _ - proposed Taylor St/Minturn Rd re-alignment
- Revised Sheets A03, A06, A14 (addressing KNH redlines)
- Revised Sheet A08 addressing some additional PC and Community concerns on construction hours, operations manual and Phase completion transitions
- Revised Sheet A09 showing proposed County Road improvement
- Revised HOA document (addressing KNH redlines)
- the following responses to KNH redlines

The portion below is being provided in response to the letter received August 10th, 2021 with comments attached from the office of Karp Neu Hanlon. Responses follow each comment.

Best regards,

PUD Guide

- General comment on roof height calculations: There are three separate narrative definitions for the roof height calculation; sec. 5, sec. 12 variations, and sec. 19 definitions. Need consistency, please refer only to definition.

The PUD Guide has been updated to remove our proposed new method of height calculation. Section 5 (pg 6) now states that height will be evaluated using minturn code. Section 12 (pg 13) has this variation struck thru and Section 19 (pg 19) definitions references current Minturn Code.

- 4. Applicability and authority/enforceability
 - o No ability to vary from adopted Fire Code or ERWSD standards.
 - ♣ Delete: Building plans shall be designed to the adopted Fire Code at the time of permit application, except where variations have been approved as provided by this PUD Guide or by the fire district. The Eagle River Water and Sanitation District rules and regulations shall apply, except where variations have been approved by that District

These lines have been struck-thru in Section 4 (pg 5)

- Table 5.1 SFE calculations should not be in PUD Guide; please remove.

These items have been struck thru on Table 5.1 (pg 6)

These need to be confirmed by water consultants and compared with sheet A03. SFE assignment is subject to MMC § 13-2-20.

I believe these have already been evaluated by Holland and Hart, their report along with WWE's study determined the assigned SFE's on A03. (Additionally 1,300sf of irrigation per unit is included in that number as well as open space). The following is an excerpt from their April 6 memorandum.

“The irrigated spaces associated with parks, windrows, and open spaces in the Development are over 90,000 sq ft, and the entire Development should limit the irrigated areas to 280,000 sq ft. Considering the entire Development as proposed, the developer could reduce the allowed irrigated areas to 1,300 square feet for each of the 140 SFE-lots considered as follows: up to 1,300 sq ft of outdoor irrigation for each of the 68 cottage, compact, and estate lots; up to 2,600 sq ft of outdoor irrigation for the 48 standard lots (based on 1,300 sq ft for each side of the duplex); up to 10,400 sq ft of outdoor irrigation at the three multi-family lots (based on 1,300 sq ft for each unit). Note that there are no additional outdoor water uses associated with the ADUs. Reducing the irrigated areas in this way will allow the Development to stay within the total allowed irrigated area. Alternatively, the developer could modify the proposal to include fewer residential SFEs in Phase 1 and allocate some SFEs to cover the water uses associated with the irrigated parks, windrows, and open spaces.

o The recommendations have been adopted and the various lot types have been limited to the areas provided in the comment. “

- 5. Delete: Minturn code requires 5% but this is inadequate for proper storage.
This has been struck-thru (pg 6)
- Use Table 7.1
 - o See revisions below. Table 7.1 is updated to reflect these changes (pg 7)
 - o General comment: Construction uses can be discussed and included in the SIA and HOA covenants. Park uses are not regulated by zoning. Protective fencing will not be allowed on OS parcels.
Rockfall protection fence has been shifted to sit on private parcels
- 7.1b Phase 2 Zoning map: no rockfall mitigation/protective fencing on open space parcel.
Rockfall protection fence has been shifted to sit on private parcels, Figure 7.1b (pg 8) has been updated to reflect this
- 8. Density transfer policies, procedures and criteria. o Change: “The transfer of density not to exceed ten percent (10%) of the lots identified in Table 7.2 a specific phase, may be transferred to a different phase occur between phases and between parcels.
The recommended language has been added to Section 8 (pg 9)
- 9. Open space, buffer and recreation amenity management plan
 - o Parks and Open Space must be open to the public, MMC § 16-17-90.
 - o Delete: Open space on publicly owned parcels within the Minturn North PUD is provided for the enjoyment of residents of Minturn North as well as the general public.

- o Delete: Additionally, there are 3 park areas within the site and adjacent to Minturn Rd that will be owned and managed by the HOA that will provide benefit to residents of Minturn North.

- o Delete: Maintenance of the parking lot will be the responsibility of the Town Public Works Department. Maintenance on the trail and fence will be the responsibility of the Town. Current maintenance on the Game Creek trail is completed with the assistance of the USFS. **Maintenance related to the trail and fence and the current maintenance verbiage was removed, however we believe it was agreed that the town would maintain the parking lot.**

- o Change: Both parks and equipment will be owned by private to Minturn North HOA and will offer flexibility of use but will be provided with a soft surface trail and benches.

- We are going to go through all documents and change items to show that the open space will be open to the general public.**

- o Delete Table 9a. Not appropriate for PUD Guide.

- This has been struck-thru (pg 10)**

- 11. Minturn North Home Owners Association/Architectural Design Review

- o Consider deleting section. Not appropriate for PUD Guide.

- o Delete new text: The Master Association will maintain responsibility for Architectural Control as well as enforcing covenants approved with the PUD. The association will further be responsible for maintenance of the rockfall impact fencing, maintenance of the proposed culvert at Game Creek and Ice House Avenue. The Association will also be responsible for maintaining the private park areas found within the PUD. private drive spur road at the cottage homes along 5th Street. These will be determined through assessments to homes on the site that benefit from the associated improvement.

- This section has been struck-thru**

- 12. Variations

- o Delete Snow Storage. No variation necessary to go beyond MMC requirements.

- This section has been struck-thru**

- 13. Master Sign Program

- o Trailhead Signage: Consider Monument Signage for Trailhead.

- We are open to providing a more substantial Monument Sign with trail information at the Game Creek parking lot. We will coordinate this with USFS prior to completion.**

- o Neighborhood Identification and Monument Signage: 6' x 12' is larger than anything permitted under MMC Ch. 16, Art. 19; change to 4' x 6' maximum.

- This has been changed to 4' x 6', with a maximum height of 6'. To allow for the sign to be somewhat elevated. (pg 14)**

- 14. Landscaping

- o Need to confirm with water consultants: Irrigation for individual lots may not exceed a need for 1,300sf of irrigation for the Cottage Lots, Compact Lots and Estate Lots. Standard Lots may not exceed 2,600sf of irrigated area. Multifamily lots will be limited to 10,400sf at each lot.

Please see previous note with excerpt from Holland and Hart memo addressing this item.

- 15 Snow Management Plan.
 - o Delete: Street Snow removal and storage will be the responsibility of the Town of Minturn Public Works.

This item has been removed. (pg 16) Does this need to be mentioned somewhere else, or is it inferred when the streets are dedicated to the Town?
- 18. Game Creek Riparian Corridor Plan
 - o Delete section. Not appropriate for PUD Guide.

This section has been struck-thru

Plan Set

- A03 Zoning Overview
 - o Include Open Space on SFE calculations

Please advise, as we understand it, Open space is included in the SFE calc per the memorandum from Holland and Hart
 - o Phasing Table
 - ♣ Asphalt sidewalk on Minturn Road needs to be constructed in Phase 1 segment.

The portion associated with Phase 1 is included. There is a great deal of utility work and grading that are associated with Phase 2 that impact the constructability of the full length of sidewalk. We would like to continue to propose this be completed per phase.
 - o Unit Summary Type table
 - ♣ Where does 22.5 SFE for compact lots come from with max 30 units after ADU buildout?

15 lots / 30 units (we have been required to count an ADU as a unit), 22.5 SFE (15 x 1.5 = 22.5) (1.0SFE per house and 0.5 SFE per ADU)
 - ♣ Consider alternative discounted multi-family SFE calculation
 - o Zoning Code Analysis Table
 - ♣ Need to address water rights dedication for lot types.

Please advise on this as we thought this was all finalized with Holland and Hart and the assigned SFE per lot type has been identified on this sheet.
- A05 North Site Plan (We will not be re-submitting this sheet for preliminary (it currently reflects the one-way) until it is determined what the preferred Minturn/Taylor intersection solution is. If acceptable, this will be updated prior to Final.)
 - o Does Icehouse extend north of 5th? Please mark that block.

All streets labelled on Site Plan
 - o Need to determine whether Icehouse will be public or private.

We are proposing all streets be public, but the forced main portion of the sewer will be privately maintained
 - o Need to obtain all licenses and other approvals necessary for depicted drainage on UPRR property, approved to form by Town.

Currently working through approvals with UPRR, will have these in place prior to Final.

 - ♣ Will these be assigned to the Town? If so, needs to be included in public improvements engineered drawings and cost estimates.

Yes, these are included in the Civil set and costs are identified with the current estimate figures that we have provided (end of Sec.1 – PUD Narrative)

- A06 Ownership and Open Space
 - Who is receiving the open space parcels?
 - ♣ There is a discrepancy between PUD Guide and this sheet on ownership.

This has been clarified on sheet A06. Parcel 1 ownership goes to ToM, with fence maintenance the duty of the HOA. Parcels 2-5 ownership go to MN HOA, but are open to the public.
- A07 Amenity Overview
 - Need a list of park improvements and landscape standards for all open space and park parcel.

We have shown some level of information on sheets A11 & A12, but will add additional info pertaining to park improvements for Final, if acceptable.
- A11 Landscape and Snow Storage
 - Multi-family snow-storage holding area should be depicted on plat.

Please advise on this. Can we just label the area requirement and not the location? We would like for this area to be flexible to future developers, while still holding a requirement for minimum snow storage. Is there a way to make the location of this area flexible?
- A14 Sign and Parking Plan North
 - Parking adjacent to trailhead should read “No Overnight Parking, 12am to 5am, year-round”.

This has been added.

Plat

- Label hashed line (easement?).

This is indicated as being typical for easements and then on page one it is defined what the different easements are. When we go to final plat everything will be enlarged, dimensioned and labelled further.

HOA Covenant

- 3.6.1 Delete “unless owned by the Declarant” from the last sentence of 3.8.1. It violates CRS 38-33.3-207(2), which prohibits allocations that discriminate in favor of the Declarant.

This has been deleted
- Article IV: The Association’s Maintenance responsibilities need to be addressed. Applicant and Town are still discussing ownership and maintenance responsibilities for parks, open space, Icehouse Road, but final agreement should be in covenants. To the extent one or more multi-family buildings containing more than 2 Units are contemplated, the Association should be responsible for the Common Elements of such buildings (i.e. maintenance, repair, or replacement of structural components, mechanical systems, and exterior surfaces).

Noted. We will revise this section per the Town Council determination at the preliminary hearing.
- 6.16(B) and (D) include improper alterations of CCIOA provisions related to an Association’s right to litigate.
 - Except as expressly provided in CCIOA, provisions of CCIOA may not be varied by agreement, and rights conferred by CCIOA may not be waived, and a declarant may not ... evade the limitations or prohibitions of CCIOA or the declaration. C.R.S. 38- 33.3-104. Additionally, the declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons. C.R.S. 38-33.3- 302(2).

o Here, the last sentence of 6.16(B) provides: “Owners, for themselves, their heirs, successors, assigns and their association, waive and release the protected parties from all claims, liabilities, lawsuits and other matters arising from or related to any physical and/or environmental condition at the project.” Similarly, the last sentence of 6.16(D) provides: “...the owner and the association agree to waive and release any and all protected parties from any claims of liability or responsibility with respect to radon gas and related matters ...”. CCIOA authorizes an Association to “Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community.” C.R.S. 38-33.3-302(1)(d). This preemptive waiver of the Association’s right to initiate an action likely violates C.R.S. 38-33.3-104 to the extent it prevents exercise of the Association’s authority to act on behalf of the Owners.

o Regardless of the Declaration provisions that unfairly benefit the Declarant may be unenforceable. The Declaration may not impose limitations on the Association’s power to deal with the Declarant that are more restrictive than those imposed on the Association’s power to deal with others. CRS 38-33.3-302(2). It’s likely that all provisions providing indemnity to the Declarant are valid and enforceable. Anything that purportedly “waives” or “releases” a person’s right to sue may be invalid regardless of inclusion.

Section 6.16 has been edited for review.

Gregory Sparhawk
GPS Designs, llc
Architecture + Planning
O . 970 470 4945
C . 425 495 7241
gregs@gpsdesigns.com

www.gpsdesigns.com

PO Box 333
Minturn, Colorado
81645



MINTURN



— NORTH —

MINTURN NORTH

PUD Guide

August 25, 2021

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1. Purpose and Intent

The purpose of the Minturn North Planned Unit Development Guide (the “Guide”) is to guide the orderly development of all lands within the Minturn North Planned Unit Development (the PUD”), a 116 lot residentially-oriented project with open space, public trail dedications and the public and private improvements, located in north Minturn. The PUD is designed to provide a project that will add diversity to Minturn’s housing stock, incrementally increasing the size of the Town of Minturn through an organic method of allowing individual lot ownership and development that will best replicate the historic growth and fabric of the Town. Therefore, it is the intent of the Guide to:

- o Describe the intended character, rationale and design intent for the PUD;
- o Establish and describe land use categories and permitted uses as a matter of zoning;
- o Provide definitions specific to the administration of the PUD;
- o Prescribe dimensional limitations, including but not limited to, building and impervious coverage, building setbacks, and building height limitations;
- o Describe management plans and standards for open space, parking, locals housing, signage, landscaping, erosion control, exterior illumination, stormwater, wildlife mitigation, Game Creek riparian area, and construction.
- o Create processes for the proper administration and enforcement of the PUD, including but not limited to procedures for major and minor amendments, density transfers, and phasing.

2. General Development Principles

The Purpose of this PUD is to provide a project that will increase the size of the Town of Minturn through an organic method that will best replicate the historic growth and fabric of the town. The best way to do this is by providing finished residential parcels for sale to individuals and builders alike. The project was planned in such a way to take advantage of existing road alignments and topography. As the town continues to improve its infrastructure it seemed this addition would be best served continuing a similar level of improvements with sidewalks and trails. This area of town also has not historically had a stormwater management system in place. Integrating this into the community became part of the overall infrastructure improvement plan for the PUD. The diverse size of lots was intended to provide numerous options for people to build a home that fits their needs instead of a forced suburban tract. The project is to be split into 2 Phases as identified here.



This PUD conforms with the Towns long term goals and is compatible with surrounding uses and allowed density. It will not adversely affect future development of the area. This parcel is one of few available parcels in Town that will accommodate large smart and organic growth. The location of this parcel maximizes additional pedestrian occupancy adjacent to the downtown while

promoting traffic avoidance of the downtown through its access to the existing County Road. This PUD provides a new trailhead with parking as well as two additional parks within the development and sidewalks and trails throughout the project. A proposed connection to the ECO Trail with an enlarged sidewalk has also been designed along Minturn Road.

This development brings additional residents that will utilize the downtown shops and help the commercial core. Full entitlements on this project will be effective at final recording of Final Plat.

3. Housing Plan

This project seeks to create 24 multi-family units and 92 residential lots.

The 24 multi-family units will be spread across three (3) parcels, Lot 1-2a, Lot 1-2b and Lot 1-2c. There are no restrictions outlined within this Guide on the unit size or unit type of the multi-family portion of this project. Build out of these units will be restricted by PUD zoning and allowed uses as outlined within this guide. The architecture of this PUD will conform to the Minturn North Design Guidelines. All new buildings will go through an initial review and approval by the Developer prior to submittal to the Town of Minturn DRB application.

The 92 residential lots will all be required to be reviewed by the Minturn North Design Review Board prior to submittal to the Town of Minturn. All new construction must go through permitting per the Town Code. 1 and 2 family structures over 3,000sf in size will need to install a residential sprinkler system per Eagle County regulations. Structures over 3,000sf in size will also be responsible for securing additional SFE, as available, through the Town of Minturn.

All subsequent work and maintenance performed on parcels after the initial associated site improvement within this PUD shall be regulated by the Town of Minturn Municipal Code. Off street parking will be required per the Town of Minturn Municipal Code. Each parcel will be accessed from adjacent streets and must meet off-street parking regulations as outlined in the TMMC.

This PUD is proposed to be split between two phases. The initial Phase will include the areas shown on the previous graphic (pg.1) and will include twenty-nine (29) residential lots and three (3) multi-family parcels. The improvements associated with this Phase include 4th street, portions of Taylor Street and Minturn Road from proposed 4th street running south to the intersection of Minturn Road and Taylor Street. Each of these improvements will also receive further site work that is necessary for the safe completion of residential lots, completion of the initial phase, circulation around the site as well as necessary utility connections and improvements. The second Phase is located north of 4th Street and is comprised of sixty-three (63) residential parcels. Improvements that will be completed with this phase include the northern sections of Minturn Road and Taylor Street. Ice House Avenue and 5th Street will also be completed during this phase.

This development will provide a much-needed diversity in housing by providing options from rental ADU units, small cottage lots up to large estate lots. Multifamily units will also provide for an alternative to single family living. Ultimately, a buyer's ability to fine tune the size and style of home will allow for a higher level of affordability throughout the project. This project seeks to strengthen the full-time resident population through both a phased release as well as a 21% deed restricted "locals-only" product. The initial two weeks of offerings will start as a priority release to Minturn Residents. The following two weeks will go to Eagle County residents prior to opening to the public

at large. This initial period of reservation will allow more housing to go to locals concurrently with “locals only” deed restricted offerings. **Twenty One Percent (21%)** of the overall number of lots, **Twenty-Four (24)** total, **specifically of Cottage** Lot designation, will carry a “Locals Only” deed restriction. Designation of these Units and Lots will be provided on the Master Plan and will be recorded at Final Plat. Additionally, the availability of ADU’s, Duplex construction and multi-family units will further extend affordability to the community and add to the economic diversity of the town. Any other regulations or variations not specifically outlined in the development documentation shall default to Town of Minturn Municipal Code.

Due to the difficulty of determining, and managing, how affordability can be regulated with a raw land product this PUD leans more heavily on the “locals only” aspect of deed restriction. Minturn North PUD will be comprised of **twenty one percent (21%) “locals only” deed restricted properties initially encompassing all Cottage Lots**. These parcels are identified on the Plat and are outlined in the Deed Restriction section of the PUD documents. The release of properties as outlined in Section 1 of this guide further outlines how this PUD encourages local residents to live here. **A one percent (1%) transfer fee will also fund a Town established Conservation Land Trust that will be used to create cash incentives for non-restricted lot owners to encumber their parcels with the same “locals-only” deed restriction**. While there are no deed restricted affordable lots for sale, this PUD encourages the construction of smaller homes, ADU’s and multifamily units thereby providing many affordable options for future residents.

4. Applicability and authority/enforceability

The rules and regulations contained in this PUD Guide are enforceable by the Town of Minturn. All rules and regulations of this PUD Guide shall benefit the residents, occupants, and owners of property within The Minturn North PUD as provided in this PUD Guide. If a portion of the PUD Guide is not clear, or lacks reference, the Town of Minturn Municipal Code shall dictate.

The Minturn North PUD is within the Eagle River Water and Sanitation District (as related to Sewer service) and the Eagle River Fire Protection District. Building plans shall be designed to the adopted Fire Code at the time of permit application, ~~except where variations have been approved as provided by this PUD Guide or by the fire district.~~ The Eagle River Water and Sanitation District rules and regulations shall apply, ~~except where variations have been approved by that District.~~

5. Conflicts Between the PUD Guide and Other Regulations

This PUD has been designed to closely replicate the existing Chapter 16 zoning code for the Town of Minturn. Because this project is specific to a sloping site and promotes alternative lot sizing there are areas where this PUD is in conflict with the existing Zoning regulations. Allowed uses for these lots **are similar** ~~will conform~~ to the adjacent residential zone per the Minturn Zoning Code, unless identified differently within this guide. The 92 residential lots are made up of 4 different lot types, each with unique zoning restrictions as outlined within this guide. The proposed residential lots carry the following restrictions:

Table 5.1 Dimensional Limitations Table

| Lot Type | Setbacks | | | Max Height | Lot Coverage | Impervious |
|----------------------|--|------|------|------------------------|--------------|------------|
| | Front | Rear | Side | | | |
| Cottage Lots | 10' | 10' | 5' | 28' | 45% | 50% |
| Compact Lots | 20' | 10' | 5' | 28' | 45% | 50% |
| Standard Lots | 20' | 10' | 5' | 28' | 45% | 50% |
| Estate Lots | 20' | 10' | 5' | 28' | 45% | 50% |
| Multi-Family | 10' | 10' | 5' | 28' (32' @ 50%) | 45% | 50% |
| Lot Type | Minimum Lot Size | | | Total SFE per Lot Type | | |
| Cottage Lots | 2,500sf | | | 1.0 | | |
| Compact Lots | 4,000sf | | | 1.5 | | |
| Standard Lots | 5,000sf | | | 2.0 | | |
| Estate Lots | 6,000sf | | | 1.0 per Unit | | |
| Lot Type Description | | | | | | |
| Cottage Lots | Single Family Home | | | | | |
| Compact Lots | Single Family Home and an Accessory Dwelling | | | | | |
| Standard Lots | Duplex, or Single Family Home and Accessory Dwelling | | | | | |
| Estate Lots | Single Family Home and an Accessory Dwelling | | | | | |

This PUD outlines the requirement for 20% of Driveway, Parking and Sidewalk snow storage area. ~~Minturn code only requires 5% but this is inadequate for storage.~~ Development on parcels with a slope from 30% to 45% shall be required to meet the criteria of Minturn Town Code Section 16-17-70. These slopes will be required to meet the engineering and review criteria as outlined in the town code.

Building height will be evaluated ~~with a method offsetting the grade plane of the existing and proposed topography to the mid point of the roof. Cupolas under 20s.f., chimneys, antennas and mechanical vents may extend up to 4' above the highest point of roof. Solar energy collection systems, skylights are limited to an additional 12" of height above the highest point of roof. Wind energy systems may extend no more than 6' above the highest point of roof. (see Definitions for exceptions and associated dimensions)~~ using current Minturn code is vague about where the point of measurement occurs when calculating height. The offset grade plane provides for a clear identification of areas of non-conformance and concern. ~~Minturn Code also does not address height limitations as they pertain to scale and massing of larger multi-family structures.~~ The variation in height for the multi-family lots allows for some small flexibility to allow for height modulation in larger structures. This allowance will only be allowed when at least 51% of the proposed structure is located closer to Minturn Road.

Minimum Lot Sizes differ from Minturn Town Code to allow for smaller lots. The intent with smaller lots is that small lots and homes, by their nature, create less expensive options for single family living. To provide for more flexibility and the potential for more ADU's on site the Lot Coverage is being proposed at 45%. Setbacks for each parcel have been defined on the plan and the proposed zoning outline included in this PUD Guide. If any areas require clarification on allowed setbacks, including but not limited to corner lots, the Plat shall dictate for specific lots. These setbacks will be measured to the face of foundation with allowance for siding finishes to extend beyond the line up to 2". Chimney's complying with the Minturn North Design Guidelines may extend a maximum of

2'-4" into any setback and may not include any habitable space. Porches, Balconies, Stoops, Canopies and Decks complying with the Minturn North Design Guidelines may extend 5' (including overhangs) into the front setback. Eaves and other roof overhangs may extend a maximum of 2' into any setback. Bay Windows and Oriels complying with the Minturn North Design Guidelines may extend a maximum of 2'-6" (including overhangs, gutters, trim) into any setback.

6. Major and Minor PUD amendment procedures and criteria

It is the intent of this PUD to provide for a development that meets a large range of diversity of housing for residents. With a project of this scale unforeseen market pressures may impact the success of this plan. This guide is written to provide considerations for amendments. This includes, but is not limited to, rezoning, lot line adjustments and/or parcel line vacations.

Minor Amendments

Minor deviations shall be governed by the Minturn Municipal Code standards.

Major Amendments

Major deviations shall be governed by the Minturn Municipal Code standards.

Appeals to a determination of a Major Amendment of the PUD may be made and considered in accordance with the provisions of the Minturn Municipal Code.

7. Land use/zoning categories and corresponding tables

This PUD is being created for the development of residential properties but also creates a number of open space/park opportunities. Allowed Uses are as Follows:

Table 7.1 Allowed Uses Table

| USE | SINGLE-FAMILY RESIDENTIAL | MULTI-FAMILY RESIDENTIAL | OPEN SPACE ACTIVE | OPEN SPACE RESTRICTED |
|--------------------------------|---------------------------|--------------------------|-------------------|-----------------------|
| R- use by right | C – conditional use | L – limited use | N – not allowed | |
| Accessory Dwelling | L | N | N | N |
| Single Family Home | R | N | N | N |
| Duplex | C | N | N | N |
| Multi-family | N | R | N | N |
| Home Occupation | L | L | N | N |
| Temporary Building | N | N | N | N |
| Construction Trailer | L | L | L | N |
| Equipment and Material Storage | N | N | N | N |
| Public Park | N | C | R | N |
| Public Garden | N | C | R | N |
| Public Playground | N | C | R | N |
| Public restroom | N | N | C | N |
| Public Trails | N | C | R | N |
| Sport Court | N | N | R | N |
| Skating Rink | N | N | R | N |
| Public Exercise Areas | N | C | R | N |
| Public Climbing Structure | N | C | R | N |
| Public Snow Storage | N | L | R | N |

| | | | | |
|--------------------|---|---|---|---|
| Protective Fencing | R | R | R | R |
| Alternative Energy | R | R | R | R |

Figure 7.1a - Zoning Map for Phase One

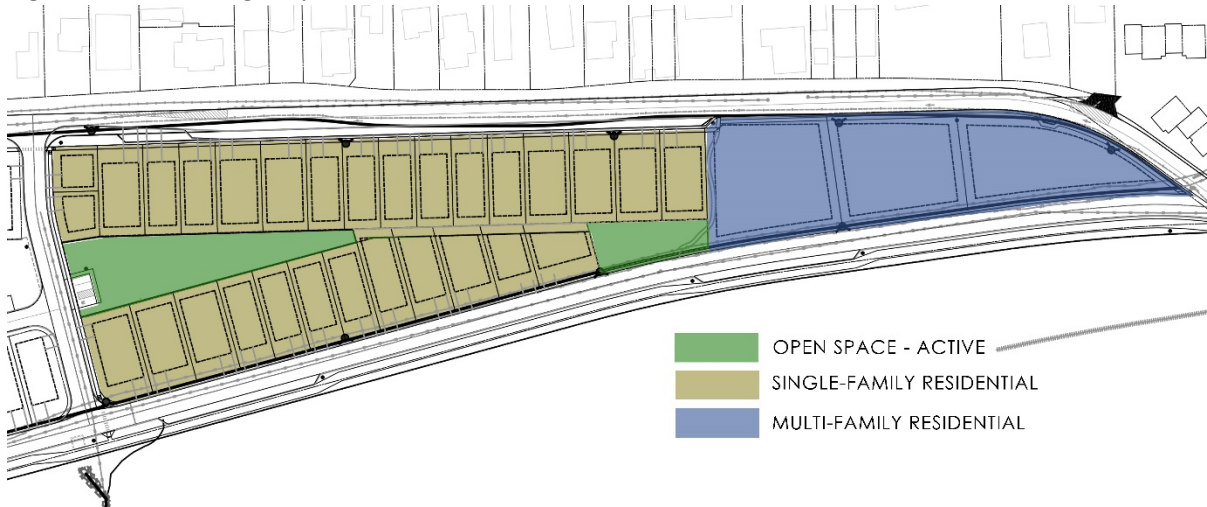


Figure 7.1b – Zoning Map for Phase Two

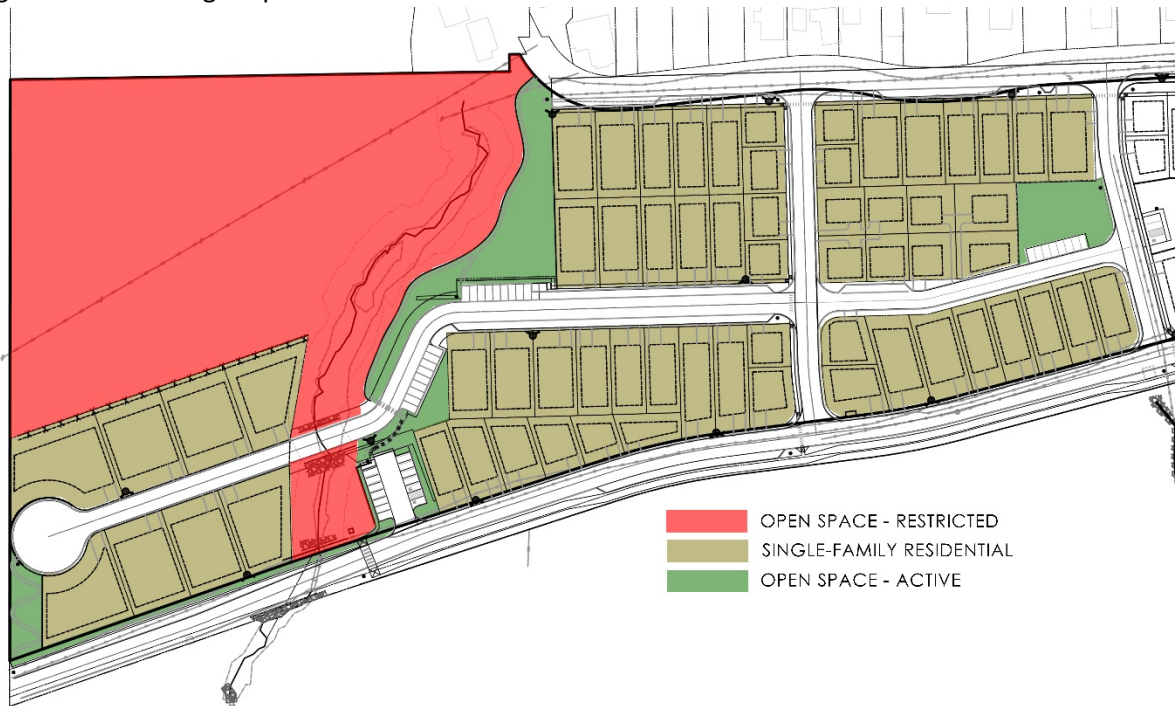
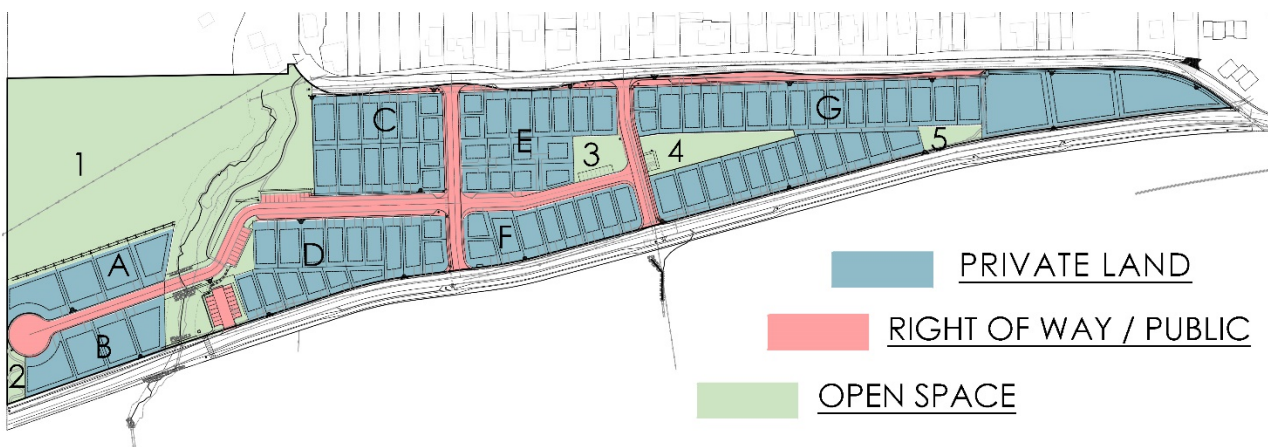


Table 7.2 PUD Summary Table

| PUD SUMMARY | | | | | |
|----------------------|-----------|-----------|------------------|------------|------------|
| OVERALL SITE ACREAGE | 18.95 AC | | | | |
| OPEN SPACE / PARKS | 5.99 AC | | 32% | | |
| | PH 1 | PH 2 | | MAX UNITS | RQ'D SFE |
| MULTIFAMILY LOTS | 3 | 0 | 3 LOTS | 24 | 24 |
| COTTAGE LOTS | 4 | 20 | 24 LOTS | 24 | 24 |
| COMPACT LOTS | 15 | 21 | 36 LOTS | 72 | 54 |
| STANDARD LOTS | 10 | 14 | 24 LOTS | 48 | 48 |
| ESTATE LOTS | 0 | 8 | 8 LOTS | 16 | 12 |
| TOTALS | 32 | 63 | <i>116 TOTAL</i> | 184 | 162 |

All parcels not dedicated for private ownership shall be dedicated to the Town of Minturn per the graphic shown here where red and green represent dedicated area.

Figure 7.2 Illustration of Public and Private Ownership



8. Density transfer policies, procedures and criteria

Within the Minturn North PUD are specific property layouts with accompanied zoning restrictions. While it is the intent to complete the project in this manner, unforeseen pressures may require flexibility within the phases of the project. The transfer of density **not to exceed ten percent (10%) of the lots identified in Table 7.2 a specific phase, may be transferred to a different phase** ~~may occur between phases and between parcels.~~ A density transfer shall not result in the overall project exceeding the overall PUD approved maximum SFE.

A transfer of density may be approved as a major amendment to the PUD pursuant to the requirements of the Minturn Municipal Code.

9. Open space, buffer area and recreation amenity management plan

The Open Space and Ownership Plan (re: above diagram) identifies on-site open space and amenities. Open space **on publicly-owned parcels** within the Minturn North PUD is provided for the

enjoyment of residents of Minturn North as well as the general public. Trails, passive and active open space parcels, park land and community garden areas provide public benefits for recreation, pedestrian travel and connectivity, as well as critical infrastructure for drainage, stormwater and snow management. **Additionally, there are 3 park areas within the site and adjacent to Minturn Rd that will be owned and managed by the HOA that will provide benefit to the public. residents of Minturn North.** These open spaces are generally described below as follows:

-A small pedestrian path on the Northwest corner of the site (#2 on diagram 9b) will connect the cul-de-sac at Ice House Avenue to the proposed Eco Trail extension along County Road comprised of approximately 3,945SF. This parcel will be owned by the ~~Town of Minturn~~ **Minturn North HOA** and should require no maintenance beyond initial establishment.

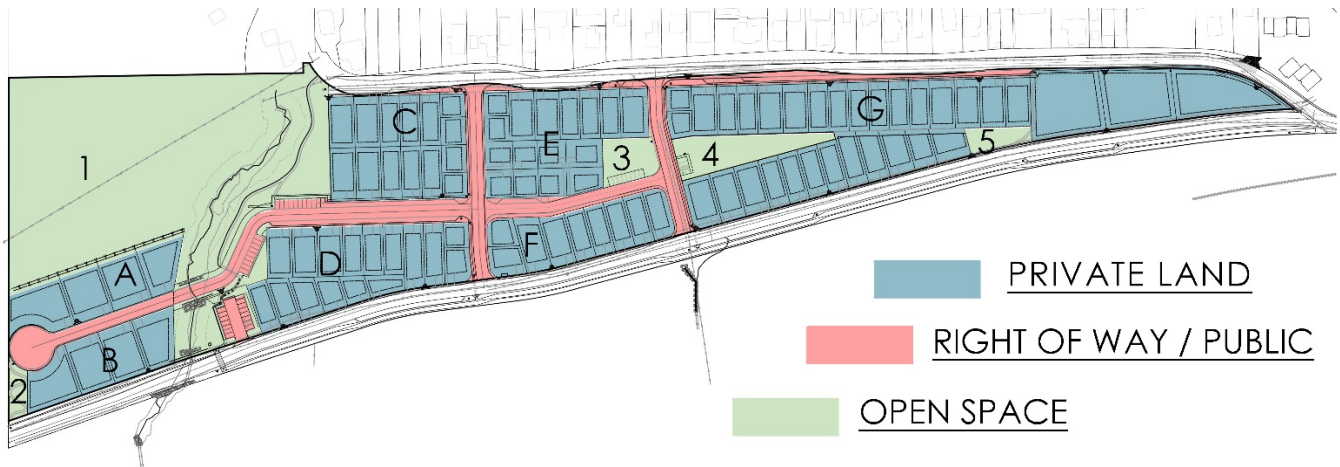
- An additional open space parcel (#1 on diagram 9b) includes the hillside, and game creek. At the border of Minturn road on this parcel there will be public parking to accommodate typical trailhead traffic. A trail will connect this area to the existing western unimproved trail head at Game Creek. This entire parcel will be owned by the Town of Minturn. Maintenance of the parking lot will be the responsibility of the Town Public Works Department. ~~Maintenance on the trail and fence will be the responsibility of the Town. Current maintenance on the Game Creek trail is completed with the assistance of the USFS.~~ This park area will be re-established with native grasses and irrigation. Maintenance will be limited to seasonal irrigation preparations. The upper portion of this tract will require no maintenance beyond initial establishment. ~~The upper portion will also include a rockfall mitigation fence with landscaping that will be maintained by the Minturn North HOA.~~ This overall parcel is approximately **226,950 sf.** ~~232,006 sf.~~

-Central to the project will be two open space parks, (#3 & #4 on 9b) ~~also connected via the thru-trail.~~ **Both parks will be private to owned by the Minturn North HOA and will offer flexibility of use but will be provided with a soft surface trail and benches.** ~~The parcel to the south of 4th street will be used as a community garden space. This will be Owned and Maintained by the Town of Minturn. The Minturn Community Fund has expressed interest in assisting with the maintenance of this area. The use for the area to the north of 4th street will be a public park with benches and sod. This area will be owned and maintained by the Town of Minturn. The thru-trail identified on diagram 9a will be bordered by split rail fencing. This will be owned by the Town of Minturn and will be maintained by the Minturn North HOA. These are identified as ‘Parcel 3’ and ‘Parcel 4’ on the diagram below.~~

9a. Diagram showing internal trail and parks

Table 9a. Open Space Table

| | | | |
|----------|------------|--|--|
| Parcel 1 | 226,950 sf | Game Creek parking and access, Wildlife habitat and circulation area | Owner: ToM Maint: M.N. HOA (fence) |
| Parcel 2 | 3,945 sf | Public access path connecting Ice House Ave to Minturn Rd | Owner: M.N. HOA Maint: M.N. HOA |
| Parcel 3 | 8,633 sf | Private Minturn North park | Owner: M.N. HOA Maint: M.N. HOA |
| Parcel 4 | 15,825 sf | Private Minturn North park | Owner: M.N. HOA Maint: M.N. HOA |
| Parcel 5 | 5,405 sf | Private Minturn North park | Owner: M.N. HOA Maint: M.N. HOA |



9b. Diagram showing Open Space

10. Sustainability Plan

All home designs should take into account passive solar practices and be sited to maximize the solar potential for the site. Homes shall not excessively shadow neighboring roofs where solar may be utilized. Specifications on homes should take into account material sources. New home designs are encouraged to reference their HERs rating. Sources should be renewable and originally sourced as to minimize transit distances. Materials should be environmentally friendly and not off gas VOC's. Recycled and Sustainable materials should be used where possible. Plumbing fixtures should be selected that conserve water. Appliances and windows should be Energy Star certified. LED bulbs/fixtures should be used. Exterior LED bulbs must be rated at no more than 4000K. Landscaping shall be with native plants.

11. ~~Minturn North Home Owners Association/Architectural Design Review~~

Additional rules and regulations pertaining to this PUD may be found in the Declarations and covenants as well as the Design Guidelines. A Master Association is being planned for the PUD. ~~The Master Association will maintain responsibility for Architectural Control as well as enforcing covenants approved with the PUD. The association will further be responsible for maintenance of the rockfall impact fencing, maintenance of the proposed culvert at Game Creek and Ice House Avenue. The Association will also be responsible for maintaining the private park areas found within the PUD. private drive spur road at the cottage homes along 5th Street. These will be determined through assessments to homes on the site that benefit from the associated improvement.~~ The Multi-family parcels will have their own HOA's set up as they are developed. Design Guidelines have been created to ensure compliance with the overall design goals of the community. These guidelines have been drafted to not be too restrictive but regulate a level of quality that will benefit the community. Each design will be reviewed and approved prior to submittal to the Town DRB.

12. ~~Roads and Parking~~

Roads proposed within this PUD shall be identified as Local classification per the traffic study. This includes Taylor Street, 4th Street, 5th Street, Icehouse Avenue and Minturn Road from the intersection at Taylor to the crossing at Game Creek. ~~These roads are~~ comprised of two (2) travel lanes with rolled curbs. Taylor Street and Minturn Road are further designed with a parallel parking area on the west side of the roads. ~~A portion of Taylor Street is designed as a One-Way road travelling from the intersection with Minturn Road north to 4th Street. Traffic will flow from South to North and will have parallel parking on both east and west sides.~~ Icehouse Avenue is designed with two (2) parallel parking areas on both sides of the road for the portion directly adjacent to 5th Street. Each parcel will be required to meet off-street parking requirements and must clearly show legal spaces as part of their Design Review Application. Parcels will be restricted to a 14' driveway width within their setbacks and at the curb. This PUD also creates numerous off-street parking areas for a planned total of approximately ~~80~~ public parking spaces. Handicap spaces will be provided per International Accessibility Code and Americans with Disabilities Act requirements and are identified on the plans.

Included below are graphics showing proposed on-street parking. The Green represents dedicated park parking only. The Red will have time limitations to allow for busy recreational overflow and the Blue represents open public parking.

Phase One

Parking location diagram for Phase One

Phase Two

Parking location diagram for Phase Two

12. Variations

The Minturn North PUD seeks to blend with the surrounding neighborhood and for this reason is very close in Zoning, Engineering and Design requirements. The following table outlines areas where this PUD differs from Town of Minturn standards and regulations.

Table 12.1 PUD Variations

| Variation | Town of Minturn | Minturn North |
|-------------------|---|---------------|
| Minimum Lot Sizes | 5,000sf | 2,500sf |
| | In order to provide a diversity in housing opportunities we are proposing a minimum lot size of 2,500sf on our Cottage Lots and 4,000sf on the Compact Lots. These lots are still held to similar bulk and mass restrictions and therefore will not result in any greater overall maximum build-out. | |
| Lot Coverage | 40% | 45% |
| | We are proposing a PUD that is similar to other densities found in town and that are more similar to those found close to the downtown core. This extra 5% will provide an incentive to buyers to create storage space and/or ADU apartments offering greater flexibility with diverse floor plans and promoting more affordable housing options. | |
| Snow Storage | 5% | 20% |

| | | |
|------------------------------|---|---------------------|
| | Snow storage is a challenge within the Town of Minturn. 20% creates more adequate storage area on-site. 5% is not adequate and sometimes causes overflow management onto public streets. | |
| Building Height | 28' Mean | 28' Mean -- method |
| | This code seeks to enhance the building height restriction. The current Minturn Code has been interpreted to allow dormer roofs above the maximum height, this has created a loophole where many buildings are measured to their main roof as the 28' limit, with dormers rising above that. The Minturn North regulation identifies all types of roofs to be considered with the maximum height providing the intent of visual perceived 2.5 story homes as a maximum. | |
| Multi-Family Building Height | 28' | 28' (32' @ 50%) |
| | This additional height at the Multi-Family parcel only allows for additional modulation of form with larger buildings and relates to the existing Minturn Townhomes in this area. This additional 4' of height may only occur over 50% of the building and is only allowed when at least 50% of building is closer to Minturn Rd. | |
| Cottage Setbacks | Front 20' / Rear 10' | Front 10' / Rear 5' |
| | The cottage homes will be smaller by nature and will be more dependent on public parks and trails for recreation. Reduced setbacks will add to the character and charm of these clustered homes. | |
| Multi-Family Setbacks | Front 20' | Front 10' |
| | The reduced setback allows for greater flexibility in structure location and allows greater options for future development to work through parking and snow storage placement. | |
| Sidewalk Widths | 5' | 4' |
| | 4' Sidewalks are not uncommon in neighborhoods and provide for reduced impervious surfaces as well as additional space for low volume windrows. | |
| | | |

13. Master Sign Program

Unless outlined in this section, signage and lighting around the site will be developed to the standards of the Minturn Municipal Code. Any construction on the PUD will be required to be processed through the Town of Minturn and therefore will meet the standards of the Municipal Code. Street signage will comply with TMMC requirements and will be installed to match the existing signage in town.

Parcel and Project Signage

Parcel identification signs will be limited to an 18" x 24" sign located at the front, center of each parcel that is available. These will be removed upon closing on the associated Parcel. Additionally two (2) 4'x4' signs showing the current phase with contact information and a map will be placed on the site of the current phase. Image graphics shown here are for dimension information only and

are represented with examples of imagery, final visual may be different. These are shown below.



Example of Temporary Parcel and Project Identification Signs

Trailhead Signage

Game Creek Trailhead will receive a sign similar to that shown below upon completion of Phase Two. This signage will be installed at the parking lot at Minturn Road as well as directional signage at the north end of Taylor Street. Signage will be created to match current trailhead signage in the county.



Example of Trailhead Signage

Neighborhood Identification and Monument Signage

The eight (8) northern estate lots across Game Creek may be marketed and sold as a higher end portion of the PUD. The three (3) Multi-family parcels may also be developed by a single developer and may be marketed separately. For this reason, both of these areas are the only areas within the PUD that may receive monument signage. Image graphics here are for dimension information only and while are represented with examples of imagery, final visual may be different. Final monument signage design must have approval through both the Minturn North Design Review Board and the Town of Minturn Design Review Board. **Monument Signage may not be located in the Right of Way.** Signage must meet the requirements of the Town of Minturn, but may meet the allowable dimensional standards shown here. **Signs may be 4' tall by 6' wide with a maximum height of 6' and base width of 12'.** Decorative elements of the signage may extend beyond this width or height an

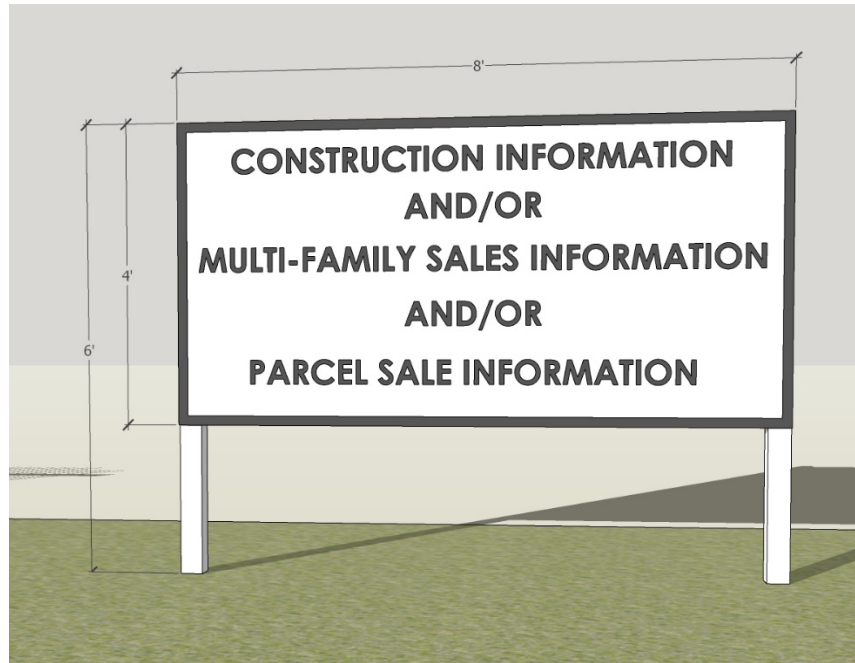
additional 24" total. Flexibility may be granted if monument is placed on sloped site and the design is sensitive to the maximum height.



Example of neighborhood monument signage

Temporary Signage

Temporary signage will be allowed identifying construction direction and location, job site trailer, sales trailer, and required regulatory signage for employees, contractors and visitors. Additional temporary sales signage will be allowed for the duration of sales and construction.



Example of temporary signage

14. ~~— Illumination Standards~~

Lighting within the site ~~at areas to be dedicated to the Town~~ shall comply with Town of Minturn lighting regulations.

Exterior lighting shall not cast a glare onto neighboring properties. Lighting may not cause a nuisance or a hazardous environment. Pole mounted fixtures will be installed along streets, at public parking and recreational areas, but are not allowed on private parcels.

14. Landscaping and Erosion Control Standards

As it pertains to both the initial development and completion of the infrastructure for Minturn North, landscaping and Irrigation for the open spaces and publicly maintained property within this PUD will be provided per the approved landscape plan. No plants with a potential growth height over 30" may be planted within a triangle 35' back from intersections to maintain visual connectivity at streets.

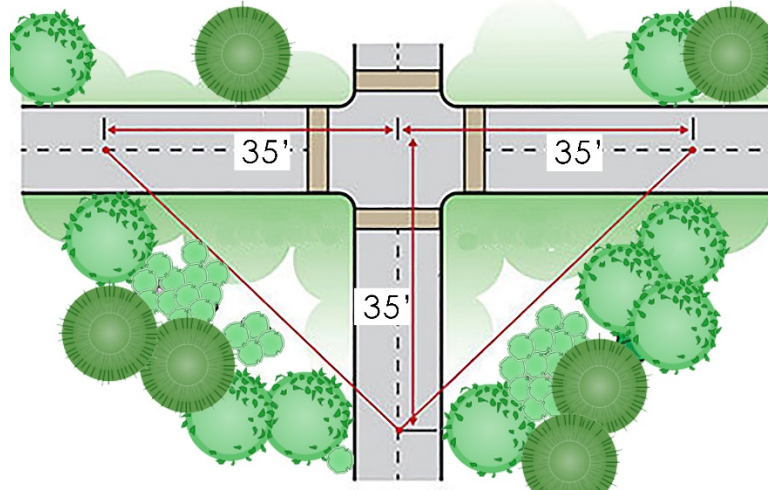


Diagram of 35' sight clearance triangle

The landscaping of this PUD for individual lots will also meet the above sight triangle clearances and will conform to the Minturn North Design Guidelines. Further restrictions on the sight triangle include planting, fences, walls, structures or temporary or permanent obstructions. Irrigation for individual lots may not exceed a need for 1,300sf of irrigation for the Cottage Lots, Compact Lots and Estate Lots. Standard Lots may not exceed 2,600sf of irrigated area. Multifamily lots will be limited to 10,400sf at each lot. Pervious areas beyond the limits shown above may be covered with Mulch, Stone, or other natural materials which require no water yet allow full transmission of rain into the soil. New landscaping is recommended to be native species and drought resistant installed relative to defensible space recommendations. All new landscaping will go through an initial review and approval by the Minturn North DRB prior to submittal to the Town of Minturn DRB. Plants proposed in "public spaces" will be selected that are native to the region and do not require long term irrigation. All new landscaping will receive irrigation for 3 years, or until plants are established.

15. Snow Management Plan

The overall PUD is providing Minturn Public Works with zones for snow storage at various locations as shown on the diagrams below. Final area of snow storage at the Multifamily parcels will be dedicated to the town through easement at building permit. All private parcels will be held to a minimum requirement of twenty percent (20%) of paved surfaces for snow storage. "For all lots fronting public sidewalks, removal of snow from sidewalks is the responsibility of individual lot owners or as required in accordance with applicable Town of Minturn ordinances. Portions of Open

Space identified on the Snow Storage/Landscape Plan will be provided with adequate structural substrate to support Town of Minturn vehicles for movement of snow. ~~Street Snow removal and storage will be the responsibility of the Town of Minturn Public Works.~~

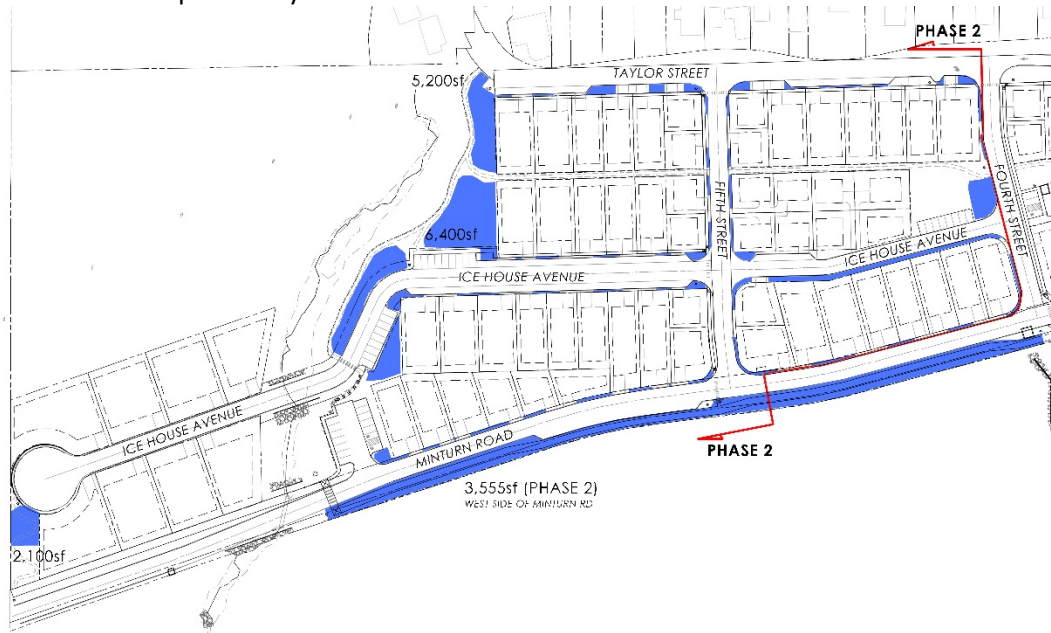


Diagram of Snow Storage areas – north

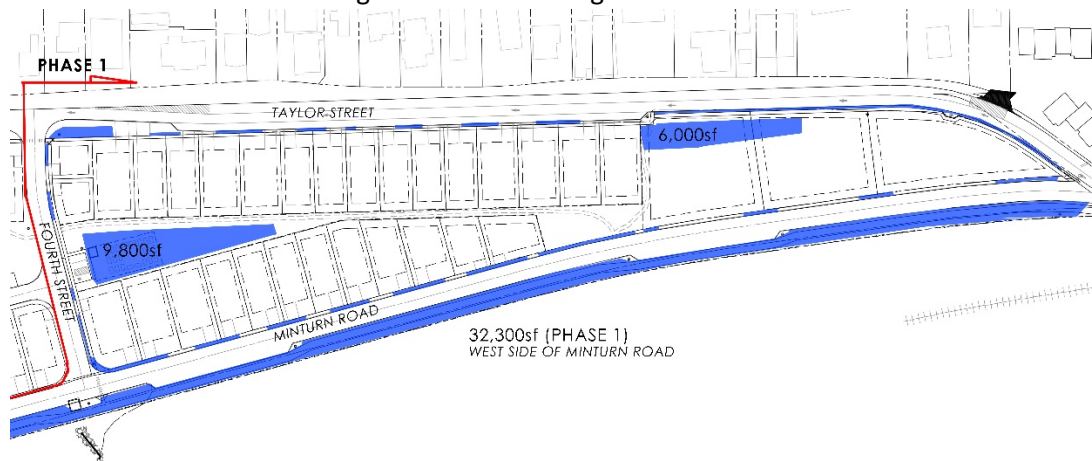


Diagram of Snow Storage areas – south

16. Wildfire Hazard Mitigation and Vegetation Management Plan

As part of the design guidelines homeowners will be required to provide defensible space around all structures. All landscape plans submitted by owners must show reference and clear effort toward compliance of the NFPA “fire wise” criteria for vegetation.

Fire hydrants are being installed throughout the PUD and will be on a looped system for safety. Homes over 3,000sf are further required to have residential fire sprinkler systems installed per Eagle River Fire District.

17. Wildlife Management/Mitigation Plan

The Game Creek area is being maintained as open space to allow for any wildlife movement through the site from East to West. Informational literature will be provided to each lot owner letting them

know the concerns in this area for wildlife avoidance. This will include education that CPW has the right to ticket, or shoot, domestic animals that are not under owner control that are chasing wildlife. Within the community guidelines and covenants will be recommendations to keep dogs leashed, requirements to use bear proof trash containers and information on proper composting. The Animal Control Regulations for the Town of Minturn will govern the control of domestic animals in the Minturn North PUD.

18. ~~Game Creek Riparian Corridor Plan~~

~~The development of the PUD is being executed to minimize any impact to the Riparian corridor. Where existing crossings need to be brought up to standard and at the new Ice House crossing we will be installing new culverts that will impact some wetlands. Minturn North PUD will be working through permitting for these disturbances and will be contributing to an offsite wetland bank as required.~~



Diagram showing impact and mitigation at Game Creek

~~This area of the site is currently where all native flora occurs. The existing condition of Game Creek across this parcel is in poor condition. The culvert at Minturn Road is approximately 50% silted in and is undersized for large storm events. The outfall at the Eagle River has a number of large drops through heavily vegetated barriers. Trash and man-made forts can be found within this corridor. Grading has been provided outside of the buffer to direct stormwater away from the creek and toward the new stormwater system, where it will be treated prior to introduction to the creek. Sediment control will be put in place during construction and revegetation will occur immediately on disturbed areas. Outside of the buffer we will be installing a split-rail fence will be on the creek side of the Game Creek trail with signage asking people to stay out of the area.~~

19. Definitions and illustrations

For the purposes of this PUD Guide, the following terms shall have the meanings set forth below unless the context clearly indicates otherwise. All other words used in this PUD Guide shall first have the meaning defined in the Minturn Municipal Code Chapter 16 and then their plain meaning.

ACCESSORY DWELLING UNIT – Shall have the same meaning as an accessory apartment as defined by the Minturn Municipal Code.

AFFORDABLE HOUSING LOT/UNIT – Shall mean any lot or dwelling unit within the Minturn North PUD that is deed restricted in perpetuity as “locals only” or resident occupied; or, which meets the requirements of the Town of Minturn community housing guidelines and administrative procedures in effect at the time of development of the lot or unit.

ALTERNATIVE ENERGY SYSTEM – Shall mean a system that generates energy in ways that do not deplete natural resources or harm the environment, especially by avoiding the use of fossil fuels and nuclear power. For the purposes of this PUD these include Solar and Wind energy systems as defined below.

ASSOCIATION – Shall mean any governing Association of the PUD as described in the Administration section of this PUD.

BUILDABLE PARCEL – Means those parcels or lots containing Building Envelopes.

BUILDING ENVELOPE – Means a defined portion of a lot or parcel within which all habitable buildings shall be confined.

BUILDING HEIGHT - Measured ~~per Minturn Code. as the maximum height of any building from finished grade to the highest point of the roof peak or parapet wall above that grade location. Height calculation will include the highest roof form, including dormers. This does not include cupolas under 20s.f., chimneys, antennas, solar energy collection systems, wind energy collection systems, skylights (limited to an additional 12” of height) or mechanical vents. Exempted structures may extend no more than 4’ above the highest roof ridge (with exception of wind energy systems which may extend no more than 6’ above the highest roof ridge). Building height will be determined by offsetting grade mesh planes of both proposed and existing grading the required maximum height distance. It is preferred that this is accomplished using a basic modelling software as represented below. More detailed information may be required if the proposed building falls within 12” of the height limit.~~

~~IMAGES REMOVED~~

COUNTY – Shall mean Eagle County, Colorado.

DENSITY TRANSFER – Shall mean the re-assignment by Major PUD Amendment process of allowable residential density, calculated in dwelling units, from one parcel or phase of development to another.

DESIGN GUIDELINES – Shall mean The Minturn North Design Guidelines, as administered by The Minturn North Design Review Board.

DESIGN REVIEW BOARD (DRB) – Shall mean The Minturn North Design Review Board.

DEVELOPER – Shall mean Minturn Crossing, LLC, a Colorado limited liability company, or any assignee of Minturn Crossing, LLC pursuant to the following provisions of this definition. Minturn Crossing, LLC may assign the Developer status in whole or in part with respect to the entire Minturn North PUD or any Parcel within The Minturn North PUD to any person or entity that acquires ownership of either.

TMMC – Shall mean the Town of Minturn Municipal Code.

FIRST RIGHT OF OFFER – Means the right to make an offer for the purchase of a subject unit or parcel at the purchase price for which such unit or parcel will be listed for sale prior to the sale or listing for sale of such unit to any other party.

FLAT ROOF – for the purposes of this PUD and height calculations a flat roof is defined as any roof with a slope of less than (not including) a 2:12 pitch.

HERS – Shall mean the Home Energy Rating System, an industry standard by which a home's energy efficiency is measured.

LOT (or PARCEL) – Shall mean any portion of land within the PUD which is shown on any recorded plat and which may be sold or conveyed without violation of the provisions of Colorado law pertaining to the subdivision of land.

NET SQUARE FEET (NSF) - A calculation based on interior area that is measured from the face of structure on interior walls, including all interior partitions, habitable basements, interior storage areas, closets and laundry areas. Such calculations shall not include mechanical areas, exterior storage, stairwells, garages, patios, balconies, decks, and porches.

PLANNING AREA – Shall mean a defined geographical area within the PUD with similar land uses and regulatory standards.

PUD – Shall mean The Minturn North Planned Unit Development.

PUD GUIDE – Shall mean this document that sets forth a comprehensive framework of standards, restrictions and regulations which govern development and land use within The Minturn North Planned Unit Development.

SETBACK – Means a defined vertical plane within which the exterior wall of a building is required to fall behind on individual building lots. Please refer to the Minturn North Design Guidelines for processes for review and approval of minor deviations.

SHORT TERM RENTAL - The renting or leasing out of any residential dwelling unit for a period of less than thirty (30) consecutive days or as defined by the Town of Minturn Municipal Code in effect at the time.

SOLAR ENERGY COLLECTION SYSTEM – A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

WIND ENERGY COLLECTION SYSTEM – A wind energy conversion system consisting of a wind turbine, mounting pole or tower, and associated control or conversion electronics.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
MINTURN NORTH**

WHEREAS, the Declarant is the owner of the real property described on “*Exhibit A*” attached hereto (hereinafter called the "Property"), and

WHEREAS, the Declarant desires to submit the Property to the covenants, terms and provisions hereof.

NOW, THEREFORE, the Declarant hereby declares that all of the Property, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Property or any part thereof; their heirs, successors, and assigns. The Declarant further declares that the Project shall be created pursuant to the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101 et seq.) and any amendments, or modifications of that Act (hereinafter called "CCIOA" or the “Act”). The Project (as defined below) is a planned community, the number of Lots (as defined below) to be developed on the Property is fifty-three (53).

ARTICLE I - DEFINITIONS

The terms used herein shall have the meanings stated in the CCIOA, except as otherwise provided herein:

1.1 "Association" shall mean and refer to the Minturn North Association, a Colorado nonprofit corporation, which has been organized under the laws of the State of Colorado prior to the conveyance of the first Lot in the Project, its successors and assigns.

1.2 "Board" means the Board of Directors of the Association and shall also be the "executive board" as defined in the CCIOA. Except as specified herein, or in the Association's Articles of Incorporation or Bylaws or C.R.S. § 38-33.3-303(3) or other provisions of CCIOA, the Board may act on behalf of the Association without any vote or consent of the Members.

1.3 "Owner" means any person, corporation, partnership, association, or other legal entity or any combination thereof, including Declarant, who owns the fee simple interest in one or more Lots. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Lot merely as security for the performance of an obligation unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. This term shall have the same meaning as "unit owner" under the CCIOA.

1.4 "Property" shall mean and refer to that certain real property described on "**Exhibit A**" attached hereto and incorporated herein by this reference, together with all appurtenances thereto and all improvements now or hereafter thereon.

1.5 "Lot" shall mean and refer to any of the lots shown on any recorded Plat of the Property, together with all appurtenances thereto and improvements now or hereafter thereon. This term shall have the same meaning as "unit" under the CCIOA. The boundaries of any Lot may be relocated pursuant to C.R.S. § 38-33.3-212. The boundaries of the Lots shall be shown on any recorded Plat of the Property which shall be incorporated herein by this reference. The number of Lots to be developed on the Property is fifty-three (53). Declarant reserves the right for itself and any Successor Declarant to expand the Property to include up to sixty-three (63) additional Lots.

1.6 "Declaration" means this Declaration as contained herein and as it may be amended or supplemented from time to time as herein provided, which shall be

indexed in the grantee's index in the name of the Project and the Association and in the grantor index in the name of the Declarant executing the Declaration. A copy of the Declaration shall be delivered to the assessor of the county in which the Property is located, after recording.

1.7 "Declarant" shall mean and refer to Minturn Crossing, LLC, a Colorado Limited Liability Company, its agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of its rights as Declarant hereunder, in compliance with C.R.S. § 38-33.3-304. The Declarant hereby reserves any and all "special declarant rights" and "development rights" as created or set forth in CCIOA and any other rights as set forth herein. Any such rights shall apply to the Property and Expansion Property (as defined below) and shall terminate upon the earlier of seven (7) years from the date of recording hereof or as otherwise provided herein. The "Period of Declarant Control" means that period during which the Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board as set forth in Article III hereof.

1.8 "Member" shall mean and refer to every person or entity who holds membership in the Association or, following termination of the Project, of all former unit owners entitled to distributions of proceeds under C.R.S. § 38-33.3-218, or their heirs, personal representatives, successors or assigns.

1.9 "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the real property records of the office of the Clerk and Recorder of the county in which the Property is located, and by which a Lot or any part thereof is encumbered. The term shall include a "security interest" as defined by CCIOA.

1.10 "First Mortgage" shall mean a Mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First

Mortgage.

1.11 "Mortgagee" means any person or entity, or any successor or assign thereof, which holds or owns a Mortgage.

1.12 "Project" means all of the Property, together with rights and easements related thereto, and improvements located on the Property and all rights, easements and appurtenances belonging thereto, and shall include any real property subsequently annexed or added. The Project is described on the plat recorded in the real property records of Eagle County, Colorado on _____, 2021, at Reception No: _____, and all supplements and amendments thereto. The plat shall comply with C.R.S. § 38-33.3- 209.

1.13 "Architectural Control Representative" shall mean the designee appointed by the Declarant or Association to review and approve the plans for all improvements constructed on any Lot.

1.14 "Improvements" shall mean and refer to all structures and any appurtenances thereto or components thereof of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, garages, carports, driveways, parking areas, concrete, paving, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, solar equipment, satellite dishes, and exterior air conditioning and water softener fixtures. "Improvements" shall also mean an excavation or fill, the volume of which exceeds two cubic yards, and any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

1.15 "Expansion Property" means the real property located in Eagle County, Colorado, more particularly described on the attached "*Exhibit B*" which

Declarant may subject to this Declaration by one or more duly recorded supplemental declarations and, if necessary, supplemental plats, and convert into additional Lots.

1.16 “Allocated Interest” means the allocation of assessments to which an owner’s lot is subject as set forth in “*Exhibit C*” attached hereto and made a part hereof. The formula for Allocated Interest is an equal allocation among each Lot.

1.17 “Supplemental Declaration” means an instrument which subjects any part of the Expansion Property to this Declaration, as set forth below.

1.18 “Supplemental Plat” means a supplemental plat of Minturn North which may depict a part of the Expansion Property becoming subject to this Declaration through a Supplemental Declaration as more fully described below.

1.19 “Successor Declarant” means any party or entity to whom Declarant assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded in the office of the Clerk and Recorder of Eagle County, Colorado, designating such party as Successor Declarant. Upon such recording, Declarant’s rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

1.20 “Estate Lots” are any lots denominated as such on any plat or amended plat which, because of their location, may be subject to an additional assessment, not shared by other non-estate lots, for the purpose of paying the costs and expense of any rock-fall mitigation and maintenance or repair of any bridge or culvert providing access to such Estate Lots. Any such assessment shall be determined by the Association, acting through the Board, and shall be denominated an Estate Lot Assessment.

1.21 “Common Elements” means all the Property as labeled on the Plat, except the Lots, and the Expansion Property, which the Association owns for the

common use and enjoyment of the Owners on a non-exclusive basis as provided below. The Common Elements include any unimproved land surrounding the Lots, the easements benefiting the Project as granted in this Declaration or the Plat, the water, sewer and other utility or communication lines and facilities serving the Project which are not owned by or dedicated to any public entity, and any portion of the Property not dedicated to the public and the private access roads. The term Common Elements shall also include any Limited Common Elements, which are exclusively reserved for use by fewer than all Owners, or as otherwise provided in this Declaration. The Common Elements shall not include any portion of the Property dedicated to the public pursuant to this Declaration or the Plat including, without limitation, roads, recreation areas, parking areas, trails and trail access areas.

1.22 “Common Expense” means any and all of the Association’s costs, expenses and liabilities including, without limitation, costs, expenses and liabilities incurred for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Elements; (B) providing facilities, services and other benefits to Owners and their Guests; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created in the Association Documents; (D) levying, collecting and enforcing the Assessments; (E) regulating and managing the Project; (F) operating the Association; and (G) utilities not separately metered and billed directly to Unit Owners; other expenses declared to be Common Expenses pursuant to the Association Documents or the Act, and expenses agreed upon as Common Expenses by the Association; and reserves for any such costs, expenses and liability.

ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

2.1 Membership. The following shall be Members of the Association: the Declarant (so long as the Declarant owns a Lot) and every Owner of a Lot which is subject to

assessment hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. Except as provided herein, each Lot shall have voting rights based upon that Owner's Allocated Interest. Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint a Board of Directors and to operate the Association until the Period of Declarant Control is terminated, and the Association shall not begin to function through its other Members until such time, unless the Declarant otherwise consents in writing.

Title to a Lot may be held individually or in any form of concurrent ownership recognized in Colorado. In case of any such concurrent ownership, each co-owner shall be jointly and severally liable for performance and observance of all the duties and responsibilities of an Owner with respect to the Lot in which he owns an interest. For all purposes herein, there shall be deemed to be only one Owner for each Lot. The parties, if more than one, having the ownership of a Lot shall agree between themselves how to share the rights and obligations of such ownership, but all such parties shall be jointly and severally liable for performance and observance of all the duties and obligations of an Owner hereunder with respect to the Lot in which they own an interest.

Any contract of sale, deed, lease, mortgage, will or other instrument affecting a Lot may describe it as Lot _____, Minturn North, Filing No._____, County of Eagle, State of Colorado, according to the Plat thereof recorded _____, 2021 in Book _____ at Page _____, and the Declaration of Covenants, Conditions, Restrictions and Easements for Minturn North recorded _____, 2021 at Reception No._____, as supplemented, in the records of the Clerk and Recorder of Eagle County, Colorado (with the appropriate information inserted in place of the blanks set forth above).

Each Lot shall be considered a separate parcel of real property and shall be separately assessed and taxed.

No Owner of a Lot shall be entitled to bring any action for partition or division of the Common Elements.

2.2 Declarant Control. The Association shall have one class of voting membership who shall be the Owners. The Owners shall elect all the members of the Board, following the termination of the Period of Declarant Control, as set forth as follows:

(a) Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint the Board of Directors and to control the Association as follows: During the Period of Declarant Control, the Declarant, or persons designated by him, her or it, subject to certain limitations, may appoint and remove the officers and members of the Board. The Period of Declarant Control shall terminate no later than the earlier of: (1) Sixty (60) days after conveyance of seventy- five percent (75%) of the Lots that may be created to Owners other than a Declarant; or (2) Two years after Declarant has last conveyed a Lot in the ordinary course of business or (3) Two (2) years after any right to add new units was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE III COVENANT FOR ASSESSMENTS

3.1 Creation of the Obligation for Assessments. Subject to the provisions of this Declaration, each Owner, for each Lot owned within the Property, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines and other sums which are described in this Declaration and which shall be both a personal obligation of the Owner and a lien against his, hers or its Lot as provided herein. Each Owner shall be jointly and severally liable to the

Association for the payment of all assessments, charges, fees and other sums attributable to them and/or their Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by abandonment or leasing of his Lot, or by asserting any claims, defenses or other matters against the Association, the Declarant or any other person or entity. In addition to the foregoing assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against the Lot, as well as all charges for separately metered utilities servicing the Lot. The charges for any utilities which are master metered, if any, shall be included in the common expense assessments levied by the Association.

3.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to pay the Common Expenses and to promote the health, safety and welfare of the Owners and to fulfill the purpose and duties of the Association, including without limitation, the improvement and maintenance of the Lots.

3.2.1 Annual Assessments. The annual assessment shall specifically include, but shall not be limited to, all Common Expenses as defined by CCIOA, and as set forth above.

To the extent that Estate Lots exist or are ever created and are subject to the Declaration, the Association shall have the right to assess such Lots, Estate Lots Assessments, which are in addition to any regular assessment, and shall be to pay for the cost of rock-fall mitigation and bridge culvert repair and maintenance.

3.3 Limit on Annual Assessments.

3.3.1 The annual assessments shall be based upon an annual budget adopted, subject to C.R.S. § 38-33.3-303, as follows: Within ninety (90) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class

mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by Owners of two-thirds (2/3's) of the Lots, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. The budget should include the expenses set forth in Section 4.3 hereof. Unless included in the current or past approved budgets, the Association shall have no obligation for any expense, including without limitation, any maintenance, repair, replacement or restoration of any item or the provision of any service.

3.3.2 Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determined appropriate, which is not required to credit or pay it to the Owners.

3.4 Limit on Annual Assessments.

3.4.1 The annual assessments shall be based upon an annual budget adopted, subject to C.R.S. § 38-33.3-303, as follows: Within ninety (90) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the

absence of a veto at the noticed meeting by Owners of two-thirds (2/3's) of the Lots, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. The budget should include the expenses set forth in Section 4.3 hereof. Unless included in the current or past approved budgets, the Association shall have no obligation for any expense, including without limitation, any maintenance, repair, replacement or restoration of any item or the provision of any service.

3.4.2 Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determined appropriate, which is not required to credit or pay it to the Owners.

3.5 Rate of Assessment. Except as provided herein, annual assessments shall be set at the Owner's Allocated Interests as shown on “*Exhibit C*” attached, sufficient to meet the expected needs of the Association. If an Owner's Allocated Interest is reallocated due to expansion of the Project pursuant to Article X hereof or to other provisions of this Declaration, assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Owner's Allocated Interest, which shall be divided equally among all Lots. Assessments shall be applicable to all Lots following their annexation to the Project, including those owned by the Declarant.

3.6 Assessment Procedure.

3.6.1 Annual Assessments. No later than thirty (30) days before the beginning of each annual assessment period, the Board of Directors of the Association shall set the total annual assessment based upon advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during the following assessment year. That annual assessment shall be payable in monthly installments on the first day of each successive month unless the Board otherwise

directs. The Association shall cause to be prepared, delivered or mailed to each Owner, at least thirty (30) days in advance of each annual assessment period, a payment statement setting forth the annual assessment. The first annual assessment upon the Lots hereunder shall commence upon the first day of the first month following conveyance of first Lot to an Owner, it shall be adjusted according to the number of months remaining in the calendar year; provided however, notwithstanding any contrary provision of this Declaration, the Articles of Incorporation or the Bylaws, the annual and special assessments hereunder shall immediately commence upon any Lot.

3.6.2 Special Assessments and Other Sums. Special assessments and other sums imposed hereunder shall be due and payable on the date specified by the Board in written notice to each Owner, but such date shall not be less than ten (10) days after such notice is sent. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's rules and regulations, or other sum imposed by the Board, and the same is not paid for by insurance, the cost thereof shall be deemed to be an additional assessment against such Owner and his Lot and shall be enforceable as provided herein; any such assessment shall not require any vote of the Members. Additionally, the Board may impose assessments against particular Owners and Lots pursuant to C.R.S. § 38-33.3-315(3)(a) and (b).

3.6.3 Procedure. Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the Owner or his Lot for such assessment, but if notice is not given, the date when payments shall be due shall be deferred to a date after such notice is given. The Association's acceptance of any partial payment shall not waive, affect or impair its right to full payment of any assessment or sum. The Board may apply any payment to such assessments, charges, interest or fees as are the oldest or most appropriate as determined by the Board in its

sole discretion.

3.7 Certificate of Payment. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. Upon payment of such fees as requested by the Association's rules, the statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

3.8 Effect of Nonpayment of Assessments-Remedies of the Association.

3.8.1 General. Any assessments which are not paid when due shall be delinquent. If any assessment is not paid when due, the Association may impose a late charge/administrative fee not to exceed the amount set forth in the Association's rules and regulations. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot, and/or may suspend the delinquent Owner's right to vote for any period during which any assessment against the Lot remains unpaid. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the court, together with the expenses, late charges, and costs of the action.

3.8.2 Lien. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation, with interest thereon at the

rate of eighteen percent (18%) per annum, an administrative charge of not to exceed the amount set forth in the Association's rules and regulations, court costs and all other collection costs, and reasonable attorney's fees, shall be a charge on the land and shall be a perpetual continuing lien, from and after the levy or assessment thereof, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made, and such lien and assessment shall constitute an independent, affirmative covenant, payable without set-off or deduction. The Association's acceptance of any partial payment shall not waive, affect or impair its right to full payment of any assessment or sum. The Board may, in its discretion, apply any payment first to interest, the late charge, any costs or fees, and then to the assessment payment first due. The Board may enforce such lien by filing with the Clerk and Recorder of the county in which the Property is located a statement of lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of delinquent assessments then owing. The lien statement may be duly signed and acknowledged by an officer or authorized agent of the Association, and notice thereof may be mailed to the Owner of the Lot, at the address of the Lot or at such other address as the Association may then have in its records for the Owner of the Lot. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorney's fees, administrative charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, and compliance with all applicable provisions of CCIOA, the Board may proceed to the foreclosure but only after complying with all provisions of CCIOA. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums which are not fully paid when due. Any recorded lien

may be released by recording a Release of Lien executed by an officer or authorized agent of the Association. In addition, the Association shall have the right to a statutory lien under C.R.S. § 38-33.3-316. Pursuant to C.R.S. § 38- 33.3-316(4), recording of this Declaration constitutes recorded notice and perfection of the Association's lien for assessments, and notwithstanding any other provision of this Declaration, no further recordation of any claim of lien for assessments is required.

3.8.3 Authority. Each such Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

3.9 Working Capital. The Association shall require an Owner who purchases a Lot from Declarant to pay to the Association an amount equal to two times the amount of the estimated monthly assessment which sum shall be held by the Association as and for working capital. Such sum shall not be refundable to such Owner but shall be placed in a segregated account for use by the Board to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Furthermore, payment of such sum shall not relieve an Owner from making the regular payment of assessments as the same become due. During the Period of Declarant Control, the Declarant may not use any of the working capital

funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

3.10 Subordination of the Lien. The Assessment lien provided for in this Declaration shall be subordinate to (i) the lien of real estate taxes and special governmental assessments, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, (iii) liens for all sums unpaid for a First Mortgage of record, recorded before the assessment to be enforced became delinquent, except that the Association claims the priority for the six (6) month assessment lien as granted in CCIOA. The Assessment lien shall be superior to and prior to any homestead exemption provided now or in the future by applicable law. Transfer of a Unit shall not affect the Association's lien except that transfer of a Unit pursuant to foreclosure of any First Mortgage, shall only extinguish the Association's liens as provide in the Act. The Executive Board may reallocate and assess the extinguished amount. No transfer shall relieve the grantee of a Unit from liability for, or the Unit from, any Assessment lien made after the transfer.

3.11 Notice to Mortgagee and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under this Declaration and/or the Bylaws of the Association, which is not cured within sixty (60) days after the Board has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall make available to Owners and Mortgagees current copies of the Declaration, Bylaws, other rules concerning the Project, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. The Association shall provide an annual financial statement to any First Mortgagee making a written request for it and without expense to such First Mortgagee; said financial statement shall be furnished within a reasonable

time following such request. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. The Association shall keep financial records sufficiently detailed to enable the Association to provide the certificates of assessments described in this Declaration.

3.12 Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien. The Association's lien for assessments under this Declaration is superior to all other liens and encumbrances, including without limitation, statutory liens for mechanics or materialmen or income taxes and other taxes to the extent permitted by law and/or statute, but excluding the lien for First Mortgages.

ARTICLE IV MAINTENANCE

4.1 Owner Maintenance. Owner shall be responsible for all other maintenance, repairs, replacements, and Improvements on that Owner's Lot, including without limitation maintenance of his, her or its Lot and Improvements, and any exterior fixtures, furnishings, furniture, personal property, equipment and appliances located thereon. An Owner shall do no act nor any work that will impair any casement or utility service, nor do any act nor allow any condition to exist which will adversely affect the use, enjoyment and marketability of the other Lots or the provision of utility services to such Lots. No Owner shall, in whole or in part, change the landscaping adjacent to or upon his Lot by the addition or removal of any items thereon, including fences, without the prior written approval of the Board. If Owner fails to fulfill his responsibilities under this Section, the Board, at its option, may take

such action as it deems appropriate, including without limitation performing the Owner's obligations, after ten (10) days' notice to such Owner, except in emergencies, and any costs resulting therefrom shall be an assessment against such Owner and his Lot and shall be due and payable by the Owner thereof.

4.2 Management Agreements and Other Contracts. The Association may enter into agreements for professional management of the Association's business. Each Owner shall be bound by the terms and conditions of any management agreement entered into by the Association. Subject to the provisions of CCIOA, any agreement for professional management of the Association's business shall provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days' prior written notice, and shall have a maximum term of one (1) year. Further, each and every management contract made between the Association and a manager or managing agent during the period when the Declarant or other developer controls the Association shall terminate absolutely, in any event, not later than thirty (30) days after termination of the Period of Declarant Control. Furthermore, any contracts and leases during the Period of Declarant Control shall be subject to C.R.S. § 38-33.3-305. If professional management has been previously in effect after being required by any holder, insurer or guarantor of a First Mortgage at that time or later, any decision to terminate professional management and to establish self-management by the Association shall require the prior consent of sixty-seven percent (67%) of the First Mortgagees (based upon one [1] vote for each First Mortgage held) and vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose.

ARTICLE V ARCHITECTURAL CONTROL

5.1 Composition. The Architectural Control Representative shall consist of one (1) natural person appointed by the Declarant and after the period of Declarant

Control by the Association. It shall be the duty of the Architectural Control Representative, and it shall have the power, by the exercise of its best judgment, to determine that all structures, improvements, construction, decoration and landscaping on the Property conform to and harmonize with the Minturn North Design Guidelines. For convenience, the Architectural Control Representative shall hereinafter sometimes be referred to in this Article as the "Architect."

5.2 Review by Architect. No substantial Improvement shall be constructed or maintained upon the Property and no landscaping performed unless the following, if applicable, shall have been submitted to and approved by the Architectural Control Representation: design review application, the current application fee, complete plans, specifications, and lot plans therefor, showing the exterior design, height, lot coverage, square footage, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways and parking, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan and a copy of such plans and specifications as finally approved shall be deposited with the Architectural Control Representation. The application fee may be adjusted annually and will be reflected on the design review application provided to the applicant.

5.3 Procedures. The Architectural Control Representation shall approve or disapprove all plans and requests (except Declarant's plans) within thirty (30) days after requests have been submitted. In the event the Architectural Control Representation fails to take action within thirty (30) days after plans have been received by the Architect, the plans shall be deemed rejected, and this Article will not be deemed to have been fully complied with. The Architectural Control Representation shall maintain written records of all applications submitted to it and of all action taken. In approving or disapproving the plans submitted to it, the Architectural Control Representation shall take into consideration the design, style and construction of the proposed Improvements, its location upon the Property, the

harmony of its design, architecture and location with the terrain and surrounding neighborhood, and shall determine whether such proposed Improvement is consistent with the Minturn North Design Guidelines subject to this Declaration and whether or not the construction of said building will adversely affect or decrease the value of other Lots and/or dwellings because of its design, location, height or type of material used in construction. The Architectural Control Representation may make reasonable requirements of the Owner, including the submission of additional plans, to ensure conformance of such building or alteration when erected with these restrictions and covenants and with the plans submitted and approved. All construction or alterations performed on any Lot will conform to the approved plans and specifications. The Architect may require such changes as may be necessary to conform to the general purposes as herein expressed. The Architectural Control Representation shall be responsible for enforcing compliance of the approved plans with these covenants and restrictions.

Whenever the Architectural Control Representation disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be met by alterations acceptable to the Architectural Control Representation.

All plans submitted to the Architect shall be left on file with the Architectural Control Representation.

Any decision by the Architectural Control Representation may be appealed to the Board within thirty (30) days of such decision; any decision which is not appealed within that time or any decision by the Board shall be final and conclusive.

The Board shall resolve all questions of interpretation under this Declaration, which shall be interpreted in accordance with their general purpose and intent as herein expressed. Decisions by the Board shall be conclusive and binding upon the Owners and all persons.

Applicants shall submit a compliance deposit in the amount determined periodically by the Board prior to issuance of building permit. Compliance deposit will be returned when Architectural Representative inspects improvements after certificate of occupancy has been issued. Landscaping shall be included in compliance and must be complete within nine (9) months of final occupancy. Owners are advised that the Town of Minturn has its own design review process and that the Town does not require Association approval.

ARTICLE VI RESTRICTIONS

6.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for future improvement, development, use and occupancy of the Property, all thereof in order to enhance the value, desirability, and attractiveness of the Property and serve and promote the sale thereof.

6.2 Structures. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property, and no subsequent buildings or structures other than duplex or multi-family buildings joined together by a common exterior, roof and foundation, shall be constructed. No temporary house, trailer, or tent, shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any residence when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions herein set forth; provided, however, that the foregoing shall not apply to the Declarant. The work of constructing any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof

6.3 Miscellaneous Structures. All types of refrigerating, cooling or heating apparatus shall be concealed and screened.

6.4 Lots to be Maintained. Owner shall maintain that Owner's Lot to meet the standards imposed by this Declaration and the Rules. Each Lot at all times shall be

kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that same are visible from any neighboring Lot or street, except as necessary during the period of construction by Declarant. Owners may irrigate up to 2,000sf of their property. Reference Design Guidelines for additional requirements on allowed materials in non-irrigated pervious surfaces.

6.5 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others. No growing of marijuana or any controlled substance shall be allowed on the Property, including medical marijuana. No electronic or radio transmitter of any kind shall be operated upon the Property. No aerials or antennae shall be installed upon the exterior of any Lot or for the transmission of electronic signals, except for garage door openers and except for devices specifically authorized by federal statute or regulation but subject to such review and prior approval by the Architect as permitted by law.

6.6 No Hazardous Activities. No activities shall be conducted on the Property and on improvements constructed on the Property which are or might be unsafe or hazardous to any person or property or might cause the cancellation or diminution of insurance or an increase in insurance premiums. Without limiting the generality of the foregoing, no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfire or picnic fires in an area designated for such by the Association.

6.7 No Nuisance Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on

any Lot which is noxious or offensive to others. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of the neighboring Lots. Ornamental post lights must be approved by the Architectural Control Committee. Temporary holiday lighting and displays may be installed on private property for a period not exceeding forty-five (45) days before, during and after nationally recognized holidays and Halloween.

6.8 Restrictions on Parking and Storage.

(a) No abandoned vehicles shall be stored or parked upon any part of the Property or any street adjoining the Property, but excluding any area designated for such purpose by the Board. In the event that the Board shall determine in its sole discretion that a vehicle is an abandoned vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the unused vehicle (if the owner thereof cannot be reasonably ascertained), and if the unused vehicle is not removed within seventy-two (72) hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, house trailer or other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of fourteen (14) days or longer.

(b) The garages shall be used for vehicular parking which shall not be prevented by storage of items in the garage. Garage doors should generally be kept closed at all times except when open for immediate ingress and egress.

6.9 Clotheslines and Storage. Outside clotheslines or basketball hoops and backboards, whether on buildings or free-standing, carports, patio covers or similar structures, and wood piles and storage areas shall be allowed if approved by the Architectural Control Representative. Service or storage areas shall be so located as not to be visible from a street or road.

6.10 Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, or on any Lots unless placed in an appropriate, clean container suitably located, solely for the purpose of composting and garbage pickup. All trash and refuse containers, except when placed as noted above the sole purpose of garbage pickup, will be kept inside the improvements or within an approved screened area. All trash containers must be bear-proof. Appropriate composting containers must be located in the backyard and may not contain any trace proteins that will attract vermin or other animals. The burning of trash in outside incinerators, barbecue pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Property.

6.11 Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers, boats, or vans may be performed on any Lot unless it is done within completely enclosed structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motor-driven cycle together with those activities normally incident and necessary to such washing and polishing.

6.12 Tanks. No tanks of any kind, either elevated, or buried, shall be erected, placed or permitted upon any Lot, except for customary barbecue grill tanks.

6.13 Underground Electric Lines. All electric, television, radio and telephone line installations and connections shall be placed underground, except for power substations and switching stations which shall be adequately screened from view and except for customary surface devices for access or control and except that during the construction of a residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction and which shall be subject to Declarant's prior written approval.

6.14 Use of the Property.

6.14.1 No use shall be made of the Property which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Property.

6.14.2 The use of the Property shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

6.15 Sales and Construction Facilities and Activities of Declarant. Notwithstanding any provision to the contrary contained herein, Declarant, its agents, employees and contractor shall have all rights set forth in C.R.S. § 38-33.3-215 and shall be permitted to maintain during the period of any construction on and sale of the Lots, upon such portion of the Property as Declarant may choose, such uses and facilities as may be reasonably required, convenient or incidental to the construction, sale of Lots, to the construction and assignment of sidewalks, driveways, fences, decks, patios and related improvements, and to the development of the Project, including without limitation, storage of equipment and vehicles, a business office, use of a Lot, for a sales office, storage area, construction yards, signs of any size and type, model homes, sales offices, construction office, parking areas and lighting and temporary parking facilities for all prospective tenants or purchasers of Lots; the Declarant may promptly remove any of the above items if Declarant ceases to be an Owner. The Declarant and its contractors may maintain such management offices, signs, model units, construction offices, trailers and sales offices in such numbers, size, and locations, as they may determine in their reasonable discretion from time to time. In addition, Declarant, its agents, employees, financiers, and any contractor involved in the construction or sale of said improvements and Lots, or in the development of the Property, shall have all rights set forth in C.R.S. § 38-33.3-216, and shall have the right to ingress and egress over the Project as in Declarant's discretion may be necessary to complete the Project. Notwithstanding any provision of this Section, no right under this Section shall be exercised by Declarant in such a manner as to

unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot, his parking area, any public street, or any recreational facility. The Declarant shall have the right to execute or record or both any writing or document necessary or advisable to confirm, implement or transfer the rights reserved in this Declaration or granted by law or statute; the rights set forth in this Section shall terminate upon the earlier of seven (7) years from the date of the recording of this Declaration or as otherwise provided herein.

6.16 Releases, disclaimers and indemnities.

(a) The provisions of this section shall apply to any "protected party" which is defined as any person or party, including without limitation, the Declarant, its agents, employees, shareholders, contractors, brokers, successors, assigns or any person or party related to them or any prior owner of the property, against whom is asserted any claim, demand, liability, obligation or matter whatsoever regarding the construction, physical condition, value, assessments, reserves, association, and any other matters related thereto in connection with the project.

(b) Owners acknowledge and understand that certain physical and/or environmental conditions, including but not limited to, mold, lead, asbestos, radon gas, or any other hazardous or toxic substances, may affect this project and that any protected party does not warrant and disclaims any liability for any existing or future soil, ecological or environmental conditions affecting the project. Owners acknowledge that no environmental reports were given to them but that they had been advised and given a full opportunity to inspect the project and obtain any professional inspection if they so desired. By acceptance of a deed to a lot, each owner accepts the physical and/or environmental condition of the project and acknowledges a full, adequate opportunity to conduct any inspections thereof. In addition, owners understand that the soil in the Colorado area contains clay and other substances which may cause it to swell when wet and so can cause earth movement

around a building's foundation.

(c) The Owners shall maintain the landscaping, drainage, and sprinkler systems upon their property in such a fashion that the soil surrounding the foundations of the buildings and other improvements shall not become so impregnated with water that they cause expansion of or shifting of the soils supporting the improvements or other damage to the improvements and do not impede the proper functioning of the drainage, landscaping, or sprinkler systems as originally installed. Such maintenance shall include, where necessary the removal or replacement of improperly functioning landscaping, drainage, or sprinkler system elements and shall also include regrading and resurfacing where necessary to provide for adequate drainage and to prevent any ponding; no changes in landscaping shall be made in such a way as to endanger the structural integrity or the stability of any of the landscaping, drainage or sprinkler systems, or the other improvements upon the property and adjacent properties. The association shall indemnify any protected party from any liability, claims and expenses, including without limitation, reasonable attorney's fees, resulting from any breach of this section.

(d) The U.S. environmental protection agency ("EPA") states that exposure to elevated levels of radon gas can be injurious. Any test to measure the level of radon gas can only show the level at a particular time under the circumstances occurring at the time of testing. No protected party is qualified to measure radon gas or to evaluate all aspects of this complex area of concern. Prior or subsequent to closing of the owner's purchase of the lot, the owner may wish to test for the presence of radon gas and to purchase or install devices that may be recommended by qualified inspector.

(e) Each Owner further covenants and agrees that no representation, promise or warranty, has been made by any of the protected parties regarding the development of adjacent properties, the investment potential of the Lot, any economic benefits to the owners, their heirs, successors and assigns, to be derived from the managerial or other efforts of the released parties, or any other third party designated or arranged by any protected party, related to the ownership of the lot, or

regarding the continued existence of any view from the Lot. The Owners, their heirs, successors and assigns, understand that the protected parties are under no obligation with respect to future plans, zoning or development of additional property in the area. The Owners, their heirs, successors and assigns, understand that the square footages, sizes and type of Lots have been set forth at the sole discretion of the declarant, and that the sales prices may decrease or increase at the sole discretion of the declarant.

(f) The Owners, their heirs, successors and assigns covenant and agree that the protected parties make no representations or warranties, express or implied, of any nature regarding the project (all of which are hereby disclaimed by the protected parties), including without limitation any as to the fitness, workmanlike construction safety, merchantability, design, condition, quality, or habitability of any lot, the project, or the common area or improvements related thereto or any electrical, plumbing, gas, water, sewer, structural components, or other mechanical or utility systems or components related thereto.

(g) Any action, dispute, claim or controversy between any person or entity, including without limitation, any owner and/or the association, and any protected party, whether sounding in contract, tort or otherwise and whether or not concerning an individual lot shall be submitted by any protected party, at its option, to be resolved by binding arbitration as set forth in this section and shall include all disputes arising out of or in connection with any condition of a lot or improvements, this Declaration, and any related agreements or instruments and any transaction contemplated hereby. If so submitted, such disputes shall be resolved by binding arbitration before a single arbitrator in accordance with title 9 of the U.S. code, Colorado Uniform Arbitration Act, C.R.S. § 13-22-201, *et. seq.*, and the commercial arbitration rules of the American Arbitration Association ("AAA"), or the Judicial Arbitrator Group in Denver, Colorado. In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules. All statutes of limitations that would otherwise be applicable shall apply to any arbitration

proceeding under this section. The parties shall be entitled to conduct discovery as if the dispute were pending in a court of law in the state of Colorado. In any arbitration proceeding subject to these provisions, the arbitrator is empowered to decide pre-hearing motions that are substantially similar to pre-hearing motions to dismiss and motions for summary adjudication. Judgment upon the award rendered may be entered in any court having jurisdiction. Except as otherwise provided, the arbitrator selected under this section shall be knowledgeable in the subject matter of the dispute. The arbitrator shall be selected through panels of qualified persons maintained by the Denver, Colorado office of the AAA or any comparable arbitration body or service. All such arbitration shall be held in Eagle, Colorado, and venue shall be proper in the district court for Eagle County, Colorado.

ARTICLE VII - INSURANCE

7.1 Common Insurance. Commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, the Association shall obtain and maintain at all times, to the extent reasonably obtainable, Insurance policies covering the following risks:

(a) Property. Property insurance on any Common Elements for broad form covered causes of loss, except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. Such insurance must include all personal property owned by the Association and any improvements and fixtures located upon any Common Elements. Such insurance shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a one hundred percent (100%) of current replacement cost basis without deduction for depreciation or coinsurance, and including, to the extent available and applicable, an "Agreed Amount" and "Inflation Guard Endorsement", a "Demolition Costs Endorsement," a "Building Ordinance or Law Endorsement",

"Increased Cost of Construction Endorsement" and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:

(i) loss or damage by fire and all other hazards that are covered by the standard extended coverage endorsement, including without limitation endorsements for vandalism and malicious mischief, and

(ii) all other perils customarily covered for similar type of projects, including without limitation those covered by the standard "all risk" endorsement.

(b) Public Liability. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of any Common Area and deemed sufficient in the judgment of the Board but not less than any amount specified herein, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties. Such insurance shall be in such amounts as the Board of Directors of the Association may from time to time determine, but not in an amount less than One Million Dollars (\$1,000,000.00) per occurrence covering claims for personal injury, bodily injury and/or for property damage. To the extent reasonably obtainable, coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether Owned, non-owned or hired) on behalf of the Association, and activities in connection with the ownership, operation, maintenance or other use of the Common Elements and the Lots by the Association; its officers, directors, agents, employees, representatives and the Owners, off-premises employee coverage, water

damage liability, contractual liability, bailee's liability for property of others, and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

(c) Workmen's Compensation. Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance. The Association shall purchase, in an amount equal to the maximum amount of funds in the Association's custody at any one time, but not less than the greater of any sum required under C.R.S. § 38-33.3-306(3) blanket fidelity insurance covering losses resulting from dishonest or fraudulent acts or omissions committed by the Association's directors, managers, including without limitation, any person employed as an independent contractor for the purpose of managing the Association and any employee thereof, trustees, employees, volunteers, or anyone who manages the funds collected and held for the benefit of the Owners, provided however, any managing agent which handles funds for the Association should be covered by its own fidelity insurance policy, which must provide the same coverage required of the Association. Such policy shall also cover destruction or disappearance of money or securities and forgery. Such policy shall cover any person or entity handling funds of the Association, including but not limited to, employees of the professional manager which should also be covered by its own fidelity bond and submit evidence thereof to the Association. Such fidelity coverage or bonds shall name the Association as the named insured and as obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(e) Officers' and Directors' Personal Liability Insurance. To the extent obtainable, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and

directors on behalf of the Association.

(f) Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Project.

(g) Notice of Unavailability. If any insurance described in this Declaration is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and First Mortgagees as provided herein.

7.2 Form of Issuance.

7.2.1 All insurance shall be carried in blanket policy form, shall name the Association as the insured, and shall provide that the proceeds shall be paid to the Association for the benefit of and in trust for the Association, the Owners and their First Mortgagees, as their interests may appear, shall additionally insure and identify the interest of each Owner and the First Mortgagee, and shall provide a standard, non-contributory mortgage clause in favor of each First Mortgagee which has given the Association notice of its lien. Each Owner shall be an insured person under such policy with respect to liability arising out of such Owner's interest in the Common Areas.

7.2.2 To the extent possible, all insurance policies shall:

7.2.2.1 be obtained from responsible companies duly authorized and licensed to do insurance business in the State of Colorado, and having at least a "B" general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide;

7.2.2.2 provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, its Owners and members of their households;

7.2.2.3 provide that the insurance cannot be canceled, invalidated, or

suspended on account of the conduct of the Association, its officers, directors, employees and agents;

7.2.2.4 provide for a waiver of any defense based on co-insurance;

7.2.2.5 provide that the policy of insurance shall not be permitted to lapse, be terminated, canceled or materially or substantially changed or modified without at least thirty (30) days' prior written notice to the Association, the Owners and the First Mortgagees which have given notice of their liens;

7.2.2.6 provide that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

7.2.2.7 provide that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;

7.2.2.8 provide that no assessments therefor may be made against First Mortgagees and any such assessments made against other shall not become a lien on the Property superior to the First Mortgagee.

7.2.3 On written request the Association shall furnish, by certificate or otherwise, a copy of any insurance policy, identifying the interest of the Owner in question, to any Owner or First Mortgagee, together with proofs of payment of premiums. Further, an insurer that has issued an insurance policy for the insurance described in this Declaration shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

7.2.4 Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and as are consistent with

the requirements of First Mortgagees and any secondary lenders purchasing First Mortgages. The deductible for an individual Lot should not exceed One Thousand Dollars (\$1,000.00) unless a greater deductible is allowed by secondary lenders or otherwise determined by the Board. Any loss falling within the deductible portion of the policy should be borne by the Association, except as otherwise provided in this Declaration or otherwise determined by the Board.

7.2.5 The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Lot is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro-rata share of any deductible paid by the Association.

7.3 Owner's Personal Property and Liability Insurance. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Each Owner shall be solely responsible, at his expense, for all insurance covering all loss or damage to any and all fixtures, appliances, furniture, furnishings or other personal property supplied, maintained or installed by the Owner and covering liability for injury, death or damage occurring within his Lot. Such insurance shall contain waivers of subrogation and shall be so written that the insurance obtained by the Association shall not be affected or diminished thereby. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance. If at any time of the any loss under any policy which is in the name of the Association there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such

other insurance.

ARTICLE VIII - DAMAGE, DESTRUCTION, AND CONDEMNATION

8.1 Attorney-in-Fact. All of the Owners and First Mortgagees irrevocably constitute and appoint the Association as insurance trustee under C.R.S. § 38-33.3-313(5) and (9) and under this Declaration and as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Property in the event of destruction, damage, condemnation, or liquidation of all or a part of the Project or from the termination of the Project, including without limitation the repair, replacement and improvement of any buildings, fixtures, improvements and service equipment located on the Property (but excluding any structure, furniture, furnishings or other personal property installed by the Owners). Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted and to represent the Owners in any proceedings, negotiations, settlements or agreements. The proceeds of any insurance collected shall be payable to the Association, for the benefit of the Association, the Owners and their First Mortgagees as their interests appear, for the purpose of repair, restoration, reconstruction or replacement as provided in this Declaration. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact to deal with the Project upon its destruction, damage, or condemnation shall be appointed. Said appointment

must be approved by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes (based upon Allocated Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, and at least sixty-seven percent (67%) of the First Mortgagees. Notwithstanding any contrary provision of this Declaration, the Association's Articles of Incorporation and Bylaws, no Owner or any other party shall have priority over any rights of the First Mortgagee of the Lot pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Project common property.

8.2 Damage or Destruction of Common Area. Any portion of the Project for which insurance is required under this Declaration or C.R.S. § 38-33.3-313 which is damaged or destroyed must be repaired or replaced promptly by the Association pursuant to that statutory section or the Declaration.

8.3 Condemnation. If a Lot, or any part thereof, is acquired by eminent domain, the provisions of C.R.S. § 38-33.3-107 shall apply.

8.4 Repair and Reconstruction. Unless otherwise agreed by sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage held) and by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes (based upon Allocated Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any restoration or repair of any portion of the Project after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and with the original plans and specifications, and shall restore any common element partially condemned or damaged by an insurable hazard to substantially the same condition in which it existed prior to such condemnation or damage.

8.5 Excess Insurance Proceeds. With the prior written approval of sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage

held) and by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any insurance proceeds remaining after any repairs or reconstructions are completed shall be paid to each Owner and his First Mortgagee jointly at the rate of one (1) equal share per Lot. Without such approval, any excess insurance proceeds shall be placed in the Association's reserves.

8.6 Notice of Loss to First Mortgagees. Provided that a First Mortgagee has, in writing, requested the following information with respect to a Lot upon which said First Mortgagee holds the First Mortgage and has furnished the Association with the address to which said First Mortgagee wants the information sent, then in the event that there shall be any damage to or destruction of: (a) any improvement on the Lot on which such First Mortgagee holds the First Mortgage which shall be in excess of Five Thousand Dollars (\$5,000.00) and/or (b) the Common Area which shall be in excess of Five Thousand Dollars (\$5,000.00), or in the event of the condemnation of any part of the Common Area an excess of Five Thousand Dollars (\$5,000.00), then timely written notice of any such damage, destruction or condemnation shall be given by the Association to such First Mortgagee. Notwithstanding any provision to the contrary, no provision of this Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee in the case of a distribution to an Owner of insurance proceeds or condemnation awards for loss to or taking of Lots or Common Area, or both.

ARTICLE IX - ADDITIONAL RESTRICTIONS

9.1 Restrictions Upon Association and Owners. Unless at least sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) and the Owners (other than Declarant) by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Allocated Interests) in the Association are attached, have given their prior written approval,

neither the Association nor the Owners shall be empowered or entitled to do any of the following:

(a) by act or omission, seek to abandon or terminate this Declaration or any scheme or architectural control, or enforcement thereof, as set forth in this Declaration, regarding the architectural design, exterior appearance, or exterior maintenance of the Lots, improvements thereon, or the Common Elements, or the maintenance of the common property, party walls or common fences and roads, or the upkeep of lawns and plantings in the Project; or

(b) by act or omission, seek to abandon, partition, subdivide, mortgage, encumber, sell or transfer any of the Common Elements, except for the granting of utility easements, or

(c) any conveyance or encumbrance of the Common Area shall also comply with voting requirements of C.R.S. § 38-33.3-312; or

(d) fail to maintain full current replacement cost fire and extended insurance coverage on the Lots and Common Area, and such other insurance as is required under this Declaration; or

(e) use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction of such improvements as herein provided; or

(f) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; or

(g) a material change in any of the following provisions of this Declaration: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements, or rights to their use; redefinition of any Lot boundaries; convertibility of Lots into Common Elements or vice versa; expansion or contraction of the Project, or the addition, annexation, or withdrawal of Property to or from the Project; insurance or fidelity bond; leasing of Lots; imposition of any restrictions on an Owner's right to sell or transfer his or

her Lot; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors; or

(h) notwithstanding any provision hereof or otherwise, threaten, file or pursue any lawsuit and/or arbitration against any Protected Party, including without limitation, the Declarant, its agents, employees, shareholders, contractors, brokers, successors, assigns or any person or patty related to them or any prior owner of the Property, for any claim, demand, liability, obligation or matter whatsoever regarding any construction matter and/or defect, any environmental matter, any physical condition, any condition affecting the value or use, and any other matters related to any of the foregoing in connection with the Property, the Lots, the Units and/or the Common Areas.

9.2 Implied Approval by Mortgagee. Any matter requiring Mortgagee approval will be assumed when that Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. Any First Mortgagee shall be given notice of any proposed action requiring its consent, if the First Mortgagor has sent a written request to the Association, stating both its name and address and the Lot number or address of the Lot on which it has (or insures or guarantees) the Mortgage.

ARTICLE X - GENERAL PROVISIONS

10.1 Acceptance of Provisions of All Documents. The conveyance or encumbrance of a Lot or the improvements thereon shall be deemed to include the acceptance of all provisions of this Declaration, the Articles of Incorporation of the Association and

the Association's Bylaws and rules and regulations, all of which shall be binding upon each Owner, his heirs, personal representatives, family, guests, tenants, successors and assigns, and everyone having an interest in the Lot without the necessity of inclusion of an express provision in the instrument of conveyance or encumbrance. The Association and the Owners shall obey and perform any protective or other covenants recorded against the Property prior to the recording of this Declaration.

10.2 Enforcement. The Board, the Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board or by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board may make such rules and regulations to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Elements or Lots, as are, in its sole discretion, consistent with the rights and duties established in this Declaration, and all Owners and other parties subject thereto shall strictly comply therewith. The Board shall have the sole discretion and authority to interpret this Declaration or the Bylaws and to resolve any dispute as to the interpretation thereof; the Board's interpretation shall be final, conclusive and binding on all persons and parties. In addition to all other remedies, the Board of Directors shall have the right, after notice and an opportunity of hearing, to impose upon any Owner reasonable fines for any breach by that Owner of the provisions of this Declaration, the Bylaws and/or the Association's rules and regulations. All rights and remedies provided in this Declaration are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity, and may be exercised concurrently, independently, or successively.

10.3 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other

provision of this Declaration or of any subsequent enforcement of any such provision. The rights and remedies of the Association are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity and may be exercised concurrently, independently, or successively without effect or impairment upon one another.

10.4 Cumulative. Each of these covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

10.5 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

10.6 Conflicts of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of incorporation shall control.

10.7 Duration and Amendment. Each and every provision of this Declaration shall be binding upon each and every Owner, his heirs, successors, assigns and personal representative and shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as is otherwise provided herein, this Declaration shall not be revoked or terminated unless all of the Owners and all of the First Mortgagees agree to such termination or revocation by an instrument duly recorded and such termination and revocation shall comply with C.R.S. § 38-33.3-218. This Declaration may be amended or modified by agreement of Owners of Lots to which at least sixty-seven percent

(67%) of the Allocated Interests in the Association are attached and not less than fifty (50%) of the First Mortgagees or as provided by C.R.S. § 38-33.3-217; provided, however, (a) that the Declarant hereby reserves the right to make such amendments to this Declaration, the Articles of Incorporation, the Bylaws, and/or Rules to the extent permitted by CCIOA, or as may be necessary or desirable to exercise any right of Declarant under this Declaration or as may be necessary to correct typographical errors or to make clarifications or to comply with the requirements, standards or guidelines of recognized secondary mortgage market or as may be approved in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Department of Veterans Affairs so as to induce any of such organizations to make, purchase, sell, insure or guarantee First Mortgages covering any portion of the Property, and each Owner and Mortgagee by accepting a deed, Mortgage or other instrument affecting a Lot appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's and/or Mortgagee's name and recording any such amendments to this Declaration, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments. The consent of any junior Mortgagee shall not be required under the provisions of this Article. In determining whether the appropriate percentage of First Mortgagee approval is obtained, each First Mortgagee shall have one (1) vote for each First Mortgage owned. To be effective, all amendments to this Declaration must be recorded in the office of the Clerk and Recorder of the county in which the Property is located, and an amendment must be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of each person executing the amendment. The amendment shall be prepared, executed, recorded, and

certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of the persons or parties as set forth in C.R.S. § 38-33.3-217(6). The Association shall notify any First Mortgagee who has requested notice in writing of any proposed action under this Declaration which would require the consent of a specified percentage of First Mortgagees.

10.8 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the registered agent of the Association at his address filed with the Secretary of State of the State of Colorado, together with a copy addressed to the President of the Association at his registered address.

10.9 Assignment of Declarant's Rights. The Declarant may assign its rights and authority hereunder, in whole or in part, by express written assignment, duly recorded.

10.10 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

10.11 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of the Declaration or the intent of

any provisions hereof.

10.12 Governing Law. This Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with, the statutes and laws of the State of Colorado.

10.13 Development Rights and Special Declarant Rights. In addition and supplement of all rights reserved by the Declarant under this Declaration, the Declarant reserves the following development rights and other special Declarant rights for twenty (20) years from the date of the recording of this Declaration;

(a) The right to complete or make improvements indicated on the plats or maps, or otherwise necessary or desirable to complete construction of the Project and related Improvements;

(b) The right to maintain sales offices, management offices and models on Lots or on any Common Area;

(c) The right to install, assign and/or maintain signs on the Property and Expansion Property and to advertise the Project;

(d) The right to use and permit others to use easements and rights through the Common Area as may be reasonably necessary for the purpose of making Improvements within the Property or Expansion Property or performing other rights under the Declaration;

(e) The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Project;

(f) The right to enter into, establish, execute, amend, and otherwise deal with contracts, assignments, and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Owners and/or the Association;

(g) The right to appoint or remove any officer of the Association or any director of the Association during the Period of Declarant Control and to appoint or remove any member of the Architectural Control Committee;

(h) The right to amend the Declaration, the Articles of Incorporation, the Bylaws and/or the Rules in connection with the exercise of any development rights or other rights, and to require that any amendments of said documents be approved in writing by Declarant prior to adoption;

(i) The right to amend any plat for the Property in connection with the exercise of any development rights or other rights;

(j) The right to transfer, assign or delegate any right reserved or granted by this Declaration, law or statute to any person or party to the fullest extent permitted under this Declaration, law or statute;

(k) The right to annex additional properties as provided herein;

(l) The right to assign any portion of the Common Areas as a Limited Common Area and to subdivide any portion of the Property into Lots and Common Areas;

(m) Any and all other rights of Declarant as set forth in this Declaration, by law or statute; in the event of any conflict, the broadest right reserved by Declarant shall prevail.

10.14 Board to Resolve Ambiguities. If any doubt or question shall arise (except as to the Declarant's rights and/or duties hereunder) concerning the true intent or meaning of any of this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, the Board of Directors of the Association shall, by resolution, determine the proper construction of the provision in question and such resolution shall fix and establish the meaning, effect and application of the provision. The Board's decision shall be final, conclusive and binding on all parties, except for gross negligence and willful misconduct.

ARTICLE XI - EXPANSION AND WITHDRAWAL

11.1 Reservation of Expansion and Withdrawal Rights. Declarant reserves the right for itself and any Successor Declarant to subject all or part of the Expansion Property

to the provisions of this Declaration and thereby expand the Property to include up to sixty-three (63) additional Lots without consent or approval of the Owners.

11.2 Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder for Eagle County, Colorado, of one or more Supplemental Declarations and, if the real property being subject to this Declaration by such Supplemental Declaration has not been previously platted in a plat recorded in the Office of the Clerk and Recorder for Eagle County, Colorado, of a Supplemental Plat depicting such Expansion Property recorded concurrently with the applicable Supplemental Declaration. The Supplemental Declaration shall set forth the Lots and other real property, if any, to be included in the expansion. Declarant may exercise such rights for expansion on all or any portion of the Expansion Property in whatever order of development Declarant in its sole discretion determines. Declarant shall not be obligated to expand Minturn North beyond the number of Lots initially submitted to this Declaration.

11.3 Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded. For example, "Lot" shall mean the Lots as shown on the Plat, plus any additional Lots added by a Supplemental Declaration or Declarations and, if necessary, Supplemental Plat or Plats, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Lots shall be effective to transfer rights in the Property as expanded.

11.4. Declaration Operative on New Lots.

(a) The new Lots shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Declaration, upon placing the Supplemental Declaration and, if necessary, the Supplemental Plat(s) depicting the Expansion Property of public record in the real estate records of Eagle County, Colorado.

(b) It is contemplated that additional Lots on the Property will be

committed to this Declaration, but Declarant and any Successor Declarant shall have no affirmative obligation to construct any additional Lots. In the event that a portion of the Expansion Property is submitted to the provisions of this Declaration, Declarant shall retain the right to, but shall not be obligated to, submit any additional portion of the Expansion Property to the provisions of this Declaration. The rights of Declarant and any Successor Declarant, as described herein, shall apply to all Lots which are added to this Declaration in accordance with these provisions relating to enlargement thereof.

(c) No rights of any character of any owner of Lots in the Expansion Property shall attach until a Supplemental Declaration and, if necessary, a Supplemental Plat is filed of record annexing the Lots constructed in such area to Minturn North. Upon the recording of such Supplemental Declaration and, if necessary, Supplemental Plat, the Lots constructed in the area shall be deemed to be governed in all respects by the provisions of this Declaration.

11.5 Effect of Expansion.

(a) Upon the inclusion of additional Lots under this Declaration by the filing of a Supplemental Declaration(s) and, if necessary, Supplemental Plat(s) thereof, the Sharing Ratio applicable to a Lot shall automatically be reduced to a fraction, the numerator of which shall be one (1) and the denominator of which shall be equal to the aggregate number of all Lots then subject to this Declaration. Such reduction in the Sharing Ratio appurtenant to a Lot shall be reflected and set forth in the Supplemental Declaration.

(b) Notwithstanding any inclusion of additional Lots under this Declaration, each Owner (regardless of whether such Owner is the owner of a Lot constructed in the Expansion Property) shall remain fully liable with respect to his obligation for the payment of Common Expenses of the Association, including the expenses for such new Common Elements, costs and fees, if any. The recording of a Supplemental Declaration or Supplemental Plat shall not alter the amount of the

Common Expenses assessed to a Lot prior to such recording.

11.6 Termination of Expansion and Development Rights. The rights reserved to the Declarant for itself, its successors and assigns for the expansion and development of the Expansion Property (“Expansion and Development Rights”) shall expire twenty (20) years from the date of recording this Declaration, unless terminated earlier pursuant to the terms and provisions of the Act, or unless the Expansion and Development Rights are (i) extended as allowed by law, or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Expansion and Development Rights by Declarant.

DECLARANT:

**MINTURN CROSSING, LLC.,
A Colorado limited liability company**

By: _____

Its: _____

STATE OF COLORADO }

}ss:

COUNTY OF EAGLE }

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by _____, as _____ of Minturn Crossing, LLC.

[SEAL]

Notary Public

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
MINTURN NORTH**

WHEREAS, the Declarant is the owner of the real property described on “*Exhibit A*” attached hereto (hereinafter called the "Property"), and

WHEREAS, the Declarant desires to submit the Property to the covenants, terms and provisions hereof.

NOW, THEREFORE, the Declarant hereby declares that all of the Property, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Property or any part thereof; their heirs, successors, and assigns. The Declarant further declares that the Project shall be created pursuant to the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101 et seq.) and any amendments, or modifications of that Act (hereinafter called "CCIOA" or the “Act”). The Project (as defined below) is a planned community, the number of Lots (as defined below) to be developed on the Property is fifty-three (53).

ARTICLE I - DEFINITIONS

The terms used herein shall have the meanings stated in the CCIOA, except as otherwise provided herein:

1.1 "Association" shall mean and refer to the Minturn North Association, a Colorado nonprofit corporation, which has been organized under the laws of the State of Colorado prior to the conveyance of the first Lot in the Project, its successors and assigns.

1.2 "Board" means the Board of Directors of the Association and shall also be the "executive board" as defined in the CCIOA. Except as specified herein, or in the Association's Articles of Incorporation or Bylaws or C.R.S. § 38-33.3-303(3) or other provisions of CCIOA, the Board may act on behalf of the Association without any vote or consent of the Members.

1.3 "Owner" means any person, corporation, partnership, association, or other legal entity or any combination thereof, including Declarant, who owns the fee simple interest in one or more Lots. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Lot merely as security for the performance of an obligation unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. This term shall have the same meaning as "unit owner" under the CCIOA.

1.4 "Property" shall mean and refer to that certain real property described on "**Exhibit A**" attached hereto and incorporated herein by this reference, together with all appurtenances thereto and all improvements now or hereafter thereon.

1.5 "Lot" shall mean and refer to any of the lots shown on any recorded Plat of the Property, together with all appurtenances thereto and improvements now or hereafter thereon. This term shall have the same meaning as "unit" under the CCIOA. The boundaries of any Lot may be relocated pursuant to C.R.S. § 38-33.3-212. The boundaries of the Lots shall be shown on any recorded Plat of the Property which shall be incorporated herein by this reference. The number of Lots to be developed on the Property is fifty-three (53). Declarant reserves the right for itself and any Successor Declarant to expand the Property to include up to sixty-three (63) additional Lots.

1.6 "Declaration" means this Declaration as contained herein and as it may be amended or supplemented from time to time as herein provided, which shall be

indexed in the grantee's index in the name of the Project and the Association and in the grantor index in the name of the Declarant executing the Declaration. A copy of the Declaration shall be delivered to the assessor of the county in which the Property is located, after recording.

1.7 "Declarant" shall mean and refer to Minturn Crossing, LLC, a Colorado Limited Liability Company, its agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of its rights as Declarant hereunder, in compliance with C.R.S. § 38-33.3-304. The Declarant hereby reserves any and all "special declarant rights" and "development rights" as created or set forth in CCIOA and any other rights as set forth herein. Any such rights shall apply to the Property and Expansion Property (as defined below) and shall terminate upon the earlier of seven (7) years from the date of recording hereof or as otherwise provided herein. The "Period of Declarant Control" means that period during which the Declarant, or persons designated by Declarant, may appoint and remove the officers and members of the Board as set forth in Article III hereof.

1.8 "Member" shall mean and refer to every person or entity who holds membership in the Association or, following termination of the Project, of all former unit owners entitled to distributions of proceeds under C.R.S. § 38-33.3-218, or their heirs, personal representatives, successors or assigns.

1.9 "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the real property records of the office of the Clerk and Recorder of the county in which the Property is located, and by which a Lot or any part thereof is encumbered. The term shall include a "security interest" as defined by CCIOA.

1.10 "First Mortgage" shall mean a Mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First

Mortgage.

1.11 "Mortgagee" means any person or entity, or any successor or assign thereof, which holds or owns a Mortgage.

1.12 "Project" means all of the Property, together with rights and easements related thereto, and improvements located on the Property and all rights, easements and appurtenances belonging thereto, and shall include any real property subsequently annexed or added. The Project is described on the plat recorded in the real property records of Eagle County, Colorado on _____, 2021, at Reception No: _____, and all supplements and amendments thereto. The plat shall comply with C.R.S. § 38-33.3- 209.

1.13 "Architectural Control Representative" shall mean the designee appointed by the Declarant or Association to review and approve the plans for all improvements constructed on any Lot.

1.14 "Improvements" shall mean and refer to all structures and any appurtenances thereto or components thereof of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, garages, carports, driveways, parking areas, concrete, paving, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, solar equipment, satellite dishes, and exterior air conditioning and water softener fixtures. "Improvements" shall also mean an excavation or fill, the volume of which exceeds two cubic yards, and any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.

1.15 "Expansion Property" means the real property located in Eagle County, Colorado, more particularly described on the attached "*Exhibit B*" which

Declarant may subject to this Declaration by one or more duly recorded supplemental declarations and, if necessary, supplemental plats, and convert into additional Lots.

1.16 “Allocated Interest” means the allocation of assessments to which an owner’s lot is subject as set forth in “*Exhibit C*” attached hereto and made a part hereof. The formula for Allocated Interest is an equal allocation among each Lot.

1.17 “Supplemental Declaration” means an instrument which subjects any part of the Expansion Property to this Declaration, as set forth below.

1.18 “Supplemental Plat” means a supplemental plat of Minturn North which may depict a part of the Expansion Property becoming subject to this Declaration through a Supplemental Declaration as more fully described below.

1.19 “Successor Declarant” means any party or entity to whom Declarant assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded in the office of the Clerk and Recorder of Eagle County, Colorado, designating such party as Successor Declarant. Upon such recording, Declarant’s rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

1.20 “Estate Lots” are any lots denominated as such on any plat or amended plat which, because of their location, may be subject to an additional assessment, not shared by other non-estate lots, for the purpose of paying the costs and expense of any rock-fall mitigation and maintenance or repair of any bridge or culvert providing access to such Estate Lots. Any such assessment shall be determined by the Association, acting through the Board, and shall be denominated an Estate Lot Assessment.

1.21 “Common Elements” means all the Property as labeled on the Plat, except the Lots, and the Expansion Property, which the Association owns for the

Deleted: Units

common use and enjoyment of the Owners on a non-exclusive basis as provided below. The Common Elements include any unimproved land surrounding the Lots, the easements benefiting the Project as granted in this Declaration or the Plat, the water, sewer and other utility or communication lines and facilities serving the Project which are not owned by or dedicated to any public entity, and any portion of the Property not dedicated to the public and the private access roads. The term Common Elements shall also include any Limited Common Elements, which are exclusively reserved for use by fewer than all Owners, or as otherwise provided in this Declaration. The Common Elements shall not include any portion of the Property dedicated to the public pursuant to this Declaration or the Plat including, without limitation, roads, recreation areas, parking areas, trails and trail access areas.

1.22 “Common Expense” means any and all of the Association’s costs, expenses and liabilities including, without limitation, costs, expenses and liabilities incurred for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Elements; (B) providing facilities, services and other benefits to Owners and their Guests; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created in the Association Documents; (D) levying, collecting and enforcing the Assessments; (E) regulating and managing the Project; (F) operating the Association; and (G) utilities not separately metered and billed directly to Unit Owners; other expenses declared to be Common Expenses pursuant to the Association Documents or the Act, and expenses agreed upon as Common Expenses by the Association; and reserves for any such costs, expenses and liability.

ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

2.1 Membership. The following shall be Members of the Association: the Declarant (so long as the Declarant owns a Lot) and every Owner of a Lot which is subject to

assessment hereunder. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. Except as provided herein, each Lot shall have voting rights based upon that Owner's Allocated Interest. Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint a Board of Directors and to operate the Association until the Period of Declarant Control is terminated, and the Association shall not begin to function through its other Members until such time, unless the Declarant otherwise consents in writing.

Title to a Lot may be held individually or in any form of concurrent ownership recognized in Colorado. In case of any such concurrent ownership, each co-owner shall be jointly and severally liable for performance and observance of all the duties and responsibilities of an Owner with respect to the Lot in which he owns an interest. For all purposes herein, there shall be deemed to be only one Owner for each Lot. The parties, if more than one, having the ownership of a Lot shall agree between themselves how to share the rights and obligations of such ownership, but all such parties shall be jointly and severally liable for performance and observance of all the duties and obligations of an Owner hereunder with respect to the Lot in which they own an interest.

Any contract of sale, deed, lease, mortgage, will or other instrument affecting a Lot may describe it as Lot _____, Minturn North, Filing No._____, County of Eagle, State of Colorado, according to the Plat thereof recorded _____, 2021 in Book _____ at Page _____, and the Declaration of Covenants, Conditions, Restrictions and Easements for Minturn North recorded _____, 2021 at Reception No._____, as supplemented, in the records of the Clerk and Recorder of Eagle County, Colorado (with the appropriate information inserted in place of the blanks set forth above).

Each Lot shall be considered a separate parcel of real property and shall be separately assessed and taxed.

No Owner of a Lot shall be entitled to bring any action for partition or division of the Common Elements.

2.2 Declarant Control. The Association shall have one class of voting membership who shall be the Owners. The Owners shall elect all the members of the Board, following the termination of the Period of Declarant Control, as set forth as follows:

(a) Notwithstanding anything herein to the contrary, the Declarant shall have the right to appoint the Board of Directors and to control the Association as follows: During the Period of Declarant Control, the Declarant, or persons designated by him, her or it, subject to certain limitations, may appoint and remove the officers and members of the Board. The Period of Declarant Control shall terminate no later than the earlier of: (1) Sixty (60) days after conveyance of seventy- five percent (75%) of the Lots that may be created to Owners other than a Declarant; or (2) Two years after Declarant has last conveyed a Lot in the ordinary course of business or (3) Two (2) years after any right to add new units was last exercised. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE III COVENANT FOR ASSESSMENTS

3.1 Creation of the Obligation for Assessments. Subject to the provisions of this Declaration, each Owner, for each Lot owned within the Property, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner, amounts and times prescribed herein, all assessments, charges, fees, fines and other sums which are described in this Declaration and which shall be both a personal obligation of the Owner and a lien against his, hers or its Lot as provided herein. Each Owner shall be jointly and severally liable to the

Association for the payment of all assessments, charges, fees and other sums attributable to them and/or their Lot. The personal obligation for delinquent assessments and sums shall not pass to an Owner's successors in title or interest unless expressly assumed by them. No Owner may waive or otherwise escape personal liability for the payment of the assessments, charges, fees and other sums provided for herein by abandonment or leasing of his Lot, or by asserting any claims, defenses or other matters against the Association, the Declarant or any other person or entity. In addition to the foregoing assessments, charges, fees and other sums, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against the Lot, as well as all charges for separately metered utilities servicing the Lot. The charges for any utilities which are master metered, if any, shall be included in the common expense assessments levied by the Association.

3.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to pay the Common Expenses and to promote the health, safety and welfare of the Owners and to fulfill the purpose and duties of the Association, including without limitation, the improvement and maintenance of the Lots.

3.2.1 Annual Assessments. The annual assessment shall specifically include, but shall not be limited to, all Common Expenses as defined by CCIOA, and as set forth above.

To the extent that Estate Lots exist or are ever created and are subject to the Declaration, the Association shall have the right to assess such Lots, Estate Lots Assessments, which are in addition to any regular assessment, and shall be to pay for the cost of rock-fall mitigation and bridge culvert repair and maintenance.

3.3 Limit on Annual Assessments.

3.3.1 The annual assessments shall be based upon an annual budget adopted, subject to C.R.S. § 38-33.3-303, as follows: Within ninety (90) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class

mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by Owners of two-thirds (2/3's) of the Lots, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. The budget should include the expenses set forth in Section 4.3 hereof. Unless included in the current or past approved budgets, the Association shall have no obligation for any expense, including without limitation, any maintenance, repair, replacement or restoration of any item or the provision of any service.

3.3.2 Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determined appropriate, which is not required to credit or pay it to the Owners.

3.4 Limit on Annual Assessments.

3.4.1 The annual assessments shall be based upon an annual budget adopted, subject to C.R.S. § 38-33.3-303, as follows: Within ninety (90) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the

absence of a veto at the noticed meeting by Owners of two-thirds (2/3's) of the Lots, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. The budget should include the expenses set forth in Section 4.3 hereof. Unless included in the current or past approved budgets, the Association shall have no obligation for any expense, including without limitation, any maintenance, repair, replacement or restoration of any item or the provision of any service.

3.4.2 Any surplus funds of the Association remaining after the payment of or provision for Common Expenses and any prepayment of or provision of reserves shall be applied as the Board in its sole discretion determined appropriate, which is not required to credit or pay it to the Owners.

3.5 Rate of Assessment. Except as provided herein, annual assessments shall be set at the Owner's Allocated Interests as shown on "*Exhibit C*" attached, sufficient to meet the expected needs of the Association. If an Owner's Allocated Interest is reallocated due to expansion of the Project pursuant to Article X hereof or to other provisions of this Declaration, assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Owner's Allocated Interest, which shall be divided equally among all Lots. Assessments shall be applicable to all Lots following their annexation to the Project, including those owned by the Declarant.

3.6 Assessment Procedure.

3.6.1 Annual Assessments. No later than thirty (30) days before the beginning of each annual assessment period, the Board of Directors of the Association shall set the total annual assessment based upon advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during the following assessment year. That annual assessment shall be payable in monthly installments on the first day of each successive month unless the Board otherwise

directs. The Association shall cause to be prepared, delivered or mailed to each Owner, at least thirty (30) days in advance of each annual assessment period, a payment statement setting forth the annual assessment. The first annual assessment upon the Lots hereunder shall commence upon the first day of the first month following conveyance of first Lot to an Owner, it shall be adjusted according to the number of months remaining in the calendar year; provided however, notwithstanding any contrary provision of this Declaration, the Articles of Incorporation or the Bylaws, the annual and special assessments hereunder shall immediately commence upon any Lot.

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3.6.2 Special Assessments and Other Sums. Special assessments and other sums imposed hereunder shall be due and payable on the date specified by the Board in written notice to each Owner, but such date shall not be less than ten (10) days after such notice is sent. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's rules and regulations, or other sum imposed by the Board, and the same is not paid for by insurance, the cost thereof shall be deemed to be an additional assessment against such Owner and his Lot and shall be enforceable as provided herein; any such assessment shall not require any vote of the Members. Additionally, the Board may impose assessments against particular Owners and Lots pursuant to C.R.S. § 38-33.3-315(3)(a) and (b).

3.6.3 Procedure. Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the Owner or his Lot for such assessment, but if notice is not given, the date when payments shall be due shall be deferred to a date after such notice is given. The Association's acceptance of any partial payment shall not waive, affect or impair its right to full payment of any assessment or sum. The Board may apply any payment to such assessments, charges, interest or fees as are the oldest or most appropriate as determined by the Board in its

sole discretion.

3.7 Certificate of Payment. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. Upon payment of such fees as requested by the Association's rules, the statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

3.8 Effect of Nonpayment of Assessments-Remedies of the Association.

3.8.1 General. Any assessments which are not paid when due shall be delinquent. If any assessment is not paid when due, the Association may impose a late charge/administrative fee not to exceed the amount set forth in the Association's rules and regulations. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot, and/or may suspend the delinquent Owner's right to vote for any period during which any assessment against the Lot remains unpaid. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the court, together with the expenses, late charges, and costs of the action.

3.8.2 Lien. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Lot, including without limitation, with interest thereon at the

rate of eighteen percent (18%) per annum, an administrative charge of not to exceed the amount set forth in the Association's rules and regulations, court costs and all other collection costs, and reasonable attorney's fees, shall be a charge on the land and shall be a perpetual continuing lien, from and after the levy or assessment thereof, in favor of the Association, upon the Lot against which each such assessment, charge, fee or other sum is made, and such lien and assessment shall constitute an independent, affirmative covenant, payable without set-off or deduction. The Association's acceptance of any partial payment shall not waive, affect or impair its right to full payment of any assessment or sum. The Board may, in its discretion, apply any payment first to interest, the late charge, any costs or fees, and then to the assessment payment first due. The Board may enforce such lien by filing with the Clerk and Recorder of the county in which the Property is located a statement of lien with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of delinquent assessments then owing. The lien statement may be duly signed and acknowledged by an officer or authorized agent of the Association, and notice thereof may be mailed to the Owner of the Lot, at the address of the Lot or at such other address as the Association may then have in its records for the Owner of the Lot. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorney's fees, administrative charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, and compliance with all applicable provisions of CCIOA, the Board may proceed to the foreclosure but only after complying with all provisions of CCIOA. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from suing the Owner personally liable therefor or from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments, charges, fees or other sums which are not fully paid when due. Any recorded lien

may be released by recording a Release of Lien executed by an officer or authorized agent of the Association. In addition, the Association shall have the right to a statutory lien under C.R.S. § 38-33.3-316. Pursuant to C.R.S. § 38- 33.3-316(4), recording of this Declaration constitutes recorded notice and perfection of the Association's lien for assessments, and notwithstanding any other provision of this Declaration, no further recordation of any claim of lien for assessments is required.

3.8.3 Authority. Each such Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, if acquired by the Association at the foreclosure sale or by deed in lieu of foreclosure.

3.9 Working Capital. The Association shall require an Owner who purchases a Lot from Declarant to pay to the Association an amount equal to two times the amount of the estimated monthly assessment which sum shall be held by the Association as and for working capital. Such sum shall not be refundable to such Owner but shall be placed in a segregated account for use by the Board to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Furthermore, payment of such sum shall not relieve an Owner from making the regular payment of assessments as the same become due. During the Period of Declarant Control, the Declarant may not use any of the working capital

funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

3.10 Subordination of the Lien. The Assessment lien provided for in this Declaration shall be subordinate to (i) the lien of real estate taxes and special governmental assessments, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, (iii) liens for all sums unpaid for a First Mortgage of record, recorded before the assessment to be enforced became delinquent, except that the Association claims the priority for the six (6) month assessment lien as granted in CCIOA. The Assessment lien shall be superior to and prior to any homestead exemption provided now or in the future by applicable law. Transfer of a Unit shall not affect the Association's lien except that transfer of a Unit pursuant to foreclosure of any First Mortgage, shall only extinguish the Association's liens as provide in the Act. The Executive Board may reallocate and assess the extinguished amount. No transfer shall relieve the grantee of a Unit from liability for, or the Unit from, any Assessment lien made after the transfer.

3.11 Notice to Mortgagee and Inspection of Books. Upon written request, a First Mortgagee shall be entitled to written notification from the Association of any default in the performance by the Owner of any obligation under this Declaration and/or the Bylaws of the Association, which is not cured within sixty (60) days after the Board has actual knowledge thereof, and the First Mortgagee may, at its option but without any obligation, cure such default. The Association shall make available to Owners and Mortgagees current copies of the Declaration, Bylaws, other rules concerning the Project, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. The Association shall provide an annual financial statement to any First Mortgagee making a written request for it and without expense to such First Mortgagee; said financial statement shall be furnished within a reasonable

time following such request. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Association common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. The Association shall keep financial records sufficiently detailed to enable the Association to provide the certificates of assessments described in this Declaration.

3.12 Homestead. The lien of the Association assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien. The Association's lien for assessments under this Declaration is superior to all other liens and encumbrances, including without limitation, statutory liens for mechanics or materialmen or income taxes and other taxes to the extent permitted by law and/or statute, but excluding the lien for First Mortgages.

ARTICLE IV MAINTENANCE

4.1 Owner Maintenance. Owner shall be responsible for all other maintenance, repairs, replacements, and Improvements on that Owner's Lot, including without limitation maintenance of his, her or its Lot and Improvements, and any exterior fixtures, furnishings, furniture, personal property, equipment and appliances located thereon. An Owner shall do no act nor any work that will impair any casement or utility service, nor do any act nor allow any condition to exist which will adversely affect the use, enjoyment and marketability of the other Lots or the provision of utility services to such Lots. No Owner shall, in whole or in part, change the landscaping adjacent to or upon his Lot by the addition or removal of any items thereon, including fences, without the prior written approval of the Board. If Owner fails to fulfill his responsibilities under this Section, the Board, at its option, may take

such action as it deems appropriate, including without limitation performing the Owner's obligations, after ten (10) days' notice to such Owner, except in emergencies, and any costs resulting therefrom shall be an assessment against such Owner and his Lot and shall be due and payable by the Owner thereof.

4.2 Management Agreements and Other Contracts. The Association may enter into agreements for professional management of the Association's business. Each Owner shall be bound by the terms and conditions of any management agreement entered into by the Association. Subject to the provisions of CCIOA, any agreement for professional management of the Association's business shall provide for termination by either party with or without cause and without payment of a termination fee upon thirty (30) days' prior written notice, and shall have a maximum term of one (1) year. Further, each and every management contract made between the Association and a manager or managing agent during the period when the Declarant or other developer controls the Association shall terminate absolutely, in any event, not later than thirty (30) days after termination of the Period of Declarant Control. Furthermore, any contracts and leases during the Period of Declarant Control shall be subject to C.R.S. § 38-33.3-305. If professional management has been previously in effect after being required by any holder, insurer or guarantor of a First Mortgage at that time or later, any decision to terminate professional management and to establish self-management by the Association shall require the prior consent of sixty-seven percent (67%) of the First Mortgagees (based upon one [1] vote for each First Mortgage held) and vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose.

ARTICLE V ARCHITECTURAL CONTROL

5.1 Composition. The Architectural Control Representative shall consist of one (1) natural person appointed by the Declarant and after the period of Declarant

Control by the Association. It shall be the duty of the Architectural Control Representative, and it shall have the power, by the exercise of its best judgment, to determine that all structures, improvements, construction, decoration and landscaping on the Property conform to and harmonize with the Minturn North Design Guidelines. For convenience, the Architectural Control Representative shall hereinafter sometimes be referred to in this Article as the "Architect."

5.2 Review by Architect. No substantial Improvement shall be constructed or maintained upon the Property and no landscaping performed unless the following, if applicable, shall have been submitted to and approved by the Architectural Control Representation: design review application, the current application fee, complete plans, specifications, and lot plans therefor, showing the exterior design, height, lot coverage, square footage, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways and parking, the general plan of landscaping, fencing, walls and windbreaks, and the grading plan and a copy of such plans and specifications as finally approved shall be deposited with the Architectural Control Representation. The application fee may be adjusted annually and will be reflected on the design review application provided to the applicant.

5.3 Procedures. The Architectural Control Representation shall approve or disapprove all plans and requests (except Declarant's plans) within thirty (30) days after requests have been submitted. In the event the Architectural Control Representation fails to take action within thirty (30) days after plans have been received by the Architect, the plans shall be deemed rejected, and this Article will not be deemed to have been fully complied with. The Architectural Control Representation shall maintain written records of all applications submitted to it and of all action taken. In approving or disapproving the plans submitted to it, the Architectural Control Representation shall take into consideration the design, style and construction of the proposed Improvements, its location upon the Property, the

harmony of its design, architecture and location with the terrain and surrounding neighborhood, and shall determine whether such proposed Improvement is consistent with the Minturn North Design Guidelines subject to this Declaration and whether or not the construction of said building will adversely affect or decrease the value of other Lots and/or dwellings because of its design, location, height or type of material used in construction. The Architectural Control Representation may make reasonable requirements of the Owner, including the submission of additional plans, to ensure conformance of such building or alteration when erected with these restrictions and covenants and with the plans submitted and approved. All construction or alterations performed on any Lot will conform to the approved plans and specifications. The Architect may require such changes as may be necessary to conform to the general purposes as herein expressed. The Architectural Control Representation shall be responsible for enforcing compliance of the approved plans with these covenants and restrictions.

Whenever the Architectural Control Representation disapproves of any proposed plans or specifications, it shall state in writing its reason for such disapproval in general terms so that the objections can be met by alterations acceptable to the Architectural Control Representation.

All plans submitted to the Architect shall be left on file with the Architectural Control Representation.

Any decision by the Architectural Control Representation may be appealed to the Board within thirty (30) days of such decision; any decision which is not appealed within that time or any decision by the Board shall be final and conclusive.

The Board shall resolve all questions of interpretation under this Declaration, which shall be interpreted in accordance with their general purpose and intent as herein expressed. Decisions by the Board shall be conclusive and binding upon the Owners and all persons.

Applicants shall submit a compliance deposit in the amount determined periodically by the Board prior to issuance of building permit. Compliance deposit will be returned when Architectural Representative inspects improvements after certificate of occupancy has been issued. Landscaping shall be included in compliance and must be complete within nine (9) months of final occupancy. Owners are advised that the Town of Minturn has its own design review process and that the Town does not require Association approval.

ARTICLE VI RESTRICTIONS

6.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for future improvement, development, use and occupancy of the Property, all thereof in order to enhance the value, desirability, and attractiveness of the Property and serve and promote the sale thereof.

6.2 Structures. All buildings or structures erected upon the Property shall be of new construction and no buildings or structures shall be moved from other locations onto the Property, and no subsequent buildings or structures other than duplex or multi-family buildings joined together by a common exterior, roof and foundation, shall be constructed. No temporary house, trailer, or tent, shall be placed or erected upon any Lot, and no residence placed or erected upon any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any residence when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions herein set forth; provided, however, that the foregoing shall not apply to the Declarant. The work of constructing any structure on any part of any Lot shall be prosecuted diligently from the commencement thereof until the completion thereof

6.3 Miscellaneous Structures. All types of refrigerating, cooling or heating apparatus shall be concealed and screened.

6.4 Lots to be Maintained. Owner shall maintain that Owner's Lot to meet the standards imposed by this Declaration and the Rules. Each Lot at all times shall be

kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so that same are visible from any neighboring Lot or street, except as necessary during the period of construction by Declarant. Owners may irrigate up to 2,000sf of their property. Reference Design Guidelines for additional requirements on allowed materials in non-irrigated pervious surfaces.

6.5 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others. No growing of marijuana or any controlled substance shall be allowed on the Property, including medical marijuana. No electronic or radio transmitter of any kind shall be operated upon the Property. No aerials or antennae shall be installed upon the exterior of any Lot or for the transmission of electronic signals, except for garage door openers and except for devices specifically authorized by federal statute or regulation but subject to such review and prior approval by the Architect as permitted by law.

6.6 No Hazardous Activities. No activities shall be conducted on the Property and on improvements constructed on the Property which are or might be unsafe or hazardous to any person or property or might cause the cancellation or diminution of insurance or an increase in insurance premiums. Without limiting the generality of the foregoing, no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfire or picnic fires in an area designated for such by the Association.

6.7 No Nuisance Light, Sounds or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on

any Lot which is noxious or offensive to others. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity so as not to disturb the residents of the neighboring Lots. Ornamental post lights must be approved by the Architectural Control Committee. Temporary holiday lighting and displays may be installed on private property for a period not exceeding forty-five (45) days before, during and after nationally recognized holidays and Halloween.

6.8 Restrictions on Parking and Storage.

(a) No abandoned vehicles shall be stored or parked upon any part of the Property or any street adjoining the Property, but excluding any area designated for such purpose by the Board. In the event that the Board shall determine in its sole discretion that a vehicle is an abandoned vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the unused vehicle (if the owner thereof cannot be reasonably ascertained), and if the unused vehicle is not removed within seventy-two (72) hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, house trailer or other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of fourteen (14) days or longer.

(b) The garages shall be used for vehicular parking which shall not be prevented by storage of items in the garage. Garage doors should generally be kept closed at all times except when open for immediate ingress and egress.

6.9 Clotheslines and Storage. Outside clotheslines or basketball hoops and backboards, whether on buildings or free-standing, carports, patio covers or similar structures, and wood piles and storage areas shall be allowed if approved by the Architectural Control Representative. Service or storage areas shall be so located as not to be visible from a street or road.

6.10 Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, or on any Lots unless placed in an appropriate, clean container suitably located, solely for the purpose of composting and garbage pickup. All trash and refuse containers, except when placed as noted above the sole purpose of garbage pickup, will be kept inside the improvements or within an approved screened area. All trash containers must be bear-proof. Appropriate composting containers must be located in the backyard and may not contain any trace proteins that will attract vermin or other animals. The burning of trash in outside incinerators, barbecue pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Property.

6.11 Repair. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers, boats, or vans may be performed on any Lot unless it is done within completely enclosed structures located on the Lot which screen the sight and sound of the activity from the street and from adjoining property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motor-driven cycle together with those activities normally incident and necessary to such washing and polishing.

6.12 Tanks. No tanks of any kind, either elevated, or buried, shall be erected, placed or permitted upon any Lot, except for customary barbecue grill tanks.

6.13 Underground Electric Lines. All electric, television, radio and telephone line installations and connections shall be placed underground, except for power substations and switching stations which shall be adequately screened from view and except for customary surface devices for access or control and except that during the construction of a residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction and which shall be subject to Declarant's prior written approval.

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6.14 Use of the Property.

6.14.1 No use shall be made of the Property which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Property.

6.14.2 The use of the Property shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

6.15 Sales and Construction Facilities and Activities of Declarant. Notwithstanding any provision to the contrary contained herein, Declarant, its agents, employees and contractor shall have all rights set forth in C.R.S. § 38-33.3-215 and shall be permitted to maintain during the period of any construction on and sale of the Lots, upon such portion of the Property as Declarant may choose, such uses and facilities as may be reasonably required, convenient or incidental to the construction, sale of Lots, to the construction and assignment of sidewalks, driveways, fences, decks, patios and related improvements, and to the development of the Project, including without limitation, storage of equipment and vehicles, a business office, use of a Lot, for a sales office, storage area, construction yards, signs of any size and type, model homes, sales offices, construction office, parking areas and lighting and temporary parking facilities for all prospective tenants or purchasers of Lots; the Declarant may promptly remove any of the above items if Declarant ceases to be an Owner. The Declarant and its contractors may maintain such management offices, signs, model units, construction offices, trailers and sales offices in such numbers, size, and locations, as they may determine in their reasonable discretion from time to time. In addition, Declarant, its agents, employees, financiers, and any contractor involved in the construction or sale of said improvements and Lots, or in the development of the Property, shall have all rights set forth in C.R.S. § 38-33.3-216, and shall have the right to ingress and egress over the Project as in Declarant's discretion may be necessary to complete the Project. Notwithstanding any provision of this Section, no right under this Section shall be exercised by Declarant in such a manner as to

unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot, his parking area, any public street, or any recreational facility. The Declarant shall have the right to execute or record or both any writing or document necessary or advisable to confirm, implement or transfer the rights reserved in this Declaration or granted by law or statute; the rights set forth in this Section shall terminate upon the earlier of seven (7) years from the date of the recording of this Declaration or as otherwise provided herein.

6.16 Releases, disclaimers and indemnities.

(a) The provisions of this section shall apply to any "protected party" which is defined as any person or party, including without limitation, the Declarant, its agents, employees, shareholders, contractors, brokers, successors, assigns or any person or party related to them or any prior owner of the property, against whom is asserted any claim, demand, liability, obligation or matter whatsoever regarding the construction, physical condition, value, assessments, reserves, association, and any other matters related thereto in connection with the project.

(b) Owners acknowledge and understand that certain physical and/or environmental conditions, including but not limited to, mold, lead, asbestos, radon gas, or any other hazardous or toxic substances, may affect this project and that any protected party does not warrant and disclaims any liability for any existing or future soil, ecological or environmental conditions affecting the project. Owners acknowledge that no environmental reports were given to them but that they had been advised and given a full opportunity to inspect the project and obtain any professional inspection if they so desired. By acceptance of a deed to a lot, each owner accepts the physical and/or environmental condition of the project and acknowledges a full, adequate opportunity to conduct any inspections thereof. In addition, owners understand that the soil in the Colorado area contains clay and other substances which may cause it to swell when wet and so can cause earth movement

Deleted: and releases and indemnifies the protected parties from any failure to undertake such inspections

around a building's foundation. ▼

(c) The Owners shall maintain the landscaping, drainage, and sprinkler systems upon their property in such a fashion that the soil surrounding the foundations of the buildings and other improvements shall not become so impregnated with water that they cause expansion of or shifting of the soils supporting the improvements or other damage to the improvements and do not impede the proper functioning of the drainage, landscaping, or sprinkler systems as originally installed. Such maintenance shall include, where necessary the removal or replacement of improperly functioning landscaping, drainage, or sprinkler system elements and shall also include regrading and resurfacing where necessary to provide for adequate drainage and to prevent any ponding; no changes in landscaping shall be made in such a way as to endanger the structural integrity or the stability of any of the landscaping, drainage or sprinkler systems, or the other improvements upon the property and adjacent properties. The association shall indemnify any protected party from any liability, claims and expenses, including without limitation, reasonable attorney's fees, resulting from any breach of this section.

(d) The U.S. environmental protection agency ("EPA") states that exposure to elevated levels of radon gas can be injurious. Any test to measure the level of radon gas can only show the level at a particular time under the circumstances occurring at the time of testing. No protected party is qualified to measure radon gas or to evaluate all aspects of this complex area of concern. Prior or subsequent to closing of the owner's purchase of the lot, the owner may wish to test for the presence of radon gas and to purchase or install devices that may be recommended by qualified inspector. ▼

(e) Each Owner further covenants and agrees that no representation, promise or warranty, has been made by any of the protected parties regarding the development of adjacent properties, the investment potential of the Lot, any economic benefits to the owners, their heirs, successors and assigns, to be derived from the managerial or other efforts of the released parties, or any other third party designated or arranged by any protected party, related to the ownership of the lot, or

Deleted: Owners, for themselves, their heirs, successors, assigns and their association, waive and release the protected parties from all claims, liabilities, lawsuits and other matters arising from or related to any physical and/or environmental condition at the project.

Deleted: All protected parties expressly disclaim and the owner and the association agree to waive and release any and all protected parties from any claims of liability or responsibility with respect to radon gas and related matters and to hold harmless from any claims or liability against any protected party with respect to radon gas and related matters.

regarding the continued existence of any view from the Lot. The Owners, their heirs, successors and assigns, understand that the protected parties are under no obligation with respect to future plans, zoning or development of additional property in the area. The Owners, their heirs, successors and assigns, understand that the square footages, sizes and type of Lots have been set forth at the sole discretion of the declarant, and that the sales prices may decrease or increase at the sole discretion of the declarant.

(f) The Owners, their heirs, successors and assigns covenant and agree that the protected parties make no representations or warranties, express or implied, of any nature regarding the project (all of which are hereby disclaimed by the protected parties), including without limitation any as to the fitness, workmanlike construction safety, merchantability, design, condition, quality, or habitability of **any**, lot, the project, or the common area or improvements related thereto or any electrical, plumbing, gas, water, sewer, structural components, or other mechanical or utility systems or components related thereto.

(g) Any action, dispute, claim or controversy between any person or entity, including without limitation, any owner and/or the association, and any protected party, whether sounding in contract, tort or otherwise and whether or not concerning an individual lot shall be submitted by any protected party, at its option, to be resolved by binding arbitration as set forth in this section and shall include all disputes arising out of or in connection with any condition of a lot or improvements, this Declaration, and any related agreements or instruments and any transaction contemplated hereby. If so submitted, such disputes shall be resolved by binding arbitration before a single arbitrator in accordance with title 9 of the U.S. code, Colorado Uniform Arbitration Act, C.R.S. § 13-22-201, *et. seq.*, and the commercial arbitration rules of the American Arbitration Association ("AAA"), **or the Judicial Arbiter Group in Denver, Colorado**. In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules. All statues of limitations that would otherwise be applicable shall apply to any arbitration

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Deleted: The owners and the association accept the foregoing disclaimer of warranties and waive, release and indemnify the protected party from all claims related thereto, and any expenses and attorneys' fees incurred by any protected party, together with any claims for bodily injury, property damage and incidental or consequential damages made by any person or party.

Deleted: The Owners, their heirs, successors and assigns and the Association covenant and agree that any protected party shall not be liable for claims for consequential and/or punitive damages or for claims relating to the Lot, or to the Common Elements or any improvements arising or relating to any defect in workmanship or in any material used in construction, and the owners, their heirs, successors and assigns, and the association, expressly waive and release all rights to sue for a defect in construction of the lot or common area or improvements or both and shall rely solely on the owner's own inspection and examination of the project and not on any representations or warranties of any protected party. The owners, their heirs, successors and assigns covenant and agree that this declaration waives and/or limits rights and remedies and that the sales prices of the lots are based in part upon the releases, waivers and indemnity contained in this section and the other provisions of the declaration.¶

(h)

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proceeding under this section. The parties shall be entitled to conduct discovery as if the dispute were pending in a court of law in the state of Colorado. In any arbitration proceeding subject to these provisions, the arbitrator is empowered to decide pre-hearing motions that are substantially similar to pre-hearing motions to dismiss and motions for summary adjudication. Judgment upon the award rendered may be entered in any court having jurisdiction. Except as otherwise provided, the arbitrator selected under this section shall be knowledgeable in the subject matter of the dispute. The arbitrator shall be selected through panels of qualified persons maintained by the Denver, Colorado office of the AAA or any comparable arbitration body or service. All such arbitration shall be held in Eagle, Colorado, and venue shall be proper in the district court for Eagle County, Colorado.

ARTICLE VII - INSURANCE

7.1 Common Insurance. Commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, the Association shall obtain and maintain at all times, to the extent reasonably obtainable, Insurance policies covering the following risks:

(a) Property. Property insurance on any Common Elements for broad form covered causes of loss, except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies. Such insurance must include all personal property owned by the Association and any improvements and fixtures located upon any Common Elements. Such insurance shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a one hundred percent (100%) of current replacement cost basis without deduction for depreciation or coinsurance, and including, to the extent available and applicable, an "Agreed Amount" and "Inflation Guard Endorsement", a "Demolition Costs Endorsement," a "Building Ordinance or Law Endorsement",

Deleted: (i) The releases, disclaimers, and provisions of this section may be modified or changed only by to the extent that the Declarant executes and delivers a written amendment, modification or change to any owner, and no other amendment, modification, or change of this section and/or the Declarant's rights under this declaration shall be valid or enforced without the Declarant's prior written consent.*

"Increased Cost of Construction Endorsement" and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. Such insurance as maintained by the Association pursuant to this Section shall afford protection against at least the following:

(i) loss or damage by fire and all other hazards that are covered by the standard extended coverage endorsement, including without limitation endorsements for vandalism and malicious mischief, and

(ii) all other perils customarily covered for similar type of projects, including without limitation those covered by the standard "all risk" endorsement.

(b) Public Liability. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of any Common Area and deemed sufficient in the judgment of the Board but not less than any amount specified herein, insuring the Board, the Association, the management agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties. Such insurance shall be in such amounts as the Board of Directors of the Association may from time to time determine, but not in an amount less than One Million Dollars (\$1,000,000.00) per occurrence covering claims for personal injury, bodily injury and/or for property damage. To the extent reasonably obtainable, coverage shall include, without limitation, liability for personal injuries, operation of automobiles (whether Owned, non-owned or hired) on behalf of the Association, and activities in connection with the ownership, operation, maintenance or other use of the Common Elements and the Lots by the Association; its officers, directors, agents, employees, representatives and the Owners, off-premises employee coverage, water

damage liability, contractual liability, bailee's liability for property of others, and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

(c) Workmen's Compensation. Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance. The Association shall purchase, in an amount equal to the maximum amount of funds in the Association's custody at any one time, but not less than the greater of any sum required under C.R.S. § 38-33.3-306(3) blanket fidelity insurance covering losses resulting from dishonest or fraudulent acts or omissions committed by the Association's directors, managers, including without limitation, any person employed as an independent contractor for the purpose of managing the Association and any employee thereof, trustees, employees, volunteers, or anyone who manages the funds collected and held for the benefit of the Owners, provided however, any managing agent which handles funds for the Association should be covered by its own fidelity insurance policy, which must provide the same coverage required of the Association. Such policy shall also cover destruction or disappearance of money or securities and forgery. Such policy shall cover any person or entity handling funds of the Association, including but not limited to, employees of the professional manager which should also be covered by its own fidelity bond and submit evidence thereof to the Association. Such fidelity coverage or bonds shall name the Association as the named insured and as obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

(e) Officers' and Directors' Personal Liability Insurance. To the extent obtainable, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and

directors on behalf of the Association.

(f) Other Insurance. In addition, the Board of Directors may obtain any other insurance against such other risks, of a similar or dissimilar nature, which the Board shall deem appropriate with respect to the Project.

(g) Notice of Unavailability. If any insurance described in this Declaration is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and First Mortgagees as provided herein.

7.2 Form of Issuance.

7.2.1 All insurance shall be carried in blanket policy form, shall name the Association as the insured, and shall provide that the proceeds shall be paid to the Association for the benefit of and in trust for the Association, the Owners and their First Mortgagees, as their interests may appear, shall additionally insure and identify the interest of each Owner and the First Mortgagee, and shall provide a standard, non-contributory mortgage clause in favor of each First Mortgagee which has given the Association notice of its lien. Each Owner shall be an insured person under such policy with respect to liability arising out of such Owner's interest in the Common Areas.

7.2.2 To the extent possible, all insurance policies shall:

7.2.2.1 be obtained from responsible companies duly authorized and licensed to do insurance business in the State of Colorado, and having at least a "B" general policyholder's rating or a financial performance index of 6 or better in the Best's Key Rating Guide;

7.2.2.2 provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees, agents, its Owners and members of their households;

7.2.2.3 provide that the insurance cannot be canceled, invalidated, or

suspended on account of the conduct of the Association, its officers, directors, employees and agents;

7.2.2.4 provide for a waiver of any defense based on co-insurance;

7.2.2.5 provide that the policy of insurance shall not be permitted to lapse, be terminated, canceled or materially or substantially changed or modified without at least thirty (30) days' prior written notice to the Association, the Owners and the First Mortgagees which have given notice of their liens;

7.2.2.6 provide that no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

7.2.2.7 provide that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance;

7.2.2.8 provide that no assessments therefor may be made against First Mortgagees and any such assessments made against other shall not become a lien on the Property superior to the First Mortgagee.

7.2.3 On written request the Association shall furnish, by certificate or otherwise, a copy of any insurance policy, identifying the interest of the Owner in question, to any Owner or First Mortgagee, together with proofs of payment of premiums. Further, an insurer that has issued an insurance policy for the insurance described in this Declaration shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.

7.2.4 Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice and as are consistent with

the requirements of First Mortgagees and any secondary lenders purchasing First Mortgages. The deductible for an individual Lot should not exceed One Thousand Dollars (\$1,000.00) unless a greater deductible is allowed by secondary lenders or otherwise determined by the Board. Any loss falling within the deductible portion of the policy should be borne by the Association, except as otherwise provided in this Declaration or otherwise determined by the Board.

7.2.5 The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Lot is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro-rata share of any deductible paid by the Association.

7.3 Owner's Personal Property and Liability Insurance. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit. Each Owner shall be solely responsible, at his expense, for all insurance covering all loss or damage to any and all fixtures, appliances, furniture, furnishings or other personal property supplied, maintained or installed by the Owner and covering liability for injury, death or damage occurring within his Lot. Such insurance shall contain waivers of subrogation and shall be so written that the insurance obtained by the Association shall not be affected or diminished thereby. The Association shall have no responsibility regarding the obtaining or continuation of any such insurance. If at any time of the any loss under any policy which is in the name of the Association there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such

other insurance.

ARTICLE VIII - DAMAGE, DESTRUCTION, AND CONDEMNATION

8.1 Attorney-in-Fact. All of the Owners and First Mortgagees irrevocably constitute and appoint the Association as insurance trustee under C.R.S. § 38-33.3-313(5) and (9) and under this Declaration and as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Property in the event of destruction, damage, condemnation, or liquidation of all or a part of the Project or from the termination of the Project, including without limitation the repair, replacement and improvement of any buildings, fixtures, improvements and service equipment located on the Property (but excluding any structure, furniture, furnishings or other personal property installed by the Owners). Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or granter shall constitute appointment of the attorney-in-fact herein provided. As attorney- in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted and to represent the Owners in any proceedings, negotiations, settlements or agreements. The proceeds of any insurance collected shall be payable to the Association, for the benefit of the Association, the Owners and their First Mortgagees as their interests appear, for the purpose of repair, restoration, reconstruction or replacement as provided in this Declaration. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact to deal with the Project upon its destruction, damage, or condemnation shall be appointed. Said appointment

must be approved by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes (based upon Allocated Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, and at least sixty-seven percent (67%) of the First Mortgagees. Notwithstanding any contrary provision of this Declaration, the Association's Articles of Incorporation and Bylaws, no Owner or any other party shall have priority over any rights of the First Mortgagee of the Lot pursuant to its Mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Project common property.

8.2 Damage or Destruction of Common Area. Any portion of the Project for which insurance is required under this Declaration or C.R.S. § 38-33.3-313 which is damaged or destroyed must be repaired or replaced promptly by the Association pursuant to that statutory section or the Declaration.

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8.3 Condemnation. If a Lot, or any part thereof, is acquired by eminent domain, the provisions of C.R.S. § 38-33.3-107 shall apply.

8.4 Repair and Reconstruction. Unless otherwise agreed by sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage held) and by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes (based upon Allocated Interests) in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any restoration or repair of any portion of the Project after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and with the original plans and specifications, and shall restore any common element partially condemned or damaged by an insurable hazard to substantially the same condition in which it existed prior to such condemnation or damage.

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8.5 Excess Insurance Proceeds. With the prior written approval of sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage

held) and by vote or agreement of Owners of Lots to which at least sixty-six percent (66%) of the votes in the Association are attached, who are voting in person or by proxy at a meeting duly called for that purpose, any insurance proceeds remaining after any repairs or reconstructions are completed shall be paid to each Owner and his First Mortgagee jointly at the rate of one (1) equal share per Lot. Without such approval, any excess insurance proceeds shall be placed in the Association's reserves.

8.6 Notice of Loss to First Mortgagees. Provided that a First Mortgagee has, in writing, requested the following information with respect to a Lot upon which said First Mortgagee holds the First Mortgage and has furnished the Association with the address to which said First Mortgagee wants the information sent, then in the event that there shall be any damage to or destruction of: (a) any improvement on the Lot on which such First Mortgagee holds the First Mortgage which shall be in excess of Five Thousand Dollars (\$5,000.00) and/or (b) the Common Area which shall be in excess of Five Thousand Dollars (\$5,000.00), or in the event of the condemnation of any part of the Common Area an excess of Five Thousand Dollars (\$5,000.00), then timely written notice of any such damage, destruction or condemnation shall be given by the Association to such First Mortgagee. Notwithstanding any provision to the contrary, no provision of this Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee in the case of a distribution to an Owner of insurance proceeds or condemnation awards for loss to or taking of Lots or Common Area, or both.

ARTICLE IX - ADDITIONAL RESTRICTIONS

9.1 Restrictions Upon Association and Owners. Unless at least sixty-seven percent (67%) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) and the Owners (other than Declarant) by vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes (based upon Allocated Interests) in the Association are attached, have given their prior written approval,

neither the Association nor the Owners shall be empowered or entitled to do any of the following:

(a) by act or omission, seek to abandon or terminate this Declaration or any scheme or architectural control, or enforcement thereof, as set forth in this Declaration, regarding the architectural design, exterior appearance, or exterior maintenance of the Lots, improvements thereon, or the Common Elements, or the maintenance of the common property, party walls or common fences and roads, or the upkeep of lawns and plantings in the Project; or

(b) by act or omission, seek to abandon, partition, subdivide, mortgage, encumber, sell or transfer any of the Common Elements, except for the granting of utility easements, or

(c) any conveyance or encumbrance of the Common Area shall also comply with voting requirements of C.R.S. § 38-33.3-312; or

(d) fail to maintain full current replacement cost fire and extended insurance coverage on the Lots and Common Area, and such other insurance as is required under this Declaration; or

(e) use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction of such improvements as herein provided; or

(f) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner; or

(g) a material change in any of the following provisions of this Declaration: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements, or rights to their use; redefinition of any Lot boundaries; convertibility of Lots into Common Elements or vice versa; expansion or contraction of the Project, or the addition, annexation, or withdrawal of Property to or from the Project; insurance or fidelity bond; leasing of Lots; imposition of any restrictions on an Owner's right to sell or transfer his or

her Lot; a decision by the Association to establish self-management when professional management had been required previously by this Declaration or by a First Mortgage holder; restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in this Declaration; any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; or any provisions that expressly benefit First Mortgage holders, insurers, or guarantors; or

(h) notwithstanding any provision hereof or otherwise, threaten, file or pursue any lawsuit and/or arbitration against any Protected Party, including without limitation, the Declarant, its agents, employees, shareholders, contractors, brokers, successors, assigns or any person or party related to them or any prior owner of the Property, for any claim, demand, liability, obligation or matter whatsoever regarding any construction matter and/or defect, any environmental matter, any physical condition, any condition affecting the value or use, and any other matters related to any of the foregoing in connection with the Property, the Lots, the Units and/or the Common Areas.

9.2 Implied Approval by Mortgagee. Any matter requiring Mortgagee approval will be assumed when that Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested. Any First Mortgagee shall be given notice of any proposed action requiring its consent, if the First Mortgagor has sent a written request to the Association, stating both its name and address and the Lot number or address of the Lot on which it has (or insures or guarantees) the Mortgage.

ARTICLE X - GENERAL PROVISIONS

10.1 Acceptance of Provisions of All Documents. The conveyance or encumbrance of a Lot or the improvements thereon shall be deemed to include the acceptance of all provisions of this Declaration, the Articles of Incorporation of the Association and

the Association's Bylaws and rules and regulations, all of which shall be binding upon each Owner, his heirs, personal representatives, family, guests, tenants, successors and assigns, and everyone having an interest in the Lot without the necessity of inclusion of an express provision in the instrument of conveyance or encumbrance. The Association and the Owners shall obey and perform any protective or other covenants recorded against the Property prior to the recording of this Declaration.

10.2 Enforcement. The Board, the Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board or by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board may make such rules and regulations to enforce the provisions of this Declaration or the Bylaws or to govern the use of the Common Elements or Lots, as are, in its sole discretion, consistent with the rights and duties established in this Declaration, and all Owners and other parties subject thereto shall strictly comply therewith. The Board shall have the sole discretion and authority to interpret this Declaration or the Bylaws and to resolve any dispute as to the interpretation thereof; the Board's interpretation shall be final, conclusive and binding on all persons and parties. In addition to all other remedies, the Board of Directors shall have the right, after notice and an opportunity of hearing, to impose upon any Owner reasonable fines for any breach by that Owner of the provisions of this Declaration, the Bylaws and/or the Association's rules and regulations. All rights and remedies provided in this Declaration are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity, and may be exercised concurrently, independently, or successively.

10.3 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other

provision of this Declaration or of any subsequent enforcement of any such provision. The rights and remedies of the Association are distinct and cumulative to any other right or remedy hereunder or afforded by law or in equity and may be exercised concurrently, independently, or successively without effect or impairment upon one another.

10.4 Cumulative. Each of these covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restrictions. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision.

10.5 Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

10.6 Conflicts of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of incorporation shall control.

10.7 Duration and Amendment. Each and every provision of this Declaration shall be binding upon each and every Owner, his heirs, successors, assigns and personal representative and shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as is otherwise provided herein, this Declaration shall not be revoked or terminated unless all of the Owners and all of the First Mortgagees agree to such termination or revocation by an instrument duly recorded and such termination and revocation shall comply with C.R.S. § 38-33.3-218. This Declaration may be amended or modified by agreement of Owners of Lots to which at least sixty-seven percent

(67%) of the Allocated Interests in the Association are attached and not less than fifty (50%) of the First Mortgagees or as provided by C.R.S. § 38-33.3-217; provided, however, (a) that the Declarant hereby reserves the right to make such amendments to this Declaration, the Articles of Incorporation, the Bylaws, and/or Rules to the extent permitted by CCIOA, or as may be necessary or desirable to exercise any right of Declarant under this Declaration or as may be necessary to correct typographical errors or to make clarifications or to comply with the requirements, standards or guidelines of recognized secondary mortgage market or as may be approved in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration, or Department of Veterans Affairs so as to induce any of such organizations to make, purchase, sell, insure or guarantee First Mortgages covering any portion of the Property, and each Owner and Mortgagee by accepting a deed, Mortgage or other instrument affecting a Lot appoints Declarant as his attorney-in-fact for purposes of executing in said Owner's and/or Mortgagee's name and recording any such amendments to this Declaration, and each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of and a consent to the reservation of the power to the Declarant to make, execute and record any such amendments. The consent of any junior Mortgagee shall not be required under the provisions of this Article. In determining whether the appropriate percentage of First Mortgagee approval is obtained, each First Mortgagee shall have one (1) vote for each First Mortgage owned. To be effective, all amendments to this Declaration must be recorded in the office of the Clerk and Recorder of the county in which the Property is located, and an amendment must be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of each person executing the amendment. The amendment shall be prepared, executed, recorded, and

certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of the persons or parties as set forth in C.R.S. § 38-33.3-217(6). The Association shall notify any First Mortgagee who has requested notice in writing of any proposed action under this Declaration which would require the consent of a specified percentage of First Mortgagees.

10.8 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent by certified mail, postage prepaid, to the registered agent of the Association at his address filed with the Secretary of State of the State of Colorado, together with a copy addressed to the President of the Association at his registered address.

10.9 Assignment of Declarant's Rights. The Declarant may assign its rights and authority hereunder, in whole or in part, by express written assignment, duly recorded.

10.10 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

10.11 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of the Declaration or the intent of

any provisions hereof.

10.12 Governing Law. This Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with, the statutes and laws of the State of Colorado.

10.13 Development Rights and Special Declarant Rights. In addition and supplement of all rights reserved by the Declarant under this Declaration, the Declarant reserves the following development rights and other special Declarant rights for twenty (20) years from the date of the recording of this Declaration;

(a) The right to complete or make improvements indicated on the plats or maps, or otherwise necessary or desirable to complete construction of the Project and related Improvements;

(b) The right to maintain sales offices, management offices and models on Lots or on any Common Area;

(c) The right to install, assign and/or maintain signs on the Property and Expansion Property and to advertise the Project;

(d) The right to use and permit others to use easements and rights through the Common Area as may be reasonably necessary for the purpose of making Improvements within the Property or Expansion Property or performing other rights under the Declaration;

(e) The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Project;

(f) The right to enter into, establish, execute, amend, and otherwise deal with contracts, assignments, and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Owners and/or the Association;

(g) The right to appoint or remove any officer of the Association or any director of the Association during the Period of Declarant Control and to appoint or remove any member of the Architectural Control Committee;

(h) The right to amend the Declaration, the Articles of Incorporation, the Bylaws and/or the Rules in connection with the exercise of any development rights or other rights, and to require that any amendments of said documents be approved in writing by Declarant prior to adoption;

(i) The right to amend any plat for the Property in connection with the exercise of any development rights or other rights;

(j) The right to transfer, assign or delegate any right reserved or granted by this Declaration, law or statute to any person or party to the fullest extent permitted under this Declaration, law or statute;

(k) The right to annex additional properties as provided herein;

(l) The right to assign any portion of the Common Areas as a Limited Common Area and to subdivide any portion of the Property into Lots and Common Areas;

(m) Any and all other rights of Declarant as set forth in this Declaration, by law or statute; in the event of any conflict, the broadest right reserved by Declarant shall prevail.

10.14 Board to Resolve Ambiguities. If any doubt or question shall arise (except as to the Declarant's rights and/or duties hereunder) concerning the true intent or meaning of any of this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, the Board of Directors of the Association shall, by resolution, determine the proper construction of the provision in question and such resolution shall fix and establish the meaning, effect and application of the provision. The Board's decision shall be final, conclusive and binding on all parties, except for gross negligence and willful misconduct.

ARTICLE XI - EXPANSION AND WITHDRAWAL

11.1 Reservation of Expansion and Withdrawal Rights. Declarant reserves the right for itself and any Successor Declarant to subject all or part of the Expansion Property

to the provisions of this Declaration and thereby expand the Property to include up to sixty-three (63) additional Lots without consent or approval of the Owners.

11.2 Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the filing for record by Declarant in the office of the Clerk and Recorder for Eagle County, Colorado, of one or more Supplemental Declarations and, if the real property being subject to this Declaration by such Supplemental Declaration has not been previously platted in a plat recorded in the Office of the Clerk and Recorder for Eagle County, Colorado, of a Supplemental Plat depicting such Expansion Property recorded concurrently with the applicable Supplemental Declaration. The Supplemental Declaration shall set forth the Lots and other real property, if any, to be included in the expansion. Declarant may exercise such rights for expansion on all or any portion of the Expansion Property in whatever order of development Declarant in its sole discretion determines. Declarant shall not be obligated to expand Minturn North beyond the number of Lots initially submitted to this Declaration.

11.3 Expansion of Definitions. In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded. For example, "Lot" shall mean the Lots as shown on the Plat, plus any additional Lots added by a Supplemental Declaration or Declarations and, if necessary, Supplemental Plat or Plats, and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Lots shall be effective to transfer rights in the Property as expanded.

11.4. Declaration Operative on New Lots.

(a) The new Lots shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Declaration, upon placing the Supplemental Declaration and, if necessary, the Supplemental Plat(s) depicting the Expansion Property of public record in the real estate records of Eagle County, Colorado.

(b) It is contemplated that additional Lots on the Property will be

committed to this Declaration, but Declarant and any Successor Declarant shall have no affirmative obligation to construct any additional Lots. In the event that a portion of the Expansion Property is submitted to the provisions of this Declaration, Declarant shall retain the right to, but shall not be obligated to, submit any additional portion of the Expansion Property to the provisions of this Declaration. The rights of Declarant and any Successor Declarant, as described herein, shall apply to all Lots which are added to this Declaration in accordance with these provisions relating to enlargement thereof.

(c) No rights of any character of any owner of Lots in the Expansion Property shall attach until a Supplemental Declaration and, if necessary, a Supplemental Plat is filed of record annexing the Lots constructed in such area to Minturn North. Upon the recording of such Supplemental Declaration and, if necessary, Supplemental Plat, the Lots constructed in the area shall be deemed to be governed in all respects by the provisions of this Declaration.

11.5 Effect of Expansion.

(a) Upon the inclusion of additional Lots under this Declaration by the filing of a Supplemental Declaration(s) and, if necessary, Supplemental Plat(s) thereof, the Sharing Ratio applicable to a Lot shall automatically be reduced to a fraction, the numerator of which shall be one (1) and the denominator of which shall be equal to the aggregate number of all Lots then subject to this Declaration. Such reduction in the Sharing Ratio appurtenant to a Lot shall be reflected and set forth in the Supplemental Declaration.

(b) Notwithstanding any inclusion of additional Lots under this Declaration, each Owner (regardless of whether such Owner is the owner of a Lot constructed in the Expansion Property) shall remain fully liable with respect to his obligation for the payment of Common Expenses of the Association, including the expenses for such new Common Elements, costs and fees, if any. The recording of a Supplemental Declaration or Supplemental Plat shall not alter the amount of the



Justin Yarnell <justin@theyarnells.com>

Main Street & Minturn Road

12 messages

Justin J. Yarnell <justin@theyarnells.com>

Mon, Mar 29, 2021 at 8:00 AM

To: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Gentlemen,

How did your meeting and site visit go with CDOT on Friday?

Best,

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008EAGLE RIVER VALLEY:
P.O. Box 3901
Eagle, Colorado 81631-3901ROARING FORK RIVER VALLEY:
229 Midland Ave.
Basalt, Colorado 81621

- * Yarnell Consulting & Civil Design, LLC
- * Yarnell Industries, LLC

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Craig MacPhee <craig@civtrans.com>

Mon, Mar 29, 2021 at 8:57 AM

To: "Justin J. Yarnell" <justin@theyarnells.com>

Cc: Gregory Sparhawk <gregs@gpsdesigns.com>

Justin,

We met with Mark Bunnell and performed the field measurement of the intersection sight distance. His range finder measured 275' and my wheel along the centerline measured 282'. The required sight distance is 280', so we should be good. He requested some minor modifications to encourage vehicles on the stop-controlled approach to pull forward to see better, which will include adding a stop bar, resetting the stop sign and adding 15' of double yellow lane line. Greg is also

checking with the Town on prohibiting parking behind (west of) the fly shop. This area is currently barricaded due to structural instabilities and we would like it to be permanently restricted for parking. We will probably need a signing and striping plan for the stop bar, lane line and stop sign reset improvements.

We also briefly discussed the County Road & US 24 intersection. Mark will be your design contact on the left turn lane design. He would like to see the intersection designed per the standards conceptually. From there, we can seek variances if there are serious limitations and major effort to construct the standard cross-section. He stated price isn't a reason for a variance, but building a high wall and excessive earth moving (effort) might qualify as a suitable reason. Let me know if you need contact info for Mark.

I am working on updating the TIS to resubmit to CDOT so the permit applications can proceed. I should have that by tomorrow.

Thanks,

Craig MacPhee, PE

President | CivTrans Engineering Inc.
(303)653-9200 | (509)991-2803 (cell)

On Mar 29, 2021, at 8:01 AM, Justin J. Yarnell <justin@theyarnells.com> wrote:

[Quoted text hidden]

Justin J. Yarnell <justin@theyarnells.com>
To: Craig MacPhee <craig@civtrans.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>

Mon, Mar 29, 2021 at 9:39 AM

Craig,

Thanks for the update. Do you think creating a simple plan on an aerial image of the intersection would be satisfactory? Or do we really need to get Sam out there for something seemingly as simple as this?

Interesting to hear Mark wants to be the contact for the turn lane. When I spoke with Brian Killian last week, he wanted to be the contact. Sounds like this could get messy...

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008

EAGLE RIVER VALLEY:
P.O. Box 3901
Eagle, Colorado 81631-3901

ROARING FORK RIVER VALLEY:
229 Midland Ave.
Basalt, Colorado 81621

- * Yarnell Consulting & Civil Design, LLC
- * Yarnell Industries, LLC

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[Quoted text hidden]

Craig MacPhee <craig@civtrans.com>
To: "Justin J. Yarnell" <justin@theyarnells.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>

Mon, Mar 29, 2021 at 9:45 AM

Justin,

I would reach out to CDOT to confirm the level of detail they want for the signing and striping plan. I personally believe an aerial would suffice, but might need to show ROW.

Craig MacPhee, P.E.
President | CivTrans Engineering Inc.
(303)653-9200 | (509)991-2803 (cell)
www.civtrans.com

[Quoted text hidden]

Justin J. Yarnell <justin@theyarnells.com>
To: Craig MacPhee <craig@civtrans.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>

Thu, Apr 1, 2021 at 11:37 AM

Craig,

It sounds like CDOT will be alright using aerial base mapping for the proposed downtown improvements. Please see attached. Do you mind marking up the revisions everyone agreed to in the field?

Thanks for your help.

Best,

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008

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 **C12.4.1 - Downtown Signage & Striping.pdf**
553K

Justin J. Yarnell <justin@theyarnells.com>
To: Craig MacPhee <craig@civtrans.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>

Tue, Apr 6, 2021 at 11:10 AM

Craig,

Are you able to mark up the drawing I sent last week with your agreed-upon improvements in downtown Minturn?

Please note: I will be out of town on personal vacation April 19-23. If there is something you will need during that time, let's discuss it right away. Thank you!

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008

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Eagle, Colorado 81631-3901

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 **C12.4.1 - Downtown Signage & Striping.pdf**
553K

Justin J. Yarnell <justin@theyarnells.com>
To: mark.bunnell@state.co.us
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Tue, Aug 17, 2021 at 10:44 AM

Mark,

I drafted the attached drawing based upon your meeting with Craig MacPhee in downtown Minturn back in March. Can you please confirm I have correctly documented your meeting and that these improvements are satisfactory to CDOT?

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 **C12.4.1 Downton Signage & Striping.pdf**
572K

Bunnell - CDOT, Mark <mark.bunnell@state.co.us>
To: "Justin J. Yarnell" <justin@theyarnells.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Tue, Aug 17, 2021 at 2:03 PM

Justin,

One comment ... the existing STOP sign may need to remain if approaching vehicles can not see the new STOP sign far enough back. Otherwise, the drawing reflects the decisions made during the field visit.

Thanks,

Mark Bunnell, PE, PTOE
Resident Engineer
Region 3 Traffic and Safety



P 970.683.6276 | C 970.640.2677
222 6th Street, Room 100 Grand Junction, CO 81501
mark.bunnell@state.co.us | www.codot.gov | www.cotrip.org

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Tue, Aug 17, 2021 at 2:09 PM

Justin J. Yarnell <justin@theyarnells.com>
To: "Bunnell - CDOT, Mark" <mark.bunnell@state.co.us>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Mark,

Thanks for your feedback. Would you like me to adjust the note accordingly on the drawing and then CDOT can make a field call?

Can we get some sort of letter of support from you that we can share with town staff? They have been inquiring as to the status of this.

Best,

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008

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[Quoted text hidden]

Bunnell - CDOT, Mark <mark.bunnell@state.co.us>
To: "Justin J. Yarnell" <justin@theyarnells.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Tue, Aug 17, 2021 at 2:25 PM

Justin,

Adjusting the note is a good idea. The decision to leave/remove the existing STOP sign will be up to the Project Engineer (you/Craig) based on field observations after the new STOP sign is installed. CDOT will rely on the Project Engineer's judgement (i.e. P.E. Stamp and Signature on the drawing after the work is completed).

We don't provide letters of support for these kinds of submittals. Typically you would just get the Notice to Proceed (NTP) approval once CDOT approves the construction drawings, and show that to the town. Since official NTP may still take a while (since this will need to be combined with the construction plans for the other locations), here is what I can offer you - revise the drawing (including PE stamp and signature), and I will reply to the email that it is acceptable to CDOT. You can then submit my email acceptance to the City.

Thanks,

Mark Bunnell, PE, PTOE
Resident Engineer
Region 3 Traffic and Safety



P 970.683.6276 | C 970.640.2677
222 6th Street, Room 100 Grand Junction, CO 81501
mark.bunnell@state.co.us | www.codot.gov | www.cotrip.org

[Quoted text hidden]

Justin J. Yarnell <justin@theyarnells.com>
To: "Bunnell - CDOT, Mark" <mark.bunnell@state.co.us>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Tue, Aug 17, 2021 at 2:33 PM

Thanks, Mark.

Please see attached.

Justin Yarnell, PE (CO)
Justin@TheYarnells.com
(970) 323-7008

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Eagle, Colorado 81631-3901

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 **C12.4.1 Downton Signage & Striping.pdf**
650K

Bunnell - CDOT, Mark <mark.bunnell@state.co.us>
To: "Justin J. Yarnell" <justin@theyarnells.com>
Cc: Gregory Sparhawk <gregs@gpsdesigns.com>, Craig MacPhee <craig@civtrans.com>

Tue, Aug 17, 2021 at 5:51 PM

Justin,

Thank you for sending the revised plan for the intersection of 024A and Main Street. This plan is acceptable to CDOT. As mentioned previously, the official CDOT acceptance will come via the Notice to Proceed (NTP) process for all of the state highway improvements required for this development.

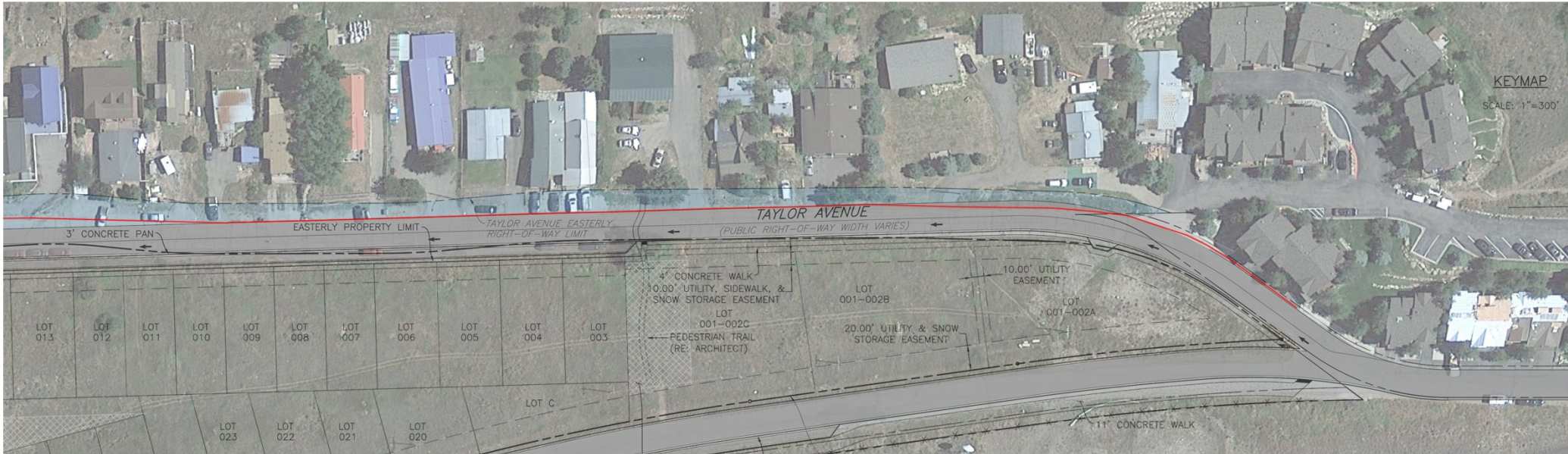
Thanks,

Mark Bunnell, PE, PTOE
Resident Engineer
Region 3 Traffic and Safety



P 970.683.6276 | C 970.640.2677
222 6th Street, Room 100 Grand Junction, CO 81501
mark.bunnell@state.co.us | www.codot.gov | www.cotrip.org

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TAYLOR FUTURE EAST BORDER, PLANNED R.O.W. PROVIDES FOR STREET PARKING, CURB AND GUTTER ON WEST SIDE

SOFT SURFACE TRAIL WITH SPLIT RAIL FENCE ON NORTH SIDE WITH SIGNAGE TO KEEP OUT OF THE BUFFER AND CREEK AREA

GAME CREEK

30' CREEK BUFFER

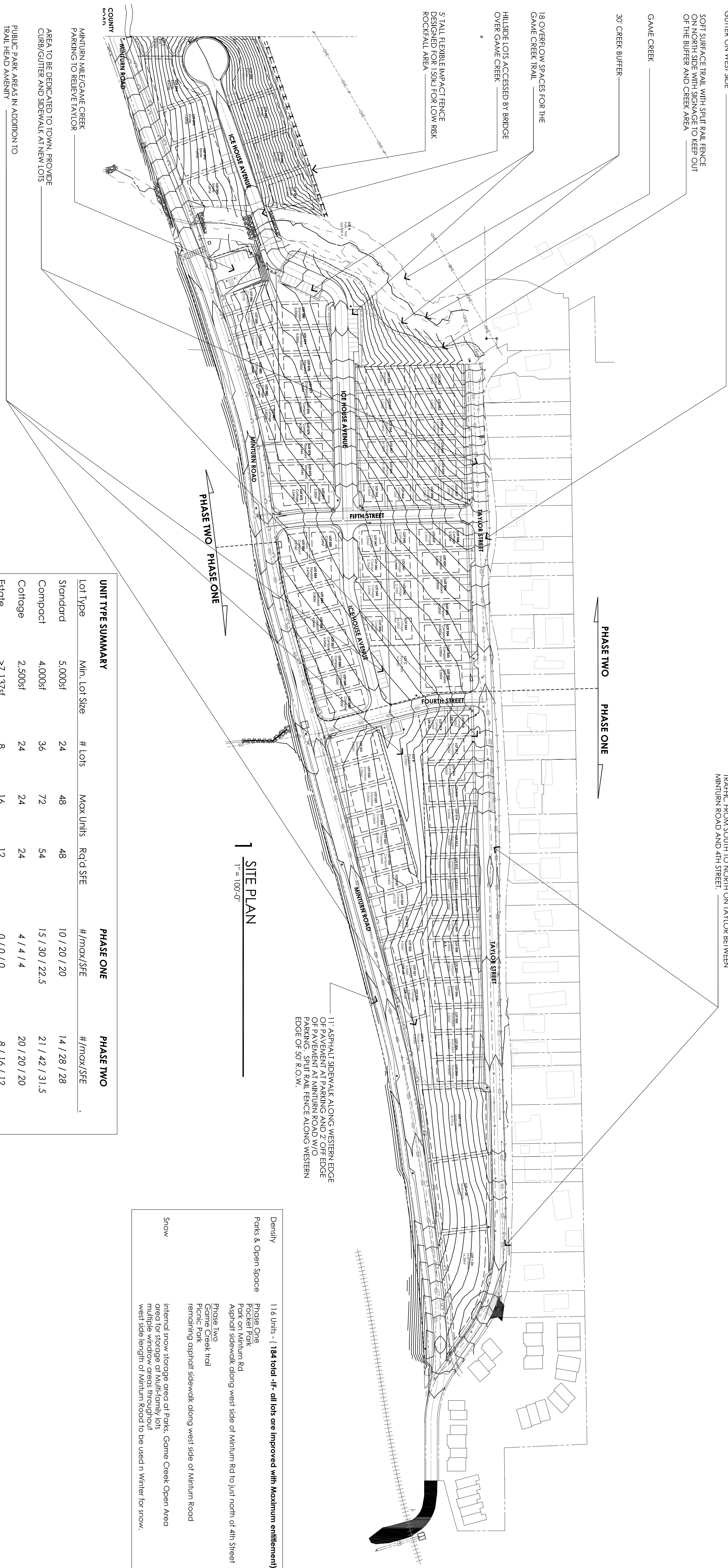
18 OVERFLOW SPACES FOR THE GAME CREEK TRAIL

HILLSIDE LOTS ACCESSED BY BRIDGE OVER GAME CREEK

5 TALL FLEXIBLE IMPACT FENCE DESIGNED FOR 150KJ FOR LOW RISK ROCKFALL AREA

TAYLOR STRIPED AND PAVED TO PROVIDE ONE WAY TRAFFIC FROM SOUTH TO NORTH ON TAYLOR BETWEEN MINTURN ROAD AND 4TH STREET

11' ASPHALT SIDEWALK ALONG WESTERN EDGE OF PAVEMENT AT MINTURN ROAD W/O PARKING. SPLIT RAIL FENCE ALONG WESTERN EDGE OF 50' R.O.W.



1 SITE PLAN
1" = 100'-0"

| UNIT TYPE SUMMARY | | PHASE ONE | | PHASE TWO | |
|-------------------|---------------|-----------|------------|------------|-------------------------|
| Lot Type | Min. Lot Size | # Lots | Max Units | Rqd SFE | #/MCK/SFE |
| Standard | 5,000sf | 24 | 48 | 48 | 10 / 20 / 20 |
| Compact | 4,000sf | 36 | 72 | 54 | 15 / 30 / 22.5 |
| Cottage | 2,500sf | 24 | 24 | 24 | 4 / 4 / 4 |
| Estate | >7,137sf | 8 | 16 | 12 | 0 / 0 / 0 |
| Multi-Family | | 3 | 24 | 24 | 3 / 24 / 24 |
| | | 95 | 184 | 162 | 32 / 78 / 70.5* |
| | | | | | 63 / 106 / 91.5* |

proposing 21% deed restricted to include 24 "Locals Only" Lots - Cottage Lots
* Phase One is limited to 70SFE, 0.5 SFE will be withheld from Lot 008 identified with A.R. on map, until additional SFE becomes available.

| ZONING CODE ANALYSIS (deviations are in Bold) | | | | | | | |
|---|------------------|------------------|----------------|---------------|---------------|--------------|---------------------|
| EXISTING GAME CREEK/RESIDENTIAL ZONE | MINIMUM LOT SIZE | MAX LOT COVERAGE | MAX IMPERVIOUS | SIDE SETBACKS | FRONT SETBACK | REAR SETBACK | MAXIMUM HEIGHT |
| PROPOSED PUD | | | | | | | |
| Estate ¹ | 6,000sf | 45% | 50% | 5' | 20' | 10' | 28' |
| Standard ² | 5,000sf | 45% | 50% | 5' | 20' | 10' | 28' |
| Compact ¹ | 4,000sf | 45% | 50% | 5' | 20' | 10' | 28' |
| Cottage | 2,500sf | 45% | 50% | 5' | 10' | 5' | 28' |
| Multi-Family | 10,000sf | 45% | 50% | 5' | 10' | 10' | 28' (32@50%) |

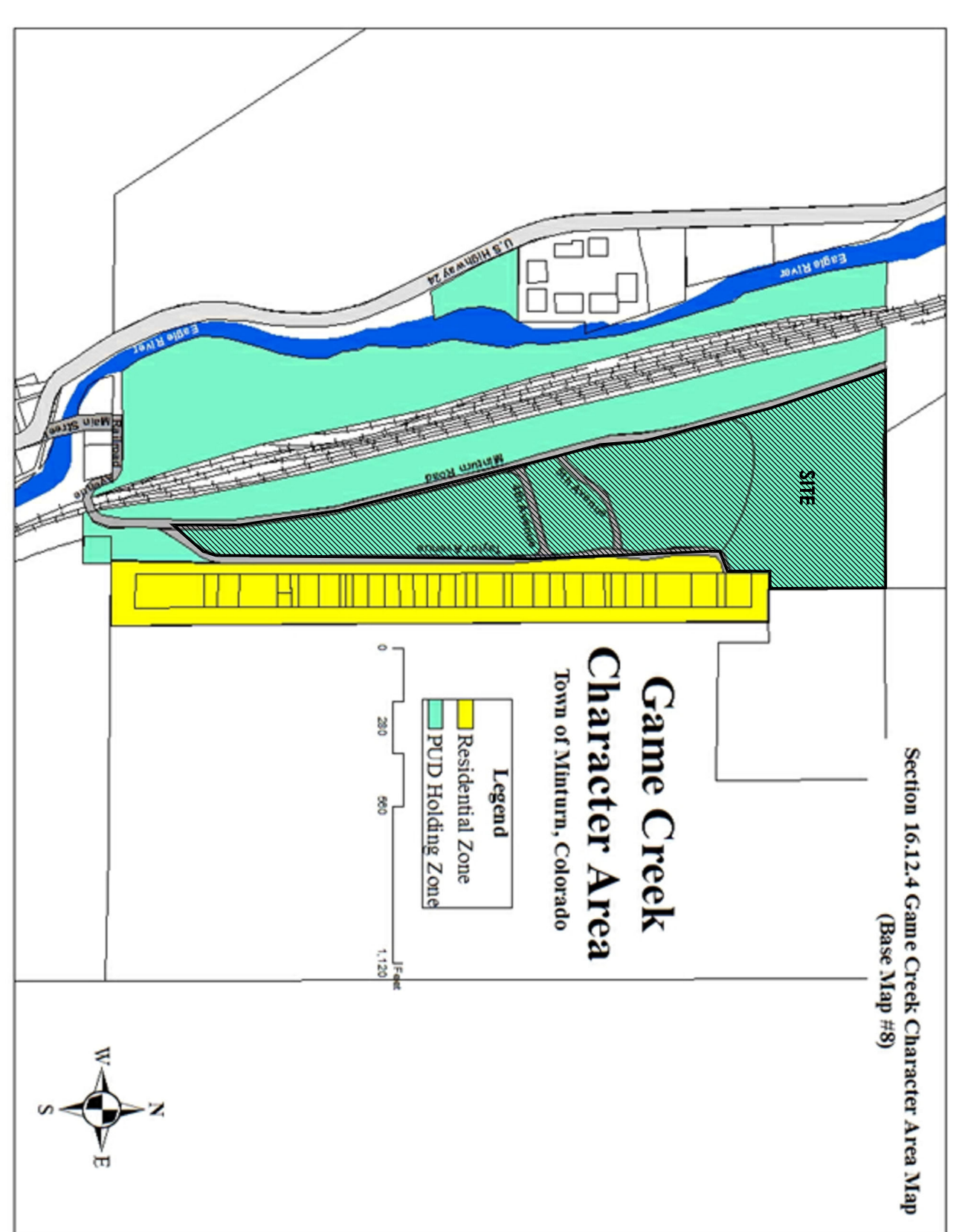
- JUSTIFICATION FOR THE SMALLER LOT SIZES IS TO ENCOURAGE SMALLER, MORE AFFORDABLE HOMES.
- 1 - ESTATE LOTS AND COMPACT LOTS ALLOW FOR ADUS
- 2 - STANDARD LOTS ALLOW FOR DUPLEX CONSTRUCTION OR ADUS

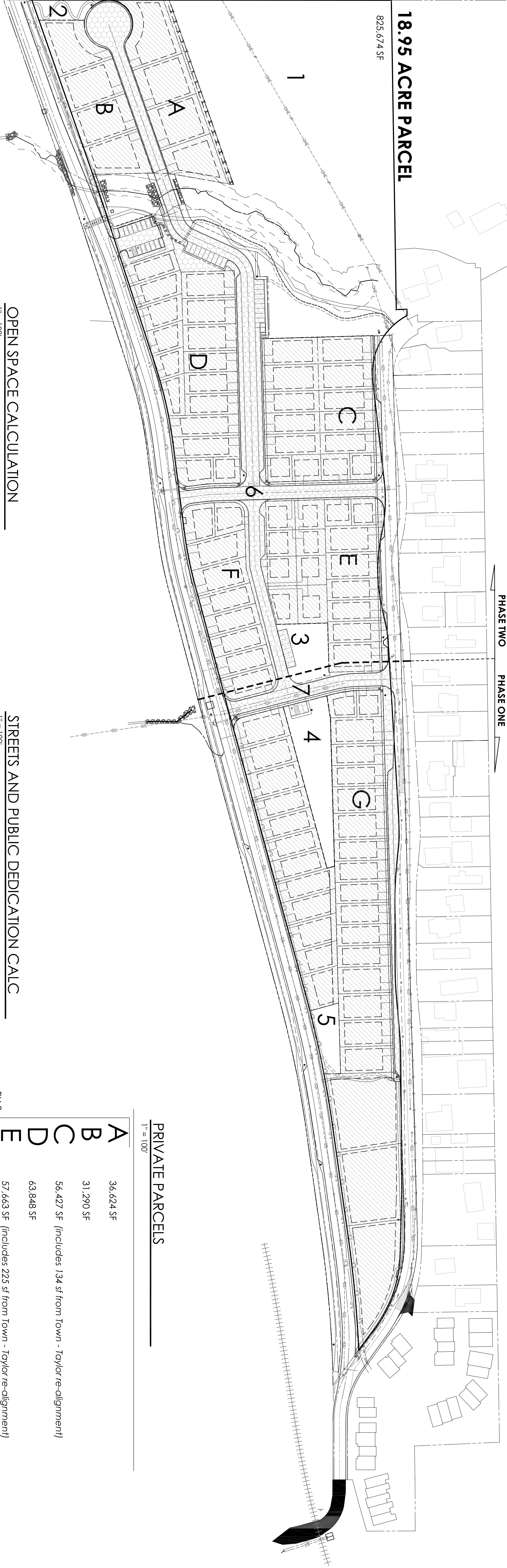
Density: 116 units - **184 total** - **if- all lots are improved with Maximum entitlement)**

Parks & Open Space
Phase One
Pocket Park
Park on Minturn Rd
Asphalt sidewalk along west side of Minturn Rd to just north of 4th Street

Phase Two
Game Creek trail
Pedic Park
remaining asphalt sidewalk along west side of Minturn Road

Snow
Internal snow storage area at Parks, Game Creek Open Area
Internal snow storage area at Parks, Game Creek Open Area
multiple windbreak areas throughout
west side length of Minturn Road to be used in winter for snow.





18.95 ACRE PARCEL
825,674 SF

PHASE TWO PHASE ONE

OPEN SPACE CALCULATION
T" = 100'

| | |
|---|------------|
| 1 | 226,950 SF |
| 2 | 3,945 SF |
| 3 | 8,633 SF |
| 4 | 15,825 SF |
| 5 | 5,405 SF |

TOTAL OPEN SPACE
260,758 SF (5.99 ACRES)

32% OF SITE DEDICATED TO OPEN SPACE
TOTAL LAND IN PUD: 825,674 SF

PARCEL 1 OPEN SPACE OWNERSHIP AND MANAGEMENT WILL BE CONVEYED TO THE TOWN OF MINTURN UPON ACCEPTANCE OF IMPROVEMENTS. THESE SPACES WILL BE FOR PUBLIC USE WITHOUT RESTRICTION EXCEPTING THE RULES PUT IN PLACE BY THE TOWN OF MINTURN MUNICIPAL CODE. FENCE MAINTENANCE WILL BE CARRIED OUT BY THE PUD HOA.
PARCELS 2 THRU 5 OPEN SPACE OWNERSHIP AND MANAGEMENT WILL BE CONVEYED TO THE MINTURN NORTH HOA UPON ACCEPTANCE OF IMPROVEMENTS. THESE SPACES WILL BE FOR PUBLIC USE WITHOUT RESTRICTION EXCEPTING THE RULES PUT IN PLACE BY THE MINTURN NORTH HOA.

STREETS AND PUBLIC DEDICATION CALC
T" = 100'

| | |
|-------------------|---|
| 6 ^{PH 2} | 82,097 SF (includes streets, sidewalks, parking and associated landscape areas located on Taylor Street, 5th Street, Ice House Ave) |
| 7 ^{PH 1} | 24,629 SF (includes streets, sidewalks, parking and associated landscape areas located on Taylor Street, 4th Street) |

TOTAL STREETS AND PUBLIC DEDICATION
106,726 SF (2.45 ACRES)
TOTAL LAND IN PUD: 825,674 SF

PRIVATE PARCELS
T" = 100'

| | |
|---|---|
| A | 36,624 SF |
| B | 31,290 SF |
| C | 56,427 SF (includes 134 sf from Town - Taylor re-alignment) |
| D | 63,848 SF |
| E | 57,663 SF (includes 225 sf from Town - Taylor re-alignment) |
| F | 38,334 SF |
| G | 177,741 SF (includes 1,503.4sf from Town - Taylor re-alignment) |

TOTAL PRIVATE
461,298 SF (10.61 ACRES)
TOTAL STREETS, OPEN SPACE, AND PUBLIC DEDICATION
367,484 SF (8.44 ACRES)
TOTAL
828,782 SF (19.02 ACRES) (includes 1,862.7sf from town for Taylor re-alignment)

PHASE TWO site work commencement target - Spring 2022

| | | | |
|---|-----------|--------------------|-----------------|
| Standard | 14 | 28 MAX (w/ Duplex) | 28 SFE |
| Compact | 21 | 42 MAX (w/ ADU) | 32 SFE |
| Includes restricted ADU on Lot 8 in Phase One | | | |
| Cottage | 20 | 20 MAX | 20 SFE |
| Estate | 8 | 16 MAX | 12 SFE |
| Restroom | | | 1.5 SFE |
| | 63 | 106 MAX | 93.5 SFE |

21% - "locals only" deed restriction on all Cottage Lots

PARKING FOR AND SAFE ACCESS TO GAME CREEK SHALL BE PROVIDED THROUGH FULL DURATION OF CONSTRUCTION.

SEDIMENT CONTROL FENCING WILL BE INSTALLED AT ALL AREAS OF WATER CONVEYANCE OFFSITE.
EROSION CONTROL BARRIERS WILL BE INSTALLED ALONG LENGTH OF GAME CREEK WEILAND BORDER.
AREAS OF DISTURBANCE MUST BE REVEGETATED WITH NATIVE BIG-GAME SEED MIX AT EARLIEST POINT TO HELP IN AVOIDANCE OF EROSION, DUST AND THE SPREAD OF NOXIOUS WEEDS.
HOURS OF CONSTRUCTION LIMITED TO:
MON - FRI 7AM TO 6PM AND SAT 9AM TO 4PM
OPERATIONS MANUAL TO BE PROVIDED TO ALL RESIDENTS INCLUDING CONTACT INFORMATION AS WELL AS DIRECTIONS ON WHAT TO DO IN CASE OF EMERGENCIES

PHASE 1

PHASE 1 INCLUDES IMPROVEMENTS TO TAYLOR STREET UP TO THE NORTH EDGE OF 4TH STREET INCLUDING PEA PATCH, RESTROOM WILL BE BUILT AS PART OF PHASE 2.
PROPOSED SALES TRAILER LOCATION

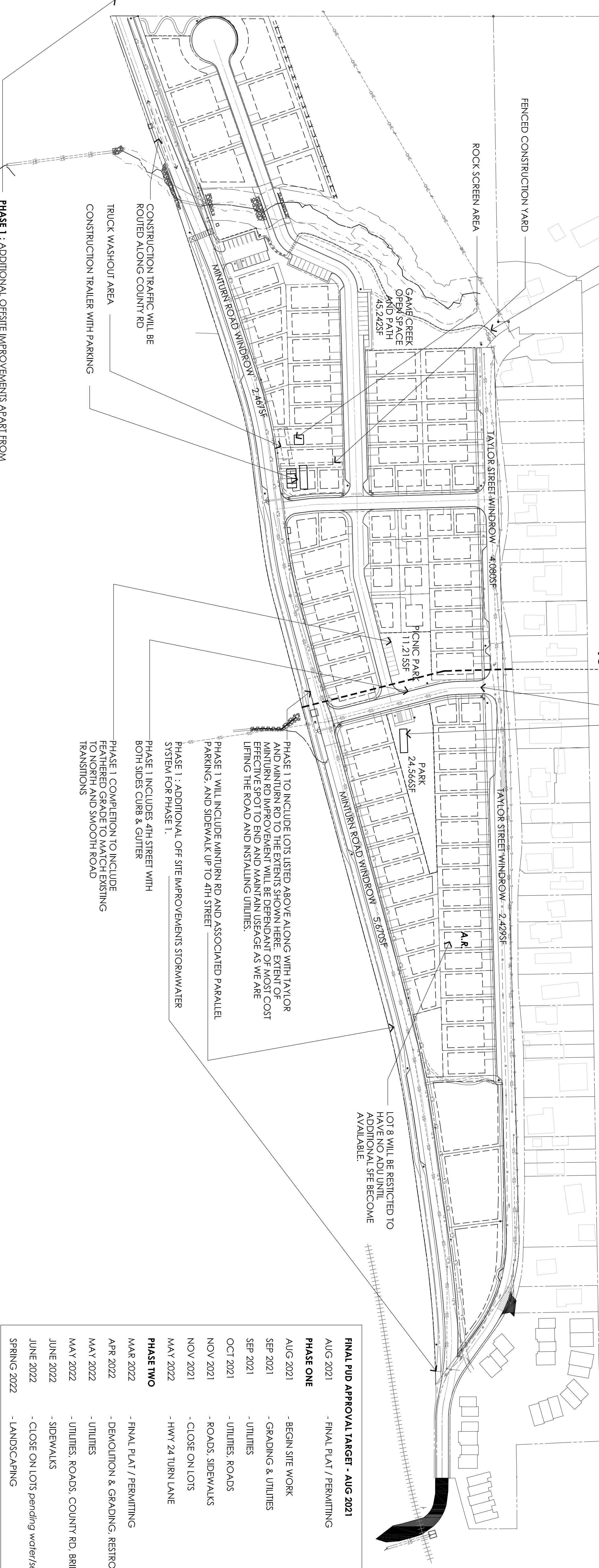
PHASE ONE site work commencement target - August 2021

| | | | |
|---|-----------|--------------------|-----------------|
| Standard | 10 | 20 MAX (w/ Duplex) | 20 SFE |
| Compact | 15 | 30 MAX (w/ ADU) | 22 SFE |
| Lot 8 restricted from building ADU until available SFE. | | | |
| Cottage | 4 | 4 MAX | 4 SFE |
| Multi-Family | 24 | 24 MAX | 24 SFE |
| | 52 | 77 MAX | 70.0 SFE |

PHASE ONE IS LIMITED PER PUD GUIDE TO 70 SFE. LOTS WITH ADU RESTRICTIONS (UNTIL WATER AVAILABILITY) ARE IDENTIFIED BELOW WITH THE MARKER "A.R."

21% - "locals only" deed restriction to all Cottage Lots. Community CLT will be established to allow for banking of 1% transfer fee from sales to fund "buy down" and deed restriction dedication on future resident directed lots.

| | | |
|----------------|--------------------------------|---------------|
| Phase 1 | Location | Area(sf) |
| | Park | 24,566 |
| | Minturn Road Windrow | 5,670 |
| | Taylor Street Windrow | 2,429 |
| | Subtotal | 32,665 |
| Phase 2 | Location | Area(sf) |
| | Picnic Park | 11,215 |
| | Game Creek Open Space and Path | 45,242 |
| | Minturn Road Windrow | 2,467 |
| | Taylor Street Windrow | 4,080 |
| | Subtotal | 63,004 |
| | Total | 95,669 |



PHASE 1 : ADDITIONAL OFFSITE IMPROVEMENTS APART FROM TAYLOR ST AND MINTURN RD TO BE COMPLETED INCLUDE LEFT TURN LANE ON HWY 24 AT COUNTY ROAD, MITIGATION AT HWY 24 AND MAIN STREET AND STORMWATER SYSTEM FOR PHASE 1.

PHASE 2 : ADDITIONAL OFFSITE IMPROVEMENTS APART FROM TAYLOR ST AND MINTURN RD TO BE COMPLETED INCLUDE COUNTY RD PAVING, BRIDGE PAVING, GAME CREEK CROSSING AND STORMWATER SYSTEM FOR PHASE 2.

CONSTRUCTION TRAFFIC WILL BE ROUTED ALONG COUNTY RD

TRUCK WASHOUT AREA

CONSTRUCTION TRAILER WITH PARKING

PHASE 1 TO INCLUDE LOTS LISTED ABOVE ALONG WITH TAYLOR AND MINTURN RD TO THE EXTENTS SHOWN HERE. EXTENT OF MINTURN RD IMPROVEMENT WILL BE DEPENDANT OF MOST COST EFFECTIVE SPOT TO END AND MAINTAIN USAGE AS WE ARE LIFTING THE ROAD AND INSTALLING UTILITIES.

PHASE 1 WILL INCLUDE MINTURN RD AND ASSOCIATED PARALLEL PARKING, AND SIDEWALK UP TO 4TH STREET

PHASE 1 : ADDITIONAL OFF SITE IMPROVEMENTS STORMWATER SYSTEM FOR PHASE 1.

PHASE 1 INCLUDES 4TH STREET WITH BOTH SIDES CURB & GUTTER

PHASE 1 COMPLETION TO INCLUDE FEATHERED GRADE TO MATCH EXISTING TO NORTH AND SMOOTH ROAD TRANSITIONS

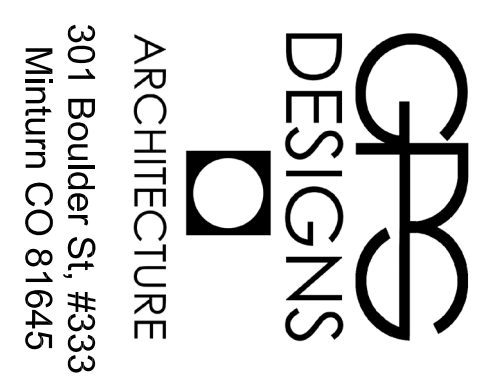
LOT 8 WILL BE RESTRICTED TO HAVE NO ADU UNTIL ADDITIONAL SFE BECOME AVAILABLE.

FINAL PUD APPROVAL TARGET - AUG 2021

| | |
|------------------|---------------------------------------|
| AUG 2021 | - FINAL PLAT / PERMITTING |
| PHASE ONE | |
| AUG 2021 | - BEGIN SITE WORK |
| SEP 2021 | - GRADING & UTILITIES |
| SEP 2021 | - UTILITIES |
| OCT 2021 | - UTILITIES, ROADS |
| NOV 2021 | - ROADS, SIDEWALKS |
| NOV 2021 | - CLOSE ON LOTS |
| MAY 2022 | - HWY 24 TURN LANE |
| PHASE TWO | |
| MAR 2022 | - FINAL PLAT / PERMITTING |
| APR 2022 | - DEMOLITION & GRADING, RESTROOM |
| MAY 2022 | - UTILITIES |
| MAY 2022 | - UTILITIES, ROADS, COUNTY RD, BRIDGE |
| JUNE 2022 | - SIDEWALKS |
| JUNE 2022 | - CLOSE ON LOTS pending water/sewer |
| SPRING 2022 | - LANDSCAPING |

1 CONSTRUCTION MGMT PLAN & PHASING

1" = 100'



301 Boulder St. #333
Minturn CO 81645

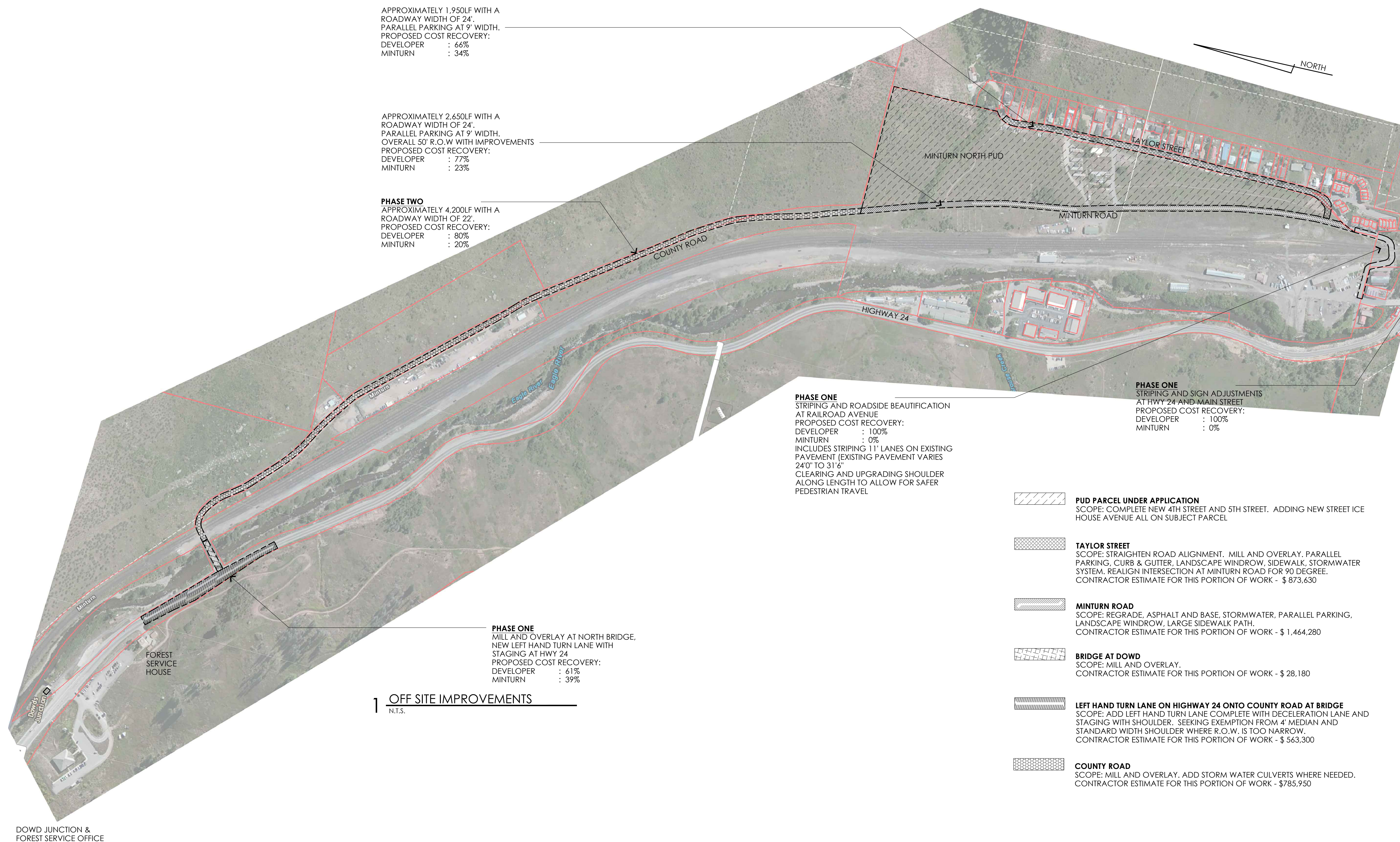
Minturn North PUD
Minturn, Colorado 81645

PROJECT
Minturn North PUD
PROJECT NO.
18_MRRPud-000

ISSUE
25 August 2021
RELEASE
Prelim PUD

PHASING
AND CONST
MANAGEMENT

A08



APPROXIMATELY 1,950LF WITH A ROADWAY WIDTH OF 24'. PARALLEL PARKING AT 9' WIDTH.
PROPOSED COST RECOVERY:
DEVELOPER : 66%
MINTURN : 34%

APPROXIMATELY 2,650LF WITH A ROADWAY WIDTH OF 24'. PARALLEL PARKING AT 9' WIDTH. OVERALL 50' R.O.W WITH IMPROVEMENTS
PROPOSED COST RECOVERY:
DEVELOPER : 77%
MINTURN : 23%

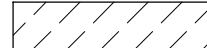

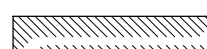


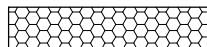
PHASE TWO
APPROXIMATELY 4,200LF WITH A ROADWAY WIDTH OF 22'.
PROPOSED COST RECOVERY:
DEVELOPER : 80%
MINTURN : 20%

PHASE ONE
STRIPING AND ROADSIDE BEAUTIFICATION AT RAILROAD AVENUE
PROPOSED COST RECOVERY:
DEVELOPER : 100%
MINTURN : 0%
INCLUDES STRIPING 11' LANES ON EXISTING PAVEMENT (EXISTING PAVEMENT VARIES 24'0" TO 31'6")
CLEARING AND UPGRADING SHOULDER ALONG LENGTH TO ALLOW FOR SAFER PEDESTRIAN TRAVEL

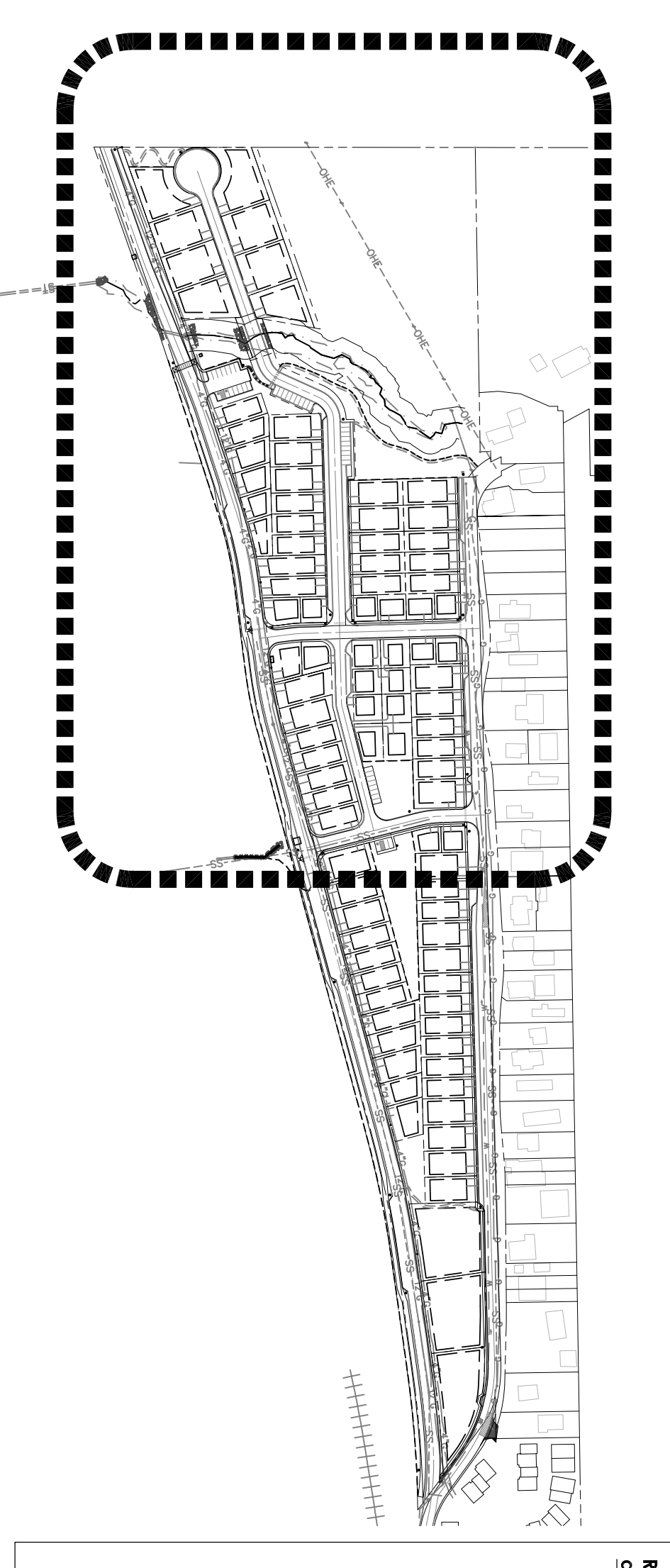
PHASE ONE
STRIPING AND SIGN ADJUSTMENTS AT HWY 24 AND MAIN STREET
PROPOSED COST RECOVERY:
DEVELOPER : 100%
MINTURN : 0%

PHASE ONE
MILL AND OVERLAY AT NORTH BRIDGE, NEW LEFT HAND TURN LANE WITH STAGING AT HWY 24
PROPOSED COST RECOVERY:
DEVELOPER : 61%
MINTURN : 39%

1 OFF SITE IMPROVEMENTS
N.T.S.

-  **PUD PARCEL UNDER APPLICATION**
SCOPE: COMPLETE NEW 4TH STREET AND 5TH STREET. ADDING NEW STREET ICE HOUSE AVENUE ALL ON SUBJECT PARCEL
-  **TAYLOR STREET**
SCOPE: STRAIGHTEN ROAD ALIGNMENT. MILL AND OVERLAY. PARALLEL PARKING, CURB & GUTTER, LANDSCAPE WINDROW, SIDEWALK, STORMWATER SYSTEM. REALIGN INTERSECTION AT MINTURN ROAD FOR 90 DEGREE. CONTRACTOR ESTIMATE FOR THIS PORTION OF WORK - \$ 873,630
-  **MINTURN ROAD**
SCOPE: REGRADE, ASPHALT AND BASE, STORMWATER, PARALLEL PARKING, LANDSCAPE WINDROW, LARGE SIDEWALK PATH. CONTRACTOR ESTIMATE FOR THIS PORTION OF WORK - \$ 1,464,280
-  **BRIDGE AT DOWD**
SCOPE: MILL AND OVERLAY. CONTRACTOR ESTIMATE FOR THIS PORTION OF WORK - \$ 28,180
-  **LEFT HAND TURN LANE ON HIGHWAY 24 ONTO COUNTY ROAD AT BRIDGE**
SCOPE: ADD LEFT HAND TURN LANE COMPLETE WITH DECELERATION LANE AND STAGING WITH SHOULDER. SEEKING EXEMPTION FROM 4' MEDIAN AND STANDARD WIDTH SHOULDER WHERE R.O.W. IS TOO NARROW. CONTRACTOR ESTIMATE FOR THIS PORTION OF WORK - \$ 563,300
-  **COUNTY ROAD**
SCOPE: MILL AND OVERLAY. ADD STORM WATER CULVERTS WHERE NEEDED. CONTRACTOR ESTIMATE FOR THIS PORTION OF WORK - \$ 785,950

DOWD JUNCTION &
FOREST SERVICE OFFICE



Roadways and Parking

proposing on street parking along Taylor St, Minturn Rd, and on Ice House Ave driveway access to cottage cluster

Off-Street parking spaces required per Minimum Municipal Code

Parcel 1 9'x27' (spaces where must maneuver as parallel)

Standard 9'x18' (spaces that are parallel, but due to drive locations can be pulled into or backed into with extra space)

19 spaces on Taylor (PH 1 -1/2 / PH 2-7)

33 spaces - Cottage Guest (PH 1 -0 / PH 2 -3)

11 Park spaces (Central) (PH 1 -3 / PH 2 -8)

14 Park spaces (Game Creek) (PH 1 -0 / PH 2 -14)

23 spaces Minturn Rd (PH 1 -4 / PH 2 -9)

103 Off Site public parking spaces provided

PHASE ONE - 29 / PHASE TWO - 74

Parking analysis per ITE standards, 10th edition.

Residential PUD - code 270 - .69' trips per dwelling unit.

Maximum Units of 184 peak demand of 123 cars.

Minimum Supply of 2 spaces per unit 368 spaces

PUD has a surplus of 265 spaces using this method.

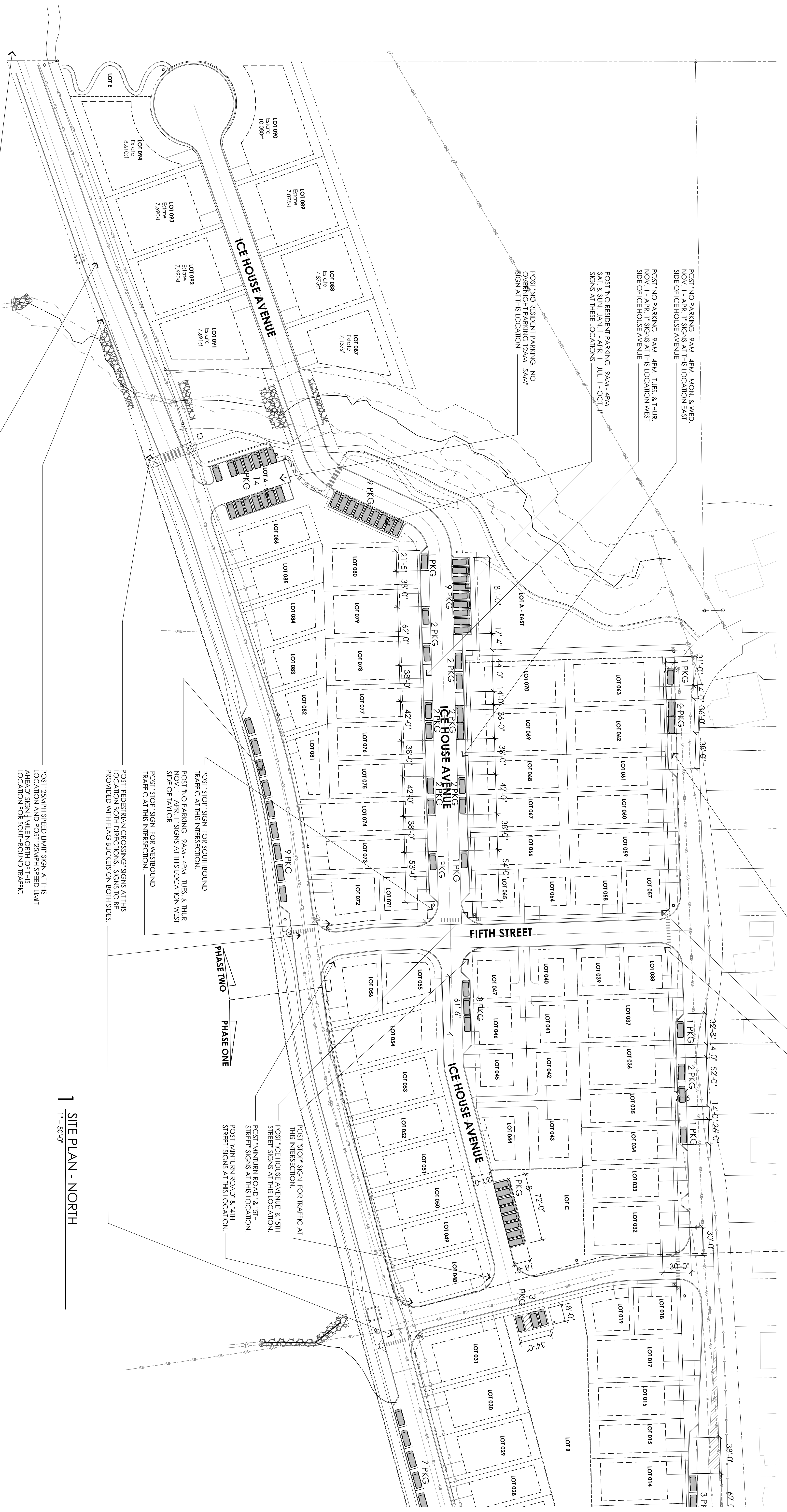
Parking analysis per MMC parking code.

No On-Street requirements are provided.

Multi-Family Residential requires 1 space per 5 units.

Maximum Units of 184 37 Guest spaces required

PUD has surplus of 66 spaces using this method.



POST 'NO PARKING 9AM - 4PM TUES. & THUR NOV. 1 - APR. 1' SIGNS AT THIS LOCATION WEST SIDE OF TAYLOR

POST 'TAYLOR STREET' & '5TH STREET' SIGNS AT THIS LOCATION.

POST 'STOP' SIGN FOR ALL TRAFFIC AT THIS INTERSECTION.

PHASE ONE

PHASE TWO

PHASE ONE

PHASE TWO

POST 'STOP' SIGN FOR TRAFFIC AT THIS INTERSECTION.

POST ICE HOUSE AVENUE & '5TH STREET' SIGNS AT THIS LOCATION.

POST 'MINTURN ROAD' & '5TH STREET' SIGNS AT THIS LOCATION.

POST 'MINTURN ROAD' & '5TH STREET' SIGNS AT THIS LOCATION.

POST 'STOP' SIGN FOR WESTBOUND TRAFFIC AT THIS INTERSECTION.

POST 'STOP' SIGN FOR WESTBOUND TRAFFIC AT THIS INTERSECTION.

POST 'NO PARKING 9AM - 4PM TUES. & THUR NOV. 1 - APR. 1' SIGNS AT THIS LOCATION WEST SIDE OF TAYLOR

POST 'STOP' SIGN FOR SOUTHBOUND TRAFFIC AT THIS INTERSECTION.

POST '25MPH SPEED LIMIT' SIGN AT THIS LOCATION AND POST '25MPH SPEED LIMIT AHEAD' SIGN 1 MILE NORTH OF THIS LOCATION FOR SOUTHBOUND TRAFFIC

POSTED SPEED LIMIT ON COUNTY ROAD OF 35MPH TO REMAIN TO NORTH

POSTED 'REDUCED SPEED AHEAD' SIGN ON COUNTY ROAD FOR SOUTHBOUND TRAFFIC

1 SITE PLAN - NORTH
1" = 50'-0"

ISSUE
25 August 2021

RELEASE
Prelim PUD

PROJECT
Minturn North PUD

PROJECT NO.
18_MRRpud-000

Minturn North PUD
Minturn, Colorado 81645

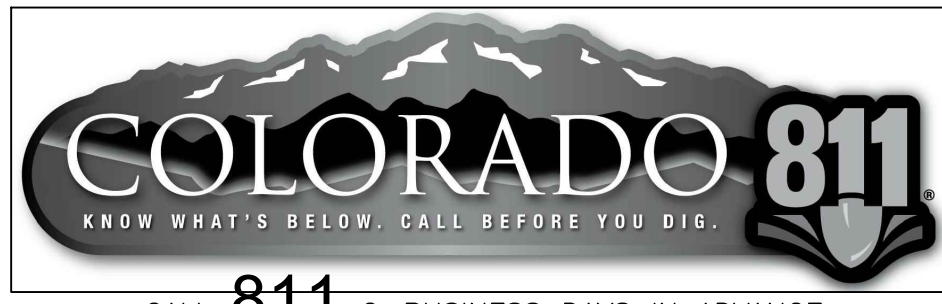
GPS
DESIGNS

ARCHITECTURE

301 Boulder St. #333
Minturn CO 81645

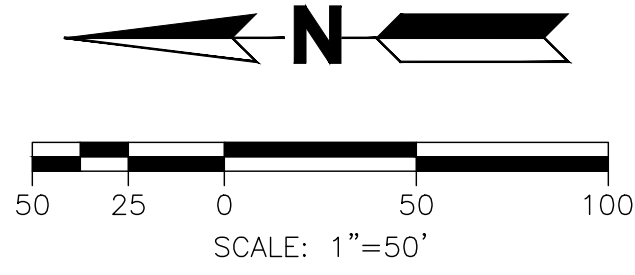
SIGN AND
PARKING PLAN
NORTH

A14



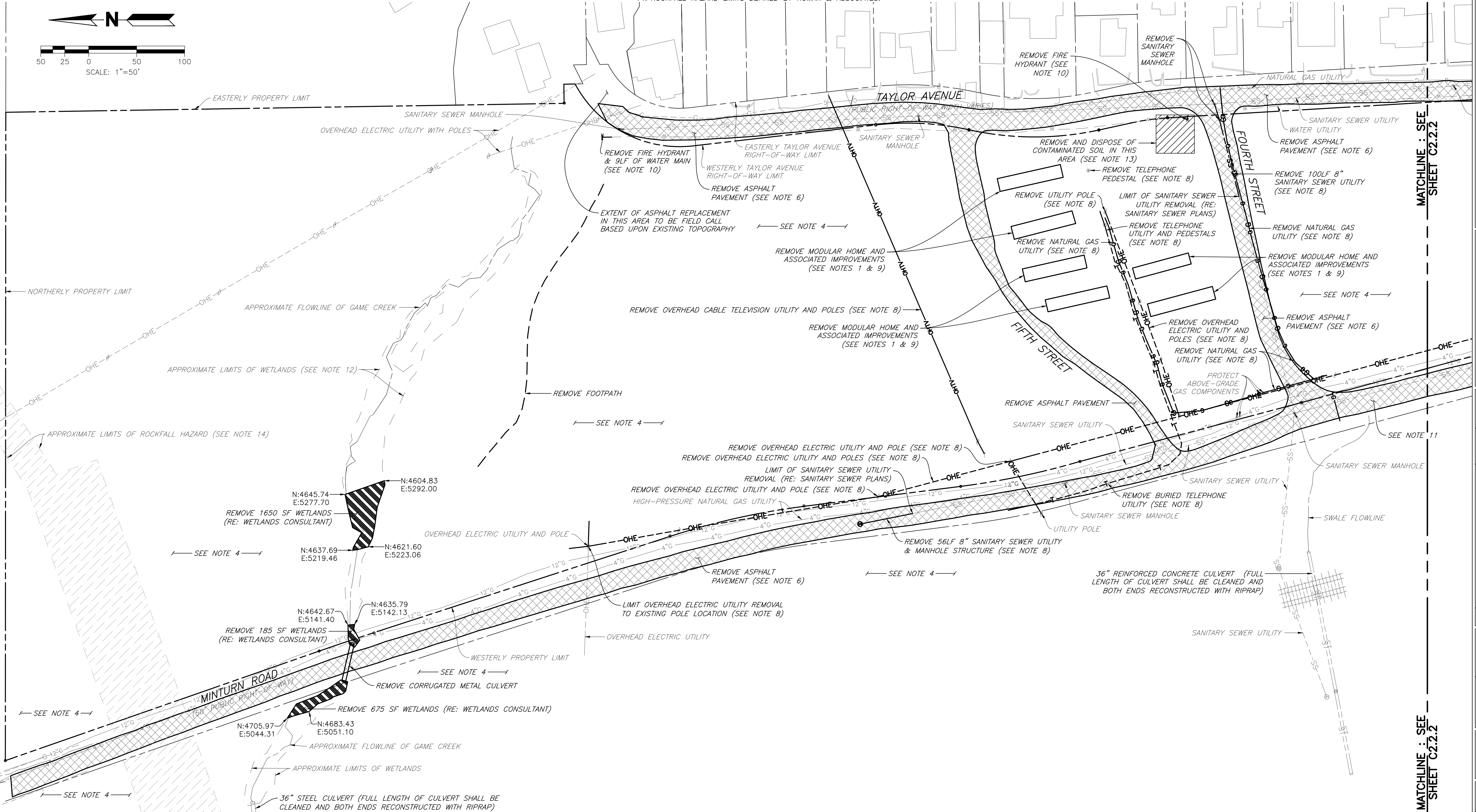
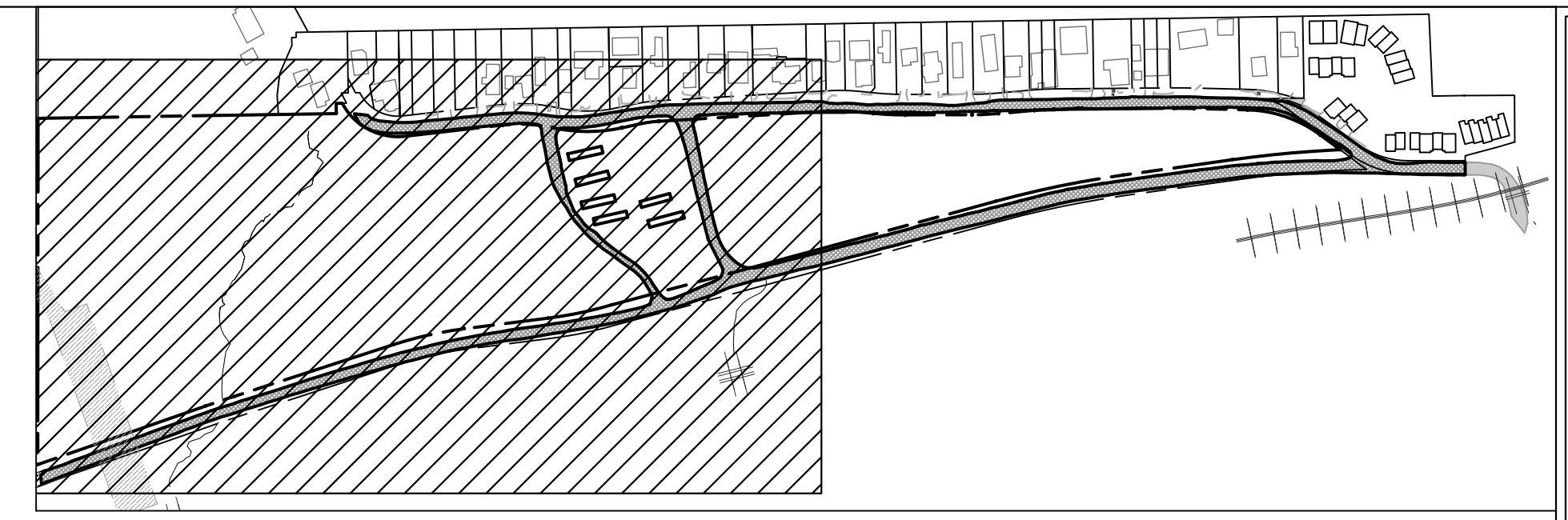
CALL 811 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE OR EXCAVATE FOR MARKING OF UNDERGROUND MEMBER UTILITIES

ENGINEER ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE SIZE, MATERIAL, HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.



NOTES:

- REMOVAL OF MODULAR HOMES SHALL INCLUDE FOUNDATIONS, UTILITY SERVICES (INCLUDING ABANDONMENT AT THE MAINS), DRIVEWAYS, DECKS, AND ANY OTHER IMPROVEMENTS.
- UTILITY REMOVALS SHALL INCLUDE PROPER DISCONNECTION / ABANDONMENT AT THE MAIN.
- ITEMS NOT SPECIFICALLY IDENTIFIED FOR REMOVAL SHALL REMAIN AND BE PROTECTED THROUGHOUT CONSTRUCTION.
- REMOVE VEGETATION, THEN STRIP AND STOCKPILE TOPSOIL WITHIN LIMITS OF PROJECT BUT OUTSIDE THE DRIPLINES OF ALL TREES SLATED TO REMAIN.
- INSTALL TREE PROTECTION AND PERIMETER CONTROL BEST MANAGEMENT PRACTICES PRIOR TO COMMENCING DEMOLITION/CLEARING ACTIVITIES.
- ALL ASPHALT SLATED FOR REMOVAL SHALL BE SAWCUT ALONG A NEAT LINE --- RIPPING ASPHALT WITH AN EXCAVATOR IS NOT ACCEPTABLE. LIMITS SHALL BE DEFINED BY EXTENTS OF PROPOSED IMPROVEMENTS AND/OR EXCAVATION LAYBACKS.
- ALL CONCRETE SLATED FOR REMOVAL SHALL BE SAWCUT ALONG THE NEAREST EXISTING JOINT.
- FOR ALL UTILITY SERVICE REMOVALS AND RELOCATIONS, COORDINATE WITH THE APPLICABLE UTILITY ENTITY.
- ALL ITEMS SLATED FOR REMOVAL SHALL BE PROPERLY DISPOSED OFF-SITE.
- FIRE HYDRANT REMOVAL SHALL INCLUDE THE LATERAL, GUARD VALVE, AND ABANDONMENT AT THE MAIN BY REMOVING THE TEE AND INSTALLING A SOLID SLEEVE. FIRE HYDRANTS SHALL BE SALVAGED FOR REUSE ON-SITE ONCE THEIR CONDITION HAS BEEN DOCUMENTED BY A TOWN REPRESENTATIVE AND THEY HAVE BEEN DEEMED ACCEPTABLE.
- MINTURN ROAD TRANSITIONS BETWEEN GRAVEL AND ASPHALT SOUTH OF FOURTH STREET.
- UNLESS SPECIFICALLY STATED OTHERWISE, ABSOLUTELY NO WORK SHALL OCCUR WITHIN THE WETLANDS ALONG GAME CREEK.
- SOIL NORTHWEST OF THE INTERSECTION OF TAYLOR AVENUE AND FORTH STREET HAS BEEN CONFIRMED TO BE CONTAMINATED WITH POLLUTANTS. THIS MATERIAL MUST BE EXCAVATED AND DISPOSED AT THE COUNTY LANDFILL. REFER TO THE "LIMITED PHASE II ENVIRONMENTAL ASSESSMENT" FROM CTL | THOMPSON FOR ADDITIONAL INFORMATION.
- ROCKFALL HAZARD LIMITS DEFINED BY KUMAR & ASSOCIATES.



MINTURN NORTH P.U.D.
TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

YARNELL CONSULTING & CIVIL DESIGN, LLC
P.O. BOX 3901, EAGLE, COLORADO 81631
(970) 323-7008

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| NO. | ISSUE / REVISION | NAME | DATE |
|-----|--------------------------------|------------|----------|
| 1. | SCHEMATIC DESIGN (NO CONST.) | J. YARNELL | 7/9/20 |
| 2. | DESIGN DEVELOPMENT (NO CONST.) | J. YARNELL | 9/23/20 |
| 3. | PLANNING SUBMITTAL | J. YARNELL | 12/18/20 |
| 4. | PLANNING RESUBMITTAL | J. YARNELL | 5/28/21 |
| 5. | PARTIAL PLANNING RESUBMITTAL | J. YARNELL | 8/18/21 |

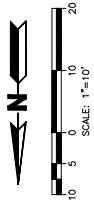
| | |
|--------------|------------|
| DESIGN BY: | J. YARNELL |
| DRAWN BY: | J. YARNELL |
| REVIEWED BY: | J. YARNELL |
| PROJECT NO.: | 20.004 |
| DATE: | 8/17/2021 |

| | |
|-------------|---------------------------------|
| SHEET TITLE | EXISTING CONDITIONS & DEMO PLAN |
| SHEET NO. | C2.1.1 |

D:\DROPBOX\PROJECT FILES\20.004-MINTURN CROSSING\PLANS\C2.1.1 EXISTING CONDITIONS & DEMO PLAN



ENGINEER ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS HOWEVER THE USER'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES MATERIAL, HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.



FOR SIGNAGE & STRIPING
NOTES, RE: SHEET C12.1



MINTURN NORTH P.L.D.
TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

YARNELL CONSULTING & CIVIL DESIGN, LLC
P.O. BOX 3901, EAGLE, COLORADO 81621
(970) 323-7008

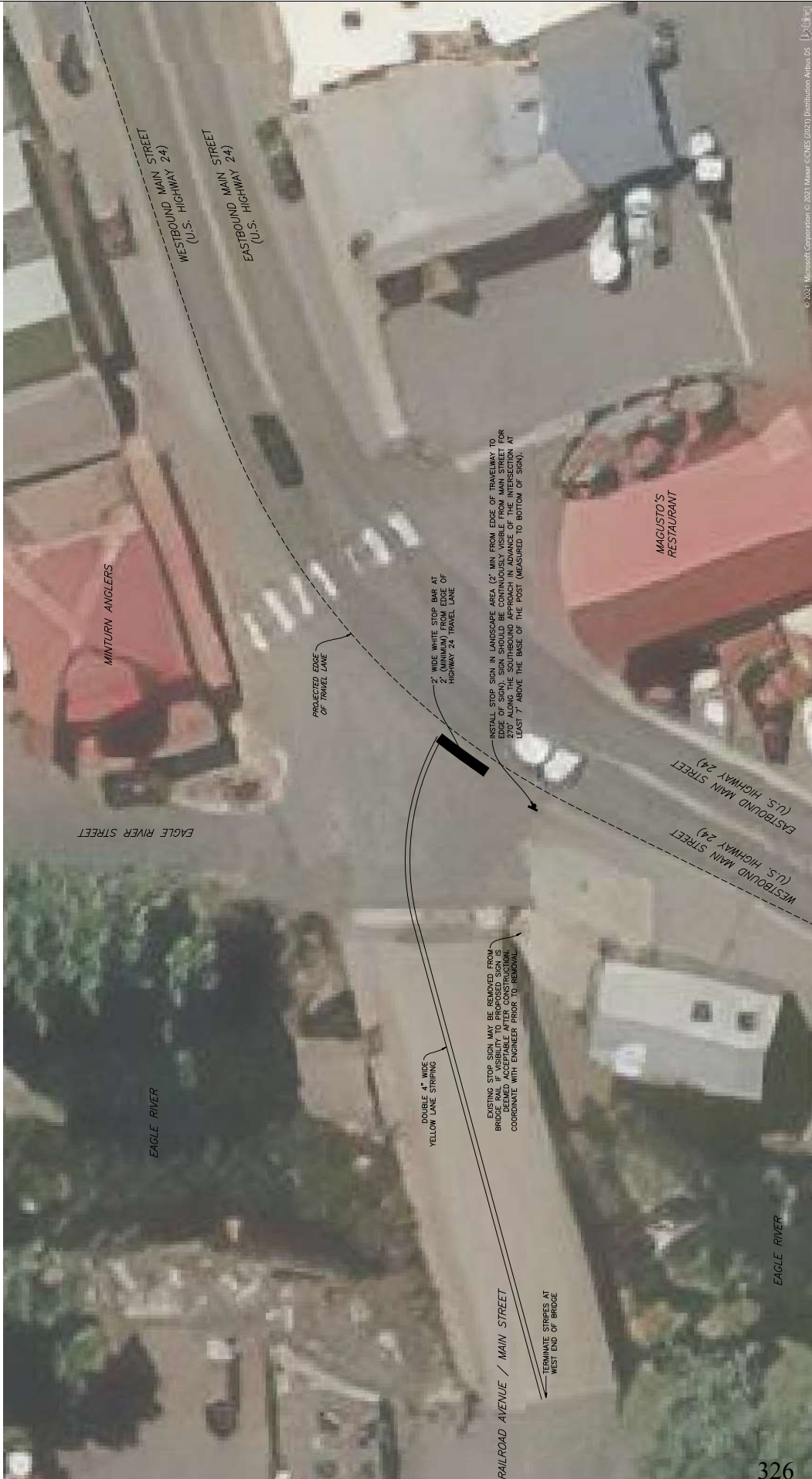
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| NO. | ISSUE / REVISION | DATE | NAME |
|-----|--------------------------------|----------|------|
| 1. | SCHEMATIC DESIGN (NO CONST.) | 7/9/20 | JULY |
| 2. | DESIGN DEVELOPMENT (NO CONST.) | 9/23/20 | JULY |
| 3. | PLANNING SUBMITTAL | 12/18/20 | JULY |
| 4. | PLANNING RESUBMITTAL | 5/28/21 | JULY |
| 5. | PARTIAL PLANNING RESUBMITTAL | 8/18/21 | JULY |

| PROJECT NO. | DATE |
|-------------|-----------|
| 20004 | 8/17/2021 |

SHEET TITLE
DOWNTOWN SIGNAGE & STRIPING

SHEET NO.
C12.4.1



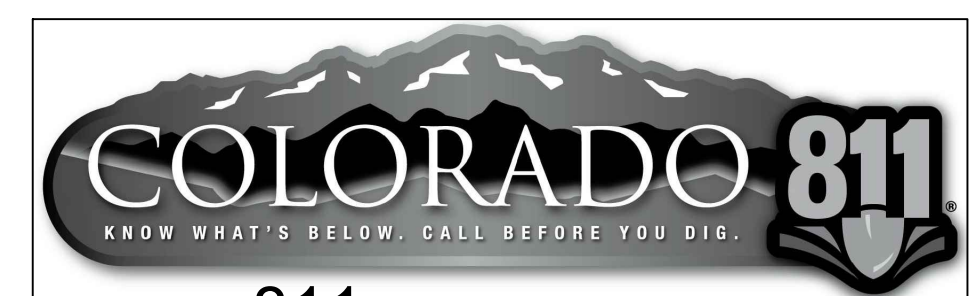
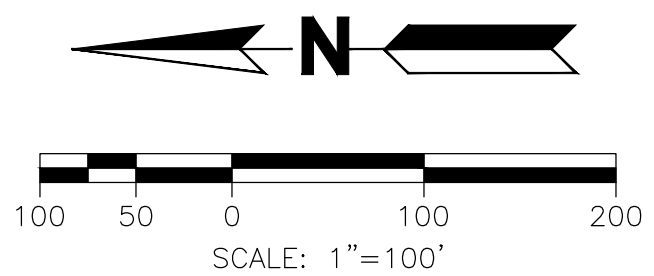
326

D:\DROPOBOX\PROJECT FILES\20.004-MINTURN CROSSING\PLANS\C3.1.0 OVERALL SITE PLAN



NOTES:

1. FOR MORE DETAILED INFORMATION, RE: SHEETS C3.2.1-C3.2.2.
2. THE LOT LAYOUT WAS PROVIDED BY GPS DESIGNS AS RECEIVED ELECTRONICALLY ON 06 MAY 2021.
3. FOR BUILDING SETBACKS, RE: ARCHITECT.
4. MOUNTABLE CURB/GUTTER SHALL BE PROVIDED ON THE FULL PROJECT EXCEPT AS EXPLICITLY INDICATED OTHERWISE ON THE TYPICAL ROAD SECTIONS (C7-SERIES SHEETS) AND/OR HORIZONTAL CONTROL PLANS (C12-SERIES SHEETS).
5. FOR SNOW STORAGE AREAS, RE: ARCHITECT.
6. GORE CREEK TRAILHEAD PARKING LOT AND RESTROOM FACILITY SHALL BE FURTHER DESIGNED AND SUBMITTED ONCE THE REST OF THE PROJECT IS UNDERWAY.



CALL 811 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE OR EXCAVATE FOR MARKING OF UNDERGROUND MEMBER UTILITIES

ENGINEER ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTORS RESPONSIBILITY TO FIELD VERIFY THE SIZE, MATERIAL, HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.

THE DESIGNS SHOWN HEREIN INCLUDING ALL TECHNICAL DRAWINGS, GRAPHIC REPRESENTATION & MODELS THEREOF, ARE PROPRIETARY & CAN NOT BE COPIED, DUPLICATED, OR COMMERCIALY EXPLOITED IN WHOLE OR IN PART WITHOUT THE SOLE AND EXPRESS WRITTEN PERMISSION FROM YARNELL CONSULTING & CIVIL DESIGN, LLC.

| NO. | ISSUE / REVISION | DATE | NAME |
|-----|--------------------------------|----------|------|
| 1. | SCHEMATIC DESIGN (NO CONST.) | 7/9/20 | JYJ |
| 2. | DESIGN DEVELOPMENT (NO CONST.) | 9/23/20 | JYJ |
| 3. | PLANNING SUBMITTAL | 12/18/20 | JYJ |
| 4. | PLANNING RESUBMITTAL | 5/28/21 | JYJ |
| 5. | PARTIAL PLANNING RESUBMITTAL | 8/18/21 | JYJ |

| | |
|-------------------------|-----------------|
| DESIGN BY: J. YARNELL | DATE: 8/17/2021 |
| DRAWN BY: J. YARNELL | |
| REVIEWED BY: J. YARNELL | |
| PROJECT NO.: 20.004 | |

SHEET TITLE
OVERALL SITE PLAN

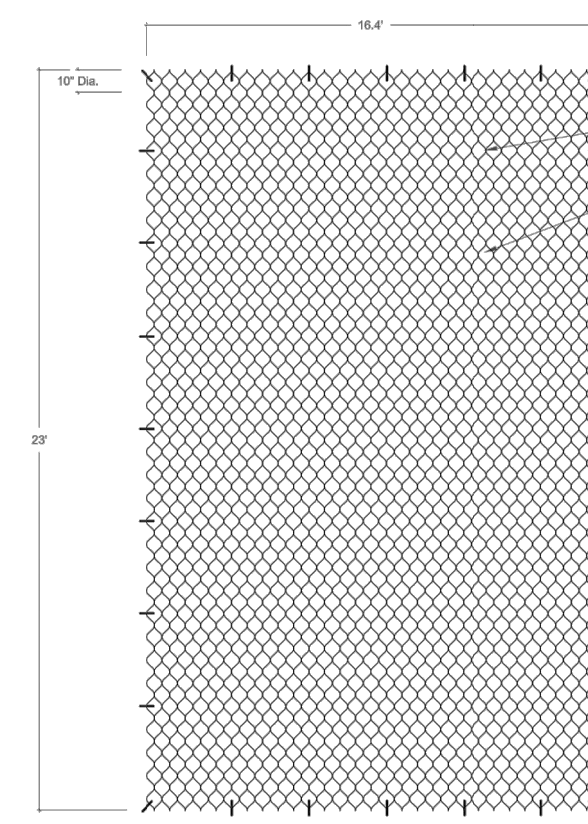
SHEET NO.
C3.1.0

MINTURN NORTH P.U.D.
TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

YARNELL CONSULTING & CIVIL DESIGN, LLC
P.O. BOX 3901, EAGLE, COLORADO 81631
(970) 323-7008

DETAILS (TO BE INCLUDED IN A FUTURE SUBMITTAL):

- 3' CONCRETE PAN
- 5.5' CONCRETE PAN
- 8' CONCRETE PAN
- MOUNTABLE CURB/GUTTER
- VERTICAL CURB/GUTTER
- VERTICAL CURB (NO GUTTER)
- FLOWFILL CROSSING DETAIL FOR STORM AND WATER



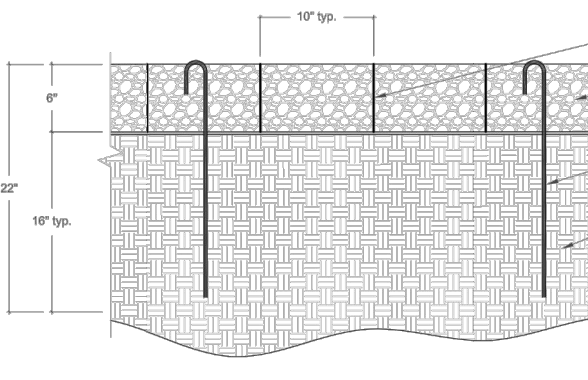
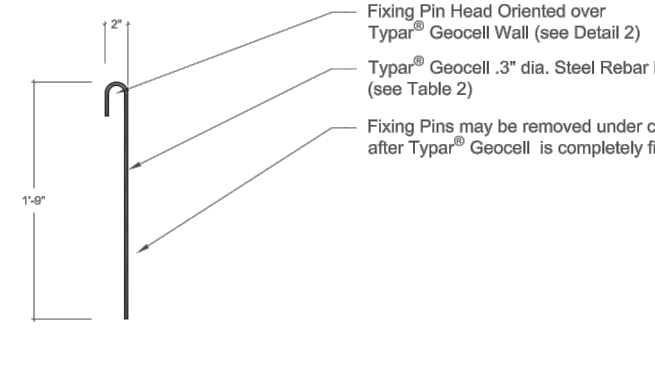
DESIGN NOTES:

Note 1: Before installation of embankment ground conditions exist. These must be improved prior to placement of Typar® Geocell GS.
 Note 2: Level the existing surface prior to applying Typar® Geocell GS.
 Note 3: The cellular wall to be placed over the existing surface.
 Note 4: Fixing Pins should be used to be spaced along the entire perimeter of the panel and at a rate of 1 fixing pin every 2 feet along edge. Ensure all 4 corners are secured. Fixing pins must be secured to the cellular wall by being hooked and over the cell.
 Note 5: After Typar® Geocell GS has been anchored in place, filling of the cells may be carried out. For general convenience, it is advisable to fill from the edge inward, or from the toe (bottom) of slope inward. Aggregates may be compacted into place using an appropriate method which will not damage the fabric of Typar® Geocell GS.
 Note 6: Ensure Typar® Geocell GS is completely covered, throughout maximum to upright will affect the products integrity.
 Note 7: Do not drive on surface prior to filling with crushed aggregate.
 Note 8: Anchor on suitability for specific applications including the use of a geogrid layer is available from Polymer Group's technical team.

| Physical Properties | Unit of Measurement | 250/150 |
|---------------------------------|---------------------|--|
| Cell Nominal Diameter | mm | 254 |
| Cell Depth | in | 5.91 |
| Panel Length (Nominal) | ft | 66.42 |
| Panel Width (Nominal) | ft | 22.97 |
| Number of Cells in Length (L) | No. | 26 |
| Number of Cells in Width (W) | No. | 28 |
| Cell Length (Nominal) | in | 11.81 |
| Cell Width (Nominal) | in | 10.43 |
| Color | | Dark Gray |
| Panel Weight (Nominal) | kg | 85.12 |
| Mechanical/Tensile Properties | | |
| Cell Wall Tensile Strength | ksi | 1.416/4 |
| Cell Jointed Pull Strength | ksi | 885.22 |
| Cell Wall Permeability | imp/ sec. | 62 |
| Slope Applications | | 1:1 (60 deg) |
| Load Capacity - Vehicle Type | | LIGHT VEHICLES |
| Soil Stabilization Applications | | Permanent Wooded Trails, Paths, Openways, Roads, Access Routes & Parking Areas |
| Slope Applications | | Slope Slopes (1:1), Road Banks, Closures, Pathways, Highway Embankments |

| Product | Material | Size | Qty/Pack | Installation (Recommended) |
|------------|-----------|---------------------|----------|----------------------------|
| Fixing Pin | Steel Rod | 22"x1/4"x3/32" dia. | Ex. | 1 pin every 2 ft. |

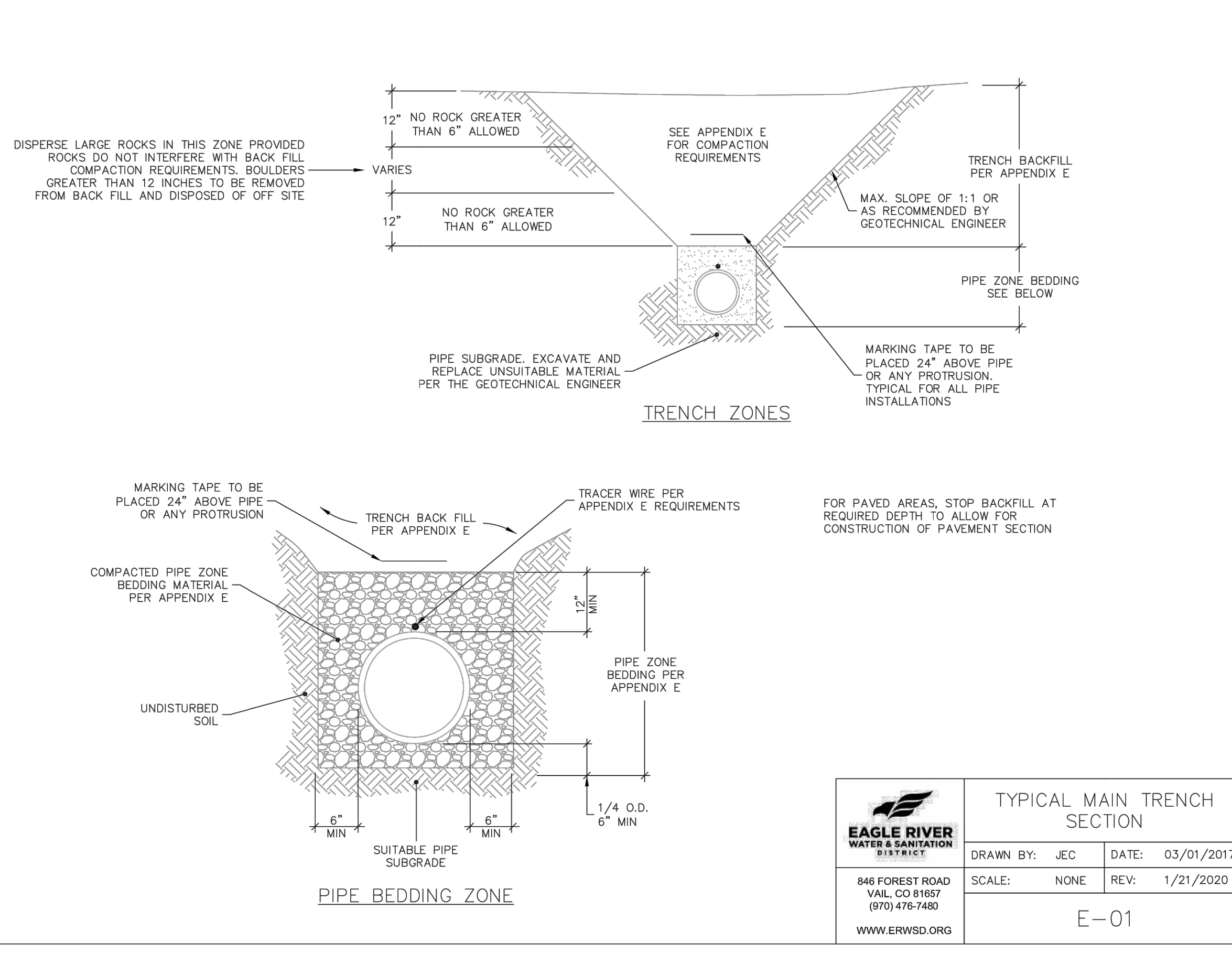
Please note that the information above is given as a guide only. All sizes and weights are nominal figures and may vary to what is published. Polymer Group Inc. cannot be liable for damage caused by incorrect installation of this product. Final determination of the suitability of any information or material for the use contemplated and the manner of its use is the sole responsibility of the user and the user must assume all risk and responsibility in connection therewith.

TYPAR Geosynthetics
 70 Old Hickory Blvd., Old Hickory, TN 37138
 Toll-Free: 1-800-541-5519
 e-mail: geo_sells@polymer.com
 website: www.typpar.com/products

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Typar® Geocell GS 250/150
 For Ground Stabilization
 Specification, Design & Installation Guide



TRENCH ZONES

DISPERSE LARGE ROCKS IN THIS ZONE PROVIDED ROCKS DO NOT INTERFERE WITH BACK FILL COMPACTION REQUIREMENTS. BOULDERS GREATER THAN 12 INCHES TO BE REMOVED FROM BACK FILL AND DISPOSED OF OFF SITE

NO ROCK GREATER THAN 6" ALLOWED

SEE APPENDIX E FOR COMPACTION REQUIREMENTS

TRENCH BACKFILL PER APPENDIX E

MAX. SLOPE OF 1:1 OR AS RECOMMENDED BY GEOTECHNICAL ENGINEER

PIPE ZONE BEDDING SEE BELOW

MARKING TAPE TO BE PLACED 24" ABOVE PIPE OR ANY PROTRUSION. TYPICAL FOR ALL PIPE INSTALLATIONS

PIPE SUBGRADE, EXCAVATE AND REPLACE UNSUITABLE MATERIAL PER THE GEOTECHNICAL ENGINEER

TRACER WIRE PER APPENDIX E REQUIREMENTS

FOR PAVED AREAS, STOP BACKFILL AT REQUIRED DEPTH TO ALLOW FOR CONSTRUCTION OF PAVEMENT SECTION

PIPE BEDDING ZONE

MARKING TAPE TO BE PLACED 24" ABOVE PIPE OR ANY PROTRUSION

TRENCH BACK FILL PER APPENDIX E

COMPACTED PIPE ZONE BEDDING MATERIAL PER APPENDIX E

UNDISTURBED SOIL

PIPE ZONE BEDDING PER APPENDIX E

6" MIN

6" MIN

1 1/4" O.D.

6" MIN

SUITABLE PIPE SUBGRADE

EAGLE RIVER WATER & SANITATION DISTRICT
 846 FOREST ROAD
 VAIL, CO 81657
 (970) 476-7488
 WWW.ERWSD.ORG

TYPICAL MAIN TRENCH SECTION

DRAWN BY: JEC DATE: 03/01/2017
 SCALE: NONE REV: 1/21/2020

E-01

MINTURN NORTH P.U.D.
 TAYLOR AVENUE & MINTURN ROAD
 MINTURN, COLORADO

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| NO. | ISSUE / REVISION | DATE | NAME |
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| 1. | SCHEMATIC DESIGN (NO CONST.) | 7/9/20 | JUY |
| 2. | DESIGN DEVELOPMENT (NO CONST.) | 9/23/20 | JUY |
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| 4. | PLANNING RESUBMITTAL | 5/28/21 | JUY |
| 5. | PARTIAL PLANNING RESUBMITTAL | 8/18/21 | JUY |

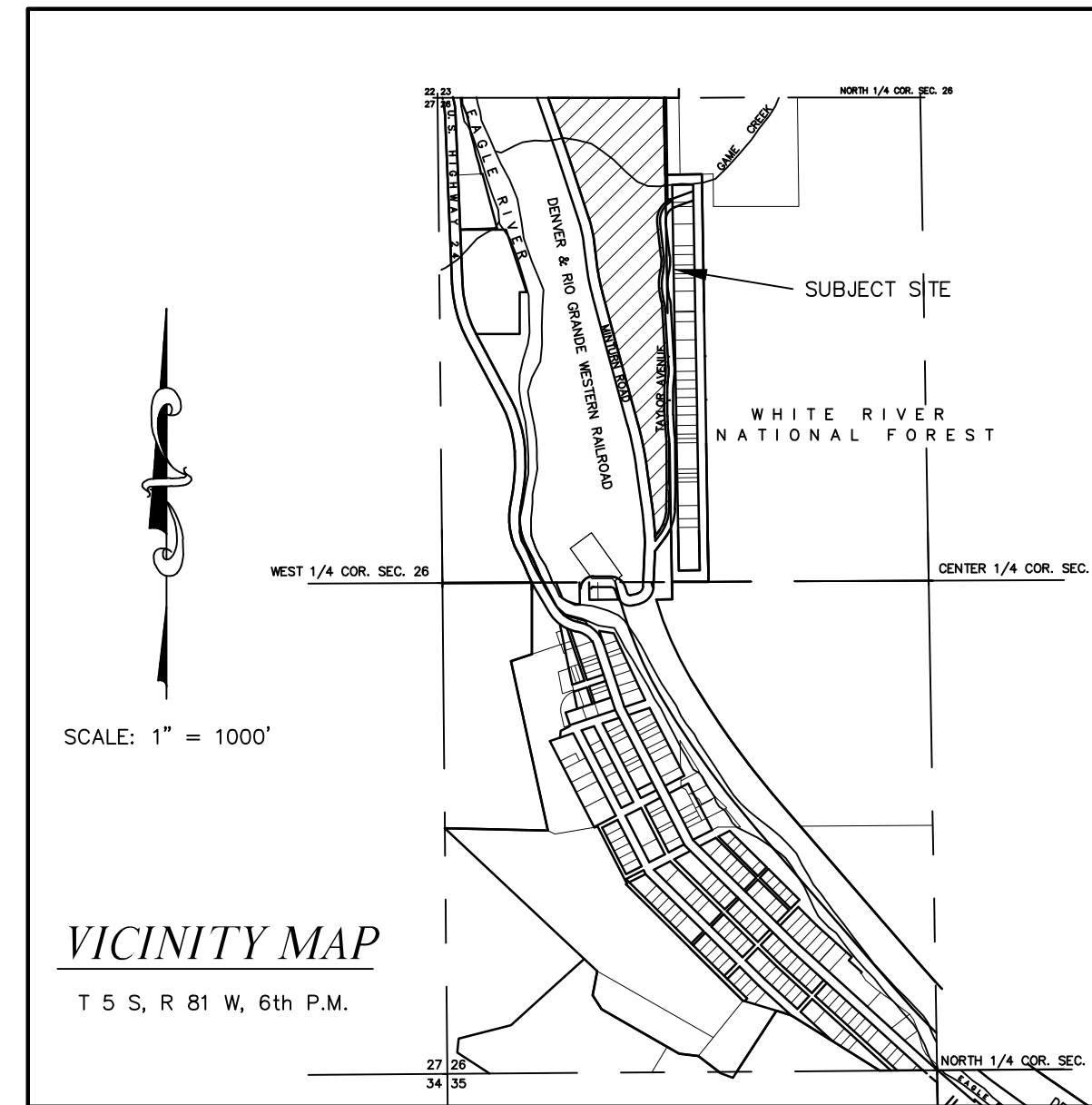
DESIGN BY: J. YARNELL
 DRAWN BY: J. YARNELL
 REVIEWED BY: J. YARNELL
 PROJECT NO.: 20.004
 DATE: 8/17/2021

SHEET TITLE
DETAILS

SHEET NO.
C13.1

PRELIMINARY PLAT MINTURN NORTH

A PART OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN
TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO



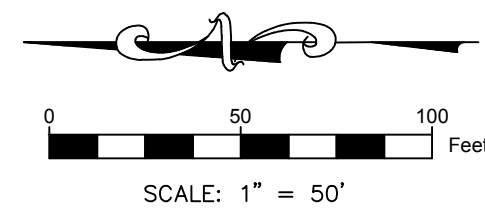
LAND USE SUMMARY:

| PARCEL | AREA | USE |
|-------------------|---------------------|--|
| LOTS 3-31 | 2.877 ACRES | RESIDENTIAL |
| LOT B | 0.382 ACRES | OPEN SPACE / RECREATIONAL |
| LOT C | 0.125 ACRES | OPEN SPACE / RECREATIONAL |
| TRACT A | 13.874 ACRES | FUTURE DEVELOPMENT |
| TRACT M-1 | 0.367 ACRES | MULTI FAMILY RESIDENTIAL |
| TRACT M-2 | 0.340 ACRES | MULTI FAMILY RESIDENTIAL |
| TRACT M-3 | 0.397 ACRES | MULTI FAMILY RESIDENTIAL |
| TRACT P1 | 0.317 ACRES | PARKING, SIDEWALKS, ROAD MAINTENANCE, UTILITIES AND SNOW STORAGE |
| TRACT P2 | 0.012 ACRES | PARKING, SIDEWALKS, ROAD MAINTENANCE, UTILITIES AND SNOW STORAGE |
| FOURTH STREET | 0.264 ACRES | ROADWAY, UTILITIES |
| TOTAL AREA | 18.955 ACRES | |

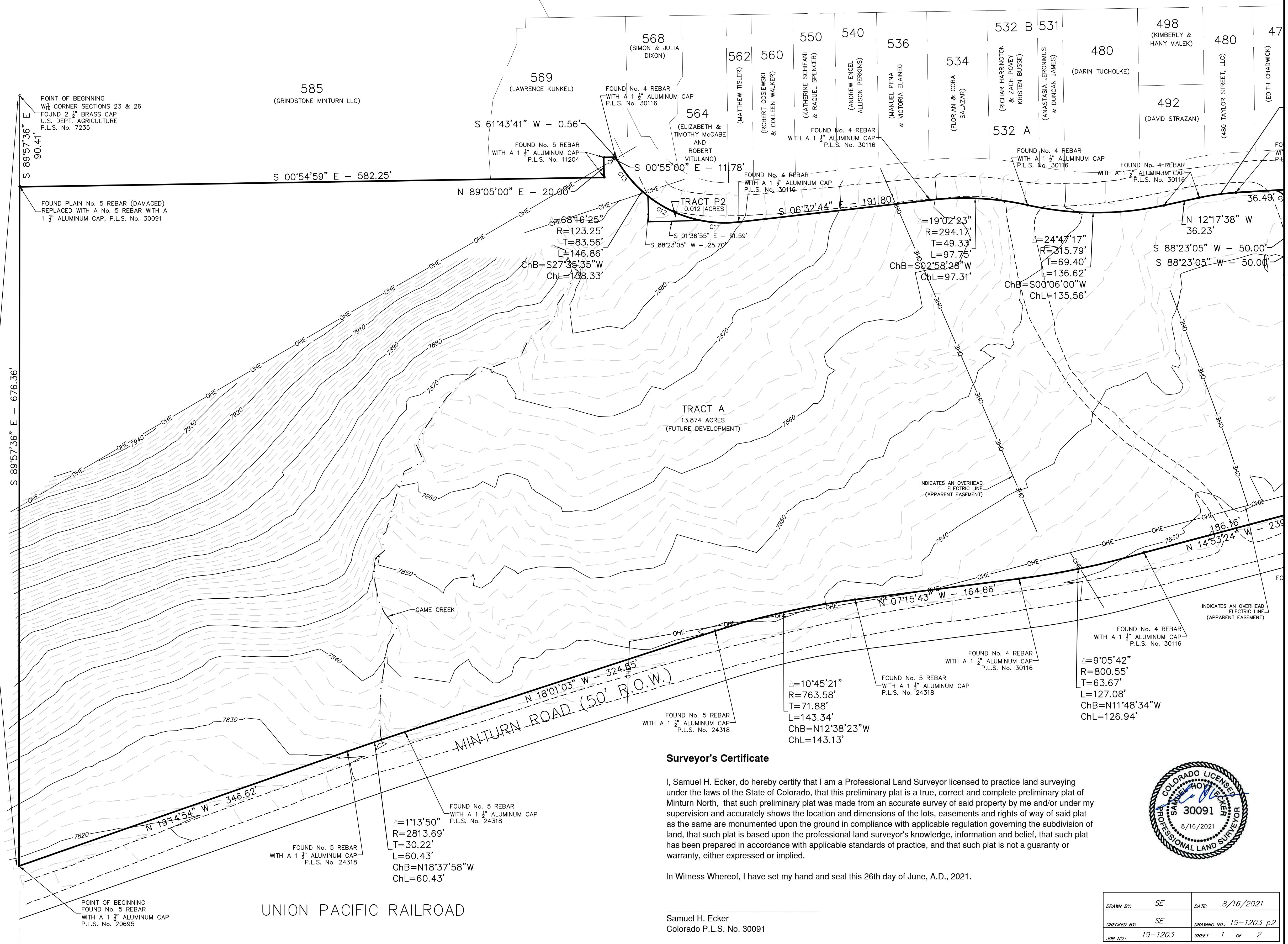
GENERAL NOTES:

- DATE OF FIELD LOCATIONS: NOVEMBER, 2020
- CONTOUR INTERVAL = 2'
- BASIS OF ELEVATIONS = NAVD88
- BASIS OF BEARINGS: THE LINE CONNECTING THE MONUMENT FOUND MARKING THE NORTHWESTERLY CORNER OF THE SUBJECT PROPERTY, A No. 5 REBAR WITH A 1 1/2" ALUMINUM CAP, P.L.S. No. 20695, AND THE MONUMENT FOUND MARKING THE W 1/4 CORNER OF SECTIONS 23 & 26, A 2 1/2" BRASS CAP MONUMENT U.S. DEPT. OF AGRICULTURE, P.L.S. No. 7235, SAID BEARING BEING N89°57'36"W (ASSUMED).
- UNITS INDICATED ARE IN U.S. SURVEY FEET
- PROPOSED EASEMENTS: PROPOSED EASEMENTS ARE FOR UTILITY PURPOSES. PROPOSED EASEMENTS ADJOINING RIGHT-OF-WAYS ARE FOR UTILITIES AND SNOW STORAGE. PROPOSED EASEMENTS INDICATED WHERE SIDEWALKS ARE PROPOSED TO BE CONSTRUCTED ARE FOR UTILITIES, SNOW STORAGE AND SIDEWALKS.

(UNPLATTED)
(U.S.F.S.)



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



Surveyor's Certificate

I, Samuel H. Ecker, do hereby certify that I am a Professional Land Surveyor licensed to practice land surveying under the laws of the State of Colorado, that this preliminary plat is a true, correct and complete preliminary plat of Minturn North, that such preliminary plat was made from an accurate survey of said property by me and/or under my supervision and accurately shows the location and dimensions of the lots, easements and rights of way of said plat as the same are monumented upon the ground in compliance with applicable regulation governing the subdivision of land, that such plat is based upon the professional land surveyor's knowledge, information and belief, that such plat has been prepared in accordance with applicable standards of practice, and that such plat is not a guaranty or warranty, either expressed or implied.

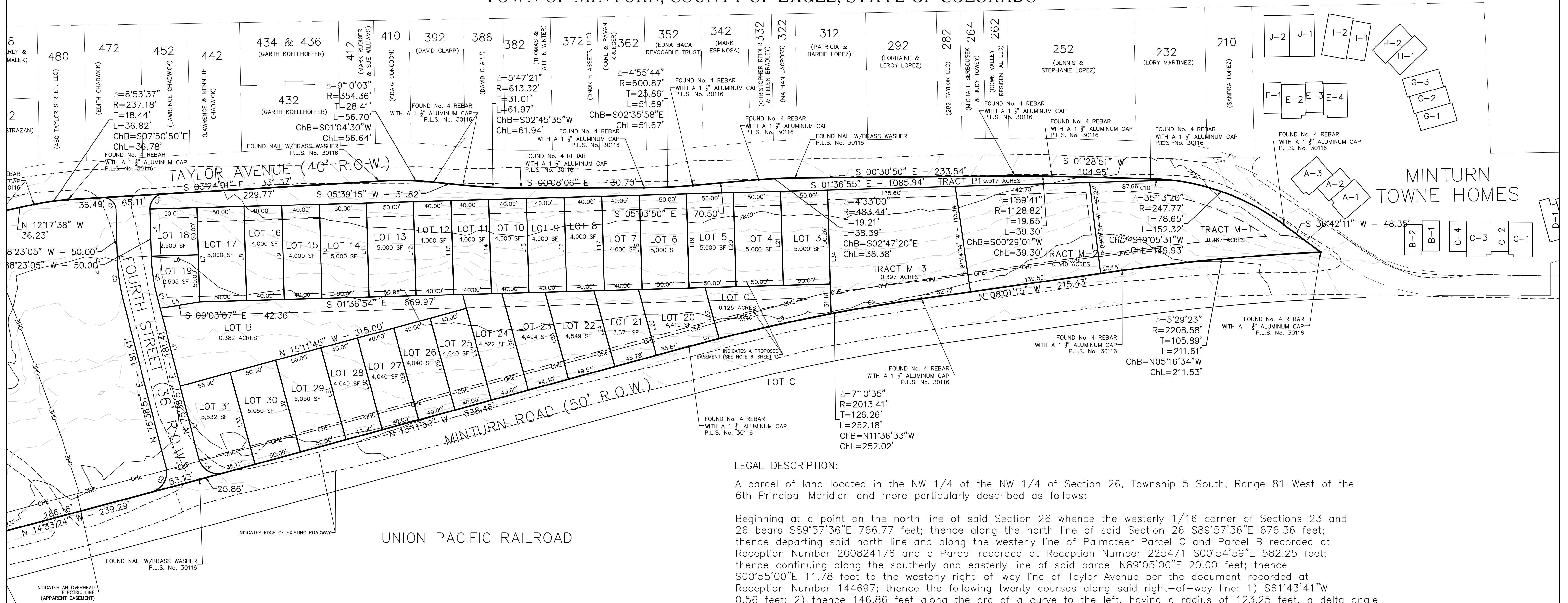
In Witness Whereof, I have set my hand and seal this 26th day of June, A.D., 2021.

Samuel H. Ecker
Colorado P.L.S. No. 30091



| | |
|------------------|--------------------------|
| DRAWN BY: SE | DATE: 8/16/2021 |
| CHECKED BY: SE | DRAWING NO.: 19-1203 p.2 |
| JOB NO.: 19-1203 | SHEET 1 OF 2 |

**PRELIMINARY PLAT
MINTURN NORTH**
A PART OF SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST OF THE SIXTH PRINCIPAL MERIDIAN
TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO



LEGAL DESCRIPTION:

A parcel of land located in the NW 1/4 of the NW 1/4 of Section 26, Township 5 South, Range 81 West of the 6th Principal Meridian and more particularly described as follows:

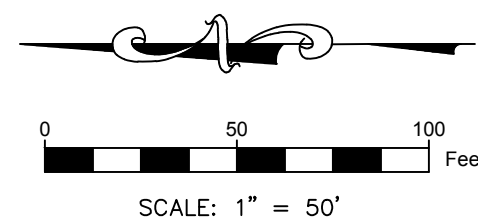
Beginning at a point on the north line of said Section 26 whence the westerly 1/16 corner of Sections 23 and 26 bears S89°57'36"E 766.77 feet; thence along the north line of said Section 26 S89°57'36"E 676.36 feet; thence departing said north line and along the westerly line of Palmateer Parcel C and Parcel B recorded at Reception Number 200824176 and a Parcel recorded at Reception Number 225471 S00°54'59"E 582.25 feet; thence continuing along the southerly and easterly line of said parcel N89°05'00"E 20.00 feet; thence S00°55'00"E 11.78 feet to the westerly right-of-way line of Taylor Avenue per the document recorded at Reception Number 144697; thence the following twenty courses along said right-of-way line: 1) S61°43'41"W 0.56 feet; 2) thence 146.86 feet along the arc of a curve to the left, having a radius of 123.25 feet, a delta angle of 68°16'25", and a chord that bears S27°35'35"W 138.33 feet; 3) thence S06°32'44"E 191.80 feet; 4) thence 97.75 feet along the arc of a curve to the right, having a radius of 294.17 feet, a delta angle of 19°02'23", and a chord that bears S02°58'28"W 97.31 feet; 5) thence 136.62 feet along the arc of a curve to the left, having a radius of 315.79 feet, a delta angle of 24°47'17", and a chord that bears S00°06'00"W 135.56 feet; 6) thence S12°17'38"E 36.23 feet; 7) thence 36.82 feet along the arc of a curve to the right, having a radius of 237.18 feet, a delta angle of 8°53'37", and a chord that bears S07°50'50"E 36.78 feet; 8) thence S03°24'01"E 331.37 feet; 9) thence 56.70 feet along the arc of a curve to the right, having a radius of 354.36 feet, a delta angle of 9°10'03", and a chord that bears S01°04'30"W 56.64 feet; 10) thence S05°39'15"W 31.82 feet; 11) thence 61.97 feet along the arc of a curve to the left, having a radius of 613.32 feet, a delta angle of 5°47'21", and a chord that bears S02°45'35"W 61.94 feet; 12) thence S00°08'06"E 130.70 feet; 13) thence 51.69 feet along the arc of a curve to the left, having a radius of 600.87 feet, a delta angle of 4°55'44", and a chord that bears S02°35'58"E 51.67 feet; 14) thence S05°03'50"E 70.50 feet; 15) thence 38.39 feet along the arc of a curve to the right, having a radius of 483.44 feet, a delta angle of 4°33'00", and a chord that bears S02°47'20"E 38.38 feet; 16) thence S00°30'50"E 233.54 feet; 17) thence 39.30 feet along the arc of a curve to the right, having a radius of 1128.82 feet, a delta angle of 1°59'41", and a chord that bears S00°29'01"W 39.30 feet; 18) thence S01°28'51"W 104.95 feet; 19) thence 152.32 feet along the arc of a curve to the right, having a radius of 247.77 feet, a delta angle of 35°13'20", and a chord that bears S19°05'31"W 149.93 feet; 20) thence S36°42'11"W 48.35 feet; thence departing said right-of-way 211.61 feet along the arc of a curve to the left, having a radius of 2208.58 feet, a delta angle of 5°29'23", and a chord that bears N05°16'34"W 211.53 feet; thence N08°01'15"W 215.43 feet; thence 252.18 feet along the arc of a curve to the left, having a radius of 2013.41 feet, a delta angle of 7°10'35", and a chord that bears N11°36'33"W 252.02 feet; thence N15°11'50"W 538.46 feet; thence N14°53'24"W 239.29 feet; thence 127.08 feet along the arc of a curve to the right, having a radius of 800.55 feet, a delta angle of 9°05'42", and a chord that bears N11°48'34"W 126.94 feet; thence N07°15'43"W 164.66 feet; thence 143.34 feet along the arc of a curve to the left, having a radius of 763.58 feet, a delta angle of 10°45'21", and a chord that bears N12°38'24"W 143.13 feet; thence N18°01'03"W 324.55 feet; thence 60.43 feet along the arc of a curve to the left, having a radius of 2813.69 feet, a delta angle of 1°13'50", and a chord that bears N18°37'58"W 60.43 feet; thence N19°14'54"W 346.62 feet to the point of beginning, containing 18.955 acres, more or less.

| CURVE TABLE | | | | | |
|-------------|------------|---------|-------------|---------------|--------------|
| CURVE # | ARC LENGTH | RADIUS | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
| C1 | 21.71 | 13.55 | 91°47'06" | N42°29'32"E | 19.46 |
| C2 | 48.01 | 216.00 | 12°44'09" | S82°01'00"W | 47.91 |
| C3 | 34.16 | 21.88 | 89°27'39" | S59°37'14"E | 30.80 |
| C4 | 33.30 | 21.00 | 90°50'46" | S30°13'34"W | 29.92 |
| C5 | 40.01 | 180.00 | 12°44'09" | S82°01'00"W | 39.93 |
| C6 | 24.00 | 15.59 | 88°12'54" | N47°30'28"W | 21.70 |
| C7 | 33.03 | 2013.41 | 0°56'24" | N14°43'38"W | 33.03 |
| C8 | 121.93 | 2013.41 | 3°28'12" | N12°31'20"W | 121.92 |
| C9 | 97.22 | 2013.41 | 2°46'00" | N09°24'15"W | 97.21 |
| C10 | 22.76 | 247.77 | 5°15'46" | N04°06'44"E | 22.75 |
| C11 | 38.48 | 123.25 | 17°53'20" | S02°24'03"W | 38.33 |
| C12 | 58.18 | 123.25 | 27°02'41" | S24°52'03"W | 57.64 |
| C13 | 50.21 | 123.25 | 23°20'24" | S50°03'36"W | 49.86 |

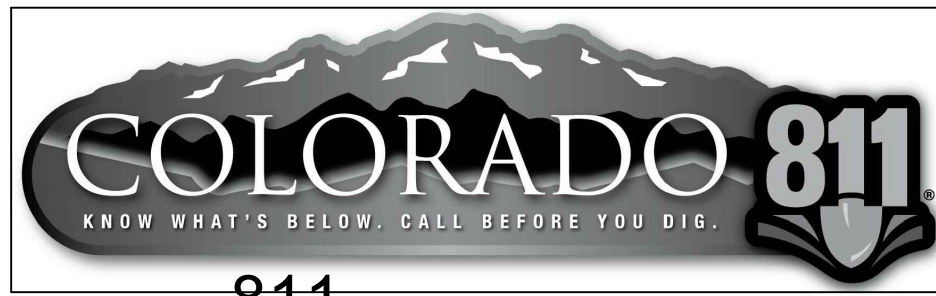
| LINE TABLE | | |
|------------|-------------|----------|
| LINE # | BEARING | DISTANCE |
| L1 | N75°38'50"E | 79.70 |
| L2 | N75°39'03"E | 85.48 |
| L3 | S75°38'57"W | 16.24 |
| L4 | S88°23'05"W | 50.00 |
| L6 | N01°36'54"W | 50.00 |
| L7 | N88°23'06"E | 100.00 |
| L8 | S88°23'06"W | 100.00 |
| L9 | N88°23'06"E | 100.00 |
| L10 | S88°23'06"W | 100.00 |
| L11 | N88°23'06"E | 100.00 |
| L12 | S88°23'06"W | 100.00 |
| L13 | N88°23'06"E | 100.00 |
| L14 | N88°23'06"E | 100.00 |
| L15 | N88°23'06"E | 100.00 |
| L16 | N88°23'06"E | 100.00 |
| L17 | S88°23'06"W | 100.00 |
| L18 | N88°23'06"E | 100.00 |
| L19 | S88°23'06"W | 100.00 |
| L20 | N88°23'06"E | 100.00 |
| L21 | N88°23'06"E | 100.00 |

| LINE TABLE | | |
|------------|-------------|----------|
| LINE # | BEARING | DISTANCE |
| L22 | N74°41'32"E | 45.41 |
| L23 | S74°41'32"W | 72.47 |
| L24 | N74°41'32"E | 83.54 |
| L25 | N74°50'35"E | 95.77 |
| L26 | N74°48'14"E | 106.51 |
| L27 | N74°48'36"E | 116.31 |
| L28 | N74°48'14"E | 100.99 |
| L29 | N74°48'14"E | 100.99 |
| L30 | N74°48'14"E | 100.99 |
| L31 | N74°48'14"E | 100.99 |
| L32 | N74°48'14"E | 100.99 |
| L33 | N74°48'14"E | 101.00 |
| L34 | S88°23'05"W | 131.44 |

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Avon, CO 81620
(970) 479-8698 • fax (970) 479-0055

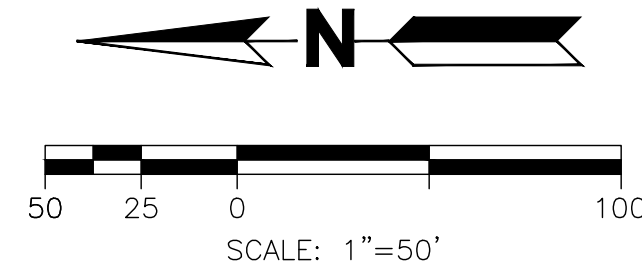


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| DRAWN BY: SE | DATE: 8/16/2021 |
| CHECKED BY: SE | DRAWING NO.: 19-1203 PD |
| JOB NO.: 19-1203 | SHEET 2 OF 2 |



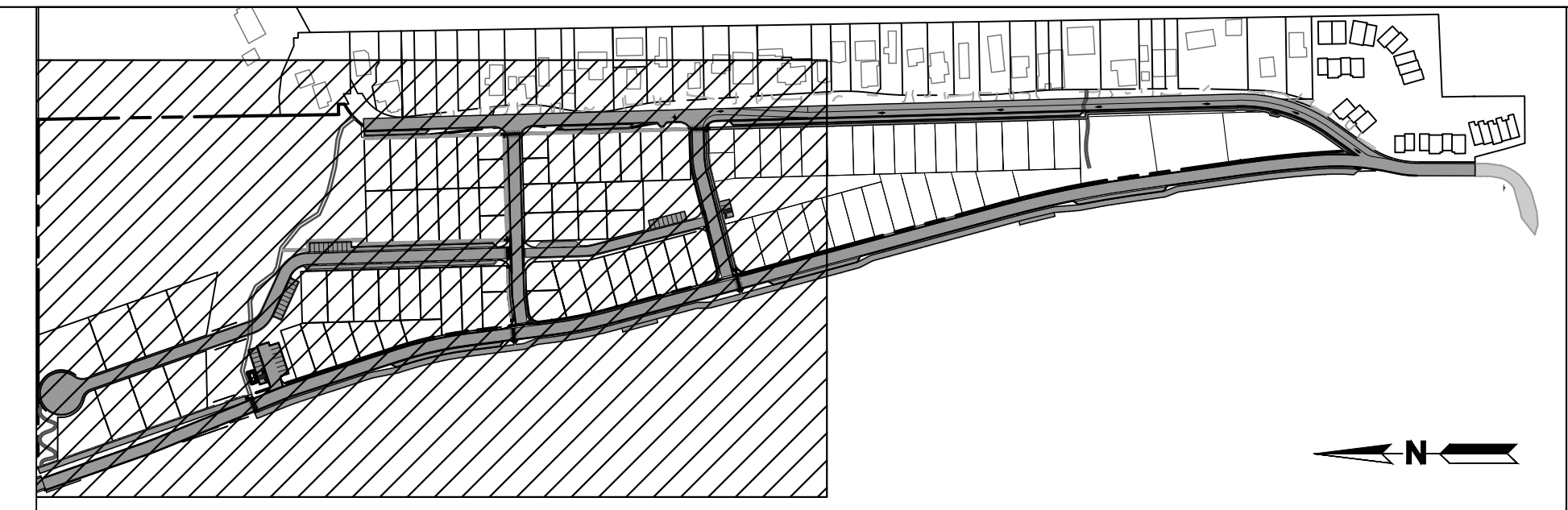
CALL 811 2-BUSINESS DAYS IN ADVANCE
BEFORE YOU DIG, GRADE OR EXCAVATE FOR
MARKING OF UNDERGROUND MEMBER UTILITIES

ENGINEER ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS.
THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM
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CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE SIZE,
MATERIAL, HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES
PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.



NOTES:

1. SIGHT DISTANCES WERE ESTABLISHED PER THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) "A POLICY ON GEOMETRIC DESIGN OF HIGHWAYS AND STREETS" (SEVENTH VERSION, SECOND PRINTING).
2. ANALYSIS ASSUMES STOP CONTROL ON FOURTH AND FIFTH STREETS (MINOR ROADS) AT THEIR INTERSECTIONS WITH TAYLOR STREET AND MINTURN ROAD (MAJOR ROADS).
3. APEX OF TRIANGLE (LOCATION OF DRIVER'S EYE) BEHIND STOP SIGNS IS 14.5 FEET FROM THE EDGE OF THE TRAVELED WAY FOR THE MAJOR ROADS.



MINTURN NORTH P.U.D.

TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

**YARNELL CONSULTING &
CIVIL DESIGN, LLC**
P.O. BOX 3901, EAGLE, COLORADO 81631
(970) 323-7008

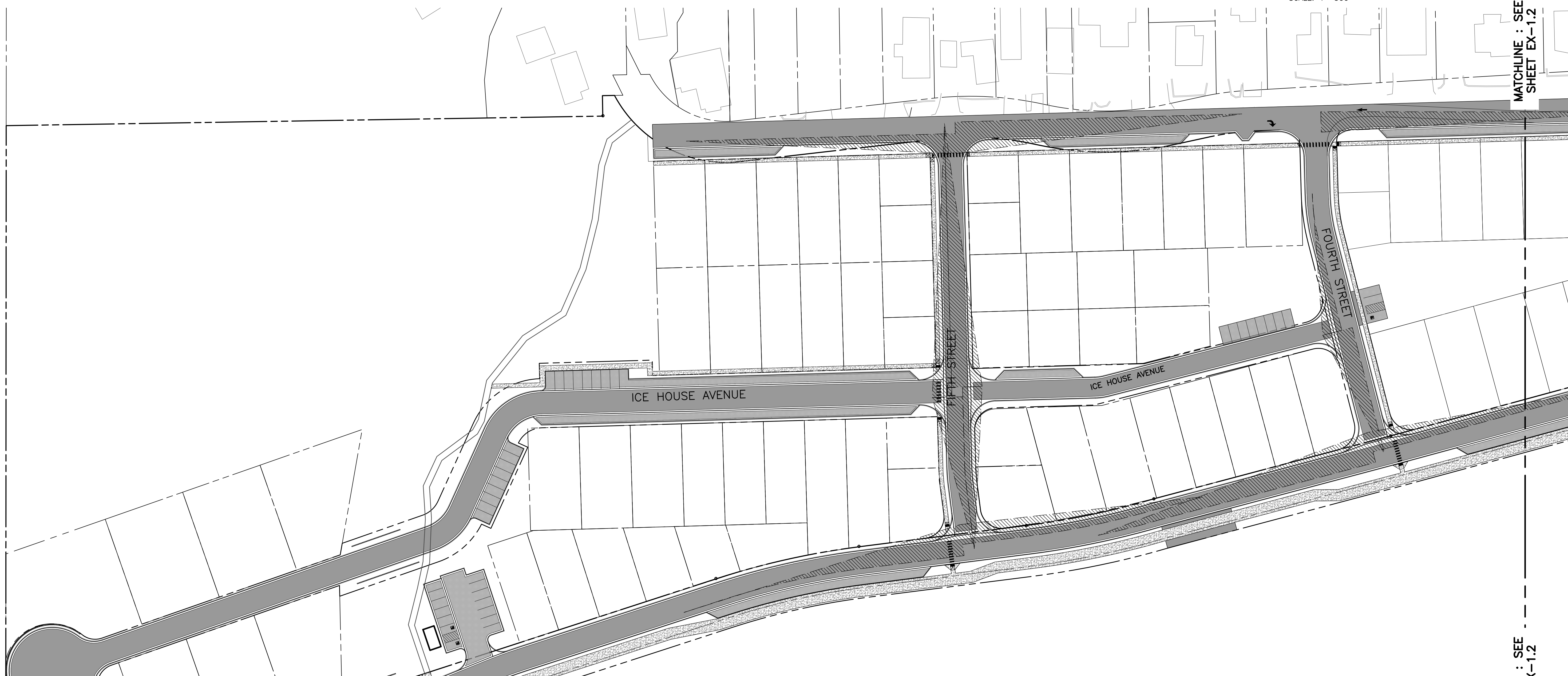
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| NO. | ISSUE / REVISION | DATE | NAME |
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| 2. | DESIGN DEVELOPMENT (NO CONST.) | 9/23/20 | JUY |
| 3. | PLANNING SUBMITTAL | 12/18/20 | JUY |
| 4. | PLANNING RESUBMITTAL | 5/28/21 | JUY |
| 5. | PARTIAL PLANNING RESUBMITTAL | 8/18/21 | JUY |

DESIGN BY: J. YARNELL
DRAWN BY: J. YARNELL
REVIEWED BY: J. YARNELL
PROJECT NO.: 20.004
DATE: 8/17/2021

SHEET TITLE
**SIGHT DISTANCE
PLAN**

SHEET NO.
EX-1.1

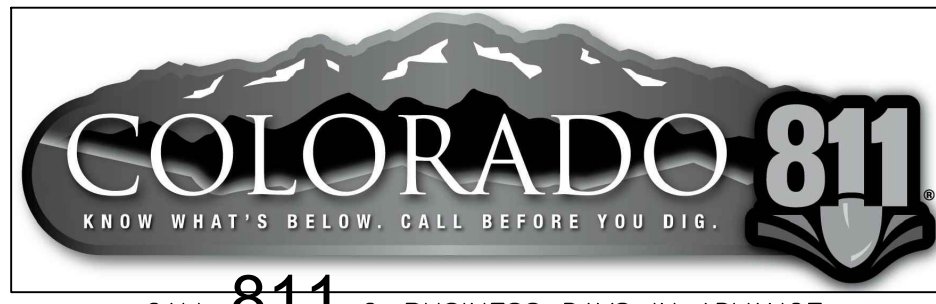


| MAJOR ROAD | MINOR ROAD | DIRECTION | SIGHT DISTANCE (FEET) | APPROACH GRADE | GRADE ADJUSTMENT FACTOR | SIGHT DISTANCE (FEET) |
|---------------|------------------|-----------|-----------------------|----------------|-------------------------|-----------------------|
| TAYLOR STREET | FOURTH STREET | RIGHT | 280 | -5.4% | 1.1 | 308 |
| TAYLOR STREET | FIFTH STREET | RIGHT | 280 | 4.5% | 1.0 | 280 |
| TAYLOR STREET | FIFTH STREET | LEFT | 240 | -9.4% | 1.1 | 264 |
| MINTURN ROAD | FOURTH STREET | RIGHT | 280 | -1.0% | 1.0 | 280 |
| MINTURN ROAD | FOURTH STREET | LEFT | 240 | -1.1% | 1.0 | 240 |
| MINTURN ROAD | FIFTH STREET | RIGHT | 280 | -2.1% | 1.0 | 280 |
| MINTURN ROAD | FIFTH STREET | LEFT | 240 | -2.7% | 1.0 | 240 |
| FIFTH STREET | ICE HOUSE AVENUE | RIGHT | 280 | 8.00% | 0.9 | 252 |
| FIFTH STREET | ICE HOUSE AVENUE | LEFT | 240 | -8.00% | 1.1 | 264 |
| FOURTH STREET | ICE HOUSE AVENUE | RIGHT | 280 | 4.00% | 1.0 | 240 |
| FOURTH STREET | ICE HOUSE AVENUE | LEFT | 240 | -8.00% | 1.1 | 308 |

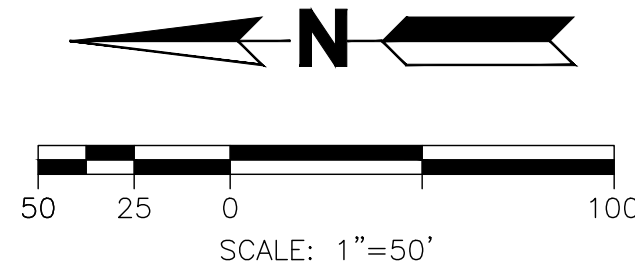
MATCHLINE : SEE
SHEET EX-1.2

MATCHLINE : SEE
SHEET EX-1.2

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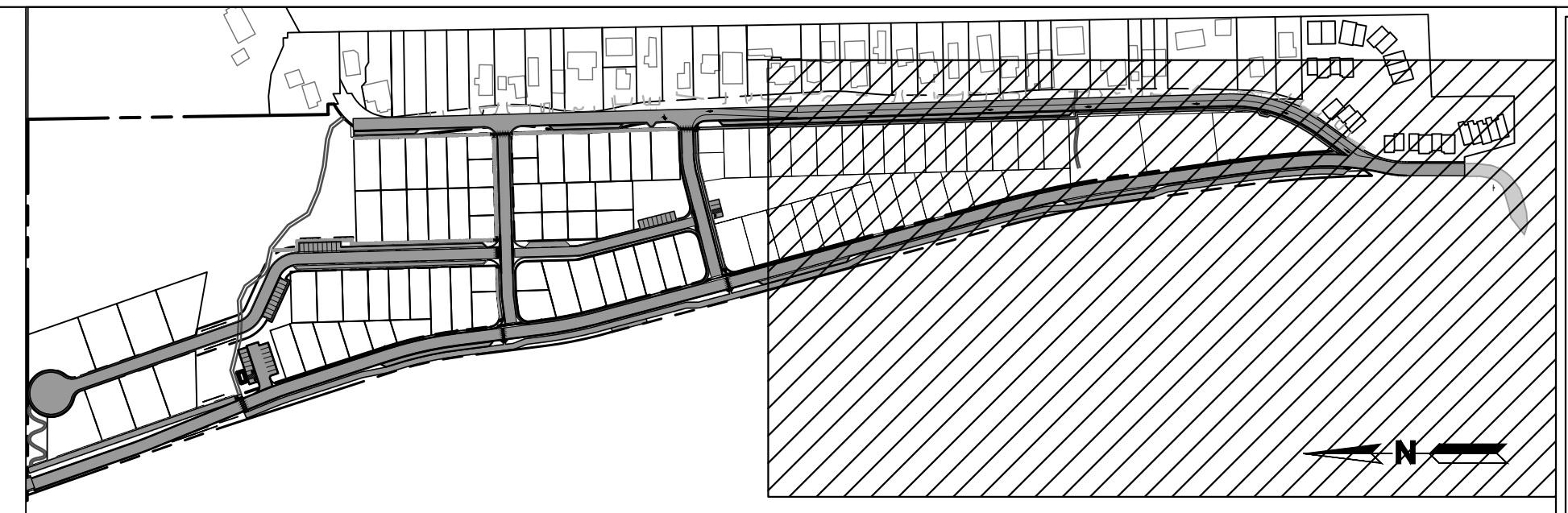


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FOR NOTES & SITE
DISTANCE TABLE, RE:
SHEET EX-1.1

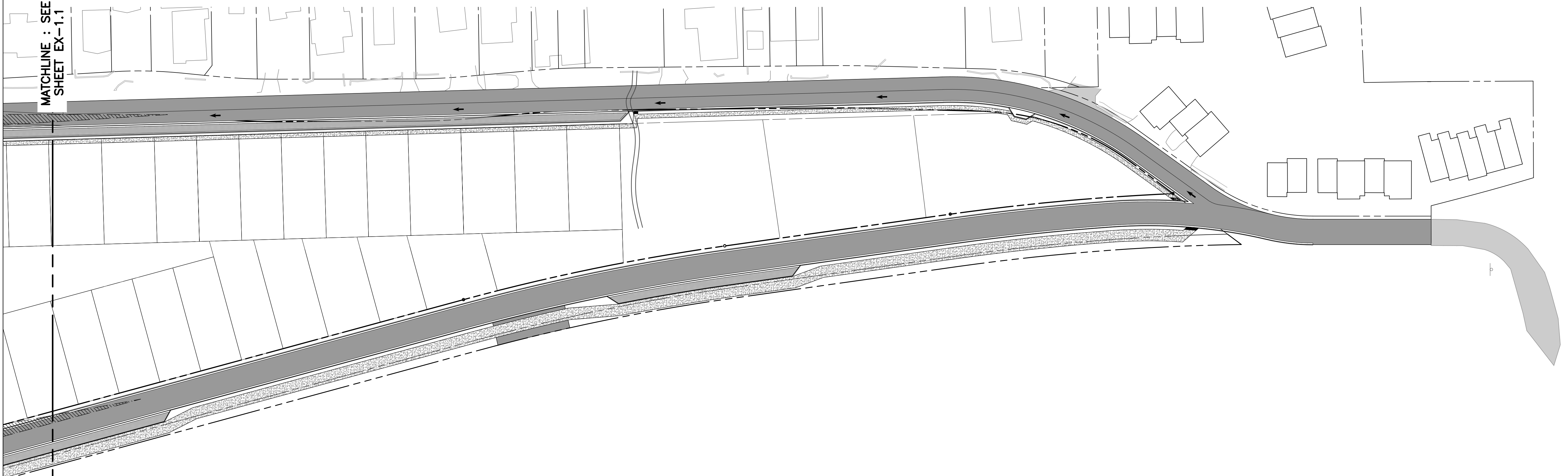
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MINTURN NORTH P.U.D.

TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

MATCHLINE : SEE
SHEET EX-1.1



MATCHLINE : SEE
SHEET EX-1.1

D:\DROPOX\PROJECT FILES\20.004-MINTURN CROSSING\PLANS\EXHIBITS\EX-1 SIGHT DISTANCE PLAN

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(970) 323-7008

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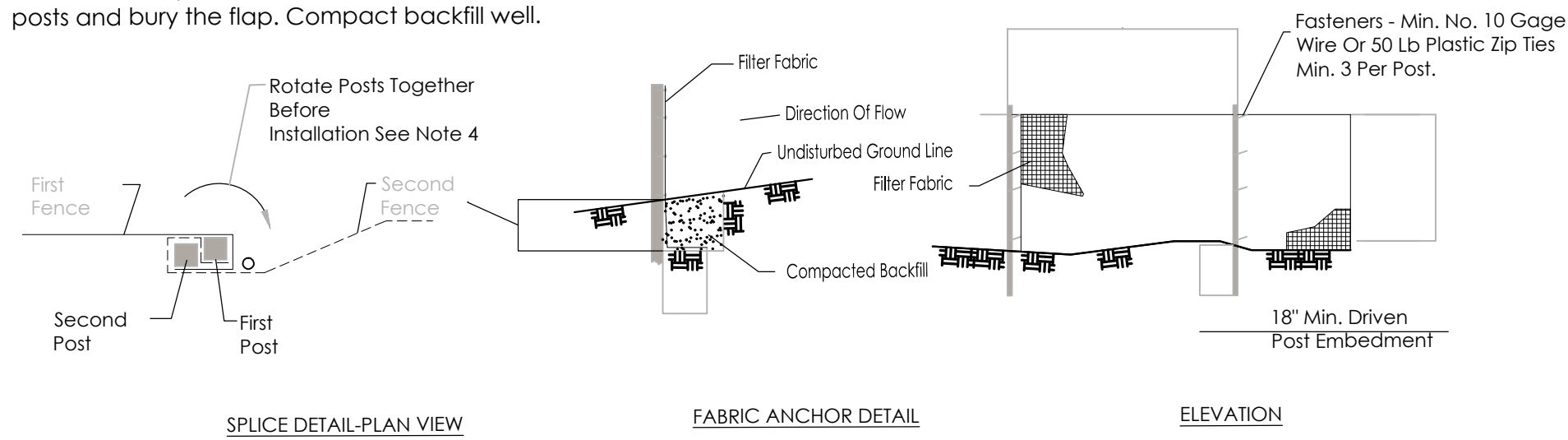
| DESIGN BY: | NO. | ISSUE / REVISION | DATE | NAME |
|------------|-----|--------------------------------|----------|------|
| J. YARNELL | 1. | SCHEMATIC DESIGN (NO CONST.) | 7/9/20 | JYJ |
| J. YARNELL | 2. | DESIGN DEVELOPMENT (NO CONST.) | 9/23/20 | JYJ |
| J. YARNELL | 3. | PLANNING SUBMITTAL | 12/18/20 | JYJ |
| 20.004 | 4. | PLANNING RESUBMITTAL | 5/28/21 | JYJ |
| 8/17/2021 | 5. | PARTIAL PLANNING RESUBMITTAL | 8/18/21 | JYJ |

SHEET TITLE
SIGHT DISTANCE
PLAN

SHEET NO.
EX-1.2

EROSION CONTROL NOTES: (RE: CIVIL DRAWINGS FOR EXTENSIVE INFO)

1. Temporary silt fence shall be installed prior to any grading work in the area to be disturbed. Fence shall be maintained throughout the construction period and removed in conjunction with the final grading and site stabilization.
2. Fence posts shall be either wood post with a minimum cross-sectional area of 1.5" X 1.5" or a standard steel post.
3. When splices are necessary make splice at post according to splice detail. Place the end post of the second fence inside the end post of the first fence. Rotate both posts together at least 180 degrees to create a tight seal with the fabric material. Cut the fabric near the bottom of the posts to accommodate the 6 inch flap. Then drive both posts and bury the flap. Compact backfill well.



| | PHASE 1 | PHASE 2 |
|---|---------|---------|
| DECIDUOUS TREE 10' HEIGHT | 15 | 19 |
| EVERGREEN TREE 5 GAL | 12 | 36 |
| SHRUB 5 GAL | 38 | 76 |
| GRASSES OR ORNAMENTAL 5 GAL | 45 | 90 |
| EXISTING TREE TO BE REMOVED | | |
| EXISTING TREE TO BE EVALUATED AT CONSTRUCTION FOR RETENTION | | |
| EXISTING TREE TO REMAIN | | |

ALL AREAS OF DISTURBANCE TO RECEIVE NATIVE BIG GAME GRASS AND WILDFLOWER SEED MIX

FINAL SELECTION OF SPECIFIC TREE SPECIES MUST BE NATIVE PLANT SPECIES ZONED 2 BY THE USDA

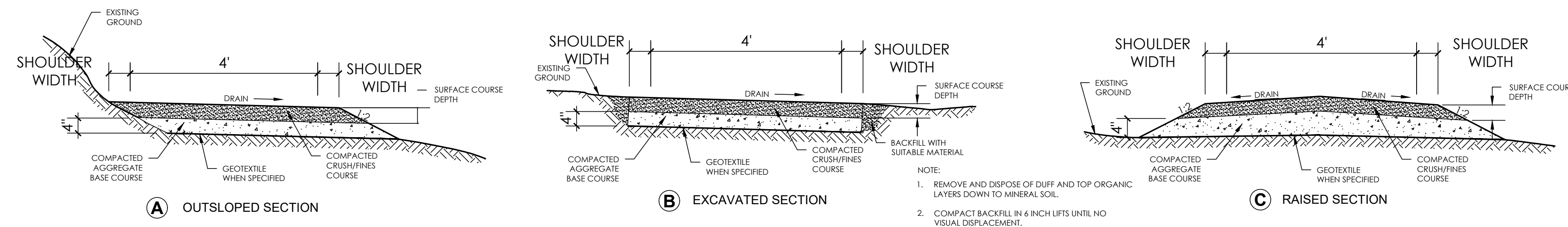
OPEN SPACE



1 LANDSCAPE PLAN AND SNOW STORAGE
1" = 100'

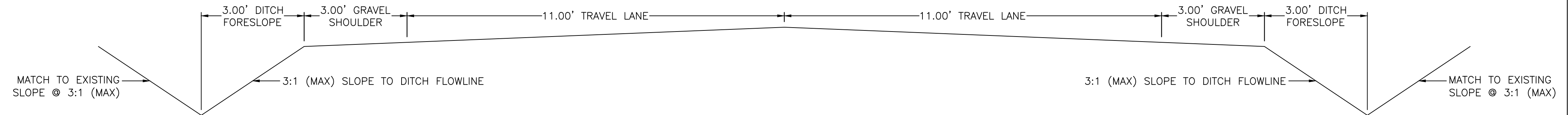
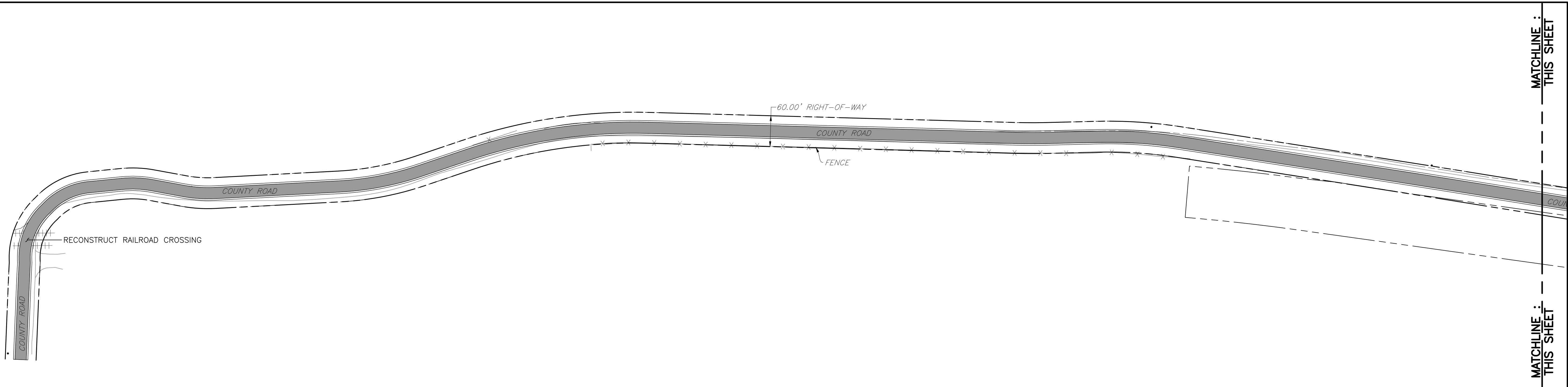
MAINTENANCE NOTE:
PERMANENT IRRIGATION WILL BE PROVIDED AT THE INTERNAL PARKS. ALL OTHER OPEN SPACES THAT ARE DISTURBED DURING CONSTRUCTION TO RECEIVE NATIVE MIX BIG GAME GRASS AND WILL BE PROVIDED WITH TEMPORARY IRRIGATION UNTIL VEGETATION IS ESTABLISHED.

SNOW STORAGE NOTE:
PROPOSED EARTH TREATMENT AT AREAS OF SNOW STORAGE ON SLOPES GREATER THAN 8% TO RECEIVE GRASSPAVE, OR SIMILAR, AT AREAS NEEDED. AS-BUILT WORK TO BE EXECUTED WITH PUBLIC WORKS DIRECTOR TO MAXIMIZE ACCESSIBILITY WITHOUT CAUSING OVERALL CHANGES TO SITE DRAINAGE.

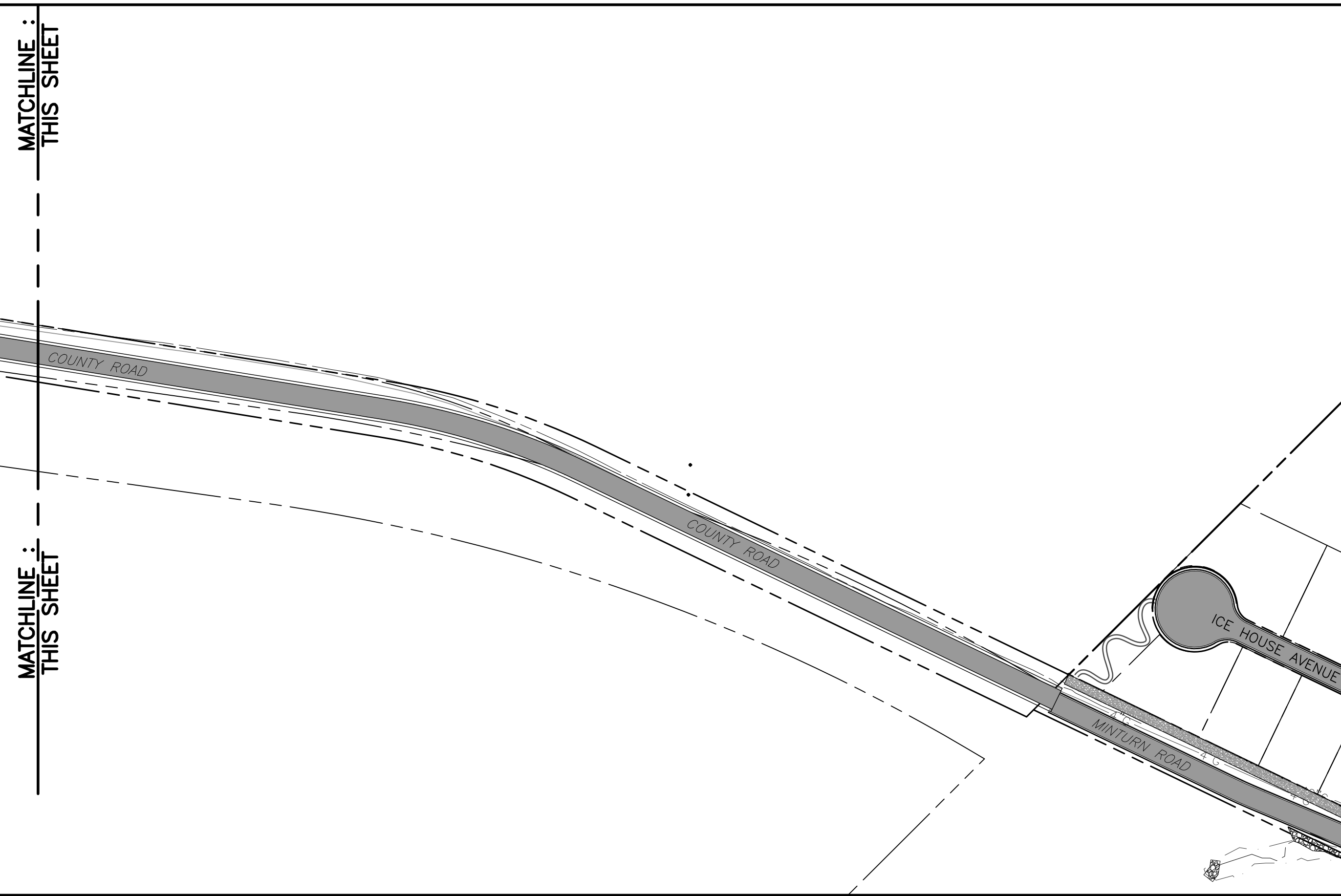


2 SOFT SURFACE TRAIL SECTIONS
1" = 1'

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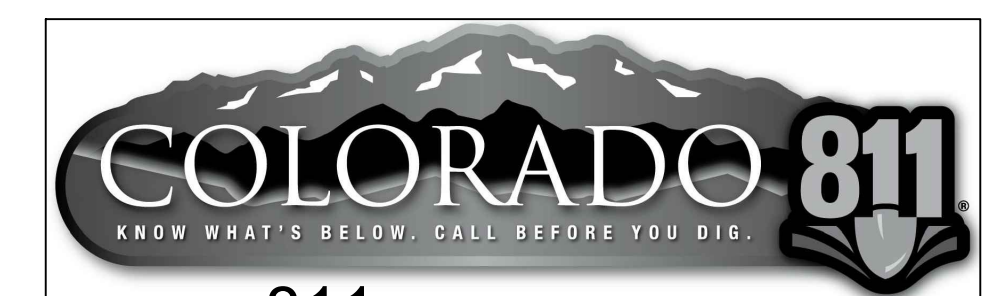
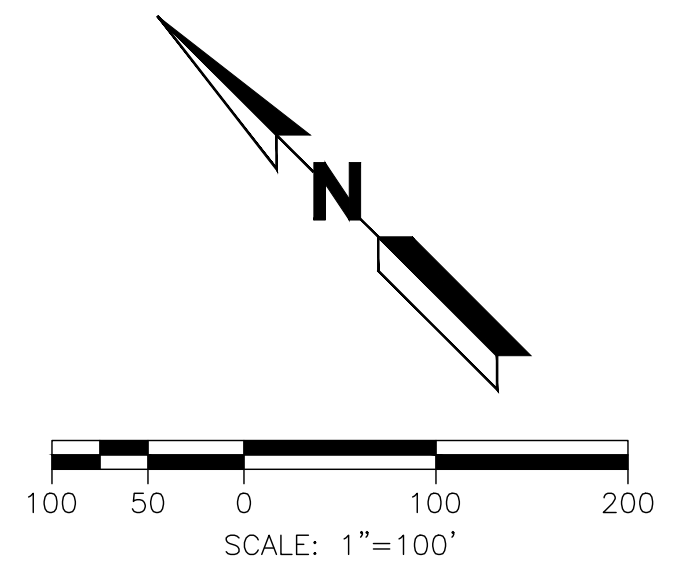


COUNTY ROAD TYPICAL SECTION
N.T.S.



NOTES:

1. THIS DRAWING IS SCHEMATIC IN NATURE --- NOT FOR CONSTRUCTION AND SUBJECT TO CHANGE AS DESIGN PROGRESSES.
2. REVISIONS ARE REQUIRED TO MERGE MINTURN ROAD AND COUNTY ROAD AT THE NORTHERLY LIMITS OF THE MINTURN NORTH PROJECT.
3. ADDITIONAL RIGHT-OF-WAY MUST BE OBTAINED FROM THE RAILROAD COMPANY TO FACILITATE MAKING IMPROVEMENTS THAT LIE WHOLLY WITHIN SAID RIGHT-OF-WAY.



CALL 811 2-BUSINESS DAYS IN ADVANCE BEFORE YOU DIG, GRADE OR EXCAVATE FOR MARKING OF UNDERGROUND MEMBER UTILITIES
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MINTURN NORTH P.U.D.
TAYLOR AVENUE & MINTURN ROAD
MINTURN, COLORADO

YARNELL CONSULTING & CIVIL DESIGN, LLC
P.O. BOX 3901, EAGLE, COLORADO 81631
(970) 323-7008

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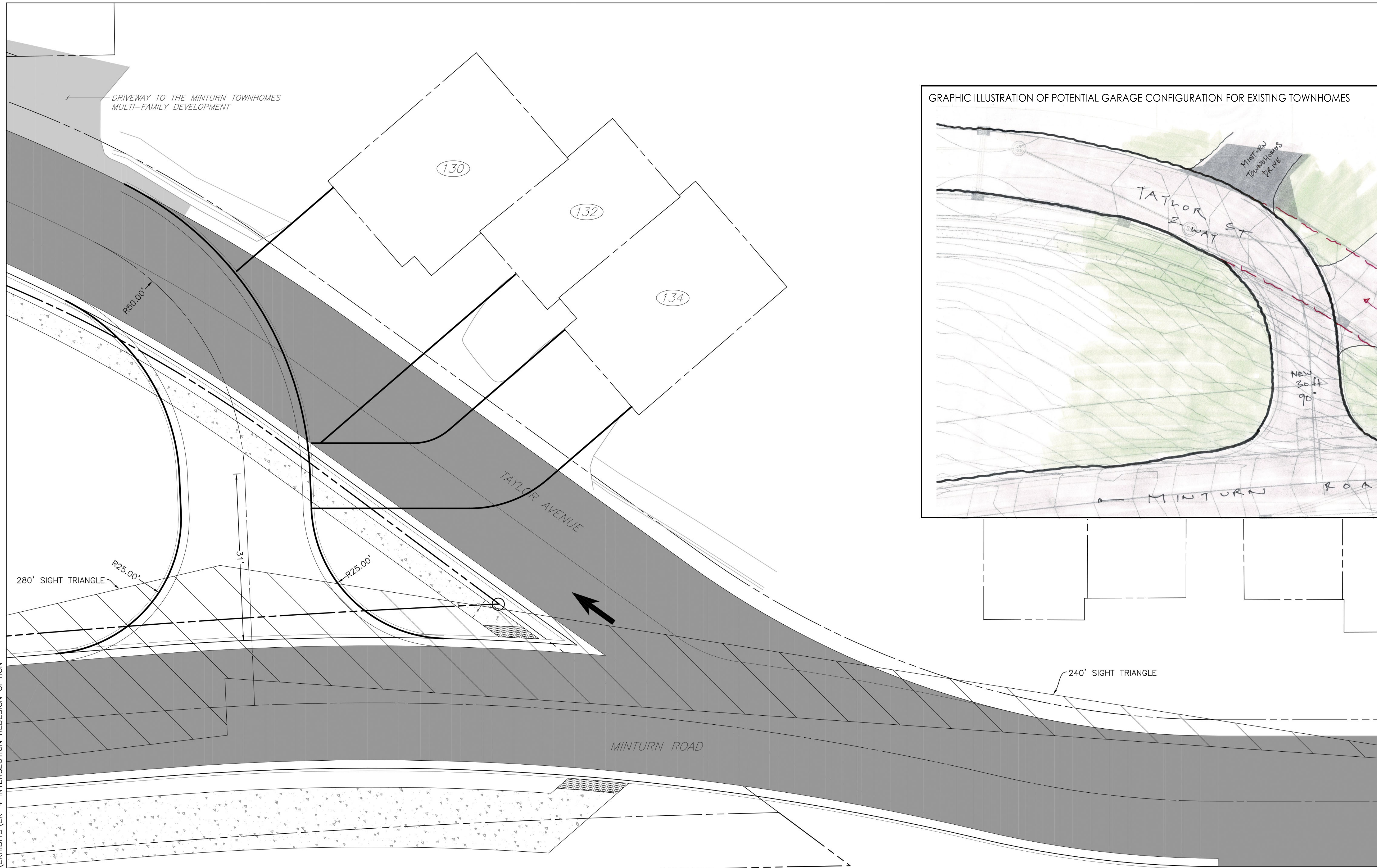
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| 4. | PLANNING RESUBMITTAL | 5/28/21 | JYJ |
| 5. | | | JYJ |

DESIGN BY: J. YARNELL
DRAWN BY: J. YARNELL
REVIEWED BY: J. YARNELL
PROJECT NO.: 20.004
DATE: 8/12/2021

SHEET TITLE
COUNTY ROAD IMPROVEMENTS CONCEPT

SHEET NO.
EX-5

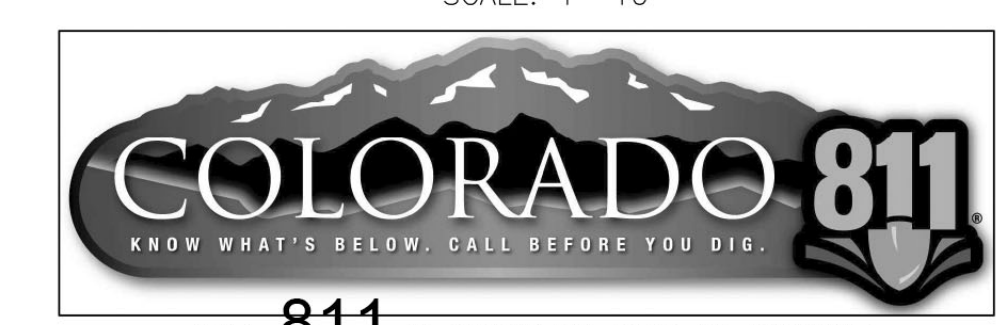
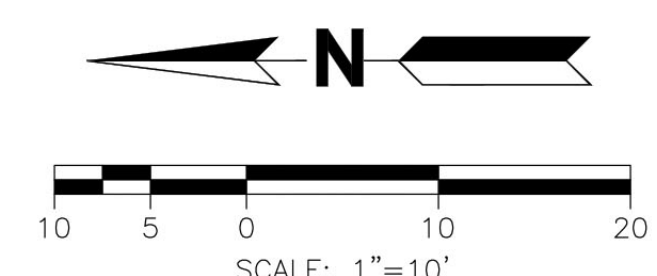
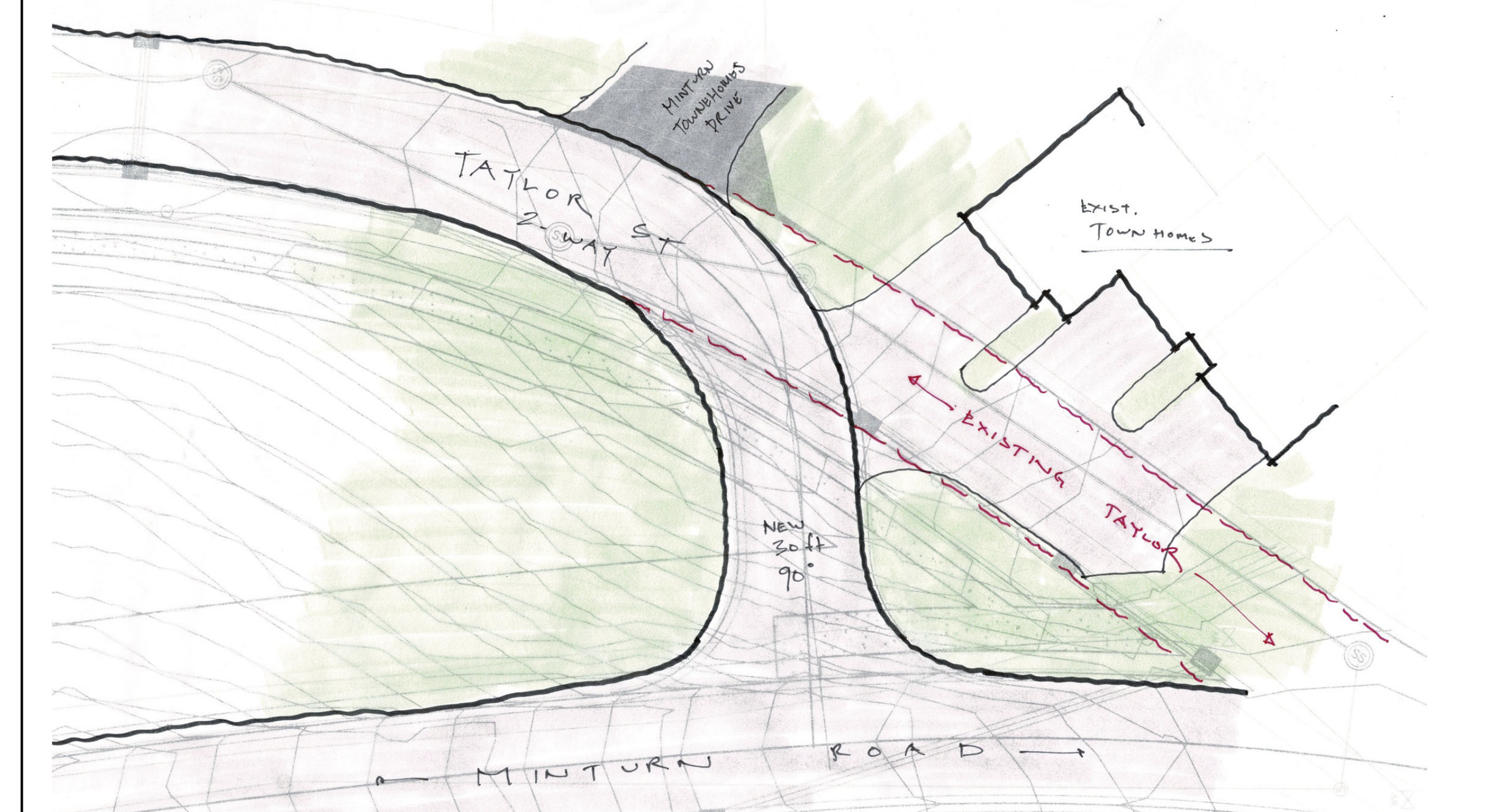
D:\DROPPBOX\PROJECT FILES\20.004-MINTURN CROSSING\PLANS\EXHIBITS\EX-4 INTERSECTION REDESIGN OPTION



NOTES:

1. THIS EXHIBIT DEMONSTRATES AN ALTERNATIVE OPTION FOR THE INTERSECTION OF TAYLOR AVENUE AND MINTURN ROAD. THIS DRAWING IS SCHEMATIC IN NATURE AND NOT INTENDED FOR CONSTRUCTION.

GRAPHIC ILLUSTRATION OF POTENTIAL GARAGE CONFIGURATION FOR EXISTING TOWNHOMES

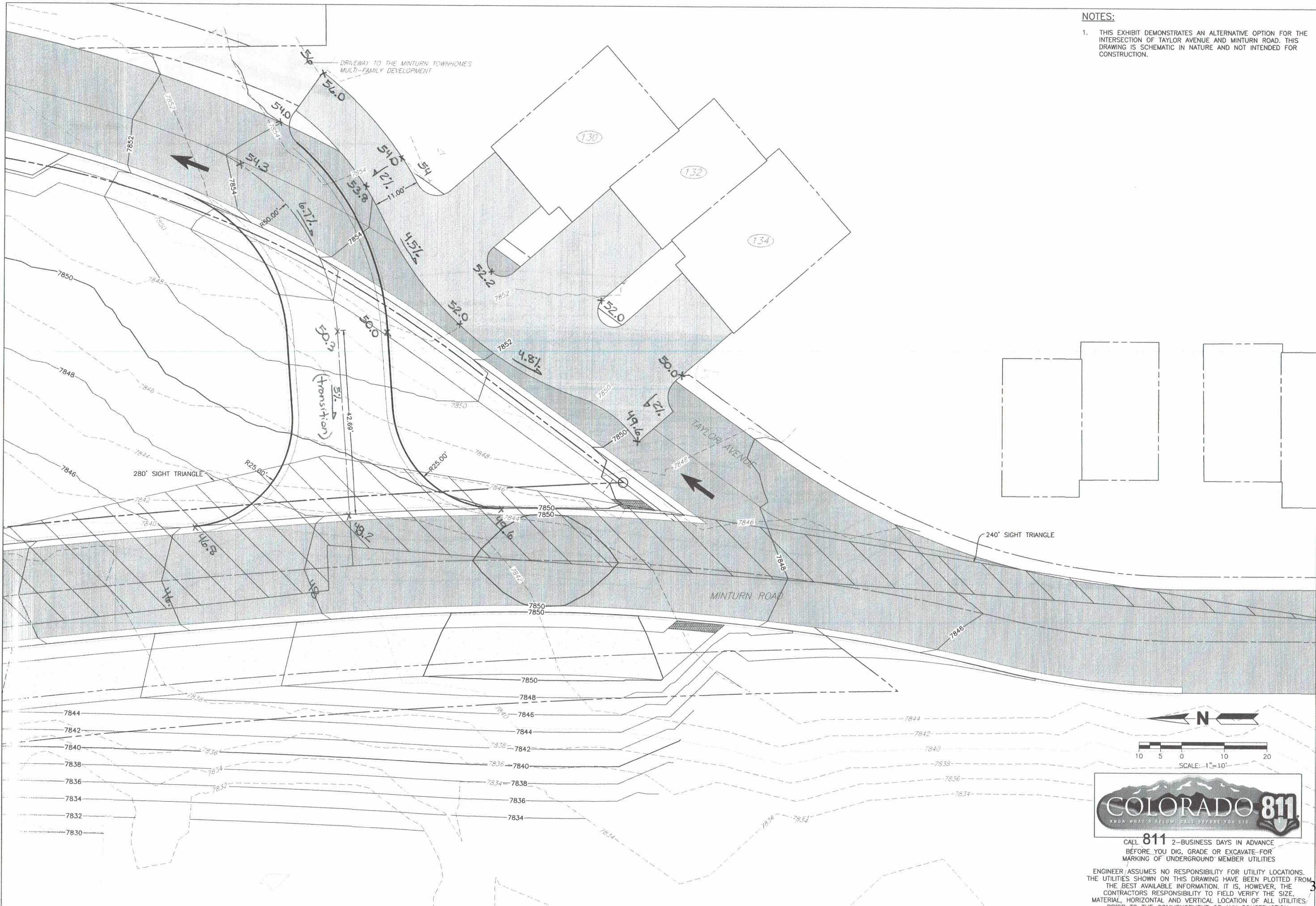


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| MINTURN NORTH P.U.D. | | | |
| TAYLOR AVENUE & MINTURN ROAD MINTURN, COLORADO | | | |
| YARNELL CONSULTING & CIVIL DESIGN, LLC | | | |
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| 4. | PLANNING RESUBMITTAL | 5/28/21 | JJY |
| 5. | | | JJY |
| DESIGN BY: | J. YARNELL | | |
| DRAWN BY: | J. YARNELL | | |
| REVIEWED BY: | J. YARNELL | | |
| PROJECT NO.: | 20.004 | | |
| DATE: | 8/11/2021 | | |
| SHEET TITLE | | | |
| INTERSECTION REDESIGN OPTION | | | |
| SHEET NO. | | | |
| EX-4 | | | |

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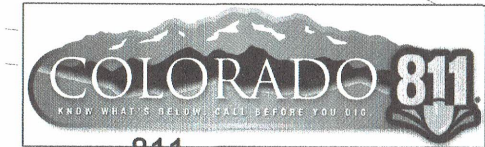
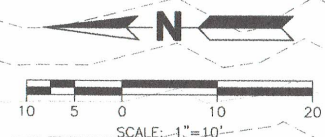
MINTURN NORTH P.U.D.
 TAYLOR AVENUE & MINTURN ROAD
 MINTURN, COLORADO

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DESIGN BY: J. YARNELL
 DRAWN BY: J. YARNELL
 REVIEWED BY: J. YARNELL
 PROJECT NO.: 20.004
 DATE: 8/17/2021



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SHEET TITLE
INTERSECTION REDESIGN OPTION
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EX-4

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 TAYLOR AVENUE & MINTURN ROAD
 MINTURN, COLORADO

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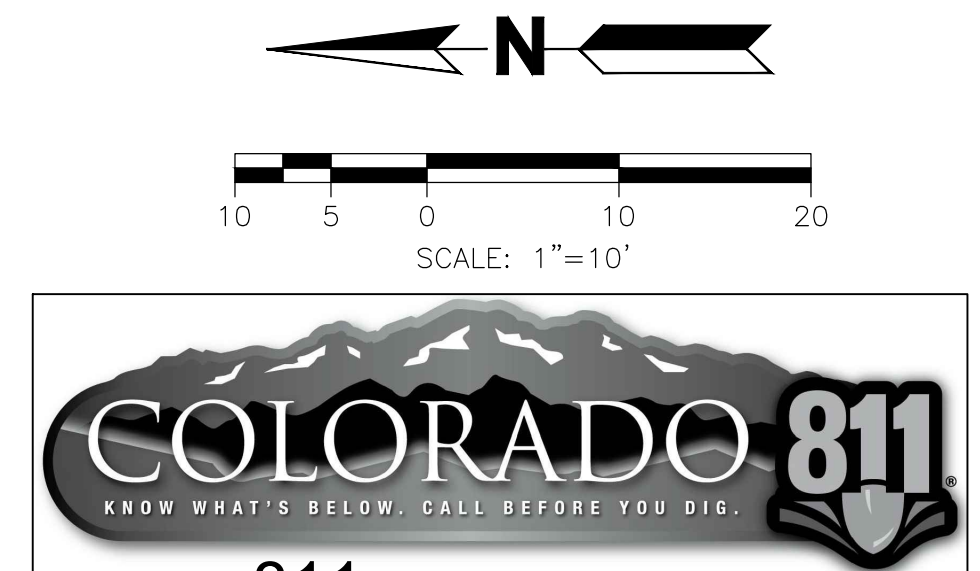
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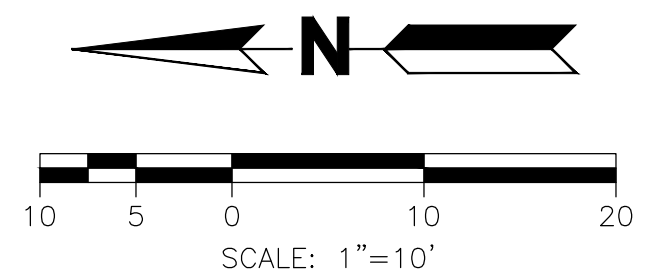
| | |
|-------------------------|-----------------|
| DESIGN BY: J. YARNELL | DATE: 8/17/2021 |
| DRAWN BY: J. YARNELL | |
| REVIEWED BY: J. YARNELL | |
| PROJECT NO.: 20.004 | |

SHEET TITLE
INTERSECTION REDESIGN OPTION

SHEET NO.
EX-4



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Jeffery Spanel
Inter-Mountain Engineering
P.O. Box 978
Avon, Colorado 81620
Jspanel@Inter-Mtn.net

Subject: Minturn North
Intersection Analysis of Minturn Road and Taylor Avenue

Jeffery:

The *Traffic Impact Study, Proposed Minturn Crossing PUD*, dated 19 August 2020, and prepared by CivTrans recommended two (2) options for modifying the intersection of Minturn Road and Taylor Avenue to improve the safety. The first option is to convert Taylor Avenue to being one-way between Minturn Road and Fourth Street. While the second option is to reconfigure the intersection to be a 90-degree "T" as opposed the current "Y" configuration. To date, we have been proceeding with the first option for several reasons. Given the pushback during the public meetings, we have investigated the second option more thoroughly and are including a list of the pros and cons for each so a final decision can be made.

OPTION 1: Taylor Avenue as One-Way

Pros

- Existing townhome residents can keep their own driveways and need not share with their neighbors.
- There is no need for any variances from Minturn *Municipal Code*.
- There is less construction required immediately adjacent to the existing townhouse residences.

Cons

- Residents that access along this segment may experience longer trip time for some routes.
- The width of Taylor Avenue must remain 24 feet in width to permit fire access. This will, unfortunately, not discourage drivers from travelling the wrong way on the road or park in the fire lane; therefore, the town will need to enforce one-way travel and no parking in the fire lane.
- Instead of splitting traffic between two (2) intersections, it will all be directed to the one (1) at Fourth Street.

OPTION 2: Reconfigure the Intersection to 90-degree

Pros

- The travel distance for residences is similar to the existing condition.
- The safety of the intersection is improved by no longer having a skewed angle with challenging sight.
- The steep topography of the existing intersection is eliminated.
- Speeds from northbound Minturn onto Taylor Street will be reduced as the angle is increased.
- Turns from southbound Minturn onto Taylor Street are no longer a sharp angle.

Cons

- The three (3) existing townhome residences will need to share a common driveway whereas they have their own dedicated driveways today.
- The turning movement from northbound Taylor Avenue onto the new shared driveway is tight and will be difficult with even standard vehicles.
- A variance from Minturn *Municipal Code* will be required since just 40 feet of straight road segment is provided on Taylor Avenue adjacent to Minturn Road. While not explicit, the *Municipal Code* encourages a minimum distance of 50 feet.
- The centerline radius for realigned Taylor Avenue is just 50 feet. This is below the minimum recommended radius of 100 feet by Eagle County *Land Use Code* (since Minturn *Municipal Code* does not speak to this).

In summary, we believe both intersection options are viable and improve the safety relative to that which is existing. If the town staff and residents believe that forcing existing residents to begin sharing a driveway is acceptable, we are comfortable moving forward with the second option. We look forward to receiving your direction.

Sincerely,



Justin J. Yarnell, PE
Colorado PE Number 47241

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



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

Minturn North Preliminary Plan for PUD Application Packet

**Below is the link to the complete application
for Minturn North PUD July 28, 2021 in one
document**

<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:8106bb78-c8a3-483a-8a7c-a012e4cf574d>

Please utilize this link to navigate the document.

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All Public Comments Received for Minturn North PUD's Project Application

Madison Harris

From: Helen Bradley <Helen.Bradley@vailhealth.org>
Sent: Tuesday, April 13, 2021 7:00 PM
To: Madison Harris
Subject: Minturn North Development

Good Evening,

I will be unable to attend the virtual planning meeting tomorrow evening regarding the Minturn North Development, so I wanted to email you with some concerns and areas that I hope you will address during the approval process. These are some of my main concerns but are not limited.

1. Parking – will the new lots have self-contained parking on the lots or is street parking the plan? Street parking is a concern as there is already limited spots for Taylor Street residents. Will parking be accessed from the middle of the development or Minturn Road instead of Taylor Street? Accessing the development from Taylor street would increase traffic in a very negative way on Taylor Street. Reducing the number of lots and density of this project could help with this issue.
2. What is the plan for snow removal? Currently Taylor Street snow is ploughed into the area where the development would occur. Also Taylor Street residents shovel/move snow from their lots onto this area. Where will this snow go? Who will be responsible for removal of snow if trucks have to move it out of town? The town or HOA?
3. Traffic- this is a huge concern for me. From what I recall the ‘traffic study’ was conducted mid pandemic lockdown last mud season, during the week. If I am wrong, I would like to have more information on when it was conducted. Taylor Street, Minturn Road and County Road are all incredibly busy roads, especially on market weekends, on powder days and mid Summer when people are hiking the trails. Taylor street currently experiences a lot of traffic with individuals driving much faster than the speed limit. I am concerned about how many more drivers and cars this development will eventually bring – this doesn’t even consider the traffic involved with construction. What measures will be put in place for child safety? The county road currently cannot handle the traffic and road quality is exceptionally poor at present – with the increase in cars from the development I cannot imagine how it will be. Who will be responsible for maintaining this road? The developers?
4. My final ‘big issue’ is the timeframe from sale to build. I live in Minturn, CO because it is a quiet, laid back, fun, quirky town with a great community and currently awesome views from my home. If the development is being sold to individual buyers, is there a specific time frame they would be expected to build in? Currently new build costs are astronomical and if I were to buy a lot, I would wait until prices decreased to build. However as a home owner on Taylor Street, the idea of having construction happening in front of my house for the next 2 decades is very concerning. I believe there should a timeframe in place for individual buyers to meet from time of sale to completion of build. Otherwise this development could last a lifetime!

I appreciate you reviewing my concerns with the board.

Yours Sincerely,

Helen Bradley, 332 Taylor Street
(970) 988 4887

Helen Bradley, PT, MSc, SCS, CSCS

Physical Therapist

Howard Head Sports Medicine | *A service of Vail Health Hospital*

(970) 476 1225 | howardhead.org



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Madison Harris

From: Jennifer Babcock <babcock@cirquecivil.com>
Sent: Tuesday, April 13, 2021 12:26 PM
To: Madison Harris
Subject: Minturn Crossing/North PUD

Hi Madison-

I would like to submit a comment in favor of the Minturn Crossing development. The project appears to have appropriate density, would benefit the Town's tax base and is an in fill development that is currently in an area not being utilized. I've lived in the valley since '96, 7 years in Minturn, and this seems like a great opportunity for locals to be able to build a home.

Thank you,
Jen

Jennifer Babcock, PE



CIRQUE CIVIL INC.

Engineering & Construction Management

office 970-926-0033 | mobile 970-390-0265 | babcock@cirquecivil.com

1106 Crazy Horse Circle | Edwards, CO 81632

Madison Harris

From: Ryan. Schmidt <ryansschmidt@gmail.com>
Sent: Wednesday, April 14, 2021 8:51 AM
To: Madison Harris
Cc: Kara Hasbrouck
Subject: Minturn North Housing Opportunity

Dear Madison Harris,

I am writing to express our sincere interest in the Minturn North housing opportunity. Coming from a modest hard working Midwest upbringing and having spent nearly ten years in the Vail Valley, the Town of Minturn has long been the apple of our eye. We've remodeled, twice, and considered opportunities to build a modest single-family home at several locations throughout the Valley and beyond, but Eagle County is home and we prefer living up-valley. This opportunity appears very exciting and nearly out-of-reach.

The word on the street is that we all want this development to be an opportunity for locals to further invest in the future of the community. But as so often happens in the reviews and approvals process, the wishes of a few saddle unnecessary construction requirements and demand accoutrements which exceed the modest desires of many, while driving cost beyond those attainable to locals. This seems to be the current model of the Mountain West.

What is the future for the Town of Minturn? Do you want invested local permanent residents paying taxes and visiting local establishments on a year-round basis? Do you prefer the second homeowner from afar who visits several times a year and provides short-term rentals for additional tourists whether it's 'against the rules' or not?

Do we need an ice rink? How much will it cost? How much use will it get? Who is the demographic user? Do you want to keep the local fabric of this great community? Do the demands and decisions you're making with respect to Minturn North serve the long-term desired community goals? What do YOU want Minturn to be in 5 years, 10 years, beyond?

Are we trying to incorporate the new development into the existing fabric of this historic community or are we looking to saddle the development with expenses that will increase costs beyond those attainable to the local community members you represent and the local community we desire?

I believe these are just some of the primary questions we should be asking when considering what 'we want' and what 'we need' from this development, and others: What is best for the future and what is best for the short-sighted view?

We are among many hard-working locals intent on investing the next 20 years or more in this Valley. We've prepared for this opportunity. The emotional investment into the community is what is driving our interest in Minturn North. The financial investment appears to be growing to a potentially prohibitive factor.

Most respectfully and sincerely,
Ryan & Kara Schmidt
'Life's a journey, live an adventure'

Madison Harris

From: kruegerarchitect@comcast.net
Sent: Tuesday, April 13, 2021 4:59 PM
To: Madison Harris
Subject: Minturn North PUD
Attachments: DJI_0117.jpg; IMG_3676.JPG

Hi Town of Minturn Planning, Staff and Town Council, (please forward this as written public comment)

I received a certified letter in the mail last Friday 4/9/21 concerning this PUD preliminary plan review slated for 4/14/21. I have started reviewing the application but have barely scratched the surface. I am thus encouraged by the decision of P&Z to recommend denial until such time as most of the concise and detailed questions brought up by the planning department/commission etc. have been answered and the public and new P&Z members have had a chance to get up to speed and make informed comments.

Background: My spouse and I have owned a home that we rent to workers at 362 Taylor since 2004. I am a local architect and a product of this valley since being raised in the area since 1967. I have a bachelors and masters degree in architecture and have been licensed since 1996. I have been an active member in the Eagle Vail POA, from member of the Board of Directors, to flood plain committee chair, to member of regulations drafting committee to trash-picker and ice-rink shoveler. The foregoing may help give you an idea of where I am coming from- intimate familiarity with designing buildings and parking space within PUD's (25-30 homes under my belt) and the effects of Covenants, PUD documents, CCIOA, etc. on daily life.

The problem: As with any large development it is hard to predict what it will look like, how it will feel, and how it will affect the community until it is built. Unfortunately we will have to decide soon and the developer will have to try and explain away our fears now- all before it is built.

My first set of points will be general observations that are worth stating (and for some, re-stating):

- **This property may not qualify to be evaluated as a stand-alone PUD** no matter how much work they have put into
- **The standards of granting a PUD do not include anything about ensuring the developer is able to make enough money to elect to do the project** (what is enough profit is in the end subjective- for the developer and the railroad selling the property).
- **Reduction of circulation on public streets to one-way outside the bounds of the PUD seems like an improper request given the reasons a PUD may be allowed**
- **These are not affordable housing lots, actually the smaller the lot the more profitable to a developer I'd imagine.** So the pattern of "density islands" of single-family homes (many w/ lock-offs) next to each other can actually be considered sprawl like the hated "suburbs" but with not enough space between homes like the suburbs to fit all the toys of mountain life that people who buy these homes will likely need -space for kayaks, electric bikes, mopeds, scooters, campers, bikes, skis, snowmobiles, gardens, laundry drying, inflatable pools, garden furniture, fire pits, fences, toppers, swing sets, umbrellas, RV's, rafts, boats, motorcycles, trailers, snow plows, ATV's, 4x4's, Sprinters!. Will these small lots look like junk-yards of outdoor equipment?. And if one acknowledges this probable reality are "rules" actually going to work to mitigate the potential under-sizing of these lots while "over-parking" and "over-gearing" or will the rules just be changed later to fit what will be a very cluttered landscape?
- **Mountain residents don't seem any more inclined to give up their many means of motor transport/recreation** than anyone else in the US- contrary to the people pushing for less parking requirements- which is a popular wishful thinking of our time/place. They will want it all, to walk to the coffee shop and store but to have trucks,

4x4's, vans and sprinters to get to their individual far flung activities less encumbered than anyone in the city would permit.

- **Duplex Zoning** (rather than row houses proposed- is that the right word?) may actually be the most appropriate- like in large parts of Eagle County Duplexes have been employed, and have several positive effects:
 - Increases the space between homes by doubling one side-yard setback in size, and on the other side collapsing the buildings together. (Some people say this is western looking rather than eastern looking- country rather than urban). In the end the building and yard cumulative sizes may be the same but both buildings and yard are less cut-up and more usable.
 - Like two people in a sleeping bag, energy savings for duplexes I'll bet are proportional to the proportion of the length of the party wall to the whole perimeter plus an added factor by a reduction in windows (none in party wall)- let's say 20% energy reduction off the top without any fancy new and annually changing technology at all!
 - It seems the "Little homes" contemplated will lend themselves to modular construction to save money on custom architectural services (I can't afford an architect and I'm an architect) and custom building - which is fine -except that it takes good money and skill to make modulares look good. And lots of modulares in a row may not be built by the same contractor but they all may look like versions of the most affordable model, and they will have the same sad tricks to distract, same proportions and incremental divisions because cost/transportation constrictions limit the size and shape of building masses (maybe they will look as different as the superior Minturn project called "xxxx"0).

My second set of points will be based, not on the massive application, but the documented previous performance of the developer and why I believe all of Minturn will need to review this project very closely. Property Owners on Taylor have direct experience with this developer's plans vs. results. In addition I have direct experience with this developer's work in our PUD of EagleVail. A common thread in my opinion is a very shrewd tendency to externalize costs onto the community.

- To accomplish the Minturn Townhomes Mr. Comerford was allowed by the Town of Minturn (several council members are in the same seats) to use a public-right-of-way as private parking of the back-halves of perpendicularly parked vehicles in front of garages- clearly a safety issue and a major policy failure. In addition everyone warned about drainage issues with such massive foundations heights that may all have already needed to be mitigated by using someone else's property (Grant avenue), because more units than possible were crammed into that site. I will defer to people who live there to expand upon the problems designed and built by Mr. Comerford and approved by the Town. This new North Minturn PUD by the same developer is an opportunity to require the developer to give or swap land and/or replat land in the new PUD to correct the incumbered right of way and other issues like potential lack of snow storage in the townhomes.
- In 2018-2019, Mr. Comerford against the clear EagleVail PUD, Adopted Design Review Guidelines and moreover our adopted CC&Rs stored 350 dump truck loads of dirt illegally on an adjacent to the one he was developing into a duplex. This storage dump on very steep property was surrounded by built-properties on three sides and the pile was at the max allowable slope- bordering on slide potential as determined by County engineers. In addition the pile was deposited on the outlet of a road drainage culvert. By the time it was understood what was happening the pile was massive and despite legal attempts the pile remained for oi believe a whole year. Apply this example to what could happen to the land of phase two when phase one is being built if the Town doesn't attend to the language in restricting the activities of the developer as regard to phasing and any other opportunity the owner may use to "externalize" costly issues (see attached photographs)

I will reserve my third set of points for when I actually sit down and try to use the guidelines to design home projects to maximize the development of building and paving of a single lot of each size. I believe I will find the "public parking" the developer proposes in front of the phase one lots on Taylor will be reduced possibly to zero when driveways are inserted.

Thanks
Karl Krueger





Madison Harris

From: Contact form at Minturn CO <cmsmailer@civicplus.com>
Sent: Wednesday, April 14, 2021 3:05 PM
To: Madison Harris
Subject: [Minturn CO] Support of Minturn North development (Sent by Christine Wardlaw, christine.a.broyhill@gmail.com)

Hello mharris,

Christine Wardlaw (christine.a.broyhill@gmail.com) has sent you a message via your contact form (<https://www.minturn.org/user/353/contact>) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at <https://www.minturn.org/user/353/edit>.

Message:

To whom it may concern, I am writing to voice my support of the Minturn North development, which I believe will save the town of Minturn by bringing in the right residents of Eagle county. This development is what the town of Minturn needs, and I am encouraged by the sense of community that it will bring. As a resident of Edwards, I recently experienced the rat race that is attempting to buy a home in Eagle county. There are no affordable housing options in the valley, and I believe that the Minturn North development serves to bring affordable and increased housing to hard-working residents who seek to make the valley their home. I am also hopeful that this new development will increase foot traffic to support many of the small businesses in Minturn.

Thank you for your consideration.

Christine Wardlaw

Madison Harris

From: Anthony Martinez <anthonyalpine1@gmail.com>
Sent: Wednesday, April 14, 2021 5:33 PM
To: Madison Harris
Subject: Zoning

Hello this is Anthony Martinez 232 Taylor Street I had a question about zoning, all the new houses going in are going to be able to have a lock off or rental unit on there lot, doubling the people on the parcel of land ,so my question is ,will we as existing owners be able to make a lock off unit on our property as well ? If your letting them build two rentable units on one lot ,we as original owners should be able to do this as well, let me know if I got this wrong , also I would like to hear more about pet control, this many people on this plot will have numerous pets and I feel there needs to be some sort of animal control or leash law adopted , I would also like to see lots of trees like we spoke about in the conceptual plan thank you for your time.

Madison Harris

From: david clapp <mixdbclapp@yahoo.com>
Sent: Wednesday, April 14, 2021 8:32 PM
To: Scot Hunn; Madison Harris
Subject: Re: PUD

Love the idea of the skating rink. People might be more conducive to the idea if it was called a fishing/skating pond.

My two cents,
David

Sent from my iPad

> On Apr 14, 2021, at 8:27 PM, david clapp <mixdbclapp@yahoo.com> wrote:

>

> Thank you for not fast tracking this project through. Parking and drainage are my major concerns. Driveways will be really steep off of Taylor Street. Are driveways/garages mandated? I also believe the land for the multi family units would be better served as Duplex lots, two less units but more open space.

>

> Thanks,

> David Clapp

>

>

> Sent from my iPad

Madison Harris

From: Raquel Spencer <rkysp4@gmail.com>
Sent: Wednesday, April 14, 2021 8:16 PM
To: Madison Harris
Subject: Planning meeting comment
Attachments: image0.jpeg; ATT00001.txt

Hello,

Raquel Spencer 550 Taylor St.

Greg mentioned with a giggle that the parking for the Mile is never as bad as people say. Here is a picture of a SLOW WEEKEND DAY



Madison Harris

From: Chris Rieder <crieder588@gmail.com>
Sent: Tuesday, May 11, 2021 6:32 PM
To: Council; Madison Harris
Subject: Minturn North PUD

Dear Planning Commission and Town Council Members of Minturn,

I know that each of you has received a mountain of feedback and comments related to the Minturn North PUD. Though I know you have carefully considered these and are probably getting a little worn down by all the discussion around this PUD; I am writing to express some of my concerns. My wife and I moved to Taylor Street over a decade ago and now are raising two little kiddos on Taylor Street. We love our neighborhood, love our town, and have no plans to leave this little gem in the valley for a long long time. Obviously, not only living in this area, but raising children here makes this pending development a very important topic for our living situation.

I am going to try to keep this brief and bullet pointed, but as I have not contributed to the discussion to this point, want to be thorough. I am bringing up issues, not solutions. There is a reason for this; in that, it is not my job to find the solutions, nor is it the planning commission's or the town's role in this situation. The solutions to the issues raised by the town and the residents need to be developed by Greg and his team. If they cannot find solutions that are acceptable and financially feasible, then their project is not viable.

I have numerous concerns beyond the below listed points, many of which have been previously brought up (building height and impact on current residents, snow removal, parking, environmental impacts on Game Creek, etc.). These are the most significant for myself and my family.

-Turning Taylor Street into a one way from Minturn Road to 4th Street is unacceptable. From the very beginning of this project, traffic and safety was one of the key concerns. This seems like a cop out to a problem with the intersection. Instead of moving the road or creating an additional road where the grade would be 'acceptable', Greg and his team think that creating the one-way is a solution. The problem with this is it directs all of the traffic for existing Taylor Street residents and the new homes with driveways off of Taylor past all of the existing residents. The number of lots alone that are existing or have proposed driveways on Taylor St is over 90 and that does not account for ADUs or duplexes built on the new lots. This is a significant amount of traffic that then gets funneled down one road and impacts all of the residents. Some of those lots are beyond the intersection of 4th street, but that does not mean that this traffic doesn't utilize Taylor Street as their access.

-The proposed density is in line with the current density on Taylor Street. This justification for cramming over 180 possible units into this area is ridiculous. I think we can all agree that the spacing of many of the units on Taylor Street (and in Minturn in general) is less than ideal. A new development should not regress to the standards of old, but create more a more desirable and functional standard. I love the eclectic nature of our town, but let's be honest it's maybe not the way you'd do it all over again if you could. Their entire plan for providing affordable housing is to cram units in and allow for duplexes and ADUs rather than actually make things affordable. 400k+ per lot is not going to allow any real locals (without trust funds) to become part of this community. The amount of people in the area, the added traffic, and the noise and light pollution from this development significantly changes the environment and character of the neighborhood and town.

-Access. I completely understand that they are limited in their options of creating better access and egress by the Railroad. That being said, the S-turn and downtown intersection with 24 simply cannot handle the proposed increase in traffic. Blind corners, pedestrian traffic, and 2 stop signs would create both a log jam and a dangerous situation. The county road, even if paved, is not designed to handle an extra 100+ cars a day either. That intersection with 24 would

also be inadequate to handle the increased traffic and the consequences are high at that spot given the speed of traffic. Again, I'm not here to provide solutions, but if there is not a safe way to get residents and first responders in and out of a new development, then it is not viable.

-Gradient variations requested. The requirement to stick within safe gradient restrictions at intersections needs to be maintained. I heard on the last meeting I was able to attend that someone stated, 'the end of Taylor is 11% and I've never seen anyone struggle on that road'. They clearly do not live on Taylor and get to witness the chaos each winter as the tourists try to negotiate parking for the mile. Even the current intersection of 4th and Taylor sees cars unable to fully stop and then get up the hill onto Taylor or to come to a stop traveling down to the intersection on Taylor, in the winter. This leads to a lot of individuals rolling through the stop sign and creating a significant safety hazard. Add many more cars and even more unsafe intersections and we are just asking for trouble.

-Timeframe of development. As a resident of Taylor Street, my wife and I have major concerns about living in a construction zone for the next decade. When this was brought up the developers stated that the infrastructure for each phase would be completed 'quickly' to allow for them to sell lots. I have no doubt that they will get this piece done quickly due to the financial reward. However, who will be in charge of making sure it is done not only quickly, but will be done to a high standard is done in a way that is long lasting. The real issue is that they are selling lots to individuals. How long will individuals be allowed until they build. Are there restrictions in place on lots that construction must be completed within a certain time frame? Are people going to be able to sit on lots, are there guidelines for what happens if someone runs out of money during their build or plans to build their lot in phases?

-Diversity of development. For me yet another issue is that they are allowing developers to buy 6 lots. The whole idea of this development is to sell to individuals and create diversity. I could see all of the local developers swooping in and buying 6 lots a piece and then we end up with a bunch of cookie cutter homes anyway. This would greatly impact the overall appeal of their proposal, as it was based on not becoming another Miller Ranch or similar cookie cutter mountain development. I have not heard this discussed or the impact of this on the referral.

-This one is small, but... The parks proposed are a community garden and a 'synthetic skating rink'. Both of these proposals limit the general use factor of the required open space in a PUD proposal. Minturn already has a community garden and a synthetic ice rink will deteriorate quickly if not properly maintained. My wife gardens, my kids love hockey, but I still don't think these are the best suggestions for the limited open space proposed.

Greg stated in the last meeting that they are projecting 32 million from this project, but that the cost is at 30 million now. He stated that he needs the current density and requested variances from code to maintain their profit. I'll never feel bad about someone struggling to make 2 million dollars. More importantly though, it is not the right of the planning commission or town to approve accommodations or a plan that puts residents safety at risk, that is not in the best interest of the residents of their town, or that doesn't make sense for the town. If they cannot make the plan work according to Town Code, work for existing residents, and still make profit, then they may just have to scrap the idea and make their millions elsewhere.

I understand that development is basically inevitable and this parcel of land makes more sense than Haymeadow or Meadow Mountain. It makes more sense than a lot of other developments, however it brings with it certain concerns and considerations that need to be figured out by anyone that wants to develop it. If it turns out that the intricacies of this parcel make it unappealing to developers, then it is their decision whether to take on the project or not. Please, as a 12 year resident of Minturn, I implore you to not let a developer create an unsafe neighborhood, to cut corners just to make a profit, or to change the feel of this town that I love so much.

Thanks for hearing me and my neighbors concerns in this matter and thank you all for your efforts and care for this town!

Chris Rieder
970.988.1187

332 Taylor St

Madison Harris

From: Chris Rieder <crieder588@gmail.com>
Sent: Tuesday, July 27, 2021 5:37 PM
To: Madison Harris
Cc: helen rieder
Subject: Minturn North PUD

I plan to be in person for the meeting tomorrow to share my perspectives first hand, but thought it prudent to submit an email as well.

Dear Planning Commission,

I am writing in advance of the commission meeting on the 28th, with regards to the review of the Minturn North PUD application. As a resident of Minturn, specifically Taylor St, for over a decade; this development is of significant interest and concern to myself and my family. My wife and I are raising our two young children in the neighborhood and have come to love the quiet and friendly atmosphere here on Taylor St. This project brings concerns regarding alignment with town vision, quality of life for existing residents, and safety for the community.

I understand that development in general, and of this particular parcel, is inevitable. This project, as proposed, however, is unacceptable; based not just on subjective opinions, but on the very Minturn Town Codes created to guide this commissions decisions on proposed projects. I will do my best to keep this brief, but know my concerns span well beyond the few following written points.

Minturn Town Code 16-15-10 (b)

The proposed PUD is consistent with the Community Plan and the character of the town and (12) establishes incentives for applicants to encourage the provision of long term affordable housing.

In their narrative they state that the PUD will provide an ‘opportunity for Minturn and Eagle County residents that does not currently exist’. They are saying that by selling a variety of lots and allowing for the over development of each of the lot sizes, through duplexes and ADUs, that they will create ‘affordable options’. There are no deed restricted options, lots will be going at market rate, and the cost of construction is astronomical. No average local resident will be able to purchase a lot and build a home on it. We will see a huge increase in largely vacant second homes, short term vacation rentals, and developers buying up multiple lots to cash in on the opportunity.

I know the vision of the community is to maintain its small town ‘local’ character and this development will likely become another large congregation of properties owned by out of towners and the wealthy. Some of them may rent places to locals at stupidly high market rates, but options that benefit long term affordable housing options for locals are not actually provided through this proposal. The picture they are trying to paint is that through variety of lots they are addressing it, but they are not willing to sacrifice any profit to make lots actually affordable to locals.

Minturn Town Code 16-15-160 (1c)

The adjunct and nearby neighborhoods will not be detrimentally affected by the proposed PUD.

The developer has largely neglected to consider what the impact of adding 30-50% of the town’s population will have on Taylor Street and Minturn residents. I will speak more about traffic and safety in the next section, but adding that many dwellings in a previously undeveloped area is very detrimental to the neighborhood. They

are utilizing 'potential density' of Taylor Street to justify the obscene number of allowable units. If any of you have walked down Taylor Street, I think we can agree that the density is already not ideal and they are utilizing a density rate higher than what it already is. Why determine density for a new development based on an unideal situation? Because it allows them to make more profit.

The other hugely detrimental affect on current residents is the construction timeline. (*Minturn Town Code 16-15-140 (a) The PUD can be **completed within a reasonable amount of time.***) The developer is selling this as an opportunity for each owner to build a unique home. They speak to time frames in taking care of their infrastructure projects, but not with regards to the time frame of construction in the development. The home construction will occur over 3-10 years. At that rate my 2nd grader will be off to college by the time our front yard construction project is complete. Though I do appreciate the proposal trying to avoid a bunch of cookie cutter, mass constructed boxes, I also do not want my family to have to endure construction traffic, noise, and pollution during the remainder of their childhood. They are once again punting responsibility for time frame once they sell their lots and make their money.

Minturn Town Code 16-15-70 (3)

*The design and construction of the PUD shall include **adequate, safe, and convenient** arrangements for pedestrian and vehicular circulation, off street parking and loading space with access adequate to support anticipated traffic, on and off site, including the emergency and utility vehicles.*

Minturn Town Code 16-15-160 (j)

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

Out of all of my concerns regarding this project, as a father, safety out ranks the rest. From the beginning of this proposal the traffic and the access/egress of vehicles had been a frequently discussed point. The main issues have been the S-turn, the intersection of Minturn Rd and Taylor, and the inability for County Road to handle the increased traffic. At this point the developer said that there's nothing that can be done with the S-turn due to the railroad, that their only solution for the intersection was to turn Taylor into a one-way (unacceptable), and that they are no longer improving County Rd (only putting in turn lane on Hwy 24). If these were the major sticking points and there is still no solution or real progress, then why are we proceeding with approval? At this point there are no effective or safe plans for how the increased traffic will enter or leave the area.

The traffic study was done during Covid on a weekday, so I consider it arbitrary. Taylor Street is busy and adding nearly 30 driveways accessing it is a huge spike in traffic. We have many young families on this street and the increased traffic without dedicated access through the development is a safety hazard. I am not even going to get into the safety hazard that is presented with some of the gradients that they are proposing on new intersections.

As stated before, though those are my chosen points, they only begin to encompass my concerns with this development. The planning commission is tasked with ensuring that proposals are consistent with Town code and appropriate for the community. This project, as it stands is still not either of those things. When this proposal was postponed to allow the developer to address issues that existed it was discussed that it could only be approved, approved with conditions, or denied. I am asking you to consider if there was any real progress made on the issues of alignment with town vision, quality of life/impact on current residents, or safety of roads and access. I very much understand that the developer has a bottom line and that some things are beyond their control, however, if they are unable to address issues and create reasonable solutions to clear problems in their project, then maybe they need to go back to the drawing board. It is not acceptable to approve an application that does not abide by Town codes and is detrimental on many levels to Town residents just to help a developer meet their budget or because they have been working really hard to try to make it work. I trust you will consider Town codes and your common sense judgement when considering this proposal on the 28th. Thank you very much for taking the time to hear my concerns.

Sincerely,

Chris & Helen Rieder
332 Taylor St

ROB GOSIEWSKI
 560 Taylor Street ✳
 Minturn, CO 81645

Minturn North: PUD Comments
 July 25, 2021

Density has been the primary concern for existing residents since the parcel was listed for sale. It was the concern most voiced at the “conceptual review” for the PUD, and continues to be the largest concern for Taylor Street neighbors.

The developer claims that proposed density is similar to what can be found in Minturn, and that it matches the existing Taylor Street neighborhood. While there are non-conforming lots on Taylor Street and Old Town, past exceptions should not be used as part of a modern standard. The developer justifies the proposed plan by citing similarities to Old Town, but Taylor Street is the “outskirts”, and a different type of neighborhood. I've been told that this side of town is oddly developed (and perhaps underutilized) because historical train and railyard operations made it a very noisy part of town. There were often long waits at the rail crossings.

| Requested variations from the current code include: | Town of Minturn Requirement: | Minturn North Proposal: | % Change |
|--|-------------------------------------|--------------------------------|-----------------|
| Reduction of minimal square footage standards (for “compact lots”) | 5,000 sq. ft. | 4,000 sq. ft. | 20% |
| Reduction of minimal square footage standards (for “cottage lots”) | 5,000 sq. ft. | 2,500 sq. ft. | 50% |
| Reduction of minimal front setback distances (cottage lot) | 20 ft. front / 10 ft. rear | 10 ft. Front / 5 ft. rear | 50% |
| Reduction of minimal front setback distances (multifamily lot) | 20 ft. front / 10 ft. rear | 10 ft. front / 10 ft. rear | 50% |
| Increase to maximum lot coverage | 40% | 45% | 13% |
| Increase of maximum building height (multifamily lots) | 28 ft. | 32 ft. | 14% |
| Reduction to minimum sidewalk widths | 5 ft. | 4 ft. | 20% |
| Increase to minimum snow storage (how is parking affected?) | 5% | 20% | 300% |

With density being a large concern the above variations should not be granted. Each request from the developer serves to maximize density beyond established code. If granted, the variances would certainly help the developer maximize their profitability, but the existing neighborhood would be impacted unfairly. The majority of existing lots in the area are conforming, and recent projects have adhered to current code. The planning commission will “disappoint” one side or the other with the decisions made as a board. The commission should make the choice to deny the developer's deviations from code in order to prevent unfair impacts to the Taylor Street neighborhood.

There are several key issues with the proposed PUD which can all be adjusted by regulating density:

Traffic

As proposed, I am weary of long waits at the Bellm Bridge; even worse if the train were to re-open. For Old Town, I counted (19) town roads that access Highway 24. Taylor Street only has (2) access points to Highway 24. If the proposed plan was fully built-out the area would only have (1) access point per ~350 residents. Old Town has an access point per ~58 residents (and that number is inclusive of many properties that can access Highway 24 direct from their driveways)

Parking

Small lots will force cars onto the streets. Each new lot will bring 2-5 cars, plus friends and visitors. Alleys would help relieve parking pressure. As proposed there is not enough area to park all vehicles, trailers, snowmobiles, boats, etc.

Reduced Setbacks/Increased Lot Coverage

Reducing setbacks will also reduce available parking, snow storage, and potential for nice landscapes. Views would be limited by buildings creeping towards right-of ways. Reduced setbacks would make construction more complicated and impact privacy between neighbors.

Snow Storage

The wind blows fiercely on Taylor Street and creates drifts. Public Works needs more places to stockpile snow. Small lots would lead to snow storage conflicts between neighbors (and extra work for the town).

Drainage

As proposed, there are some lots that drain downhill directly into other lots. Adding alleys could provide common drainage routes .

Re-Alignment of Taylor Street

The project proposes a realignment of Taylor Street, which would disrupt existing driveways, retaining structures, and landscaping. This re-alignment would eliminate currently utilized parking spaces on the east side of Taylor Street.

I was curious what the parcel would look like if subdivided into lots that meet the current town requirements, so I used google earth and a basic drawing program to make a sketch. How do properly-sized lots would affect the developer's profitability? I was also interested to see if alleys could be added, and if a more cohesive park area could be created. I used Google Earth to determine scale and tried to match the existing neighborhood.





I then counted the lots and made a basic revenue table. The alternate layout - that presented itself when drawing lots to meet current town requirements - shows reduced lot density, as expected. I included (8) "compact" lots on the plan to honor the developer's intention to create some "attainable" parcels that could be deed-restricted. "Cottage lots" were not included in my sketch.

Minturn North Proposal:

| | | | |
|--------------|-----------|---------|-------------------|
| Multi-Family | 3 | 800,000 | 2,400,000 |
| Estate | 8 | 600,000 | 4,800,000 |
| Standard | 24 | 400,000 | 9,600,000 |
| Compact | 36 | 300,000 | 10,800,000 |
| Cottage | 24 | 200,000 | 4,800,000 |
| | 95 | | 32,400,000 |

Alternative:

| | | | |
|--------------|-----------|---------|-------------------|
| Multi-Family | 3 | 800,000 | 2,400,000 |
| Estate | 8 | 600,000 | 4,800,000 |
| Standard | 44 | 400,000 | 17,600,000 |
| Compact | 8 | 300,000 | 2,400,000 |
| Cottage | 0 | 200,000 | 0 |
| | 63 | | 27,200,000 |

chg. from MiNo proposal: -34% -16%

The developer's drawings are based-on alterations to existing code which could increase density by ~34%, compared to my sketch that adheres to current regulations. This reflects the developer's requested lot size and setback variations ranging from 13%-50%

While I do appreciate the developer's approach of offering small lots to keep structure footprints "modest", the realities of building, especially in this area, are such that even small lots can not realistically be considered affordable/attainable. The developers have packaged their design with attractive terms, and they promote a target market of working-class folk in our community.

However, with an estimated 4,000 sq.ft. "compact lot" price of \$300,000, and a conservative building cost of \$750,000 (for a 2,500 sq. ft. home) the numbers quickly add up... to \$1,050,000... not something that most working families can afford.

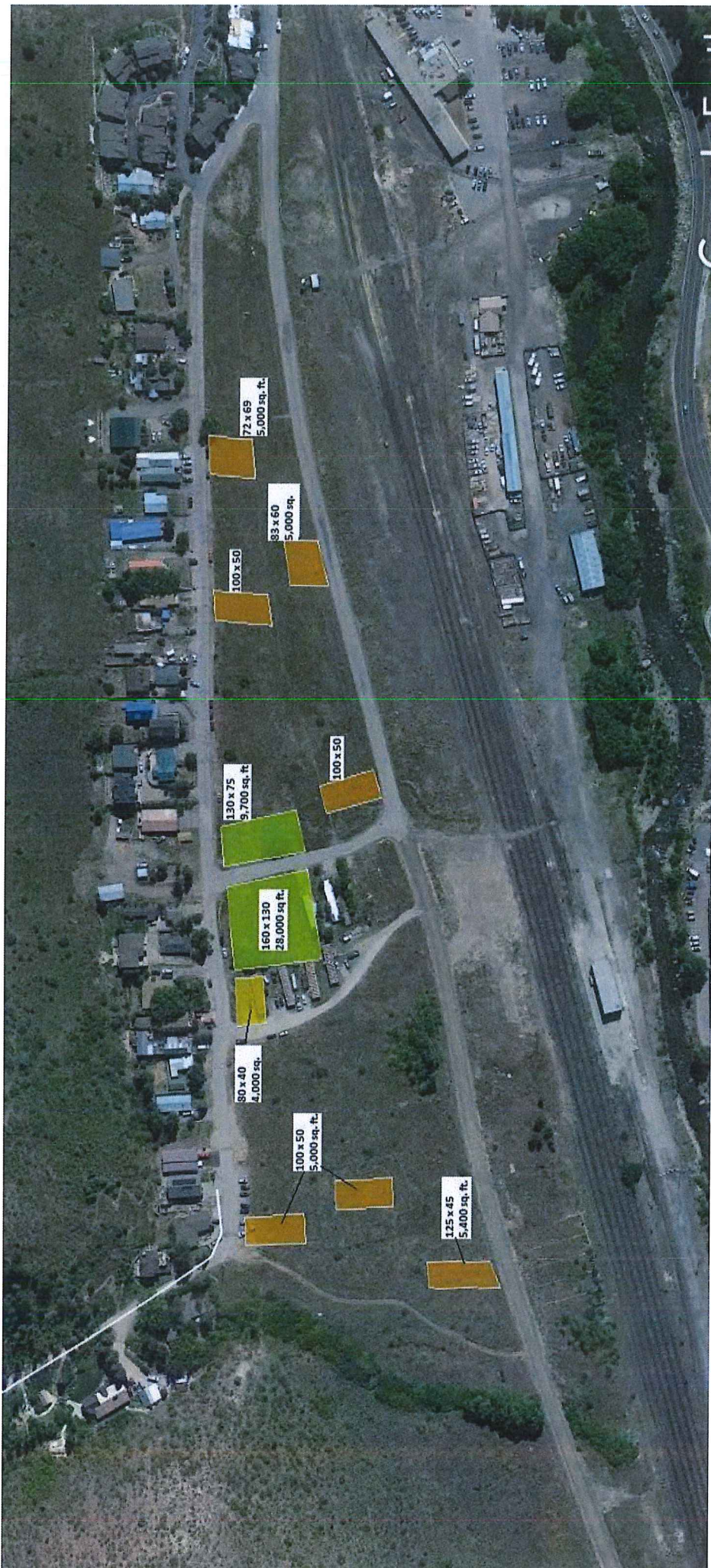
The marketing presented by the developers is an approach to ask for unreasonable variations from current building code. They are requesting exceptions from precedents that are already established in the Taylor Street neighborhood, and the developers are even going so far as to alter existing conditions on the east side of Taylor Street

This PUD will affect property values of existing properties on Taylor Street. Proposed project density needs to be corrected to avoid overcrowding; the character of the area should not be eroded as a result of aggressive subdividing. Our town code exists to prevent issues between properties and neighbors. I am asking the planning commission to adhere to the current town building requirements so development in this area can proceed equitably to the existing residents.

It is not the community's responsibility to ensure that the developer's project achieves maximum profitability. However, it is stated in the code that any proposed development minimize the impacts to the existing neighborhood.

Thank you for you time & consideration,

Rob Gosiewski Jr.
560 Taylor Street





July 26, 2021

To: Minturn Planning- planner1@minturn.org

Dear Planning Commission:

I oppose the Minturn North Development currently in application review before the Planning Commission. The proposed density of the development is simply too great for this property. The current population of Minturn is approximately 1100 residents. The proposed development would increase the population by 300 to 500 residents. An approximate $\frac{1}{3}$ to $\frac{1}{2}$ increase in the town population in an area less than 1% of the area of the town of Minturn (0.03 square miles versus 7.8 square miles) is unconscionable. This development will have an unreasonable impact on me and other Taylor Street residents. Please do not allow this assault on the character of our town, the quality of life of current residents, and the infrastructure and resources available to our town.

Sincerely,

Kim Malek

Madison Harris

From: hany malek <hany.a.malek@gmail.com>
Sent: Tuesday, July 27, 2021 4:34 PM
To: Madison Harris
Subject: Minturn North PUD
Attachments: Hany Malek PUD Review Letter 12-11-2019.pdf

To Minturn Planning, Town Council, and Staff (please include this as written public comments)

The purpose of this letter is to express my deep concerns and opposition to the proposed Minturn North PUD.

Background: My wife and I have owned our home on 498 Taylor Street for over a decade and have retired in this community. We have been part time residents in the valley for over three decades. We are both Professional Engineers (Civil/Geotechnical and Structural) with over 35 years of experience. We owned a design-build company in Denver that specialized in federal projects west of the Mississippi, and had a staff of engineers, architects, and construction crews.

This project is directly in front of our home and will have a significant impact on us. I took the time to browse through most of the documents posted online including drawings, reports, etc. and reviewed some of them in detail. I believe this land is a prime development opportunity and appreciate the positive impact it could have on the town's future. Thus, we recognize and accept some reasonable impact and changes.

I had looked at the Conceptual Plan of this PUD that was put forward in 2019 and submitted comments to the planning commission in a letter dated December 11, 2019 which I am attaching and would like to be included in the record. Since then, I also had various discussions with the town staff and even met with the developer and Scot Hunn in early 2020.

The Problem: I have quickly reviewed the planning commission packet for the 7-28-2021 hearing which includes the staff report on the Preliminary Development Plan for this PUD. I appreciate the significant effort that Staff has put into this project given the size of the application and its complexity. I understand that the package submitted to you by the staff may be overwhelming. There is a lot to absorb. As Staff pointed out, there are still outstanding issues with this application. Based on my review, some of the technical issues are more significant than represented. Furthermore, the impact on Taylor Street residents (brought up since 2019) are not properly addressed and even ignored by the Applicant. I believe a major redesign of the plan and application would be necessary to properly address those deficiencies. This proposed development will have a significant impact on the town and an overwhelming negative impact on Taylor Street residents. If in doubt, I urge you to take your time with this application, meet with Taylor Street residents, and dive into the details. I believe you will find that this application is deficient and should not be approved.

Arguments:

Many concerns and opposing comments have been relayed to the staff, Planning Commission, and Town Council since 2019 by myself and by other concerned Taylor residents. Many concerned Citizens have taken the time to submit comments and come to hearings. Most of those comments are still valid and have not been properly addressed. Many citizens, including myself, feel that we are not being heard, or are being ignored. All public input related to this PUB, from as far back as 2019, should be brought forward and included, as they are pertinent for the review of this application, and should be properly addressed.

I will not repeat my entire letter dated December 11, 2019 or go in detail on points brought and explained by others such as by Chris Rieder and Karl Krueger, in your package. I will generally limit my comments to the most critical I have identified so far, that relate to the impact on Taylor Street Residents. My fellow neighbors and I would be more than happy to meet with you, staff or consultants onsite, to discuss those or other issues.

This PUB is within the Game Creek PUD Holding Zone which falls under Article 12, Section 16.12 of the code. Section 16-12-30 b) of the code specifically addresses the necessity of public input and in addition states: “...***Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood***...” (Added underline for emphasis)

This language would not apply to all PUDs but was written specifically to any PUD in this Character Area, and consequently to this proposed PUD. Dictionaries define “minimized” “as to reduce, decrease or lessen the smallest possible amount.”. The definition according to the law are even more restrictive.

This Application and development is very far from meeting this requirement. On the contrary, it creates unnecessary and totally avoidable impacts on the existing neighborhood. The Applicant has ignored feedback and comments and has blatantly pursued an approach to maximize lots by externalizing impacts and costs on the Neighborhood and the Town. This assessment is consistent with Inter-Mountain Engineering’s observation: “***The current design looks like density has been maximized ignoring good street design***” (February 8, 2021, Page 2, bullet 2 bottom of page)

Some key point where the Applicant has failed to minimize impact to residents are:

- Development and home construction on 95 individual lots will likely subject the existing Taylor residents to 10 or more years of continuous construction and is an unacceptable time frame. Other development models could easily “minimize” the impact to the existing residents.
- It is more difficult for people to afford to buy land and then get a loan to build on it. It is a wrong approach for addressing affordable housing and will set people up for failure.
- Existing lots on Taylor Street are on average 71% larger than the average proposed ones.
- The smaller lots will be difficult to develop, they are too small.
- Turning Taylor Street to one way, which has a significant impact on existing residents, instead of looking for a real solution to addressing the hazardous intersection, is unacceptable.
- Adding 28 new driveways on Taylor Street and 29 on Minturn Road is a pure example of externalization and pushing many problems onto the community and town instead of trying to minimize them. This design approach to maximize land use is the primary contributor to most of the existing concerns including low parking counts, limited snow storage, loss of usable sidewalks, increased hazards to pedestrians, children, and vehicles, and impact on traffic flow. A layout which eliminates most driveways along Taylor Street and Minturn Road and make use of alleys and new roads to access all properties would significantly “minimize” the impact to the existing neighborhood. This was rejected by the Developer during 2019 hearings and a subsequent meeting.
- Eliminating some existing parking (and landscape) on both sides of Taylor Street, and not having a real and workable solution for the parking, even after it has been brought up multiple times for over a year. (Parking is separately addressed below.)
- Snow storage is grossly underestimated and not properly addressed. (This is addressed separately below.)
- Not properly addressing how to manage the “Milers” skier issues. The path parallel to Taylor Street, to be used for “Milers” to ski to town has been removed because of some town concerns. This was a key point of discussions during previous hearings both for safety and to prevent skiers from going down Taylor Street. Instead of addressing the issue and coming up with a reasonable solution, the applicant plans now is to send them to Minturn Road which has private residences on one side and snow storage (piles) on the other. Having “Milers” go straight to Minturn Road and then walk all the way to town will only encourage them to keep skiing down on Taylor Street or walk on Minturn Road with the traffic. Both are hazardous and worse solutions than the current condition.
- Not improving and paving County Road. Or considering it as part of Phase 2.
- Proposing to use parks for snow storage.

The Applicant has praised this development for helping the affordable housing crisis in the county. This is unrealistic. It is much more difficult to qualify for two separate loans, one for the land and another one for a construction loan, than to buy a finished dwelling with one loan. If someone can pay for both loans and still pay for 2 or 3 years of rent while their house is being built, they would not likely qualify for affordable housing. When interest rates go up, as predicted, they may not be able to complete the home or afford to refinance to combine the two loans into one at a higher interest loan. Without proper financial resources, homes will take longer to be built and some may be left partially finished for a while. This would lengthen the construction period and be a nuisance to the neighbors.

This development has no provisions to accommodate people with disabilities or the elderly. The proposed Belden Place development is a much more sensible solution on this issue.

This approach for affordable housing is flawed; it does not help with the affordable housing crises and can even set people up for failure. It will not achieve the Town's goal. This is purely a way to justify a high-density development and make this development more appealing to the town and public and skirt the need to minimize impact on the existing neighborhood.

Lot Sizes

The average existing individual lot on Taylor Street is 7,039 sf is 71% larger than the average proposed ones (from Sheets A11 and A12). In addition, this development adds the equivalent of approximately 40% of all of Minturn population into an area, a fraction of the size of the entire town. The proposed density does not fit the existing character of the neighborhood, and certainly does not show any attempt to minimize the impact on the existing Taylor Street neighborhood.

Lots on Taylor Street have been priced similarly but have taken a while to sell and develop. Lot sizes of 2,500 and 4,000 sf make it harder to fit a home within the setbacks, limit onsite parking and amenities, and result in a much higher cost per square foot. It does aggravate parking and snow storage and externalizes those issues onto the adjacent neighbors.

Parking

The Taylor Street realignment will impact existing parking along the east side of Taylor Street. The full impact is very difficult to assess from the drawings. (example: in front of 564, 530, 492, 292 Taylor). In addition, it looks like some of the existing landscaping and features, some property owners have installed will be taken out. It is very difficult to see what will actually be done and its impact from the provided drawings, even for me. This needs to be clearly shown in the field so that the existing homeowners can properly understand the impact prior to any approval. Losing existing parking is a significant impact to existing neighbors. Taylor street realignment has some minor benefits but is not necessary. It should be performed without any reduction of parking along the east side and its impact fully disclosed to current residents.

As noted by staff the proposed parking count is deficient. Parking has been a significant concern and voiced very often by Taylor Street residents as insufficient and unrealistic since 2019. It is unbelievable that we still have a proposed similar and unworkable parking plan. The parking cannot be addressed without changes to the layout and/or reduction of the number of lots, something has to be given and it should not be by providing less parking. The Applicant is still ignoring the issue and hoping he can externalize the problem onto the existing residents, the town, and future owners. This is unacceptable.

The proposed 19 parking spots along the west side of Taylor Street (Sheets A13 and A14) is less than is currently available. Not only is the Applicant eliminating existing parking spots but expects those spots to be shared with 28 new lots and up to 53 new Units west of Taylor Street. The 23 parking spots along Minturn Road are also less than are used during Minturn Market days. These are to be shared with 29 new residences. Half of the lots on Minturn Road and Taylor Street do not have parking near them, some are even half a block away. This does not match the character of the town and is a safety hazard. It is unacceptable.

There is currently parking along the south side of Taylor Street (greater than 60) and along Minturn Road (at least 20). Those are enforced by the town and used by homeowners and guests. Those are existing parking spots and are not the developers. We should not allow the Applicant to appropriate them and take credit for the existing parking. The developer needs to provide additional parking beyond the existing ones. Residents have repeatedly brought up the high number of cars being parked at the trailhead only to be dismissed by the Applicant. I have seen over 40 cars parked from about 4th street to the trail head during the summer. Those numbers are real. Existing parking on both sides of Taylor and Minturn Road should be fully evaluated and analyzed and determined with current residents' input. The applicant should not be allowed to pick numbers that are convenient to him.

In 2019 Darin Tucholke of 530 Taylor Street and I had pointed out that we have steeper driveways that ice up in the winter, are slippery, and could be a hazard. Since they proposed to shift the road closer to our property and made the area narrower, we had asked to eliminate parking in front of our driveways. The applicant agreed to it but is now showing parking at that location. Another example of ignoring public comments. If the parking spaces cannot be removed, then the road location should stay as is.

Snow Storage:

Snow storage is also an issue that has been expressed by staff and has been repeatedly brought up as a significant concern by the current Taylor Street residences since 2019.

Historically, during larger snowstorms, front end loaders have been used to store snow continuously along the roads in linear piles. Those piles have often been over my head (6 to 10 foot high), approximately 20 to 40 foot wide (can vary based on slopes) and were continuously on both sides of Minturn Road, on both sides of 4th avenue, and along the west side of Taylor Street. Some areas, such as near the intersection of Minturn Road and Taylor Street, the piles could be bigger. The historical snow piles have been where the applicant is proposing new parking, driveways, sidewalks, and where homes are proposed. This is a significant amount of existing snow storage that will have to be consistently moved in the winter. The snow storage areas proposed by the Applicant on Sheet A11 and A12 appeared to be grossly undersized and placed in areas that may be convenient for the Applicant but are difficult to use but not practical. The snow removal will likely be performed with front end loaders, will require long hauls, difficult pile stacking due to the geometry, resulting in a very inefficient process (even if it was possible to achieve). This will be a hazard to people, block or stop traffic, be noisy, and will be difficult to complete early in the morning. The impact to existing and new residents will be high. This will also be very costly to the town and will have a detrimental effect on the pavement. This is another example where the Applicant has taken over a year and still not changed his flawed approach and ignored the current neighborhood concerns. He has again maximized his lots and pushed the future impact on the current and future residents and the Town. This is a significant issue, that it would be wise to have a specialized consultant accurately evaluate existing conditions and volumes and comment on the approach and long-term costs. Since this is a long-term recurring cost that the town will be taking on, it would be best for the Town to hire this consultant directly and not leave it to the Applicant.

Conclusion:

The Applicant pursuit of much higher than allowed density while maximizing the number of lots has created a development that is in opposition to the requirements of Section 16-12 and maximizes the impact on the current neighborhood, instead of minimizing it. It is a flawed attempt to address the affordable housing issue. It is purely a disguise to justify a high-density development and make this development more appealing to the town and public and skirt the need to minimize impact on the existing neighborhood. It only benefits the Applicant, not the existing neighborhood or the Town.

From the start, the public has expressed concerns of the developer's record of maximizing his interest at the expense of others. Insisting on cramming this many lots on this site, has created more problems and impacts on the existing neighborhood than necessary and has limited the Applicant's ability to address and solve the many issues brought up by citizens, consultants, and staff since 2019. This Applicant was given an opportunity to change his approach and provide

the Town with an acceptable plan and failed. His project does not meet a fundamental requirement of the code and will not likely meet it without a significant redesign and significantly more time. It is time to end it, listen to the residents of Taylor Street and do not let it drag on any longer: reject this application.

Thank you,

Hany Malek

HANY MALEK

498 Taylor Street, Minturn, CO 81645 · 303-638-6329

December 11, 2019

Minturn Planning Commission
Town of Minturn
302 Pine Street
Minturn, CO 81645

RE: Comments on Railroad PUD Conceptual Plan

Dear Planning Commission:

The purpose of this letter is to comment on the Railroad PUD Conceptual Plan.

My wife and I have owned our home on Taylor Avenue for approximately 10 years. We chose to purchase our home in Minturn, and specifically Taylor Avenue, because of its location within the Vail Valley and the small town feel of Minturn. In addition, Taylor Avenue felt as a low-density residential area which was adjacent to open areas, including to forest service land and the railroad property, but was still within walking distance from old town.

Unfortunately, I will be unable to attend the meeting on December 11, 2019 but wanted to communicate some of my comments and concerns related to the proposed Railroad PUD Conceptual Plan.

The residential nature of the plan, proposed parks, improvements along Taylor Avenue, along with the attempt to address the Game Creek Trail parking and skier access to town are all positive proposals that need further development. However, the overall plan falls short in many areas including *"minimizing the impact to the existing neighborhood"* on Taylor Avenue.

I have many comments related to the proposed plan and have relayed some to Scot Hunn, however due to time limitations, I am listing only critical ones in this letter and will resume my review following the outcome of the meeting.

- Based on the staff report and discussion with Scott Hunn, this development would result in 114 to 185 new residences which would add approximately 296 to 481 new residents to the town. This would result in a net population increase to Minturn of approximately 30% to 50%. Those new residences would be concentrated in less than 19 acres which is a fraction of the overall size of Minturn, resulting in an extremely densely populated development. Both the population increase, and its density will have a tremendous

impact on Minturn and an unreasonable impact on to the existing Taylor Avenue neighborhood. This is a detriment to the town for many reasons. It would be worthwhile if staff could provide population density calculations for the various areas in Minturn for comparison.

- This high-density development does not meet the requirement as stated in the MCC *“Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood.”* Adding a population equivalent of 30% to 50% to the entire town, adjacent to Taylor Avenue, is not “appropriate” and does not “minimize” the impact on the existing neighborhood.
- Lot sizes should not be below 5,000 sf. The density should not exceed the current density of the Residential Zone within Game Creek Character Area. Average lot size would need to be adjusted and density decreased based on impact. Thus a “minimum” lot size of 5,000 sf in existing zones should not become the accepted standard for a new PUD. A higher minimum “average” lot size should be considered in addition to a larger minimum lot size.
- The current requirement for ADU and Duplex should not be altered. ADU should only be allowed on lots larger than 5,000 sf and Duplexes conditionally allowed only on much larger lots. Eliminating ADU and Duplex would reduce the impact on the existing neighborhood.
- Lot sizes for Old Downtown should not apply or be considered as a comparison for the Game Creek Character Area. Those are two completely different areas with different characters and impacts.
- High density residential developments provide a short-lived infusion of revenue to a town but is an unsustainable model in the long term. I feel the town has put too much emphasis on higher density residential developments which will have detrimental long-term impact on the financial stability of the town.

Traffic & Parking:

- This plan addresses the parking challenges at the extreme north end of Taylor Avenue, but additional measures will be needed to control unauthorized parking in the area.
- The improvements along Taylor Avenue will improve parking, however it does not appear to sufficiently address the potential significant increase of parking needs created by the high-density development.
- Replacing 4th and 6th street with only one, indirect route, will change the traffic flow and have a negative impact on Taylor residents. Many of the residences take 4th Street and then Minturn Road to go north. Since traffic will be increased on Taylor street, two streets should be maintained with at least one with direct access to Minturn Road.
- Traffic impact along Minturn Road will have to be addressed along with egress to HW24 in both directions. It should address the following MMC requirement *“The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans.”*
- Skiers pose a significant hazard in the winter along Taylor Avenue and Minturn Road. Skiers are constantly zipping along in the middle of Taylor Ave as well as Minturn Road, sometimes at very high speed. The proposed “run” may be a solution, however

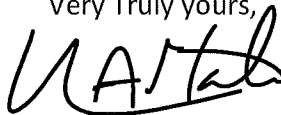
crossing of 4th, 5th, or 6th street could become a higher hazard due to limited visibility and would have to be addressed. In addition, the needs of both pedestrians and skiers would have to be addressed, as snowy and icy paths are welcome by skiers but could be hazard for pedestrians.

Municipal Water:

- Water, water, water! Where is the water coming from for this development? I had been told in the past that existing water taps will be saved for infill lots and this development will have to provide its own water. This application implies that water taps will be provided by Minturn. Please clarify.
- Sheet A1, Note 4: How is air and water quality maintained or improved? The answer addresses municipal water which is a different issue. Surface water as well as air quality will be impacted by the development.
- Sheet A1, Note 10: How is surface and groundwater quality and quantity maintained and enhanced? I understand that this is a conceptual design but both surface and groundwater have not been addressed in this application even on a conceptual level. A significant amount of impermeable surfaces will be created and will have a significant impact on surface water. No storm drains are shown on A14, no detention ponds or other surface water mitigation measures are shown. Impermeable surfaces will reduce infiltration and thus reduce groundwater quantity unless other mitigation measures are planned.
- Light Pollution: Will it be addressed and how?
- Will the proposed high voltage power line have an impact on this development?

I feel this lot provides a great opportunity for the town. Unfortunately, I think this proposed plan has significant short comings and would need a significant reduction of the lot density in order to meet the stated goals of the Town and minimize impact on Taylor residences. A mixed-use development on the south end along with a low density residential on the remaining site may be a more appropriate option for both the town and the developer.

Very Truly yours,

A handwritten signature in black ink, appearing to read 'HANY MALEK', written in a cursive style.

Hany Malek

Madison Harris

From: Jason Hutto <jhutto@biadvisors.com>
Sent: Tuesday, July 27, 2021 1:13 PM
To: Madison Harris
Subject: Minturn North

To whom it may concern:

I won't be able to join the town hall but wanted to express my support and excitement over Minturn North. My family and I have been interested in Minturn for a few years. However, we have two young children and have never been able to get comfortable with thinking of Minturn as a good town for families. We know a few families who are on the list and believe that development will be a great addition and we are excited to live there.

Jason

C. Jason Hutto, CFA
(617) 448-5920

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Madison Harris

From: Andrew Cryer <acryer13@gmail.com>
Sent: Tuesday, July 27, 2021 11:17 AM
To: Madison Harris
Subject: Minturn North Comments

Hi Madison,

I'm writing to show our support for the Minturn North PUD approval tomorrow night as we have a deposit in for one of the lots. Thank you for reading.

We are a young local family and had our first daughter in Minturn. After, we moved to Eagle-Vail because we needed more space for our growing family. We recently had our 2nd child, a boy.

During the Covid real estate price boom in our area, many of our friends (young families) in our age group have moved from the area. They simply can't make sense of the finances of living here anymore.

We are very excited about the opportunity to move back to Minturn and raise our family there. Minturn North seems like it may be our only opportunity to stay in the area at a reasonable price tag. We think this new community will bring vibrancy to Minturn but will also be an asset to the many aspects of Eagle County that will be impacted by its residents.

Kind regards,

--

Andrew James Cryer
970-376-1029

Madison Harris

From: Contact form at Minturn CO <cmsmailer@civicplus.com>
Sent: Friday, July 16, 2021 7:25 AM
To: Madison Harris
Subject: [Minturn CO] Minturn North Needs Work (Sent by Sidney Harrington, 1972sah@gmail.com)

Hello mharris,

Sidney Harrington (1972sah@gmail.com) has sent you a message via your contact form (<https://www.minturn.org/user/353/contact>) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at <https://www.minturn.org/user/353/edit>.

Message:

I am a resident and home owner at 532 Taylor St. in Minturn since 2009. I support real estate development on the RR parcel currently known as Minturn North but NOT like this.

I strongly implore you to continue to DENY the PUD for Minturn North until these items are addressed. I predict there will be other real estate developers that come to the table. Let's pick the right one for the Minturn community.

1. The developer and architect are not listening to the Taylor St. community and continue to ignore critical design-PUD feedback that has been brought up since project introduction.

2. Minturn N struggles w/ identity and it can't be "all things to all people":

a. Is it a second-home real estate attraction? If so, density is way too high w/ a parking plan built for deed-restricted units. Taylor St. has more \$800K - \$3M+ properties than properties below that price range. Trying to convince anyone that housing will be built below that price is dishonest.

b. Or is it an affordable real estate attraction? If so, then, it's not "in character" w/ the rest of the neighborhood based on current real estate value trends and Eagle County Housing guidelines. In 2021 we have \$635k homes being approved by Town staff and calling it "affordable" but the job market and 80% of AMI formula don't seem to calculate anywhere in Minturn.

3. Drainage to railyard/Eagle River– engineering report says the plan is inadequate and indicates that it will cost the Town a lot of money if not addressed – developer needs to pay for this.

4. ADU's should not be allowed at any single family lot – there is NOT ENOUGH parking in the plan to accommodate ADUs.

- PARKING – street parking plan underserves the demand for the trail head and for the entire PUD. Build alleys and get cars out of the way. Parking in multi-unit PUDs throughout the Eagle River Valley is the #1 problem for HOAs and property mgrs. PLEASE listen!

5. Developer performance bonding - require the developer to be fully bonded on the project for at least 7 years and not the usual 2 years as his reputation precedes him.

6. Impact to current residents on Taylor St. is unfavorable and needs to be top-of-mind. Build the sidewalk & drainage on the development side ONLY.

7. Change the lot sizes. Minturn N can still sell lots by increasing the lot sizes to 5,000 sq. ft. which is consistent with the existing neighborhood.

8. Community gardens are traditionally added to communities as an “afterthought” for good reason. Most people would like to have their own little gardens in their own little back yards where their kids and dogs can play – put this in the PUD plan.

9. Snow storage plan is still inadequate. Trailhead parking is still inadequate and on a busy day, there have been more than 70 vehicles parked in the neighborhood

Respectfully,
Sidney Harrington

Madison Harris

From: Anastasia Jeronimus <anastasiaboo@gmail.com>
Sent: Wednesday, June 23, 2021 3:28 PM
To: Madison Harris
Subject: Minturn North PUD feedback

To the Planning and Zoning Commission:

We would like to express a few concerns /considerations regarding the development near game creek. We live on Taylor St and therefore have a close relationship with this project.

1. Snow storage — how will this be addressed per lot? Packing homes on tight lots will make it difficult to remove snow on this small parcel, unless it is abundantly clear as to how much space is required on each lot for snow cleared from entryways, decks and driveway. It is not sustainable, eco-friendly or logical to plan such tight lot spacing that will require snow to be trucked away. It will be an unnecessary and burdensome cost for the town that can be avoided.

2. Parking. 184 units with 3 bedrooms per unit = 552 vehicles.

—>Add 40+ vehicles needed for busiest days to access Game Creek trailhead. We live near the trailhead and have counted 40+ vehicles MID week, even more on weekends (for which the new residents of this parcel will be more likely to have guests parking on their properties or on the roads as well).

For reference, the entire top of Lionshead parking structure holds approximately 400 vehicles. Although Lionshead is likely not as big as the parcel it is quite large and certainly paints the picture as to how much space cars alone take up. Now add 100+ vehicles and houses.

—>we feel it is absolutely necessary that each dwelling is required to have at least 1 parking spot per bedroom and 2 parking spots for any lock off and/or 1 bedroom rental units as renters always have guestsor couples, each with 1 car could rent 1 room.

—>please remember the town will take on the costs of the daily working needs of the development (snow removal, managing parking violations, etc) well beyond the developers short lived role in this project 3. Parking at Game Creek: 14 spaces is not sufficient for summer traffic. We live near the trailhead and can promise you that it is not sufficient for even mid-week summer traffic and daily Minturn mile shuttle parking in the winter. Again we have consistently counted over 40 vehicles parked mid week.

4. Density: Have you considered duplex lots to make best use of setback space and offer more space for parking and snow storage on the lots?

5. Please consider an alley with all driveway access to units within the parcel (rather than the Minturn mile ski path). The ski path is a nice idea but parking is a bigger problem and strain for residents. It will allow for better traffic flow and offload Taylor street which is already overloaded with dense street parking.

Thank you for your time and consideration, Ana & Duncan Robinson
531 Taylor St

Madison Harris

From: Duncan Robinson <duncanrobi@gmail.com>
Sent: Wednesday, July 28, 2021 2:55 PM
To: Madison Harris
Subject: Minturn North PUD public comment

Duncan Robinson
531 Taylor St

RE: Minturn North PUD

Town of Minturn Planning and Zoning Commission,

Please record and read this as public comment on the Minturn North Development at the July 28 2021 meeting.

Thank you for hearing comments and allowing this important, democratic process to occur. It allows the remaining developable land to be shaped the way the community approves.

From proposal materials related to the Minturn North Development my concerns fall under the following categories.

1. Density: To allow development that is denser than the town code and standard will adversely impact the neighborhood creating problems with parking, traffic flow, snow removal, and snow storage. The solution to these problems is space and the town's 5,000 ft² minimum lot size has proven to be a sustainable minimum.
2. Roads and Bridges: The developer has not provided a sufficient impact analysis and solution for the load the development will have on the supporting infrastructure of Minturn Road, the Saloon Bridge, Bellm Bridge, and Highway 24. I fear the town will be saddled financially with these improvements.

Minturn Road, one of the two egresses for the neighborhood, is a county maintained gravel road crossing railroad land. Referencing a conversation I had with Eagle County Road and Bridge regarding the degradation of road conditions this spring, they want to give the road control back to Minturn and mentioned the possibility of the road being closed by the railroad. Now imagine all of Taylor St, Minturn North, and the Railroad commercial users using the saloon bridge access to Hwy 24.

Bellm Bridge at the north end of Minturn Road is an ancient bridge that was widened before my time to allow for more traffic, but is not sufficiently wide for the traffic increase from Minturn North. Who will pay for a major project like a bridge upgrade/ replacement? This access to Hwy 24 also needs acceleration and deceleration lanes, another big ticket item.

Saloon Bridge is also a problematic intersection to hwy 24 that lacks any space for improvement.

3. Water: who shoulders the cost of the needed upgrades and new piping? Minturn a few years ago in a vote said no to the interconnect water project with Eagle River Water and Sanitation, and the current water infrastructure cannot handle the added load of Minturn North.

Minturn North's financial success requires maximizing the number of lots through density variances and avoiding the concerns adjacent to the property lines like roads and water. The road and water improvements to our town and surrounding area needed to support this bloated proposal make the development financially unattractive to a developer or would bankrupt our town.

Thank you for your time

Duncan Robinson

--

Duncan Robinson
duncanrobi@gmail.com

Madison Harris

From: Contact form at Minturn CO <cmsmailer@civicplus.com>
Sent: Wednesday, July 28, 2021 4:01 PM
To: Madison Harris
Subject: [Minturn CO] Minturn North PUD (Sent by Justine LaCross, justinefurseth@yahoo.com)

Hello mharris,

Justine LaCross (justinefurseth@yahoo.com) has sent you a message via your contact form (<https://www.minturn.org/user/353/contact>) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at <https://www.minturn.org/user/353/edit>.

Message:

Hello, My family and I would like to be sure you know that we are OPPOSED to the Minturn North PUD. The developers are trying to portray that a lot of people are supportive of this development, however, this is not true.

We have lived in Minturn for 25 years. This development is too big and will create a great impact on our community. The traffic will increase, the noise will increase and this development is not keeping Minturn in the "small town character" which is important to why our family lives here. We feel like we are being squeezed out of our fabulous small town. Adding 100's of vehicles (without sufficient parking) to our street is NOT safe for our children.

Thank You,

Nathan, Justine, Bodie and Macie LaCross

Madison Harris

From: Chris Rieder <crieder588@gmail.com>
Sent: Thursday, August 19, 2021 11:17 AM
To: Madison Harris
Cc: helen rieder
Subject: MiNo PUD

Dear Commissioners,

I wrote prior to the last planning meeting and am writing again to let you know that the opposition to this project is not waning, in fact it is growing. Every time the developer gets up to speak and pushes a proposal that shows no willingness to compromise on any issue that touches their budget; the true colors and intent of their efforts becomes clear. They put out an appealing proposal and are banking that people attach to the narrative that this will be a development that fits the community and is filled with locals. The truth is that it will be a dense gathering of 2nd homes and the wealthy, bringing a decade of construction and huge infrastructure problems that the developer is more than happy to push onto others and run away with their money.

The impact of this project would be undeniably negative and large on the residents and not just those living on Taylor. The decade of construction means that my children (4 and 7) will leave our home as young adults never really knowing our neighborhood as anything but a construction zone. The biggest impact is on the safety. The S-turn alley, the Taylor intersection, and the inappropriateness of the county road to handle the increase in traffic that each area would see has been an issue from the start. Nothing has changed with any of these in the proposal, no concessions in design, density, or budget have been made by the developer. It is clear that unless these issues are addressed that this project would greatly impact the safety of existing residents and that the developer is unwilling to do anything to really minimize the impact on residents and the neighborhood.

The 'millennial' who spoke at the last meeting said that he finally saw the dream of living in Minturn as accessible through this proposal. He clearly was sold on the vision (or compensated by the developer), because he must not have run the numbers that would lead to him needing at minimum a million dollars to build a small place on a cottage lot. Plus he called the field disgusting; when it really is natural brush field that gives the whole community a spot to walk their dogs, kids to play and sled, gives room for wildlife, and is truly beautiful in the winter when it looks pristine! I am a millennial too and my dream of being able to enjoy living in my Minturn house shouldn't be ruined.

The developer is trying to play shadow games by reselling a unrealistic vision, talking about small concessions, and hoping that persistence rather than practicality will get them through this process. How much of the 'open space' is usable (not a steep cliff face or a riparian area)? How many of those parking spots are for the neighborhood once you subtract the trailhead and overflow spots from the 100 proposed? How can that increase of cars and construction vehicles get in and out of the neighborhood without putting children, pets, and people in danger? Lots of questions, no answers.

Thanks for taking the time to read this and for critically thinking through this. Development is necessary, but in reality is this proposal the answer because water wise this putting all of the towns development eggs in one untrustworthy, unsafe, and unrealistic basket.

Chris Rieder
332 Taylor

Candice L. Jenkins
103 East Lions Lane
Minturn, Colorado 81645
985-264-7879
candice@jenkinsfirm.com

August 19, 2021

Via email only – planner1@minturn.org

Town of Minturn Staff and
Planning & Zoning Commission

Re: Minturn North PUD

Dear Town of Minturn Staff and Planning & Zoning Commissioners:

I have several objections to the proposed Minturn North PUD regarding the safety and well-being of the surrounding neighbors. My objections are as follows:

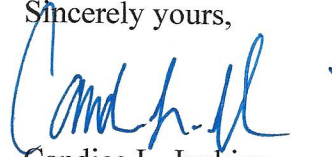
1. The issue of increasing traffic (construction and residential) on the S curve behind the Saloon has not been satisfied. That road is used by children, dog walkers, and skiers coming off the M Mile. I respectfully request that the Developer work with the County to pave the County Road that will allow traffic to utilize that route versus turning left at the bridge and increasing traffic at the Minturn Anglers intersection and behind the Saloon;
2. Variances- the number of variances requested for this property are numerous. This Commission should consider granting variances in rare circumstances and only if “such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship...” *Standard Zoning Act, U.S. Dept of Commerce*. Are the variances requested in the Minturn North PUD contrary to the public interest? The overwhelming opinion of the Minturn residents in the area is - Yes, the variances are contrary to public interest. Is requiring the Developer to follow the existing planning and zoning ordinances on this tract of open land an unnecessary hardship? I would argue - No. Decreasing the size of the project is not an unnecessary hardship to anyone except the Developers bottom line. The frequent granting of variances may indicate a failure on the part of the Town of Minturn to adhere to its own ordinances and thus make them unenforceable.
3. The Minturn North PUD states that 6 of 29 lots in Phase 1 are designated for locals only. Therefore, the remaining 23 will likely be second-homes. A 2500 sq ft lot at approximately \$250k is not affordable for local families. Housing in the Vail valley is at a crisis level. More second homes are not what is needed at this time.
4. This Developer was sued by the Minturn Townhomes for structural defects and other breaches of contract. The suit was settled for approx. \$1M and that amount was

insufficient to make all necessary repairs. The homeowners have been forced to pay assessments to cover the costs of the defects. The Minturn North Developer is now attempting to reduce his liability to less than two years after completion of the project. This is unconscionable due to the fact it takes sometimes 10 years for defects to be revealed. Liability should be 5-10 years from the date of sale of each lot.

I respectfully request that the Minturn Planning & Zoning Commission **deny** the Minturn North PUD in its current form. I look forward to addressing the above listed concerns at the upcoming meeting on August 25, 2021.

With best regards, I remain

Sincerely yours,



Candice L. Jenkins

Madison Harris

From: Duncan Robinson <duncanrobi@gmail.com>
Sent: Thursday, August 19, 2021 4:56 PM
To: Madison Harris
Subject: Minturn North concerns

Planning and Zoning commission,

I am a Taylor Street resident and the Minturn north development density will be an issue in how it effects current Taylor Street residents.

The developer is trying to change the current street layout to maximize his developable land and in doing so is ignoring current parking that will be eliminated by the street change. No one from the development has laid out the changes on the ground with paint and shown the current residents what they will loose. To have the parking you rely on in front of your house taken away with little notice is no neighborly gesture.

The density also pushes parking for the new development onto the street, where parking was just taken away by the road straightening. This happens by the variance from 20 to 10 ft for front set back and the smaller lot size variance. These variances should bot be allowed. The rules are there for a reason, keep them.

The other tied to the above issues are snow removal and storage.

Thank you
Duncan Robinson
531 Taylor St

Madison Harris

From: hany malek <hany.a.malek@gmail.com>
Sent: Thursday, August 19, 2021 4:27 PM
To: Madison Harris
Cc: Hany; hany malek
Subject: Minturn North PUD

To Minturn Planning, Town Council, and Staff (please include this as written public comments)

The purpose of this letter is to express my deep concerns and opposition to the proposed Minturn North PUD and to expand on my letters of July 27, 2021, and December 11, 2019.

I am a retired Professional Engineer with over 35 years of experience and live on 498 Taylor Street.

I have facilitated meetings of the Taylor residents related to North Minturn PUD and have had a lot of discussions with my fellow neighbors. There is true and strong opposition to this PUD application. As I had submitted at the last hearing, we had about 60 people that signed the petition opposing it. We have more signatures now. I guarantee you those people are not NIMBY's, but consist of smart, reasonable, and knowledgeable individuals that have very legitimate issues with this application. These are not small issues but rather significant ones that will create significant impacts on the neighborhood, our safety, and the quality of our life. The neighborhood recently met with our Town Manager, Michelle Meetter, and some individuals have met with town staff. Many of us have sent long letters and spoken at hearings. There are too many issues with this application to put in one concise letter and it is easy to get lost in the details; meeting with staff and walking the street with them was a much easier and more effective method to convey and show them our issues. I believe that the town staff were surprised at the extent and significance of the issues we brought up. I urge you to ask our Town Manager questions, if you can, to see if we have legitimate and significant concerns.

Taylor residents have attempted to negotiate with the developer but have been faced with significant resistance to making any accommodations to address issues. Over the last two years, a few of us have met individually with Greg Sparkhawk to discuss issues we had with the application and attempt to find workable solutions. His answer has consistently been the same as the one he made at the last Hearing, that he cannot make changes that will cause the loss of any lot because the development would be financially unfeasible. If the applicant's ability to address issues are so limited, how will he be able to address the staff current recommended conditions for approval, let alone any new ones? Please ask him to show that he can do it. Addressing those issues will require changes that will cause the loss of some lots. Why approve an application with conditions that the applicant has repeatably said would be economically unfeasible to him?

The Taylor neighbors discussed presenting a list of suggested conditions to the Commission to consider if approval could be an option. We have concluded that it would be a trivial exercise as the application has too many legitimate complex issues and impacts on the neighborhood that cannot be simply addressed by written text that are subject to interpretation. Those would also require major changes, which the developer has been unwilling to do. The only reasonable outcome is to ask for denial of the application.

Please deny this application on behalf of the over 60 Taylor residents that have signed the petition. We have taken a lot of time to review and evaluate the application and tried to find a workable solution, to no avail.

Thank you,

Hany Malek

498 Taylor Street.

Madison Harris

From: hany malek <hany.a.malek@gmail.com>
Sent: Thursday, August 19, 2021 4:53 PM
To: Madison Harris
Cc: Hany
Subject: Minturn North PUD - Technical Comments

To Minturn Planning, Town Council, and Staff (please include this as written public comments)

I am a retired Professional Engineer with over 35 years of experience and live on 498 Taylor Street.

I am attaching some notes following my review of the application posted online. Some of those are technical and logistical comments or questions that could be addressed or reviewed by Staff. My apologies if some of those issues are addressed in different parts of the application that I have missed.

Drainage

WWE Hydraulic Analysis dated December 18, 2020 states:

7.0 SUMMARY

“A comparison of the Existing and Proposed Conditions models has been provided as Figure 4 and included in the appendices as HEC-RAS outputs. Both the Minturn Road and Ice House Road have been designed to provide conveyance for the 100-year event. The existing culvert underneath the railroad is not being modified as part of this project and currently does not have 100-year capacity...”

WWE Drainage Report dated March 30, 2021, Page 13 states:

“As discussed previously, all three culverts underneath the railroad tracks need to be cleaned out and maintained. The middle and southern culvert need to have work completed at the outlets to allow the culverts to effectively daylight (i.e. provide conveyance from one side to the other). Inlet and outlet protection should also be verified or installed as part of this Project. As part of the PUD, the existing infrastructure underneath the railroads will be cleaned and daylight as required. Details with regards to daylighting the pipes and providing inlet and outlet protection have been developed by the civil engineer and included in the design drawings.”

Those required improvements do not appear to be shown on the drawings. Those included improvements to both the inlet and outlets. Please make sure those issues and improvements are carefully reviewed to the satisfaction of the town Engineer. And that the final designs have the necessary 100-year capacity.

Furthermore, related to the three culverts underneath the railroad: who will maintain them, does that entity have access rights to the properties, easements, and who will pay for it?

The UPRR application (provided June 28, 2021) is not clear. If it is related to the above comment, it does not appear to address the Outlets.

Minturn Code Section 16-12-30 b)*The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans.*

- The proposed road improvements do not “improve the access to and across the Eagle River”. Milling of North Bridge would be considered maintenance. There are no improvements related to access to the Eagle River. There is no proposed improvement access across the Eagle River. All proposed improvements are beyond the river. Why?
- This is the largest potential parcel of the Character Zone and possibly the only one that will be developed soon. The town should require the developer to meet this code requirement and make those improvements. This would be a lost opportunity otherwise.
- The traffic study does not account for the impact railroad crossings if/when the rail corridor is put back in operation. Stacking of cars at the two intersections would likely be significant and have an impact. This impact should be evaluated and addressed.

Rock Fall Mitigation:

It looks like the rock fall mitigation design is being pushed as part of the Phase 2 approval. The town should be careful about approving developments in areas with likely geohazards. There are many examples of lawsuits that occur many years when areas with geohazards are ignored and built upon and the developer is long gone. Also who will be paying for maintaining the rockfall protection? Speaking from actual experience, rockfall protections are designed as a sacrificial structure used to slow and/or stop rolling rocks. They inherently get heavily damaged or destroyed and consequently need constant maintenance, repairs, or to be rebuilt. It is not a build it once and forget it. They have to be inspected and maintained consistently and regularly. A compromised system would not provide the intended protection and would leave the homes vulnerable to rock falls. This should not become the responsibility of the Town.

It is rare that an HOA has the financial backing to maintain those structures. In addition, it can become a contentious issue within the HOA if 95 property owners are subsidizing the cost to protect only 4 or 6 property owners from a known risk.

Also given the rock fall risk, the HOA may have difficulties getting insurance to protect itself or it may become very expensive.

Why put the HOA (and/or the Town) in this difficult position? So that the developer can make a profit on 4 or 6 lots at other people’s expenses?

The rockfall area has enough risk that it may need to be separated from the rest of the development and have its own requirements. Either way it may be too late to address these issues as part of Phase 2 and should be brought up and addressed now.

If staff have any questions feel free to contact me.

Thank you,

Hany Malek
498 Taylor Street
303-638-6329

Madison Harris

From: cmsmailer@civicplus.com on behalf of Contact form at Minturn CO
<cmsmailer@civicplus.com>
Sent: Thursday, August 19, 2021 8:31 PM
To: Madison Harris
Subject: [Minturn CO] Minturn North PUD (Sent by Justine LaCross, justinefurseth@yahoo.com)
Attachments: taylor_parking_8-13-21.jpg

Hello mharris,

Justine LaCross (justinefurseth@yahoo.com) has sent you a message via your contact form (https://url.emailprotection.link/?bw8V9av86PY8m-sL5hze_wBZxJ-cXUr1PeVQYcw5_I9gUPg134BQL2U9uFqsSW0sp_ejiIpG8sVlxLz2wTgi2Wg~~) at Minturn CO.

If you don't want to receive such e-mails, you can change your settings at https://url.emailprotection.link/?bw8V9av86PY8m-sL5hze_wBZxJ-cXUr1PeVQYcw5_I9h8AII9aT-AL8nVVh61UWIixIGVC4WckCIFU6h2uCmKPA~~.

Message:

How does my family maintain the quality SMALL TOWN life with a massive development at our front door?

My kids are now walking to the 100 block of Main Street to ride the school bus. The bus will no longer take the dirt road out of town. Walking through the dangerous intersection twice a day.

The plan showing the amount of lots appears to be too crowded to function safely.

As Taylor Street currently exists to allow parking for its current residents, I feel any changes to the existing road should not decrease space in front of houses and on the east side of the street, regardless of right of way. Any expansion of Taylor street to allow for parking needs to expand to the west and that line needs to be clear and apparent before approval. This will also make perfectly clear the available space to build.

A traffic light will need to be added on Highway 24 in front of Minturn anglers to start this project. The traffic study done during the pandemic has no merit and I am sure everyone can agree. We need to see a solution to the dangerous intersection of Taylor Street and Railroad Avenue and the road/curve between the International Building and Saloon.

I have noticed that snow storage has been in the field in the past. Please show where current residence and future residence should store their snow.

I feel all the problems that I have mentioned have been brought up in the past and should be resolved before approval. Lets not make more problems for ourselves. I strongly feel this development is too dense for Minturn.

I feel It will overextend our limited water supply and impact most residence in a negative way.

There has to be a solution to these problems without variances. Any reputable developer would find a solutions.



Karl Krueger

Owner: 362 Taylor Ave
Po Box 8332 Avon Colorado 81620
970-390-9756
www.kruegerarchitecture.com

August 19, 2021

To: Town of Minturn Staff, P&Z Commission and Town Council

“Failure of imagination” is an often repeated phrase in the news lately, referring to how organizations and governments can fail to imagine the possible bad outcomes of controversial and pivotal projects despite the plain information in front of them – this holds true from “nation building” on down to “community building”. Nobody argues that the Game Creek PUD holding zone will likely be developed. The current iteration Minturn North’s (MiNo) PUD will be permanent, increase Minturn by 150%, and is described in more than 1,300 pages of information. I appreciate the applicant’s insistence on immediate approval, but time for a fair and full review of this submittal is required, even if it has to take as much time as it took to produce the current design. I was hoping the Planning Staff and P&Z would think through, imagine the worst outcomes possible, reveal inconsistencies and openly discuss some of the clear ramifications the proposed PUD that may not support Mr. Sparhawk’s and Mr. Comerford’s rose colored glasses “narrative”. Unfortunately, the Town of Minturn has not begun to scratch the surface of this complicated sales pitch.

This letter is written from the point of view of 1.) an affected property owner, 2.) an architect and 3.) an elected Director of a POA established by a PUD located just down the valley in EagleVail. Additionally, this letter is also from the point of view of person who was born and educated in the valley and returned here to live and work full time and raise a family.

- **I bought a home/lot at 362 Taylor in 2004** intent on building my family’s future home and studio. However, my experience of the Minturn Townhome project, proposed and built by Mr. Comerford, and approved by Minturn Staff, P&Z and Town Council in 2005, made me seriously question Minturn’s ability to be sober critics of large-scale developments. The size and connection of this project to Minturn will affect Minturn more than any other project in Minturn’s history. In the Minturn Townhome PUD process, despite my repeated and specific letters and comments that can be found in the record, Minturn knowingly allowed Mr. Comerford’s PUD development to “externalize costs” and bad outcomes onto the Town of Minturn. The Town of Minturn:
 - **Allowed required parking to overhang the right-of-way by 10 ft at a major intersection**
 - **Allowed reduced rear setback that allowed buildings to be too close to the rear property line so that when inevitable drainage issue relating to Comerford’s extreme grade cuts, extreme foundations and extreme retaining walls, the problem had to be solved by dedicating property from Minturn’s right-of-way known as Grant Avenue for mitigation measures.**
 - **Allowed a PUD be built insensitively on steep land that is prohibited from being developed if one is not in a privileged class of large-scale developers**
 - **Allowed the Minturn owned Taylor Ave right-of way to be raised 4ft on imported grade at the intersection with the proposed Townhome Road (Lions Lane) exacerbating current and future problems with access to downtown. This bad design has come into focus but has yet to be resolved.**
 - **Allowed impractical, undersized, and inaccessible snow storage**
 - **Trusted the developer and his team of architect, engineers and contractors to be responsible to future owners – a trust misplaced as shown in the lawsuits against Comerford in favor of homeowners**
- **I am an architect** (5-year Bachelors + 2-year Masters in Architecture) I have worked almost exclusively on Eagle County projects for the past 25 years. I have primarily designed homes in PUDs in Eagle County and thus am familiar with applying the various forms of written Covenants, PUD’s and Design Guidelines to building design and as importantly I am familiar with how these instruments are often subverted by loopholes, inconsistencies, impracticalities.
- **I am an elected member of 5-member Board of Directors of the EagleVail Property Owners Association** for the past 4 years. Our POA is charged with enforcing Design Review Guidelines and Covenants Compliance of a

Planned Unit Development of 1,477 units that include of a range of housing types just like Minturn North. And Like MiNo, EagleVail has some of the densest lots in our valley. You should know that our POA is experiencing the effects of the exceptionally high sales price of homes leading new residents to try to cram rural and suburban living expectations unrealistically onto small, frankly urban, lots. We have experienced Influxes of people who both are unfamiliar with the PUD rules they bought into/agreed to at purchase who are expanding homes, impervious materials and decks well over the required limits and parking cars, trailers, and recreation vehicles on lawns/landscape and renting short term.

A summary of the major issues with the Minturn North development that have been raised and will be detailed by several Taylor residents who have civil engineering, landscape, maintenance, and construction experience are below. I will comment only on the one of these, primarily in drawing/diagram form:

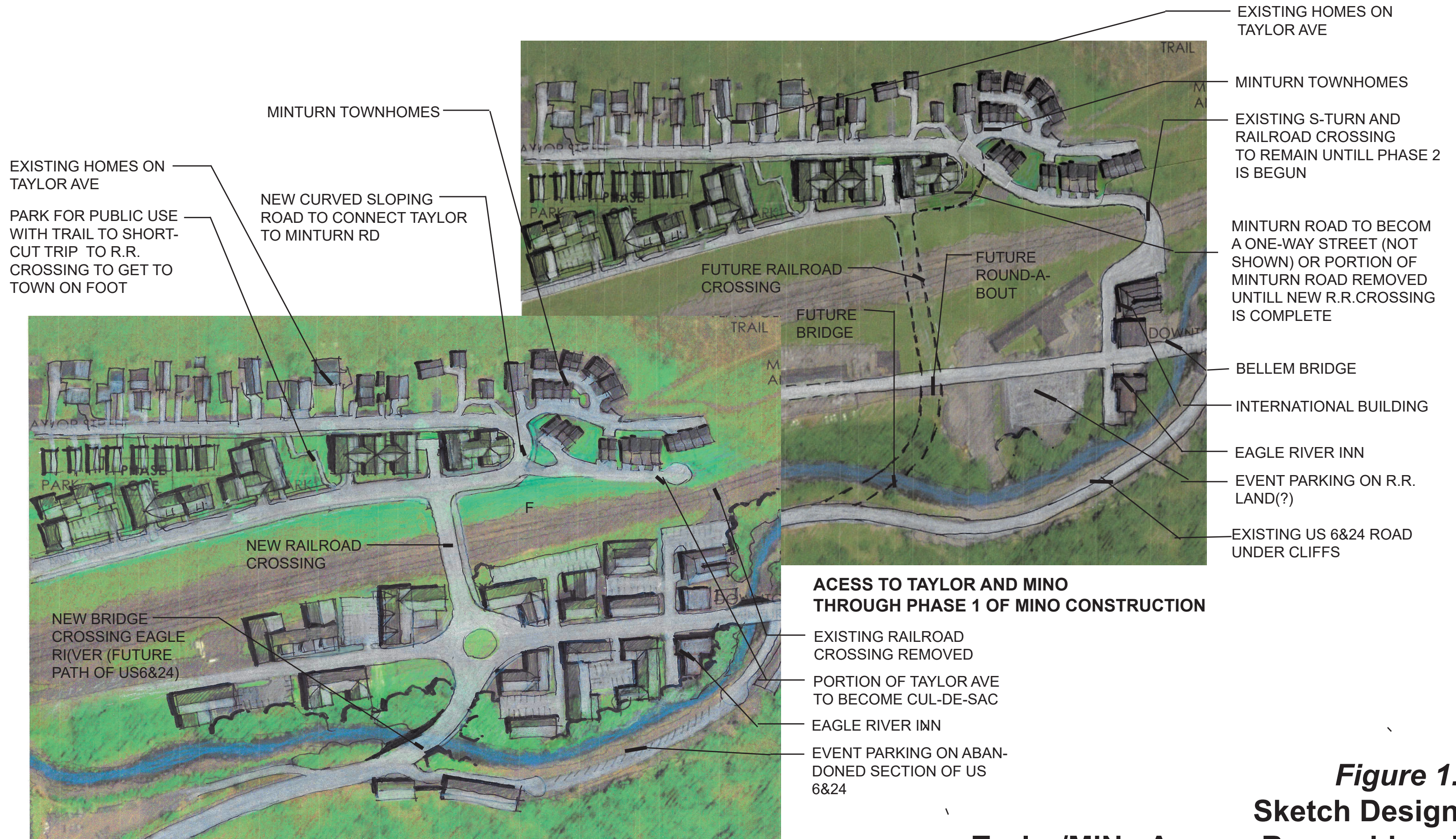
- Proposing the change of an existing publicly owned right-of-way, solely owned by the Town of Minturn from two-way traffic to one-way traffic solely for the convenience and profit of developer and at the inconvenience of all of the current owners on Taylor Avenue alone **must result in denial of the project**. In addition, proposing an unsafe Taylor Ave/Minturn Road intersection and proposing to let an existing problematic S-turn remain and then to propose to add 95 units and 25 ADU's to the traffic is also beyond comprehension. **Its like the "gold rush" all over again- hurry up to "grid out the land" and worry about the effects later.**
 - Attached **Figure 1** is my attempt to resolve MiNo's fatal flaw: this an idea where car and pedestrian access from downtown Minturn to the existing Taylor Residences and Minturn North shifts from the current deficient S-curve RR crossing to a new RR crossing 200 yards north (about at an existing microwave tower location). The south part of Taylor Ave at the Minturn Townhomes would bend in a big sloping curve to become Minturn Road. Inside the curve would be a multi-family building with its lower level of parking buried 10 feet or more below grade nearly all points on the curve.

This new more norther RR crossing wouldn't happen right away. This new RR crossing however would be required to be built by the time any ground is broken on MiNo Phase 2. **Until Phase 2, Minturn Road may need to be a one-way road (rather than Taylor Ave) and/or may not be allowed connect with Taylor Ave** in order to keep Taylor Avenue, a Minturn owned right-of-way, as a two-way street as it has been historically.

Because of a new railroad crossing, at some point the road in front of the lower-down Minturn Townhomes would become a private cul-de-sac and the current through S-curve will be eliminated altogether. Snow storage for Minturn Townhomes could happen in a remnant triangle and over the edge of a now private road and snow could be pushed down toward the RR tracks (easement may need to be required)

Even farther in the future a new bridge at a new location adjacent to US 6&24 would be built over the river as shown, to connect the general Grouse Creek approach to the Turntable area to the new intersection on RR property that already aligns with a the new RR crossing. Then, say 25 years on, the Bellm bridge is made wider or re-built if it needs to be to handle US 6&24. Finally the old portion of US 6&24 against the cliffs becomes parking for the Minturn Market or downtown shops and some development occurs at each end of the cliffed area.

- Current Snow storage is designed to occur in inefficient, difficult to access, narrow, and deep remnant "parks".
- Unresolved drainage issue from MiNo homes located on Taylor Ave. above lower MiNo homes with no apparent intervening easements or drainage paths planned (the Homestead PUD has been dealing with an issue like this for 20 years- contact Tracy Erickson, General Manager: terickson@homesteadcourtclub.com to hear how this inadequacy has afflicted Homestead)
- Unresolved drainage issues from MiNo onto railroad and other adjacent land.
- Unresolved issues as to ownership of existing roads including the road from USFS site along the boneyard in reportedly undersized rights-of-way



ACCESS TO TAYLOR AND MINO AT AND AFTER PHASE 2 OF MINO
 (ALSO SHOWING US 6&24 REROUTING OVER NEW BRIDGE AND THROUGH NEW ROUND-A-BOUT AND OVER BELLM BRIDGE)

Figure 1.
Sketch Design
Taylor/MiNo Access Reconsidered

Karl Krueger

362 Taylor Ave
 Po Box 8332 Avon Co 81620
 www.kruegerarchitecture.com

A summary of other major issues with MiNo's current proposal that I will comment on in detail (and in diagrams) are as follows below (diagrams to follow at a later date):

1. **Much of Mino as designed does not qualify to be designated a Planned Unit Development.** MiNo is not innovative, not more efficient, too similar to existing development in the area to allow relief from standards, does not mitigate negative impacts to existing properties, and externalizes significant impacts rather than being designed as an internal, self-sufficient, planned development.
 2. **No provisions in the proposed MiNo PUD correct the problems created in by the Minturn Townhomes** that was developed by the same developer as MiNo- namely Jim Comerford- doing business as whatever LLC he creates in the course of his business pursuits.
 3. **No clear and concise protections have been provided to the existing Taylor Ave residents from the indefinite storage of materials, dirt piles, trailers, equipment etc. by the developer.**
 4. **The architect/planner representing Minturn North may be passionate but he may not be receiving compensation for his work and may be in a compromised position.** Working with a development team, who all or who in part, may be in duress is potentially a serious problem. The designer appears to be asking the town to "trust" him based on his past smaller project experience when this project is likely completely overwhelming and out of his control on every level.
 5. **Mino's design can be seen as the opposite of "Organic"** a word the applicant consistently uses in the creation of a narrative about Minturn North. This narrative is arguably "wishful thinking" and not backed up by the design of the project or the drafting of its governing documents.
 6. **The density of MiNo lots is understated** by inclusion of unbuildable open space (very steep land and protected river/riparian area)
 7. **Weak, inconsistent, and unenforceable Design Guidelines** will as likely result in "anything goes" and as much "junky" design and shortsighted development as "Funky" design.
 8. **Inconsistent language in PUD, DRC, CC&R's** which the applicant has neglected to reconcile all the while still asking for approval
-
1. **Minturn North PUD is arguably a development that is not deserving of approval as a PUD covering all the property.** The PUD Holding Zone Designation does not mean that the all of the property in question is required to become or has a special "pass" to become a PUD or moreover that it has to be approved in this form of a PUD without substantial alterations required to mitigate the impact to Minturn and especially Taylor Ave residents. I submit at least 3/4 of the proposed MiNo land/lots should not be in a PUD, but subject to the same exact rules as Taylor Avenue properties.
 - a. **MiNo Lots are generally the same sizes as the existing late 1800's land divisions on Taylor Av** and thus should not be considered innovative or increasingly efficient (25'x100'=2,500 sq ft is min) as the applicant reports- no change from typical Minturn historical standards in the area is really contemplated.
 - b. **Isolated buildings floating on small lots with only 10' between the buildings are not efficient in energy use, land use, or construction costs and can be considered sprall.**
 - c. **MiNo Lots are rectilinear rather than derived from the shape of the landscape.** Lots derived by the shape of the landscape might actually be more organic. The proposed lots are not derived from the shape of the topography or the shape resulting from natural or man-made boundaries (roads, creeks) which would be some triangles but mostly trapezoids. I don't see them as any more organic than any in existing Minturn. Any development on the land in question could be considered organic no matter how it was divided up- only because it merely comes after Minturn's initial "roots and trunk" growth and is infilling an area close to Minturn like branches grow from a trunk.
 - d. **MiNo is not a cluster development or an inwardly organized PUD** that is typically associated with and I would argue typically required of PUDs. Examples in Minturn of internally focused PUD's are the Minturn Rod & Gun Club, Minturn Townhomes (in large part), and even the Enclave. Two of these PUD's have a single entry form a city owned street. 3/4 of the Townhomes is completely accessed from interior

roads. Instead MiNo will access existing major public streets with at least 60 individual driveway curb-cuts.

- e. **MiNo lots, being a similar size and shape and with direct street driveway access are actually the same as existing Taylor in that they are close to standard lots, with standard access, and standard rules except that MiNo's lots are granted the following advantages for no apparent reason except a give-away to the developer:**
- Density of homes on MiNo lots (not counting open space) is allowed to be increased 11.5% over the existing density on Taylor
 - **MiNo property owners of 4,000 sq ft lots will be able to build and short-term rent ADU's (which are actually accessory apartments) where as owners on the existing properties on Taylor of the same size will not have that right.** 36 Mino owners will be able to Have Accessory dwelling units even though their lots are under the 5,000 sq ft threshold in the Town of Minturn code.
 - Gravel and similar driveways in MiNo are allowed to be not counted toward impervious material coverage which allows wider and/or longer home footprints than the standards in the Minturn Code and thus the standards for current Taylor properties. (See a lengthy explanation of this loophole below)
 - A significant portion of lots do not maintain the standard front setback but reduce the standard setback by 10 ft. These include at least 50% of the developable lots. Amazingly the developers are asking for the same 10 ft setback on their multi-family housing that has led to the well documented problems with the Minturn Townhomes.
 - The building height of many of the future homes will be allowed to be taller than those on Taylor relative to grade because the height of future buildings in MiNo appears to be counted not from existing grade (today's conditions) but from a "new existing" grade that will be established with earth moving equipment. This grade will allow new MiNo Homes on Taylor to be 5-7 ft higher than those on existing Taylor residences
2. **The problems created by Comerford's Minturn Townhomes may be able to be solved by Comerford's MiNo PUD by pursuing re-design of the flow of traffic from Minturn/Bellum bridge and redesign of the Taylor Av/Minturn Rd intersection by MiNo consultants.** One possible design is detailed in *Figure 1*. attached. The MiNo group has voluntarily, with the promise of financial reward, waded into the problem of working with the railroad to develop land currently owned by the railroad. The well-known difficulties of working with Railroads should remain squarely with the developer and not be externalized as Minturn's problem as it appears it has already been by Minturn's expenditures on legal fees working directly with the railroad on Comerford's project. It is not my or citizens of Taylor 's problem if these designs don't work or if the number or placement of units needs to be sacrificed to resolve these issues. It is the developer's problem to propose a development that is reasonable and safe and meets the Town Code.
3. **Minturn staff, P&Z need to consult with Minturn legal staff and maybe outside experts to draft provisions to restrict any disturbance or storage of materials on Mino Phase Two** or rights-of-way or any adjacent property until milestones in the development of *Phase 1* and other more general mile stones and or bonds are accomplished and arranged. Time limits should be established and it is the responsibility of the Town of Minturn to research and define these for the protection of its citizens. Figure 2 (to be included at a later date) from my previous comments on the record here shows how Mr. Comerford disrespected clear requirements in CC&R's, DRC Guidelines and the PUD of EagleVail that he was party to as a property owner, to store 365 dump-truck loads of dirt illegally on a virgin site for over a year. Among the excuses he gave were that he had a "private agreement" with an adjacent lot owner however no private agreements trump the covenants as is clearly stated in the covenants. The next excuse was that he was going to use the stored fill on a project he was doing up the street and this would save vehicle trips (less emissions and noise). The project up the street ultimately required little fill because he changed the engineering to incorporate massive blocks of styrene foam the size of shipping containers instead of dirt fill. You can be sure exceptions and excuses will be delivered to the Town of Minturn

and Taylor residents in Building MiNo but it will likely take legal action like it did for EagleVail to attempt to enforce the Town Code and provisions of the CC&R's -if there are any teeth provide by town lawyers. Ironically Mr. Comerford is writing the covenants and will be in control of the covenants for a minimum of 7 years. It is solely the Town of Minturn's responsibility to provide protections from the probable abuse of its citizens already shown in the Minturn Townhomes and the EagleVail dirt pile.

4. **Mr. Sparhawk/GPS (a one-man firm?) is certainly a congenial, talented, earnest, and well-spoken representative with volunteer work for the good of Minturn under his belt including P&Z participation and likely other appreciated endeavors.** To my knowledge however he did not receive a planning education/degree which to my knowledge is much different from a purely architectural focus. In addition to wondering about his qualification to take on this project, he only recused himself from the P&Z Commission the very evening that he was to present preliminary designs that he had been working on for Minturn North. In other words, he was conferring about and influencing, among other things, potential changes to the Minturn Code and P&Z approaches to future development and re-development while on the inside of P&Z, all the while working on a project, he would soon have to recuse himself from reviewing and would likely require him to resign his seat. Mr. Sparhawk is passionate about the continuation of the same superimposed grid found in 1900's Minturn and Taylor despite the fact that it often results in extreme impracticalities. Evidence of this is apparent from Mr. Sparhawk presenting a one-way Taylor option as a result of "just imposing a grid" in a gold rush mentality. He has been true to his explicit promise to be straightforward and have nothing to hide and he has expressed verbally, and uncomfortably, at the last P&Z meeting that he did not support the one-way-street option he presented. He did not show another option. Here is a designer who is against his own project and we should take notice. In addition, it is unclear if Mr. Sparhawk /GPS has been paid at all for apparently a lot of work. We may not have right to know, but if payment is conditional on PUD approvals, Mr. Sparhawk may be in a severely compromised position- he may be in too deep to leave and thus is only option may be to look for ways to get approval while under financial pressure that may affect his judgement or integrity. If for instance, property is being offered in exchange for his services, then he may be seen to have an inherent conflict-of-interest because viable solutions he may feel he should ethically pursue may reduce his property reward. This may not be a conflict of interest legally but I believe it is- ethically and morally. There is no guarantee Mr. Sparhawk, known as a good-guy, will continue in his relationship to MiNo should it win approval. There is no guarantee he would take on the position it appears he is set for: that of interpreting the Mino's Design Guidelines he created as administrator and approving designs. These are the same guidelines that appear to me to have to have so few objective criteria that any future administrator installed by the developer, when Mr. Sparhawk realizes what he set himself up for, (his right per the covenants) may really be able to say "we know what we like it when we see it". The problem is property owners may not know what the real rules are because they can't see them or read them because there isn't much there.
5. **The applicant has stated MiNo will be "organic" growth.** Organic in the dictionary generally means: "having the characteristics of an organism: developing in the manner of a living plant or animal". I fail to see how the same 150 year-old paradigm – the orthogonal grid of rectangular property lines that was imposed at the time of the mine/railroad that became Minturn, is actually organic. Moreover, the same inorganic layout is being imposed on a leftover piece of railroad land. I have not been privy to the developments Mr. Sparhawk has cited as having been floated to the P&Z or to Greg personally, and their apparent "resort-related" development attributes. The MiNo applicants state: *"The speed of the project will be gradual as lots are built-out and residents will slowly move in. This is a desirable alternative to having many new homes being built and residents moving in all at one time."* I'm not sure this is actually how any people on Taylor feel, in fact the opposite is probably what they would prefer: 2-4 years of construction not 10-20 years. Slow growth is no more organic than quick growth (both examples are found in nature) in this case because the lots and dimensional limitations will be fixed on day one and will not change over time. The only variable will be people's desire or ability to build and more realistically the occurrence of any major blows to the economy that result in recessions.

6. Density:

The density of MiNo exceeds the density of the existing Taylor Ave residences if you count the amount of home allowed per sq ft of land per residential lot, MiNo allows 11.5% more than the existing lots on Taylor Avenue. This is because MiNo allows 46% building coverage, Minturn Town Code for Taylor allows 40%- the difference between 46% and 40% is an increase of 11.5%. the applicant has referenced this increase as commensurate with that of the existing regulations of the area of Old Town. Unfortunately, this PUD is not next to "Old Town" where we could see "organic growth" at this quoted rate. Rather MiNo is next to existing properties that don't have this high of densities or bars set deliberately low by not requiring paved parking.

I believe the maximum density of Minturn North is only less than the maximum density of existing Taylor residences if one includes, in the density calculation for MINo, the big, unbuildable piece of steep land on the norther hillside and the unbuildable piece of land that is Game Creek with its required set back. This is a technically legitimate calculation in terms of the way the Minturn Code and many codes are written but I agree it is a misleading statement. Empty/open land when included in the calculation brings the density of living space per acre of development down in math, but not in perception or reality I would argue. No one can build on steep 30-40% grade hills - because it's wholly not practical, affordable or without major risks to the public and private land owners and thus it is restricted in the Minturn Code. No one can build in streams or in stream setbacks of streams that are identified by the Army Corps of Engineers. These parts of Minturn North's land contract, are not now, and in modern times, never were buildable.

7. Weak Design Guidelines and Development Concepts

- **The existing Taylor Avenue residents (and the future new homes that replace the existing old homes), are in most cases up on a hill, elevated above the proposed PUD development-** In some ways this is an advantage but in others this is clearly a disadvantage. They will have, in full view below and in front of them, the proposed two tiers of proposed new homes below. They will be able to see two tiers of: roofs (with no reflectivity regulations or common material or uniformity requirements), skylights of any kind (cheap bubble acrylic?), apparently unregulated satellite dishes, solar panels, plumbing vents and stacks (that have no required grouping), evaporative coolers, driveways of gravel, asphalt, or tracked down grass and with potentially ill-defined borders, trailers, campers, cars, motorcycles, RVs, laundry, snowmobiles, boats/rafts, jungle-gyms, sheds, gardens with ad-hock fencing, stored bikes, detached bike racks, tents, trampolines and on and on..... Because of this elevated physical position and the proposed increase of density on the new PUD lots and the proposed decreased and ambiguous parking requirements the following are critical requirements if the PUD were to approved in its current form:
 - **New homes across from existing homes on the street common to both- Taylor Ave- arguably should have the same zoning, density, the same set of dimensional and area restrictions (height, setback, max sq footage living, max sq ft impervious) and the same access to public parking if any is planned for on Taylor.** Better design not more dense design is a requirement of the PUD application. If variance from the parameters that exist for the character area are sought in the form of a PUD application (many that are clearly not better design), MiNo must be required to off-set and minimize the obvious negative effects on the existing neighborhood (as is required in the town code character area description). This may be done by covenant and PUD restrictions that will be required to be put in place along these lines- but are not limited to: 1.) very restrictive and specific on-lot (which means off-street) parking requirements, 2.) restrictive paved only off-street parking requirements (no gravel etc), 3.) roof materials regulation and standardization requirements, 4.) restrictive use requirements including short-term rental restrictions for ADU's in MiNo's 4,00 sq ft lots, 5.) required platted curb-cut location assignments etc.. In addition, these rules/requirements shall be written and enforced at the outset, with continuity and into perpetuity and compliance costs must be funded by the properties in the PUD in perpetuity. The danger is that the PUD won't have strong enough language in the covenants (no rules can contemplate all situations and excuses and no rules don't contain loop holes) and as most POA's

don't agree to assess fees for funds to legally enforce violations in court on any regular basis which will ultimately be required.

- **If the same rules were to apply to both sides of Taylor Street** the same regulations (town code) that exist are all that need to apply because fairness is "ipso facto" established. The planning commission's mission: "Our mission is to encourage compatible building design throughout the community, exercising commitment to public service through fairness, respect, trust and environmental stewardship."
- **The larger lots to the north and higher density multi-family development** along Minturn Avenue (currently not proposed) **Specific new rules (a PUD) could be applied** that could incorporate underground parking for all units and reduced snow storage requirements and to regain density of the proposed PUD.
- **Parking (and paving and impervious materials) requirements should not be relaxed as they are in the MiNo PUD proposal because the CAR is not going away unlike the wishful marketing many in the valley/county is engaged in all in an effort to actually create higher density and under-regulated parking .** "Peak Oil", if I remember correctly, was supposed to occur around 2007 forcing us to abandon our love affair with the car. Instead, fracking and other advances led to finding more oil and natural gas than ever- America's love affair with the car has not been forced to end and with new revolution of electric vehicles the American love affair will continue. Not only will the car not disappear from our lives, It has not gotten any smaller- only bigger and bigger in the last 30 years. In addition, more vehicles have been added to our individual arsenals (electric scooters, electric bikes, snow bikes, snow motorcycles, snowmobiles, razors, ATV's) many of which aren't useful 6 months out of the year in our climate and will need to be stored along with at least one car per adult in a normal household. After all one can't take a bus to very many places locals who move here want to go to recreate, exercise and be "alone"
 - **A major loophole in MiNo PUD should be closed. No MiNo property should be allowed to consider any driveway or non-garage parking as pervious- no matter what kind of material of the driveway and parking spaces are made out of. The current high standard throughout Minturn is to count all driveway and parking as impervious -and it is a standard that makes ultimate practical sense.** People will build maximized houses and in this PUD they will count on gravel drives and driveways that only pave under the wheels (two-track) not to count for impervious materials. Later when these are shown as absolutely silly in snow environments, when owners are tired of hand shoveling even if that's possible on irregular surfaces, they will have plows come in every week during the winter to dismember the pavers and drivable landscape and dislocate the gravel and pavers and sod and deposit all onto public streets and yards. In a few years as time goes by, each gravel and two track paver system will be replaced by paving – especially occurring on weekends and holidays when nobody is looking. Everybody will be doing it and ipso facto the covenants and PUD will be thwarted because unlike the rest of Minturn Mi No residents will have been allowed to pave with gravel in the middle of a tight paved urban development when we all should know this is temporary and an attempt to game the system. A loophole in MiNo PUD needs to be closed: Background-If you build (or rebuild) a project in any residential part of Minturn (including MiNo) you can only cover your lot (your private property) with building/driveway/patio (which roughly constitute impervious materials) to an extent equal to 50% of the area of the property. If you wanted a gravel driveway, which is pervious (meaning water can get through) this is allowed by the Minturn town code **but the code requires any gravel or pervious driveway/parking/patio must still be counted fully as impervious coverage.** This is presumably because with our snow fall, and over time, most people will eventually pave- typically with asphalt or concrete in order to save time, energy and chronic landscape damage.

Minturn North however, noted by the development team that it is "as dense as Oldtown" and thus is arguably an urban setting, will also ironically allow gravel driveways in the front yard (not alleys) and more importantly will allow them to not count at all or not count fully in impervious material coverage calculations. This can allow buildings to take up proportionally more horizontal area of a lot that they would normally have to give to driveway. In addition, this will allow these owners to get closer to the maximum allowed house living square footage (horizontal + vertical bulk) much easier (trust me- proof is

when you actually go through the steps to design a home and stack rooms/floors). This practice is not allowed in any other part of Minturn but MiNo to my knowledge.

The loophole gives MiNo owners the chance to get somewhat larger horizontal buildings approved by showing an initial gravel drive for example (or a “two track” drive- like a jeep trail with grass in the middle and paving just under the wheels). Let’s say the project is built as drawn with a gravel or two track drive but as years go by it is likely that people will want real pavement but doing so may very well not be allowed by impervious coverage restrictions and the impervious space already being taken up by their bigger building footprints. This won’t stop people from complaining that the gravel has now become a (self-made) *hardship* and putting pressure on the Design Review Committee of MiNo to the retroactively approve more impervious coverage than that allowed other Minturn residents. Maybe the original owner (or a new owner after a flip) skips approval and just does it on a weekend without approval (happens a lot in EagleVail) and prepares to plead ignorance.

The point is not that they will just be breaking rules around the edges that uptight people like me, who abide by the rules for a living as an architect, bristle at- the point is this method of thwarting the rules works a bit like blackmail -you get the bigger house in first (as in wider and/or deeper than allowed other Minturn residents), then you work on reinterpreting and clawing more privileges not allowed others in Minturn under the guise of “bad first design”, “inconvenience”, “need” and “safety” etc. to add paving over the impervious limit allowed. After all, no Code official can ask you to realistically reduce your bigger house and few will deny the request for full pavement substitution that should have installed before the initial developer spent money on anything like fake stone work on the exterior of the building, expensive tile, wood floors, granite counters, high end appliances, walkable roof decks etc.

Another potential method to “game the system” in MiNo’s PUD/Design Review would be to propose gravel drives of a certain size in one’s design review application drawings and build them that way but incrementally over time just keep expanding quietly and unnoticeably with buckets of gravel till one has enough parking for all the cars, rv’s, campers, sprinters, snowmobiles, motorcycles etc. etc one needs. Minturn’s “funk” just turned to more “JUNK”. It is more difficult to secretly and affordably and incrementally add asphalt and concrete than gravel. If one’s landscape is xeriscape it’s even easier because many times a *gravel driveway* and *gravel landscape* are indistinguishable. In addition, incremental change is amazingly unnoticeable and so projects that were designed to meet the agreed upon limitations, exceed them later on by this method and more vehicles/boats/RV’s/snowmobiles can be parked. This is foreseeable and is an actual occurrence in other developments including EagleVail. This undermining of the purpose of zoning which is to fairly, equitably, and responsibly regulate the use of a land and to try keep human nature in check and keep the peace. Singletree, Homestead and EagleVail among most neighborhoods in the Eagle/Gore valleys don’t allow any gravel driveways because of this reason and other more obvious functional reasons.

You may say “We are Minturn-we don’t want to be those subdivisions” and I say ok, but all other parts of existing Minturn apparently want to be, and are already, like those subdivisions by being subject to the Town Code the people of Minturn adopted which makes an owner count gravel and pervious pavers or bricks as impervious materials. Presumably the Town Code, developed over time and over many experiences in Minturn and similar towns, “remembers” how loopholes have been used in the past to thwart zoning and closes those loopholes to all residents equally (except apparently MiNo’s.)

- **MODULAR CONSTRUCTION: Contrary to the often cited words about “diversity of housing” and the “funky individuality” most homes at MiNo probably will be built off-site and trucked into the site as modular constructions with similar proportions and stock details.** Modular is often represented as more affordable than

site-built homes but this is often not true. There are a few methods to get good results from modular construction but none of these methods will likely be able to be employed on these severely restricted sites (cottage, compact and even 5,000 sq ft lots) and within the limited construction budgets left after the high costs of even small pieces of land are paid. The proposed new PUD's Design Review Committee will likely be put into a hard spot immediately, by being faced with uninteresting and repetitive solutions and then complaints by new property owners of unaffordable and subjective DRC requirements that they agreed to when buying the lot. I have watched clients fall for the modular song and dance only to often find:

- They don't go through with them and are dismayed- time and money wasted
- the rules of transporting "boxes" over the highway make houses more expensive structurally and makes them look more similar aesthetically and proportionally (think trailer homes) especially when put on tight lots where one can organize the "shoe boxes" in one direction and with no courtyards or enclosed exterior spaces or artful articulation.
- The "bait and switch" where a property owner goes into a "home store" looking first at modular models that are unrealistic for their site and at unrealistic level of design service from factories and come out with stacked trailer homes. Any attempt at creative design is muffled and often nullified by the limitations of the method of transport/method of construction and the high cost of even simple models (extra costs including unnecessary structural stiffness, vast amounts of entire-house packaging, wide-load transport, storage and staging of mobile homes, crane, second set of permits, etc.)
- Management of projects by Owners will lack accountability because separate contractors often build the concrete base vs upper levels, leading to finger pointing etc. living with misalignments
- Promises of speedy construction end up with customers waiting in a long que for a product to be made with no real recourse against delays in delivery
-

8. **Inconsistencies between Design Guidelines and PUD and Problematic Text issues created by Proposed PUD, CC&R, Design Guidelines (this is an incomplete list):**

- ***Impervious materials*** has a different definition in MiNo Design Guidelines than the meaning for the same word in the Minturn Code- this will lead to confusion. (see a length discussion of this below)
- ***Accessory Dwelling*** in the MiNo documents actually means the equivalent of "Accessory Apartment" as defined in the Minturn Code – this will lead to confusion and may even mislead town of Minturn Commissions and council on the number of parking spaces required to be provided.
- **Design guidelines indicate a review within 10 days by Mino whereas the PUD states if you haven't heard from the DRC in 30 days your request is effectively denied.** Normally 10 days is not nearly enough time to review an application let alone the work that will be required to help do-it yourself property owners. In addition, normally if a DRC has not responded with in 30-45 days the property owner gets the benefit of the doubt and the project is automatically approved so as to protect the owner from indefinite delay. Wishful thinking and fluff is expressed in the DRC guidelines as the weaker document where hard nose legal language practically indecipherable to the public will prevail in the Covenants and PUD.
- **A separate design review guide for MiNo will require any property owner to navigate 3 approval process** to gain permit to build- 1.) MiNo design review approval, 2.) Minturn planning and zoning and 3.) building permit. This is normal for some established PUD's which require design professionals to be involved except that the rose-colored glasses of Mino encourage owners to "shuffle off to the library" to become their own architect.
- **It is unclear how any citizen will be able to prepare a technical shadow study** for their home demonstrating the exact shadow their building will cast. These are not required in most existing PUDs in Eagle County primarily because most PUDs are not as densely laid out (most MiNo homes will be 10ft apart as opposed to 25' as a county norm) and shadows of one building generally don't affect other buildings. The DRC guide seems to recognize development this tight will require lots of skill to pull off well - but ironically no real requirements for property owners to hire technically proficient people let alone architects/designers is proposed- more rose-colored glasses- sales pitch vs reality
- **Mining and railroad homes of the twentieth century were naturally limited to the limited building materials available because of the limited technology of the time.** Simply put wood construction, wood

cladding, wood shingle roof and sometimes metal roofs- these all made a common theme from which people could add a bit of identity with paint and details. Today there are so many material options for every element of a building that no such shared “organic” natural continuity exists. It is potential that no roof in Mino would be made out of the same material let alone color as any other because there are at least over 70 options for roof materials alone. Is this Funky or junky? Relatedly some may have gravel driveways, some brick drives, some concrete, some asphalt, some only wheel strips of pavers: Where will any continuity that used to be “organically” imposed by the limits of technology? All of this driveway in-continuity will be in full view of existing Taylor residents instead of relegated to an alley like exists in several Minturn areas and traditional American neighborhoods.

- **Any stone work applied to buildings made in the last 50 years is generally fake and happens to be just “stuck to” wood framing making it ipso facto “in-authentic”.** It “looks” like this kind of stone work is the foundation but it hasn’t been for 100 years. In general mining and railroad town architecture didn’t incorporate more foundation than actually needed because foundations were as expensive then (in time and materials) as they are now and thus they usually did not show more than 1 ft above ground level. Mining and railroad homes and building were predominantly wood sided, wood buildings unless a jail or gymnasium were needed. Stone “wainscoats” on the exterior of buildings seem to be a particular manifestation of the inauthentic resort architecture yet they are embraced by MiNo’s design guidelines- yet Mino’s design guidelines go on to admonish if you use faked round rock vs faked square rock “that won’t look real “. Innovation in a PUD concept would discourage fake attributes especially the typical resort “stone work” and encourage people to spend the excessive money required for installing even fake stone more practically and on “authentic” elements like paved drives in snow county.
- **Careful attention in the guidelines are taken to encourage “authentic” designs and forms and to eliminate “faking” garage hardware that are often used to make garage look like they are old-fashioned carriage houses** with swinging doors. However, in the very next section of the DRC guide, fake window shutters are not only assumed to be incorporated but are recommended to have faked hinges and faked hardware.
- **“Locals only” seems to have no real teeth or meaning especially beyond the initial purchase.** Many locals are here, and have been here for the development opportunities and in fact are long-term real estate speculators who I imagine will be primary purchasers of property contrary to being what “working class” normally conjures. The use of the word “working class” in reference to whom MiNo wants to attract as buyers vs. the reality of qualifying for two high dollar loans, hiring an architect and contractor (lots of \$\$\$ and a steep education for a novice who is an owner that is acting as their own developer) are incongruous at best.
- **The idea that smaller lots benefits anyone but the developer is debatable.** Small lots -cottage and compact -I predict based on 50 years of living in this valley will be over-used, under-parked, and under designed for storage. They will be like the wishful examples of tiny homes we see on TV wherein the TV cameras never stay to see the junk needed for daily life, especially in the mountains, that accumulates outside the tiny home. This will be visible to existing Taylor residents as well as MiNo owners- “junky” rather than “funky”
- **Because no houses are built or even designed** people won’t really know how small the lots are, how limited their parking and storage will be and how useless many landscape areas will be (5’ side setbacks fenced all round) until they begin to design. The tendency will be for people to buy the lots then try to figure out how to build and then to figure out how to secretly build an ADU without showing what one is actually intending to do to avoid the required on-property parking – or how to build a driveway that doesn’t count toward impervious material as gravel then pave it later when no one is looking (see bullet point below).
- **These lots in Mino will be among the smallest and most expensive in \$/sq ft costs of land so the highest and best use of the land will be to max out all parameters.** Architects/designers, because of developer’s and client’s wishes, and because of prudent rule of thumb investment advice to owners, will maximize the sq ft of living area and impervious area unlike the wishful thinking expressed in MiNo’s response to Comments, PUD and Design Guidelines. Even if maximization doesn’t come at initial construction it will result as property owners and subsequent property owners desire to “add value”. Unfortunately, additions and increases in driveway impervious material often are executed on holidays and weekends and are not easy to stop if they have not been verified to comply with the rules, even by an active POA enforcement.

One can be assured this problem and cost of covenants enforcement will not be Mr. Comerford's or his assigns for long because they will be long gone having left the bag and taken the profits on lots that are arguably too small to be built on 140 years after the same size lots were laid-out and Covenants/Design review guides that are possibly too weak and a population of Minturn North owners who collectively will begin to not enforce their impractical rules.

- **No limitations on short term rentals will ensure that the investment potential of all sizes of lots will force nearly all lots to be maximized** in building sq ft, height, and impervious coverage etc. The Covenants don't appear say any unit or ADU's cannot be rented out short term so likely no ADU's can reasonably considered to add to work force housing.

ROB GOSIEWSKI

560 Taylor Street ✳
Minturn, CO 81645

Minturn North: PUD Comments

August 18, 2021

Hello Minturn Staff & Planning Commission,

The proposed "Minturn North" development will affect more than just our property and our commute; it will disrupt our lives. It will impact the entire Taylor Street community. The current proposal lacks proper consideration in regards to existing residents, existing access conditions, and realistic population capacities. There are features of the proposed layout that would also lead to negative impacts for future residents.

I spent an hour with the developer's representative to discuss concerns. Unfortunately he did not bring any plans to reference, and technical questions were sidelined until he "could discuss with engineering". I am thankful for the time, but felt the land had not been truly studied from ground-level. We looked at property-corner pins, existing asphalt, recent drainage overflows, and current parking from a perspective different than plan-view.

The proposed realignment of Taylor Street would eliminate existing, established parking on the east side of the street. The realignment would cause existing driveways to be reduced in size, and existing driveway slopes would need to be altered. The proposed new intersection of 5th Street and Taylor Street would be unsafe in winter conditions and, at best, very awkward. Major alterations would be needed to create the flat intersection area expected by engineering standards.

Ownership of Minturn Road seems to be complicated and maintenance is minimal. The road is only graded twice per year and un-useable at certain points in spring and fall. The county snowplow truck arrives between 0900 & 1000; unhelpful for work commutes. Minturn Road is so unreliable that the school bus can no longer use it as the route out of town. Therefore, only (1) consistent access route exists to Highway 24 for the entire neighborhood. That access is an awkward alleyway with limited sight-lines and wandering dumpsters. A proposed population of ~700 cannot be expected to depend on such limited access – it barely works for the ~175 current Taylor Street residents. The vehicle capacity of the "S-Turn" seems acceptable, currently, but the sharp corners make it unsafe for cars and pedestrians alike.

Unfortunately, the developer does not have control over the S-turn, and nobody wants responsibility for Minturn Road. Union Pacific Railroad seems ambivalent and the funding for proper access may be unattainable.

Looking at grading beyond the proposed streets; it appears that the developer's intention is to regrade the entirety of the property. Large swaths of exposed topsoil would lead to constant dust and weeds. Simply cutting roads (and leaving most vegetation in-tact) would help reduce impacts for existing residents. Proposed scraping & re-grading does not solve drainage dead-ends between lots, and in many cases there is no way for water to reach the streets and drain inlets. There is a plan for underground stormwater drainage, but the developer expects the town to maintain it. Unfortunately, the town cannot even keep-up with maintenance for the single culvert that flows below Minturn Road.

The proposed plans are optimistic for drainage, and even more-so for snow storage. Below is a photo of snowbanks on north Taylor Street. The 15 MPH speed limit sign is 9 ft. tall; the snowbanks are 10 ft. tall x 25 ft. wide. Taylor Street runs for 600 ft. to the north of 4th Street and this photo shows ~2,800 cubic yards of snow within that stretch. Without proper snow storage areas, would the town be expected to haul 100-200 tandem dump-trucks worth of snow from this small stretch of Taylor Street? Where would all that snow be dumped? The slope of the street makes pushing these snowbanks difficult already - and that is without driveways on the west side.



The development calls for more domestic water than is currently available. “Phase 2” depends on large infrastructure investments to be undertaken by the town, which would impact all of Minturn. How feasible is the expansion of Minturn's water production, especially when considering the increasing water scarcity in the American west?

Are the impacts of this development fair? Are the impacts worthwhile?

It is understood that this piece of land will someday sell and that it will eventually be developed. Despite all of the work that has gone into this proposal the plan still lacks true understanding of what the neighborhood & town can tolerate. Access, traffic, domestic water, parking, drainage & snow storage are all inadequate or unrealistic. The existing neighborhood should be respected, and future North Minturn residents should be afforded a truly functional development plan. The land is dreamy, but the slopes and snow are real, and access is severely lacking.

I respectfully request that the Minturn Planning & Zoning Commission reject the current proposal. A revised application should either reduce unit quantity to a point that can be accommodated by existing infrastructure or have solutions that address current infrastructure shortcomings.

Thank you,

Rob Gosiewski

Madison Harris

From: Trent Schaffler <mthhoa.ts@yahoo.com>
Sent: Thursday, August 19, 2021 4:38 PM
To: Madison Harris; Trent Schaffler
Cc: Michael Gottino; Candice Jenkins
Subject: Minturn North Development

August 19th, 2021

Ms. Madison Harris
Town of Minturn
PO Box 309
Minturn, CO 81645
Email: planner1@minturn.org

RE: Minturn North Development

Town of Minturn, Town Council, Planning and Zoning Commission and Staff:

Thank you for the 30-day continuance of the review of the Minturn North Development. The meeting on July 28th provided the residents of Minturn an opportunity to highlight numerous project concerns as-well-as to provide alternatives and improvements for the project based on their professional experience. The residents of Minturn are deeply educated in the trades required for this type of development and include: engineers, architects, lawyers, contractors, plumbers, electricians, developers, accountants, bankers, etc. Many have been involved with similar developments right here in the Vail Valley. When they speak, I hear not a voice of concern for themselves but for our community as a whole.

Attached is an email sent to the Town of Minturn on July 27th. Please include it as well as this email for the planning commission packet on August 25th. This email provides comments and concerns regarding:

- PUD
- Town of Minturn Minimum Building Requirements
- Streets in General/Public Write-of-Ways
- Parking/Parking for Flag Trail Head/Setbacks
- Alternative Solution
- Summary

PUD

It is my understanding the Town Planner questioned the need for a PUD for this track of land from the beginning. The use of a PUD allows the developer to skirt the town requirements and put forth their plan to meet their capital return requirements. The current PUD is not in agreement with town zoning requirements of minimizing impact as well as it skirts numerous town building requirements creating problems the town and its residents will have to deal with for the remainder of time. The Planning and Zoning Board should revisit if a PUD is appropriate and if not, the Planning and Zoning Board should deny the application.

Town of Minturn Minimum Building Requirements

I will reiterate what is stated below and add, the Town of Minturn has specific building minimum requirements for roads, right of ways, setbacks, lot sizes, green space, snow storage, etc. The reason the Town of Minturn has set these minimum requirements is to exactly avoid the patchwork that exists today within the Town of Minturn. No variances for this development should be granted. Site specific issues that need a variance should be handled at that level, not the development level.

Streets in General

- The addition of this many homes and residents, 500+, over doubling existing population of this area, will have to use the only 2 access points across the river to Highway 24. The Town of Minturn, which has a similar population size (once developed) that rests on the other side of the river, has 24 access points to Highway 24. The PUD doesn't address proper access to Highway 24 and should be revised.
- The developers solution to the line of site poor intersection is to change a 2 way road to a 1 way road. This solution skirts the issue versus addressing it properly. A habit this developer is known for.
- The response from, Inter-Mountain Engineering - Page 2 - traffic study, point 2 - "**...current design looks like density has been maximized ignoring good street design.**" needs to be seriously taken into consideration and addressed with appropriate city, county and state road engineers.
- The right of ways are being requested to be modified to allow for varying sidewalk sizes. This is not acceptable as will have double, if not more, foot traffic and car traffic. Safety should be considered first, not last!

Parking/Parking for Flag Trailhead/Setbacks

- The PUD does not allow for any designated Flag Trailhead parking, currently hikers of the Flag Trailhead park on the edge of Taylor opposite side of Minturn Towne Homes entrance.
- All owner/renter parking should only be allowed on property including some guest parking, no street parking should be allowed for owners/renters. The aim should be to maximize on property parking and minimize on street parking. The PUD does the exact opposite.
- With the setbacks being requested for the 2500 sq. ft lots (50' by 50'), the max home allowed would be 40' wide by 35' deep, with a 10' driveway, on which, 5' would be a sidewalk.
- The average size automobile in the United States is 14.7 ft. (see: <https://mechanicbase.com/cars/average-car-length/>), about the size of an Audi A4 (see table below). Even if the owner or its guest of a 2500 sq. ft lot had a mini car, it **would not** fit within its driveway. If a driveway is 15', it would barely fit the average car size of 14.7' and would certainly be in the way of the sidewalk. The Town of Minturn minimum set back of 20' is in place for a reason and that is to avoid these exact problems the developer is requesting to be created.
- In reviewing the minimum setback for homes with front yards for Summit and Eagle county and local communities within, the only community that differs from a 25' setback is Minturn at 20'. Even Eagle Ranch in Edwards has a 25' setback. At 10', the homes on the 2500 sq. foot lot will be right on top of the road and be 5' from the sidewalk; thus, creating 5' of green space for a front yard!
- With 5' setbacks between homes and the allowing for roof eaves to be 2' into the setback, this means roofs will be 6' apart and draining virtually onto the same space. With the known slopes within this land, there will not be enough ground space to allow water runoff to be properly mitigated.

Average Car Model Size Length

| Size Class | Model examples | Length (Feet) |
|--------------|---------------------|---------------|
| Mini Cars | Suzuki Alto | 10.5 |
| Small Car | Kia Rio | 13.8 |
| Mid-Sized | Audi A4 | 14.8 |
| Full-Sized | Audi A6 | 15.7 |
| Small SUV | Ford Escape | 14.4 |
| Large SUV | Cadillac Escalade | 16.7 |
| Small Pickup | Nissan Navara | 16.3 |
| Large Pickup | Chevrolet Silverado | 18.4 |

Alternative Solution

We are not against the development of this land, what we are against, is the development of this land with the current proposal. An acceptable development would:

- Meet the zoning requirement of minimizing impact
- Meet all Town of Minturn minimum building requirements
- Current traffic issues are addressed (and this could be planned over say 5-20 years):

- S curve
- Increased access across the river to this land
- Line of site issues
- Appropriate driveway lengths/setbacks for homes along Taylor
- Trailhead parking for Game Creek and Town of Minturn Flag Trail
- Sidewalks, pedestrian bridge into town from S curve
- Appropriate snow storage
- Developer or HOA established that creates requirements for home building with fixed building timelines
- Work with RR to turn rails into trails

Summary

The Town Council and Planning Board needs to be ask themselves, if this development was being presented in Eagle, Edwards, Avon, Vail, Dillon, etc., would it be approved? Would those towns being willing to accept all the special requests being asked for within this PUD? I think you know the answer.

The opportunity to develop the entrance into Minturn is a once-in-a-lifetime opportunity for the town. Without having any requirements on what is actually to be built on the lots like Singletree, Cordillera or Homestead, opens up the lots to be a combination of homes, pole barns, drive on mini homes, motor homes, manufactured homes, mobile homes, boat/toy storage, work truck parking, car storage, etc. This doesn't sound like what the Town of Minturn has in mind for a finished development; therefore, it is time to deny this PUD and move on to a developer that will be willing to do what's necessary to make this land the crown jewel of Minturn.

The Schafflers
105 Lions Lane

On Tuesday, July 27, 2021, 11:51:22 PM MDT, Trent Schaffler <mthhoa.ts@yahoo.com> wrote:

July 27th, 2021

Ms. Madison Harris
Town of Minturn
PO Box 309
Minturn, CO 81645
Email: planner1@minturn.com

RE: Minturn North PUD

Town of Minturn, Town Council, Planning and Zoning Commission and Staff (please include this as written public comment and read at July 28th meeting as will be out-of-town and may not be able to attend via zoom meeting):

Thank you for the opportunity to respond to the planning commission packet for the July 28th, 2021, public meeting as well to all of the referral comments related to the Minturn North PUD Preliminary Plan Application. Our family moved to Minturn from Minnesota in 2018. The Town of Minturn was selected over neighboring communities due to its proximity to our children's school, VSSA, and Vail Ski Resort, as well as the ability to walk to town to enjoy its amenities. We, the Schafflers, Trent, Lynne, Lauren, Avery and Calvin live in the Minturn Towne Homes at 105 Lions Lane. This email letter is to raise concerns about the Minturn North Project related to:

- Town of Minturn Minimum Building Requirements
- Project Density
- Snow Removal/Storage
- One-Way Street Proposal
- The Developer, James Comerford

Town of Minturn Minimum Building Requirements:

In reading the PUD it identifies where the PUD differentiates from Town of Minturn building minimum requirements. The variances requested are considerable and cover many aspects of the Project. Variances are meant to address specific site conditions versus be allowed for blanket use within a PUD. The Town of Minturn should request the developer put forth a PUD with no variances from the Town of Minturn minimums. Specific site variances would then be addressed at the individual owner level on a case by case basis, as they should be. Allowing this development to proceed with the requested variances will only create a patchwork of sidewalks, street, and lot sizes, exactly the opposite of what the minimums are in place to avoid.

Project Density:

As stated by numerous owners at the public meetings, the project's density is to maximize the number of unit's within the buildable parcel. The developer has stated this is not the case. Contrary to the developers opinion, the owners intuition is backed by multiple referral responders:

- Inter-Mountain Engineering - Page 2 - traffic study, point 2 - "**...current design looks like density has been maximized ignoring good street design.**"
- Town of Minturn Response - Pages 10-12 Town Attorney - 1. Plats, Plans, Surveys: bullet 3 - "**The project presents a dense development scenario with limited common parking.**"

The PUD falls under the Game Creek PUD Holding Zone, which falls under Articles 12, Section 16.12, "...Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood."

By maximizing project density, the developer is not minimizing the impacts to existing neighborhoods.

Snow Removal/Storage:

Within a year of owners' occupying units with Minturn Towne Homes, approximately 2007, the Minturn Towne Homes began using approximately 2500 sq. feet of the RR Property directly across the entrance to Lions Lane for snow storage. Minturn Towne Homes has received preliminary counsel it has an implied easement for snow storage across from the entrance to Lions Lane on the RR property. This implied easement is not addressed with the PUD.

One-Way Street Proposal:

One-way streets are to be used to resolve specific traffic conditions. Making Taylor a one-way does not resolve a specific traffic condition and creates additional. It does not resolve the dangerous intersection noted in the traffic study and residents of Lions Lane need the ability to turn right on to Taylor during winter conditions that make turning left impossible and dangerous. If the traffic study stated the street should be x feet wide with 10' sidewalks and the dangerous intersection needs to be improved, then that is what it should be, no variance or sneaky work around that makes things worse.

The Developer, James Comerford:

As the Town of Minturn knows, the developer of the Minturn Towne Homes is the same developer behind Minturn North. Little did we know when we purchased our home, this developer had been sued by the Minturn Towne Home Association for construction defects. The defects are considerable and virtually occur in every aspect of the construction. The lawsuit was settled for roughly \$1 million dollars in 2009. Unfortunately, the settlement was probably \$1 million short to be able to cover the repair costs of all the defects. In working with contractors over the last 3 years to address the ongoing original defects, each contractor asked, who did the development, when stated James Comerford, each state, and I mean each, feel sorry for you and many stated, "we don't work with him anymore." Details regarding the defects Mr. Comerford left the owners' of the Minturn Towne Homes to deal with have been provided at other council meetings and will not be listed here. What will be stated is that a reputation like that is earned within the construction trade and speaks for itself.

Based on the above concerns as well as others stated by the referral commentators, I highly recommend the Town of Minturn Planning and Zoning commission reject this application.

Thank you,

The Schafflers
105 Lions Lane

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



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

Public Comment - Minturn Towne Homes HOA

**Below is the link to the Bornengineering
Construction Compliance Evaluation
Report**

Bornengineering Construction Compliance Evaluation Report

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



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

Appeal Notice

Madison Harris

From: Michelle Metteer
Sent: Friday, August 20, 2021 2:14 PM
To: Madison Harris
Subject: FW: 151 Main Street determination

Appeal of the Planning Director decision on a Mikvah being defined as a "club."

Michelle Metteer
Town Manager
Minturn, Colorado

From: Kelly Toon <knoottoon@gmail.com>
Sent: Friday, August 20, 2021 2:00 PM
To: Michelle Metteer <manager@minturn.org>
Subject: Fwd: 151 Main Street determination

Sent from my iPad

Begin forwarded message:

Town of Minturn, Minturn Town Council and Minturn Planning and Zoning Board,

I, Kelly Toon, of 531 Main St Minturn Colorado PO Box 81645, appeal the determination by the P&Z to classify a Mikveh as a club. A club is defined by the Minturn Town Code

as *PLANNING DIRECTOR* *K*. *AUG 20 2021 2:44 PM*

Club means any nonprofit organization exclusively serving members and their guests whose facilities are limited to meeting, eating and recreational uses; and further, whose activities are not conducted principally for monetary gain.

The important word in the definition is limited to; as limited to meeting, eating and recreational uses

The main uses as of a Mikveh as defined by Wikipedia are as follows

After the [destruction of the Temple](#), the mikveh's main uses remained as follows:

- by [Jewish](#) women to achieve [ritual purity after menstruation and childbirth^{\[33\]}](#) before they and their husbands may resume marital relations;
- by Jewish men to achieve ritual purity after ejaculation;
- as part of the traditional procedure for [conversion to Judaism](#);
- to immerse newly acquired metal and glass utensils used in serving and eating food;
- to immerse a corpse as part of the preparation for burial ([taharah](#)).

These uses are not meeting, eating or recreation so a Mikveh can not be a club

A Mikveh is more analogous to a church by town definitions

Church means a building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Churches are not permitted uses in the old town commercial zone and the code is clear

Sec. 16-3-60. - Use not listed.

Uses that are not listed in the Character Area use tables shall be considered to be uses that are not allowed.

This type of use in the downtown landscape would be detrimental to the surrounding businesses as well as the vibrancy of the entire community.

Thank you,

I am identifying the following:

Appellant:

Kelly Toon

531 Main Street

Minturn, Co 81645

Po Box 995 Minturn, Co 81645

Applicant:

KH Webb Architects, Kyle Webb

physical & mailing:

710 West Lionshead Circle # A

Vail, Co 81657

Owner

151 Main Street LLC

151 Main Street

Minturn, Co 81645

Mailing : 151 Main Street, LLC

10800 Biscayne Blvd Suite 600

Miami, Fl 33161-7499

Adjacent Properties

MR Minturn LLC

141 & 155 Main Street

109 Williams Street

Minturn, Co 81645

Mailing: MR Minturn 5161 Collins Ave Penthouse D Miami Beach, Fl 33140-2723

Kenneth Mintz

167 Williams Street #5

Minturn, Co 81645

Mailing: 2530 Reeder Road

New Hope, Pennsylvania 18938-1822

Krista Marie Driscoll & Devin Schow

115 Nelson Ave

Minturn, Co 81645

Mailing: Po Box 3704 Vail, Co 81658

A&M LLC

167 William Street #5

Minturn, Co 81645

Mailing: Po Box 4115 Vail, Co 81658

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



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

To: Planning Commission
From: Scot Hunn, Planning Director
Madison Harris, Planner I
Date: August 5, 2021
Re: 151 Main Street – Mikvah Conceptual

The Applicant, Chabad Vail, recently acquired property located at 151 Main Street in Minturn. The Applicant's representative, Kyle Webb, KH Webb Architects, has been working with Town of Minturn Planning Department staff since December 2020 with regard to Chabad Vail's intentions to explore redevelopment opportunities on the subject property for retail as well as religious uses.

The subject property is the site of the "Uptown Store," and while not listed as a historic structure on any local or state registries, is a recognizable structure within the Minturn 100 Block Commercial area.

The subject property includes lands located between Hwy. 24 and Williams Street, as well as a small parcel located west of Williams Street. Applicant has developed multiple scenarios for redevelopment of both parcels/areas. The main focus of the Applicant's development plans is a "Mikvah" or bath house - to be used by members of Chabad Vail for religious purposes. Mikvahs require specific elements and design considerations. Per a Letter of Intent from the Applicant's Representative:

"In order to meet both the ritual and spiritual needs of the Jewish community, building strictly kosher water (rain water) collection pools (boros) that will flow into immersion pools that are designed and constructed under observation of strict Orthodox authorities. In addition to the spiritual experience of immersion pools for men and women, spaces specific for preparing/changing for men and women as well as associated service and mechanical spaces are required."

KH Webb Architects has evaluated designs on the parcel lying west of Williams Street right-of-way and next to the Hotel Minturn, only to conclude that without significant variances from setback requirements, the program and dimensions of the Mikvah will not work on that portion of the property. Additionally, that portion of the property is the location of parking managed under a parking management plan first approved by the Town in the late 1990's.

With these constraints in mind, KH Webb Architects met with Town staff recently to discuss alternatives including raising the existing "Uptown Store" building, rebuilding a new retail space fronting Main Street, and developing the Mikvah at the rear portion of the site between

Main Street and Williams Street. Two scenarios for redevelopment of the subject property will be presented at the August 25th meeting of the Design Review Board.

KH Webb Architects is requesting a conceptual design review and discussion for the primary purpose of gaining feedback from the DRB as to the appropriateness of the conceptual design, preferences considering the two alternatives, and consideration of other site constraints.

The concepts presented at this time are not detailed in nature but do offer a starting point for discussions and the identification of potential issues for the Applicant's consideration.

August 4, 2021

Town of Minturn Planning Commission
C/O Madison Harris
Planning & Zoning Department
301 Boulder St. # 309
Minturn, CO 81645

RE: 151 Main Street Limited Use Application Update

Dear Town of Minturn Planning Commission,

A unique request for you, one that we have been working on with Staff and our clients for several months!

Our client is looking at creating a tiny, less than 1,000sf space, on rear part of 151 Main Street in the Old Town Zone District. This would be tied to the Jewish community in Eagle County (the non-profit, Chabad Vail) and help serve some of their spiritual needs. The existing commercial space fronting on Main Street would be re-built in a similar manner and on the rear portion of the lot would be a "Mikvah" which is a ritual bath space for men and women. The best definition I can find is a "club" in zoning, but here is the Oxford Dictionary definition of a Mikvah.

A mikvah is an immersion pool that dates to the establishment of Judaism, thousands of years ago in the Garden of Eden.

In order to meet both the ritual and spiritual needs of the Jewish community, building strictly kosher water (rain water) collection pools (boros) that will flow into immersion pools that are designed and constructed under observation of strict Orthodox authorities. In addition to the spiritual experience of immersion pools for men and women, spaces specific for preparing/changing for men and women as well as associated service and mechanical spaces are required.

The Mikvah will be used constantly throughout the year, but will certainly ebb and flow as our seasonal economy does. Traditionally levels of use vary with the religious spirituality of the individual, but women will primarily use the pools after sunset and men will use them first thing in the morning, but there are no restrictions on timing. Often it is a family affair to visit the Mikvah and we project 50-75 visits per month on average with most elevated number of visits in July and August. Aside from bringing more people to visit Minturn, we intend to keep the commercial space on Main Street as it functioning now, but as numbers grow over time as expected, we could foresee turning the Commercial space into a Kosher Deli, in keeping with Mikvah's theme.

Mikvah Letter,
Page 2

Options Discussion:

Originally, we proposed after initial staff discussions to locate the Mikvah across Williams Street on the rear portion of the lot in a 0' Setback configuration. This was conceived so we could preserve the existing structure on Main Street. After thorough vetting of this option, the costs as well as complexities of zoning and construction became clear, moreover we were losing significant parking spaces. It became clear that the required setback variances were not viable and we needed to pursue options that would front Main Street and reconsider the existing structure. That said, we are open and receptive to what this re-development means to the Town of Minturn and want your feedback as to what will be fronting Main Street.

The challenge is that this lot is “residential” in scale but in a location you may want to be more urban in nature. Our hope is that you can help us figure out what is more desirable for the Main Street context and the Old Town Zone District.

Option One: Urban Solution

In this option, we would put the Mikvah component on the rear of the lot, and reconceive the Main Street front of the lot to continue the context of the Thai Kitchen/Minturn Country Club row with tight street fronting facades on Main Street. This option would not leave greenspace on the street, but would continue the existing look of “entry” into Town from the North.

Option Two: Contextual Solution

Again, we would put the Mikvah on the rear of the lot, but keep the existing residential scale and look of the existing structure. In this configuration, we are basically proposing to recreate the look of the existing commercial home, but adjust it closer to the street as setbacks dictate and permit.

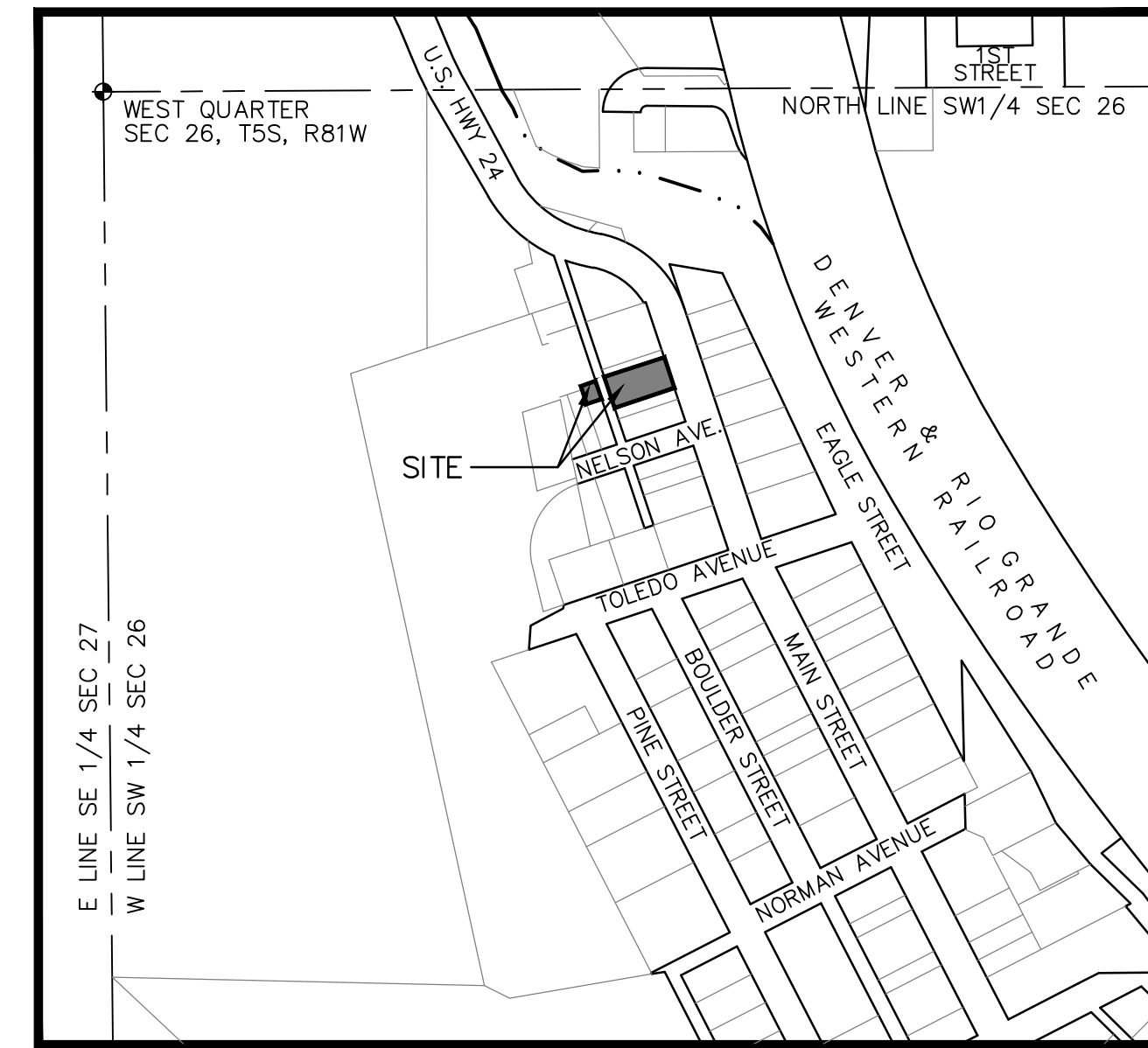
We look forward to further discussions and dialogue on this proposal and want to be clear that we are open and flexible to what is best for the community. If you do have questions, please feel free to contact me or we can discuss further at your Planning Commission meeting on August 11th!

Sincerely,

KHW

Kyle H. Webb, AIA
KH Webb Architects PC

ALTA/NSPS LAND TITLE SURVEY
 LOT 6, THE NORTH HALF OF LOT 7,
 AND PART OF LOT 9, BLOCK B,
 MACKEDON & RATHBURN SUBDIVISION,
 SECTION 26, TOWNSHIP 5 SOUTH, RANGE 81 WEST
 TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO



VICINITY MAP
 SCALE: 1"=500'

LEGAL DESCRIPTION:

PARCEL L: Order No. ABN50044289-2

LOT EIGHT (8) AND THE NORTH HALF (1/2) OF LOT SEVEN (7), BLOCK "B" MACKEDON AND RATHBURN'S SUBDIVISION OF BOOGO'S ADDITION TO TOWN OF MINTURN, ACCORDING TO THE RECORDED PLAT THEREOF RECORDED JANUARY 5, 1892 UNDER RECEPTION NO. 10580, COUNTY OF EAGLE, STATE OF COLORADO.

PARCEL M: Order No. ABN50044289-2

LOT NINE (9) IN BLOCK "B" MACKEDON AND RATHBURN SUBDIVISION OF BOOGO'S ADDITION TO MINTURN, ACCORDING TO THE RECORDED PLAT THEREOF, COUNTY OF EAGLE, STATE OF COLORADO EXCEPTING THEREFROM THE SOUTHEASTERLY 45.89 FEET, DESCRIBED AS FOLLOWS: BEGINNING AT CORNER NO. 1 (SW) OF LOT 9, BLOCK "B" OF SAID SUBDIVISION; THENCE NORTH 71 DEGREES 40 MINUTES EAST, 22.65 FEET TO A WITNESS CORNER FOR CORNER NO. 2; THENCE NORTH 71 DEGREES 40 MINUTES EAST, 2.35 FEET TO THE TRUE POSITION FOR CORNER NO. 2 (SE); THENCE NORTH 18 DEGREES 20 MINUTES WEST 45.89 FEET TO THE TRUE POSITION FOR CORNER NO. 3 (NE); THENCE SOUTH 71 DEGREES 40 MINUTES WEST, 3.57 FEET TO A WITNESS CORNER FOR CORNER NO. 3; THENCE SOUTH 71 DEGREES 40 MINUTES WEST 21.43 FEET TO CORNER NO. 4 (NW); THENCE SOUTH 18 DEGREES 20 MINUTES EAST 45.89 FEET TO CORNER NO. 1 (SW) THE PLACE OF BEGINNING.

GENERAL NOTES:

- ALTA SURVEY COMPLETED ON AUGUST 23, 2016.
- "SET CORNER" DENOTES A SET 1.5" ALUMINUM CAP STAMPED "LS 27598" ON A #5 REBAR
- BUILDING TIES ARE PERPENDICULAR OR RADIAL TO PROPERTY LINES (X,X').
- BASIS OF BEARINGS: THE COLORADO STATE PLANE COORDINATE SYSTEM, COLORADO CENTRAL ZONE 0502, NORTH AMERICAN DATUM 1983 (NAD83). THE FOUND BRASS TACK STAMPED "CDOT #547" & THE FOUND 3.25" ALUMINUM CAP STAMPED "CDOT PLS 29034" ON THE WEST LINE OF US HWY 24 WERE HELD FOR ROTATION HAVING A BEARING OF S17°55'49"E. ADDITIONALLY THE ALUMINUM CAP STAMPED "LS 37924" FOUND FOR THE SOUTHEAST CORNER OF LOT 9, BLOCK B, MACKEDON & RATHBURN, AND THE ALUMINUM CAP STAMPED "LS 9337" FOR THE SOUTHWEST CORNER OF LOT 4, BLOCK C, MACKEDON & RATHBURN WERE FOUND TO BE IN AGREEMENT WITH THIS ROTATIONAL SOLUTION. DISTANCES SHOWN HEREON ARE SURFACE VALUES DERIVED USING A SCALE FACTOR OF 1.0004037201.
- SUBJECT PROPERTY IS ZONED "COMMERCIAL" PER THE TOWN OF MINTURN STANDARDS. NEW BUILDINGS SHALL DRAW ON INTERPRETATIONS OF EXISTING STOREFRONT STRUCTURES. THE SCALE OF THE NEW BUILDINGS SHALL BE CONSISTENT WITH ADJACENT BUILDINGS. HEIGHT SHALL BE CONSISTENT AS VIEWED FROM THE STREET; ADDITIONAL HEIGHT MAY BE APPROVED IF IT STEPS BACK FROM THE FACADE TO REDUCE THE PERCEIVED SCALE OF THE NEW DEVELOPMENT.
- THE SUBJECT PROPERTY IS LOCATED WITHIN FLOOD ZONE DESIGNATION X BY THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT, ON FLOOD INSURANCE RATE MAP NO. 08037C0658D, WITH A DATE OF IDENTIFICATION OF DECEMBER 4, 2007, IN EAGLE COUNTY, STATE OF COLORADO, WHICH IS THE CURRENT FLOOD INSURANCE RATE MAP FOR THE COMMUNITY IN WHICH SAID PROPERTY IS SITUATED.
- PEAK LAND CONSULTANTS, INC. DID NOT PERFORM A TITLE SEARCH OF THE SUBJECT PROPERTY TO ESTABLISH OWNERSHIP OR RIGHTS-OF-WAY OF RECORDS. RECORD DOCUMENTS UTILIZED ON THIS ALTA/NSPS SURVEY WERE PROVIDED BY LAND TITLE GUARANTEE COMPANY, ORDER NO. ABN50044289-2, HAVING AN EFFECTIVE DATE OF JUNE 15, 2016, AT 5:00 P.M.
- 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 SHALL ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

TITLE EXCEPTIONS:

- THE EFFECT OF ORDINANCE NO. 129, RECORDED DECEMBER 20, 1974, IN BOOK 238 AT PAGE 5.
- ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE EAGLE RIVER FIRE PROTECTION DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED MAY 30, 2002, UNDER RECEPTION NO. 799500.
- ANY TAX, LIEN, FEE, OR ASSESSMENT BY REASON OF INCLUSION OF SUBJECT PROPERTY IN THE EAGLE RIVER WATER AND SANITATION DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED DECEMBER 31, 2009, UNDER RECEPTION NO. 200927997. SPECIAL DISTRICT PUBLIC DISCLOSURE DOCUMENT RECORDED DECEMBER 3, 2013 UNDER RECEPTION NO. 201323922 AND RECORDED DECEMBER 18, 2014 UNDER RECEPTION NO. 201421767 IN REGARDS THEREOF.
- EASEMENT GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO, FOR UTILITY LINES AND INCIDENTAL PURPOSES, BY INSTRUMENT RECORDED JUNE 29, 2011 UNDER RECEPTION NO. 201112315 (SHOWN HEREON).

ALTA/NSPS LAND TITLE SURVEY:

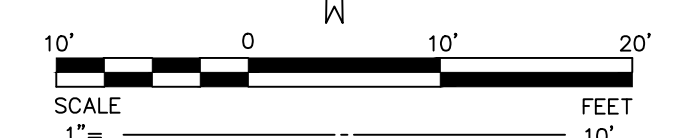
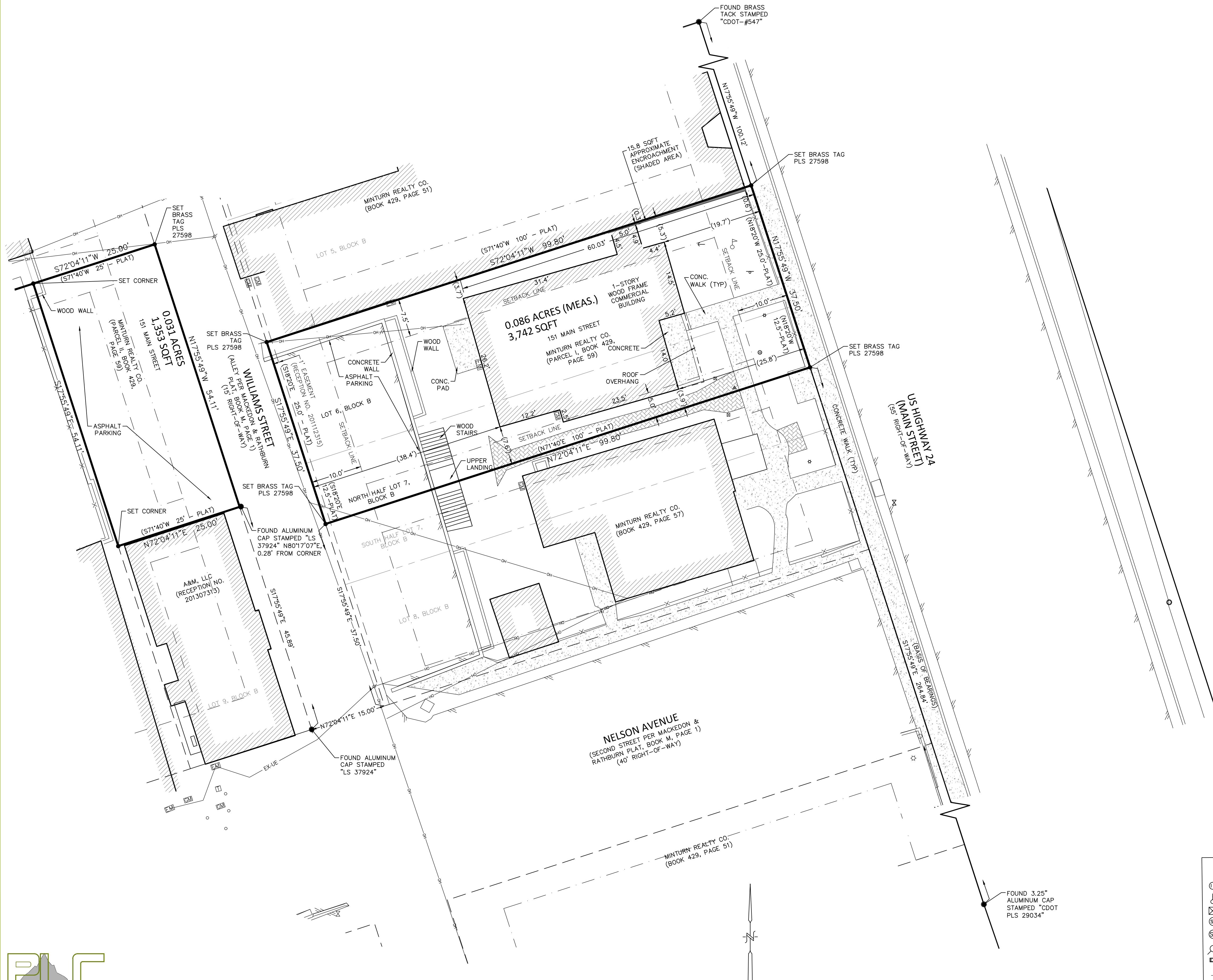
TO MINTURN REALTY, INC.; ONT MINTURN LLC, A COLORADO LIMITED LIABILITY COMPANY; MR MINTURN LLC, A COLORADO LIMITED LIABILITY COMPANY & LAND TITLE GUARANTEE COMPANY:

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, 2, 3, 4, 6(b), 7(a), 8, 9, 11, 13, & 19 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON AUGUST 23, 2016.



BRENT BIGGS
 P.L.S. NO. 27598

| LEGEND | | | |
|--------|----------------------|---|---------------------|
| ⊕ | ELECTRIC OUTLET | ⊕ | ANCHOR, 6" CONCRETE |
| ⊕ | FLAG POLE | ⊕ | BOLLARD |
| ⊕ | SPIGOT | ⊕ | LIGHT POLE |
| ⊕ | STORM MANHOLE | ⊕ | SIGN |
| ⊕ | SEWER MANHOLE | ⊕ | WATER VALVE |
| ⊕ | UTILITY POLE | ⊕ | GAS METER |
| ⊕ | ELECTRIC METER | ⊕ | SEWER CLEANOUT |
| — | OVERHEAD ELECTRIC | | |
| — | ASPHALT PAVING | | |
| — | EX-UE | | |
| — | UNDERGROUND ELECTRIC | | |
| — | FENCE | | |



PEAK LAND CONSULTANTS, INC.
 PEAK LAND SURVEYING, INC.
 970-478-8644 FAX 970-478-8616
 1000 LION'S RIDGE LOOP VAIL, CO 81657

DEPOSITED THIS _____ DAY OF _____ 20____ AT _____ IN BOOK _____ OF THE
 EAGLE COUNTY SURVEYOR'S LAND SURVEY PLAT/RIGHTS-OF-WAY SURVEYS AT PAGE _____
 RECEPTION NO. _____

DRAWN: KPJ REVIEWED: BB SHEET 8 OF 12
 DATE: 11/22/17 PLC JOB#: 2062



MINTURN

THE UPTOWN STORE
GIFTS & ACCESSORIES

Thai
KITCHEN

HOME DECOR

OPEN

Jeep



THE
UPTOWN
STORE
GIFTS & ACCESSORIES

Minbur Realty
PARKING
RESERVED FOR
CUSTOMERS & VENDORS
NO OTHER VEHICLES
WILL BE TOLDED OFF
PROPERTY



MINTURN

