



Wednesday June 15, 2022

Work Session – 3:00pm
Executive Session – 4:00pm
Regular Session – 5:30pm

AGENDA

Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO

The agenda is subject to change, including the addition of items 24 hours in advance or the deletion of items at any time. The order of agenda items listed are approximate. This agenda and meetings can be viewed at www.minturn.org.

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/86434648778>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 864 3464 8778**

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

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

WORK SESSION

The Minturn Town Council will convene in a Work Session to study Resolution 20 – Series 2022 by touring the subject property at 832 Main St. Council will meet at 3:00 pm at the Town hall and leave for the tour from there.

1. CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at (approximately) 4:00pm for the purpose of convening into Executive Session. At (approximately) 5:30pm the Council will convene into Regular Session for the remainder of the meeting.

2. **Executive Session:** An Executive Session pursuant to C.R.S. 24-6-402(3)(b) for the purposes of receiving legal advice and C.R.S. 24-6-402(4)(e) for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators.

Executive Session will include legal advice on:

- Stipulation with ERWSD/UERWA in Case Nos. 21CW3029 and 21CW3030- Siltanen
- Religious Land Use and Institutionalized Persons Act (42 U.S.C. 2000cc) – Evan Seeman, Esq.
- Battle Mountain Litigation – Sawyer
- Dowd Junction Acquisition – Metteer

3. **ROLL CALL & PLEDGE OF ALLEGIANCE**

4. **APPROVAL OF CONSENT AGENDA** *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

4.1 June 1, 2022 Meeting Minutes p. 4

4.2 Colorado River Water Conservation District Grant Contract p. 14

4.3 Resolution 24 – Series 2022 Nathan Dumm & Mayer Retention Contract p. 25

4.4 Resolution 26 – Series 2022 Jester Gibson & Moore LLP Retention Contract p. 29

4.5 Stipulation with ERWSD/UERWA in Case Nos. 21CW3029 and 21CW3030 p. 37

4.6 Resolution 27 – Series 2022 Support of Amended Bolts Ditch Federal Legislation p. 87

4.7 994 Main Street – Alford Residence – New Single Family Home p. 90

5. **APPROVAL OF REGULAR AGENDA** *Opportunity for amendment or deletions to the agenda.*

6. **DECLARATION OF CONFLICTS OF INTEREST**

7. **PUBLIC COMMENT** *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

8. **SPECIAL PRESENTATIONS** *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

9. **COUNCIL COMMENTS & COMMITTEE REPORTS**

10. **BUSINESS ITEMS** *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

- 10.1 Resolution 20 – Series 2022 A Resolution approving Land Use Application Variance 22-01 to allow for the construction of a safety fence within the 30’ live stream setback – Harris p. 122
- 10.2 Ordinance 10 – Series 2022 (Second Reading) An Ordinance creating an Historic Preservation policy and Commission – Metteer/Gorrell p. 144
- 10.3 Acceptance of the Fiscal Year 2021 Financial Audit – Brunvand p. 170
- 10.4 Resolution 25 – Series 2022 Dowd Junction Acquisition Evaluation Contract Approval - Metteer p. 186

11. DISCUSSION / DIRECTION ITEMS

12. STAFF REPORTS

- 12.1 Town Manager Update p. 195

13. FUTURE AGENDA ITEMS p. 220

14. ADJOURN

INFORMATIONAL ONLY ITEMS

Council Meetings:

- June 15, 2022
- July 6, 2022
- July 20, 2022
- August 3, 2022



Wednesday June 1, 2022
Executive Session – 4:00pm
Regular Session – 5:30pm

OFFICIAL MINUTES

Town Council Meeting
Minturn Town Hall / Council Chambers
302 Pine St Minturn, CO

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This will be an in-person meeting with access for the public to attend in person or via the Zoom link included. Zoom Link: <https://us02web.zoom.us/j/87107869114>

Zoom Call-In Information: **1 651 372 8299 or 1 301 715 8592 Webinar ID: 871 0786 9114**

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

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on the agenda can be submitted to Jay Brunvand, Town Clerk, prior to the meeting and will be included as part of the record.

1. CALL TO ORDER

The Minturn Town Council will open the Regular Meeting at 4:00pm for the purpose of convening into Executive Session. At (approximately) 5:30pm the Council will convene into Regular Session for the remainder of the meeting.

The meeting was called to order by Mayor Earle Bidez at 4:00pm for the Executive Session portion only.

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members Lynn Feiger (Zoom), Gusty Kanakis, Tom Sullivan (Zoom), and Kate Schifani (Zoom). Town Manager Michelle Metter and Attorney Michael Sawyer were also present. Note: George Brodin was excused absent.

2. Executive Session: An Executive Session pursuant to C.R.S. 24-6-402(3)(b) for the purposes of receiving legal advice – Sawyer/Siltanen

Executive Session will include legal advice on:

- Cross Creek Water Rights – Siltanen
- Battle Mountain Litigation – MJS/Anderson

Motion by Terry A., second by Gusty K., to convene in Executive Session C.R.S. 24-6-402(3)(b) for the purposes of receiving legal advice: Cross Creek Water Rights – Siltanen and Battle Mountain Litigation – MJS/Anderson. Note: George Brodin was excused absent.

Those in attendance for the Executive Session were the Town Council present/zoom, Town Manager Michelle M., Town Attorneys Michael Sawyer; and on Zoom Water Counsel for the Town Hayley Siltanen and Litigation Counsel Geoff Anderson. Note: George Brodin was excused absent.

Direction given as a result of the Executive Session: No direction was given.

3. ROLL CALL & PLEDGE OF ALLEGIANCE

The meeting was re-convened in the Regular Session by at 5:41pm. by Mayor Earle Bidez.

Those present include: Mayor Earle Bidez, Mayor Pro Tem Terry Armistead, and Town Council members Lynn Feiger, Gusty Kanakis, Tom Sullivan (Zoom), and Kate Schifani (Zoom). Note: George Brodin was excused absent.

Staff present: Town Manager Michelle Metteer, Town Attorney Michael Sawyer, Town Planners Scot Hunn and Madison Harris, and Town Treasurer/Town Clerk Jay Brunvand.

4. APPROVAL OF CONSENT AGENDA *Consent agenda items are routine Town business, items that have received clear direction previously from the council, final land-use file documents after the public hearing has been closed, or which do not require council deliberation.*

4.1 May 18, 2022 Meeting Minutes

4.2 146 North Main Street – The Saloon – Changes to Approved Plans

4.3 76 Meek – Wilson Residence – Changes to Approved Plans

4.4 386 Taylor Avenue – Major Residence – New Single-Family Home

Motion by Terry A., second by Gusty K., to approve the Consent Agenda of June 1, 2022 as presented. Motion passed 6-0. Note: George B. was excused absent.

5. APPROVAL OF REGULAR AGENDA *Opportunity for amendment or deletions to the agenda.*

Motion by Gusty K., second by Terry A., to approve the Agenda of June 1, 2022 as presented. Motion passed 6-0. Note: George B. was excused absent.

6. DECLARATION OF CONFLICTS OF INTEREST

7. PUBLIC COMMENT *Citizens are invited to comment on any item on the Consent Agenda, or not on the regular Agenda subject to a public hearing. Please limit your comments to five (5) minutes per person unless arrangements have been made for a presentation with the Town Clerk. Those who are speaking are requested to state their name and address for the record.*

8. SPECIAL PRESENTATIONS *Presentations are limited to 5 minutes. Invited presentations are limited to 10 minutes if prior arrangements are made with the Town Clerk.*

9. COUNCIL COMMENTS & COMMITTEE REPORTS

Kate S. updated on the scholarship interviews held this week for the Minturn Scholarships.

Gusty K reminded of Town Cleanup Day on Saturday June 4.

Earle B. updated on the support of our US Senators for a RAISE grant and updated on the process.

10. DISCUSSION / DIRECTION ITEMS

10.1 Minturn Community Fund request for storage space – Metteer

Michelle M. presented the MCF has asked to utilize storage space from the Town. Because this is not a normal request and Staff did not want to set undue precedent so Staff is requesting direction from the Council on this decision. She outlined the spaces identified as desirable for the request.

Council Directed to proceed with securing an agreement.

It was noted that Terry A. is a MCF Board Member and Lynn F’s Husband is a MFC Board Member.

11. BUSINESS ITEMS *Items and/or Public Hearings are listed under Business may be old or new and may require review or action by the Council.*

11.1 Ordinance 10 – Series 2022 (First Reading) An Ordinance creating an Historic Preservation policy and Commission – Metteer/Gorrell

Michelle M. introduced Attorney Terry Gorrell who is assisting with the historic preservation process and presented Ordinance 10 - Series 2022 to amend the Minturn Municipal Code (“MMC”) by adding Chapter 19 to establish a Historic Preservation Commission (“HPC”) and regulate Historic Preservation within the Town of Minturn. Request to recommend

approval of draft ordinance. Minturn is experiencing an increase in development pressure.

In the fall of 2021 Ordinances 14 and 15, Series 2021 established moratoriums on the processing of Design Review, Conditional Use Review, Limited Review, and Demolition applications until August 31, 2022. This moratorium was established to allow the staff, planning commission, council and community time to address the above-stated shortfalls in the code. The recitals in the ordinances showcase the reasoning as, in part, due to a desire to update the MMC relating to Historic Preservation in the 100 Block and elsewhere in Town. To that end a Historic Preservation Committee was formed. Simultaneously, a planning consultant was secured to assist in the creation of a 100-block design guideline booklet to assist all parties regarding the design and building expectations within the downtown area.

Minturn benefitted from a dedicated group of volunteers who value the community's long-standing history as the second-oldest town in Eagle County behind Red Cliff. In addition, Dr. Lindsey Flewelling from History Colorado participated in all three Committee meetings as a valuable resource, and provided insight into how other communities have addressed particular historic preservation issues and best practices.

This ordinance is intended to provide an avenue for the formation of a Historic Preservation Policy and Commission, and codify the ability for the HPC or other concerned members of the public to be able to nominate or apply for certain structures, buildings, places of interest, etc. as a historic landmark. This ordinance establishes a process for people to follow and findings that need to be made in order to designate something a Historic Landmark or a Historical District.

With this effort, Minturn looks to secure the future of structures and landmarks throughout town that are deemed significant to the history of the community.

Michelle M. asked questions for Council direction:

1. Eligibility criteria: what age should the property be. The committee discussed 50-75 years. Council directed 75years.
2. Application for Nomination: who is eligible to nominate. It is written that almost anyone can nominate, is this okay with the council? It would still be reviewed by the HPC and the Town Council. Council was agreeable to this.
3. Require a permit for any structure in town if that structure is over 50yrs, ie anyone that wants to modify or tear down a building must have HPC approval to confirm the property is not of historical significance. This provision allows an owner to proceed with determination during the period when the town is developing an inventory of historical properties. Council felt this was appropriate.
4. Violation and penalty: The noted point was, if someone moves forward and is in conflict with this law, there are significant repercussions.
5. Plan to replace a structure before you can demo a building. This is to avoid the potential of empty lots.

Earle B. asked several questions. Discussion ensued on the survey and the survey Q&A and how that was vetted to fit the Ordinance. It was discussed how the HPC committee board would be appointed (by Council). Earle B. asked about the integrity of a building to identify if the building

is safe and savable. Earle B. asked about purchases of homes for significant amounts, this ordinance would limit their ability to make improvements. It was discussed that this is why we need this ordinance as it is the best way to protect our heritage.

Public Hearing Opened

Mr. Kit Austin commented that he felt this was government overreach.

Public Hearing Closed

The council expressed the importance of proceeding with this Ordinance. It was asked if the Staff had sufficient direction to proceed? Michelle M. stated yes.

Motion by Terry A., second by Gusty K., to approve Ordinance 10 – Series 2022 (First Reading) An Ordinance creating a Historic Preservation policy and Commission as presented. Motion passed 6-0. Note: George B. was excused absent.

11.2 Resolution 20 – Series 2022 A Resolution approving Land Use Application Variance 22-01 to allow for the construction of a safety fence within the 30' live stream setback – Harris

The Applicants, Pamela and Craig Jones, request review of a safety fence located within the 30-foot live stream setback at 832 Main Street in the South Town Residential Zone District. The Applicant's representative, Michael Pukas, has been proactive in meeting with Town staff prior to submitting the variance request. The applicant is proposing to install a new safety fence at the edge of a steep embankment leading to Eagle River within the live stream setback. The new safety fence would be 3.5 feet tall, constructed with 4x4" wood posts and 4x4" black welded wire mesh in order to protect the applicant's pets, family, and friends from falling down the steep riverbank.

Mr. Michael Pukas, architect representing the owner, noted a previous owner constructed a rock wall creating a steep drop off from the yard to the riverbed creating a dangerous hazard to children, adults, and pets. Mr. Pukas noted the applicant is prepared to revegetate the riparian area along the river and 30foot setback.

Mr. Chris Kintner, friend of owner, spoke of the hazard.

Kate S. asked if the fence could be moved closer to the house so to avoid the 30ft setback. No, that would put it up against the house.

Terry A. noted there is a big drop off and it is a short river front that requires the fence. She felt the intent was safety and protection of the riparian area.

Gusty K. asked if the fence would be along the property line. On the north and south sides it would be to the property line and would be along the rock wall not the property line.

Lynn F. did not want a dangerous rock wall. She was concerned to rule on the request without knowing the actual placement of the fence. She was concerned the applicant was attempting to maximize the backyard with the fence. She felt the house was intentionally built to the rear/river side of the property. She was concerned this would create a bad precedent that doesn't protect the setback. Lynn F. commented this is a brand-new house and the issue was caused by the owner's decision on building placement. She felt more information was required.

Earle B. detailed the history of the process to establish the setbacks and allow the town to clean the river and restore it to a clean and viable condition. It was noted when we started the river restoration the river was dead, it had no fish and ran red from the mine tailings. He stated the 30ft setback was established to protect the river and, in the past, we have required citizens to remove intrusions.

Mr. Pukas appreciated the work done on the river but expressed the need for safety. He noted the landscaping proposed will be installed with or without the fence. He stated this fence will establish the lot lines, it is 3'6" tall in the setback.

It was noted by both Terry A. and Lynn F. that, in places the river bank is a steep drop; however, the river should be protected.

Michael S. stated options are to continue giving time to allow the applicant to provide more information, approve, or deny. He noted a site visit is open to the public as it would be a public meeting.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Lynn F., second by Terry A., to continue to June 15, 2022 Resolution 20 – Series 2022 A Resolution approving Land Use Application Variance 22-01 to allow for the construction of a safety fence within the 30' live stream setback as presented. Motion passed 6-0. Note: George B. was excused absent.

11.3 Resolution 21 – Series 2022 A Resolution approving Conditional Use Permit Application CU 02-2022 to allow for Multi-Family and Professional Office Uses within the Old Town Commercial Zone at 164 Railroad Avenue – The International Trade Center Building – Hunn

Scot H. presented at their regular meeting of May 11, 2022, the Planning Commission reviewed the Conditional Use Permit (CUP) Application to allow for Multi-Family Residential and Professional Office uses within the International Trade Center Building located at 164 Railroad Avenue within the Old Town Commercial Zone District. The Planning Commission voted 5-0 to recommend approval with conditions to the Town Council for the CUP Application for 164 Railroad Avenue:

1. Prior to the issuance of any Certificate of Occupancy for any new residential units constructed within the International Trade Center Building (ITCB), the Applicant shall provide a parking management plan to the Town which the Town may approve at its discretion. The parking management plan may include but not be limited to a permit parking, monitoring, and enforcement system and protocols to be managed by the building owner and/or management company on behalf of the building owner. The parking management plan shall run with the use of the ITCB and shall be binding on any subsequent building owner until such time that the use of the building is changed or the Conditional Use Permit for professional office and multi-family residential uses is terminated, revoked or becomes abandoned.

Mr. Tim McGuire presented as the applicant. Noted the building has been used as residential and commercial for years, this Permit will formally establish the historical uses.

Gusty K. asked, regarding some of the parking and snow storage appears to be within the 30ft setback. Mr. McGuire stated all the spaces are pre-existing and the area has been paved since prior to the setback regulations.

Lynn F. asked about residential units existing and proposed.

It was noted the property has several encroachments from Railroad Ave and the western adjacent neighbor. These are preexisting.

Public Hearing Opened

Ms Sage Pierson, 156 Lyons Ln, asked how the parking was utilized. This was discussed.

Public Hearing Closed

Motion by Terry A., second by Lynn F., to approve Resolution 21 – Series 2022 A Resolution approving Conditional Use Permit Application CU 02-2022 to allow for Multi-Family and Professional Office Uses within the Old Town Commercial Zone at 164 Railroad Avenue as presented with the following findings and condition. Motion passed 6-0. Note: George B. was excused absent.

Findings:

- That the proposed location of the use is in accordance with the purposes of this Chapter, the Community Plan and the purposes of the zone in which the site is located.
- That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.
- That the proposed use will comply with each of the applicable provisions of this Chapter.

Condition: Prior to the issuance of any Certificate of Occupancy for any new residential units constructed within the International Trade Center Building (ITCB), the Applicant shall provide a parking management plan to the Town which the Town may approve at its discretion. The parking management plan may include but not be limited to a permit parking, monitoring, and enforcement system and protocols to be managed by the building owner and/or management company on behalf of the building owner. The parking management plan shall run with the use of the ITCB and shall be binding on any subsequent building owner until such time that the use of the building is changed or the Conditional Use Permit for professional office and multi-family residential uses is terminated, revoked or becomes abandoned

11.4 Resolution 22 – A Resolution Declining Participation in the Colorado Paid Family and Medical Leave Insurance Program – Brunvand

In November 2020 Colorado voters approved Proposition 118 allowing for the implementation of a state-run Paid Family and Medical Leave Insurance (FAMLI) program. That same year the state legislature enacted the Healthy Families and Workplaces Act. The Town of Minturn meets or exceeds the standards of both of these new laws. The Town of Minturn provides very generous leave package in excess of state laws including allowing leave to accrue from year to year, pays 100% of an employee's salary, and doesn't require application for reimbursement of lost wages for taking leave all at no cost to the employee. The state laws require premiums in the amount of .45% of taxable wages, this .45% is paid by both the employee and the employer for a total cost of .9%, the benefit does not accrue like the town's does, and there is no outside agency to apply for leave pay. If at a later date, the town determines the State plan is of benefit to the employees we can opt in and in any case, we must confirm our desire to remain opted out every eight years. Further, if an individual employee determines it is to their benefit to opt in, they may do so at their cost without jeopardizing the status of all other Town employees.

Public Hearing Opened
No Public Comment
Public Hearing Closed

Motion by Gusty K., second by Terry A., to approve Resolution 22 – A Resolution Declining Participation in the Colorado Paid Family and Medical Leave Insurance Program as presented. Motion passed 6-0. Note: George B. was excused absent.

11.5 Resolution 23 – Series 2022 A Resolution to appoint a Planning Commission Member – Brunvand

Minturn Planning Commission is a five member/plus one alternate commission appointed for two year overlapping terms. Members are appointed by the Town Council for two-year terms that run April through March. Similar to Council there are no term limits, only that public review and appointment take place.

Staff has advertised the commission openings and received two applications both of whom are qualified to serve. Council is asked to appoint ONE of the two applicants. In order to be qualified an applicant must be a resident of Minturn for more than 12 months and a registered voter.

Discussion ensued on changing to a 7-member commission. It was directed to remain with a five-member board plus one alternate.

The applicants introduced themselves and stood for questions regarding their vision for the future, thoughts of development issues regarding north Minturn vs south Minturn, familiarity with the code and time dedicated to the job at hand, .

Applicants (in order of Receipt):

Ms. Sage Pierson – 156 Lions Lane s

Ms. Tracy Anderson – 1016 Mountain Dr

Voting Summary:

Round 1; Sage Pierson received 4 votes; Tracy Anderson received 2 votes.

Motion by Terry A., second by Gusty K., to approve Resolution 23 – Series 2022 a Resolution appointing Sage Pierson as Planning Commission Member Alternate through March 31, 2024. Motion passed 6-0. Note: George B. was excused absent.

11.6 Ordinance 09 – Series 2022 (Second Reading) an Ordinance amending Article 19, Chapter 16 Sign Code – Harris

Madison H. presented there were no changes from first reading. Staff is requesting an ordinance to amend certain sections of Chapter 16 - *Zoning*, of the Minturn Municipal Code. The area of revisions proposed within the ordinance will address, define and permit certain sign regulations. The changes proposed clarify and enhance the definition and calculation of building frontage and sign area. It also removes confusing language that staff is unsure how to interpret or enforce while adding language that gives staff and the Planning Commission more direction in what counts as sign area.

The changes proposed give a more proportional allowance towards sign square footage.

Public Hearing Opened

Mr. Kit Austin asked about the historical district and felt the town was not acting well on this as relates to fire safety.

Public Hearing Closed

Motion by Terry A., second by Gusty K., to approve Ordinance 09 – Series 2022 (Second Reading) an Ordinance amending Article 19, Chapter 16 Sign Code as presented. Motion passed 6-0. Note: George B. was excused absent.

12. STAFF REPORTS

12.1 Town Manager Update

- Council Committee Assignments – Metteer

Assign Council to represent Minturn on the Committees and Boards as needed. Council members to attend meetings and provide updates back to the full Council as scheduled. Direction was given and a new Committee List will be developed.

13. FUTURE AGENDA ITEMS

- Strategic plan

14. ADJOURN

Motion by Gusty K., second by Lynn F., to adjourn at 8:53pm. Motion passed 6-0. Note: George B. was excused absent.

Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

INFORMATIONAL ONLY ITEMS

Council Meetings:

- June 1, 2022
- June 15, 2022
- July 6, 2022
- July 20, 2022



To: Minturn Town Council
From: Michelle Metteer
Date: June 15, 2022
RE: Community Funding Partnership – Grant Award Contract

REQUEST:

Approve the grant contract for funding towards the construction of the new concrete water tank.

INTRODUCTION:

The Colorado River Water Conservation District (“River District”) approved a community funding grant award for money toward the construction of Minturn’s new concrete water tank. This funding will go toward helping to offset the loan amount needed to construct the tank.

ANALYSIS:

So as not to compromise the requirements of the Enterprise Fund under TABOR, Minturn is only allowed to accept up to 10% of fund revenues from state or local sources. \$159,100.00 represents this dollar amount and was approved by treasurer Jay Brunvand, municipal advisor, Jim Mann and bond counsel Mario Trimble.

COMMUNITY INPUT: ongoing

BUDGET / STAFF IMPACT: + \$159,100

STRATEGIC PLAN ALIGNMENT:

Practice clear, transparent and communicative local government

SUSTAIN AND INVEST IN THE THINGS THAT DEFINE MINTURN AS A PROUD, STURDY MOUNTAIN TOWN TO “KEEP MINTURN MINTURN”

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION: Approve

ATTACHMENTS:

- Community Funding Partnership Contract

Community Funding Partnership Contract

This Contract is made and entered into by and between the COLORADO RIVER WATER CONSERVATION DISTRICT (herein the "River District") and TOWN OF MINTURN (herein "Awardee") effective as of the date of the River District's execution hereof.

RECITALS

- A. The River District is charged by its organic statute, C.R.S. § 37-46-101, *et seq.*, with securing and ensuring adequate water supplies, both present and future, for beneficial uses within the River District's boundaries.
- B. In 2020, the registered electorate of the River District approved Ballot Question 7.A. authorizing a mill levy increase to generate additional funding further enabling the River District to protect and safeguard western Colorado water.
- C. The River District has adopted the Community Funding Partnership Framework ("Framework") and the Community Funding Partnership Guidelines ("Guidelines") articulating its clear intent on how the additional funding would be used to assist its constituents such as the Awardee.
- D. To assist its constituents, including the Awardee, the River District has established its Community Funding Partnership ("CFP")
- E. Awardee proposes to complete the project described herein and has made application to the River District's CFP for financial assistance pursuant to and in compliance with the River District's Framework and Guidelines.
- F. The River District has reviewed the Awardee's project proposal pursuant to its Framework and Guidelines and desires to assist with the funding of the project subject to the terms and conditions of this Contract, and Awardee desires to receive such financial assistance from the River District as provided herein.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises agreed to herein, the parties agree as set forth below.

1. Awardee's Project Plan and Budget. The Awardee shall, in a satisfactory manner as determined by the River District, use the River District CFP funding consistent with the Project Plan and Budget ("Project") as described herein and attached as Exhibit A. The funding provided by the River District to Awardee shall be used only for the Project. In the event the Awardee needs or desires to make changes to the Project as described in Exhibit A, any expenditures of River District's CFP funds shall be contingent on the prior written approval of the change by River District.

- A. The period of performance for the Project is three years following the date of the Award letter.

Project Performance Start Date:

Wednesday, February 9, 2022

Project Performance Termination Date:

Monday, February 10, 2025

2. River District's Financial Assistance.

- A. River District agrees to provide financial assistance to the Awardee in an amount not to exceed \$159,100.00 (the "Total Award").
- B. After execution of the contract and within 90 days of project commencement, the Awardee will notify the River District of the intended date of project commencement. Within thirty (30) days following notification, the River District will forward to Awardee \$39,775.00, which constitutes twenty-five (25%) of the Total Award.
- C. Once the Contract has been fully executed by all parties, and all other required documentation has been received fifty percent (50%) of the Total Award will be paid through "progress payments" in no more than two twenty-five percent (25%) increments. The remaining twenty-five percent (25%) will be paid upon a determination that the Project is substantially complete and the District has received a completed "Request for Final Payment" form including all required documentation from the Awardee in accordance with Paragraph 4, below.
- D. Within thirty (30) days of River District staff approval of a completed "Request for Final Payment" form, in compliance with subparagraph 4.A below, the River District will forward to Awardee the remaining amount of the Total Award. If the total cost of the Project is less than originally estimated at the time of application, the River District may reduce the River District award proportionally at the discretion of the General Manager.
- E. If determined necessary by the River District, the River District will issue Awardee an IRS 1099 form and other applicable federal or state revenue reporting forms for each year in which funds are distributed pursuant to this Contract. Awardee is and shall be solely liable and responsible for any federal and state taxes applicable to this Contract and any financial assistance received hereunder. Awardee shall indemnify the River District for any liability resulting from non-payment of such taxes.

3. Awardee's Compliance with Applicable Local, State, and Federal Laws. The work performed pursuant to this Contract shall comply, at all times, with all applicable local, state, and federal laws and regulations. Awardee shall not discriminate against any person

because of age, sex, race, national origin, ancestry, disability, religion, or other protected classification.

- (1) Compliance with C.R.S. § 8-17.5-102:
- (a) Awardee shall not knowingly employ or contract with an illegal alien to perform the Work.
 - (b) Awardee shall not enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the Work.
 - (c) Awardee will participate in the e-verify program^[1] or department program^[2] in order to confirm the eligibility of all employees who are newly hired for employment to perform the Work.
 - (d) Awardee shall not use the e-verify program or department program to undertake pre-employment screening of job applicants during the term of this Agreement.
 - (e) Awardee obtains actual knowledge that a subcontractor performing the Work knowingly employs or contracts with an illegal alien, the Awardee shall:
 - i) Notify the subcontractor and the River District within three days that the Awardee has actual knowledge that the subcontractor is employing or contracting with illegal aliens; and
 - ii) Terminate the subcontract if the subcontractor does not stop employing or contracting with the illegal alien within three days of receiving such information. If the subcontractor provides information to establish that the subcontractor did not knowingly employ or contract with an illegal alien, then the Awardee shall not terminate the subcontract.
 - (f) Awardee shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation of whether Awardee or a subcontractor has hired an illegal alien.
 - (g) If Awardee violates any of the terms of this section D.(1), or

^[1]E-verify program means the electronic employment verification program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended and jointly administered by the United States department of homeland security and the social security administration, or its successor program.

^[2]Department program means the employment verification program established pursuant to C.R.S. §8-17.5-102(5)(c).

otherwise fails to comply with C.R.S. § 8-17.5-102, the River District may terminate the Agreement for breach of contract and the Awardee shall be liable for actual and consequential damages to the River District.

4. Final Payment and Repayment of River District Grant.

- A. Within sixty (60) days after completion of the Project, Awardee shall submit to the River District a completed “Request for Final Payment” form. Timely submission shall be required for final payment pursuant to subparagraph 2.D. above.
- B. If completion of the Project is interrupted or delayed beyond the contract termination date stated in subparagraph 1.A above, Awardee shall notify the River District on or before **Thursday, December 12, 2024** and request a Contract Amendment to extend the termination date.
- C. Awardee shall not be eligible for final payment if the River District does not receive a completed Request for Final Payment form on or before **Friday, April 11, 2025**

5. Awardee's Additional Responsibilities and Liabilities.

- A. Awardee shall be responsible for making all contracts and assuring the acquisition of all interests in property or other rights and all permits or other governmental approvals needed to complete the Project.
- B. Awardee shall be responsible for the acts, errors and omissions of itself and its employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in connection with the Project and for the acts, errors and omissions of the Project's owners and users. Awardee agrees, to the extent permitted by law, to indemnify, hold harmless, and defend the River District and its directors, officers, employees, agents, and attorneys for the actions, errors and omissions of Awardee and Awardee's employees, consultants, agents, and any other persons employed or retained on behalf of Awardee in the performance of this Contract and for the acts, errors and omissions of the Project's owners and users. The parties recognize that the River District is a governmental entity subject to the provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- C. At its sole cost Awardee or its contractor(s) shall purchase and maintain in effect through Project completion insurance which will protect it and the River District from claims which may arise out of, result from or be related to Awardee's performance of the work on the Project, whether such performance be by itself or by anyone directly or indirectly retained or employed by Awardee or by anyone for whose acts, errors, or omissions any of them may be liable. Such insurances required herein shall be written for limits of liability as follows:

- i. Commercial General Liability:
 - (1) Bodily Injury and Property Damage:
\$1,000,000 each occurrence/\$1,000,000 aggregate
 - (2) Personal Injury:
\$1,000,000 each occurrence/\$1,000,000 aggregate
- ii. Commercial Automobile Liability:
 - (1) Bodily Injury & Property Damage:
\$1,000,000 any one accident or loss
- iii. Workers' Compensation and Employer's Liability:
 - (1) Workers' Compensation: Statutory
 - (2) Employer's Liability:
\$100,000 each accident
\$100,000 disease - each employee
\$500,000 disease - policy limit

D. The Commercial General Liability and Commercial Automobile Liability policies required hereunder shall include the River District named as additional insured. If Awardee's Contractor is providing the necessary insurance Awardee shall also be named an additional insured. Awardee shall supply the River District with a certificate of each insurance policy required herein prior to or along with the notice of project commencement in accordance with Paragraph 2.B. . The certificates of insurance shall evidence that the premium has been paid and contain a valid provision or endorsement that the policies may not be canceled, terminated, changed or modified without thirty (30) days written notice to the River District. Each certificate of insurance **must** reference the contract number assigned to this Agreement (**CFP2022-11**).

E. Awardee warrants performance of this Contract and the completion of all work required for the Project. Awardee and any persons working on its behalf shall at all times comply with all applicable local, state, and federal laws and regulations. Not by way of limitation of the foregoing, it is specifically agreed that neither Awardee nor any persons working on its behalf on the Project shall discriminate against any person because of age, race, sex, national origin, ancestry, disability, or religion.

6. Authorized Representatives.

A. The River District designates Amy Moyer, as its representative for primary contact for the River District in connection with this Contract. The address, telephone number and email address for notices and communications is: 201 Centennial Street, Suite 200, Glenwood Springs, Colorado 81601, phone: (970) 945-8522, amoyer@crwcd.org.

- B. Awardee designates Michelle Metteer as its representative to act for Awardee in connection with this Contract. The address, telephone number and email address for notices and communications is: 301 Boulder Street #309, Minturn, CO 81645, phone:970-827-5645 x 8, email: manager@minturn.org

7. Miscellaneous.

- A. Assignment. This Contract involves the grant of public money. Consequently, this Contract shall not be assigned by Awardee without the River District's prior written approval, which may be withheld in the River District's sole discretion.
- B. Binding Effect. This Contract shall be immediately binding upon both parties and their respective successors, if any.
- C. No Partnership, Joint Venture or Third Party Beneficiaries. This Contract is not intended to and does not create any legal partnership, joint venture or similar relationship between the River District and Awardee or any other persons or entities. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the River District and Awardee, and nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person or entity. It is the express intent of the parties to this Contract that any person or entity receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
- D. Additional Limitations on the River District's Responsibilities. The River District's involvement with the Project's construction and operation shall be limited to payment of the above sum to Awardee. The River District shall not be responsible for or in control of the Project's feasibility, implementation, operation, maintenance, repair, or replacement.
- E. Remedies. If Awardee is in breach or default of any obligation under this Contract, the River District may give Awardee written notice of such breach or default. Upon receipt of such notice, within thirty (30) days Awardee shall both cure such breach or default and provide the River District evidence of such cure. If Awardee fails to cure any such breach or default within thirty (30) days, the River District may terminate this Contract and Awardee shall be required to promptly repay to the River District the full amount of any grant funds received. In any action for breach or for enforcement of this Contract, the River District shall be entitled to recover its attorneys fees and litigation costs.
- F. Notices. All notices required or appropriate pursuant to this Contract shall be given in writing to the parties' designated representatives at the addresses stated in paragraph 7.
- G. Entire Agreement/Amendments. This Contract is the complete integrated understanding between the parties. No prior or contemporaneous addition,

deletion, or other amendment to this Contract shall have any force or effect unless stated in writing approved and executed by both parties.

(continued on next page)

IN WITNESS WHEREOF, the Parties hereto have accepted, made and executed this Contract upon the terms, conditions and provisions stated herein.

**COLORADO RIVER WATER
CONSERVATION DISTRICT**

DATE: _____

By: _____
Andrew A. Mueller, Secretary/General Manager

ATTEST:

APPROVED AS TO FORM:

Audrey Turner, Chief of Operations

By: _____
Jason V. Turner, Senior Counsel

TOWN OF MINTURN

By: _____
Name: Michelle Metteer
Title: Town Manager



Exhibit A.1 Scope of Work

Date: March 2, 2022

Awardee: Town of Minturn

Project Name: Minturn Water Tank Project

Project Summary: Construct a single potable .595MG water tank on town owned property located adjacent to the existing water plant. This tank will replace an existing tank which is aged and failing

Project Success and Deliverable: The referenced water tank will be online and connected to the existing water treatment and distribution system. This project is anticipated to be completed at the end of the 2022 construction season (approximately October 2022)

Task 1 Description: Mobilization, Layout and prepare the land for construction

Task 2 Description: Construct the tank and attach to the existing treatment and distribution system.



Exhibit A.2 Budget

Date: March 3, 2022

Project Name: Minturn Water Tank Project

Awardee: Town of Minturn

CRD Funding Award: \$250,000 - Town will only take \$159,100 in order to remain TABOR compliant

Project Budget

Task No.*	Task Name	Units**	# of Units	Cost Per Unit	CRD Funds
1	Mobile/Demobile, Erosion Control, Micropile	LS	1.00	\$ 703,900.00	\$ -
2	Construction	LS	1.00	\$ 1,551,184.00	\$ 159,100.00
3					
CRD Funding Award					\$159,100

**Please document expenses at the task level (i.e. totalling all subtasks)*

***I.e. hours (HRS), cubic yards (CY), square feet (SQFT), lump sum (LS) etc.*

River District has the discretion to reallocate CRD funds between identified tasks not to exceed total funding award.

June 6, 2022

Town of Minturn
c/o Mike Sawyer

Re: *Miners Base Camp LLC v. Town of Minturn*

Dear Mike:

This letter will confirm the retention of Nathan Dumm & Mayer P.C. (“firm”) on behalf of the Town of Minturn (“client”). The basis of our retention will be to file and prosecute a counterclaim against Miners Base Camp related to approval of its land use application. This correspondence is intended to formalize that relationship and shall form our Retention Agreement. Should the Town later obtain coverage for this matter through its insurer, the Town may request that CIRSA accept the firm as defense counsel. The Town, however, shall remain responsible for any fees and costs not reimbursed by the insurer.

Our charges will be based on hourly time rates and disbursements. We reserve the right to assign more than one lawyer to any matter. We will use paralegals and law clerks to otherwise lower the client’s potential bill. Our billing rates will be as follows:

Senior Shareholder - \$270.00
Shareholders - \$215.00-250.00¹
Associates/Of-Counsel - \$190.00-200.00
Paralegals - \$115.00
Law Clerks - \$100.00
Clerical - \$40.00

This firm customarily charges for non-court costs and expenses, including those associated with large photocopying, large postage, mileage and electronic research, as well as travel and other out-of-pocket expenses. We will use our discretion in determining which costs are reasonably necessary to provide services to our client. These types of costs may also include duplication of documents, filing fees, service of process, depositions and the like. Unusual expenses, such as those greater than \$1,500.00, will only be incurred after prior approval by you or the client.

We will provide you periodic statements. Typically, we bill monthly or quarterly, but, depending on the nature and magnitude of the services, we may bill more or less frequently.

¹ Mr. Poppe’s rate is \$215 per hour.

If the client does not comply with the terms of this agreement, it is agreed that we shall have the right to withdraw. In that case, the Town will not object to our withdrawal and will execute such documents as may be necessary to facilitate that.

At the conclusion of our engagement, this firm will retain the file for 60 days at which time you may retrieve the file or the file may be disposed of at the discretion of the firm.

Pursuant to § 8-17.5-101, C.R.S., et seq., the firm represents and agrees that:

As of the date of this Agreement:

- The firm does not knowingly employ or contract with an illegal alien; and
- The firm has participated or attempted to participate in the basic pilot employment verification program [now known as E-Verify] created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the “Basic Pilot Program”) in order to verify that the firm does not employ any illegal aliens.

The firm shall not knowingly employ or contract with an illegal alien to perform works under this Agreement or enter into a contract with a subcontractor that fails to certify to the firm that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

If the firm has not been accepted into the Basic Pilot Program prior to entering into this Agreement, the firm shall apply to participate in the Basic Pilot Program and shall verify in writing such application within seven (7) days of the date of this Agreement. The firm shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until the firm is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.

The firm is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

If the firm obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the firm shall:

- Notify such subcontractor and the client within three days that the firm has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that the firm shall not

terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The firm shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

If the firm violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Agreement. If this Agreement is so terminated, the firm shall be liable for actual and consequential damages to the Town arising out of the firm's violation of Subsection 8-17.5-102, C.R.S.

The client will notify the Office of the Secretary of State if the firm violates this provision of this Agreement and the client terminates the Agreement for such breach.

If you agree with the terms set forth above, please have an authorized representative execute this agreement and return it to us. Signatures in counterparts may suffice to create one integrated agreement. We very much look forward to working with you on this matter.

Sincerely,

/s/ Nick Poppe

Nicholas C. Poppe

AGREED:

By: _____
Authorized on behalf of the Town of Minturn

Title: _____

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 24 – SERIES 2022**

A RESOLUTION PROVIDING DIRECTION TO PROCEED AND AUTHORIZING THE MAYOR OF THE TOWN OF MINTURN TO SIGN ANY AND ALL DOCUMENTS REQUIRED TO ACCEPT THE PROPOSED NATHAN DUMM AND MAYER RETENTION AGREEMENT FOR LEGAL COUNCIL ON MATTERS REGARDING A COUNTERCLAIM AGAINST MINERS BASE CAMP RELATED TO APPROVAL OF ITS LAND USE APPLICATION FOR THE TOWN OF MINTURN AS SET FORTH HEREIN

WHEREAS, The Town Council of the Town of Minturn recognizes the need and defend against the Miners Base Camp counterclaim; and,

WHEREAS, The Town has as requested a proposal and has received this proposal to fulfill these identified needs from Nathan Dumm and Mayer.

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

1. The Minturn Town Council accepts the attached proposal as presented in Attachment “A” for specified legal services and authorizes the Mayor or his designee to sign on behalf of the town of Minturn any and all documents required to reasonably ensure completion.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this
16th day of June, 2022.**

TOWN OF MINTURN

**By: _____
Earle Bidez, Mayor**

ATTEST:

Jay Brunvand, Town Clerk

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: June 10, 2022
TO: Minturn Mayor and Council
FROM: Karp Neu Hanlon, P.C.
RE: Resolution 26 – Retention of Jester Gibson & Moore

Resolution 26 – Series 2022 seeks approval of a retention agreement for the law firm of Jester Gibson & Moore. This agreement will provide the Town with outside legal assistance to evaluate contract matters. Councilperson Lynn Feiger is “of counsel” to the Jester Gibson & Moore law firm. An “of counsel” relationship does not have any equity ownership in the law firm and therefore does not share in profits. The retention agreement confirms that Ms. Feiger will not work on any matters for the Town of Minturn nor receive any financial compensation associated with the work performed by the firm for the Town.

Under Town Code section 2-4-70 a Town officer (such as a council person) shall not:

(3) perform an official act which directly and substantially affects economically a business or other undertaking in which such officer . . . has a substantial financial interest.

(4) Perform an official act which directly and substantially affects a business or other undertaking by which the officer or employee is employed, or by which such officer or employee is engaged as counsel, consultant, representative or agent.

Under Section 2-4-60, a substantial financial interest means an interest owned or held by an officer or employee which is:

- a. An ownership interest in a business;
- b. A creditor interest in an insolvent business;
- c. An ownership interest in real or personal property;
- d. A loan or any other debtor interest;

Page 2

e. A directorship or officership in a business;

f. An employment or prospective employment for which negotiations have begun.

Ms. Feiger will not vote on Resolution 26 – Series 2022 and therefore not undertake an official act regarding the retention of services from Jester Gibson & Moore.

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 26 – SERIES 2022**

**A RESOLUTION PROVIDING DIRECTION TO PROCEED AND
AUTHORIZING THE MAYOR OF THE TOWN OF MINTURN TO SIGN
ANY AND ALL DOCUMENTS REQUIRED TO ACCEPT THE
PROPOSED JESTER GIBSON & MOORE RETENTION AGREEMENT
FOR LEGAL COUNCIL**

WHEREAS, The Town Council of the Town of Minturn recognizes the need for legal assistance to evaluate contract issues and prospects for enforcing certain contracts; and,

WHEREAS, The Town has as requested a proposal and has received this proposal to fulfill these identified needs from Jester Gibson & Moore.

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

1. The Minturn Town Council accepts the attached proposal as presented in Attachment “A” for specified legal services and authorizes the Mayor or his designee to sign on behalf of the town of Minturn any and all documents required to reasonably ensure completion.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this
16th day of June, 2022.**

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

Jay Brunvand, Town Clerk

Jester Gibson & Moore, LLP

June 10, 2022

Via electronic mail

Mayor Earle Bidez
Town of Minturn

Re: Engagement of Jester Gibson & Moore, LLP

Dear Mayor Bidez:

We look forward to working with you. The purpose of this letter is to set forth the terms of this firm's engagement. You have asked that this firm provide analysis and guidance to the Town of Minturn ("Client") on potential contract issues and prospects for enforcement. We have accepted this engagement and agreed to provide these services, on the terms set forth herein, which will also govern any additional work which Client requests and we provide unless a separate, express written agreement has been reached with respect to such services.

This engagement has been assumed in accordance with our standard hourly fees, in connection with which Client agreed to pay for the performance of legal services rendered by me at the rate of \$350.00 per hour. Whenever appropriate, we will employ another attorney, paralegal or law clerk to perform services, which services will be billed at rates ranging from \$165.00 to \$475.00 per hour, depending on the person rendering them. These rates may be increased at some point in the future, but no increase will be made prior to the end of this calendar year. By signing this agreement, Client agrees to pay for our services, including any services rendered before the date of this agreement.

It is further our agreement that any reasonable out-of-pocket expenses incurred on Client's behalf (such as filing fees, deposition costs, expert witness fees, mileage costs and the like) will be fully reimbursed to the firm by Client. We do not charge for domestic long-distance calls, faxes, or copying (unless the copy project is in excess of 100 copies). In the firm's discretion, invoices in excess of \$500.00 may be forwarded to you for payment directly to the vendor.

As part of this Agreement, we have agreed to provide Client with a 20% gross reduction in all attorney fees billed to Client throughout the representation of Client. However, if our firm is successful in its representation and obtains an attorney fee award as the prevailing party in the litigation, then Client agrees that firm is entitled to attempt to recover its full hourly fees, without discount, from Battle. In the event of a successful fee petition and recovery of attorneys' fees from Battle in excess of the discounted amount offered to Client, then firm and Client agree that firm is entitled to all amounts recovered based on the fee petition up to firm's full regularly hourly rates (and not including any discounts), but in no event shall firm be compensated above any amounts

1999 Broadway, Suite 3225, Denver, Colorado 80202

■ Phone 303-377-7888 ■ Fax 303-377-7075

awarded and recovered from Battle by fee petition (net of amounts previously paid to firm by Client).

Lynn Feiger is of counsel to the firm. Ms. Feiger will not receive any financial compensation associated with work performed under this Agreement.

We will bill Client for all services performed at the above-described rates and any costs that we incurred on Client's behalf. We will provide a detailed monthly breakdown of the legal services rendered and costs incurred for the preceding month. Other policies are attached hereto and are hereby incorporated into this agreement.

In the event legal action is necessary to collect amounts due and owing under this Agreement, Client agrees to pay all costs of collection, including reasonable attorneys' fees. This Agreement is governed by the laws of the State of Colorado and the parties hereby expressly agree that venue is proper in Denver County, Colorado.

Because this matter involves a pending lawsuit, Client has the obligation to preserve all documentary evidence that pertains to this matter. The obligation to preserve evidence extends to electronically stored information ("ESI") that is directly or indirectly in your custody, possession, and control. For example, ESI may be found in a smart phone, tablet, office workstation, personal computer, network server, drop-box, on the cloud, in removable media such as a flash drive, and in back-up or archival systems. The duty to preserve extends to ESI in all of its forms, such as e-mails, text messages, voicemails, telephone systems, electronic calendars, spreadsheets, Word documents, reports generated from accounting software, slideshows, and pod-casts. Due to the volatility of ESI, particular care should be taken not to alter, delete, or destroy it. Accordingly, the preservation obligation requires you to determine whether (i) routine records management policies and procedures, or (ii) changes to your hardware and software environment will alter, delete, or destroy ESI, and to take all reasonable measures to prevent this from occurring.

We may communicate with you and you may communicate with us via electronic mail. There are inherent risks associated with the transmission of confidential information by electronic mail. If you have any concerns in that regard, we are happy to discuss them with you.

Thank you for the opportunity to provide legal services on Client's behalf. If you have any questions concerning any of the above, please do not hesitate to call. If the foregoing terms and attached policies meet with your approval, please confirm your understanding and our agreement by signing a copy of this letter where indicated below and returning the signed copy to me.

Sincerely,

JESTER GIBSON & MOORE, LLP

By:

Justin M. Plaskov

ACKNOWLEDGED AND AGREED:

TOWN OF MINTURN

By: Earle Bidez, Mayor

Date _____

Jester Gibson & Moore, LLP

The following engagement policies should be read in conjunction with an Engagement Letter simultaneously sent to you. Both this law firm and the client referenced in the Engagement Letter agree to the following:

1. Invoices. Please review each invoice carefully when you receive it. If you have questions regarding any entry, please feel free to contact the applicable attorney. Likewise, please contact the appropriate attorney immediately if there will be a delay in payment for any reason.
2. Retainers. Retainers will be held in our trust account. Under Colorado law, any interest is paid to COLTAF (to assist the needy with legal services). Retainers will be applied as services are rendered or costs incurred. This law firm may withhold services until a retainer or additional retainer (as may be requested from time to time) is received. Any unused portion of a retainer will be returned within forty-five (45) days following the termination of the engagement.
3. Termination of Engagement. Subject to the rules governing withdrawal by counsel, either party may terminate the engagement upon written notice to the other party (at the last known address, email address, or facsimile number, as applicable). Client will remain liable for fees and expenses accruing through the date of termination.
4. Client Information. Client information will not be released without the consent of the client (or representative of the client), unless requested by a governmental entity or court. Client contact information will not be sold. WE WILL ONLY STORE FILES, DOCUMENTS, INFORMATION, AND MATERIALS FOR TWO (2) YEARS FOLLOWING THE DATE ON WHICH WORK WAS LAST PERFORMED ON ANY PARTICULAR MATTER AFTER WHICH WE MAY DESTROY OUR FILE. If you want copies of any material in our file you must make arrangements with us during that time.
5. Late Charges. Fees and costs charged by the law firm are due and payable as of the date of the invoice. Any invoice not paid within thirty (30) days following the date of the invoice shall accrue interest (retroactive to the date of the invoice) at the monthly rate of one percent (1%).
6. Rebilling Fees. A charge of \$10.00 for rebilling for each additional invoice (invoices will be no more than monthly) will be added if the first invoice is not paid.
7. Bounced Checks. If a check is returned due to insufficient funds, stop payment or similar matters, a fee of \$50.00 will be assessed.
8. Travel Charges. This law firm shall charge for travel time outside of the Denver-Metro Area at one half of the normal hourly rate of the applicable time keeper. Mileage shall be charged at the current IRS approved-rate, for travel outside of the Denver-Metro Area. Within the Denver-Metro area mileage will not be charged, but time in transit will be billed at normal rates. Travel expenses excluding airline, ground transportation, and lodging expenses will be billed at a rate of \$75 per diem.
9. Withholding Services. This law firm reserves the right to withhold services pending receipt of any amounts owed to us.
10. Collection. In the event legal action is necessary to collect amounts due and owing, the client agrees to pay all costs of collection, including reasonable attorneys' fees. The parties agree any dispute over fees or charges that cannot be resolved informally shall be submitted to the binding arbitration of the Fee Dispute Resolution Committee of the Colorado Bar Association, if the total amount in dispute is less than \$20,000. If the amount in dispute is more than \$20,000, the parties agree to submit the Judicial Arbitrator Group in Denver, Colorado. Each party shall be responsible for paying one-half of the costs of the arbitration, but at the conclusion of the arbitration the arbitrator shall award all costs and reasonable attorney fees to the prevailing party. Venue is proper in the City and County of Denver, State of Colorado and the parties hereby submit themselves to the jurisdiction of all courts therein.

1999 Broadway, Suite 3225, Denver, Colorado 80202

■ Phone 303-377-7888 ■ Fax 303-377-7075

JESTER GIBSON & MOORE, LLP

RATE STRUCTURE

EFFECTIVE FEBRUARY 1, 2022

Attorneys

Brian T. Moore	\$425.00 per hour
Marcel Krzystek	\$400.00 per hour
Colleen Prescott	\$355.00 per hour
Justin M. Plaskov (Employment)	\$375.00 per hour
Justin M. Plaskov (Non-Employment)	\$350.00 per hour
Denison Goodrich-Schlenker	\$265.00 per hour
Rachel Tumin	\$255.00 per hour
Brandy Booth	\$240.00 per hour
Robert R. Marsh	\$400.00 per hour
Thomas J. Gibson	\$500.00 per hour
Jay S. Jester	\$475.00 per hour

Paralegals

Laura K. Johnson	\$185.00 per hour
Cristina Tostado	\$165.00 per hour
Chelsea Linton	\$185.00 per hour

Legal Assistants \$140.00 per hour

Law Clerks \$150.00 per hour

MEMORANDUM

June 13, 2022

TO: Town Council

FROM: Hayley K. Siltanen

CC: Michael J. Sawyer, Karp Neu Hanlon, P.C.

RE: Stipulation in Eagle River Water & Sanitation District (“District”) and Upper Eagle Regional Water Authority (“Authority”) Case Nos. 21CW3029 and 21CW3030

Before the Council at the June 15, 2022, meeting is approval of stipulations by the Town with the District and Authority to resolve the Town’s opposition in the District’s and Authority’s Case Nos. 21CW3029 and 21CW3030.

The District and Authority filed the applications in Case Nos. 21CW3029 and 21CW3030 in March 2021. The application in Case No. 21CW3029 sought approval of a Bolts Lake water right and associated plan for augmentation. The application in Case No. 21CW3030 sought approval of Eagle River surface water rights and an associated plan for augmentation. The Town filed statements of opposition in both cases in order to monitor the cases and ensure that the Town’s water rights on Cross Creek and the Eagle River were not injured.

In February 2022, the Town entered into an Intergovernmental Agreement (the “IGA”) with the District and Authority, pursuant to which the District and the Authority agreed to, among other things, amend the pending water court application in Case No. 21CW3030 to include certain Eagle River diversion rights for the benefit of the Town, to be conveyed to the Town upon conclusion of the case. The District and the Authority further agreed to include the Town’s augmentation supplies as augmentation sources for those water rights. Correspondingly, the Town agreed to stipulate to entry of a decree in Case Nos. 21CW3029 and 21CW3030 within 30 days of the District’s and the Authority’s filing of the amended application.

On May 16, 2022, the Court accepted the District’s and Authority’s amended application in Case No. 21CW3030, which amended application includes Eagle River surface water rights for the benefit of the Town. Pursuant to Paragraph 14(a) of the IGA, June 15, 2022, is the deadline for the Town to enter into stipulations in Case Nos. 21CW3029 and 21CW3030. The attached stipulations in Case Nos. 21CW3029 and 21CW3030 are consistent with the terms of the IGA.

<p>DISTRICT COURT, WATER DIVISION 5 STATE OF COLORADO</p> <p>109 8th Street, Suite 104 Glenwood Springs, CO 81601 (970) 928-3062</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</p> <p>EAGLE RIVER WATER & SANITATION DISTRICT AND UPPER EAGLE REGIONAL WATER AUTHORITY</p> <p>IN EAGLE, GRAND AND PITKIN COUNTIES, COLORADO</p>	
<p>Kristin H. Moseley, #28678 Michael W. Daugherty, #49074 Daniel J. Condren, #54337 Somach Simmons & Dunn, P.C. 1155 Canyon Boulevard, Suite 110 Boulder, CO 80302 Telephone: (303) 449-2834 Email: kmoseley@somachlaw.com; mdaugherty@somachlaw.com; dcondren@somachlaw.com</p>	<p>Case No: 21CW3029</p> <p>Division: 5</p>
<p>STIPULATION AND AGREEMENT</p>	

Applicants, the Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority, and Opposer, the Town of Minturn (“Minturn”), by and through their undersigned counsel, hereby stipulate and agree as follows:

1. Applicants and Minturn enter into this Stipulation to resolve Minturn’s opposition in the above-captioned matter.
2. Minturn consents to the entry of a decree in this case that is no less restrictive on the Applicants than the proposed decree attached as **Exhibit A** (“Proposed Decree”).
3. Applicants and Minturn further agree to be bound by the following terms and conditions:
 - a. Applicants acknowledge that Minturn’s water rights on Cross Creek decreed in the following cases are senior to Applicants’ water rights pending

in this case and in Case No. 21CW3030, Water Division 5: C.A. 671, C.A. 1137, C.A. 1333, W-1100, W-1101, Case No. 94CW355, Case No. 96CW324, Case No. 05CW262, Case No. 05CW263, and Case No. 07CW225. Accordingly, if Minturn places a valid call for its senior water rights on Cross Creek, Applicants shall be subject to that call.

- b. After such time as full and final judgments and decrees are entered in this case and in Case No. 21CW3030, and Bolts Lake is constructed and operational, Applicants shall not seek findings of diligence for the conditional water rights owned by Applicants that were originally decreed in Case No. 06CW264.
 - c. Applicants and Minturn agree to enter into an agreement governing the use of any structure(s) claimed by both Applicants and Minturn prior to the use of such structure.
 - d. Applicants and Minturn agree to cooperate to fulfill the terms of the Intergovernmental Agreement dated February 2, 2022, between Applicants and Minturn (the “Intergovernmental Agreement”), attached to this Stipulation as **Exhibit B**.
4. Minturn will remain a party to these proceedings for the limited purpose of ensuring that any decree entered in this case is consistent with this Stipulation and is protective of the terms of the Intergovernmental Agreement. Applicants shall provide Minturn copies of any revised proposed rulings provided to other parties to this case in a timely manner.
 5. Applicants shall file this Stipulation with the Court along with a motion requesting approval of this Stipulation. Minturn consents to Applicants’ motion.
 6. The signatories hereto represent and warrant that they are authorized to bind their clients, respectively, to the terms of this Stipulation.
 7. Each party shall bear its own costs and attorney fees associated with this case.
 8. The parties desire that the Stipulation be recognized and approved as an Order of the Court.

Respectfully submitted this ____ day of _____, 2022.

HOLLAND & HART LLP

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<p>DISTRICT COURT, WATER DIVISION 5, STATE OF COLORADO</p> <p>Court Address: 109 8th Street, Suite 104 Glenwood Springs, CO 81601 Phone: (970) 928-3062</p>	<p>▲ COURT USE ONLY ▲</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF EAGLE RIVER WATER & SANITATION DISTRICT AND THE UPPER EAGLE REGIONAL WATER AUTHORITY IN EAGLE, GRAND AND PITKIN COUNTIES, COLORADO</p>	<p>Case Number: 21CW3029</p> <p>Div: 5 Ctrm:</p>
<p>FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE OF THE WATER COURT</p>	

The Application for Water Rights and Approval of Plan for Augmentation and Exchange (“Application”) in this Case was filed on March 12, 2021. The Application was rereferred to the Water Referee for Water Division 5, State of Colorado, by the Water Judge of this Court (“Water Court”) in accordance with C.R.S. §§ 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969.

The Court, having made such investigations as are necessary to determine whether the statements in the Application are true, and being fully advised of the subject matter of the Application, does hereby enter the following Findings of Fact, Conclusions of Law, Ruling of the Referee, and Decree of the Water Court (the “Decree”):

FINDINGS OF FACT

1. The statements in the Application are true, except as may be otherwise stated herein.
2. Name and Address of the Applicants:

Eagle River Water & Sanitation District (“District”)
 Upper Eagle Regional Water Authority (“Authority”)
 c/o General Manager
 846 Forest Road
 Vail, Colorado 81657

with copies of pleadings to:

Kristin H. Moseley
Michael W. Daugherty
Daniel J. Condren
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3. Notice & Jurisdiction: All notices required by law have been given and the Court has jurisdiction over the subject matter of this Decree and over all persons who may be affected thereby, whether they have appeared or not.

4. Statements of Opposition: Statements of Opposition were timely filed by J Tucker; J Tucker, Trustee; the Colorado Water Conservation Board (“CWCB”); the Grand Valley Water Users Association (“GVWUA”); the Orchard Mesa Irrigation District (“Orchard”); the Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise (“Ute Water”); Vail Resorts, Inc. (“Vail”); City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities (“Colorado Springs”); Town of Gypsum (“Gypsum”); City of Aurora, acting by and through its Utility Enterprise (“Aurora”); and the Town of Minturn (“Minturn”). Collectively, the foregoing parties are referred to as the “Objectors.” The time for filing statements of opposition has expired, and no party has sought to intervene in this matter.

5. Stipulations: The Objectors entered into stipulations with the District and the Authority approving the form of this Decree and the Court has approved said stipulations:
 - A. J Tucker, stipulation dated _____.
 - B. J Tucker, Trustee, stipulation dated _____.
 - C. CWCB, stipulation dated _____.
 - D. GVWUA, stipulation dated _____.
 - E. Orchard, stipulation dated _____.
 - F. Ute Water, stipulation dated _____.
 - G. Vail, stipulation dated _____.
 - H. Colorado Springs, stipulation dated _____.
 - I. Gypsum, stipulation dated _____.
 - J. Aurora, stipulation dated _____.
 - K. Minturn, stipulation dated _____.

6. Report of the Division Engineer: This Court has given due consideration to the Division Engineer’s Summary of Consultation dated June 25, 2021, and the District’s and the Authority’s Response to Division Engineer’s Summary of Consultation dated August 20, 2021.

7. Description of Conditional Storage Water Right Decreed Herein:

A. Bolts Lake:

- i. Legal Description: The existing off-channel reservoir is located in Homestead Entry Survey No. 40, Homestead Entry No. 021, containing a portion of the W $\frac{1}{2}$ of Section 1 and the E $\frac{1}{2}$ of Section 2, Township 6 South, Range 81 West of the 6th P.M. Eagle County, Colorado, and in Homestead Entry Survey No. 41, Homestead Entry No. 022, containing a portion of the SW $\frac{1}{4}$ of Section 1, S $\frac{1}{2}$ of Section 2, N $\frac{1}{2}$ of Section 11 and NW $\frac{1}{4}$ of Section 12, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. The enlarged Bolts Lake will be located in the E $\frac{1}{2}$ of Section 2, Township 6 South, Range 81 West and the W $\frac{1}{2}$ of Section 1, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. All sections and portions are projected, as this area is unsurveyed.
- ii. Dam Location: The approximate coordinates of the center of the proposed Bolts Lake dam are Lat. 39° 33' 22.828" N, Long. 106 ° 24' 11.831" W.
- iii. Source: Eagle River and Cross Creek, a tributary of the Eagle River, tributary to the Colorado River.
- iv. Points of Diversion: Water will be diverted to storage at the following alternate points of diversion on Eagle River and Cross Creek to fill Bolts Lake:
 - a. Bolts Eagle River Diversion No. 1: to be located on the west bank of the Eagle River in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11, Township 6 South, Range 81 West, 6th P.M. at a point 190 feet from the East section line and 610 feet from the North section line. A supplemental description for this location is the following UTM coordinates: UTMNAD 83 Zone 13N, Easting 379309, Northing 4378339.
 - b. Bolts Eagle River Diversion No. 2: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5,465 feet West of the line common to Range 80 and 81 West, and 7,265 feet South of the line common to Townships 5 and 6 South. A supplemental description for this location is the following UTM coordinates: UTMNAD 83 Zone 13N, Easting 379306, Northing 4378410.

- c. Bolts Eagle River Diversion No. 3: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4,000 feet from the North section line and 4,465 feet from the East section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379627, Northing 4379404.
- d. Bolts Ditch Headgate: located at a point on Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28 degrees West 6,350 feet. The GPS coordinates for the point of diversion are Lat. 39.550483 N, Long. 106.421317 W. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 377878, Northing 4378828.
- e. Bolts Ditch Headgate Alternate Diversion Points:
- 1) Arminda Ditch Headgate: located on the east (right) bank of Cross Creek at a point whence the SW Corner of Section 36, Township 5 South, Range 81 West, 6th P.M., bears North 27°38' East 2,718 feet. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378061, Northing 4380023.
 - 2) Bolts Ditch Pumpstation No. 1: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 9,178 feet west of the line common to Range 80 and 81 West and 4,001 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378116, Northing 4379913.
 - 3) Bolts Ditch Pumpstation No. 2: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 8,911 feet west of the line common to Range 80 and 81 West and 3,692 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378285, Northing 4379530.
- f. Maloit Park Diversion Point: to be located within 500 feet upstream or downstream of a point on the right bank of Cross

Creek that is approximately 9,131 feet west of the line common to Range 80 and 81 West and 1,238 feet south of the line common to Townships 5 and 6 South of the 6th P.M. in Eagle County. A supplemental description for this location is the following UTM coordinates: UTMNAD 83 Zone 13N, Easting 378226, Northing 4380272.

- g. Lower Cross Creek Diversion Point: to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 357 feet east of the west section line and 93 feet north of the south section line of Section 36, Township 5 South, Range 81 West of the 6th P.M. in Eagle County. A supplemental description for this location is the following UTM coordinates: UTMNAD 83 Zone 13N, Easting 378636, Northing 4380656.

A map of Bolts Lake and the alternate points of diversion is attached as **Figure 1**.

- v. Appropriation Date: March 12, 2021
- vi. Storage Amount: 1,210 acre-feet, conditional, together with the right to one refill in the amount of 1,210 acre-feet, conditional.
- vii. Diversion Rates, Volumetric Limit: 30 cfs, conditional, at any one or combination of the alternate points described above for diversions from Cross Creek; 50 cfs, conditional, at any one or combination of the alternate points described above for diversion from the Eagle River. In addition to these diversion rate limits, water diverted at the points of diversion described above will be subject to a cumulative annual volumetric limit of 2,420 acre-feet, the amount of a fill and refill of the storage right.
- viii. Use: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction.
- ix. Location of Use: The above storage rights may be used throughout the District's and Authority's service areas, as those service areas may expand from time to time, and the Battle North development and the Town of Minturn water service area. The District's current service area is depicted and described on the attached **Figure 2**, and the Authority's current service area is depicted and described on the attached **Figure 3**. A map including the location of the Battle North development and showing the

Town of Minturn current and anticipated water service area is attached as **Figure 4**.

8. Claim for Approval of a Plan for Augmentation and Exchange:

A. Structure to be Augmented: Bolts Lake, described above in paragraph 7.

B. Water Rights to be Used for Augmentation Directly or by Exchange:

- i. Up to 337.6 acre-feet of the historic consumptive use water associated with the District’s historic irrigation water rights, described in **Exhibit A**. The monthly distribution of the availability of those consumptive use credits is as follows:

Maximum Monthly and Annual Availability of
 Historic Consumptive Use Water
 (Units = Acre-feet)

Ditch	Decree	May	Jun	Jul	Aug	Sep	Oct	Total
Katsos	W-2256	1.5	5.4	4.7	3.1	3.1	1.2	19.0
Main Gore	79CW124	2.0	7.3	6.4	4.2	4.2	1.9	26.0
Buffehr and Rose and 1 st Enl.	79CW124	5.3	19.4	17.0	11.1	11.1	4.9	68.8
Black Gore	79CW124	3.4	12.5	10.9	7.2	7.2	3.0	44.2
Bryant Lower & 1st Enl.	W-2664 & 79CW124	13.8	50.6	44.4	29.1	29.1	12.6	179.6
TOTALS		26.0	95.2	83.4	54.7	54.7	23.6	337.6

- ii. Contract Water: Up to 1,210.8 acre-feet of water per year under Contract Nos. CW02020, CW03005, CW08010 and CW08011 with the Colorado River Water Conservation District (the “Colorado River District”). 500 acre feet of this amount is controlled by the District, and 710.8 acre feet of this amount is controlled by the Authority. The above-listed contracts provide that water supplied will derive from either (1) Wolford Mountain Reservoir (as decreed for storage by the Colorado River District in Case Nos. 87CW283, 95CW281, and 98CW237 or additional storage water right decrees that may be obtained by the Colorado River District in the future); or (2) the Colorado River District’s contractual rights to water deliveries from Ruedi Reservoir (further described below). Contract Nos. CW08010 and CW08011 also provide that water supplied under such contracts may also derive from other supplies that the Colorado River District may acquire suitable for use in its Water Marketing Program.

Wolford Mountain Reservoir is Decreed as Follows:

- a. Case No. 87CW283:
Date: November 20, 1989
Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis with the right abutment will occur at a point which bears S. 54°54'20" E. a distance of 3,716.46 feet from the NW Corner of said Section 25.
Source: Muddy Creek and its tributaries
Amount: 59,993 acre feet conditional; of this amount, 32,986 acre feet have been made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW281
Appropriation Date: December 14, 1987
Decreed Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses.

- b. Case No. 95CW281:
Date: August 26, 1997
Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, T. 2 N., R. 81 W., 6th P.M. The as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the Colorado River Water Conservation District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears S. 53°24'56" E. a distance of 3,395.51 feet from the NW Corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75° 28' 29" E.
Source: Muddy Creek and its tributaries
Amount: 6,000 acre feet conditional
Appropriation Date: January 16, 1995
Decreed Use: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange.

- c. Case No. 98CW237:
Decree Date: July 6, 2000.
Legal Description of place of storage: Same as for 95CW281.

Source: Muddy Creek and its tributaries Amount: 30,000 acre feet conditional with 15,895 AF being absolute for recreational and piscatorial and flood control.

Appropriation Date: November 17, 1998 Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Case No. 87CW283, District Court for Colorado Water Division No. 5 (November 20, 1989 Judgment and Decree), and Case No. 95CW281, District Court for Colorado Water Division No. 5 (August 26, 1997 Judgment and Decree).

The Colorado River District holds Contracts No. 009D6C0111, 009D6C0118, 039F6C0011, and 078D6C0106 from the United States Bureau of Reclamation for 6,730 acre feet of annual supply from Ruedi Reservoir and may obtain additional contracts in the future. Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82°10'W. a distance of 1,285 feet. The source is the Fryingpan River.

Ruedi Reservoir is decreed as follows:

- d. Civil Action No. 4613:
Decree Date: June 20, 1958.
Court: Garfield County District Court.
Amount: 140,697.3 acre feet, reduced to 102,369 acre feet pursuant to order of the Water Court in Case No. W-789-76. The full amount was made absolute in Case No. 88CW85.
Appropriation Date: July 29, 1957.
Use: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial.
- e. Case No. 81CW34:
Decree Date: April 8, 1985.
Court: District Court, Water Div. No. 5.
Amount: 101,280 acre feet (refill); of this amount, 44,509 acre feet were made absolute in Case No. 95CW95 and 25,257 acre feet were made absolute in Case No. 01CW269, for a total of 69,766 acre feet absolute. Appropriation Date: Jan. 22, 1981.
Use: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought.

iii. Eagle Park Reservoir: Up to 1,073.5 acre-feet of water per year from Eagle Park Reservoir. 432.8 acre feet of this amount is owned by the District, and 640.7 acre feet of this amount is owned or controlled by the Authority. Eagle Park Reservoir is decreed by the Water Court in Case Nos. 92CW340 and 93CW301 for a combined total capacity of 27,600 acre feet, with an appropriation date of March 16, 1991, for 5,300 acre feet, and May 18, 1993, for 22,300 acre feet, together with the right to divert at the rate of 80 cfs under the August 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the Water Court in Case No. 97CW288, for mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreation, fish and wildlife, irrigation, agricultural, exchange, replacement, augmentation and all other beneficial purposes. The north abutment of the dam crest is located approximately 160 feet north of the south section line and 650 feet east of the west section line of Section 28, T. 7 S., R. 79 W., 6th P.M., Eagle County, Colorado. Eagle Park Reservoir is augmented by exchange by decree of the Water Court in Case No. 95CW348. Eagle Park Reservoir Company has made absolute 3,301 acre-feet of the original 5,300 acre-feet by decree of the Water Court entered in Case No. 13CW11. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto, and water tributary to Tenmile Creek a tributary of the Blue River. In addition to the tributary area upstream of the reservoir, the specific points of diversion into storage for Eagle Park Reservoir are as follows:

- a. The East Fork Interceptor Ditch: which has a capacity of 48 cfs and diverts from unnamed tributaries of the East Fork of the Eagle River at the following points, all of which are located in Eagle County, Colorado:
 1. 900 feet south of the north section line and 1100 feet west of the east section line of Section 5, T. 8 S., R. 79 W., 6th P.M.
 2. 1250 feet south of the north section line and 700 feet east of the west section line of Section 4, T. 8 S., R. 79 W., 6th P.M.
 3. 1200 feet north of the south section line and 800 feet east of the west section line of Section 33, T. 7 S., R. 79 W., 6th P.M.
 4. Runoff, surface flow, and seepage from the area above the East Fork Interceptor Ditch as it runs between the above-described points of diversion and Eagle Park Reservoir.

- b. The Chalk Mountain Interceptor Ditch: which has a capacity of 12 cfs and diverts runoff and seepage as it runs a distance of approximately 3.4 miles from Fremont Pass, located in the W1/2 of Section 11, T. 8 S., R. 79 W., 6th P.M., northwesterly along State Highway 91 and the South side of Robinson Tailing Pond, thence westerly to the south of Chalk Mountain Reservoir and Robinson Reservoir, thence northwesterly to Eagle Park Reservoir. The Chalk Mountain Interceptor Ditch diverts water from the headwaters of Tenmile Creek in Summit County and from the headwaters of the East Fork of the Eagle River in Eagle County.
- c. The East Interceptor Ditch: which has a capacity of 20 cfs and runs northeasterly from a point whence the northeast corner of Section 2, T. 8 S., R. 79 W., 6th P.M. bears North 77°20' East a distance of 850 feet at the north fork of McNulty Creek, thence along the east side of Robinson and Tenmile Tailing Ponds into Supply Canal No. 1 described below. The East Interceptor Ditch diverts water from the north fork of McNulty Creek and surface flow, seepage, and runoff from watersheds above it that are tributary to Tenmile Creek.
- d. The Supply Canal No. 1: which has a capacity of 10 cfs and diverts water from the following tributaries of Tenmile Creek at the following points:
1. On the west bank of Humbug Creek at a point whence the southwest corner of Section 18, T. 7 S., R. 78 W. bears South 71°35' West a distance of 3250 feet.
 2. On the south bank of Mayflower Creek at a point whence the northeast corner of Section 24, T. 7 S., R. 79 W., 6th P.M. bears North 16°55' East a distance of 2250 feet.
 3. Runoff, surface flow, and seepage from the area above the Supply Canal No. 1 as it runs between the above-described points of diversion and the Climax Mill.
- e. The Supply Canal No. 2: which has a capacity of 10 cfs and diverts water from the following tributaries of Tenmile Creek at the following points:
1. On the west bank of Searle Creek at a point whence U.S.L.M. Kokomo bears South 45°58' East 3740 feet (located in the NW¹/₄ of the SE¹/₄ of Section 13, T. 7 S., R. 79 W., 6th P.M.).

2. On the south bank of Kokomo Creek at a point whence U.S.L.M. Kokomo bears North 39°36' east 2635 feet (located in the SE¼ of Section 22, T. 7 S., R. 79 W., 6th P.M.).
 3. Runoff, surface flow, and seepage from the area above the Supply Canal No. 2 as it runs between the above-described points of diversion and the Climax Mill.
- f. The East Fork Pumping Plant: which has a capacity of 6 cfs and diverts from the East Fork of the Eagle River at a point in the SE¼ NE¼ of Section 32, T. 7 S., R. 79 W., 6th P.M. at a point whence the NE corner of said Section 32 bears N. 31°53' E. a distance of 2414 feet. The East Fork Pumping Plant is augmented by exchange by decree of the Water Court in Case No. 03CW211.
- iv. Homestake Reservoir: Up to 506.5 acre-feet of water per year from Homestake Reservoir. The District is the owner of 250 shares of Class B stock in the Eagle Park Reservoir Company which entitles the District to the annual release of up to 250 acre feet of water from Homestake Reservoir. The Authority is the owner of 256.5 shares of Class B stock in the Eagle Park Reservoir Company which entitles the Authority to the annual release of up to 256.5 acre-feet of water from Homestake Reservoir. The right to the annual release of this Homestake Reservoir water is obtained pursuant to the 2004 Water Exchange Agreement dated June 21, 2004, among the City of Aurora, the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc., as modified by the Consolidated Water Exchange Agreement dated as of January 5, 2010, among the Cities of Aurora and Colorado Springs and the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc. Homestake Reservoir, also known as Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 acre feet conditional, 43,504.7 acre feet of which is now absolute. This reservoir is located on Homestake Creek with a dam being located whence the NW Corner of Section 31, T. 7 S., R. 80 W., 6th P.M. bears N. 58°30.6' E. 24,659 feet from the East dam abutment and N. 62°25.8' E. 25,746 feet from the West dam abutment. The sources of supply of said reservoir are the East Fork of Homestake Creek, the Middle Fork of Homestake Creek and Homestake Creek.
- C. Description of Plan for Augmentation and Exchange: The Plan for Augmentation and Exchange will allow the District and the Authority to divert and store water in Bolts Lake described in paragraph 7 above on a year-round basis for use throughout the District's and Authority's service areas, as those service areas may

expand from time to time, and the Battle North development and the Town of Minturn water service area. At times when such diversions are out of priority, the District and Authority will replace such out of priority storage in accordance with the following plan for augmentation and exchange:

- i. Augmentation Plan. To permit the requested out of priority diversions, the District and Authority propose to either: (1) use the District’s consumptive use credits described in paragraph 8(B)(i) above in an amount up to 337.6 consumptive acre feet; (2) cause the release of or otherwise commit to the Colorado River up to 1,210.8 acre-feet of water per year from Wolford Mountain Reservoir and/or Ruedi Reservoir described in paragraph 8(B)(ii) above; (3) cause the release of or otherwise commit to the Eagle River up to 1,073.5 acre-feet of water per year from Eagle Park Reservoir described in paragraph 8(B)(iii) above; and (4) cause the release of or otherwise commit to the Eagle River up to 506.5 acre-feet of water per year from Homestake Reservoir described in paragraph 8(B)(iv) above, or a combination thereof.

- ii. Exchange Plan Reach and Rate: The Plan for Augmentation and Exchange will allow the District and Authority to augment by exchange out of priority diversions into Bolts Lake described in paragraph 7 above, when augmented by the water rights described in paragraph 8(B) above. (1) The downstream terminus of the exchange involving the District’s historic consumptive use credits described in paragraph 8(B)(i) shall be the confluence of Gore Creek and the Eagle River. (2) The downstream terminus of the exchange involving Wolford Mountain Reservoir water is the confluence of the Colorado River and the Eagle River. (3) The downstream terminus of the exchange involving Ruedi Reservoir water is the confluence of the Roaring Fork River and the Colorado River. (4) The downstream terminus of the exchanges involving Eagle Park and Homestake Reservoir water shall be the confluence of Cross Creek and the Eagle River for the Cross Creek diversion points. (5) The upstream terminus of the subject exchanges are the diversions into Bolts Lake described in paragraph 7(A)(iv) above. The maximum rate of exchange is 50 cfs, conditional to the water rights and/or structures identified in paragraph 2 above. The exchanges are subject to a cumulative annual volumetric limit of 1,548.4 acre-feet from July 1 through June 30 of each year. A map showing the subject exchange reaches, including Wolford Mountain Reservoir and Ruedi Reservoir, is attached hereto as **Figure 5**.

	Exchange to (upstream terminus):	
Exchange from (downstream terminus):	Bolts Eagle River Diversion Nos. 1, 2, & 3 (Eagle River)	Bolts Ditch Headgate & APODs, Maloit Park & Lower Cross Creek Diversion Points (Cross Creek)
Confluence Colorado & Eagle Rivers		

Wolford Mountain Reservoir	50 cfs	30 cfs
Confluence Roaring Fork & Colorado Rivers		
Ruedi Reservoir	50 cfs	30 cfs
Confluence Gore Creek & Eagle River		
Historical Stream Credits	1.6 cfs	1.6 cfs
Confluence Cross Creek & Eagle River		
Eagle Park Reservoir	---	30 cfs
Homestake Reservoir	---	30 cfs

- iii. Priority Date for Exchange: March 12, 2021
- iv. In Priority Diversions: The District and Authority shall have the right to divert the water rights described in paragraph 7 whenever they are in priority. The sources of augmentation water described in paragraph 8(B) need only be utilized when the water right and structures described in paragraph 7 are out of priority.
- v. Point of Augmentation Water Replacement. The District and Authority will provide replacement of depletions at or above the point of a senior calling right.

9. Terms and Conditions:

- A. Applicants must provide prior notice to the Division Engineer of the operation of the exchanges decreed herein.
- B. Applicants shall install measuring devices, provide accounting, and supply calculations regarding the timing of depletions as required by the Division Engineer for the operation of this plan. Applicants shall also file a monthly report with the Division Engineer by the 10th of each month, or as required by the Division Engineer, summarizing diversions and replacements made under this plan.
- C. The Division Engineer for Water Division No. 5 must approve the Applicants' accounting forms before Applicants' operations approved in this Decree may proceed. The accounting forms may be changed from time to time so long as all information required by the decree in this case is included in the accounting forms and any changes to the accounting forms are approved by the Division Engineer.

The Division Engineer must approve or deny any changes to the accounting forms within sixty (60) days of receipt.

- D. Pursuant to C.R.S. § 37-92-305(8), the Division Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to such vested water rights.
- E. Transit losses will be determined and assessed at the time releases are made and may be modified per CRS § 37-80-102(7) and CRS § 37-83-104 as determined necessary by the Division Engineer.
- F. The exchanges on Cross Creek and the Eagle River claimed herein and the Bolts Lake storage water right claimed herein are junior to CWCB’s decreed instream flow rights on Cross Creek and the Eagle River in Case Nos. W-3788, W-3795, W-3796, 80CW0134, 80CW0126 and 80CW0124. The exchanges shall not be operated when such decreed instream flow rights are not met and the stream is being administered.
- G. The exchange or any portion thereof described herein shall only operate in priority and only at such time as there is a live flow of water in the exchange reaches on Cross Creek and the Eagle River.
- H. Applicants shall coordination with Minturn on Cross Creek diversions into Bolts Lake, including operations of exchanges, to avoid causing flows at the USGS Gage at Cross Creek near Minturn (Gage No. 09065100) to drop below CWCB instream flows decreed in Case No. W-3795.
- H. When diverting by the exchanges decreed herein, the rate and amount of Applicants’ depletions at the upstream termini shall not exceed the rate and amount of Applicants’ deliveries of replacement water at the downstream termini.
- I. Augmentation use of the Bolts Lake storage water right may only occur pursuant to and consistent with terms and conditions of an existing or future Water Court decree or administrative approval that allows for such augmentation use.

CONCLUSIONS OF LAW

- 10. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.
- 11. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). The Water Court has jurisdiction over the Application and over all entities or persons who had standing to appear, even though they did not do so.
- 12. The Application is complete, covering all applicable matters required pursuant to the

Water Right Determination and Administration Act of 1969. C.R.S. §§ 37-92-101 *et seq.*

13. The Application is in accordance with Colorado law and is granted as set forth herein.
14. If operated in accordance with the terms and conditions of this decree, the plan for augmentation described herein will prevent injury to senior vested or decreed conditional water rights.
15. Applicants have demonstrated the requisite first step to appropriate a conditional water right through intent and overt acts sufficient to place third parties on notice, and the water rights claimed and decreed can and will be diverted, stored, or otherwise captured, possessed, controlled, and beneficially used. In addition, the water rights can and will be perfected with diligence and within a reasonable time. § 37-92-304(4), C.R.S.
16. For the plan for augmentation decreed herein, the Court specifically finds that operation and administration of the augmentation plan as described herein and pursuant to the terms and conditions hereof, will replace the out-of-priority depletions of the structures decreed herein in time, location, and amount as necessary to prevent injury to senior water rights as required under Colorado law. All substituted water provided for in the augmentation plan shall be of a quality, quantity, and continuity to meet the requirements of use for which the appropriations receiving such water have normally been used pursuant to C.R.S. § 37-92-305(5).
17. The District and Authority have fulfilled all legal requirements for a decree for the requested water rights, appropriative rights of exchange, and augmentation plan.

RULING OF THE REFEREE

18. The Findings of Fact and Conclusion of Law as set forth above are incorporated herein by reference and are hereby modified as necessary to constitute part of the Ruling and Final Judgment and Decree.
19. The Referee does, therefore, conclude that the Application should be granted and hereby ORDERS that, subject to the terms and conditions of this decree, (A) a conditional water right for Bolts Lake is decreed as described in paragraph 7 above; and (B) the plan for augmentation and exchange is approved and decreed as described in paragraph 8, above.
20. Pursuant to C.R.S. § 37-92-304(6), the Water Court retains jurisdiction to reconsider the question of injury to the vested rights of others for a period starting at the date of this decree and continuing until five years after the Applicants provide notice to the Opposers, the Division Engineer and the Court that the augmentation plan has become fully operational and that the proposed uses are in place; provided that, for purposes of the plan being fully operational, and Applicants providing notice, Applicants may initiate the 5-year period of retained jurisdiction after Bolts Lake has been constructed, filled, and operated for the intended beneficial uses. The notice shall include an as-built stage capacity table, an estimate of the active capacity of the reservoir, a profile of the reservoir

showing the elevation of inlet and outlet structures, and confirmation that an operable and lockable outlet structure has been installed. Any party desiring to invoke the Water Court’s retained jurisdiction on the question of injury during that time must file a verified petition with the Water Court, setting forth with particularity the factual basis upon which the petition is predicated together with proposed decretal language to address the claimed injury. The party lodging the petition shall have the initial burden of proof to establish the facts alleged in the petition. If the Court finds that the petitioner has met its burden, the District, Authority, or their successors shall bear the burden of rebutting the petitioner and/or of proposing a modification to the decree adequate to avoid the claimed injury.

21. If the District and Authority desire to maintain the conditional water right and appropriative rights of exchange decreed herein, an application for finding of reasonable diligence shall be made during or before _____, 202___, or a showing made on or before such date that said conditional rights have become absolute by reason of completion of the appropriation, or have been disposed of.
22. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file with the Division 5 Water Court a notice of transfer which shall state: (a) the title and case number of this Case No. 21CW3029; (b) the description of the conditional water right transferred; (c) the name of the transferor; (d) the name and mailing address of the transferee; and (e) a copy of the recorded decree. The owner of said conditional water right shall also notify the Clerk of the Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 21CW3029.

It is accordingly ORDERED that this Ruling shall be filed with the Water Clerk subject to judicial review.

It is further ORDERED that a copy of this Ruling shall be filed with the Division Engineer for Water Division No. 5 and with the State Engineer.

Dated this _____ day of _____, 202___.

BY THE REFEREE:

Holly K. Strablizky
Water Referee, Water Division 5

DECREE OF THE WATER COURT

No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is hereby made a Decree of this Court.

Dated this ____ day of _____, 202__.

BY THE COURT:

Hon. James Boyd, Water Judge

<p>DISTRICT COURT, WATER DIVISION 5 STATE OF COLORADO</p> <p>109 8th Street, Suite 104 Glenwood Springs, CO 81601 (970) 928-3062</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>CONCERNING THE APPLICATION FOR WATER RIGHTS OF:</p> <p>EAGLE RIVER WATER & SANITATION DISTRICT AND UPPER EAGLE REGIONAL WATER AUTHORITY</p> <p>IN EAGLE, GRAND AND PITKIN COUNTIES, COLORADO</p>	
<p>Kristin H. Moseley, #28678 Michael W. Daugherty, #49074 Daniel J. Condren, #54337 Somach Simmons & Dunn, P.C. 1155 Canyon Boulevard, Suite 110 Boulder, CO 80302 Telephone: (303) 449-2834 Email: kmoseley@somachlaw.com; mdaugherty@somachlaw.com; dcondren@somachlaw.com</p>	<p>Case No: 21CW3030</p> <p>Division: 5</p>
<p>STIPULATION AND AGREEMENT</p>	

Applicants, the Eagle River Water & Sanitation District and Upper Eagle Regional Water Authority, and Opposer, the Town of Minturn (“Minturn”), by and through their undersigned counsel, hereby stipulate and agree as follows:

1. Applicants and Minturn enter into this Stipulation to resolve Minturn’s opposition in the above-captioned matter.
2. Minturn consents to the entry of a decree in this case that is no less restrictive on the Applicants than the proposed decree attached as **Exhibit A** (“Proposed Decree”).
3. Applicants and Minturn further agree to be bound by the following terms and conditions:

- a. Applicants and Minturn agree to cooperate on data sharing, accounting and planning for augmentation releases related to the augmentation plan approved in this case.
- b. Applicants shall not reduce the Minturn Eagle River Diversion, 1st Enlargement water right diversion rate below 4 c.f.s., nor the Dowd Junction Water Rights water right diversion rate below 2 c.f.s., without the prior written consent of Minturn.
- c. Within 60 days following entry of a full and final judgment in this case, Applicants shall convey to Minturn:
 - i. an undivided interest in and to the Minturn Eagle River Diversion, 1st Enlargement; and
 - ii. an undivided interest in and to the Dowd Junction Water Rights.
- d. Minturn shall provide written notice to Applicants prior to providing water service to the Battle North development. Within 60 days following delivery of such notice to Applicants, and after entry of a full and final judgment in this case, Applicants shall convey to Minturn an undivided interest in and to the Minturn Eagle River Diversion.
- e. Applicants acknowledge that Minturn's water rights on Cross Creek decreed in the following cases are senior to Applicants' water rights pending in this case and in Case No. 21CW3029, Water Division 5: C.A. 671, C.A. 1137, C.A. 1333, W-1100, W-1101, Case No. 94CW355, Case No. 96CW324, Case No. 05CW262, Case No. 05CW263, and Case No. 07CW225. Accordingly, if Minturn places a valid call for its senior water rights on Cross Creek, Applicants shall be subject to that call
- f. After such time as full and final judgements and decrees are entered in this case and in Case No. 21CW3029, and Bolts Lake is constructed and operational, Applicants shall not seek findings of diligence for the conditional water rights owned by Applicants that were originally decreed in Case No. 06CW264.
- g. Applicants and Minturn agree to enter into an agreement governing the use of any structure(s) claimed by both Applicants and Minturn prior to the use of such structure.
- h. Applicants and Minturn agree to cooperate to fulfill the terms of the Intergovernmental Agreement dated February 2, 2022, between Applicants and Minturn (the "Intergovernmental Agreement"), attached to this Stipulation as **Exhibit B**.

4. Minturn will remain a party to these proceedings for the limited purpose of ensuring that any decree entered in this case is consistent with this Stipulation and is protective of the terms of the Intergovernmental Agreement. Applicants shall provide Minturn copies of any revised proposed rulings provided to other parties to this case in a timely manner.
5. Applicants shall file this Stipulation with the Court along with a motion requesting approval of this Stipulation. Minturn consents to Applicants' motion for approval of this Stipulation.
6. The signatories hereto represent and warrant that they are authorized to bind their clients, respectively, to the terms of this Stipulation.
7. Each party shall bear its own costs and attorney fees associated with this case.
8. The parties desire that the Stipulation be recognized and approved as an Order of the Court.

Respectfully submitted this ____ day of _____, 2022.

HOLLAND & HART LLP

SOMACH SIMMONS & DUNN, P.C.

Meghan N. Winokur (#35973)
Hayley K. Siltanen (#54937)
Attorneys for Town of Minturn

Kristin H. Moseley (#28678)
Michael W. Daugherty (#49074)
*Attorneys for Eagle River Water and Sanitation
District and Upper Eagle Regional Water Authority*

DISTRICT COURT, WATER DIVISION 5 STATE OF COLORADO Court Address: 109 8th Street, Suite 104 Glenwood Springs, CO 81601 Phone: (970) 928-3062	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF THE EAGLE RIVER WATER & SANITATION DISTRICT AND THE UPPER EAGLE REGIONAL WATER AUTHORITY	▲ COURT USE ONLY ▲
IN EAGLE, GRAND AND PITKIN COUNTIES, COLORADO	Case Number: 21CW3030 Div: 5
FINDINGS OF FACT, CONCLUSIONS OF LAW, RULING OF REFEREE AND DECREE OF THE WATER COURT	

The Application for Water Rights and Approval of Plan for Augmentation and Exchange (“Application”) in this Case was filed on March 12, 2021. The Application was rereferred to the Water Referee for Water Division 5, State of Colorado, by the Water Judge of this Court (“Water Court”) in accordance with C.R.S. §§ 37-92-101, *et seq.*, known as the Water Right Determination and Administration Act of 1969.

The Court, having made such investigations as are necessary to determine whether the statements in the Application are true and being fully advised of the subject matter of the Application, does hereby enter the following Findings of Fact, Conclusions of Law, Ruling of the Referee, and Decree of the Water Court (the “Decree”):

FINDINGS OF FACT

1. The statements in the Application are true, except as may be otherwise stated herein.
2. Name and Address of the Applicants:

Eagle River Water & Sanitation District (“District”)
Upper Eagle Regional Water Authority (“Authority”)
c/o General Manager
846 Forest Road
Vail, Colorado 81657

with copies of pleadings to:

Kristin H. Moseley
Michael W. Daugherty
Daniel J. Condren
SOMACH SIMMONS & DUNN, P.C.
2033 11th Street, Suite 5
Boulder, Colorado 80302
Phone: 303-449-2834
Email: kmoseley@somachlaw.com
mdaugherty@somachlaw.com
dcondren@somachlaw.com

3. Resume Notice: All notices required by law have been given and the Court has jurisdiction over the subject matter of this Decree and over all persons who may be affected thereby, whether they have appeared or not.
4. Statements of Opposition: Statements of Opposition were timely filed by J Tucker; J Tucker, Trustee; the Colorado Water Conservation Board (“CWCB”); the Grand Valley Water Users Association (“GVWUA”); the Orchard Mesa Irrigation District (“Orchard”); the Ute Water Conservancy District, acting by and through the Ute Water Activity Enterprise (“Ute Water”); Vail Resorts, Inc. (“Vail”); City of Colorado Springs, acting through its enterprise, Colorado Springs Utilities (“Colorado Springs”); Town of Gypsum (“Gypsum”); City of Aurora, acting by and through its Utility Enterprise (“Aurora”); and the Town of Minturn (“Minturn”). Collectively, the foregoing parties are referred to as the “Objectors.” The time for filing statements of opposition has expired, and no party has sought to intervene in this matter.
5. Stipulations: The Objectors entered into stipulations with the District and the Authority approving the form of this Decree and the Court has approved said stipulations:
 - A. J Tucker, stipulation dated _____.
 - B. J Tucker, Trustee, stipulation dated _____.
 - C. CWCB, stipulation dated _____.
 - D. GVWUA, stipulation dated _____.
 - E. Orchard, stipulation dated _____.
 - F. Ute Water, stipulation dated _____.
 - G. Vail, stipulation dated _____.
 - H. Colorado Springs, stipulation dated _____.
 - I. Gypsum, stipulation dated _____.
 - J. Aurora, stipulation dated _____.

K. Minturn, stipulation dated _____.

6. Report of the Division Engineer: This Court has given due consideration to the Division Engineer's Summary of Consultation dated June 25, 2021, and the District and Authority's Response to Division Engineer's Summary of Consultation dated August 20, 2021.

7. Description of Conditional Water Right Decreed Herein:

A. Bolts Eagle River Diversion:

- i. Points of Diversion: The Bolts Eagle River Diversion water right may be diverted at the following alternate points of diversion:
 - a. Bolts Eagle River Diversion No. 1: to be located on the west bank of the Eagle River in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11, Township 6 South, Range 81 West, 6th P.M. at a point 190 feet from the East section line and 610 feet from the North section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379309, Northing 4378339.
 - b. Bolts Eagle River Diversion No. 2: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5,465 feet West of the line common to Range 80 and 81 West, and 7,265 feet South of the line common to Townships 5 and 6 South. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379306, Northing 4378410.
 - c. Bolts Eagle River Diversion No. 3: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4,000 feet from the North section line and 4,465 feet from the East section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379627, Northing 4379404.
 - d. Bolts Eagle River Diversion No. 4: to be located within a reach of the Eagle River within 500 feet downstream or upstream of a point in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1, Township 6 South, Range 81 West, of the 6th P.M., Eagle County, Colorado, at a point 473 feet east of the west section line and 2,408 feet north of the south

section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379533, Northing 4379258.

- e. Minturn Eagle River Diversion: to be located within a reach of the Eagle River within 1,000 feet downstream or upstream of a point described as located in the SE¼ of the SW¼ of Section 36, Township 5 South, Range 81 West of the 6th P.M., at a point 1,328 feet from the South section line and 2,193 feet from the West section line. The Minturn Eagle River Diversion will be a surface diversion or a headgate well. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379197, Northing 4381033.

A map of the Bolts Eagle River Diversion alternate points of diversion is attached as **Figure 1**.

- ii. Source: Eagle River, tributary to the Colorado River.
 - iii. Appropriation Date: March 12, 2021.
 - iv. Amount: 2 cubic feet per second (“c.f.s.”), conditional, at any one or combination of the alternate points described above for diversion from the Eagle River.
 - v. Use: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), industrial, commercial, fire protection, construction, street sprinkling, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction.
 - vi. Location of Use: The Battle North Development and within the Town of Minturn service area (as it may expand over time). A map showing the Town of Minturn current and anticipated water service area (including the Battle North development) is attached hereto as **Figure 2**.
- B. Minturn Eagle River Diversion, 1st Enlargement: To be located as described above in Paragraph 7.A.i.e.
- i. Source: See 7.A.ii.
 - ii. Diversion Amounts: 4 c.f.s., conditional.
 - iii. Appropriation Date: March 31, 2022.
 - iv. Claimed Uses: See 7.A.v.

v. Location of Use: See 7.A.vi.

- C. Dowd Junction Water Rights: Up to three wells or surface diversions located within 1,000 feet radially from a point on the west bank of the Eagle River that is approximately 2,485 feet from the east section line and 2,005 feet from the north section line of Section 22, Township 5 South, Range 81 West of the 6th P.M. A supplemental description of the above-described point is the following UTM coordinates: UTM NAD 83 Zone 13, Easting 376093, Northing 4385066.
- i. Source: Eagle River, tributary to the Colorado River.
 - ii. Diversion Amount: 2 c.f.s., conditional at any one or combination of the alternate points described above for diversion from the Eagle River.
 - iii. Appropriation Date: March 31, 2022.
 - iv. Claimed Uses: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction.
 - v. Location of Use: The Battle North development and within the Town of Minturn service area (as it may expand over time), as depicted on **Figure 2**.

8. Description of Plan for Augmentation.

A. Water Rights/Structures to be Augmented:

- i. The Bolts Eagle River Diversion: as described above in paragraph 7.
- ii. The Minturn Municipal Diversion:
 - a. Decrees: decreed to the Town of Minturn by the Water Court in and for Water Division No. 5 (“Water Court”) in the Corrected Decree in Case No. 07CW225, entered on November 11, 2011, *nunc pro tunc* October 5, 2010.
 - b. Appropriation Date: December 19, 2007.
 - c. Use: aesthetics, piscatorial, recreational, domestic, irrigation, commercial, industrial and municipal purposes.
 - d. Amount: 8 c.f.s. conditional, at any one or combination of the following diversion points:

e. Points of Diversion:

- a. Minturn Water System Ditch: located at a point on the Westerly bank of Cross Creek from whence the section corner common to Sections 35 and 36 of Township 5 South, Range 81 West of the 6th P.M. bears North 38°43'20" East a distance of 2531.38 feet. A supplemental description for this location is the following GPS Coordinates: Lat. 39.561318 N, Long 106.419787 W.
- b. Minturn Water System Ditch Diversion Structure No. 2: located on the right (east) bank of Cross Creek at a point approximately 9,748 feet west of the line common to Range 80 and 81 West and 1,967 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following GPS Coordinates: Lat 39.561356 N. Long. 106.419239 W.
- c. Bolts Ditch Headgate: located at a point on Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28 degrees West 6,350 feet. The GPS coordinates for the point of diversion have been confirmed to be Lat. 39.550483 N, Long. 106.421317 W., including the following Bolts Ditch Headgate Alternate Points of Diversion decreed in Case No. 16CW3124:
 - 1) Arminda Ditch Headgate: located on the east (right) bank of Cross Creek at a point whence the SW Corner of Section 36, Township 5 South, Range 81 West, 6th P.M., bears North 27°38' East 2,718 feet.
 - 2) Bolts Ditch Pumpstation No. 1: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 9,178 feet west of the line common to Range 80 and 81 West and 4,001 feet South of the line common to Townships 5 and 6 South of the 6th P.M.
 - 3) Bolts Ditch Pumpstation No. 2: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 8,911 feet west of the line common to Range 80 and 81 West and 3,692 feet South of the line common to Townships 5 and 6 South of the 6th P.M.
- d. Maloit Park Diversion Structure: to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 9,131 feet west of the line common to

- Range 80 and 81 West and 1,238 feet south of the line common to Townships 5 and 6 South of the 6th P.M. in Eagle County.
- e. Lower Cross Creek Diversion Structure: to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 357 feet east of the west section line and 93 feet north of the south section line of Section 36, Township 5 South, Range 81 West of the 6th P.M. in Eagle County.
 - f. Minturn Well No. 3 Enlargement: Located in the NW1/4 of the NW1/4, Section 2, Township 6 South, Range 81 West of the 6th P.M. at a point 950 feet from the North line and 1200 feet from the West line.
 - g. Minturn Well No. 4 Enlargement: Located in the SE1/4 of the SE1/4 of Section 35, Township 5 South, Range 81 West of the 6th P.M., at a point 66 feet from the South line and 430 feet from the East line.
- iii. The following water rights decreed by the Water Court to the Town of Minturn in Case No. 05CW263, with an appropriation date of December 20, 2005, for municipal purposes at a cumulative maximum rate of diversion of 2.5 c.f.s.:
- a. Minturn Wellfield No. 1: in the alluvium within 100 feet on either side of a reach of Cross Creek commencing at a point described as 1,177 feet south and 1,440 feet west of the southwest corner of Section 36, Township 5 South, Range 81 West and continuing downstream along Cross Creek (100 feet on either side), to a point near the confluence of Cross Creek and the Eagle River described as 1,174 feet north and 1,965 feet east of the southwest corner of Section 36, Township 5 South, Range 81 West. Minturn Well Field No. 1 is located in areas where the Section lines, Township and Range have not been mapped by the United States Geological Service (“USGS”). Thus, the location of Well Field No. 1 is described above in terms of distances from the nearest mapped Section lines on the USGS Minturn Quadrangle map dated 1987. The Well Field No. 1 may also be described as beginning at a point with UTM coordinates approximately 378118 Easting and 4380283 Northing, and continuing downstream along Cross Creek to the confluence with the Eagle River with UTM coordinates approximately 379172 Easting and 4381014 Northing.
 - b. Minturn Well Field No. 2: in the alluvium within 100 feet on either side of a reach of the Eagle River commencing at a point described as 1,580 feet south and 1,727 feet west of the southeast corner of Section

36, Township 5 South, Range 81 West and continuing downstream along the Eagle River (100 feet on either side), to a point 7, 325 feet south and 2,677 feet west of the southeast corner of Section 36, Township 5 South, Range 81 West. Minturn Well Field No. 2 is located in areas where the Section lines, Township and Range have not been mapped by the USGS. Thus, the location of Well Field No. 2 is described above in terms of distances from the nearest mapped Section lines on the USGS Minturn Quadrangle map dated 1987. The Well Field No. 2 may also be described as beginning at a point with UTM coordinates approximately 379329 Easting and 4378407 Northing, and continuing downstream along the Eagle River to a point with UTM coordinates approximately 379652 Easting and 4380103 Northing.

A map of the foregoing decreed diversion points and Minturn’s water rights to be adjudicated and augmented in Paragraphs 7.A.i.e, 7.B, and 7.C is attached hereto as **Figure 3**.

B. Change in Place of Use of Water Rights:

i. Summary of Change: The District and Authority seek to expand the place of use for augmentation purposes of the historic consumptive use credits (“HCU Credits”) associated with the water rights identified in **Exhibit A** (“Gore Creek Rights”) to include the District’s and Authority’s service areas, as shown on **Figures 4 and 5**, as well as the service area of the Town of Minturn and Battle North development, as shown on **Figure 2**, including as those service areas may expand over time. The historic consumptive use values of the Gore Creek Rights were previously quantified by the Water Court in Case Nos. W-2256, W-2664, and 79CW124 and decreed for municipal, augmentation and other uses. The historic consumptive use values determined in Case Nos. W-2256, W-2664, and 79CW124 are *res judicata* in this action as the Water Court ruled in its Order dated August 16, 1984.

ii. Names of Structures: Gore Creek Rights, identified in **Exhibit A**.

a. Original & Subsequent Decrees:

a. Original Adjudications: See **Exhibit A**.

1) In Case No. W-2256, the Water Court for Water Division No. 5 decreed a change of Gore Creek Rights, on August 20, 1975.

2) In Case No. W-2664, the Water Court for Water Division No. 5 decreed a change of Gore Creek Rights, on October 2, 1976.

- 3) In Case No. 79CW124, the Water Court for Water Division No. 5 decreed a change of Gore Creek Rights, on April 29, 1981.
 - 4) In Case No. 82CW328, the Water Court for Water Division No. 5 established the HCU Credit account associated with the Gore Creek Rights, on August 6, 1987.
- b. Legal Descriptions: See **Exhibit A**.
 - c. Source: See **Exhibit A**.
 - d. Appropriation Dates: See **Exhibit A**.
 - e. Decreed Amounts: See **Exhibit A**.
 - f. Uses:
 - a. As to the Gore Creek Rights changed in Case No. W-2256, “municipal purposes (including domestic, commercial, industrial, irrigation, recreation, artificial snowmaking, fish and wildlife propagation and all other beneficial uses).” See Case No. W-2256 Decree at p. 8, ¶ 5.
 - b. As to the Gore Creek Rights changed in Case No. W-2664, “municipal purposes” including augmentation, exchange, and storage. See Case No. W-2664 at p. 3, ¶ 8.e and p. 4, ¶ 11.
 - c. As to the Gore Creek Rights changed in Case No. 79CW124, “municipal purposes (including domestic, commercial, industrial, irrigation, recreation, artificial snowmaking, fish and wildlife propagation and all other beneficial uses).” See Case No. 79CW124 Decree at p. 8, ¶ 6.
 - d. As to the Gore Creek Rights, all of which were changed in Case No. 82CW328, “augmentation, exchange, direct use, reuse, and successive use to extinction and disposition for all municipal purposes.” See Case No. 82CW328 Decree at p. 15, ¶ 8(C).
 - g. Amount of Water to be Changed: The monthly distribution of the availability of the 337.6acre-feet of HCU credits is as follows:

Table 1
 Maximum Monthly and Annual Availability of Historic Consumptive Use Water
 (Units = Acre-feet)

Ditch	Decree	May	Jun	Jul	Aug	Sep	Oct	Total
Katsos	W-2256	1.5	5.4	4.7	3.1	3.1	1.2	19.0
Main Gore	79CW124	2.0	7.3	6.4	4.2	4.2	1.9	26.0
Buffehr and Rose and 1 st Enl.	79CW124	5.3	19.4	17.0	11.1	11.1	4.9	68.8
Black Gore	79CW124	3.4	12.5	10.9	7.2	7.2	3.0	44.2
Bryant Lower & 1st Enl.	W-2664 & 79CW124	13.8	50.6	44.4	29.1	29.1	12.6	179.6
TOTALS		26.0	95.2	83.4	54.7	54.7	23.6	337.6

C. Water Rights to be Used for Augmentation Directly or by Exchange:

- i. Up to 100 acre-feet of the 337.6 acre-feet of historic consumptive use water associated with the District’s historic irrigation water rights, described in **Exhibit A**.

- ii. Contract Water: Up to 65 acre-feet of water per year under Contract Nos. CW02020, CW03005, CW08010 and CW08011 with the Colorado River Water Conservation District (the “Colorado River District”). 25 acre-feet of this amount is controlled by the District, 35 acre-feet of this amount is controlled by the Authority, and 5 acre-feet of this amount is controlled by the Town of Minturn, pursuant to Colorado River District Contract No. CW10001. The above-listed contracts provide that water supplied will derive from either (1) Wolford Mountain Reservoir (as decreed for storage by the Colorado River District in Case Nos. 87CW23, 95CW284, and 98CW237 or additional storage water right decrees that may be obtained by the Colorado River District in the future); or (2) the Colorado River District’s contractual rights to water deliveries from Ruedi Reservoir (further described below). Contract Nos. CW08010 and 08011 also provide that water supplied under such contracts may also derive from other supplies that the Colorado River District may acquire suitable for use in its Water Marketing Program.

Wolford Mountain Reservoir is decreed as follows:

- a. Case No. 87CW283:
Date: November 20, 1989

Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, T. 2 N., R. 81 W., 6th P.M. The intersection of the dam axis with the right abutment will occur at a point which bears S. 54°54'20" E. a distance of 3,716.46 feet from the NW Corner of said Section 25.

Source: Muddy Creek and its tributaries

Amount: 59,993 acre-feet conditional; of this amount, 32,986 acre-feet have been made absolute for piscatorial and recreational uses by decree entered in Water Court Case No. 95CW281

Appropriation Date: December 14, 1987

Decreed Use: All beneficial uses, including but not limited to domestic, municipal, agricultural and recreational uses.

b. Case No. 95CW281:

Date: August 26, 1997

Legal description of point of diversion or place of storage: The dam is located in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 25, T. 2 N., R. 81 W., 6th P.M. The as-built intersection of the dam axis (Sta. D19+35.61) with the West Access Road (Sta. WR50+55.05), as shown on the Colorado River Water Conservation District, Wolford Mountain Project, Ritschard Dam construction drawing "Dimensional Dam Layout" sheet 8 of 94, occurs at a point which bears S. 53°24'56" E. a distance of 3,395.51 feet from the NW Corner of said Section 25; the bearing of said dam axis from Sta. 19+35.61 to Sta. 0+00 being S. 75° 28' 29" E.

Source: Muddy Creek and its tributaries

Amount: 6,000 acre-feet conditional

Appropriation Date: January 16, 1995

Decreed Use: All beneficial uses by and for the benefit of the inhabitants of the Colorado River Water Conservation District, including but not limited to domestic, municipal, industrial, irrigation, agricultural, piscatorial and recreational; such uses will include environmental mitigation, including environmental mitigation requirements associated with the Wolford Mountain Project; such uses will be made directly or by substitution, augmentation, or exchange.

c. Case No. 98CW237:

Decree Date: July 6, 2000.

Legal Description of place of storage: Same as for 95CW281.

Source: Muddy Creek and its tributaries

Amount: 30,000 acre-feet conditional with 15,895 acre-feet being absolute for recreational and piscatorial and flood control.

Appropriation Date: November 17, 1998 Use: Certain of the beneficial uses previously adjudicated for Wolford Mountain Reservoir in Case No. 87CW283, District Court for Colorado

Water Division No. 5 (November 20, 1989 Judgment and Decree),
and Case No. 95CW281, District Court for Colorado Water
Division No. 5 (August 26, 1997 Judgment and Decree).

The Colorado River District holds Contracts No. 009D6C0111, 009D6C0118, 039F6C0011, and 078D6C0106 from the United States Bureau of Reclamation for 6,730 acre-feet of annual supply from Ruedi Reservoir and may obtain additional contracts in the future. Ruedi Reservoir is located in Sections 7, 8, 9, 11 and 14 through 18, T. 8 S., R. 84 W., 6th P.M., in Eagle and Pitkin Counties. The dam axis intersects the right abutment at a point whence the SW corner of Section 7, T. 8 S., R. 84 W. of the 6th P.M. bears N. 82°10'W. a distance of 1,285 feet. The source is the Fryingpan River.

Ruedi Reservoir is decreed as follows:

- d. Civil Action No. 4613:
Decree Date: June 20, 1958.
Court: Garfield County District Court.
Amount: 140,697.3 acre-feet, reduced to 102,369 acre-feet pursuant to order of the Water Court in Case No. W-789-76. The full amount was made absolute in Case No. 88CW85.
Appropriation Date: July 29, 1957.
Use: Domestic, municipal, irrigation, industrial, generation of electrical energy, stock watering and piscatorial.

- e. Case No. 81CW34:
Decree Date: April 8, 1985.
Court: District Court, Water Div. No. 5.
Amount: 101,280 acre-feet (refill); of this amount, 44,509 acre-feet were made absolute in Case No. 95CW95 and 25,257 acre-feet were made absolute in Case No. 01CW269, for a total of 69,766 acre-feet absolute.
Appropriation Date: January 22, 1981.
Use: Irrigation, domestic, municipal, generation of electrical energy, stock watering, industrial, piscatorial, recreation and maintenance of sufficient storage reserves to fulfill contractual obligations and provide stored water for recreation in times of drought.

- iii. Eagle Park Reservoir: Up to 160 acre-feet of water per year cumulative from the District and Authority's Eagle Park Reservoir, Homestake Reservoir, and Bolts Lake supplies. Eagle Park Reservoir is decreed by the Water Court in Case Nos. 92CW340 and 93CW301 for a combined total capacity of 27,600 acre-feet, with an appropriation date of March 16, 1991, for 5,300 acre-feet, and May 18, 1993, for 22,300 acre-feet, together

with the right to divert at the rate of 80 c.f.s. under the August 10, 1956 appropriation date of the Pando Feeder Canal pursuant to the decree of the Water Court in Case No. 97CW288, for mining, milling, industrial, snowmaking, municipal, domestic, stock watering, recreation, fish and wildlife, irrigation, agricultural, exchange, replacement, augmentation and all other beneficial purposes. The north abutment of the dam crest is located approximately 160 feet north of the south section line and 650 feet east of the west section line of Section 28, T. 7 S., R. 79 W., 6th P.M., Eagle County, Colorado. Eagle Park Reservoir is augmented by exchange by decree of the Water Court in Case No. 95CW348. Eagle Park Reservoir Company has made absolute 3,301 acre-feet of the original 5,300 acre-feet by decree of the Water Court entered in Case No. 13CW11. The source of Eagle Park Reservoir is the East Fork of the Eagle River including runoff, surface flow and seepage from the area above the reservoir and tributary thereto, and water tributary to Tenmile Creek a tributary of the Blue River. In addition to the tributary area upstream of the reservoir, the specific points of diversion into storage for Eagle Park Reservoir are as follows:

- a. The East Fork Interceptor Ditch: which has a capacity of 48 c.f.s. and diverts from unnamed tributaries of the East Fork of the Eagle River at the following points, all of which are located in Eagle County, Colorado:
 - 1) 900 feet south of the north section line and 1100 feet west of the east section line of Section 5, T. 8 S., R. 79 W., 6th P.M.
 - 2) 1250 feet south of the north section line and 700 feet east of the west section line of Section 4, T. 8 S., R. 79 W., 6th P.M.
 - 3) 1200 feet north of the south section line and 800 feet east of the west section line of Section 33, T. 7 S., R. 79 W., 6th P.M.
 - 4) Runoff, surface flow, and seepage from the area above the East Fork Interceptor Ditch as it runs between the above-described points of diversion and Eagle Park Reservoir.
- b. The Chalk Mountain Interceptor Ditch: which has a capacity of 12 c.f.s. and diverts runoff and seepage as it runs a distance of approximately 3.4 miles from Fremont Pass, located in the W1/2 of Section 11, T. 8 S., R. 79 W., 6th P.M., northwesterly along State Highway 91 and the South side of Robinson Tailing Pond, thence westerly to the south of Chalk Mountain Reservoir and Robinson

Reservoir, thence northwesterly to Eagle Park Reservoir. The Chalk Mountain Interceptor Ditch diverts water from the headwaters of Tenmile Creek in Summit County and from the headwaters of the East Fork of the Eagle River in Eagle County.

- c. The East Interceptor Ditch: which has a capacity of 20 c.f.s. and runs northeasterly from a point whence the northeast corner of Section 2, T. 8 S., R. 79 W., 6th P.M. bears North 77°20' East a distance of 850 feet at the north fork of McNulty Creek, thence along the east side of Robinson and Tenmile Tailing Ponds into Supply Canal No. 1 described below. The East Interceptor Ditch diverts water from the north fork of McNulty Creek and surface flow, seepage, and runoff from watersheds above it that are tributary to Tenmile Creek.

- d. The Supply Canal No. 1: which has a capacity of 10 c.f.s. and diverts water from the following tributaries of Tenmile Creek at the following points:
 - 1) On the west bank of Humbug Creek at a point whence the southwest corner of Section 18, T. 7 S., R. 78 W. bears South 71°35' West a distance of 3250 feet.
 - 2) On the south bank of Mayflower Creek at a point whence the northeast corner of Section 24, T. 7 S., R. 79 W., 6th P.M. bears North 16°55' East a distance of 2250 feet.
 - 3) Runoff, surface flow, and seepage from the area above the Supply Canal No. 1 as it runs between the above-described points of diversion and the Climax Mill.

- e. The Supply Canal No. 2: which has a capacity of 10 c.f.s. and diverts water from the following tributaries of Tenmile Creek at the following points:
 - 1) On the west bank of Searle Creek at a point whence U.S.L.M. Kokomo bears South 45°58' East 3740 feet (located in the NW¼ of the SE¼ of Section 13, T. 7 S., R. 79 W., 6th P.M.).
 - 2) On the south bank of Kokomo Creek at a point whence U.S.L.M. Kokomo bears North 39°36' east 2635 feet (located in the SE¼ of Section 22, T. 7 S., R. 79 W., 6th P.M.).

- 3) Runoff, surface flow, and seepage from the area above the Supply Canal No. 2 as it runs between the above-described points of diversion and the Climax Mill.
- f. The East Fork Pumping Plant: which has a capacity of 6 c.f.s. and diverts from the East Fork of the Eagle River at a point in the SE¼ NE¼ of Section 32, T. 7 S., R. 79 W., 6th P.M. at a point whence the NE corner of said Section 32 bears N. 31°53' E. a distance of 2414 feet. The East Fork Pumping Plant is augmented by exchange by decree of the Water Court in Case No. 03CW211.
- iv. Homestake Reservoir: Up to 160 acre-feet of water per year cumulative from the District and Authority's Eagle Park Reservoir, Homestake Reservoir, and Bolts Lake supplies. The right to the annual release of this Homestake Reservoir water is obtained pursuant to the 2004 Water Exchange Agreement dated June 21, 2004, among the City of Aurora, the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc., as modified by the Consolidated Water Exchange Agreement dated as of January 5, 2010, among the Cities of Aurora and Colorado Springs and the Eagle Park Reservoir Company, the Colorado River Water Conservation District, the Authority, the District, and Vail Associates, Inc. Homestake Reservoir, also known as Elliott-Weers Reservoir, was decreed by the Eagle County District Court in Civil Action No. 1193 for 83,338.98 acre-feet conditional, 43,504.7 acre-feet of which is now absolute. This reservoir is located on Homestake Creek with a dam being located whence the NW Corner of Section 31, T. 7 S., R. 80 W., 6th P.M. bears N. 58°30.6' E. 24,659 feet from the East dam abutment and N. 62°25.8' E. 25,746 feet from the West dam abutment. The sources of supply of said reservoir are (i) French Creek, Fancy Creek, Missouri Creek, and Sopris Creek via the Homestake Conduit (aka Missouri Tunnel); (ii) East Fork of Homestake Creek via the East Fork Conduit; and (iii) Middle Fork of Homestake Creek. Homestake Reservoir also conveys water from the Homestake Conduit and the East For Conduit to Homestake Tunnel.
- v. Bolts Lake: Up to 160 acre-feet per year cumulative from the District and Authority's Eagle Park Reservoir, Homestake Reservoir, and Bolts Lake supplies. The Bolts Lake application is pending in Water Court Case No. 21CW3029.
 - a. Legal Description: the existing off-channel reservoir is located in Homestead Entry Survey No. 40, Homestead Entry No. 021, containing a portion of the W½ of Section 1 and the E½ of Section 2, Township 6 South, Range 81 West of the 6th P.M. Eagle County, Colorado, and in Homestead Entry Survey No. 41, Homestead Entry No. 022, containing a portion of the SW¼ of

Section 1, S½ of Section 2, N½ of Section 11 and NW¼ of Section 12, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. The enlarged Bolts Lake will be located in the E½ of Section 2, Township 6 South, Range 81 West and the W½ of Section 1, Township 6 South, Range 81 West of the 6th P.M., Eagle County, Colorado. All sections and portions are projected, as this area is unsurveyed.

- b. Dam Location: The approximate coordinates of the center of the proposed Bolts Lake dam are Lat. 39° 33' 22.828" N, Long. 106° 24' 11.831" W.
- c. Source: Eagle River and Cross Creek, a tributary of the Eagle River, tributary to the Colorado River.
- d. Points of Diversion: Water will be diverted at the following alternate points of diversion on Eagle River and Cross Creek to fill Bolts Lake:
 - 1) Bolts Eagle River Diversion No. 1: to be located on the west bank of the Eagle River in the NE¼ of the NE¼ of Section 11, Township 6 South, Range 81 West, 6th P.M. at a point 190 feet from the East section line and 610 feet from the North section line. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379309, Northing 4378339.
 - 2) Bolts Eagle River Diversion No. 2: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NE¼ of NE¼ of Section 11 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 5,465 feet West of the line common to Range 80 and 81 West, and 7,265 feet South of the line common to Townships 5 and 6 South. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379306, Northing 4378410.
 - 3) Bolts Eagle River Diversion No. 3: to be located on or adjacent to the Eagle River in an unsurveyed portion of Eagle County that, when surveyed, will likely be in the NW¼ of SW¼ of Section 1 of Township 6 South, Range 81 West, of the 6th P.M. Eagle County, Colorado, at a point 4,000 feet from the North section line and 4,465 feet from the East section line. A supplemental description for this

location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 379627, Northing 4379404.

- 4) Bolts Ditch Headgate: located at a point on Cross Creek from whence the SW corner of Section 35, Township 5 South, Range 81 West of the 6th P.M. bears North 28 degrees West 6,350 feet. The GPS coordinates for the point of diversion are Lat. 39.550483 N, Long. 106.421317 W. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 377878, Northing 4378828.

e. Bolts Ditch Headgate Alternate Diversion Points:

- 1) Arminda Ditch Headgate: located on the east (right) bank of Cross Creek at a point whence the SW Corner of Section 36, Township 5 South, Range 81 West, 6th P.M., bears North 27°38' East 2,718 feet. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378061, Northing 4380023.
- 2) Bolts Ditch Pumpstation No. 1: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 9,178 feet west of the line common to Range 80 and 81 West and 4,001 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378194, Northing 4379414.
- 3) Bolts Ditch Pumpstation No. 2: located within 500 feet upstream or downstream of a point on the east (right) bank of Cross Creek that is approximately 8,911 feet west of the line common to Range 80 and 81 West and 3,692 feet South of the line common to Townships 5 and 6 South of the 6th P.M. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378285, Northing 4379530.

- b. Maloit Park Diversion Structure: to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 9,131 feet west of the line common to Range 80 and 81 West and 1,238 feet south of the line common to Townships 5 and 6 South of the 6th P.M. in Eagle County. A supplemental description for this location is the following UTM

coordinates: UTM NAD 83 Zone 13N, Easting 378226, Northing 4380272.

- c. Lower Cross Creek Diversion Structure: to be located within 500 feet upstream or downstream of a point on the right bank of Cross Creek that is approximately 357 feet east of the west section line and 93 feet north of the south section line of Section 36, Township 5 South, Range 81 West of the 6 th P.M. in Eagle County. A supplemental description for this location is the following UTM coordinates: UTM NAD 83 Zone 13N, Easting 378636, Northing 4380656.
 - f. Appropriation Date: March 12, 2021
 - g. Amount: 1,210 acre-feet, conditional, together with the right to one refill in the amount of 1,210 acre-feet, conditional.
 - h. Diversion Rates, Volumetric Limit: 30 c.f.s., conditional at any one or combination of the alternate points described above for diversions from Cross Creek; 50 c.f.s., conditional at any one or combination of the alternate points described above for diversion from the Eagle River. In addition to these diversion rate limits, water diverted at the points of diversion described above will be subject to a cumulative annual volumetric limit of 2,420 acre-feet, the amount of a fill and refill of the storage right.
 - i. Use: Municipal, domestic, irrigation (including watering of lawns, landscaping, parks and grounds), recreation, industrial, commercial, fire protection, construction, street sprinkling, piscatorial, augmentation, replacement, substitution and exchange, with the right for reuse and successive use to extinction.
 - vi. Minturn’s Eagle Park Reservoir and Homestake Reservoir Supplies: Up to 70 acre-feet per year cumulative from the Minturn’s Eagle Park Reservoir and Homestake Reservoir supplies pursuant to Contract Numbers CW19006 and CW10002 with the Colorado River District. Eagle Park Reservoir supplies are described in Paragraph C(iii) above, and Homestake Reservoir supplies are described in Paragraph C(iv) above.
- D. Description of Plan for Augmentation and Exchange: The Plan for Augmentation and Exchange will allow the District and the Authority to replace all out-of-priority depletions associated with the diversion of the water rights described in paragraph 8.A above on a year-round basis up to a maximum of 214 consumptive acre-feet from its supplies and up to an additional 75 consumptive acre-feet from Minturn’s contract augmentation supplies for use at the Battle North development and within the Town of Minturn service area (as it may expand over time). At

times when such diversions and/or depletions are out of priority, the District and Authority will replace such out of priority diversions and/or depletions in accordance with the following plan for augmentation and exchange:

- i. Augmentation Plan. To permit the requested out of priority depletions, the District and Authority propose to either: (1) use the District’s consumptive use credits described in paragraph 8.C.i above in an amount up to 100 consumptive acre-feet; (2) cause the release of or otherwise commit to the Colorado River up to 65 acre-feet of water per year from Wolford Mountain Reservoir and/or Ruedi Reservoir described in paragraph 8.C.ii above; (3) cause the release of or otherwise commit to the Eagle River up to 160 acre-feet of water per year cumulative from the District’s and the Authority’s Eagle Park Reservoir supplies described in paragraph 8.B.iii above, Homestake Reservoir supplies described in paragraph 8.C.iv above, and Bolts Lake supplies described in paragraph 8.C.v above; (4) up to 70 acre-feet of water per year cumulative from Minturn’s Eagle Park Reservoir and Homestake Reservoir contract supplies described in paragraph 8.C.vi above.
- ii. Consumptive Use Assumptions: For purposes of determining the consumptive use resulting from the out-of-priority diversions augmented herein, the following assumptions shall be used:
 - a. ~~The consumptive use of in-building municipal diversions shall be 5 percent (5%).~~
In-building water use shall be calculated at a consumptive use rate of 5 percent (5%).
 - b. ~~The consumptive use of lawn irrigation diversions shall be 85 percent (85%).~~
Lawn irrigation water use shall be calculated at a consumptive use rate of 85 percent (85%).
 - c. The procedures for calculating consumptive use are outlined in the Minturn decree in Case No. 07CW225, paragraph 11(F).
- iii. Exchange Plan Reach and Rate: The Plan for Augmentation and Exchange will allow the District and Authority to augment by exchange out of priority depletions from the water rights described in paragraphs 7 and 8.A.ii.-iii, when augmented by the water rights described in paragraph 8.C above.
 - (1) The downstream terminus of the exchange involving the District’s historic consumptive use credits described in paragraph 8.C.i shall be the confluence of Gore Creek and the Eagle River.
 - (2) The downstream terminus of the exchange involving Wolford Mountain Reservoir water is the confluence of the Colorado River and the Eagle River.
 - (3) The downstream terminus of the exchange involving Ruedi Reservoir water is the confluence of the Roaring Fork River and the Colorado River.
 - (4) The downstream terminus of the

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exchanges involving Eagle Park and Homestake Reservoir water shall be the confluence of Cross Creek and the Eagle River for the Cross Creek diversion points, described in paragraph 8.A. (5) The upstream terminus of the subject exchanges are the points of diversion described in paragraphs 7.A.i and 8.A.ii.e.c above. The maximum rate of the exchange is 8 c.f.s., conditional, to the water rights and/or structures identified in paragraph 7 and 8.A.ii.-iii above. A map showing the subject exchange reaches, including Wolford Mountain Reservoir and Ruedi Reservoir, is attached hereto as **Figure 6**.

Exchange from	Exchange to (upstream terminus):				
	(Eagle River Structures)			(Cross Creek Structures)	
	Bolts Eagle River Diversion Nos. 1, 2, 3 & 4; and Dowd Junction	Minturn Eagle River Diversion & 1st Enlargement	Minturn Wellfield No. 2	Minturn Water System Ditch, Minturn Water System Diversion No. 2, Bolts Ditch Headgate & APODs, Maloit Park & Lower Cross Creek Diversion Points, and Minturn Well Nos. 3 and 4 Enlargements	Minturn Wellfield No. 1
(downstream terminus):					
Confluence Colorado & Eagle Rivers Wolford Mountain Reservoir	2.0 cfs	6.0 cfs	2.5 cfs	8.0 cfs	2.5 cfs
Confluence Roaring Fork & Colorado Rivers Ruedi Reservoir	2.0 cfs	6.0 cfs	2.5 cfs	8.0 cfs	2.5 cfs
Confluence Gore Creek & Eagle River Historical Stream Credits	1.6 cfs	1.6 cfs	1.6 cfs	1.6 cfs	1.6 cfs
Confluence Cross Creek & Eagle River Eagle Park Reservoir	---	---	---	8.0 cfs	2.5 cfs
Homestake Reservoir	---	---	---	8.0 cfs	2.5 cfs

iv. Priority Date for Exchange: March 12, 2021

- v. In Priority Diversions: The District and Authority shall have the right to divert the water rights described in paragraph 8.A whenever they are in priority. The sources of augmentation water described in paragraph 8.B or 8.C need only be utilized when the water rights and structures described in paragraph 8.A are out of priority.
- vi. Point of Augmentation Water Replacement. The District and Authority will provide replacement of depletions at or above the point of a senior calling right.
- vii. Return Flows: In-building wastewater will be centrally collected and treated at wastewater treatment plants in Avon and Edwards. Return flows from in-building use will accrue to the treatment plants. Return flows from irrigation use will accrue to the Eagle River.
- viii. Reuse of Replacement Supplies: The District and Authority retain the right to reuse of all replacement augmentation supplies exceeding depletions that accrue at or below the Avon Wastewater Treatment Plant resulting from the water rights being augmented herein. Such reuse shall occur throughout the District's and Authority's service areas, as those service areas may expand over time. The District's current service area is depicted and described on the attached **Figure 4**, and the Authority's current service area is depicted and described on the attached **Figure 5**.
- ix. Depletion Assumptions: Depletions will be calculated pursuant to Paragraph 11.J in the decree in Case No. 07CW225. Applicants will augment depletions to the Eagle and Colorado Rivers above the point of call, as follows:
 - a. Below the Eagle River Diversion points and above Cross Creek, depletions equal diversion.
 - b. Between Cross Creek and Gore Creek, depletion equals diversion minus return flows from irrigation and conveyance losses.
 - c. Between Gore Creek and the Avon Wastewater Treatment Plant, depletion equals diversion minus return flows from irrigation and conveyance losses; and
 - d. Between the Avon Wastewater Treatment Plant and the confluence of the Eagle and Colorado Rivers, depletion equals diversions minus return flows from irrigation, conveyance losses, and treated wastewater effluent.

~~d-e.~~ If, in the future, the wastewater effluent changes location, these calculations may be updated accordingly to utilize the effluent credit based on where the water is returned to the stream system.

9. Terms and Conditions:

- A. Applicants must provide prior notice to the Division Engineer of the operation of the exchanges decreed herein.
- B. Applicants will provide notice to the Water Court in the event that the Intergovernmental Contract with the Town of Minturn is discontinued or modified.
- C. Applicants shall install measuring devices, provide accounting, and supply calculations regarding the timing of depletions as required by the Division Engineer for the operation of this plan. Applicants shall also file a monthly report with the Division Engineer by the 10th of the month, or as required by the Division Engineer, summarizing diversions and replacements made under this plan.
- D. The Division Engineer for Water Division No. 5 must approve the Applicants' accounting forms before Applicants' operations approved in this Decree may proceed. The accounting forms may be changed from time to time so long as all information required by the decree in this case is included in the accounting forms and any changes to the accounting forms are approved by the Division Engineer. The Division Engineer must approve or deny any changes to the accounting forms within sixty (60) days of receipt.
- E. Pursuant to C.R.S. § 37-92-305(8), the Division Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to such vested water rights.
- F. Transit losses will be determined and assessed at the time releases are made and may be modified per CRS § 37-80-102(7) and CRS § 37-83-104 as determined necessary by the Division Engineer.
- G. The exchanges on Cross Creek and the Eagle River claimed herein, as well as the new conditional water right claimed herein and the augmented structures identified herein, are junior to CWCB's decreed instream flow rights on Cross Creek and the Eagle River in Case Nos. W-3788, W-3795, W-3796, 80CW0134, 80CW0126 and 80CW0124. The exchanges shall not be operated when such decreed instream flow rights are not met and the stream is being administered pursuant to an instream flow right call.
- H. The exchange or any portion thereof described herein shall only operate in priority and only at such time as there is a live flow of water in the exchange reaches on Cross Creek and the Eagle River.

CONCLUSIONS OF LAW

10. To the extent they constitute legal conclusions, the foregoing Findings of Fact are incorporated herein.
11. All notices required by law have been properly made, including as required under C.R.S. § 37-92-302(3). The Water Court has jurisdiction over the Application and over all entities or persons who had standing to appear, even though they did not do so.
12. The Application is complete, covering all applicable matters required pursuant to the Water Right Determination and Administration Act of 1969. C.R.S. §§ 37-92-101 *et seq.*
13. The Application is in accordance with Colorado law and is granted as set forth herein.
14. If operated in accordance with the terms and conditions of this decree, the plan for augmentation described herein will prevent injury to senior vested or decreed conditional water rights.
15. Applicants have demonstrated the requisite first step to appropriate a conditional water right through intent and overt acts sufficient to place third parties on notice, and the water rights claimed and decreed can and will be diverted, stored, or otherwise captured, possessed, controlled, and beneficially used. In addition, the water rights can and will be perfected with diligence and within a reasonable time. C.R.S. § 37-92-304(4).
16. For the plan for augmentation decreed herein, the Court specifically finds that operation and administration of the augmentation plan as described herein and pursuant to the terms and conditions hereof, will replace the out-of-priority depletions of the structures decreed herein in time, location, and amount as necessary to prevent injury to senior water rights as required under Colorado law. All the substituted water provided for in the augmentation plan shall be of a quality, quantity, and continuity to meet the requirements of use for which the appropriations receiving such water have normally been used pursuant to C.R.S. § 37-92-305(5).
17. The District and Authority have fulfilled all legal requirements for a decree for the requested water rights, appropriative rights of exchange, and augmentation plan.

RULING OF THE REFEREE

18. The Findings of Fact and Conclusion of Law as set forth above are incorporated herein by reference and are hereby modified as necessary to constitute part of the Ruling and Final Judgment and Decree.

19. The Referee does, therefore, conclude that the Application should be granted and hereby ORDERS that, subject to the terms and conditions of this decree, (A) a conditional water right for Bolts Eagle River Diversion is decreed as described in paragraph 7 above; and (B) the plan for augmentation and exchange is approved and decreed as described in paragraph 8, above.
20. Pursuant to C.R.S. § 37-92-304(6), the Water Court retains jurisdiction to reconsider the question of injury to the vested rights of others for a period starting at the date of this decree and continuing until five years after the Applicants provide notice to the Objectors, the Division Engineer and the Court that the augmentation plan has become fully operational and that the proposed uses are in place; provided that, for purposes of the plan being fully operational, and Applicants providing notice, Applicants need not have installed and diverted from each of the alternate points of diversion of the Bolts Eagle River Diversion specified in paragraph 7. Any party desiring to invoke the Water Court's retained jurisdiction on the question of injury during that time must file a verified petition with the Water Court, setting forth with particularity the factual basis upon which the petition is predicated together with proposed decretal language to address the claimed injury. The party lodging the petition shall have the initial burden of proof to establish the facts alleged in the petition. If the Court finds that the petitioner has met its burden, the District, Authority, or their successors shall bear the burden of rebutting the petitioner and/or of proposing a modification to the decree adequate to avoid the claimed injury.
21. If the District and Authority desire to maintain the conditional water rights and appropriative rights of exchange decreed herein, an application for finding of reasonable diligence shall be made during or before _____, 202___, or a showing made on or before such date that said conditional rights have become absolute by reason of completion of the appropriation, or have been disposed of.
22. Pursuant to Rule 9 of the Uniform Local Rules for All State Water Court Divisions, upon the sale or other transfer of the conditional water right decreed herein, the transferee shall file with the Division 5 Water Court a notice of transfer which shall state: (a) the title and case number of this Case No. 21CW3030; (b) the description of the conditional water right transferred; (c) the name of the transferor; (d) the name and mailing address of the transferee; and (e) a copy of the recorded decree. The owner of said conditional water right shall also notify the Clerk of the Division 5 Water Court of any change in mailing address. The Clerk shall place any notice of transfer or change of address in the case file of this Case No. 21CW3030.

It is accordingly ORDERED that this Ruling shall be filed with the Water Clerk subject to judicial review.

It is further ORDERED that a copy of this Ruling shall be filed with the Division Engineer for Water Division No. 5 and with the State Engineer.

Dated this _____ day of _____, 202__.

BY THE REFEREE:

Holly K. Strablizky
Water Referee, Water Division 5

DECREE OF THE WATER COURT

No protest was filed in this matter. The foregoing Ruling is confirmed and approved and is hereby made a Decree of this Court.

Dated this ___ day of _____, 202__.

BY THE COURT:

Hon. James Boyd, Water Judge

MEMORANDUM

June 13, 2022

TO: Town Council

FROM: Hayley K. Siltanen

CC: Michael J. Sawyer, Karp Neu Hanlon, P.C.

RE: Resolution in Support of Amended Bolts Ditch Federal Legislation

Attached for consideration by the Council is a draft Resolution in support of federal legislation to allow the Eagle River Water & Sanitation District (the “District”) and the Upper Eagle Regional Water Authority (the “Authority”) to operate Bolts Ditch within the Holy Cross Wilderness area.

As you may be familiar, the historic Bolts Ditch diversion point was mistakenly included within the boundaries of the Holy Cross Wilderness area designation and was, therefore, unable to be physically maintained and operated due to wilderness use restrictions. In 2019, legislation was passed as part of an omnibus natural resources bill (2019, S.47 the John Dingell Jr. Conservation, Maintenance and Recreation Act), which allowed a wilderness exemption for the Town to exclusively operate Bolts Ditch.

Pursuant to the Intergovernmental Agreement (“IGA”) dated February 2, 2022, between the Town, the District, and the Authority, the Town assigned its interest in the Bolts Ditch headgate and ditch structure to the District and Authority. The Town further agreed to pass a resolution:

support[ing] the amendment of the Bolts Ditch federal legislation passed as part of S.47 entitled the John D. Dingell, Jr. Conservation, Management and Recreation Act to include the District and the Authority as permittees of the U.S. Forest Service special use permit for the Bolts Ditch.

IGA ¶ 10(b).

The attached Resolution supports amendment of the Bolts Ditch federal legislation to allow the District and Authority to use, maintain, and repair the Bolts Ditch and its headgate, and is consistent with the Town’s agreement in the IGA.

19095704_v1

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 27 - SERIES 2022**

**A RESOLUTION IN SUPPORT OF THE AMENDMENT OF
BOLTS DITCH FEDERAL LEGISLATION**

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

WHEREAS, the Town is the owner of a municipal water system, which the Town operates within its municipal boundaries; and

WHEREAS, the Eagle River Water & Sanitation District (the “District”) and Upper Eagle Regional Water Authority (the “Authority”) have an integrated water system that provides municipal water service from Vail to Wolcott; and

WHEREAS, the District provides sanitation service from Vail to Wolcott, including the Town; and

WHEREAS, the Town’s jurisdictional boundaries are included within the District for sanitation purposes, but not for water purposes; and

WHEREAS, the District and Authority are adjudicating water rights and have purchased land within the Town in order to construct and operate a 1,200 acre-foot water storage reservoir called Bolts Lake, which will provide sustainable water supplies for the region; and

WHEREAS, the Town, District and Authority entered into an Intergovernmental Agreement, in which the District and Authority agreed to provide the Town with augmentation water supplies from Bolts Lake and other water sources to supplement the Town’s municipal water system; and

WHEREAS, Bolts Ditch is an essential filling source for Bolts Lake, and the Town assigned its interest in the Bolts Ditch physical headgate and ditch structure to the District and Authority; and

WHEREAS, Section 1101 of Public Law 116-9, the John D. Dingell Jr. Conservation, Management, and Recreation Act (the “Act”), allows Bolts Ditch to be operated within the Holy Cross Wilderness area for diversion of water and use, and maintenance and repair of the Bolts Ditch and headgate; and

WHEREAS, the Act restricts use, maintenance and repair authority exclusively to the Town; and

WHEREAS, the District, Authority, and Town are seeking to expand the Act to include the District and Authority as additional governmental entities that may also use, maintain and repair the Bolts Ditch and its headgate.

NOW THEREFORE, BE IT RESOLVED by the Town of Minturn Town Council, State of Colorado, the Town hereby requests Congressman Neguse and Senators Bennet and Hickenlooper to introduce legislation to include the District and Authority as additional governmental entities that may use, maintain, and repair Bolts Ditch and its headgate.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 15th day of June, 2022.

TOWN OF MINTURN

By: _____
Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



To: Mayor and Council
From: Madison Harris, Planner I
Date: June 15, 2022
Agenda Item: Recent Planning Commission Recommendations and Actions

REQUEST:

Review and ratification of Planning Commission actions from their regular meeting of May 25, 2022. The following actions were taken by the Planning Commission, acting as the Minturn Design Review Board, which may be called-up for further review by the Minturn Town Council:

994 Main Street – Alford Residence

- Final Plan DRB Application for New Residence

Please note that unless there are revisions or additions to the conditions proposed by staff during decision by the Planning Commission, staff will no longer be writing cover memos for items on the Consent Agenda. In this case there was an addition to the conditions recommended by staff.

INTRODUCTION:

994 Main Street

At their regular meeting of May 25, 2022, the Planning Commission, acting as the Town of Minturn Design Review Board, reviewed the final plans for a new residence at the Alford Residence located at 994 Main Street. The plans approved by the DRB are for:

- **New Single-Family Residence**

Site plans (exterior elevation renderings and floor plans) are attached for reference.

No neighbors spoke at the DRB hearing where the DRB discussed proposed exterior materials and colors, as well as the proposed roof forms and massing in context to Chapter 16 – *Zoning*, and Appendix ‘B’ *Design Review Standards and Guidelines*, of the Town of Minturn Municipal Code.

The DRB unanimously supported the proposed construction as meeting the objectives and requirements of the MMC and design standards.

Ultimately, the DRB voted 4-0 to approve the new construction of a single-family residence as a Final Plan review, with four conditions proposed by Town Staff, plus one condition implemented by the Planning Commission:

1. The Applicant shall update the Final Plans to show final details and specifications for all site revegetation including proposed seed mixes, rates of application, and any/all temporary and/or permanent irrigation.

2. Remove small area of proposed landscape improvements located off the subject property; or, submit written evidence of approval from adjacent landowners for such improvements prior to or concurrent with any building permit application submission.
3. The Applicant shall address comments by the Town Engineer, Intermountain Engineering, dated 5.19.22 and shall revise and update the final plans accordingly prior to or concurrent with any building permit application submission with sign off by Jeff Spanel.
4. The Applicant shall provide details for all exterior lighting locations on floor plans, building elevations and reflected ceiling/roof plan sheets. Additionally, the Applicant shall submit final cut sheets/specifications for proposed exterior light fixtures prior to or concurrent with building permit application to ensure compliance with the Town's lighting standards.
5. The Applicant shall update the plans to show some form of snow retention design installed on the roof and any potential gutters needed for proper drainage.

ANALYSIS:

In reviewing the application, the Planning Commission considered the criteria and findings required by the Minturn Municipal Code, as well as testimony of staff and the Applicant. No members of the public spoke at the DRB hearing.

The proposal meets the requirements of Chapter 16 including Appendix B - Design Guidelines and Standards.

COMMUNITY INPUT:

No members of the public spoke at the DRB hearing. Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, and following Section 16-21-610 Public notice.

BUDGET / STAFF IMPACT:

N/A.

STRATEGIC PLAN ALIGNMENT:

The Planning Commission's review of proposed development projects and their actions to approve final plans for individual projects, acting as the Town of Minturn Design Review Board, aligns with the following key strategies:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

THE TOWN WILL SEEK TO MAKE INFORMED, DATA-BASED DECISIONS WITH A STANDARD OF "DOING IT RIGHT." WITH AN HONEST APPROACH TO ALL ASPECTS OF LOCAL GOVERNMENT AND A FOCUS ON THE PUBLIC PROCESS, THE TOWN COUNCIL AND STAFF ARE COMMITTED TO SERVING MINTURN WITH THE HONESTY AND INTEGRITY EXPECTED OF A SMALL-TOWN GOVERNMENT.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

The ability for Minturn to approach development as **resilient, sustainable, creative and diverse** will allow the town to continue embracing what has “**made Minturn, Minturn.**” The town can further leverage its crossroads location as a valley-wide benefit and **competitive advantage.**

RECOMMENDED ACTION OR PROPOSED MOTION:

Approve the following application on consent:

1. 994 Main Street – Alford Residence – New Single Family Home

ATTACHMENTS:

- Staff Report
- Proposed exterior elevation drawings and site plans for 994 Main Street

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Michael Boyd
Elliot Hovey
Tom Priest

Design Review Board Hearing

Alfond Residence Final Plan Review for New Home 994 Main Street

Hearing Date:	May 25, 2022
File Name and Process:	Single-Family Residence Final Plan Review
Owner/Applicant:	John Alfond and Heather Whiteford
Representative:	John Martin, Martin Manley Architects
Legal Description:	Lot 1, South Minturn Addition, a Re-Subdivision of Lot 51
Address:	994 Main Street
Zoning:	South Town Character Area – Residential Zone District
Staff Member:	Scot Hunn, Planning Director Madison Harris, Planner I
Recommendation:	Approval, with Conditions

Staff Report

I. Summary of Request:

The Applicants, John Alfond and Heather Whiteford, request Final Plan review of a new, three-bedroom, 4,730 (gross) square foot single-family residence located at 994 Main Street in the South Town Residential Zone District. The Applicant’s representative, John Martin of Martin Manley Architects, has been proactive in meeting with Town staff prior to submitting plans for a new home and has provided a relatively complete and thorough set of site, landscaping, and architectural plans.

Proposed Plans

The plans show a two-story, three-bedroom structure with a maximum building height - measured to the midpoint of the roof - just under the maximum allowable 28-foot limit within the South Town Residential Zone District.

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

Parking is adequate, with three off-street spaces provided (two in the garage and one surface space in front of the garage). The plans show a lower-level mechanical room but no finished basement space. This space, unlike similar subgrade “basement” areas that the DRB has approved in recent years, is not sized or designed for any use other than for mechanical purposes/storage purposes.

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

Overall, staff believes that the Applicants and their representative have provided a complete, detailed set of plans necessary to complete a thorough final plan review.

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

Staff is **recommending approval**, with conditions.

II. Summary of Process and Code Requirements:

These plans are being presented by the Applicant as “Final Plan” level of review for a new single-family residential structure on a legally created lot within the Town of Minturn. This is a formal hearing providing the Applicant and staff the opportunity to discuss the proposal with the Planning Commission, acting as the Design Review Board, and to address the DRB’s concerns or feedback regarding suggested revisions to the project.

If the DRB feels that the plans are complete, appropriate, and meet the intent and purposes of the Minturn Municipal Code, Chapter 16, the DRB has the option to take final action to approve the plans without conditions, or to approve with specific conditions and giving the Applicant and staff clear direction on any recommended revisions, additions or updates to the plans.

No variances are required or requested at this time.

Design Review Process

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

- (d) *Administrative procedure.*
- (1) *Upon receipt of a completed and proper application, the application for Design Review will be scheduled for a public hearing. The hearing will be conducted in accordance with the procedures set forth in this Chapter.*
 - (2) *Criteria and findings. Before acting on a Design Review application, the Planning Commission, acting as the Design Review Board (DRB), shall consider the following factors with respect to the proposal:*
 - a. *The proposal's adherence to the Town's zoning regulations.*
 - b. *The proposal's adherence to the applicable goals and objectives of the Community Plan.*
 - c. *The proposal's adherence to the Design Standards.*
 - (3) *Necessary findings. The Design Review Board shall make the following findings before approving a Design Review application:*
 - a. *That the proposal is in conformance with the Town zoning regulations.*
 - b. *That the proposal helps achieve the goals and objectives of the Community Plan.*
 - c. *That the proposal complies with the Design Standards.*

Staff suggests that the final plans for 994 Main Street meet or can be revised to meet the required findings ‘a,’ ‘b,’ and ‘c’ or subparagraph 3 – *Necessary findings* - with proposed conditions of approval.

III. Zoning Analysis:

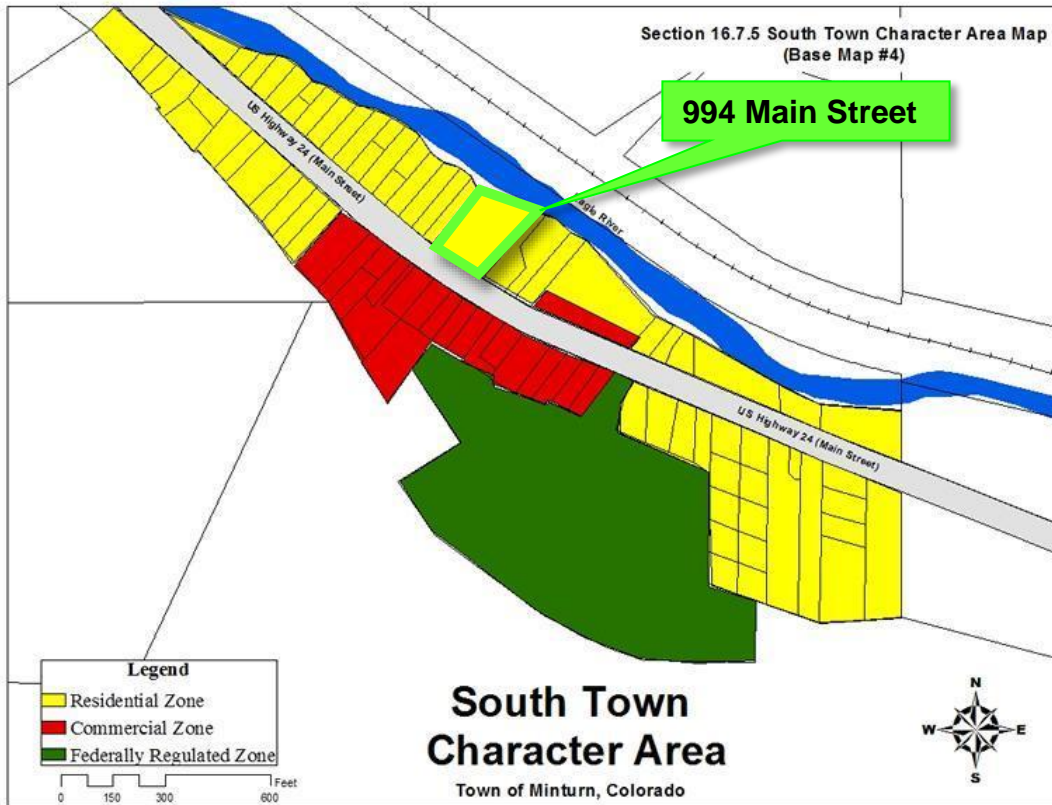
Zoning

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

- (a) *The neighborhood is bisected by Highway 24 and is **characterized by single-family residences** and accessory buildings. **The residences are typically one (1) and two (2) stories**, with outbuildings on larger lots than found in Old Town. Low-density residential and public recreational and open space use along the Eagle River is encouraged. Higher density residential development can be accommodated on the south side of Main Street if it remains in character and all impacts are adequately addressed.*
- (b) *The purpose of this area is to provide for **continued residential use** that benefits from **proximity along the Eagle River**. New development and redevelopment should preserve the unique character and scale of the neighborhood. An objective is to retain the residential areas as quiet and safe neighborhoods while allowing for compatible and appropriate nearby commercial. This area can accommodate reasonable growth where land and services are available.*

- Town of Minturn Town Code Section 16-7-20

Figure 1: South Town Character Area Zoning Map



Dimensional Limitations and Development Standards

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

Regulation	Allowed/Required	Proposed/Existing
Minimum Lot Area:	7,500 sq. ft.	sq. ft. (ac.)
Maximum Building Height:	28 feet	27 feet - 11 inches
Minimum Front Setback:	20 feet	20+ feet
Minimum Side Setback:	5 feet	5 feet
Minimum Rear Setback:	10 feet	10+ feet
Maximum Lot Coverage:	40% (3,861 sq. ft.)	2,571 sq. ft. (30%) Proposed

Maximum Impervious Coverage:	55% (4,719 sq. ft.)	4,375 sq. ft. (50%) Proposed
Minimum Snow Storage Area:	5% of Parking Area (600 sq. ft. x .05 = 30 sq. ft.)	240 sq. ft. (Plus Additional for Shared Driveway Area)
Parking:	3 spaces	3 spaces

Note: the above calculations are based on the following:

Lot 1 = .1970 acres x 43,560 sq. ft./acre = 8,581 sq. ft.
600 sq. ft. parking area x .05% = 30 sq. ft. (Required Snow Storage)

IV. Applicable Standards and Design Guideline Criteria:

Design

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

Final Site, Grading and Drainage Design

The Minturn Design Guidelines encourage designs that integrate or account for site topography and existing conditions, surrounding conditions, solar orientation, placement on lots relative to streets and natural features, snow storage and snow shed from roof structures.

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 complementary to adjacent single-family residential structures and character on nearby parcels. Staff further suggests that the scale of the project is appropriate and will not overpower surrounding natural and built environments. Proposed roof forms and pitches, materials and textures are compatible and complementary to the surrounding built and natural environments.

V. Issues and Recommended Revisions:

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 application submittal and are reflected in staff’s recommended list of conditions:

Landscape Plan

The Applicants have provided an updated site and landscape plans dated 5.19.22 based on initial staff review of the proposed plans. The updated landscape plan shows a legend demonstrating that the proposed number, type and size of deciduous and evergreen trees and shrubs comply with the Minturn landscape standards (Section 16-17-160 - *Landscape standards and plan submittal for residential homes in all character areas for single-family dwellings, duplexes, single-family with accessory apartments, and single-family with accessory dwelling*). The only outstanding issues staff has identified at this time are:

- The need to have final landscape and revegetation plans demonstrate erosion control locations and methods.
- List proposed seed mixes and rates of application for all areas to be revegetated with native seed mix.
- Show and/or describe temporary and permanent irrigation.
- Remove the small area of revegetation/landscaping shown on the Landscape Plan (Sheet A1.1) located off the subject property at the rear (east side) of the property; or seek and demonstrate approval from the adjacent property owner (Vail Corp) for such improvements.

Final Site Design, Setbacks, and Lot Considerations

The proposed design generally maintains the structure and roof forms within required setbacks. Roof overhangs are proposed to encroach no more than 18” into the side yard setbacks; this is permissible.

Setbacks are maintained thus allowing for full use of side yard areas for snow shed and drainage. The site plan and grading plan show general design intent. However, per comments from Town Engineer Jeff Spanel, Intermountain Engineering, the site plan and final grading and drainage details should be finalized prior to building permit application to clearly demonstrate that proper (positive) grading and drainage will be directed in swales away from the structure; that drainage is handled on the subject property. Additionally, the Town Engineer has recommended a number of additional steps needing to be completed prior to the submittal

of a building permit to ensure that all proposed improvements are correctly placed on the parcel and that surrounding conditions on adjacent properties are factored into the final site plans. (See attached letter from Jeff Spanel, Intermountain Engineering, dated 5.19.22).

Building Height

The plans show the proposed structure just under the 28-foot building height limit. This has been measured to the mid-point of the sloping roof forms and/or to the “break” in roof pitch shown on the south and north elevations between the main, central roof element and the secondary dormer-type elements. This method is consistent with the Town’s regulations and requirements.

That being said, there will be no room for error in the placement of the building or during construction. Additionally, the Applicant should be aware of issues that have arisen at at least two other recent, similar new home projects (currently under construction) along the Eagle River wherein ground water was discovered during excavation of the foundations and the Applicants were required to seek approval to amend their approved plans in order to raise their foundations out of the water table and, subsequently, to raise their respective building heights. In this case, there does not appear to be any wiggle room for such adjustments during construction.

Exterior Light Fixtures

The plans do not show exterior light locations and no spec sheets were provided for proposed exterior lighting. Plans submitted for building permit should include exterior lighting locations on floor plans, building elevations and, if applicable, reflected ceiling/roof plan. A final spec sheet for all exterior fixtures should be submitted for review prior to or concurrent with the building permit application to demonstrate that all exterior lighting will be full cutoff, dark sky compliant per the Minturn Municipal Code.

VI. Staff Recommendation and Suggested Conditions:

Staff suggests that the Final Plans for Lot 1, Alfond Residence, 994 Main Street, as conditioned below, 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 approval** of the plans, with the following recommended condition(s):

1. The Applicant shall update the Final Plans to show final details and specifications for all site revegetation including proposed seed mixes, rates of application, and any/all temporary and/or permanent irrigation.
2. Remove small area of proposed landscape improvements located off the subject property; or, submit written evidence of approval from adjacent landowners for such improvements prior to or concurrent with any building permit application submission.
3. The Applicant shall address comments by the Town Engineer, Intermountain Engineering, dated 5.19.22 and shall revise and update the final plans accordingly prior to or concurrent with any building permit application submission.

4. The Applicant shall provide details for all exterior lighting locations on floor plans, building elevations and reflected ceiling/roof plan sheets. Additionally, the Applicant shall submit final cut sheets/specifications for proposed exterior light fixtures prior to or concurrent with building permit application to ensure compliance with the Town's lighting standards.

May 19, 2022

Madison Harris
Town of Minturn Planner
PO Box 309
Minturn, CO 81645

Re: Lot 1 South Minturn , A Resubdivision of Lot 51, Minturn, CO.
994 Main
Review of DRB submittal

Project No. 22-0001

Dear Madison:

We reviewed the DRB submittal for 994 Main and offer the following:

Survey:

1. The submittal includes a Topographic Survey of the property prepared by Kipp Land Surveying dated 10-28-21.
 - a. The survey should be expanded to show contour lines, grades, and existing development adjacent to the lot (suggest 10-15 feet into adjacent lots)
 - b. The expanded information is recommended to allow grading & site design to properly blend with the neighboring property.
2. We recommend a boundary survey be provided to assure proposed improvements fit with in the property and required setbacks.

Architectural Plans:

1. No dimensions are shown on the site plan. At a minimum the site plan should include:
 - a. Lot dimensions
 - b. Dimensions of proposed improvements.
 - c. Dimensions locating proposed improvements on the property.
 - d. Dimensions demonstrating the improvement fit within required setbacks.
2. No existing conditions plan or associated demolition plan (if appropriate) has been included.
3. Finish contours do not indicate positive slope away from the structure:
 - a. Contours on the south side of the structure do not indicate positive drainage.

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

May 19, 2022

Madison Harris

Re: Lot 1 South Minturn , A Resubdivision of Lot 51, Minturn, CO.

994 Main

Review of DRB submittal

Project No. 22-0001

- b. Additional spot elevations are needed to detail grading and show positive drainage for the driveway & patio areas.
- 4. Eaves encroach into the ERWSD easement.
- 5. No erosion control plan has been included.
- 6. No utility plan has been included.

Please feel free to contact us if you have additional questions.

Respectfully,

Inter-Mountain Engineering (Town Engineer)



Jeffery M. Spanel PE

CC: Michelle Metteer, Scot Hunn, Michael Sawyer

Design Review Application

Submission Info

User	66.86.83.86
Submission Id	823f15c2-70c7-4617-9538-1c5c2a90f1e0
Start Date	5/3/2022 10:56:02 AM
Receipt Id	187136500
IP Address	66.86.83.86
Receipt Date	5/3/2022 11:13:02 AM
Status	Submitted
Workflow Completed Date	
Submitted Date	5/3/2022 11:13:02 AM

Response Data

Town of Minturn - Design Review Application - Project Information

Section Title: Project Information

Is this a Minor or Major DRB Project?:

Major

Project Name:

Alfond House

Street Address:

994 Main Street

City:

Minturn

State:

Colorado

Zip:

81645

Zoning:

South Town Residential zone

Application Request:

Design Review Application

Town of Minturn - Design Review Application - Applicant Information

Section Title: Applicant Information

Name:

John Martin, Architect

Mailing Address:

PO Box 4701

City:

Eagle

State:

CO

Zip:

81631

Phone:

970-328-0592

Email:

john.martin@centurytel.net

Is the Property Owner different than the Applicant?:

Yes

Town of Minturn - Design Review Application - Property Owner Information

Section Title: Property Owner Information

Name:

John Alford and Heather Whitford

Mailing Address:

122 W Meadow Dr Unit B

City:

Vail

State:

CO

Zip:

81657

Phone:

970-376-3300

Email:

jalf@me.com

Town of Minturn - Design Review Application - Additional Information

Section Title: Additional Information

Lot Size:

8581.3

of Stories:

3

Type of Residence:

SingleFamily

Snow Storage (sq ft):

100

of Bedrooms:

3

Building Footprint (sq ft):

2571

of On-site Parking Spaces:

3

Total Impervious Surfaces (sq ft):

4375

Town of Minturn - Design Review Application - Uploads

Section Title: Submittal Checklist Requirements (as applicable)

Letter of Intent:

[COVER SHEET.pdf](#)

Vicinity Map:

[VICINITY MAP.jpg](#)

Improvement Location Certificate of Survey (ILC or ILS):

[201129-Lot1 SMA Resub topo.pdf](#)

Site Plan:

[ALFOND MINTURN DRB 5-2-22.pdf](#)

Town of Minturn - Design Review Application - Applicant Review & Signature

Minor DRB Fee:

\$75.00

Major DRB Fee:

\$200.00

Section Title: Applicant Signature

I declare under penalty of perjury in the second degree that the statements made in the above application are true and complete to the best of my knowledge.:

true

Signature:

John G Martin

Date:

05/03/2022

Data Fields

Name	John Martin, Architect
Address1	
Address2	
City	
State	
Zip	
Phone	
Email	john.martin@centurytel.net
CompanyName	

Payment Info

- :
- :
- :
- Unknown
- :
- Unknown
- :
- Unknown
- :
- ✓
- :



Letter of Intent

To: Madison Harris – Town of Minturn - Staff Planner
301 Boulder Street #309, Minturn, CO 81645
970-827-5645 ext 2
planner1@minturn.org

From: John G. Martin, Architect, LLC
Agent of Martin Manley Architects
PO Box 4701, Eagle, CO 81631
office: 970-328-0592
john@martinmanleyarchitects.com

Date: May 3, 2022

Re: Alfond House - 994 Main Street, Minturn CO – New House Construction Project

Subj: Letter of Intent

Address: 994 Main Street, Minturn, CO
(South Minturn Addition Lot 1: A Resubdivision of Lot 51)

Zoning: Minturn – South Town Residential Zone (Previously zoned commercial)

Letter of Intent:

The owners are John Alfond and Heather Whitford. Their intention is to build a single-family house with no variances which fits into the neighborhood, has traditional roof forms, modern materials, and opens up to the Eagle River in the rear of the house.

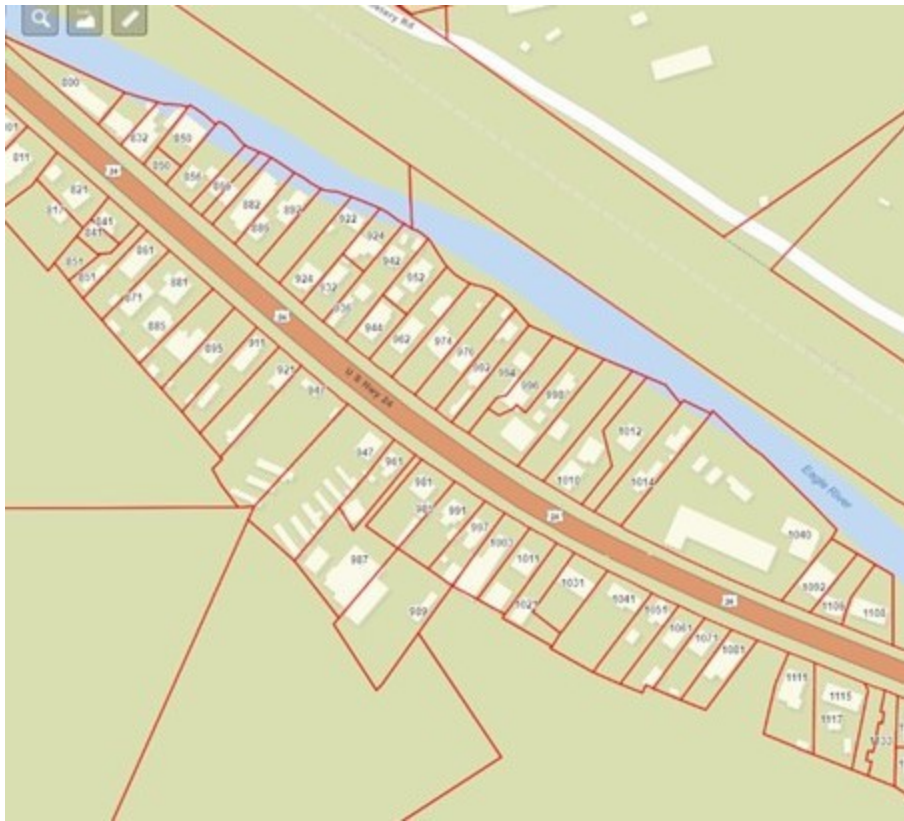
The proposed house fits in tightly with the neighboring houses to the north and south. There is a shared driveway with the two properties to the south. The building envelope is tight but allows access for two parking spots in the garage and one in the private driveway out front.

The house is 3,821 sf of Living Area and 4,730 sf Gross (includes garage and mech basement). There are 3 bedrooms, and an attic bonus room, 2-car garage, mud-room, Living Areas, and a small basement mech room.

The outdoor living area in the rear facing the Eagle River is proposed to be flagstone on sand with the intention of receiving an encroachment agreement for a sewer line easement from ERW&SD. There is a small balcony off the Master Suite which also covers an outdoor BBQ.

The house will only really be seen from the front and back which has a handsome design. The side elevations are tight to the neighbor's structures (only 10 ft apart) and will not be seen by the public.

The owners love the design and feel it will fit into the neighborhood context perfectly.



TOPOGRAPHIC SURVEY
LOT 1
SOUTH MINTURN ADDITION, A RESUBDIVISION LOT 51
 TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO

PROPERTY DESCRIPTION:

LOT 2, SOUTH MINTURN ADDITION, A RESUBDIVISION OF LOT 51, according to the final plat thereof recorded March 30, 2021 at Rec.No. 202107185 at the Eagle County Clerk and Recorders Office, County of Eagle, State of Colorado.

NOTES:

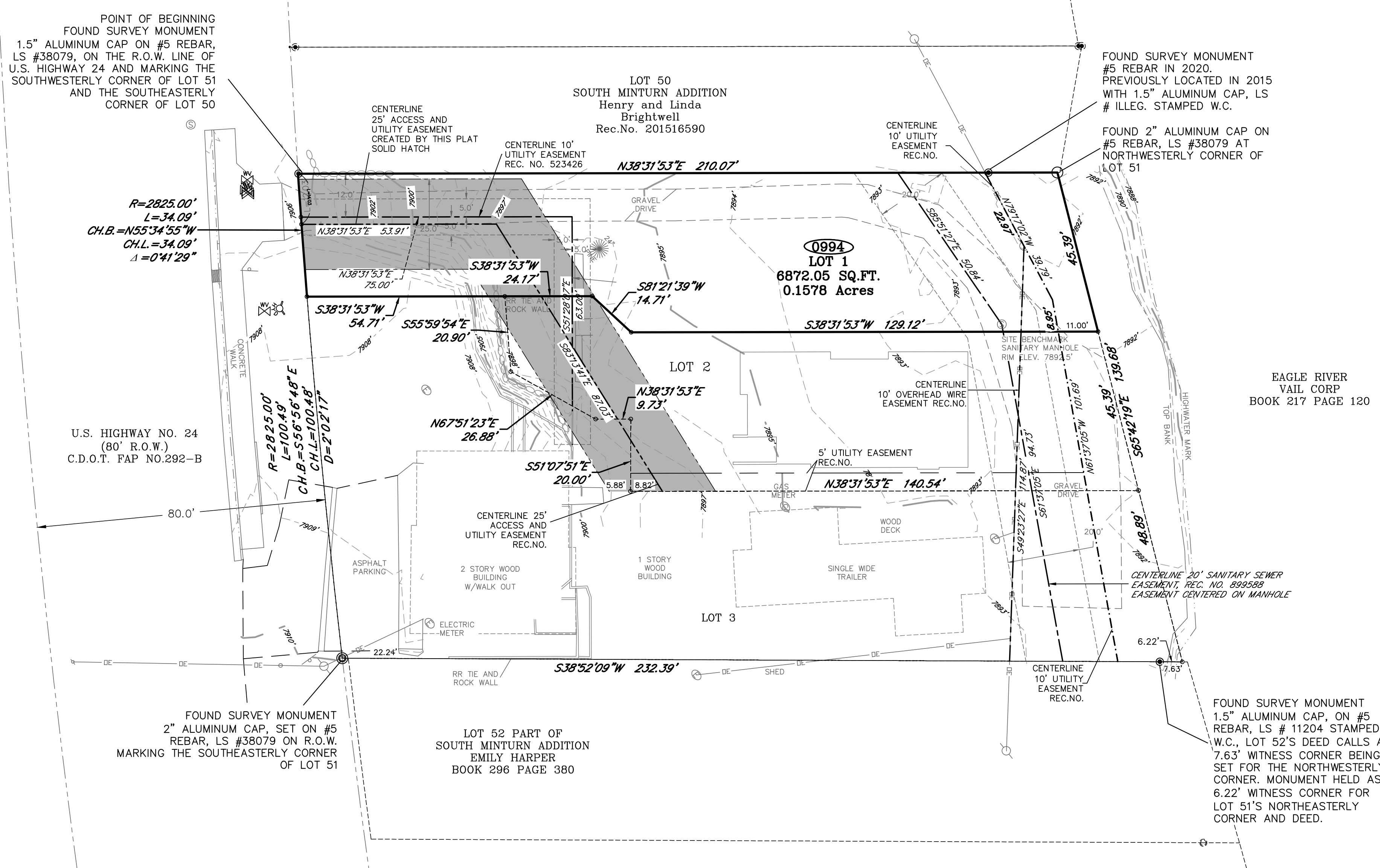
- 1) DATE OF SURVEY: October 15, 2021
- 2) STREET ADDRESS: 994 Main Street (U.S. Highway 24) Not Posted
- 3) Location of improvements and lot lines are based upon the above said final plat, the Annexation Plat of South Minturn Addition to the Town of Minturn, recorded in Rec.No. 163774, C.D.O.T. Project No. FAP NO.292-B and Survey Monuments found at the time of this survey. Kipp Land Surveying also performed an Improvement Survey Plat to be recorded at the Eagle County Engineering Office.
- 4) BASIS OF BEARINGS: Between a 1.5" Aluminum Cap on #5 Rebar, LS #38079 marking the Northwesterly corner of Said Lot 51 being the Southwesterly corner of Said Lot 50 and a #5 Rebar Witness Corner, being a point on line for said Lots 50 and 51, bearing N38°31'53"E as shown hereon.
- 5) BENCHMARK: NGS Monument S-280. Elev. = 7894.2' NAVD 88.
- 6) U.S. Survey Feet was used for this Survey.
- 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.

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.







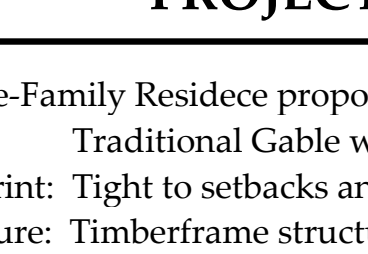


Randall P. Kipp
 P.L.S. No. 38079
 Colorado Professional
 Land Surveyor



Topographic Survey LOT 1 South Minturn Addition A RResubdivision of Lot 51 Town of Minturn, County of Eagle, Colorado		KIPP LAND SURVEYING RANDY KIPP P.L.S. P.O. Box 3154 Eagle, CO 81631 (970) 390-9540 email: randy@kipplandsurveying.com web: kipplandsurveying.com
JOB NO.: 201129	DATE: 10-28-21	
SHEET 1 OF 1	DWG NAME: 201129-LOT 1 SMA Topo	

MATERIALS & COLORS

	Metal Roofing--Standing Seam DRESSTEL 24 gauge Color: Metallic Copper (Matte Finish)
	Vertical Wood Siding: 1x8 RS CEDAR w/ 7" SHIPLAP REVEAL Distressed with gray semi-transparent stain
	Window Trim, Deck Rims, fascias, doors: Benjamin Moore Arborcoat Semi-Solid Stain "Dragon's Breath 1547"
	Fascias, Timber Posts, Railing Wood Cap, Benjamin Moore Arborcoat Semi-Solid Stain "HC-175 Briarwood"
	Metal Panel Garage Door: Slight patina on metal panel
	Window Clad: Black Exposed Metal: roof penetrations, metal flashing, metal railings: "Black"
	Stone veneer: Rough gray stone drystack w/ variety of sizes.

PROJECT DESCRIPTION

A Single-Family Residence proposed....
 * Style: Traditional Gable w/ Modern Flourishes
 * Footprint: Tight to setbacks and easements
 * Structure: Timberframe structure exposed at main gable ends.

CODE SUMMARY

This project falls under the jurisdiction of:
 Minturn Design Review Board and Building Department
 The 2015 International Residential Code (IRC 2015)
 The 2015 International Energy Conservation Code (IECC 2015)
 Minturn Municipal Code including adopted amendments

Class of Work: New Construction
 Type of Occupancy: R-3 (Single-Family)
 Type of Construction: Type V-b (Non-Sprinklered)
 Levels: 3-story

FIRE DEPT. SUMMARY

Minturn Fire Dept. Notes:
 Smoke Detectors and Carbon Monoxide alarms must be installed IN ALL DWELLING UNITS, and be installed per 2015 IFC and VFES fire alarm installation standards.

VICINITY MAP



A NEW SINGLE-FAMILY HOME ALFOND HOUSE

994 MAIN STREET
 MINTURN COLORADO
 5-2-22
 DESIGN REVIEW SET



NOTE: RENDERINGS ARE ARTISTIC REPRESENTATIONS OF THE HOUSE DESIGN AND ARE NOT MEANT TO ACCURATELY DEPICT LANDSCAPING.

ARCHITECTURAL SHEET LIST

Sheet #	Sheet Name
A0.1	ECO SHEET
A0.2	AREA PLANS & SUMMARIES
A1.1	SITE PLAN
A2.1	MAIN LEVEL FLOOR PLAN
A2.2	UPPER LEVEL FLOOR PLAN
A2.4	ATTIC & ROOF PLANS
A2.5	BASEMENT + TIMBER PLANS
A3.1	EXTERIOR ELEVATIONS
A3.2	EXTERIOR ELEVATIONS
A4.1	BUILDING SECTIONS
A4.2	BUILDING SECTIONS
A4.4	SECTIONS
A5.0	DETAILS
A6.1	RCP MAIN + UPPER LEVELS
A6.2	RCP BASEMENT + ATTIC

STRUCTURAL SHEET INDEX

S1.0	GENERAL NOTES
S2.0	FOUNDATION PLAN, DETAILS, NOTES
S3.0	MAIN LEVEL FRAMING PLAN
S4.0	UPPER LEVEL FRAMING PLAN
S5.0	ROOF FRAMING PLAN
S6.0	DETAILS

PROJECT INFORMATION

Location: 994 Main Street - Minturn, CO
 Legal: South Minturn Addition Lot 1 (A Resub of Lot 51)
 Parcel: 2103-351-02-059

Owner: John Alfond - Eagle River Partners LLC
 2222 Forest Street, Denver, CO 80207-3831
 970-376-3300
 jalf@me.com

Architect: John G Martin, AIA
 Martin Manley Architects
 www.martinmanleyarchitects.com
 john@martinmanleyarchitects.com
 970-328-0592

Interiors: Gregory Rockwell
 Gregory Rockwell Interiors, LLC
 499 Washington Ave. Unit 14
 Brooklyn, NY 11238

Structural Engineer: To be Determined

General Contractor: To be Determined

ZONING SUMMARY

Zoning: Minturn - South Town Residential Zone

SEE SHEET A0.2 - AREA PLANS AND AREA SUMMARIES

Lot Area: .1970 acres x 43,560 s.f. = **8,581.3 s.f.**

Permitted Uses: Single-Family dwelling, Duplex Dwelling, 1 Accessory Unit

Habitable Area Allowed: No Maximum Required.
 Habitable Area Proposed: 3,821 s.f. (Habitable) 4,730 s.f. (Gross)

Lot Coverage Allowed: 3,861.6 s.f. (45% of Lot Area)
 Lot Coverage Proposed: 2,571 s.f. (30% of Lot Area)

Impervious Allowed: 4,719.7 s.f. (55% of Lot Area)
 Impervious Proposed: 4,375 s.f. (50% of Lot Area)

Height Maximum: 28'-0" (to midpoint of main gable roof)
 Height Proposed: 27'-11"

Parking Required: 3 spaces
 Parking Proposed: 2 spaces inside, 1 space outside

Setbacks: Front = 20 ft, Side = 5 ft, Rear = 10 ft.

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 PO Box 1587, Eagle, CO 81631
 www.martinmanleyarchitects.com

No.	Description	Date

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE

994 MAIN STREET
 MINTURN COLORADO
 DESIGN REVIEW SET

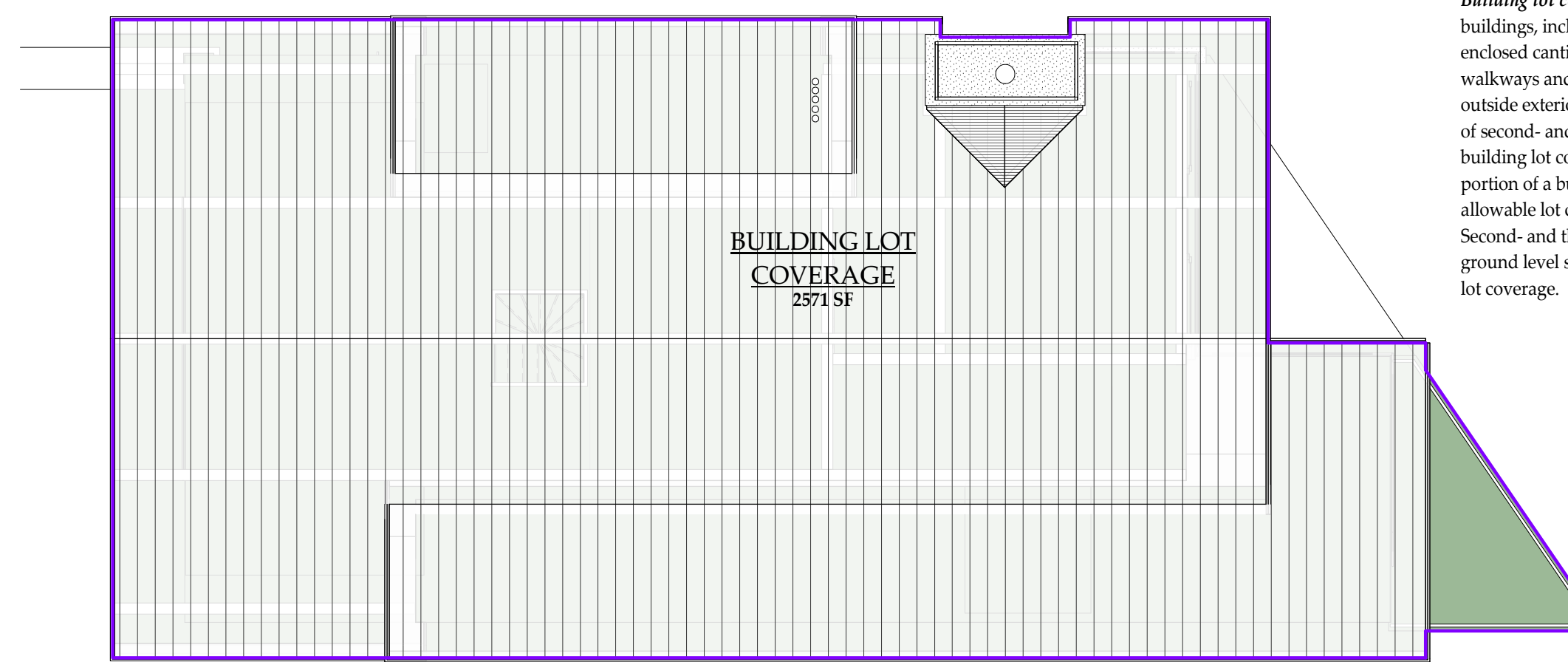
NOT FOR CONSTRUCTION

Date: 5-2-22

Project Number: XXXX

COVER SHEET

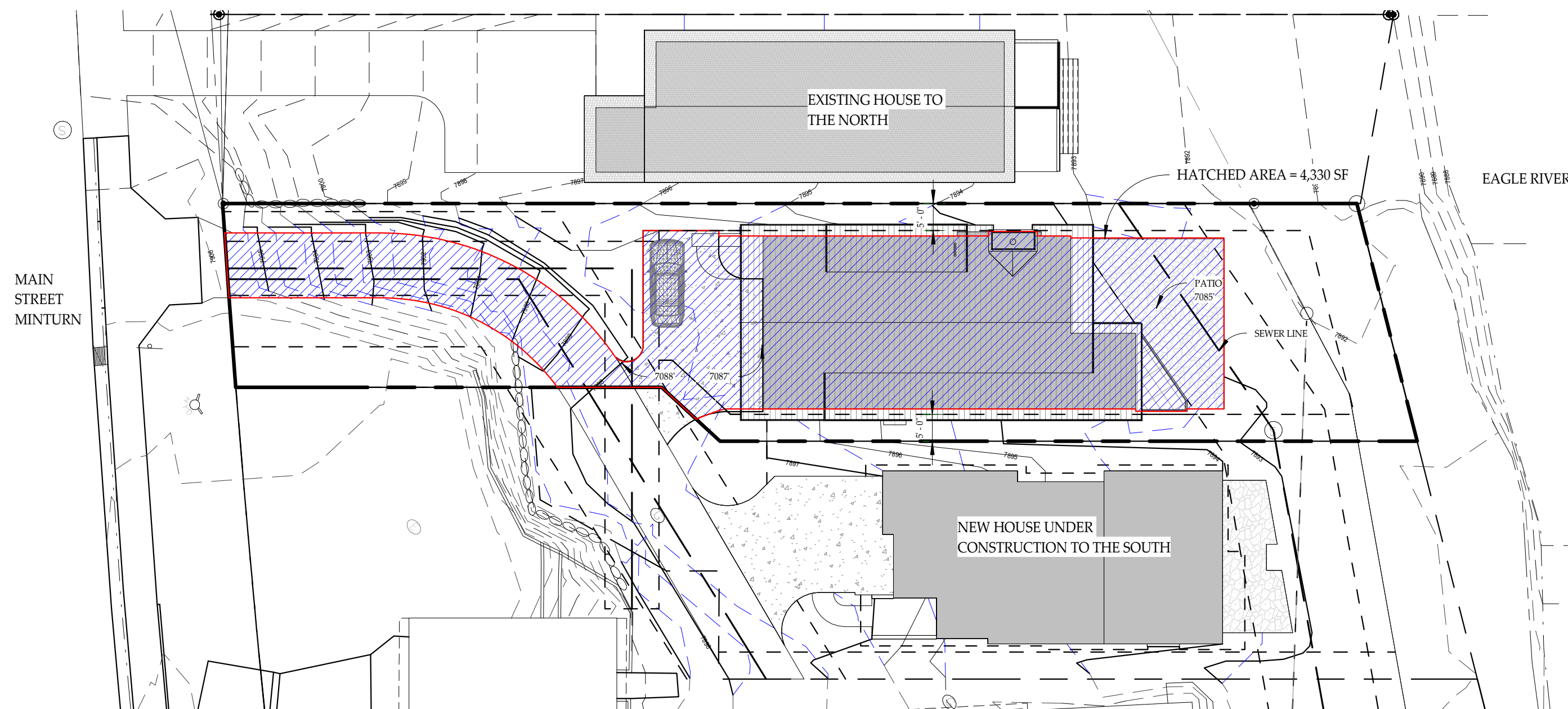
A0



Building lot coverage means the portion of a lot that is covered by buildings, including all interior space including garages, and all enclosed cantilevered portions of a building, covered porches, covered walkways and similar covered areas. Buildings are measured at the outside exterior wall. Additionally, fifty percent (50%) of the total area of second- and third-level decks shall be counted towards the allowable building lot coverage. Second- and third-level decks that cover a portion of a building that has already been counted towards the allowable lot coverage shall not count towards the total lot coverage. Second- and third-level decks that are structurally supported from the ground level shall have their entire area counted towards the allowable lot coverage.

1 BUILDING LOT COVERAGE
1/8" = 1'-0"

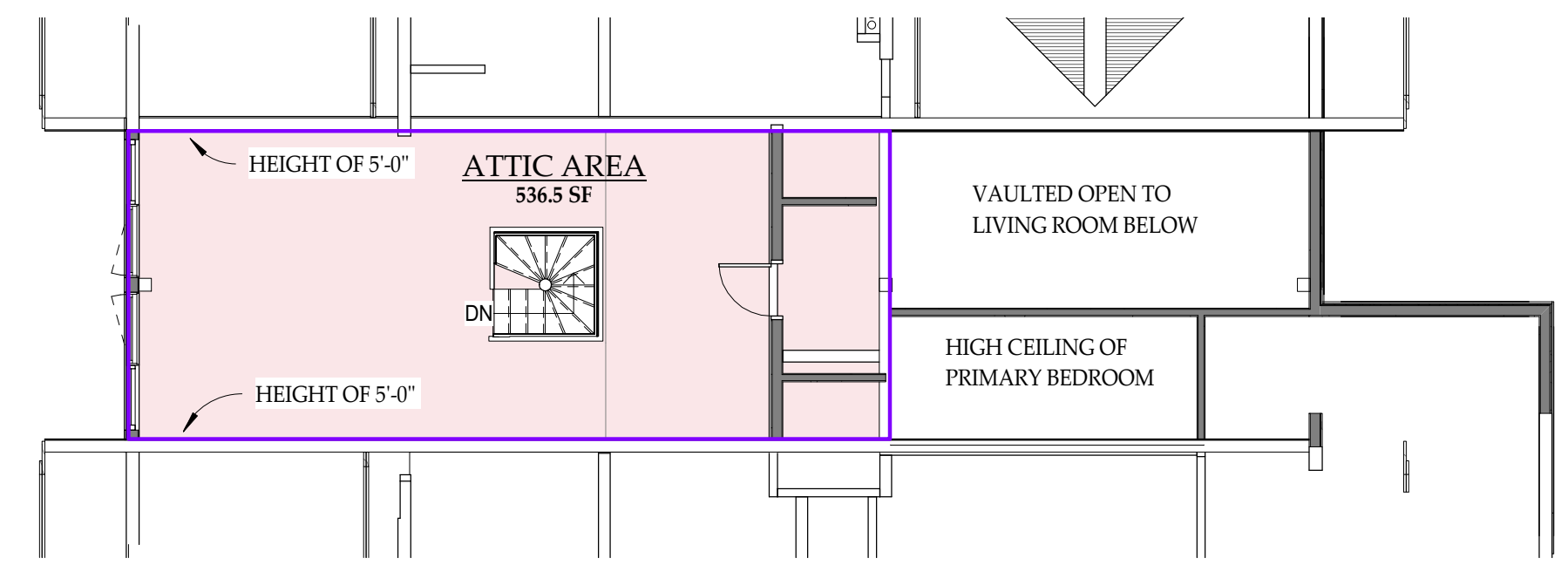
AREA SCHEDULE (BLC)	
Name	Area
BUILDING LOT COVERAGE	2571 SF



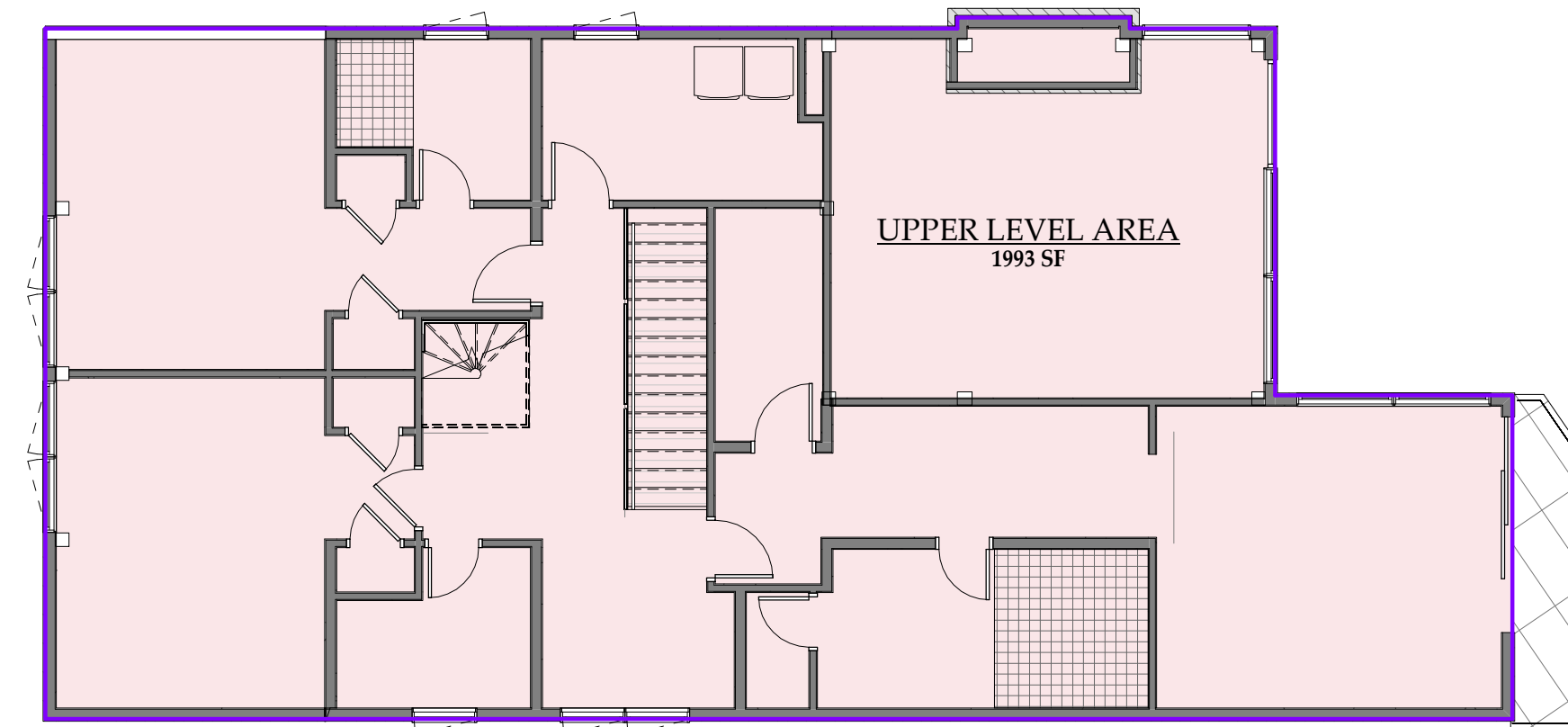
IMPERVIOUS AREA = 4,375 SF

6 0 SITE PLAN Copy 1
1" = 20'-0"

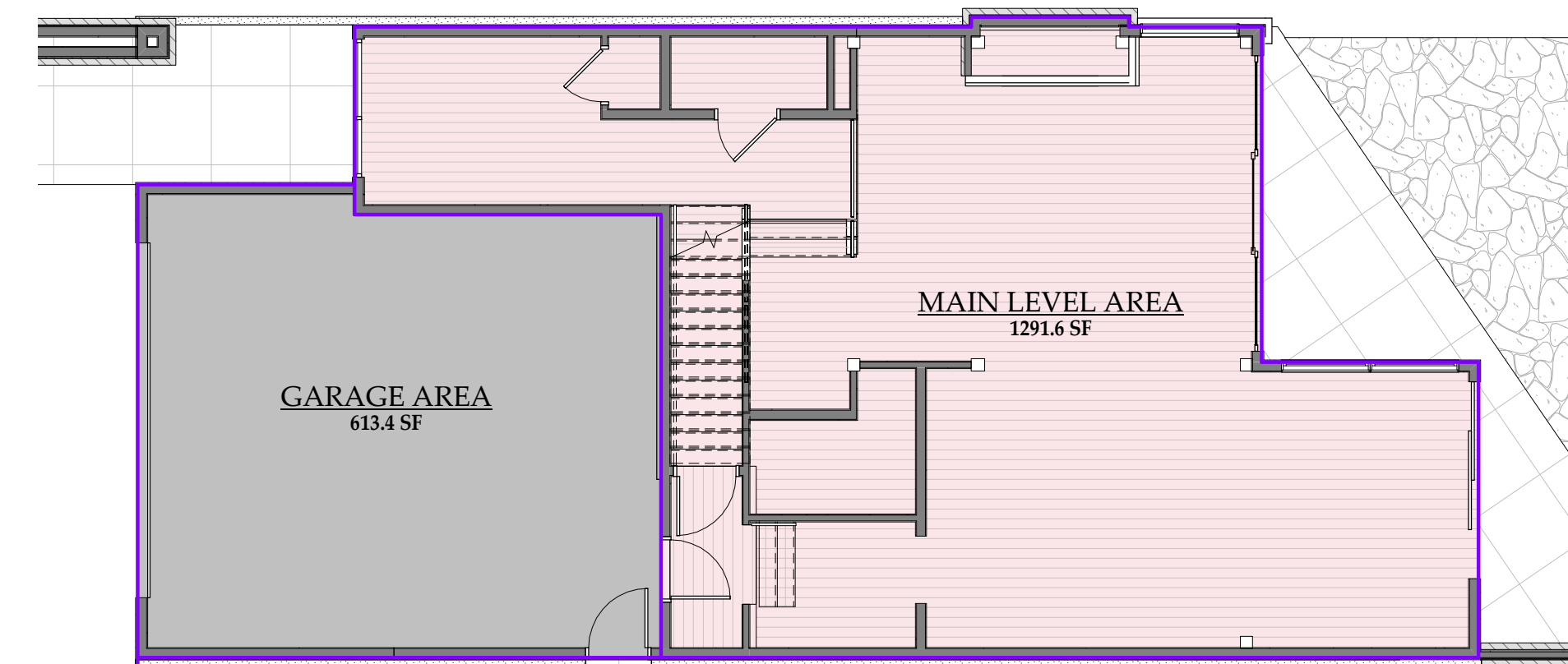
Impervious surface area means any material that prevents absorption of water into the ground. The area of the lot covered by the following shall be considered as impervious surface in all character areas:
 a. The principal building, excluding roof overhangs.
 b. All accessory buildings, parking garages, carports and sheds.
 c. Porches, stairways, decks, elevated walkways, sheds and other structures, together with paved areas or areas otherwise covered with materials impervious to water.
 d. Parking areas, sidewalks and driveways regardless of surface materials.



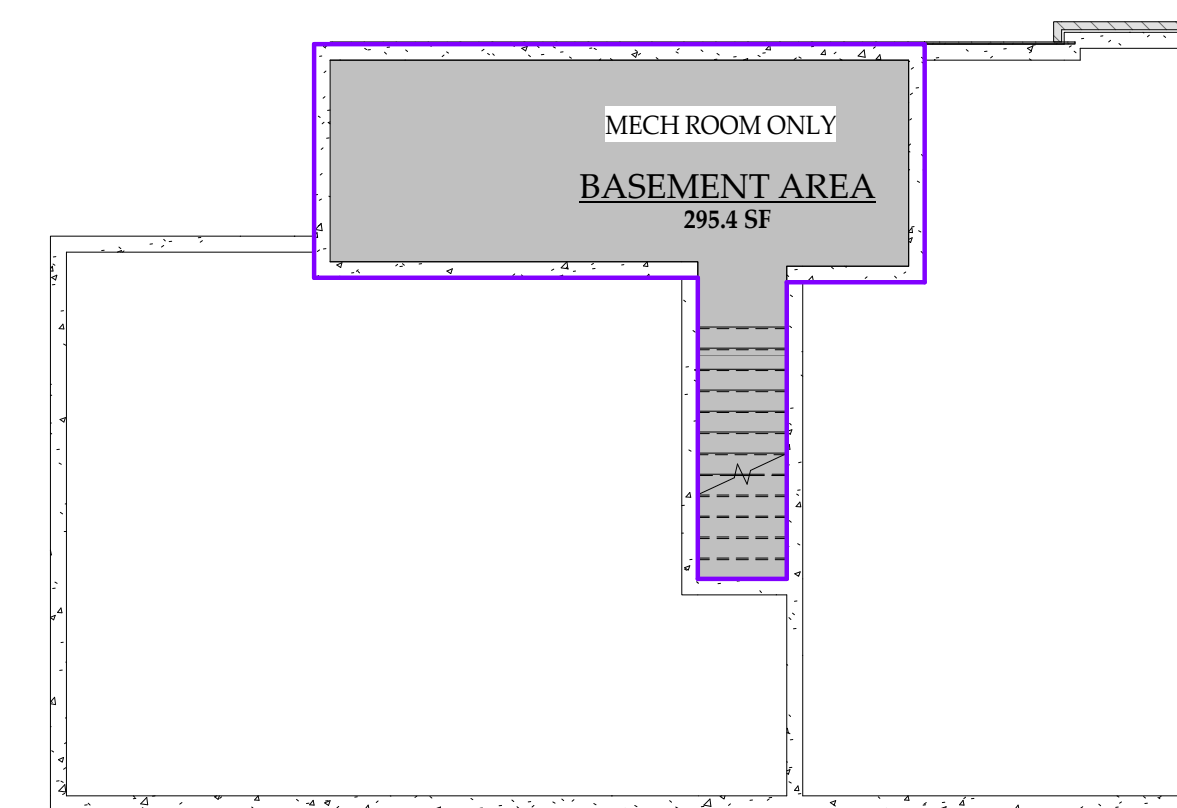
5 ATTIC LEVEL AREA
1/8" = 1'-0"



4 UPPER LEVEL AREA
1/8" = 1'-0"



3 MAIN LEVEL AREA
1/8" = 1'-0"



2 BASEMENT AREA
1/8" = 1'-0"

AREA SCHEDULE (GROSS)	
Name	Area
ATTIC AREA	536.5 SF
BASEMENT AREA	295.4 SF
GARAGE AREA	613.4 SF
MAIN LEVEL AREA	1291.6 SF
UPPER LEVEL AREA	1993 SF
Grand total: 5	4729.9 SF

AREA SCHEDULE (LIVING)	
Name	Area
ATTIC AREA	536.5 SF
MAIN LEVEL AREA	1291.6 SF
UPPER LEVEL AREA	1993 SF
Grand total: 3	3821.2 SF

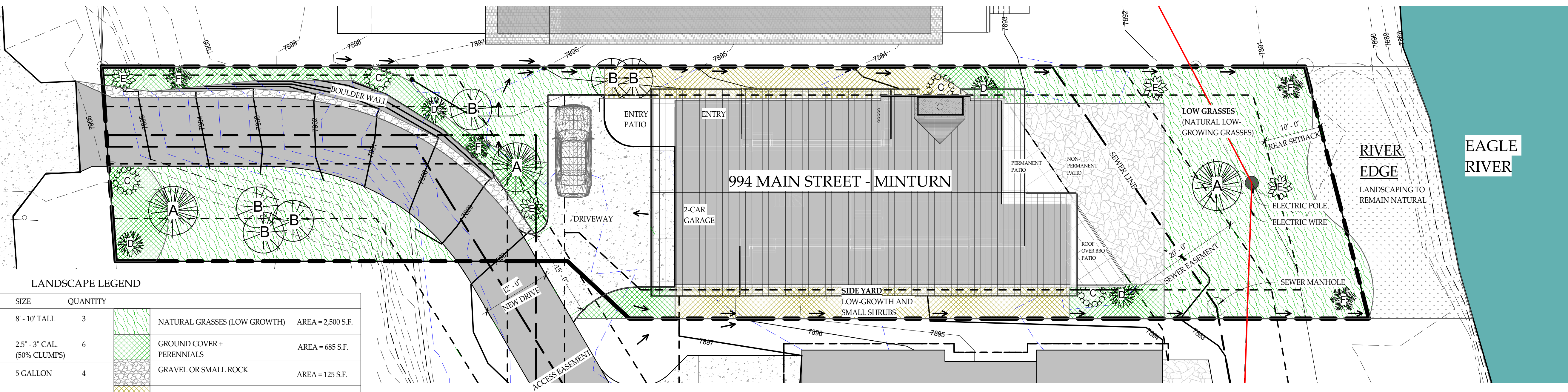
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REVISIONS	
No.	Description

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
 994 MAIN STREET
 MINTURN COLORADO
 DESIGN REVIEW SET

Date: 5-2-22
 Project number: XXXX
AREA PLANS & SUMMARIES
A0.2

MINTURN
MAIN STREET
900 BLOCK



LANDSCAPE LEGEND

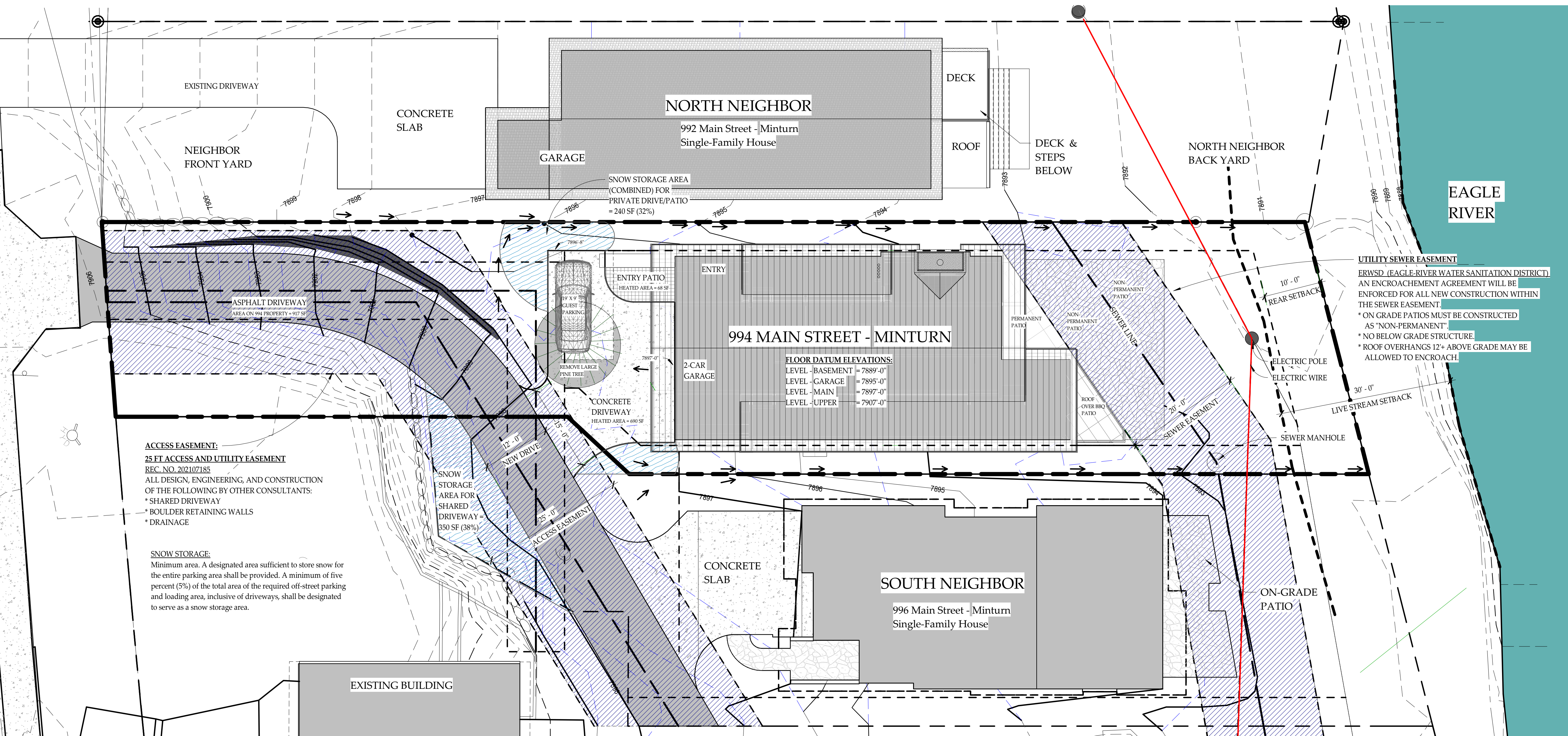
SYMBOL	NAME	SIZE	QUANTITY	AREA
A	COLORADO BLUE SPRUCE (PICEA PUNGENS)	8' - 10' TALL	3	AREA = 2,500 S.F.
B	QUAKING ASPEN (POPULUS TREMULOIDES)	2.5" - 3" CAL. (50% CLUMPS)	6	AREA = 685 S.F.
C	WESTERN SANDCHERRY (PRUNUS BESSYI)	5 GALLON	4	AREA = 125 S.F.
D	VANHOUTE SPIREA (SPIREA VANHOUTE)	5 GALLON	4	AREA = 700 S.F.
E	LILAC FRAGRANT (SYRINGA VULGARIS)	5 GALLON	4	
F	REDLEAF BARBERRY (ATROPURPUREA)	5 GALLON	4	

LANDSCAPE NOTE:
ALL DISTURBED AREAS SHALL RECEIVE REVEGETATION SEEDING WITH NATURAL GRASSES AND WILDFLOWER SEED MIX.
IRRIGATION NOTE:
ALL AREAS OF NEW SOIL TO RECEIVE SPRAY IRRIGATION.
ALL AREAS OF GROUND COVER AND TREE/SHRUB PLANTINGS TO RECEIVE UNDER-GROUND DRIP IRRIGATION.
ALL IRRIGATION SYSTEMS TO BE DESIGNED BY A LANDSCAPE CONTRACTOR AND SUBMITTED TO THE ARCHITECT AND/OR OWNER FOR APPROVAL PRIOR TO INSTALLATION.
RAIN SENSOR NOTE:
THE IRRIGATION SYSTEM SHALL BE EQUIPPED WITH A RAIN SENSOR.
EROSION CONTROL NOTE:
ALL DISTURBED AREAS WITHOUT FORMAL LANDSCAPING TO RECEIVE REVEGETATION SEEDING. EROSION CONTROL SHALL BE MAINTAINED BY PLACEMENT OF HAY BALS AND SELF FENCING ON DOWN-SLOPE SIDE OF LOT AND IN DRAINAGE SWALES.



2 .0 LANDSCAPE PLAN
1" = 10'-0"

MINTURN
MAIN STREET
900 BLOCK

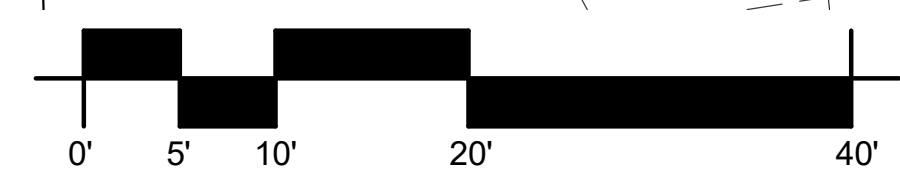


FLOOR DATUM ELEVATIONS:
LEVEL - BASEMENT = 7889'-0"
LEVEL - GARAGE = 7895'-0"
LEVEL - MAIN = 7897'-0"
LEVEL - UPPER = 7907'-0"

ACCESS EASEMENT:
25 FT ACCESS AND UTILITY EASEMENT
REC. NO. 202107185
ALL DESIGN, ENGINEERING, AND CONSTRUCTION OF THE FOLLOWING BY OTHER CONSULTANTS:
* SHARED DRIVEWAY
* BOULDER RETAINING WALLS
* DRAINAGE

SNOW STORAGE:
Minimum area. A designated area sufficient to store snow for the entire parking area shall be provided. A minimum of five percent (5%) of the total area of the required off-street parking and loading area, inclusive of driveways, shall be designated to serve as a snow storage area.

UTILITY SEWER EASEMENT
ERWSD (EAGLE RIVER WATER SANITATION DISTRICT) AN ENCROACHMENT AGREEMENT WILL BE ENFORCED FOR ALL NEW CONSTRUCTION WITHIN THE SEWER EASEMENT
* ON GRADE PATIOS MUST BE CONSTRUCTED AS "NON-PERMANENT".
* NO BELOW GRADE STRUCTURE.
* ROOF OVERHANGS 12'+ ABOVE GRADE MAY BE ALLOWED TO ENCROACH.



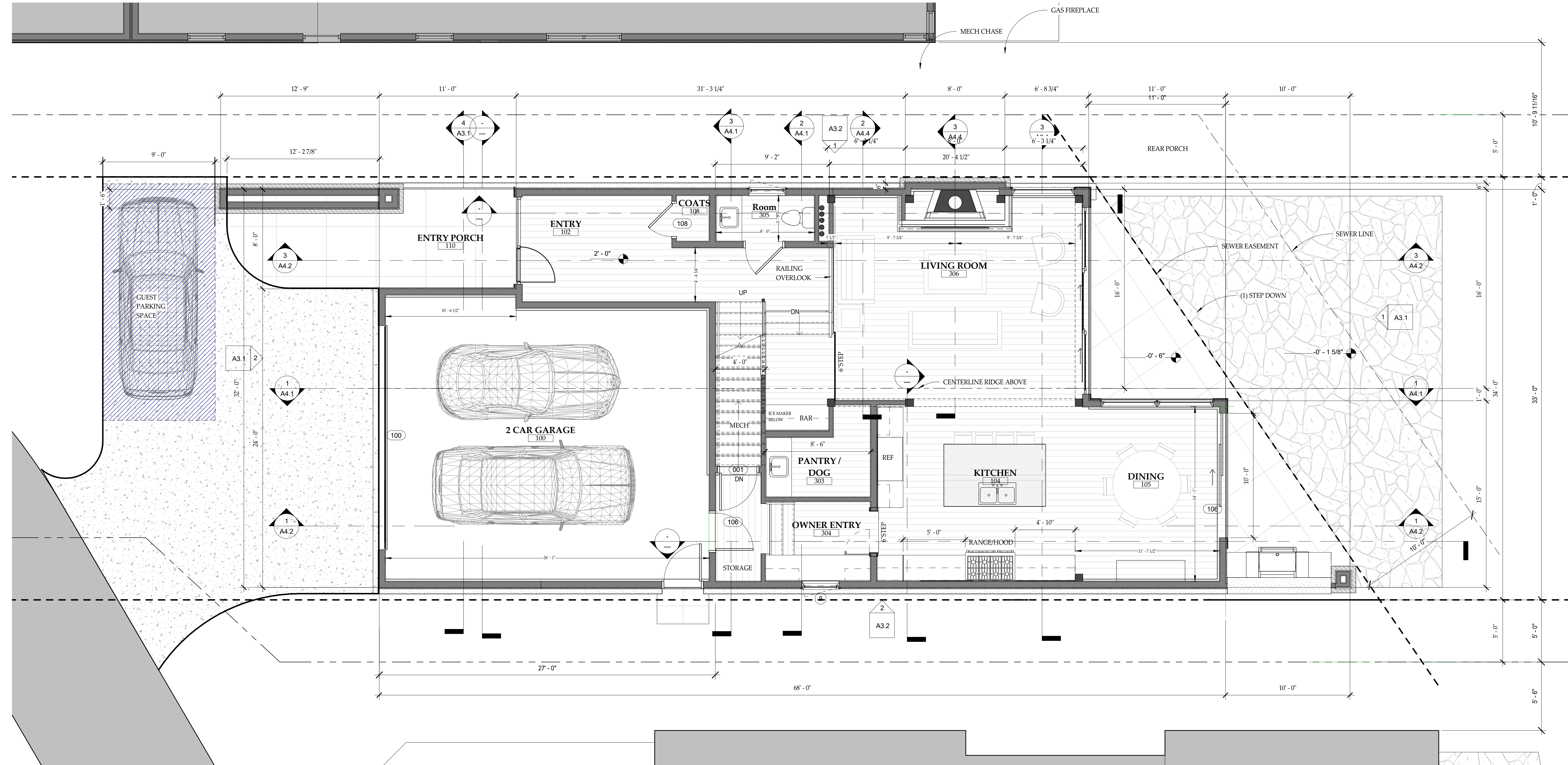
1 .0 SITE PLAN
1" = 10'-0"

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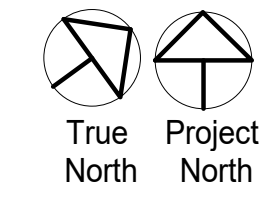
REVISIONS	Description	Date
No.		

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

Date 5-19-22
Project number XXXX
SITE PLAN + LANDSCAPE PLAN
A1.1



② .2. FLOOR PLAN - MAIN LEVEL
1/4" = 1'-0"

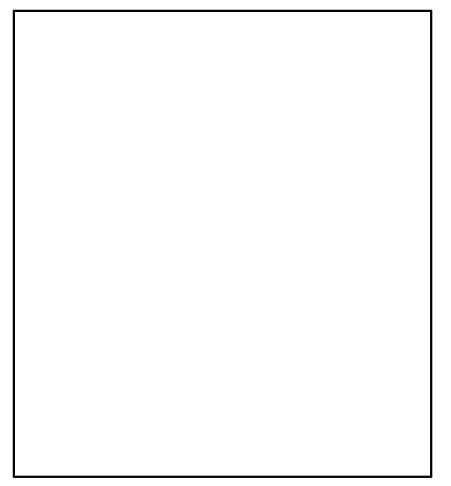


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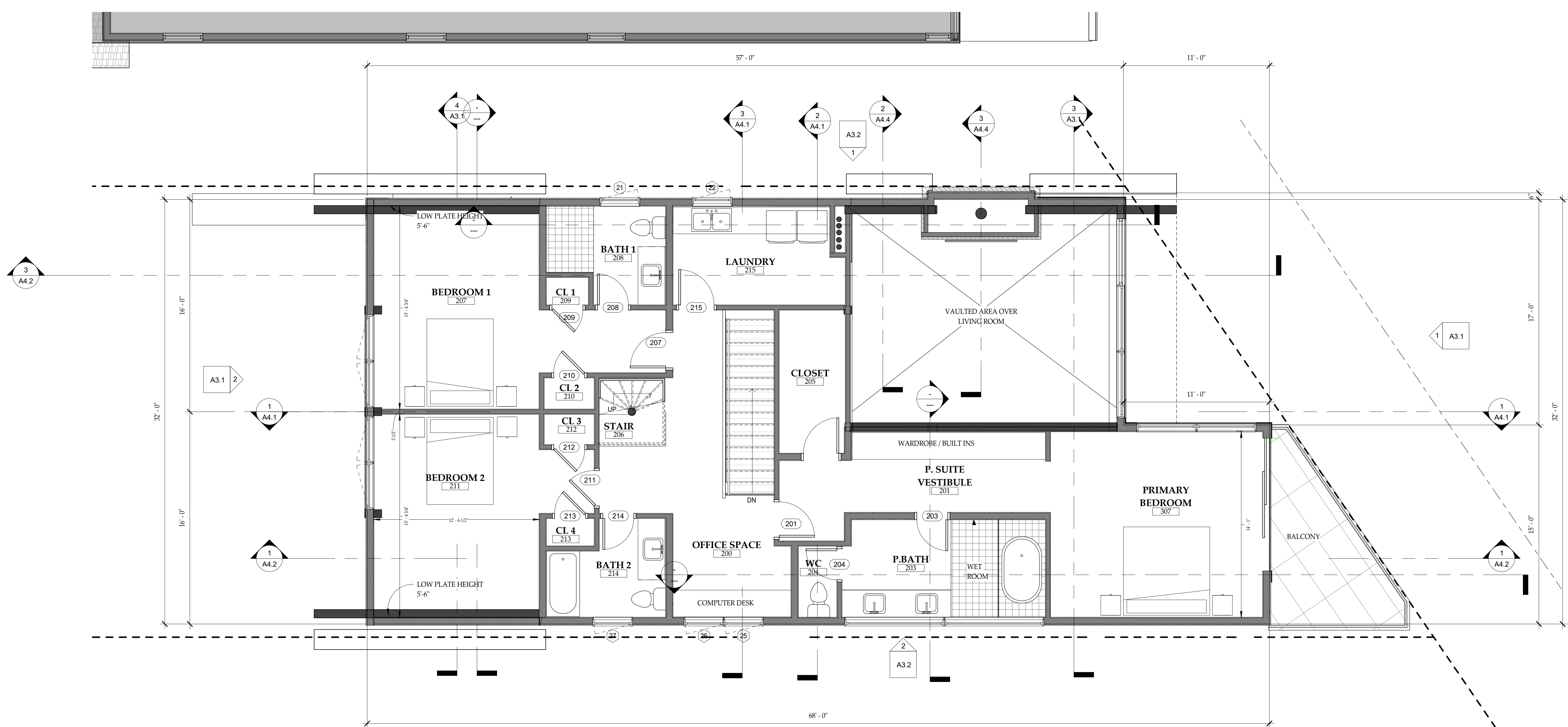
No.	Description	Date

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

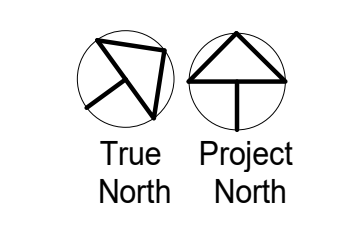


Date	5-2-22
Project number	XXXX
MAIN LEVEL FLOOR PLAN	
A2.1	

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① .3. FLOOR PLAN - UPPER LEVEL
1/4" = 1'-0"

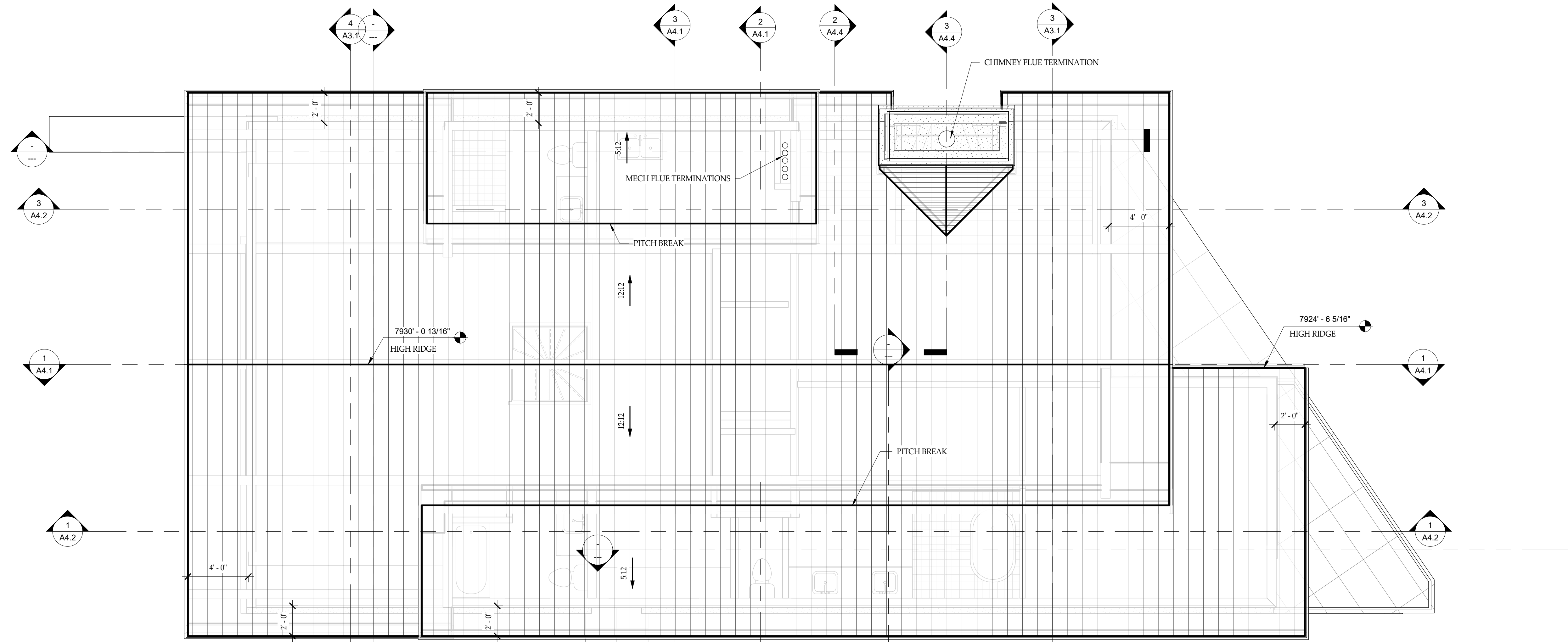


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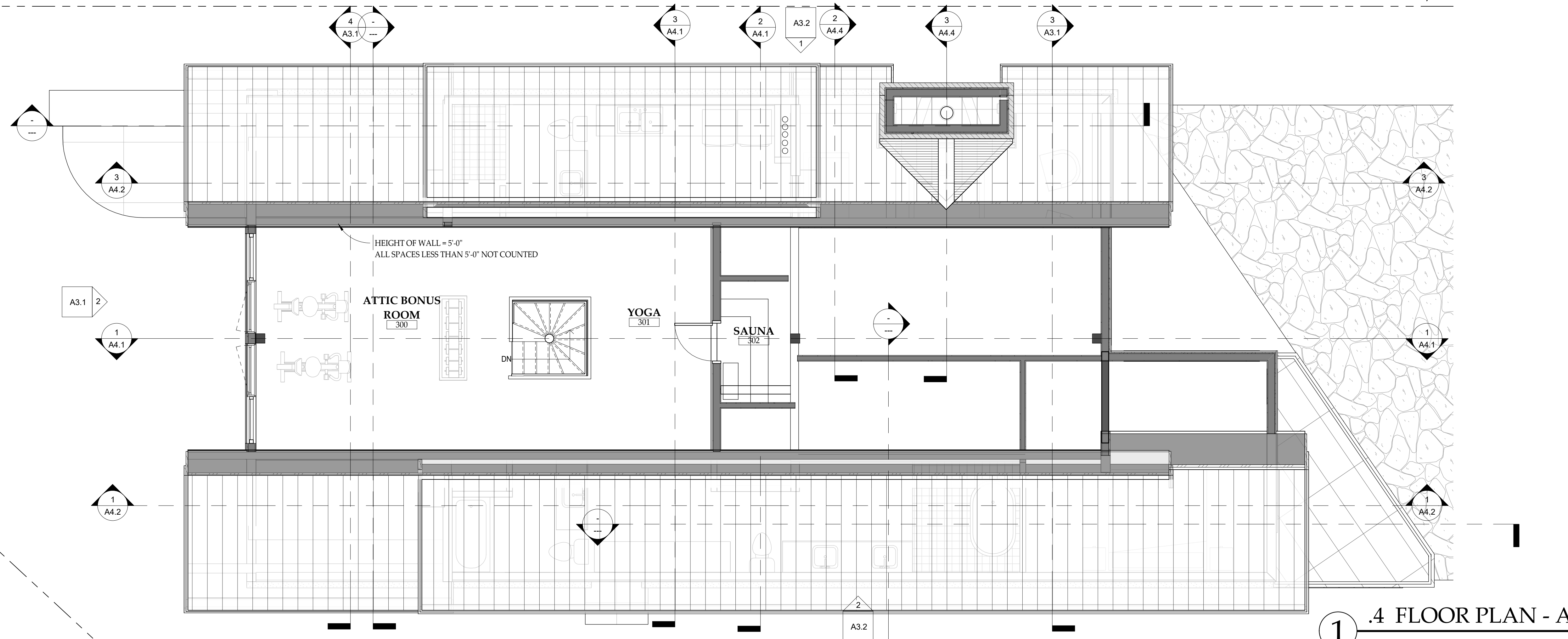
No.	Description	Date

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

Date	5-2-22
Project number	XXXX
UPPER LEVEL FLOOR PLAN	
A2.2	



2 .5 ROOF PLAN
1/4" = 1'-0"



1 .4 FLOOR PLAN - ATTIC LEVEL
1/4" = 1'-0"

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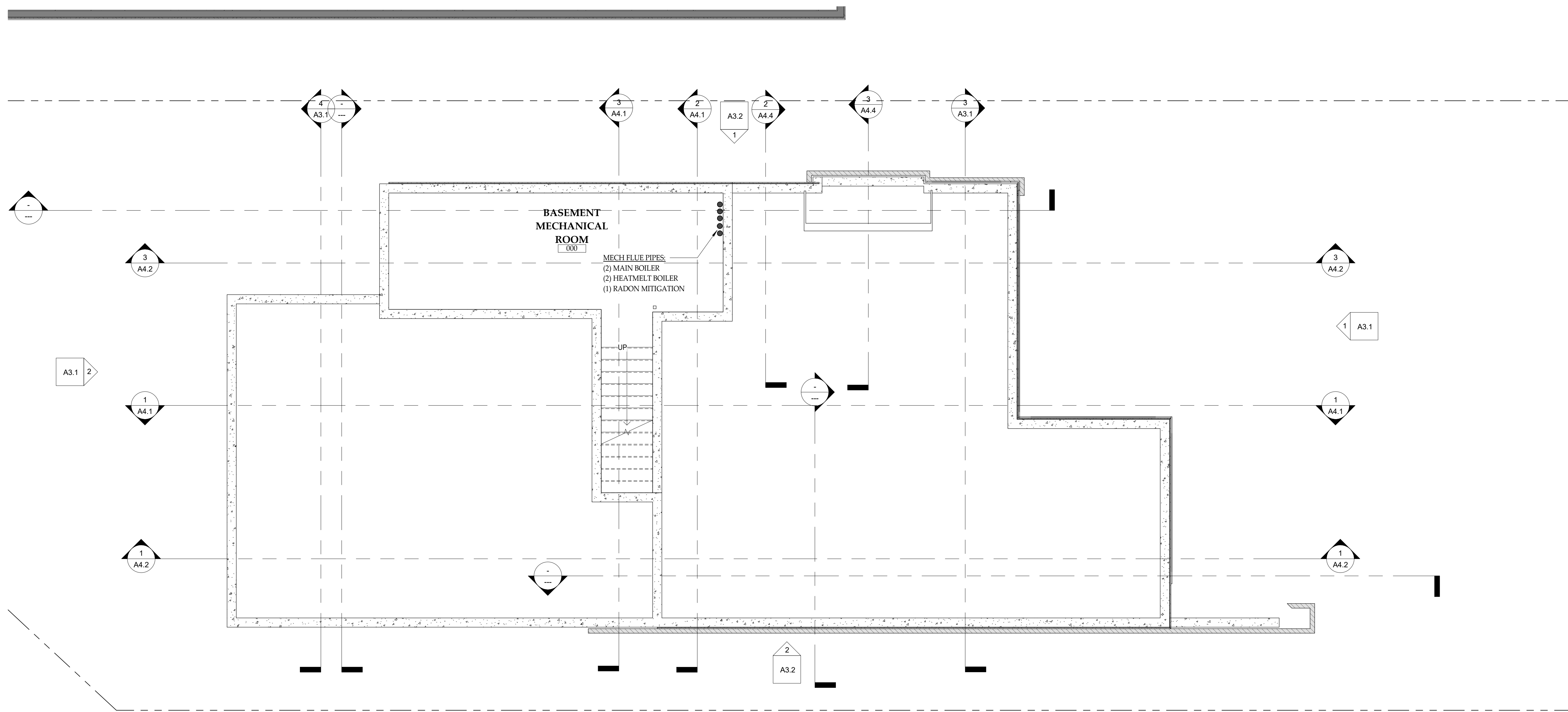
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No.	Description	Date

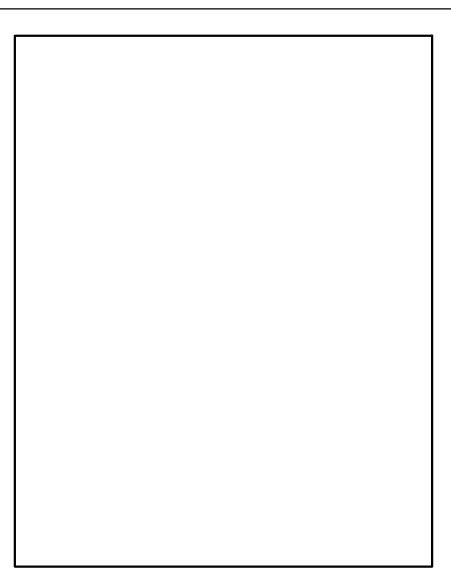
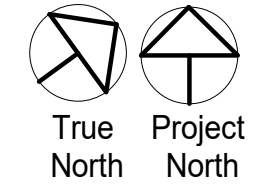
A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

Date: 5-2-22
Project number: XXXX
ATTIC & ROOF PLANS
A2.4

5/2/2022 9:14:50 PM



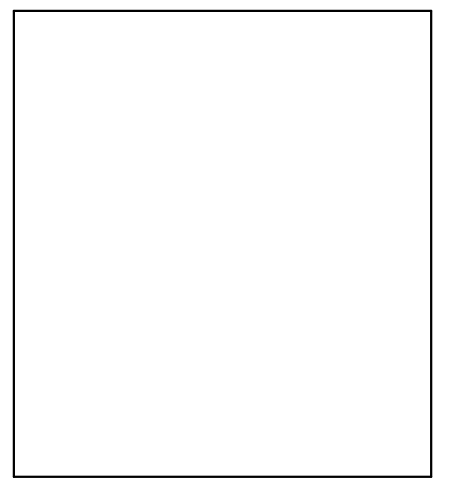
1 .1 FLOOR PLAN - BASEMENT
1/4" = 1'-0"



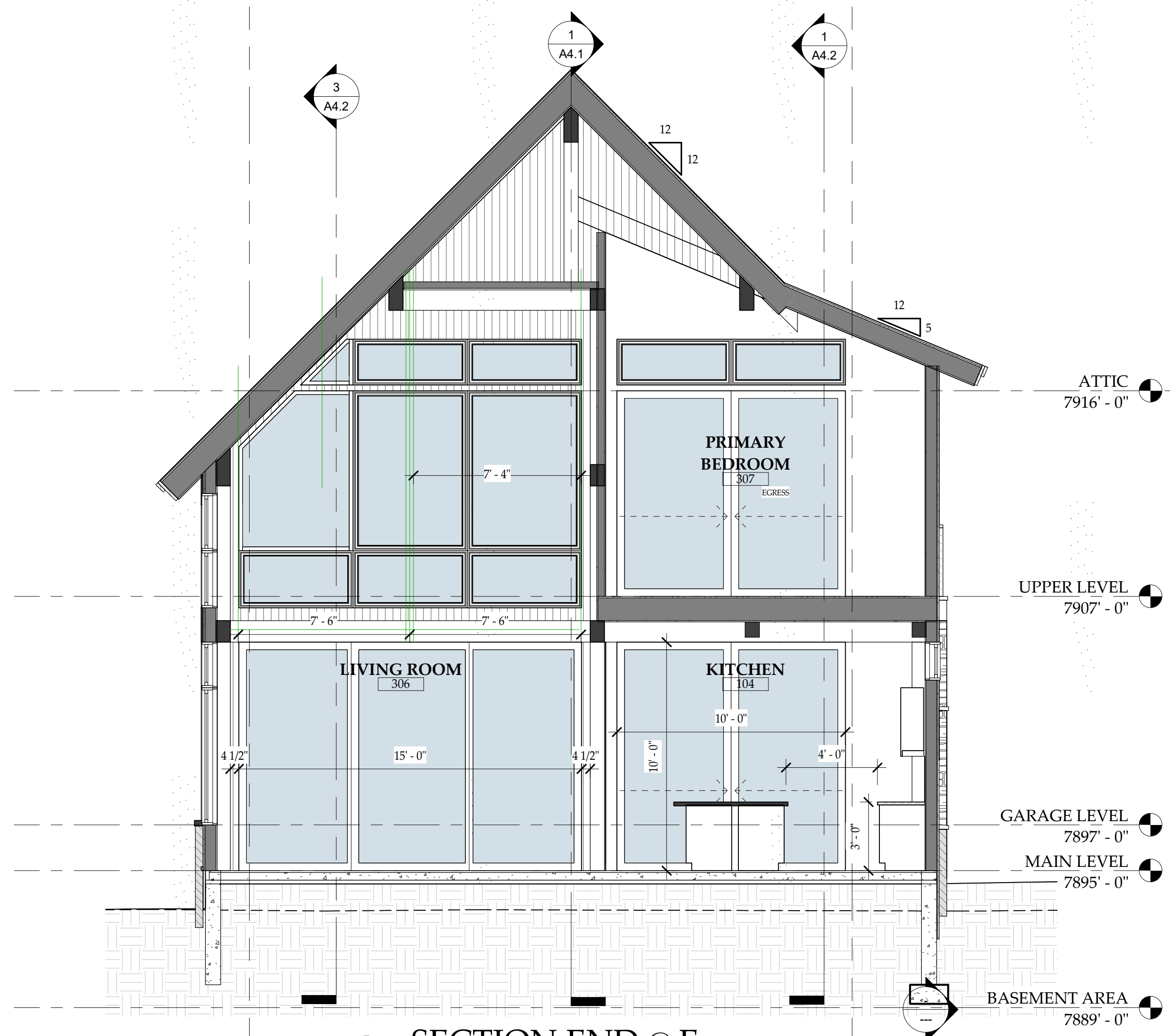
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No.	Description	Date

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET



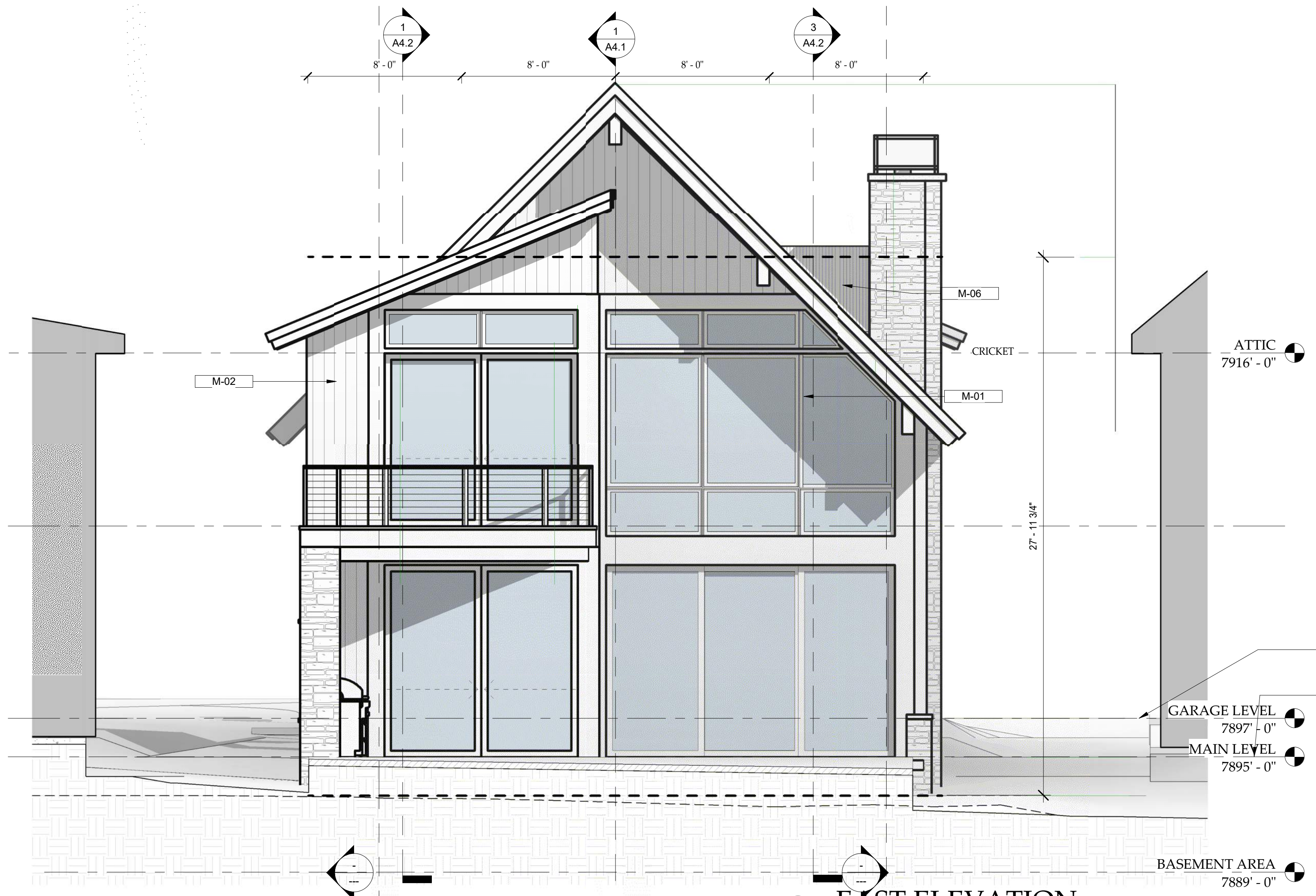
Date	5-2-22
Project number	XXXX
BASEMENT + TIMBER PLANS	
A2.5	



3 SECTION END @ E

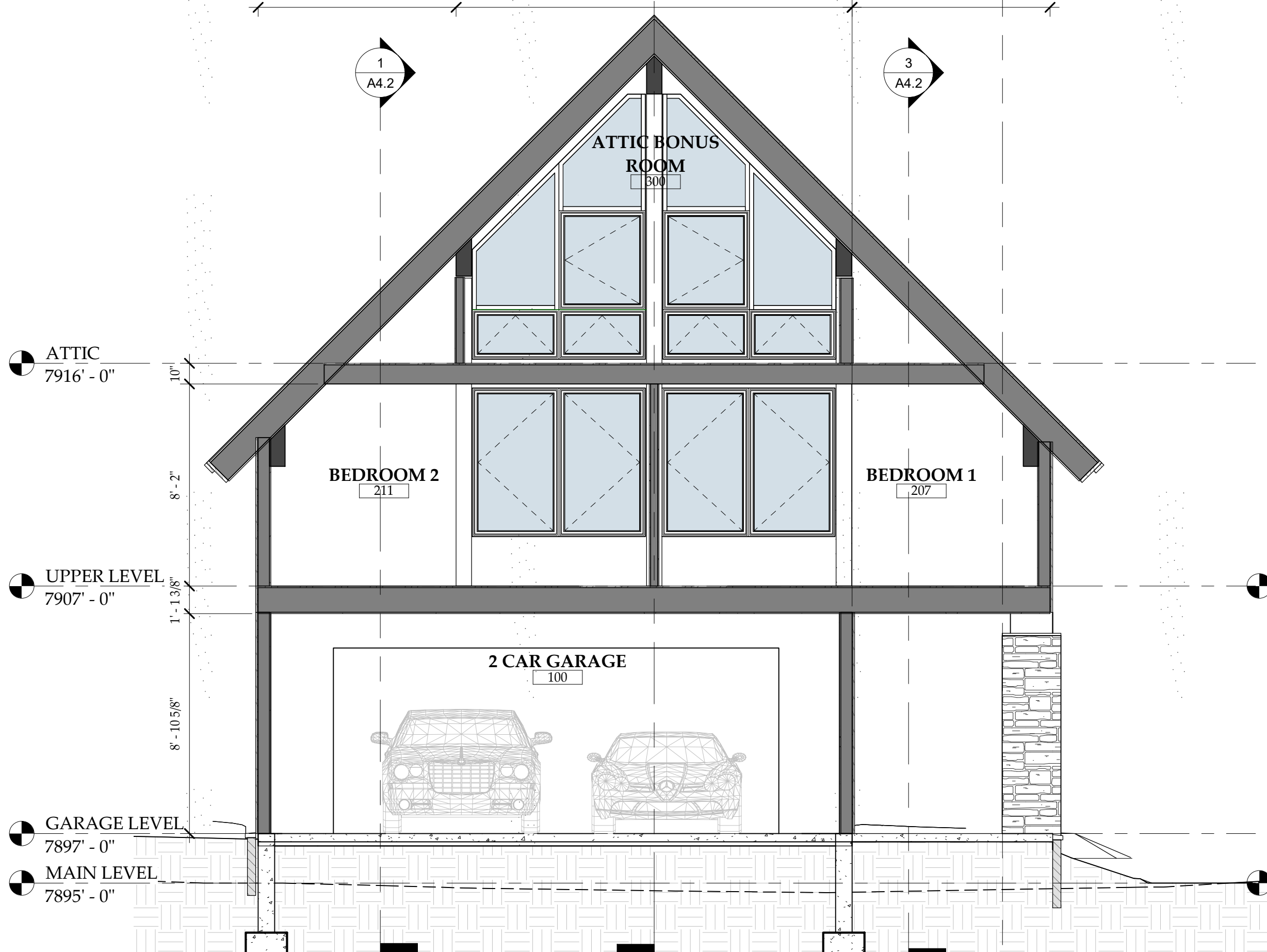
1/4" = 1'-0"

MATERIAL KEYNOTES	
KEY #	MATERIAL
M-01	HORIZONTAL WOOD SIDING
M-02	CORRUGATED RUST PATINA'D SIDING
M-05	CORRUGATED RUST PATINA'D ROOF
M-06	STANDING SEAM METAL or METAL PANEL



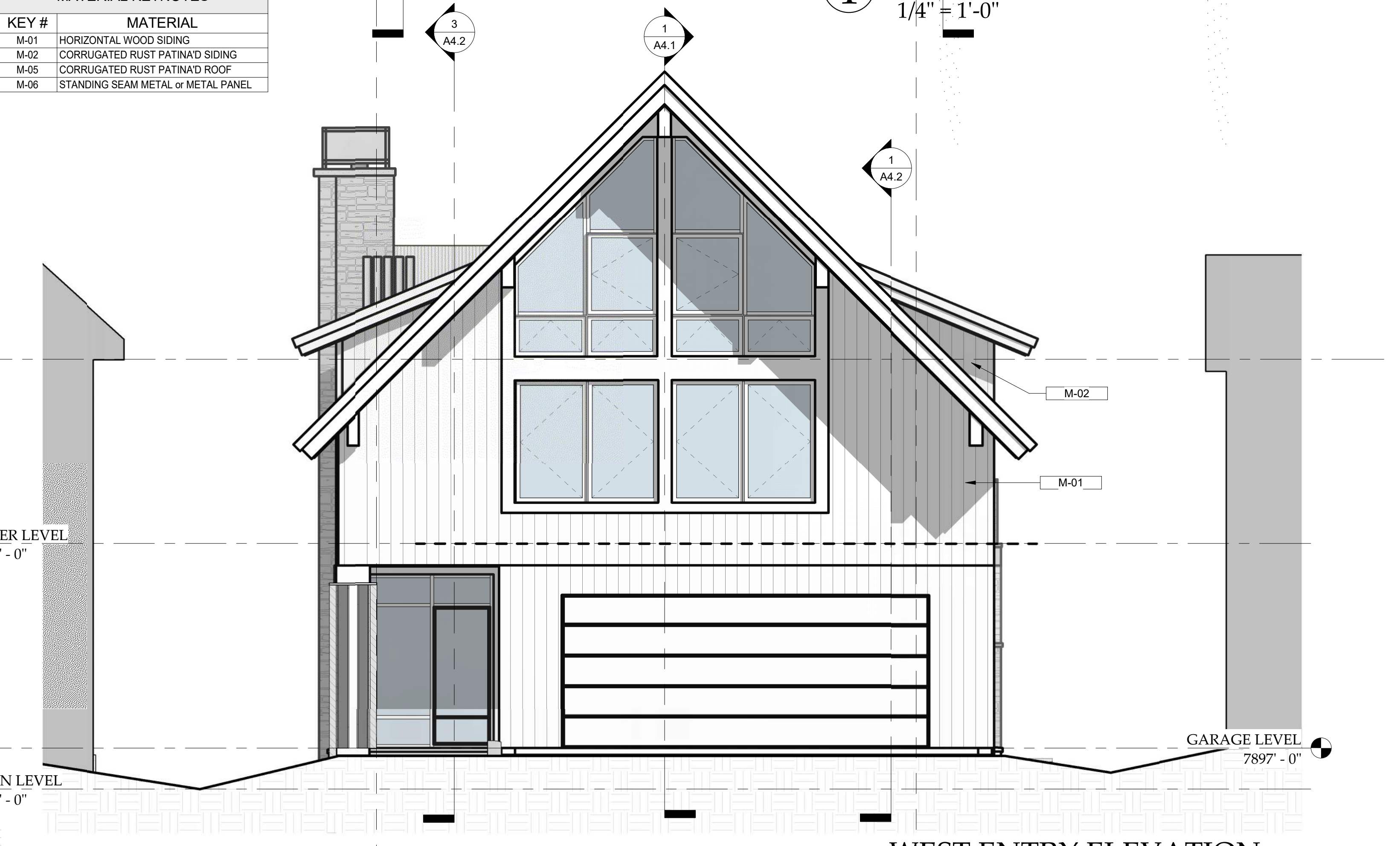
1 EAST ELEVATION

1/4" = 1'-0"



4 SECTION END @ S

1/4" = 1'-0"



2 WEST ENTRY ELEVATION

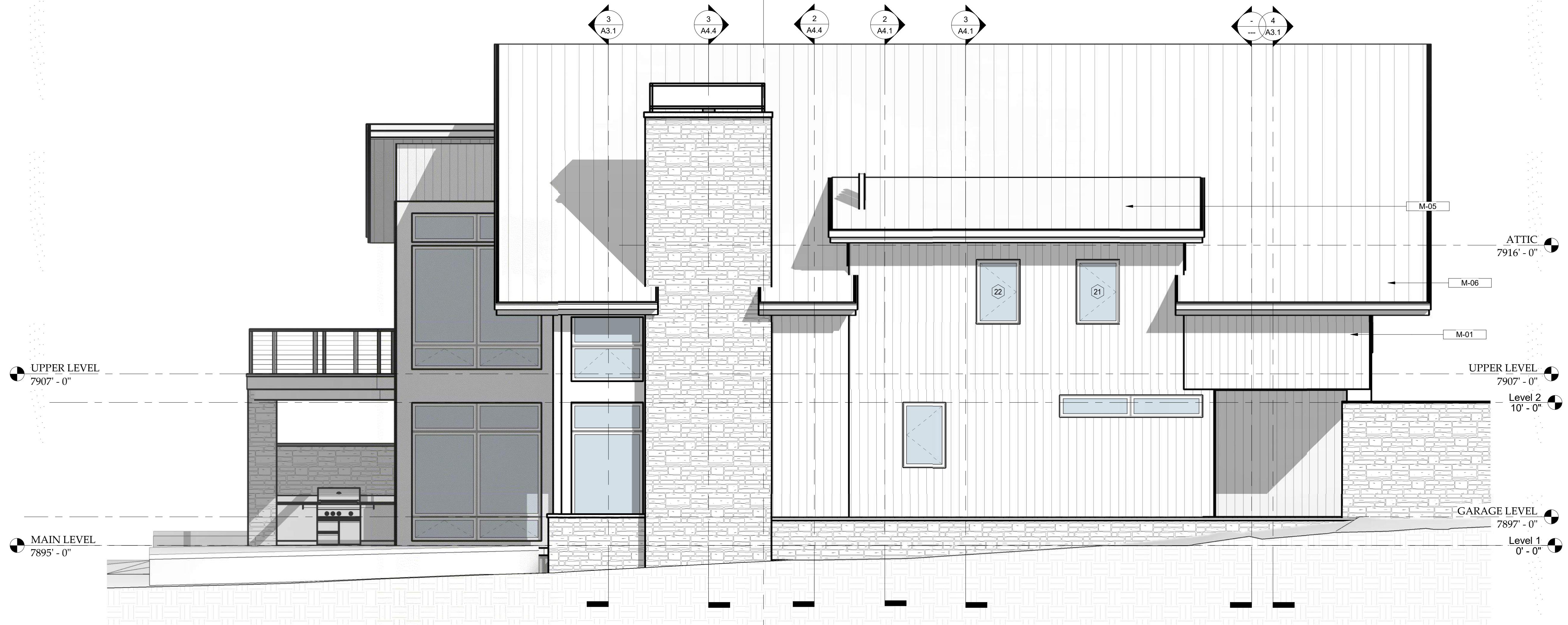
1/4" = 1'-0"

MARTIN MANLEY ARCHITECTS
 970.328.5151 OFFICE
 P.O. Box 1587, Eagle, CO 81631
 www.martinmanleyarchitects.com

No.	Description	Date

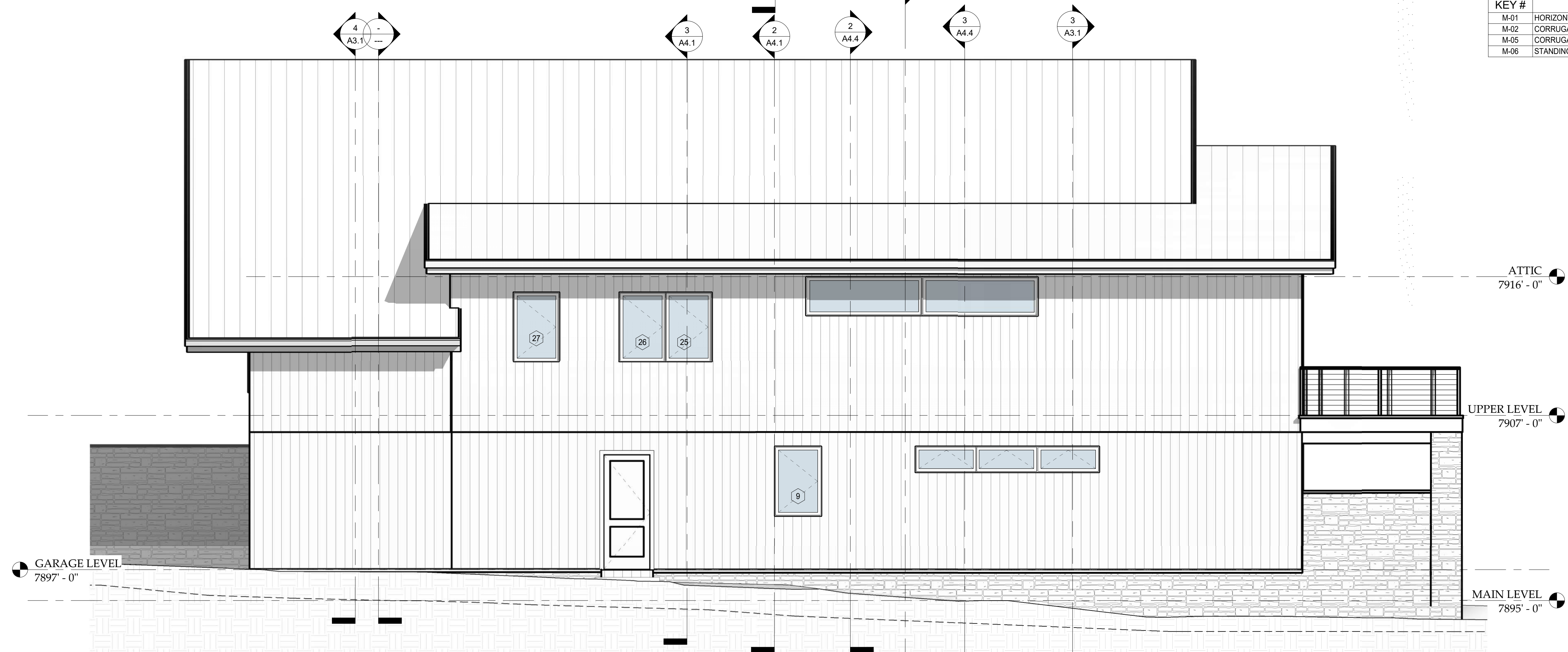
A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
 994 MAIN STREET
 MINTURN COLORADO
 DESIGN REVIEW SET

Date: 5-2-22
 Project number: XXXX
 EXTERIOR ELEVATIONS
A3.1



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

MATERIAL KEYNOTES	
KEY #	MATERIAL
M-01	HORIZONTAL WOOD SIDING
M-02	CORRUGATED RUST PATINA'D SIDING
M-05	CORRUGATED RUST PATINA'D ROOF
M-06	STANDING SEAM METAL or METAL PANEL



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

DATE: 5-2-22
PROJECT NUMBER: XXXX
EXTERIOR ELEVATIONS

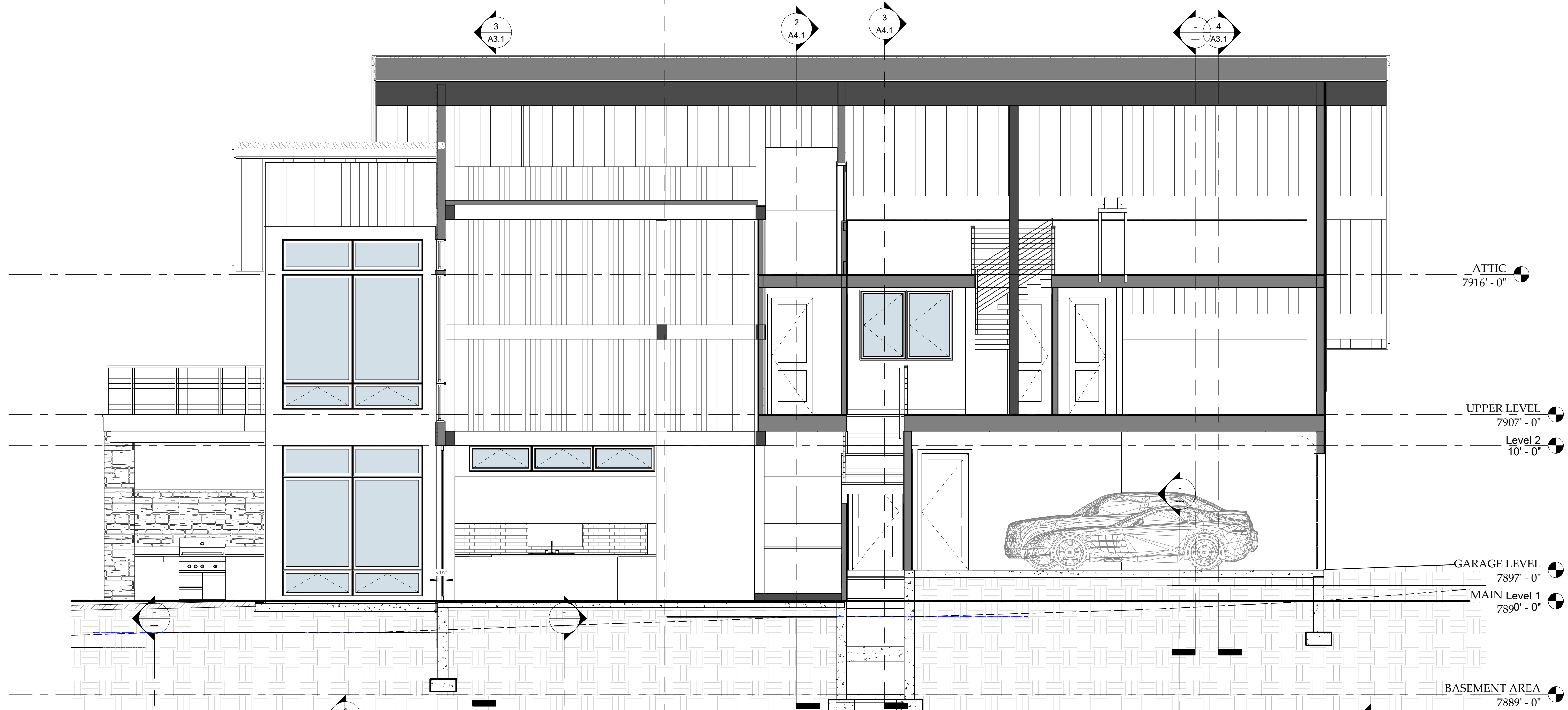
A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

REVISIONS	
No.	Description

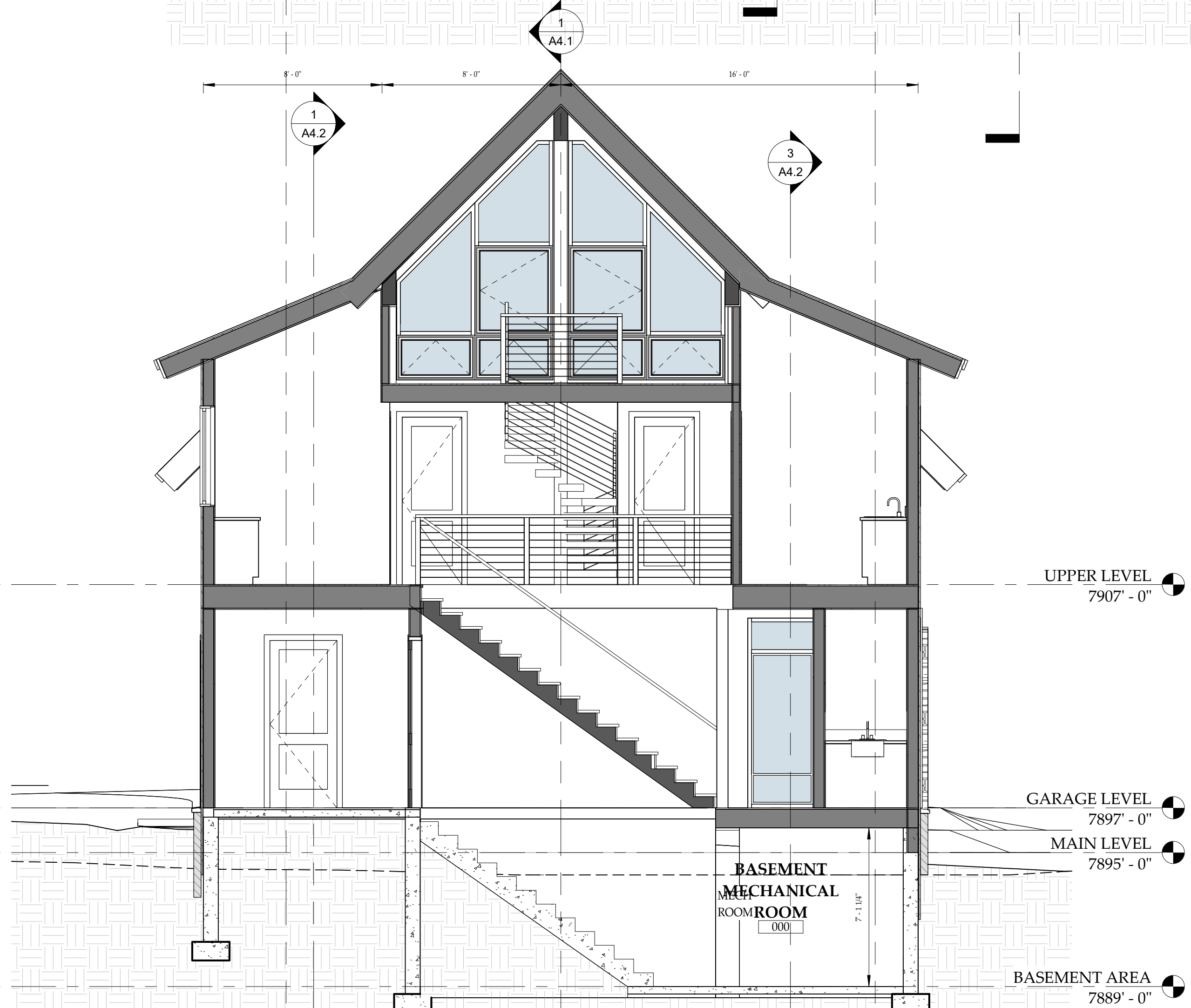
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DATE: 5-2-22
PROJECT NUMBER: XXXX
EXTERIOR ELEVATIONS

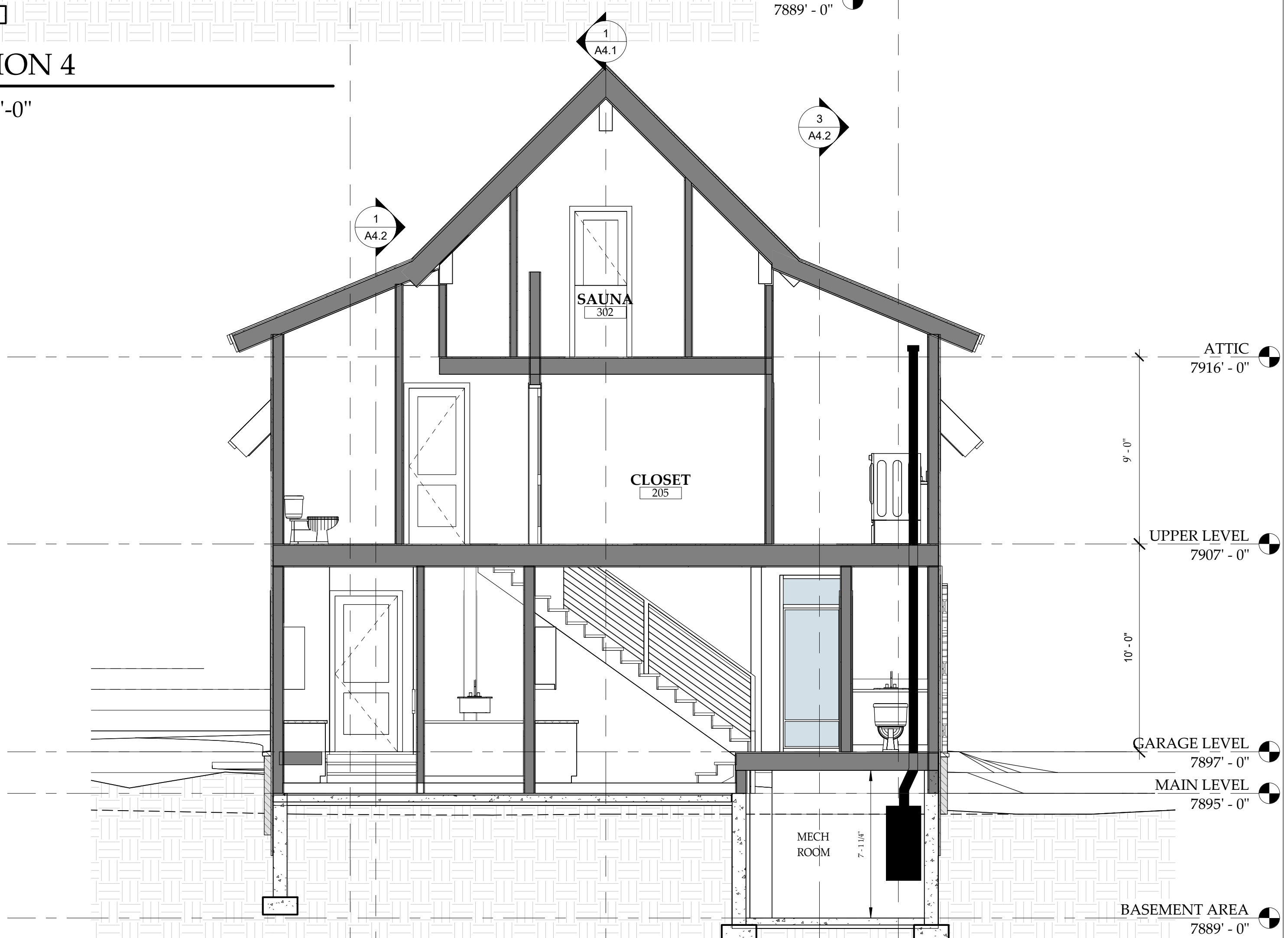
A3.2



1 SECTION 4
1/4" = 1'-0"

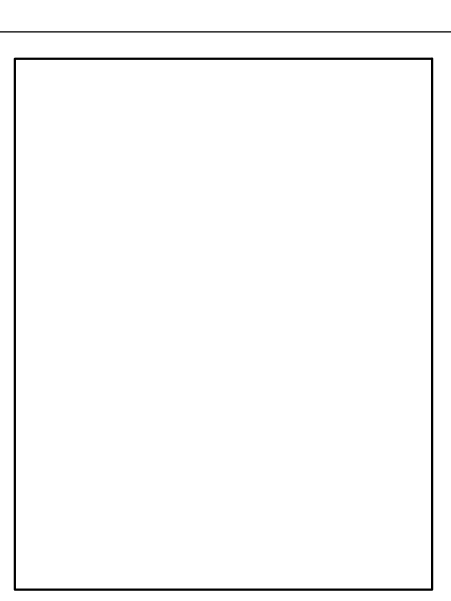


3 SECTION 3
1/4" = 1'-0"



2 SECTION 2
1/4" = 1'-0"

5/2/2022 9:15:04 PM



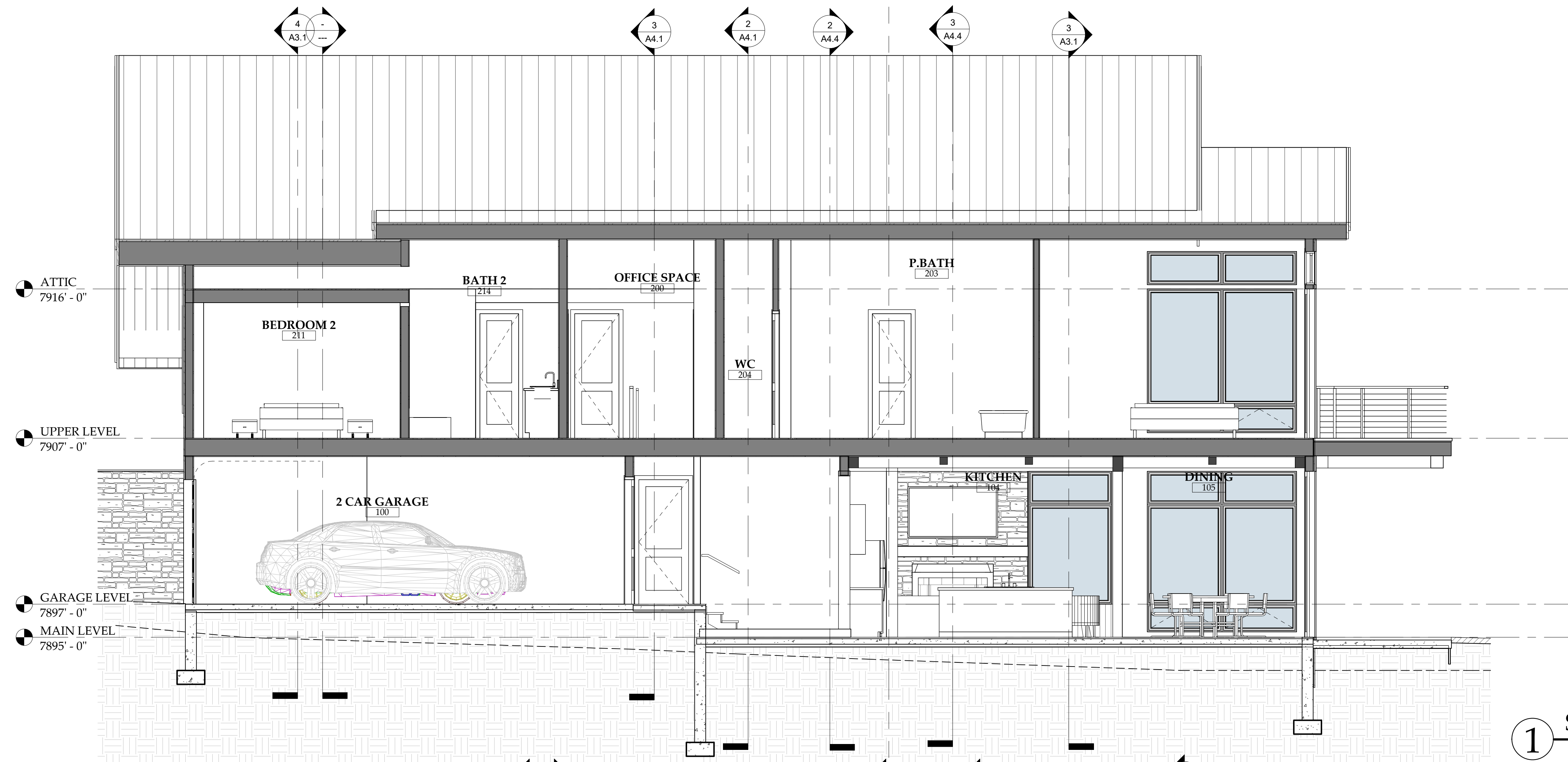
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No.	Description	Date

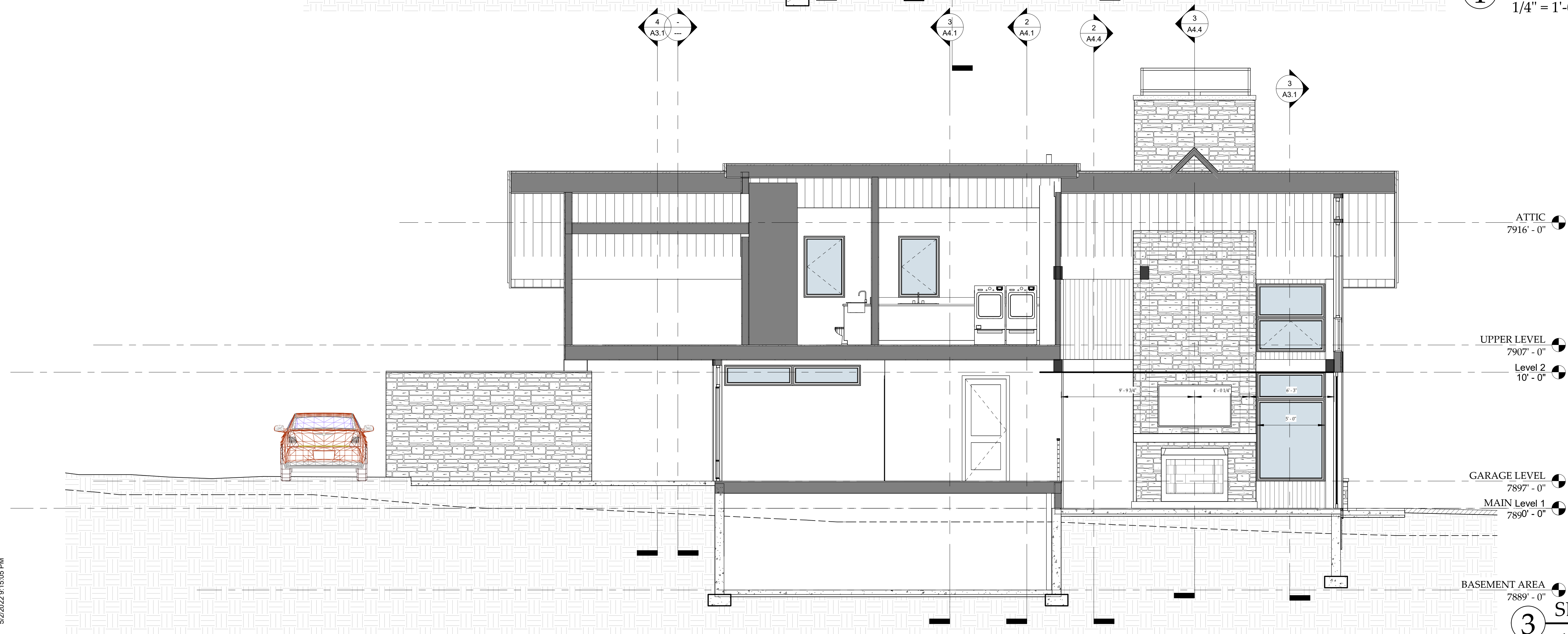
A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

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Date	5-2-22
Project number	XXXX
BUILDING SECTIONS	A4.1



1 SECTION 5
1/4" = 1'-0"



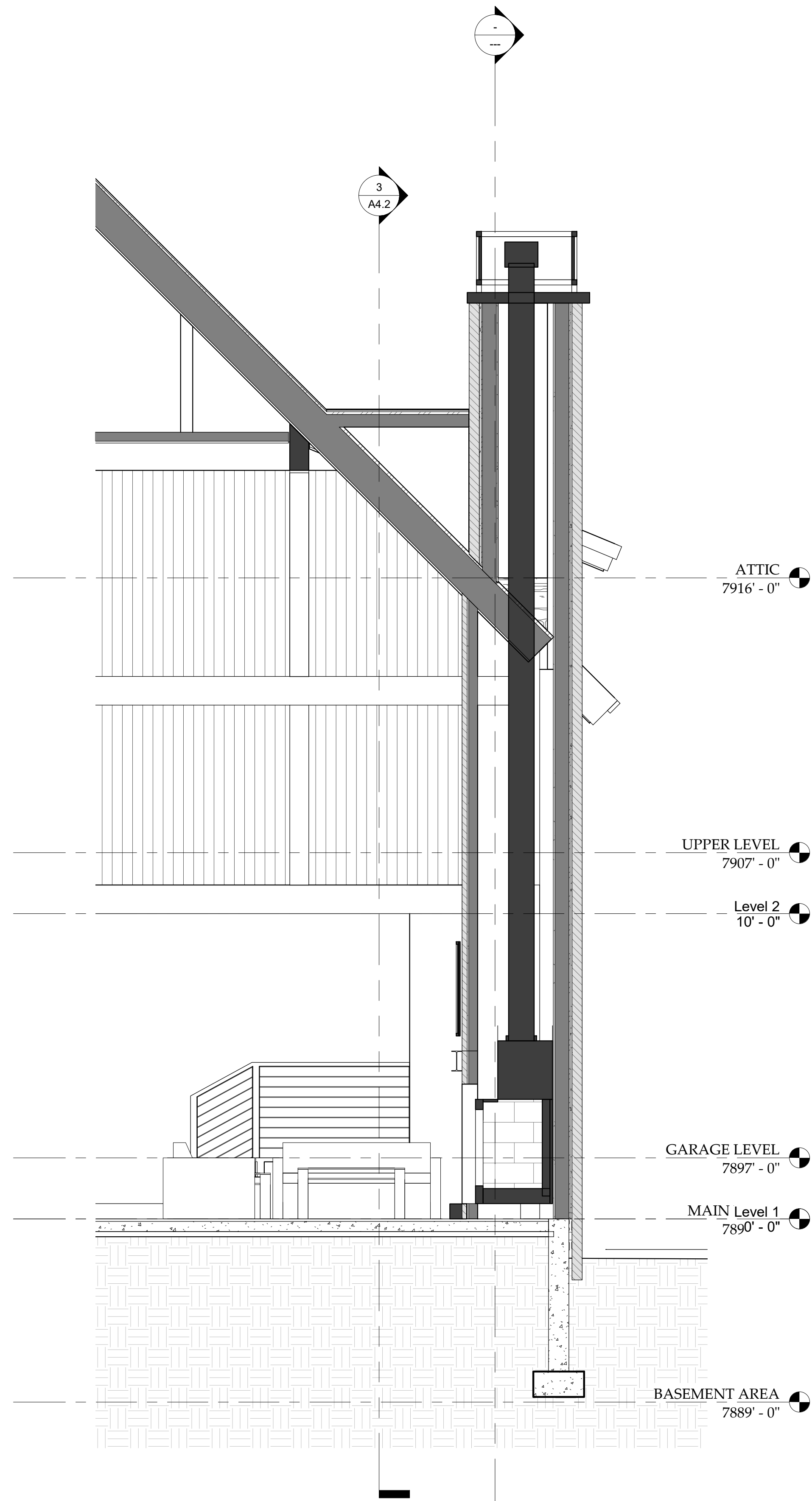
3 SECTION 7
1/4" = 1'-0"

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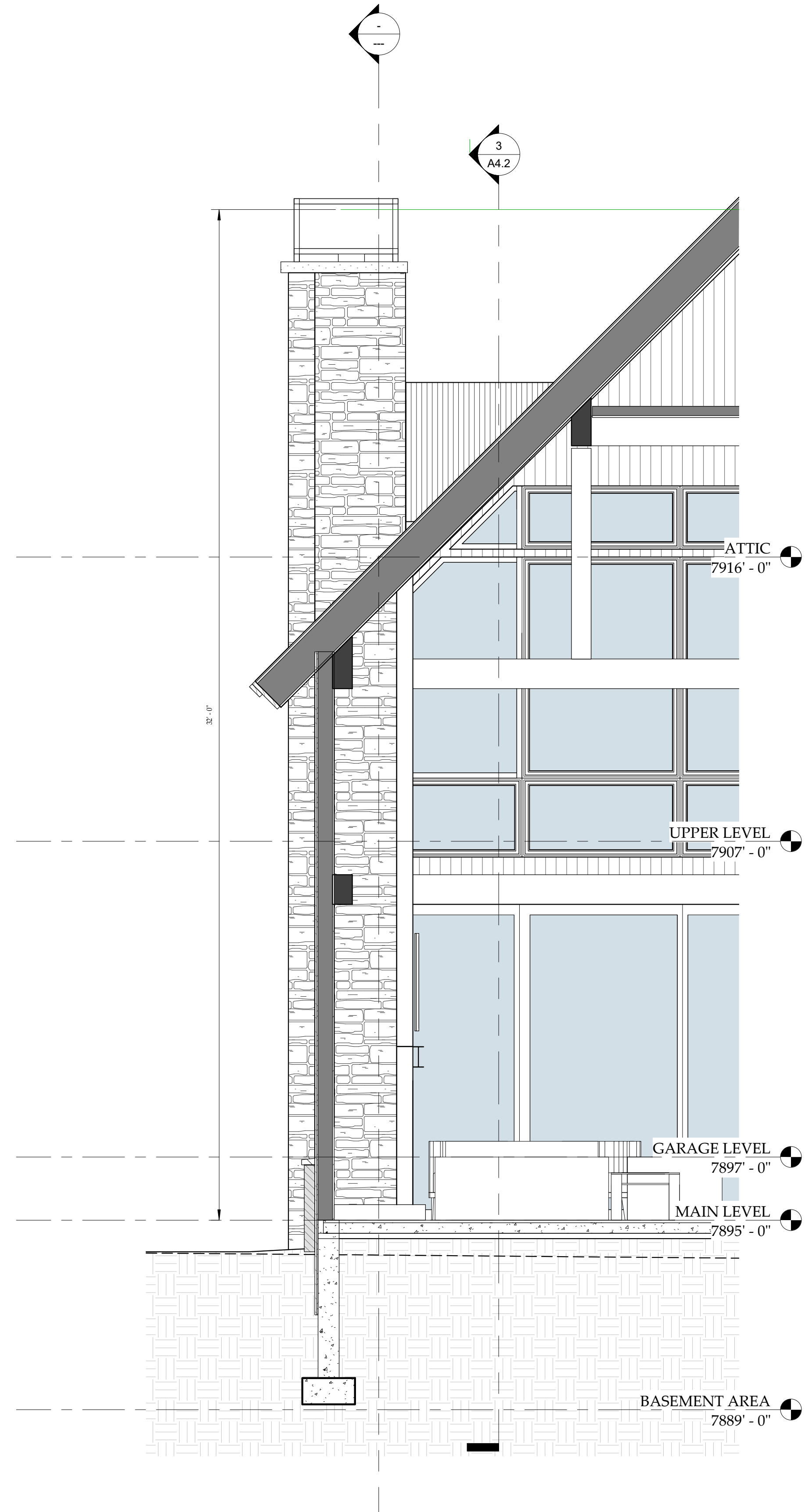
No.	Description	Date

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

Date	5-2-22
Project number	XXXX
BUILDING SECTIONS	A4.2



3 FIREPLACE SECTION 3
3/8" = 1'-0"



2 FIREPLACE SECTION 2
3/8" = 1'-0"

Date 5-2-22

Project number XXXX

SECTIONS

A4.4

A NEW SINGLE-FAMILY HOME
ALFOND HOUSE
994 MAIN STREET
MINTURN COLORADO
DESIGN REVIEW SET

No.	Description	Date

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Michael Boyle
Elliot Hovey
Sage Pierson
Tom Priest

To: Town Council
From: Madison Harris, Planner I
Date: June 10, 2022
Re: 832 Main Street - Variance Update

This is an addendum to the memo from staff dated June 1, 2022 which is also in this packet.

The Town Council has directed staff to set up a site visit at 832 Main Street for them to see the conditions of the lot and what is being asked for. The variance was first reviewed by the Town Council on June 1, 2022 and was continued to June 15, 2022.

Summary of Discussion at June 1, 2022 Meeting

There was concern expressed about the proposed variance maximizing the requested relief instead of minimizing it. Mayor Earle Bidez helpfully elaborated on the history of the 30 foot live stream setback and what the Town has done to protect it and encourage it to flourish. After much discussion among Council and with the Applicant, it was decided to continue the public hearing to June 15, 2022 to allow for a site visit to the property to allow for Council to get an on-site look.

Sec. 16-21-690 of the Minturn Municipal Code states:

(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.*

All four findings as stated above **must** be met in order to approve a variance.

Update

The Applicant's Representative has provided an updated site plan that shows more detail and information, and has also provided a letter dated June 9, 2022 which is included in this packet giving a response to the findings that must be made.

Attachments

- Staff Report
- Application
- Letter of Intent
- Letter from Applicant's Representative to the Town Council
- Letter from Applicant to the Town Council
- Updated Plans
- Pictures of Existing Conditions
- Resolution



Design Review Board Hearing

Jones Residence Variance Request 832 Main Street

Hearing Date:	June 1, 2022
File Name and Process:	Jones Variance Request
Owner/Applicant:	Pamela and Craig Jones
Representative:	Michael Pukas, MPP Design Shop, Inc.
Legal Description:	South Minturn Addition, Lot 35
Address:	832 Main Street
Zoning:	South Town Character Area – Residential Zone District
Staff Member:	Madison Harris, Planner I
Planning Commission Recommendation:	Approval

Staff Report

I. Summary of Request:

The Applicants, Pamela and Craig Jones, request review of a safety fence located within the 30-foot live stream setback at 832 Main Street in the South Town Residential Zone District. The Applicant’s Representative Michael Pukas has been proactive in meeting with Town staff prior to submitting the variance request.

Proposed Plans

The applicant is proposing to install a new safety fence at the edge of a steep embankment leading to Eagle River within the live stream setback. The new safety fence would be 3.5 feet tall, constructed with 4x4” wood posts and 4x4” black welded wire mesh in order to protect the Applicant’s pets, family, and friends from falling down the steep riverbank.

Section 16-2-50 – Specific Lot Requirements and Dimensional Standards, of the Minturn Municipal Code (MMC) is applicable with regard to improvements within the stream setback:

- (a) *Portions of a lot contained in a river or creek as defined by the ordinary*

high-water mark, shall not be included in the lot's square footage for purposes of calculating the maximum building lot coverage or the maximum impervious surface area.

*(b) Setback from river/creeks. A strip of land measured horizontally from the ordinary highwater mark on each side of any live creek shall be protected in its natural state. If necessary to protect the river or creek, additional river/creek setback may be required. **Underground utilities may be located in the river/creek setback; provided that there is no practical alternative location for such utilities, that plans are approved by the Town Council as a conditional use and that all construction scars are revegetated. Otherwise, river and creek setbacks are to remain natural vegetation.***

*(c) The river or creek setback shall remain, or be re-vegetated to, natural riparian vegetation. **No manmade structures may be placed in the river or creek setback except as permitted by this [Chapter 16](#).***

As referenced in subparagraph (b) above, the only apparent improvements permitted within the live stream setback area are underground utilities which would be approved via Conditional Use Permit. Staff does not believe Section 16-2-50 of the MMC contemplates situations such as the one presented at the Jones residence where there may be a valid need for fence or other enclosure for safety reasons.

The Applicant is requesting a variance from the following:

- **30 Foot Live Stream Setback** – Based on the topography of the land and previous disturbances, there is at one point a rapid change in elevation of about 10 feet. This change in elevation is within the 30-live stream setback, but due to safety reasons needs to be fenced off.

Although it is the Applicant's responsibility and opportunity to demonstrate that the variance request meets the criteria and findings for granting of a variance, the Planning Commission is **recommending approval** of the variance request from the strict interpretation and application of the Town's Setback requirements.

II. Planning Commission Review and Recommendation:

Discussion

Two members of the Planning Commission, Jeff Armistead and Lynn Teach, were concerned about the precedent this sets for what people do within the fence area. These Commission members expressed that the riparian area is supposed to be natural, but once it is fenced in, there is very little to stop the property owners from mowing down any native grass and creating a manicured backyard. While they agreed that there was a safety concern, these Commission members suggested more effort towards retaining the natural state. They ultimately voted against the recommendation of approval of the variance to the Town Council.

The other three members of the Planning Commission, Michael Boyd, Tom Priest, and Elliot Hovey, believed the safety concern to be great enough to recommend approval of the variance to the Town Council.

During the course of the meeting staff suggested the Applicant pull the fence in closer to the house in order to lessen the amount of relief being asked for through the variance process (a factor or criteria listed in the Code). The Representative argued that the property owners need as much space in the back yard as possible, and that there had been a fence and deck there previously that was removed when they demolished the house, and so the conditions on the property are not changing much.

III. Zoning Analysis:

Zoning

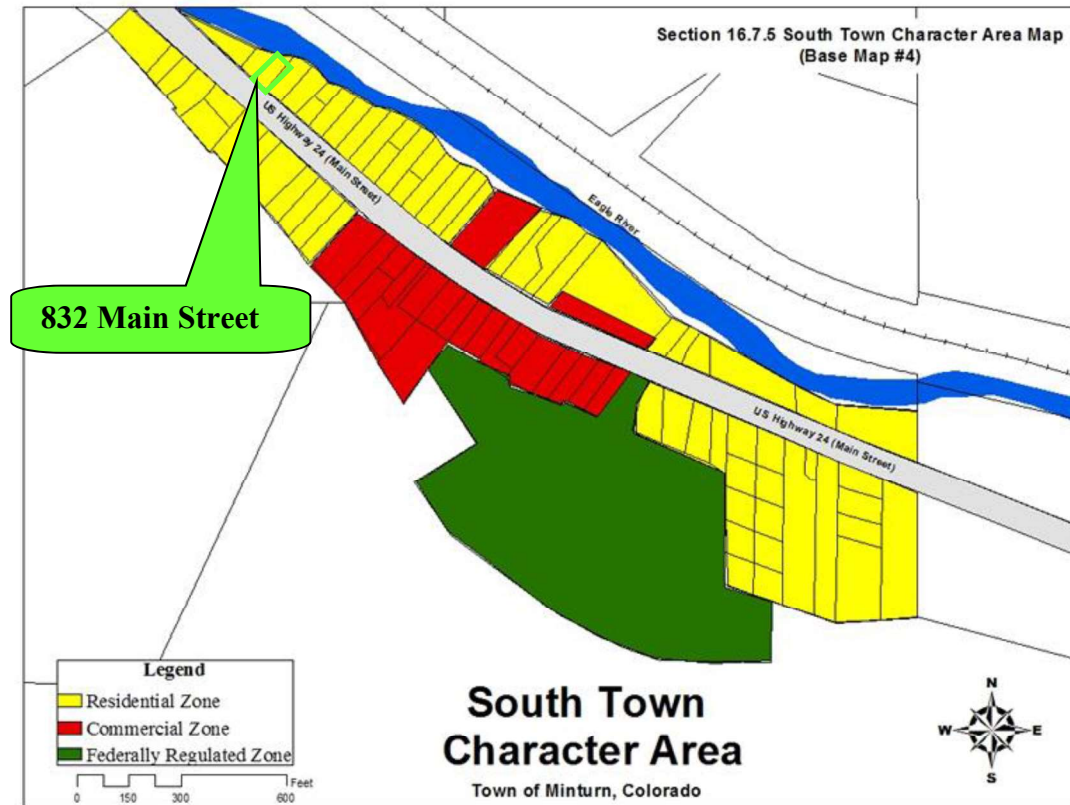
The subject property is located within the “South Town Character Area” Residential Zone District, described as follows:

- (a) *The neighborhood is bisected by Highway 24 and is **characterized by single-family residences and accessory buildings. The residences are typically one (1) and two (2) stories**, with outbuildings on larger lots than found in Old Town. Low-density residential and public recreational and open space use along the Eagle River is encouraged. Higher density residential development can be accommodated on the south side of Main Street if it remains in character and all impacts are adequately addressed.*
- (b) *The purpose of this area is to provide for continued residential use that benefits from proximity along the Eagle River. New development and redevelopment should preserve the unique character and scale of the neighborhood. **An objective is to retain the residential areas as quiet and safe neighborhoods** while allowing for compatible and appropriate nearby commercial. This area can accommodate reasonable growth where land and services are available.*

- Town of Minturn Town Code Section 16-7-20

Space left intentionally blank.

Figure 1: South Town Character Area Zoning Map



IV. Applicable Standards and Design Guideline Criteria:

Variance

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

Sec. 16-21-690. - Variances.

(a) Purpose of provisions; limitations.

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

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

(3) The power to extend variances does not extend to the use regulations prescribed for each district because the flexibility necessary to avoid results inconsistent with the objectives of this Chapter is provided by Sections 16-21-

620, Conditional Use Permits, and Division 3 of this Article, Amendments to text of Land Use Regulations or Character Area and Zone District Map.”

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

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

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

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

Staff Response:

As noted above, the Planning Commission made positive findings for all four variance criteria following their review of the variance request. The Town Council acting as the Zoning Board of Appeals must also 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 the intention of the 30-foot live stream setback is to maintain a riparian area and the natural riverbank for the health of the river. This section of riverbank has long been disturbed and is currently a rock retaining wall.

With essentially a 10 foot drop off at one point, and pets, family, and friends anticipated to use the back yard, there may be a case for physical hardship and/or practical difficulty to allow for the construction of a safety fence.

V. Planning Commission Recommendation and Suggested Conditions:

Planning Commission recommends that the Applicant's request for a variance for relief from the strict application of the Town's Live Stream Setback limits at 832 Main Street may be granted as the request generally meets all variance criteria, particularly for physical hardship and practical difficulty. This recommendation passed 3-2.

Planning Commission is **recommending approval** of the variance request.

VI. Attachments:

- Application
- Letter of Intent
- Letter from Applicant to the Town Council
- Plans
- Pictures of Existing Conditions
- Resolution



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:

Jones Residence

Project Location

Street Address: 832 Main Street

Zoning: **Residential**

Parcel Number(s): **2103-351-02-003**

Application Request:

To build a 3'-6" high safety fence on-grade within the 30' high water mark setback

Applicant:

Name: Michael Pukas, mpp design shop, inc.

Mailing Address: PO Box 288, Gypsum, CO 81637

Phone: (970) 390-4931

Email: michael@mppdesignshop.com

Property Owner:

Name: **Craig & Pamela Jones**

Mailing Address: 265 Willow Glen Court
 Boulder, CO 80302

Phone: (650) 384-5811

Email: craig@TPEBoulder.com

Required Information:

Lot Size: 0.13 acres, 5,695 SF	Type of Residence (Single Family, ADU, Duplex) Single Family	# of Bedrooms 5	# On-site Parking Spaces 4
# of Stories: 2	Snow storage sq ft:	Building Footprint sq ft:	Total sq ft Impervious Surface:

Signature

Fee Paid: _____ Date Received: _____ Planner: _____

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 a 3'-6" high safety fence on-grade within the 30' high water mark setback

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 has been in-filled by previous owner(s) and there is a steep rock wall along the edge of the river, approximately 10' high. There was a fence built along of the top of the rock wall that was in disrepair.

The current owners desire to reconstruct the fence for the safety of people and pets.

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 Municipal Code does not allow for improvements to be made within the 30' Highwater Mark Setback.



Vicinity Map

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

- Zoning of Property



Improvement Location Certificate of Survey (ILC or ILS)



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

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

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



Preliminary Building Plans and Elevations

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



Elements needed on the Site Plan

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



Architecture Details – Materials Board

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

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

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

PO Box 288
Gypsum, CO 81637
(970) 390-4931
michael@mppdesignshop.com

April 26, 2022

Town of Minturn
Attention: Planning Department
302 Pine Street
P.O. Box 309
Minturn, CO 81645
Tel: (970) 827-5645
Fax: (970) 827-5545
e-mail: planner@minturn.org

Regarding: Jones Residence

Location: 832 Main Street
Minturn, CO 81645
Parcel Number: 2103-351-02-003
South Minturn Addition, Lot 35

This is a request for a Variance Application to construct a safety fence within the 30' high water mark setback along the north and south property lines, and along the top of the rock wall adjacent to the river bank.

At some point in the past, the lot had been filled in by approximately 6'-10' to make it level to the street, and a steep rock wall was constructed along the river bank. Previous owners of the property had constructed a fence, deck and shed that covered the majority of the back portion of the lot. These improvements were made prior to the Minturn Municipal Code being created, and prior to the requirement of a 30' setback from the highwater mark. All of the previous improvements were poorly constructed originally, had not been maintained over time, and were not suitable for continued use. All such existing prior improvements have been removed.

When the application for design review for the proposed Jones Residence was first presented in March 2021, the safety fence was discussed. The owners are concerned about the safety of the pets, and family and friends, and would like to re-construct a similar safety fence as was previously existing. The proposed safety fence would encroach into the 30' highwater mark setback along the north and south property lines, and along the top of the rock wall adjacent to river on the east side of the lot. The fence would be 3'-6" high, and be constructed of 4x4 wood posts set into 12" concrete piers, a 2x6 wood top rail, and a 4x4 welded wire mesh, painted black.

It is understood that the intention of the 30' highwater mark setback is to maintain the natural riparian vegetation along the river corridor. However, since the lot has been filled in and the steep rock wall has been constructed, the current state of the lot is far from a natural state.

Thank you for your consideration.

SIGNED: Michael Pukas

PO Box 288
Gypsum, CO 81637
(970) 390-4931
michael@mppdesignshop.com

June 09, 2022

Town of Minturn
Attention: Planning Department
302 Pine Street
P.O. Box 309
Minturn, CO 81645
Tel: (970) 827-5645
Fax: (970) 827-5545
e-mail: planner@minturn.org

Regarding: Jones Residence

Location: 832 Main Street
Minturn, CO 81645
Parcel Number: 2103-351-02-003
South Minturn Addition, Lot 35

This is an additional letter to address Chapter 16, Article 21, Section 16-21-690, (d) Findings:

1. The exceptional or extraordinary circumstances or conditions are the existing 10' +/- tall, very steep, rock retaining wall at the edge of the river that was constructed to fill in the lot to be approximately level with the street, by a previous owner.
 - a. None of the other lots in this area along the river have this type of rock retaining wall.
2. The existing rock retaining wall creates a hazardous condition along the river edge for people and pets to fall into the river. The river is extremely hazardous during run-off season.
 - a. The hazard of falling down the rock wall and into the river can be mitigated by the construction of the proposed safety fence.
3. The proposed single family residence, including the site & landscape plans, have been designed and previously approved in accordance with the Town of Minturn's Development Code. The approved site and landscape plans stated the existing ground within the 30' setback from the high water mark would be restored to a natural state, and new aspen trees planted along the north and south property lines.
 - a. The construction of the safety fence will not change any of the proposed landscaping that is in keeping with the intentions of the 30' setback.
 - b. With the previous construction of the 10' tall rock wall and the lot being back filled, this section of the river bank is not in a "natural" state, as before any improvements were done at any point in the past.
 - c. It is not feasible to remove the rock wall and return the section of river bank to a "natural" state.
 - d. The construction of the safety fence will not pose any threats, hazards, or detriments to the current state and health of the river and it's banks. Given the nature of the existing rock retaining wall and filled in lot being not in a natural state, there isn't any migration of native species along this section of river. The construction of the proposed safety fence would not inhibit any such
 - e. The requirements of the provisions of the code relating to the 30' set back have been understood from the project inception, and there has never been an intention to have a manicured back yard. The construction of the proposed safety fence is not an attempt to circumvent the provisions of the code and will not change the landscaping intentions.

LETTER

mpp design shop

PO Box 288
Gypsum, CO 81637
(970) 390-4931
michael@mppdesignshop.com

-
4. Given that this is a private lot, and there is no public access to the river in this location, the installation of the proposed privacy fence will not impair the public in any way at this location.

Thank you for your consideration.

SIGNED: Michael Pukas

To the City Council of Minturn:

We are very excited to have our new home completed soon at 832 Main Street and to gain occupancy hopefully in late summer. We love being on the river and that is one of the reasons we bought the property. As you may know, the existing structures were very worn down and had tenants living in pretty bad conditions. We are very proud of the new home design and construction. Our one concern is safety, as there is a 10 foot drop to a Class IV river.

We are pleased the planning board approved our safety fence and hope you will endorse their recommendation. We have two dogs we need to keep in the yard and certainly cannot have the liability or worry of the drop off for people without a fence. We are sure you would feel the same if it were your home. There was a fence when we bought it and we want a see-through fence for our own and the neighborhood's viewing pleasure of the river, but a fence for safety nevertheless. We appreciate your understanding. We are sure you don't want Minturn to have any shared liability when we had the ability and easy solution to the problem.

Some of you may live on the river and not think anything about it. But it is a big safety concern to us and to visitors, grandchildren, friends, kids who like to climb. It is a serious safety issue that can be easily solved through an environmentally friendly see-through fence.

Craig Jones

I would just like to add that this fall off is dangerous for not only adults....but small children. Small children are notorious for being attracted to water...and some can be quite the climbers! Someone falls off that...it's life threatening!

It's a human safety issue.

Pamela Jones

We thank you for your concern, your volunteer efforts on behalf of all of us in Minturn, and your attention to this safety issue.



PERSPECTIVE NORTHEAST -
② VARIANCE



AERIAL VIEW NORTHEAST -
② VARIANCE



PERSPECTIVE SOUTHEAST -
③ VARIANCE



AERIAL VIEW SOUTHEAST -
① VARIANCE



mpp design shop, inc.
PO Box 288
Gypsum, CO 81637
(970) 390-4931
michelle@mppdesignshop.com



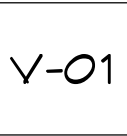
Jones Residence
832 Main Street
Minturn, CO 81445
Parcel Number: 2103-35-31-02-003
South Minturn Addition, Lot 35

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#	Description	Date
01	Issue	05-23-22

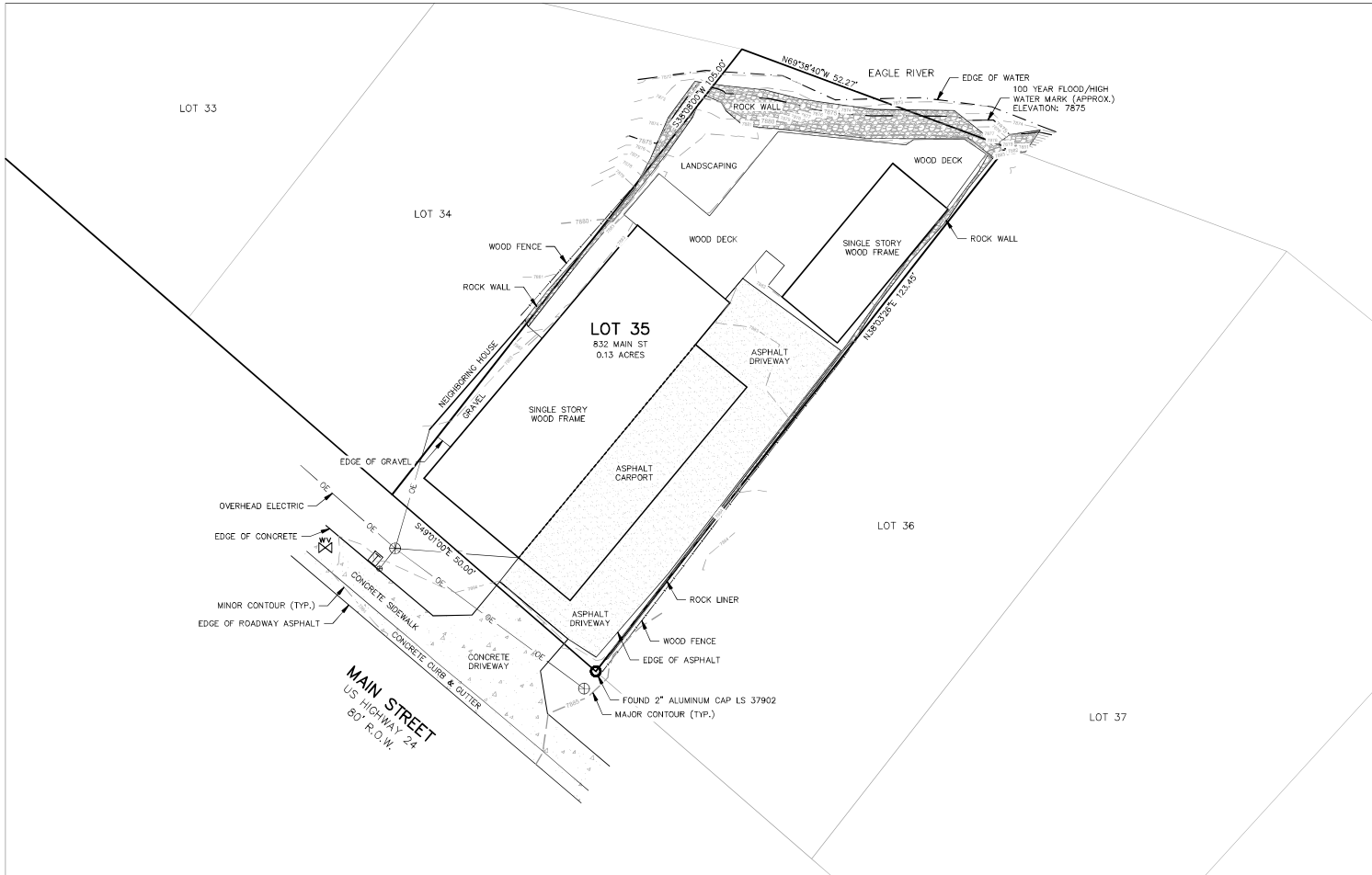
Project Number: 2005
Designed by: Author
Drawn by: Author
Checked by: Checker

EXTERIOR VIEWS



EXISTING CONDITIONS SITE MAP LOT 35, SOUTH MINTURN ADDITION

Section 35, Township 5S , Range 81W of the 6th Principal Meridian
County of Eagle, State of Colorado



LEGAL DESCRIPTION

Lot 35, South Minturn Addition to the Town of Minturn, recorded on March 1, 1978 at Reception No. 163774 at the Office of the Clerk and Recorder, County of Eagle, State of Colorado.

NOTES

- 1) Survey Date: September 22, 2020.
- 2) Contour Interval: 1-foot.
- 3) Elevation datum: Marcin Engineering control point #58, CDOT Minturn Resurfacing Project. Elevation = 7884.52.
- 4) This Survey does not constitute a boundary survey nor any investigation into record assessments or encumbrances associated with this property. No Title Commitment was supplied to the Surveyor.
- 5) Utilities are shown approximately and should be field verified prior to excavation.
- 6) Marcin Engineering LLC does not warrant or certify to the integrity of any Digital Data supplied in conjunction with this map and survey.
- 7) STREET ADDRESS: 832 Main Street, Minturn, CO 81645.
- 8) Parcel Boundary was based on the found 2" aluminum cap at the southern property corner of Lot 35.
- 9) This is not a monumented survey, Land Survey Plot, or Improvement Survey plot. 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.
- 10) No Title Commitment was performed for this survey.
- 11) High water mark: No high water mark was visible. Assume 100-year flood elevation is equal to high water mark. High water flood elevation of 7875 feet was obtained from Eagle County FEMA information collaboration on Eagle County GIS website.

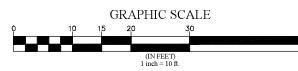
SURVEYOR'S CERTIFICATION

I, Raymond M. Eiko, a Professional Land Surveyor in the State of Colorado, hereby certify that this Existing Conditions Site Map of 832 MAIN STREET was done by me or under my direct supervision and that both are accurate to the best of my knowledge.

Raymond M. Eiko, P.L.S. 38444
Colorado Professional
Land Surveyor



LEGEND	
	CONCRETE
	ASPHALT
	ROCK
	FOUND ALUMINUM CAP
	UTILITY POLE
	WATER VALVE
	TELEPHONE PEDESTAL



TOPOGRAPHIC MAP
LOT 35, SOUTH MINTURN ADDITION
Town of Minturn, County of Eagle,
State of Colorado

DRAWN BY: TLV	DATE: 9/23/2020
CHECKED BY: RME	DRAWING NO.: TOPO
JOB NO. 20074	SHEET 1 OF 1

MARCIN ENGINEERING LLC

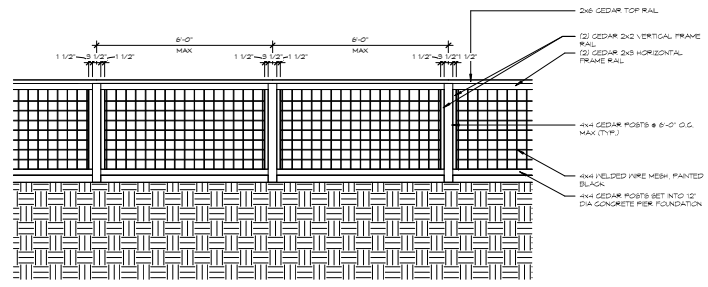
101 EAGLE RD, #5
P.O. BOX 1062
AVON, CO 81620
(970) 748-0274

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.

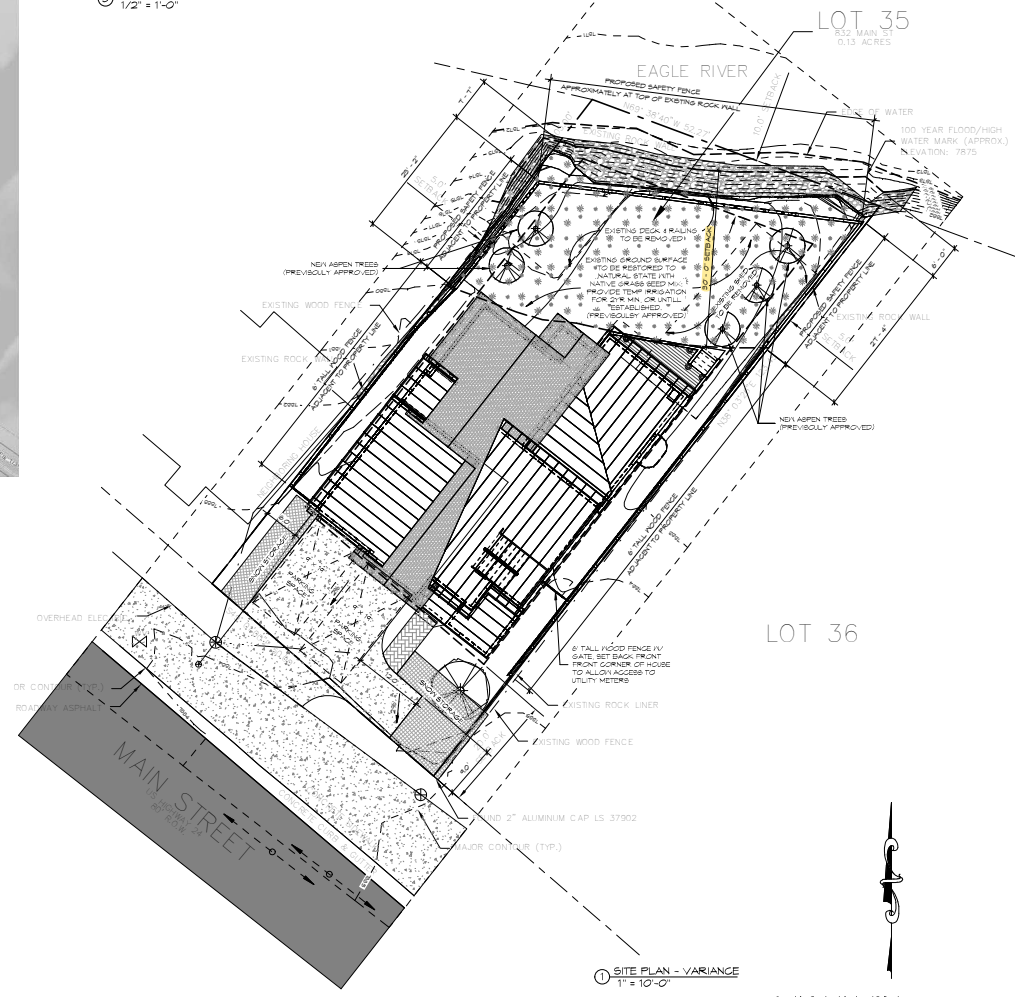


LOT AREA & ALLOWABLE COVERAGE		
EFFECTIVE LOT AREA	BUILDING LOT COVERAGE	IMPERVIOUS SURFACE COVERAGE - 50%
5,502 SF	2,322 SF	2,784 SF

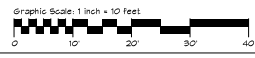
LOT AREA	
Name	Area
LOT AREA	5,502 SF
EFFECTIVE LOT AREA	5,502 SF



③ SAFETY FENCE
1/2" = 1'-0"



① SITE PLAN - VARIANCE
1" = 10'-0"



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 PO Box 288
 Gypsum, CO 81637
 (970) 390-4931
 michaell@mppdesignshop.com

Jones Residence
 832 Main Street
 Minturn, CO 81445
 Parcel Number: 2103-35-31-02-003
 South Minturn Addition, Lot 35

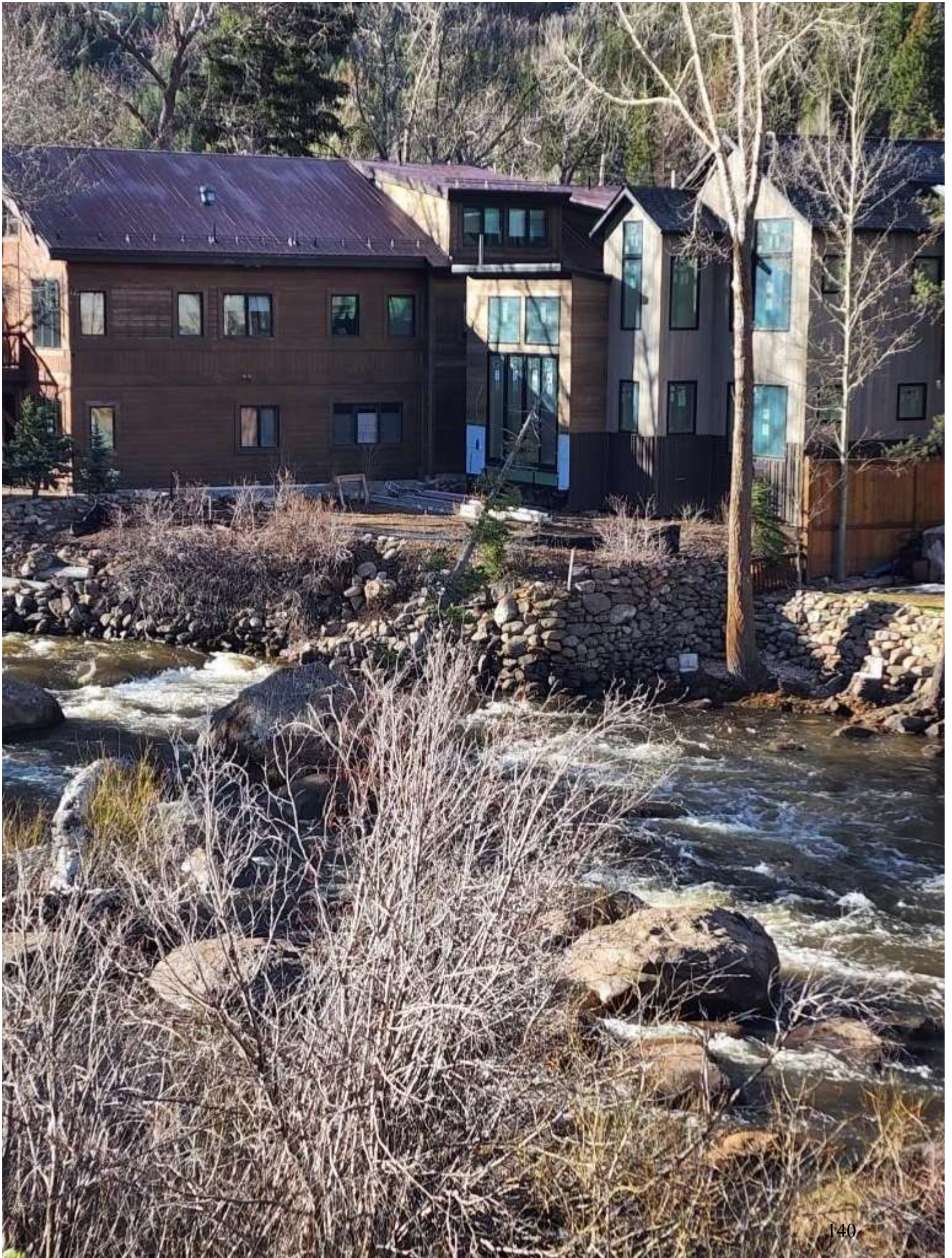
① I have reviewed the drawings and information provided and hereby certify that the same conform to the requirements of the Colorado Building Code and the applicable provisions of the International Building Code, and that the same are in accordance with the provisions of the applicable provisions of the Colorado Building Code and the applicable provisions of the International Building Code, and that the same are in accordance with the provisions of the applicable provisions of the Colorado Building Code and the applicable provisions of the International Building Code.

#	Description	Date
103	Revised	06/04/22
104	Variance Revised	06/04/22

Project Number: 2005
 Designed by: mpp
 Drawn by: mpp
 Checked by: mpp

SITE PLAN

V-AS
101





**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 20 – SERIES 2022**

**A RESOLUTION APPROVING LAND USE APPLICATION
VARIANCE 01-22**

WHEREAS, on or about April 26, 2022 the Town of Minturn accepted an application from Craig and Pamela Jones for the review of a variance from the live stream setback standards pursuant to the Minturn Municipal Code (hereinafter, the “Code”), Section 16-21-690, Variances; and,

WHEREAS, the Applicant requests relief from the strict interpretation of Section 16-2-40 of the Code to allow for the construction of a safety fence within the 30’ Live Stream setback on a lot located within the South Town Character Area Residential Zone District; and,

WHEREAS, public notice was properly given pursuant to Section 16-21-610, Public Notice, of the Code for a public hearing held by the Town of Minturn Planning Commission (hereinafter, the “Commission”) on May 11, 2022 to consider the variance request; and,

WHEREAS, at their regular meeting of May 11, 2022, the Commission acted to recommend approval of the variance request to the Minturn Town Council; and,

WHEREAS, at the regular meeting on June 1, 2022, the Minturn Town Council (hereinafter, the “Council”) acting as the Zoning Board of Appeals, held a public hearing on the variance application and to consider the Commission’s recommendation, pursuant to Section 16-21-690(e) of the Code; and,

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

WHEREAS, at the regular meeting on June 15, 2022, the Council, acting as the Zoning Board of Appeals, voted to confirm the action of the Commission; and,

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

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

- (1) There **ARE** exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
- (2) The exceptional or extraordinary circumstances of the site **DO** create a situation in which the strict, literal interpretation and enforcement of the specified regulation

would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this Chapter;

- (3) That the granting of the variance **WILL NOT** be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and **WILL NOT** result in substantial impairment to the purposes of this Chapter.
- (4) There **IS** no substantial impairment to the public that would result from the granting of the variance.

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

THAT, the variance for 832 Main Street, South Minturn Addition Subdivision, Lot 35, File No. VAR 01-22, for relief from the 30' Live Stream setback, be approved with no conditions.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED THIS 15th DAY OF JUNE, 2022.

TOWN OF MINTURN, COLORADO:

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Elliot Hovey
Michael Boyd
Tom Priest

To: Town Council
From: Madison Harris, Planner I
Michelle Metteer, Town Manager
Date: June 15, 2022
Re: Ordinance 10 - Series 2022 - Historic Preservation

Request

Staff is presenting Ordinance 10 - Series 2022 to amend the Minturn Municipal Code (“MMC”) by adding Chapter 19 to establish a Historic Preservation Commission (“HPC”) and regulate Historic Preservation within the Town of Minturn. Request to recommend approval of draft ordinance.

Introduction

Located between the world-class ski resorts of Vail and Beaver Creek, both with limited land availability for additional development opportunities remaining, Minturn is experiencing an increase in development pressure. With the increased pressure, it became evident that Minturn’s code needed an overhaul in certain sections as well as the establishment of new sections to allow for a more robust toolbox to address the Town’s growing development interests while maintaining the values identified in the [2009 Community Plan values \(page 9\)](#) and the [2021-2023 Minturn Strategic Plan vision and strategies \(page 3\)](#).

In the fall of 2021 Ordinances 14 and 15, Series 2021 established moratoriums on the processing of Design Review, Conditional Use Review, Limited Review, and Demolition applications until August 31, 2022. This moratorium was established to allow the staff, planning commission, council and community time to address the above-stated shortfalls in the code. The recitals in the ordinances showcase the reasoning as, in part, due to a desire to update the MMC relating to Historic Preservation in the 100 Block and elsewhere in Town. To that end a Historic Preservation Committee was formed. Simultaneously, a planning consultant was secured to assist in the creation of a 100-block design guideline booklet to assist all parties regarding the design and building expectations within the downtown area.

On November 16, 2021 the Town sent out a call for volunteers to assist in the establishment of a draft historic preservation ordinance. Simultaneously, a page on the Town’s website was created to begin in the assistance and education of historic preservation policy. Included in the original reference documents were the [Certified Local Government Preservation Ordinance Guide Book](#) and the template [Historic Preservation Ordinance](#) provided by Dr. Lindsey Flewelling of History Colorado.

With a robust group of volunteers, the first Historic Preservation Committee meeting was held on January 6, 2022 with a goal of addressing ordinance definitions, Historic Preservation Commission establishment, and identifying a “period of significance.” Here is a [link](#) to the video recording of the Committee's first meeting.

With momentum building, a survey was distributed to the Committee members in advance of the second meeting which was scheduled on January 20, 2022. The survey included a wide-range of questions and was the starting point for discussions in the second meeting. [Complete Historic Preservation Committee Survey results can be found here](#) and are also included as an attachment to this memo. These survey results served as the basis for a strong discussion with the committee and during the meeting different committee members presented their arguments if they felt differently from the results of the survey. Through these discussions, consensus was gathered, and in many cases, the outcome and direction to move forward was different than the initial survey responses. Here is a [link](#) to the video recording of the second Historic Preservation Committee meeting.

Between the Committee’s second and third meetings, the Minturn Town Council secured the services of attorney Terry Gorrell with Holland & Hart LLP. Terry’s background with historic preservation provided the legal insight and knowledge needed to rework the draft ordinance to be compatible with the MMC, and incorporate feedback from the committee. [Here is a link to the ordinance in draft form.](#)

The third Historic Preservation Committee meeting was on April 28, 2022 and included the draft and clean versions of the Historic Preservation ordinance. A video recording of the third Committee meeting can be viewed [here](#). The feedback provided by the Historic Preservation Committee’s third meeting has been incorporated into the draft ordinance before the Planning Commission for consideration.

Analysis

Minturn benefitted from a dedicated group of volunteers who value the community’s long-standing history as the second-oldest town in Eagle County behind Red Cliff. In addition, Dr. Lindsey Flewelling from History Colorado participated in all three Committee meetings as a valuable resource, and provided insight into how other communities have addressed particular historic preservation issues and best practices.

This ordinance is intended to provide an avenue for the formation of a Historic Preservation Policy and Commission, and codify the ability for the HPC or other concerned members of the public to be able to nominate or apply for certain structures, buildings, places of interest, etc. as a historic landmark. This ordinance establishes a process for people to follow and findings that need to be made in order to designate something a Historic Landmark or a Historical District.

With this effort, Minturn looks to secure the future of structures and landmarks throughout town that are deemed significant to the history of the community.

Community Input

Community members have utilized a variety of avenues to provide input. From public comment at Council meetings, emails to town hall, and Committee participation. This input remains

ongoing and will hopefully continue in the Planning Commission discussion as well as the Town Council public hearings.

Special thanks to the following Minturn Historic Preservation Committee members (in no particular order): Susan Mitchell, Heather Faircloth, Brian Pignanelli, Shelley Bellm, Amanda Mire, Laura Wolf, Darell Wegert, Jane Rohr, Kelly Toon, Amanda Krost, Steven Witsil, Liz McCabe, Susan Morrison, Tom Sullivan, Bill Pierce, Jim Sebben, Ken Halliday, Greg Sparhawk and Jena Skinner.

Planning Commission Meeting May 25, 2022

A robust discussion occurred at the Planning Commission meeting on May 25. Particularly around what age threshold should be implemented and making sure this is a process that is not unduly lengthy. Staff will be relaying to the Council more in depth what decisions were made and what questions came up during the June 1 meeting.

June 10, 2022 Update

At the June 1st Council meeting, the Council gave direction that the minimum threshold for nomination be 75 years old, while still encouraging notification for any structure over 50 years old before any alteration or demolition occurs. Staff has also added a salvage clause to Section 19-7-10 (2) to hopefully provide in the future the opportunity to source materials of historic value.

Budget/Staff Impact: Unknown

Strategic Plan Alignment

Vision Statement:

“Lead Minturn to long-term viability while preserving its unique character and genuine mountain town community”

Key Strategies:

- Practice fair, transparent and communicative local government
- Sustain and invest in the things that define Minturn as a proud, sturdy mountain town to “keep Minturn Minturn”

Recommended Action or Proposed Motion

“I make a motion to recommend approval of Ordinance 10 - Series 2022, An Ordinance creating Chapter 19 of the Minturn Municipal Code establishing a Historic Preservation policy and Commission.”

Attachments

- Ordinance 10 - Series 2022 An Ordinance creating Chapter 19 of the Minturn Municipal Code establishing a Historic Preservation policy and Commission
- Documents referenced in this memo via weblink can be requested in printed form at the Minturn Town Hall offices
- Videos of Historic Preservation Committees may be viewed at Minturn Town Hall upon request

**TOWN OF MINTURN, COLORADO
ORDINANCE NO. 10 – SERIES 2022**

**AN ORDINANCE OF THE TOWN OF MINTURN,
COLORADO AMENDING THE MINTURN MUNICIPAL
CODE TO ESTABLISH A CHAPTER 19 FOR HISTORIC
PRESERVATION.**

WHEREAS, the Town of Minturn (“Town”) is a Colorado home rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Town of Minturn Home Rule Charter for which the Minturn Town Council (“Town Council”) is authorized to act; and

WHEREAS, the Town has initiated and proposed the text amendment to Minturn Municipal Code to establish a Chapter 19, Historic Preservation as provided herein; and

WHEREAS, on May 25, 2022 the Minturn Planning Commission recommended approval of this ordinance; and

WHEREAS, the Minturn Planning Commission and Town Council have determined that the text amendments to the Minturn Municipal Code as provided herein are necessary and proper.

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

SECTION 1. The foregoing recitals are incorporated herein as if set forth in full.

SECTION 2. The Minturn Municipal Code is hereby amended read as follows, with additions shown in double underlined text and ~~strikethrough language~~ is deleted. Sections of the Minturn Municipal Code which are not expressly described in this Ordinance are deemed to continue to be in full effect without change.

* * *

Chapter 19 – Historic Preservation

Article 1 – General.

Sec. 19-1-10. – Authority.

This ordinance is adopted pursuant to the police powers of the Town of Minturn and not an exercise of zoning powers.

Sec. 19-1-20. – Purpose.

The purpose of this ordinance is to enhance the Town of Minturn’s local resources and to promote the public health, safety, and welfare through:

1. The protection and preservation of the Town’s architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
2. The stabilization of historic neighborhoods;
3. The establishment of the Town’s Historic Register listing Historic Properties and Historic Districts;
4. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
5. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
6. The promotion of thoughtful community planning and design; and
7. The provision of educational opportunities to increase public appreciation of the Town’s unique heritage.

Sec. 19-1-30. – Intent.

The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the Town's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and Historic Districts for preservation.

Sec. 19-1-40. – Definitions.

For purposes of this ordinance, the following terms are to be defined as follows:

Adjacent Properties means Properties within 100 linear feet of the boundaries of the proposed or subject Historic Property or Historic District

Alter, Alters, or Alterations means any act or process that changes one (1) or more of the exterior architectural features of a Building, Structure, Site, or Object.

Applicant means Person or persons submitting nomination or Alteration paperwork.

Building means any shelter or enclosure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

Building Code means The Building Codes that have been adopted in Chapter 18 of the Minturn Municipal Code.

Building Official means the officer or other designated authority charged with the administration and enforcement of the Building Code, or that person’s authorized representative.

Certificate of Appropriateness means a certificate issued by the Commission authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property, or an element within a Historic District pursuant to this ordinance.

Certificate of Economic Hardship means a certificate issued by the Commission authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or an element within a designated Historic District, in accordance with the provisions of this ordinance, even though a Certificate of Appropriateness has previously been denied.

Code means the Town of Minturn Municipal Code.

Colorado State Register of Historic Properties means the official listing of state designated cultural resources.

Compatible or *Compatibility* means consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.

Construction or *Construct* means an act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.

Contributing Property means a Building, Structure, Site, or Object that is located within a Historic District and that reflects the historic or architectural character within the Historic District.

Demolition or *Demolish* means any act or process that destroys in part or in whole a Building, Structure, Object, or Site.

Historic Preservation Design Guidelines means a standard of appropriate design, construction, and activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.

Eligibility Criteria meaning as set forth in Article 3 of this Chapter.

Historic District meaning as set forth in Article 3 of this Chapter.

Historic Preservation Commission ("HPC") meaning as set forth in Article 2 of this Chapter.

Historic Property means a Building, Structure, Site, or Object which is designated by the Town Council pursuant to this Chapter.

Historic Significance means the meaning or value ascribed to a Building, Structure, Object, Site, or district based on criteria for evaluation as defined by Article 3 of this Chapter.

Infill means Construction on vacant or under-used parcels within existing areas that are within a designated Historic District.

Integrity means the ability of a Property to convey its Historic Significance through its physical features.

Inventory means a catalog of Buildings, Structures, Objects, and Sites within the Town, listed, eligible for listing, or non-eligible for listing in the Town's Historic Register.

Maintenance means all activities necessary to prolong the useful life and aesthetic appearance of a Property.

National Register of Historic Places means the list of significant Buildings, Structures, Sites, Objects, or districts in American history, architecture, archeology, engineering, or culture maintained by the U.S. Secretary of the Interior.

Non-Contributing Property means a Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.

Object means a material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Owner means as applied to a Property, the nominal record owner thereof and includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

Period of Significance means span of time during which significant events and activities occurred.

Property means a Building, Structure, Site, or Object.

Relocation or Relocate means moving a Building, Structure, or Object to a different location, either temporarily or permanently.

Resident means any person who meets either of the following criteria: (1) is eligible to register to vote within the Town, irrespective of whether the person has registered to vote, or (2) is residing at a home or dwelling in the Town as of the date that the person exercises any rights granted to a Resident under this Chapter and for a period of not less than 22 days prior to such date.

Secretary means the Secretary of the Historic Preservation Commission.

Secretary of the Interior's Standards for the Treatment of Historic Properties means the preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.

Section 106 Review means the process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.

Site means the location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archeological value regardless of the value of any existing Building, Structure, or Object.

Structure means anything Constructed or erected, the use of which requires location on or in the ground, for purposes other than shelter of humans, animals, or chattels.

Town means the Town of Minturn.

Town Council means the council of the Town.

Town's Historic Register means the register established pursuant to Article 3 of this Chapter.

Article 2 – Historic Preservation Commission.

Sec. 19-2-10. – Creation.

There is hereby established a Historic Preservation Commission, which shall be appointed by the Town Council, and hereinafter referred to as the (“HPC”).

Sec. 19-2-20. – Composition.

1. HPC shall be composed of five voting members with the option of Town Council to appoint additional non-voting members to be utilized in an advisory capacity, all of whom have demonstrated interest in, competence with, or knowledge of the Town's history and/or historic preservation.
2. At least 3 of the voting members shall be full time Residents, Property or business Owners, or designated representatives of Property or business Owners within the Town.
3. At least 2 of the voting members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to History, Architecture, Landscape Architecture, American Studies, American Civilization,

Construction and Building Trades; Cultural Geography, Cultural Anthropology, Environmental Expertise, Planning, Real Estate, or Archeology. The Town Council may waive this requirement on a determination that there are not eligible prospective members who meet these criteria.

Sec. 19-2-30. – Term of Office.

1. Members shall serve three year staggered terms from the date of their appointment; provided, however, that the initial appointment to HPC shall consist of one appointment of a term of one year, two appointments of a term of two years, and two appointments of a term of three years.
2. Members may continue to serve until their successors have been appointed.

Sec. 19-2-40. – Officers.

HPC shall, by majority vote, elect one of its members to serve as chairperson to preside over HPC’s meetings and one member to serve as the vice-chairperson. The members so designated shall serve in these capacities for terms of one year. A Town Employee appointed by the Town Manager pursuant to Code Sec. 19-2-50 shall serve as Secretary of the HPC.

Sec. 19-2-50. – Staffing.

The Town Manager shall designate one or more Town Employee(s) within the Planning Department to assist HPC in the administration of its duties, one of whom shall be designated as the Secretary of the HPC.

Sec. 19-2-60. – Quorum and Voting.

A quorum for HPC shall consist of a majority or 3 voting members. A quorum is necessary for HPC to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A majority vote of a quorum shall be determinative. A tie vote shall be deemed a denial of the motion or recommended action.

Sec. 19-2-70. – Compensation.

All members of HPC shall serve without compensation except for such amounts determined appropriate, in advance, by the Town Council to offset expenses incurred in the performance of their duties.

Sec. 19-2-80. – Powers and Duties.

The HPC:

1. May conduct surveys and create inventories of Properties and areas for the purpose of defining those of Historic Significance.

2. Shall review and determine qualifications of Buildings, Structures, Objects, Sites, and Historic Districts nominated for designation and recommend that the Town Council designate by ordinance such Buildings, Structures, Objects, Sites, or Historic Districts qualifying for such designation.
3. Shall recommend to the Town Council the establishment of construction and design guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for the review of proposals to Alter, Relocate, or Demolish Historic Properties.
4. Shall review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design for a project that may affect the character or Integrity of the Historic Property or Historic District.
5. May participate in review of National Register of Historic Places nominations.
6. May advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the Town's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
7. May develop and assist in public education programs on history, archaeology, and historic preservation.
8. Shall advise the Town Council on matters related to preserving the historic character and substance of the Town and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this Chapter.
9. Shall participate in Federal Section 106 Review under the National Historic Preservation Act of 1966 as requested by Town Council or staff.
10. May actively pursue financial assistance for preservation-related programs.
11. Shall draft and recommend for adoption by the Town Council such by-laws, operating policies and other rules of procedure for HPC, as HPC may deem appropriate.

Sec. 19-2-90. – Meetings.

1. HPC shall establish a regular meeting schedule with no less than monthly scheduled meetings.
2. Minutes shall be kept of all HPC proceedings.
3. All meetings of HPC shall be open to the public, subject to the right of HPC to receive legal advice in an executive session.

Sec. 19-2-100. – Vacancies.

Appointments to fill vacancies on HPC shall be made by the Town Council in the same manner as regular appointments.

Sec. 19-2-110. – Removal.

Members of HPC may be removed by the Town Council.

Article 3 – Establishment of Town Register and Designation Criteria

Sec. 19-3-10. – Register of Historic Places Established.

The Town Council hereby establishes the Town of Minturn Register of Historic Places (the “Town's Historic Register”).

1. Properties or districts may be listed in the Town's Historic Register only if such Property or district has been so designated pursuant to this ordinance.
2. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the Town's Historic Register but are not designated until approval, pursuant to this Chapter, is obtained.

Sec. 19-3-20. – Eligibility Criteria.

1. Properties or Historic Districts shall be at least seventy-five years old and meet one or more of the following criteria in order to be considered for designation:
 - a. Association with events that have made a significant contribution to history.
 - i. Is a Site of a historic event that had an effect upon society; or
 - ii. Exemplifies cultural, political, economic, or ethnic heritage of the Town.
 - b. Connection with persons significant in history.
 - c. Distinctive characteristics of a type, period, method of Construction, or artisan.
 - i. Exemplifies specific elements of an architectural style or period;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents a style that is particular to the Town;
 - v. Represents an innovation in Construction, materials, or design; or
 - vi. Represents a built environment of a group of people in an era of history.
 - d. Geographic importance.
 - i. Enhances the sense of identity of the Town or community; or
 - ii. Is an established and familiar natural setting or visual feature of the Town or community.
 - e. Possibility to yield important information related to prehistory or history.
 - i. Addresses research questions or fills recognized data gaps;
 - ii. Embodies Construction, development, or design adaptations; or
 - iii. Informs on the development of engineering systems.
2. A Property or Historic District may be exempted from the age standard if the Town Council finds it to be exceptionally important in other criteria.

Sec. 19-3-30. – Integrity Criteria.

All Properties and Historic Districts shall be evaluated for their physical Integrity using the following criteria:

1. Location - the place where the Property was Constructed or the place where the historic event occurred.
2. Design - the combination of elements that create the form, plan, space, Structure, and style of a Property.
3. Setting - the physical environment of a Property.
4. Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a Property.
5. Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
6. Feeling - a Property's expression of the aesthetic or historic sense of a particular period of time.
7. Association - the direct link between an important historic event or person and a Property.

Sec. 19-3-40. – Historic Districts.

1. A “Historic District” is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic boundaries one or more Contributing Properties, which has been designated by the Town Council pursuant to this Chapter.
2. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
3. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
4. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

Article 4 – Designation Procedure

Sec. 19-4-10. – Application for Nomination.

1. Applications shall be submitted to the Town of Minturn Planning Department for consideration, on a form provided by HPC.
2. An application for nomination for listing in the Towns Historic Register may be made:
 - a. By the Owner or Owners of the Property or Properties to be designated;
 - b. By a member or members of HPC;
 - c. By a member or members of Town Council; and/or
 - d. By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a Resident or Owner of Property in the Town, or have a place of business in the Town.
3. Where an application for nomination is submitted by someone other than the Property Owner or less than all of the Property Owners in a district nominated for designation, the staff person assigned to HPC pursuant to Code Sec. 19-2-50 shall contact the Owner or

Owners of such Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the Town's Historic Register, within 45 days of receipt of application.

4. Applications determined incomplete by the Planning Department shall be returned to the Applicant within 45 days of receipt of application, with a request for additional information.

Sec. 19-4-20. – Designation Hearing.

1. Within 45 days after an application is determined complete by the Planning Department and delivered to HPC, a public hearing shall be held by HPC.
 - a. HPC shall provide notice by U.S. Mail of the date, time, and location of the public hearing to the Applicant, the Owner or Owners of record, and the Owners of Adjacent Properties, at least 10 days prior to the hearing.
 - b. A legal notice in accordance with Code Sec. 16-21-610 indicating the nature of the hearing, the Property involved, and the time, date, and place of the scheduled public hearing, shall be published in the Town's publication of record at least 10 days prior to the hearing.
2. A hearing may be continued. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case shall a hearing be continued more than 45 days without the express consent of the Applicant and the Owner.
3. Reasonable opportunity shall be provided for interested parties to express their opinions regarding the proposed designation. However, nothing contained in this ordinance shall be construed to prevent HPC from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.
4. Hearings in front of HPC shall be conducted in conformance with the requirements in Code Sec. 16-21-220. Written reports and presentations submitted to HPC shall be incorporated into the record of the hearing.

Sec. 19-4-30. – HPC Review.

1. HPC shall review the application for conformance with the established criteria for designation and with the purposes of this Article 4.
2. HPC shall recommend:
 - a. Approval;
 - b. Approval with conditions; or
 - c. Denial of the application.HPC shall set forth in writing the basis of its recommendation.
3. If HPC recommends approval of an application or approval of an application with conditions, HPC shall forward the application with a copy of its report and findings to the Town Council within 30 days of determination.

4. If HPC recommends denial of an application, HPC shall forward the application with a copy of its report and findings to the Town Council within 30 days of determination.
5. HPC may issue an order continuing the nomination process if HPC finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 45 days without the express consent of the Applicant and the Owner(s).

Sec. 19-4-40. – Town Council Proceedings.

1. Within 30 days after receipt of HPC’s recommendation, the Town Council shall hold a public hearing to consider HPC’s recommendation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Code Sec. 19-4-20.
2. The Town Council shall review the application for conformance with this Article 4.
3. The Town Council shall deny, or, by ordinance, shall approve or approve with conditions, the proposed application.

Sec. 19-4-50. – Recording of Designation.

Within 30 days of the effective date of an ordinance designating a Historic Property or Historic District for preservation, the Town shall record the ordinance with the Clerk and Recorder of Eagle County.

Sec. 19-4-60. – Records.

The Town shall maintain a current record of all Historic Properties and Historic Districts and pending designations.

Sec. 19-4-70. – Limitation on Resubmission and Reconsideration of Proposed Designation.

Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the Town Council denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application.

Sec. 19-4-80. – Amendment of Designation.

An application to amend designation of a Historic Property or Historic District to add features or Properties to such Historic Property or Historic District shall be administered by the Planning Department and HPC in accordance with the procedures in Code Sections 19-4-10 through 19-4-70.

Sec. 19-4-90. – Revocation of Designation.

If a Historic Property or Historic District has been Altered to a degree that it no longer retains its Eligibility Criteria, the Owner, an HPC member, or Town Council person may apply to HPC for a revocation of the designation. The revocation application shall be administered by the Planning Department, HPC, and Town Council in the same manner as a proposed amendment of designation.

Article 5 – Alterations to Listed Properties and Historic Districts

Sec. 19-5-10. – Application.

1. Before carrying out any new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property, or Contributing Property within a Historic District, Applicants and/or Owner(s) must submit and obtain approval for an application for the proposed work by the Planning Department and HPC under this Article 5. The application shall include anything HPC deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail. The application shall not relieve the Applicant from the responsibility to apply for any other permit required by the Code.
2. The Planning Department shall review the application received to determine whether the Property is a listed Historic Property, or a Contributing Property located in a Historic District. If so, the Planning Department shall determine when the application is complete and shall refer the application to HPC for Certificate of Appropriateness review in accordance with this Section. If the Planning Department determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
3. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site, or element of a Historic District nominated for designation, after an application has been filed to initiate the designation of such Property or Historic District. No such building permit shall be approved while proceedings are pending on such designation.
4. If the Planning Department determines that the Property is not a Historic Property, or a Contributing Property within a Historic District, then the application shall be processed without further requirement of review under this Article.

Sec. 19-5-20. – Alteration Hearing.

Within 45 days after referral of a Code Sec. 19-5-10 an application by the Planning Department to HPC a public hearing shall be held by HPC, and shall be conducted in conformance with the procedures set forth in Code Sec. 19-4-20.

Sec. 19-5-30. – Review Criteria.

1. Compliance with any Historic Preservation Design Guidelines adopted by the Town Council for Historic Properties and/or Contributing Properties within Historic Districts.
2. Compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, including the Standards for Rehabilitation.

Sec. 19-5-40. – HPC Certificate of Appropriateness Review

1. HPC shall:
 - a. Approve the application
 - b. Approve the application with conditions; or
 - c. Deny the application
2. Any decision of HPC to approve the application or approve the application with conditions shall be included on an agenda of the Town Council within 30 days. The Town Council may call up for review any final decision reached by HPC. After review, Town Council may affirm, deny, or affirm with additional conditions the decision of HPC. No Certificate of Appropriateness shall be issued before HPC's decision has been included on an agenda of the Town Council.
3. If HPC approves or approves the application with conditions, HPC shall issue a Certificate of Appropriateness to the Applicant and a copy will be placed in the appropriate Town records. If approved with conditions, such conditions shall be stated in the Certificate of Appropriateness.
4. If HPC denies the application, HPC shall notify the Applicant in writing and a copy will be placed in the appropriate Town records.
5. The application form shall have a section for HPC to set forth HPC's reasons for the approval, approval with conditions, or denial of the application.
6. HPC may issue an order continuing the application process if HPC would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case shall a hearing be continued more than 45 days without the express consent of the Applicant.
7. The Applicant and/or Owner(s) may resubmit an amended application that takes into consideration the recommendations of HPC.
8. If an application for a Certificate of Appropriateness is denied after final action upon the application by HPC, no person may submit a subsequent application for the same Code Sec. 19-5-10 (1) activity within one year from the date of the final action.
9. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the Town shall process the application in accordance with all other applicable provisions of the Code. If no Certificate of Appropriateness has been issued or if the Town determines that the permit application does not conform, the Town shall not approve the permit application and shall not issue any other permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.

Article 6 – Relocation of Listed Properties

Sec. 19-6-10. – General.

1. In addition to the criteria and procedures in Article 5, HPC will use the criteria of this Article 6 in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or district or Relocating a Property onto a designated Site or Historic District.
2. Applicants for Relocation shall provide:
 - a. An estimate of costs, in such form as determined by HPC, of continued Maintenance of the Property in its current condition, of rehabilitation on Site, and of Relocation and rehabilitation;
 - b. A licensed structural engineer’s report as to structural soundness;
 - c. Professionally prepared Site plan and Construction documents for the proposed Relocation Site; and
 - d. A replacement/reuse plan for the current Site.
3. If Relocation is approved by HPC, the Relocation will not be permitted until a design review application for the current Property Site has been approved by the Planning Commission.

Sec. 19-6-20. – Review Criteria.

1. For consideration of the original Property and Site, HPC will review for the following criteria:
 - a. Whether the Property can be preserved, restored, rehabbed, or reused on its current Site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's Site or Adjacent Properties;
 - b. And
 - i. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
 - ii. If the Property can be Relocated without significant damage to its physical Integrity; and
 - iii. Whether plans are specifically defined for the Site to be vacated, and have been approved by the Planning Commission.
2. For consideration of the new location, if it is to a Historic District within Town boundaries, HPC will review for compliance with all of the following criteria:
 - a. Whether the Building, Structure, or Object is Compatible with its proposed Site and Adjacent Properties; and if the receiving Site is Compatible in nature with the Building, Structure, or Object proposed to be moved;
 - b. The Building, Structure, or Object’s architectural Integrity and its consistency with the character of the neighborhood of the receiving Site;
 - c. Whether the Relocation of the Building, Structure, or Object will diminish the Integrity or character of the neighborhood of the receiving Site.

Article 7 – Demolition of Listed Properties

Sec. 19-7-10. – General.

1. In addition to the criteria and procedures in Article 5, HPC will use the criteria of this Code Sec. 19-7-10 in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
2. Applicants for Demolition shall provide:
 - a. An estimate of costs, in such form as determined by HPC, of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
 - b. A licensed structural engineer’s report as to structural soundness;
 - c. Professionally prepared estimates of the Property’s market value in its current condition; and
 - d. A detailed listing of building materials and components of historic value that could be salvaged during demolition.
3. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See Article 8), a Certificate of Appropriateness will not be issued until a design review application for the Property has been approved by the Planning Commission.

Sec. 19-7-20. – Review Criteria for Total Demolition.

Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:

1. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner’s efforts to properly maintain said Building, Structure, or Object;
2. The Property cannot be preserved, restored, rehabbed, or reused on Site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property’s Site or Adjacent Properties;
3. The Property cannot be practically moved to another Site in the Town; and
4. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following that are applicable:
 - a. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;
 - b. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and Adjacent Properties;
 - c. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and Adjacent Properties; and
 - d. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.

Sec. 19-7-30. – Review Criteria for Partial Demolition.

Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:

1. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
2. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
 - a. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and Adjacent Properties; and
 - b. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and Adjacent Properties.

Sec. 19-7-40. – Town Council Review.

Any decision of HPC to approve the application or approve the application with conditions shall be included on an agenda of the Town Council within 21 days. The Town Council may call up for review any final decision reached by HPC. After review, Town Council may affirm, deny, or affirm with additional conditions the decision of HPC.

Article 8 – Exemptions

Sec. 19-8-10. – General.

1. If an application for a Certificate of Appropriateness is denied, the Applicant and/or Owner(s) may request an exemption from such certificate requirement pursuant to this Article 8.
2. A request for exemption shall be initiated by the Applicant and/or Owner(s). Such application shall be submitted to the Planning Department on a form provided by HPC. The Applicant and/or Owner(s) shall have the obligation to establish hardship.
3. HPC may request additional information from the Applicant and/or Owner(s) as necessary to make informed decisions according to the applicable criteria for decision-making.
4. If the Planning Department determines the application is complete, the Planning Department shall promptly refer the application to HPC. If the Planning Department determines the application is incomplete, the Applicant and/or Owner(s) shall be advised of the reasons in writing within 30 days of submittal.

Sec. 19-8-20. – Criteria for Exemption.

1. Economic Hardship
 - a. HPC may solicit expert testimony and require that the Applicant and/or Owner(s) make submissions concerning any or all of the following information before it makes a determination:

- i. Estimate of the cost of the proposed Construction, Alteration, Demolition, or Relocation and an estimate of any additional cost that would be incurred to comply with the conditions of approval set out in Articles 5, 6 or 7 above.
 - ii. A report from a licensed structural engineer with experience in the rehabilitation of Historic Properties as to the structural soundness of any Buildings, Structures, or Objects on the Property and their suitability for rehabilitation.
 - iii. In the case of a proposed Alteration, the cost of the project proposed by the Applicant compared with the conditions required by HPC.
 - iv. In the case of a proposed Demolition, the estimated market value of the Property in its current condition.
 - v. Amount paid for the Property, the date of purchase or acquisition, and the party from whom purchased, including a description of the relationship, if any, between the Owner of record or Applicant and the person from whom the Property was purchased.
 - vi. All appraisals obtained within the previous two (2) years by the Owner or Applicant in connection with the purchase, financing, or ownership of the Property.
 - vii. Any listing of the Property for sale or rent, price asked, and any written offers received within the previous two (2) years.
 - viii. The market value of the land and improvements thereon according to the most recent property tax assessment.
 - ix. Real estate taxes for the previous two (2) years.
 - x. Any proposal for a replacement Building, Structure, or Object for the Property and financial proof of the ability to complete the replacement project.
 - xi. For income producing Property, the annual gross income from the Property for the previous two (2) years and itemized operating and Maintenance expenses for the previous two (2) years.
- b. The following factors, evidence, and testimony are to be considered:
- i. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
 - ii. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
 - iii. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabbed condition pursuant to the requirements of this Chapter.
 - iv. For Properties consisting of Owner-occupied dwellings and/or Properties operated on a not for profit basis and providing public benefit, the ability to maintain or to convert the Property to a reasonable residential or not for profit use in its present condition or in a rehabbed condition pursuant to the requirements of this Chapter or the ability to transfer the Property for a

- reasonable rate of return.
- v. The justification for economic hardship shall not include any of the following:
 - 1. Willful or negligent acts by the Owner;
 - 2. Purchase of the Property for substantially more than its market value;
 - 3. Failure to perform normal Maintenance and repairs; or
 - 4. Failure to offer a rental Property for rent on market terms.
2. Undue Hardship. An Applicant and/or Owner(s) requesting an exemption based on undue hardship must show that the application of the criteria create a situation that is substantially inadequate to meet the Applicant's and/or Owner(s) needs because of specific health and/or safety issues.
3. Inability to Use
- a. After two years following denial of a Demolition permit approval, if no reasonable economic use or ownership is found for the designated Site or Structure, the Owner may request a waiver of all or a part of the restraint of Demolition.
 - b. HPC may solicit expert testimony and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
 - i. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to make necessary repairs, to find an appropriate user or to find a purchaser for the Property.
 - ii. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to locate and obtain available assistance for making the Property functional without Demolition.
 - c. The following factors, evidence and testimony shall be considered:
 - i. Efforts to locate and secure a potential user or purchaser for the Property.
 - ii. Efforts to locate and obtain available assistance for making the Property functional without Demolition.
 - iii. The justification for inability to use shall not include any of the following:
 - 1. Willful or negligent acts by the Owner;
 - 2. Purchase of the Property for substantially more than its market value;
 - 3. Failure to perform normal Maintenance and repairs; or
 - 4. Failure to offer a rental Property for rent on market terms.

Sec. 19-8-30. – Decision.

- 1. If HPC deems the criteria of this Article 8 are met, HPC shall issue an approval of exemption and deliver a Certificate of Economic Hardship, Undue Hardship, or Inability to Use as applicable to the Applicant with a copy to Town Council within 30 days.
- 2. If HPC deems the criteria of this Article 8 are not met, HPC shall deny the exemption request and notify, in writing, the Applicant, with a copy to the Town Council, within 30 days of such denial. Such denial shall state the reasons for the denial.
- 3. HPC may issue an order continuing the exemption process for a period of not to exceed

90 days from the date of the initial HPC hearing if HPC would like additional information necessary to make a decision.

Article 9 – Alteration, Relocation, or Demolition of Non-Designated Properties Greater Than 50 Years Old

Sec. 19-9-10. – Requirements.

1. Any permit application for Alteration, Relocation, or Demolition of a Property that is not designated as a Historic Property and that is greater than fifty years old shall be subject to the following requirements:
 - a. The application shall contain a statement of the effective age of the improvements on the Property and their actual age as set forth in the County Assessor’s records for the Property. The actual age of the improvements shall be controlling for determining the applicability of this Article 9.
 - b. A copy of the application shall be forwarded to HPC by the Town staff member acting as the Secretary.
 - c. Prior to the issuance of a permit, the Applicant shall be required by this Code Section to post a sign on the property that is furnished by the Planning Department. The sign shall state that an application for Alteration, Relocation, or Demolition has been submitted to the Town for the Property and that the application is subject to this Article 9. The sign shall further state that the Property may be eligible for nomination to be designated as a Historic Property under Chapter 19 of the Town Code, and that any qualified person desiring to submit an application for nomination of the Property to be designated as a Historic Property must do so in accordance with the provisions of Chapter 19. The exact wording of the sign shall be determined by the Planning Department.
 - d. The Property shall be posted with the sign furnished by the Planning Department for a period of at least fourteen (14) days. The Applicant shall be responsible for posting the Property in accordance with Code Sec.16-21-610(6).
 - e. Prior to issuance of the permit, the Applicant must provide to the Planning Department a sworn certification of posting as provided in Code Sec. 16-21-610(e). The permit shall not be issued until at least five (5) days after such certification is provided to the Planning Department.
 - f. If an application for nomination of the Property for designation as a Historic Property under this Chapter is submitted before issuance of the permit, then the permit shall not be issued until the application is finally determined in accordance with this Chapter. If the Property is designated as a Historic Property, then the permit shall be processed as required for the Alteration, Relocation, or Demolition of a Historic Property under this Chapter. If the Property is not designated as a Historic Property, then the permitting shall proceed in accordance with the Code.
2. Permit applications for work on the interior of a Property, minor repair as determined by the Building Official, and/or replacement of materials in-kind are exempt from this requirement.
3. This Article shall not apply to mobile homes.

Article 10 – Appeals

Sec. 19-10-10. – Appeals.

A final decision of HPC made pursuant to Article 5 (Alterations to Listed Properties and Historic Districts), Article 6 (Relocation of Listed Properties), Article 7 (Demolition of Listed Properties), and Article 8 (Exemptions) may be appealed by the Applicant or aggrieved party to the Town Council by filing a written notice with the Town Clerk within 15 days after HPC’s final decision.

1. An aggrieved party is any person who will suffer an adverse effect to an interest protected or furthered by this Chapter.
2. No right of appeal shall exist for an application that was the subject of a call up by the Town Council in which the Town Council has already affirmed, denied, or affirmed with additional conditions the decision of HPC.
3. Within 45 days after an appeal is received by the Town Clerk, a public hearing shall be held by the Town Council subject to continuance by vote of the Town Council.
4. Notice of the Town Council’s consideration of the appeal and hearing shall be provided in accordance with the notice procedures set forth in Code Sec. 19-4-20 except the Town Clerk shall perform the responsibilities.
5. The Town Council shall consider the notice of appeal, HPC’s reasons for denial of the application, the comments related thereto made during the HPC hearing and any evidence (including new evidence) it deems relevant to the application.
6. The decision of the Town Council shall be final subject to the provisions of Code Section 16-21-700 – Appeals.

Article 11 – Maintenance

Sec. 19-11-10. – Maintenance.

1. The Town Council intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties and the exterior portions of Contributing and Non-Contributing Properties within Historic Districts including all interior portions thereof who’s Maintenance is necessary to prevent deterioration of any exterior portion. No Owner of any Historic Property or of any Contributing or Non-Contributing Property within a Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or of such Contributing or Non-Contributing Property within a Historic District on the effective date of the designating ordinance.
2. No Owner of any Historic Property or of any Contributing or Non-Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance and other ordinances of the Town regulating Property Maintenance.
3. Before the Town files a complaint in municipal court for failure to maintain a Historic Property or a Contributing or Non-Contributing Property within a Historic District, the Town shall notify the Owner of the need to repair, maintain or restore such Property; and shall give the Owner a reasonable time to perform such work.
4. Should the condition of a Historic Property or of a Contributing or Non-Contributing Property within a Historic District require immediate repair or stabilization to mitigate

unsafe or dangerous conditions and after notification, the Owner has not undertaken such repair or stabilization, the Town may take such action and bill all expenses to the Owner. Should the Owner not remit such payment to the Town, after ninety (90) days, the Town may record a notice with the Eagle County Clerk and Recorder of a lien against the Historic Property in violation. The lien created hereby shall be prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.

Article 12 – Unsafe or Dangerous Conditions

Sec. 19-12-10. – Unsafe or Dangerous Conditions.

Nothing in this Chapter shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where such condition is determined to be unsafe or dangerous by the Town and the Owner has been given notice by the Town to correct the unsafe or dangerous condition. Any temporary measures deemed necessary and approved by the Building Official may be taken without first obtaining a Certificate of Appropriateness under this Chapter, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

Article 13 – Enforcement and Penalties

Sec. 19-13-10. – General.

No person shall violate or permit to be violated any of the requirements of this Chapter or the terms of a certificate issued pursuant to this Chapter.

Sec. 19-13-20. – General Penalty for Violation.

Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor and, in addition to the penalties provide herein, upon conviction shall be punished in accordance with the provisions of Code Section 1-4-20.

Sec. 19-13-30. – Violation; Injunction.

The Town may seek an injunction to restrain a person who does not obtain the required approvals or permits provided in this Chapter or who engages in violations of this Chapter after the required approvals or permits have been revoked or suspended. This remedy shall be in addition to all other remedies prescribed in this Chapter or available by law.

Sec. 19-13-40. – Violation and Penalty.

Violations of this Chapter are subject to the following additional penalties:

1. If any Historic Property or any Contributing Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this Chapter, the Court may order any Historic Property or any Contributing Property within a Historic District to be returned to its condition prior to such unlawful

- Construction, reconstruction, exterior Alteration, addition, or Demolition.
2. If any Historic Property or any Contributing Property within a Historic District is not maintained as required in Article 11, then the Town may obtain an order of the Court for the Owner to correct and remediate violation.
 3. If any Building, Structure, or Object is erected or Constructed on a Historic Property or any Contributing Property within a Historic District, without complying with this Chapter, the Court may order any such Building, Structure, or Object to be removed or deconstructed.

Sec. 19-13-50. – Violation; Alteration.

Alterations to a Historic Property or a Contributing Property without an approved Certificate of Appropriateness may result in a one-year moratorium imposed by the Town on all building permits for the subject Property.

Sec. 19-13-60. – Violation; Relocation or Demolition.

Relocating or Demolishing a Historic Property or Contributing Property without an approved Certificate of Appropriateness may result in a five-year moratorium imposed by the Town on all Relocation, Demolition, or building permits for such Property and/or its original location.

* * *

INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEBSITE THE 1st DAY OF JUNE 2022. A PUBLIC HEARING ON THIS ORDINANCE SHALL BE HELD AT THE REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO ON THE 15th DAY OF JUNE 2022 AT 5:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk

THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THIS 15th DAY OF JUNE 2022.

TOWN OF MINTURN, COLORADO

Earle Bidez, Mayor

ATTEST:

By: _____
Jay Brunvand, Town Clerk



To: Mayor and Council

From: Jay Brunvand

Date: June 16, 2021

Agenda Item: Fiscal Year 2021 Financial Audit

REQUEST:

During the June 15, 2021 Council Meeting, Council will have a brief presentation from Joe Hood of Maggard and Hood who will be attending virtually.

INTRODUCTION:

FY 2021 Audit review and acceptance is scheduled under Business Items. As per §29-1-606(a)(1) C.R.S. the Council must accept the audit and submit the approved audit to the Department of Local Affairs and to the Office of the State Auditor not later than June 30 of each year.

The audit was sent out in electronic format on June 9th for your review and a hard copy will be available for each Council Member upon request and placed in your box at Town Hall. For the meeting I will have posted the audit on the website with tonight's Council Packet for public review of the draft. I will print the audit upon request for those citizens desiring a hard copy. Please feel free to contact me prior to the meeting in the event you need further information.

ANALYSIS:

Our audit firm, Maggard and Hood, was on site the week of February 21 and conducted their audit and financial review. The annual audit provides a snapshot view of the financial integrity of the Town as of December 31, 2021. The audit shows the town to be on a solid financial footing and we have been presented with a clean financial bill of health.

COMMUNITY INPUT:

Not Applicable

BUDGET / STAFF IMPACT:

The Town is required by State law to have an annual financial audit. This item is budgeted for annually. Most important, municipal governments are required to have an annual audit performed by a certified firm, I assure you we are not being audited due to an issue or problem.

STRATEGIC PLAN ALIGNMENT:

In accordance with Strategy #1 the town is committed to practicing fair, transparent, and communicative local government. Management is responsible for the preparation and fair presentation of the annual financial audit in accordance with accounting principles generally accepted in the United States of America.

RECOMMENDED ACTION OR PROPOSED MOTION:

Motion to accept the Fiscal Year 2021 Annual Audit as presented.

ATTACHMENTS:

- The FY2021 Annual Audit Draft has been made available to the Council and public electronically. Upon acceptance of the audit by the Minturn Town Council the audit will be publicly available on the Town's website or, upon request, in printed format.

Town of Minturn

2021 AUDIT PRESENTATION

MAGGARD & HOOD, PC – GLENWOOD SPRINGS, CO

JOE R. HOOD, CPA

Audit Summary

> Thank You to Jay Brunvand and Staff for their cooperation and assistance during the course of the audit

- We have issued an Unqualified Audit Opinion – this means the Financial Statements give a true and fair view in accordance with the financial reporting framework used in the presentation of the financial statements. In this case GAAP (accounting principles generally accepted in the united states)
- We encountered no difficulties and completed the audit according to our planned scope and timing.
- We observed an ongoing awareness and compliance with sound business practices and controls.
- There were no compliance violations to report (Note 9, page 41 report page 50 pdf)
- Finally the Town’s internal control system appears to be properly designed and operating effectively.

The Audit Process

1. Risk Assessment – during planning stage, auditor determines likelihood of audit risk

Audit risk – is the chance of an error slipping through an audit resulting in a flawed report.
2. Understanding Controls – design and testing/ rotate procedures
3. Evaluating Policies/ Judgements/ Estimates – reading minutes, policies and procedures, agreements
4. Substantive Tests on Transactions – validity, accuracy, completeness
5. Verification – existence, ownership, valuation, presentation, disclosure
6. Compliance – debt, legal, agreements
7. Obtain Written Representation from Attorneys and management
8. Issue Audit Opinion – provides high level of assurance to the Financial Statement users.

Components of the Report

Page 1 (4-5 pdf) – Independent Auditor’s Report

- *(Unqualified Audit Report)*

Pages 2-11 (6-15 pdf) Management Discussion and Analysis

- *Managements overview of the Town, it includes the history, annual performance analysis and projections for the coming year.*

Pages 22-41 (31-50 pdf) Footnotes to the Financial Statements

- *Describes the significant accounting policies and procedures of the Town and provides additional information detailed information relating to the financial statements.*

Pages 42-43 (52-53 pdf) Required Supplementary Information

- *This section includes budget schedules for the General and Special Revenue Fund*

Pages 44-51 (55-63 pdf) Supplemental Information

- *This section contains the budget comparisons to actual for the Governmental Funds/ Debt Service, Conservation Trust, Minturn Market, Minturn GID, Capital Projects, Proprietary Funds/ Enterprise (Water, Sanitation and Recreation)*

Government Wide VS. Fund Financials

GOVERNMENT WIDE FINANCIAL STATEMENTS

PAGES 13-14 (18-19 PDF)

- ✓ Report entire entity on the Accrual Basis of Accounting
 - ✓ Revenues when earned and measurable
 - ✓ Expenses when Incurred
 - ✓ Capital assets and depreciation are recognized
 - ✓ Liabilities are recorded
- ✓ Statement of Activities
 - ✓ Reflects the cost of program services and the charges for services sales, grants and contributions offsetting those services (p.14 (19-20 PDF))

FUND FINANCIAL STATEMENTS

PAGES 15 - 31 (22-30 PDF)

- ✓ Report Governmental Funds (GF, BMR, DS) on the modified accrual basis
 - ✓ Revenue recorded when earned, measurable and available
 - ✓ Expenditures when liability incurred
 - ✓ No capital assets
 - ✓ No debt
- ✓ Report Proprietary Funds (Enterprise W,S,R) on accrual basis of accounting
 - ✓ Same as Government Wide no conversion necessary
 - ✓ Statement of Cash Flows (p.21 (30))

Government Wide VS. Fund Financials

Page 165 (24) – Reconciles Governmental Fund Balances (P.15, (22-23 PDF)) to Net Position (P.13 (18 PDF))

- Reconciling items include
 - Capital Assets net of Depreciation
 - Long Term Debt

Page 18 (27) – Reconciles Statement of Revenues, Expenditures and Changes in Fund Balance of Governmental Funds to the Statement of Activities

- Reconciling items include
 - Current Year Capital Outlay and Depreciation Expense
 - Compensated Absences
 - Interest Expense Accruals

Review Financial Analysis

Financial Highlights

- In total, the Town's overall net position increased \$ 295,974 or 2% from the previous fiscal year.
- The Town's Governmental Activities General Revenues accounted for \$2,172,848 or 75% of all revenues. These general revenues include taxes, grants and entitlements not restricted to specific programs, and general interest and other revenues not related to specific programs. Program specific revenues, in the form of charges for services and sales, as well as program specific grants and contributions, accounted for \$735,390 or 15% of the Town's total governmental revenues of \$2,908,238.
- Governmental Activities for the Town had \$2,391,271 in expenses, of which \$644,547 were offset by program specific charges for services and sales, and \$90,843 by operating grants and capital grants and contributions.
- In the Town's business-type (enterprise) activities, fiscal year expenses exceeded revenues by \$220,993 thus decreasing the activity's net position to \$2,719,490.

Financial Highlights (P.8 (12 PDF))

The General Fund ending fund balance increased from \$1,835,455 to \$2,231,361 during the current fiscal year. The net increase of \$395,906 represents the excess of current period revenues (financial resources) over current period expenditures (financial uses). The ending fund balance in the amount of \$2,231,361, which includes \$2,144,111 of unrestricted reserves, is the amount of net resources available for future spending. Most financial resources are from taxes and intergovernmental revenues.

The Battle Mountain Resort special revenue fund ending fund balance increased from \$77,407 to \$77,459 during the current fiscal year. The net increase of \$52 represents the excess of current period revenues (financial resources) over current period expenditures (financial uses). The ending fund balance of \$77,459 is the amount of net resources available for future spending.

The Debt Service Fund ending fund balance decreased from \$5,618 to \$11,249 during the current fiscal year. The net increase of \$5,631 represents the excess of current period revenues (financial resources) over current period expenditures (financial uses). The ending fund balance of \$5,618 is the amount of net resources available for future spending.

Changes in non-major governmental funds are detailed in the supplemental information of the accompanying financial statements.

Financial Highlights - *continued* (P.8 (12 PDF))

Proprietary Funds

The proprietary (enterprise) fund financial statements, as discussed above, use the same basis of accounting as business-type activities. Positive changes in net position reflect that the enterprise fund is currently generating enough operating and non-operating revenues to offset current year operating and non-operating expenses, while negative changes in net assets indicate that it is not. The net assets of the enterprise activities represent the amount of net resources, including capital assets, available to provide future Water, Sanitation and Recreation services to the general public of the Town of Minturn. The ending net position decreased from \$2,940,483 to \$2,719,490 during the current fiscal year. The year-end balance of unrestricted net assets of \$1,159,704 represents the amount of resources available for future spending.

Management Letter

Communications with Those Charged with Governance

- ✓ Our Responsibility Under US GAAP
- ✓ Planned Scope and Timing of Audit
- ✓ Qualitative Aspects of Accounting Practices
 - ✓ Significant Accounting Policies (Note 1)
 - ✓ Accounting Estimates
 - ✓ Financial Statement Disclosures (Note 1, 2, 3 & 4)
- ✓ Difficulties Encountered During the Audit (None)
- ✓ Corrected and Uncorrected Misstatements
- ✓ Disagreements with Management (None)
- ✓ Management and Legal Representations (Written Representation Signed May 25)

Continued.....

Management Letter

Communications with Those Charged with Governance

- ✓ Management Consultations with Other Independent Auditors (None)
- ✓ Other Audit Findings and Issues (None)
- ✓ Internal Controls Communications
 - ✓ Control Deficiency – exists when the design or operation of a control does not allow management or employees in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis.
 - ✓ Material Weakness – is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented or detected and corrected on a timely basis.
 - ✓ Significant Deficiency – is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit the attention by those charged with governance.
- ✓ Prior Year Recommendations – all addressed by Management
- ✓ Current Year Recommendations

Continued.....

Management Letter

Communications with Those Charged with Governance

Prior Year Recommendations

We noted the Town's prompt attention to correcting and implementing our prior year recommendations.

Comments and Questions

Current Year Comments and Recommendations

Special Revenue Fund – Building Rents

A special revenue fund is an account established by a government to collect money that must be used for a specific project. Special revenue funds provide an extra level of accountability and transparency to taxpayers that their tax dollars will go toward an intended purpose. With the payoff of the Town Hall, it is recommended that the Town officially transition the Debt Service Fund to a Special Revenue Fund. Please consult with your legal counsel to determine if any actions formal actions will be necessary. A separate fund can be created or combined with an existing fund, such as the General Fund.



To: Minturn Town Council
From: Michelle Metteer
Date: June 15, 2022
RE: Dowd Junction Acquisition Evaluation Contract

REQUEST:

Approve the acquisition evaluation contract for the USFS administrative parcels.

INTRODUCTION:

For the past many years Minturn has identified the acquisition of the Dowd Junction (USFS administrative parcel) for the purposes of maintaining public access to the Meadow Mountain recreation area, use as a regional transit facility and revenue generation for the Town via sales and/or lodging tax. This acquisition has been an ongoing effort with several iterations. There is now an opportunity to cost share in this evaluation with the goal of both Eagle County and Minturn seeing benefits.

ANALYSIS:

The USFS has indicated their interest to consolidate their administrative and maintenance facilities into one location. Given the geographic area of the White River National Forest, combined with their headquarters being located in Glenwood Springs, it is anticipated any new location will tentatively be located down valley, however all concepts are still being evaluated. With Dowd Junction being located within the Minturn town boundaries, Minturn has first right of refusal for the purchase of this and other Minturn-located USFS administrative parcels. Partnerships will be necessary for acquiring purchase funds and those partnerships are still yet to be determined.

COMMUNITY INPUT: ongoing – and should increase as this opportunity

BUDGET / STAFF IMPACT: \$15,000 + plus acquisition processing costs. The processing costs would be presented to Council in a future contract for consideration.

The \$15,000 would come out of the Legal & Professional budget line item 01-01-5220 which is currently at a balance of \$121,451.14 of a \$200,000 budget, as of 4/30/2022.

STRATEGIC PLAN ALIGNMENT:

Practice clear, transparent and communicative local government

SUSTAIN AND INVEST IN THE THINGS THAT DEFINE MINTURN AS A PROUD, STURDY MOUNTAIN TOWN TO “KEEP MINTURN MINTURN”

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION: Approve

ATTACHMENTS:

- Western Land Group Acquisition Evaluation Proposal
- USFS Administrative Parcels – Minturn Map

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 25 – SERIES 2022**

A RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT BETWEEN WESTERN LAND GROUP, INC AND THE TOWN OF MINTURN FOR USDA FOREST SERVICE CONSULTING SERVICES

WHEREAS, The Minturn Town Council has reviewed the Professional Services Agreement with Western Land Group, Inc and deems it acceptable; and,

WHEREAS, The Town Council desires to engage with Western Land Group, Inc as presented in the attached agreement.

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

1. The Minturn Town Council hereby approves the Professional Services Agreement between with Western Land Group, Inc and the Town of Minturn, Colorado and authorizes the Mayor or his designee to execute said agreement.

INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 15th day of June, 2022

TOWN OF MINTURN

By: _____
Mayor

ATTEST:

Town Clerk



June 2, 2022

Jill Klosterman, Chief Financial Officer
Eagle County
P.O. Box 850
500 Broadway
Eagle, Colorado 81631

Michelle Metteer, Town Manager
Town of Minturn
301 Boulder St., # 309
Minturn, CO 81645

Re: Acquisition of Forest Service Lands

Dear Jill and Michelle:

WLG is pleased to submit this proposal to provide you with federal land consulting services to examine your potential acquisition of six parcels of federal land managed by the USDA Forest Service.

BACKGROUND

The USDA Forest Service, White River National Forest (“Forest”) has expressed an interest in working with the Town of Minturn (“Town”) and Eagle County (“County”) to pursue mutually shared visions regarding future use and ownership of certain federal and non-federal lands and facilities.

The Town has identified three federal parcels for potential acquisition:

- Dowd Junction (West and East Parcels) 15 acres
- Martin Creek 11 acres
- Minturn Residence Compound and Cross Creek 18 acres

The County has identified two federal parcels for potential acquisition:

- West Eagle (480 West Sixth Street, Eagle) 3.0 acres
- 125 West 5th Street, Eagle 0.28 acres

The Forest issued a Needs Assessment document dated 9/13/21 (see attached). The document identified an opportunity for non-federal parties to address the Forest's needs for the following:

- A consolidated District Office combining the Holy Cross and Eagle Districts
- Maintenance of visitor information services at Dowd Junction
- Warehouse, covered storage space, and parking
- Transitional workforce housing for recently transferred and permanent employees
- Seasonal workforce housing

SCOPE OF SERVICES

WLG will work with the Town, County, and Forest to analyze and further refine each party's specific needs in terms of land ownership, land lease, and land use priorities. We will use this information to identify and recommend the most appropriate and expeditious administrative authorities available for transacting the Town's and the County's goals relative to each of the above identified federal parcels.

WLG's analysis will include examination of the following administrative authorities:

- General Exchange Act
- Federal Land Planning and Management Act ("FLPMA")
- Forest Service Facilities Realignment and Enhancement Act ("FSFREA")
- Forest Service Leasing Authority (amendment to FSFREA)

WLG will provide the Town and the County with a written report summarizing our findings and recommendations. Your report will include cost and timetable estimates for completing each transaction.

COMPENSATION

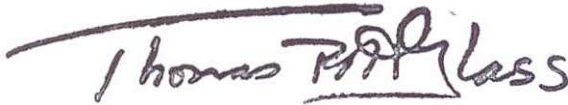
1. WLG will complete the tasks necessary for completion of the exchange at the rate of \$280 per hour (subject to periodic adjustment), with a fee cap of \$30,000.
2. In addition to the fees discussed above, you will reimburse WLG for direct out-of-pocket expense such as telephone calls, mileage at then current mileage rates approved by the IRS (currently \$0.565/mile), travel, lodging, photocopying, facsimile and other necessary and reasonable expenditures.
3. You shall have the right to unilaterally terminate this Agreement at any time. If the work is terminated prior to completion of the exchange, WLG shall be compensated for any time and expenses expended on the exchange through the date of termination.

*Jill Klosterman, Eagle County
Michelle Metteer, Town of Minturn
June 2, 2022
Page 3*

- Any amounts billed to you in accordance with this agreement which remain unpaid for 30 days after delivery of our statement will accrue a finance charge of 1.5% per month which is 18% annual percentage rate. In the event legal action is required to collect any amount due to us, and said amount is properly documented, you agree to pay any attorney fees, court costs and other incurred expenses.

I hope the above is consistent with your expectations. If you are ready to proceed, please return a signed copy of this agreement for WLG's files. I look forward to working with you to complete the exchange.

Sincerely,



Tom Glass

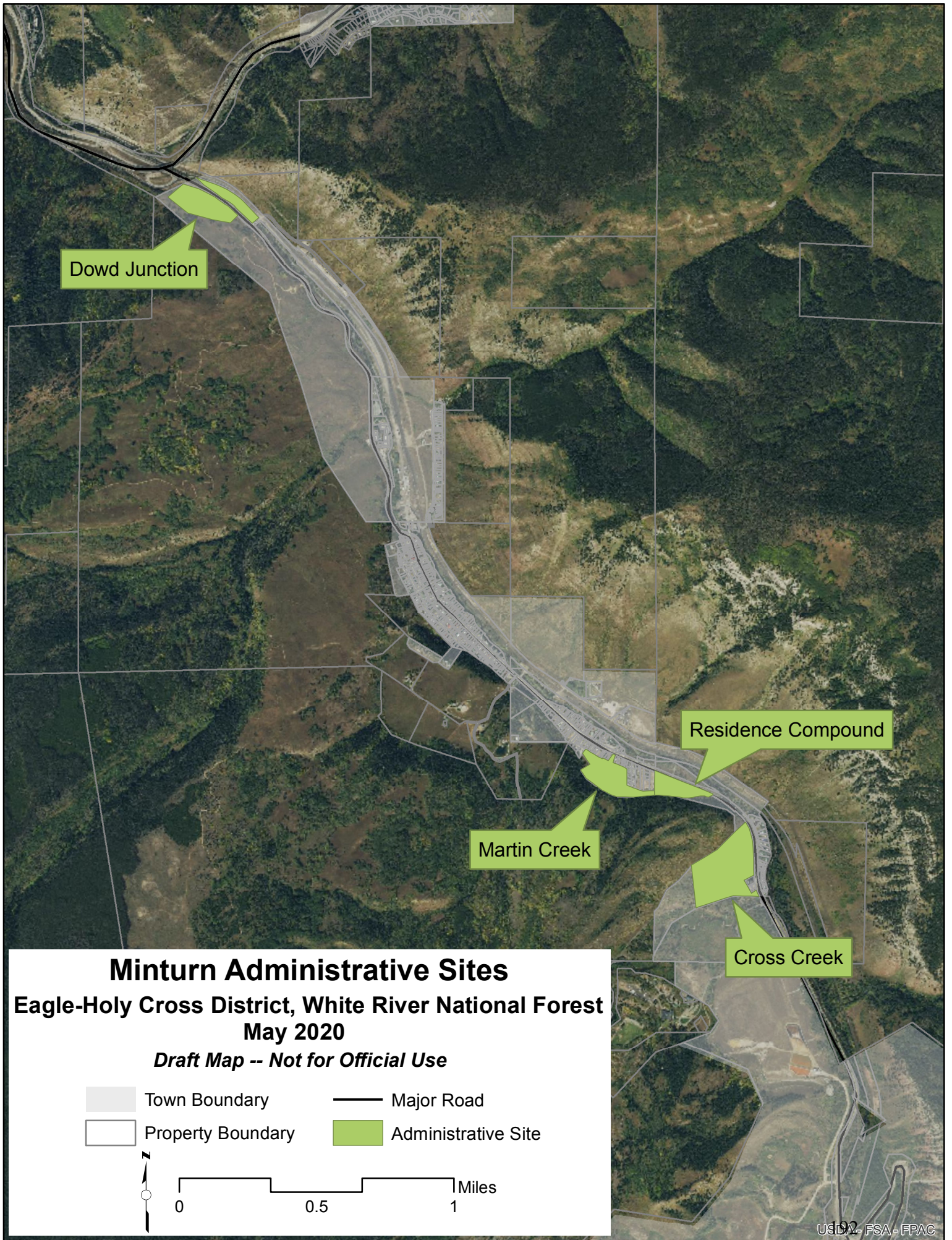
The above terms and conditions are acceptable:

Signature Date

Printed Name: _____
for Eagle County

Signature Date

Printed Name: _____
for the Town of Minturn





MEMORANDUM

TO: Michelle Metteer, Town Manager
FROM: Ryan Gordon, PE
DATE: June 8, 2022
SUBJECT: Rock Scaling Site Visit

The purpose of this memo is to provide a summary of the site visit conducted on Wednesday June 8, 2022 and the action items resulting from this visit.

I was on-site to review the rock scaling and to meet with DN Tanks, GSI and Dyer to review a large boulder above the tank site and determine if the boulder needs to be removed. The boulder in question is circled in red.



Photo 1: Rock scaling

The boulder is approximately 15'15'x15' and if dislodged, would roll and likely impact the concrete water tank. Options to address the boulder are:

1. Excavating the toe and rolling the boulder down the hill
2. Blasting and removing the rock sections
3. Installing cables and soil nails to secure the boulder to the slope
4. Do nothing and monitor the rock

After inspecting the boulder, SGM made the decision that the boulder was stable and was unlikely to move. We recommend that a surveyors prism be installed on the boulder and periodically checked to monitor for movement. If movement is observed, we would recommend that the boulder be blasted and removed.



To: Minturn Town Council
From: Michelle Metteer
Date: June 15, 2022
RE: Eagle County Hope Mural Project

REQUEST: Each Council member to select their favorite mural submission.

INTRODUCTION:

Several years ago, the Minturn Town Council supported the installation of a mural on the town hall building. Due to a variety of factors with Speak Up Reach Out, this project was put on hold until now.

ANALYSIS:

Messages of positivity and support are going up throughout Eagle County. Minturn has identified the town hall building as an appropriate location to express our community support.

Notice of applications were published in the Town newsletter for multiple months, Town website, Speak Up Reach Out website and on social media.

COMMUNITY INPUT: Encouraged

BUDGET / STAFF IMPACT: potential re-painting at a future date

STRATEGIC PLAN ALIGNMENT:

SUSTAIN AND INVEST IN THE THINGS THAT DEFINE MINTURN AS A PROUD, STURDY MOUNTAIN TOWN TO “KEEP MINTURN MINTURN”

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

RECOMMENDED ACTION OR PROPOSED MOTION: Approve

ATTACHMENTS:

- 2022 Artist Applications – Minturn site



Eagle County Hope Mural Project

2022 Artist Applications

Overview

The Eagle County Hope Mural Project is an initiative to raise awareness, encourage connection, reduce stigma, and provide an artistic outlet around mental health in Eagle County. It is an opportunity to connect local government as well as local nonprofits with local artists in an organized effort to provide lasting, visually compelling, and accessible messaging around mental health for the benefit of the entire community.

Goals

1. Raise awareness about mental health + local resources through art.
2. Create at least 3 murals throughout Eagle County.
3. Reduce stigma surrounding mental health conditions and getting help.
4. Connect with the community with care, intention, and accessibility in mind.
5. Support the work of locals who may or may not have experience or passion for mental wellness and support for those living with mental health conditions.

Specifications

Local artists will create murals to highlight hopeful messaging in the mental health space. This project is not intended to create tourist attractions but made with our locals in mind.

Our aim would be to have the collective of murals completed by September 2, 2022, with an event at the end to encourage locals to seek out the murals, take pictures with them, and share what it means to them. The murals will also serve as lasting visual reminders to people.

Application #1: Katrina C Sharp - Gypsum

Website: https://www.instagram.com/kccrafts_treasures/

Proposed medium: I am flexible and willing to paint on anything and display my ability to paint plants, flowers, and animals.

Preferred location: Eagle, Avon, then Minturn

Have you painted an outside mural or painted on a similar surface before? What would you need to do to prepare the surface for your project?

Yes. First thing is to thoroughly clean the surface so the paint has a better chance of staying on longer. Don't use paint that is not meant to withstand the outdoor conditions.

Please share with us why this project is of interest to you and/or why it is relevant to you and your art:

Along with dealing with my own depression and anxiety, suicide awareness has always been apart of my passions. I lost my best friend, my uncle, and my aunt to suicide in a matter of five years. To be able to be apart of this would be an amazing opportunity and I hope I can be apart of it!

Description of proposed mural art:

I am seeing mountains, fields of sunflowers and butterflies, similar to the picture attached but more sunflowers and butterflies. I am also open to all ideas.

How does the mural art support the theme(s): hope, resilience, mental health awareness and/or breaking stigmas?

I am unsure yet if my piece will have words, most likely not and it will symbolize hope and light towards Mental Health.

Katrina C Sharp - Gypsum



Original submission for scale:



Application #2: Tina Medina - Gypsum

Website or previous projects: YogaFest Movable Mural, Wings Project Glenwood Springs, Movable Mural Butterfly Release Ford Amphitheater

Preferred medium: Acrylic, Spray Paint

Preferred location: Eagle (1st), Minturn (2nd), Avon (3rd)

Have you painted an outside mural or painted on a similar surface before? What would you need to do to prepare the surface for your project?

Sanding, Kilz Primer

Please share with us why this project is of interest to you and/or why it is relevant to you and your art:

Art is my life and I love sharing it with the world.

Description of proposed mural art:

Totem: Owl, Bear, Deer...allowing people to stand in front and have wings behind them or they can stand in between and it looks like owl is hugging them. I am planning on it being very bright and vibrant. I can surely add some text, maybe something along the lines of "let nature guide you" or be your guide.

How does the mural art support the theme(s): hope, resilience, mental health awareness and/or breaking stigmas?

Animals are powerful spiritual beings and bring strength, hope and resilience and peace of mind. They are tranquil and a reminder of all the beautiful things to see in life.

Tina Medina - Gypsum



Tina Medina - Gypsum



Prior work and example of image being used as a photo op:



Application #3: Daniela Rodriguez - Edwards

Website or previous projects: None

Preferred medium: Paint

Preferred location: Avon - Minturn

Have you painted an outside mural or painted on a similar surface before? What would you need to do to prepare the surface for your project?

Prime -All

Please share with us why this project is of interest to you and/or why it is relevant to you and your art:

As a suicide survivor I learned that through art and expressing my feelings into something concrete I can get out of my head and the suicidal thoughts that come and go. Today I thrive living a life like I never did before.

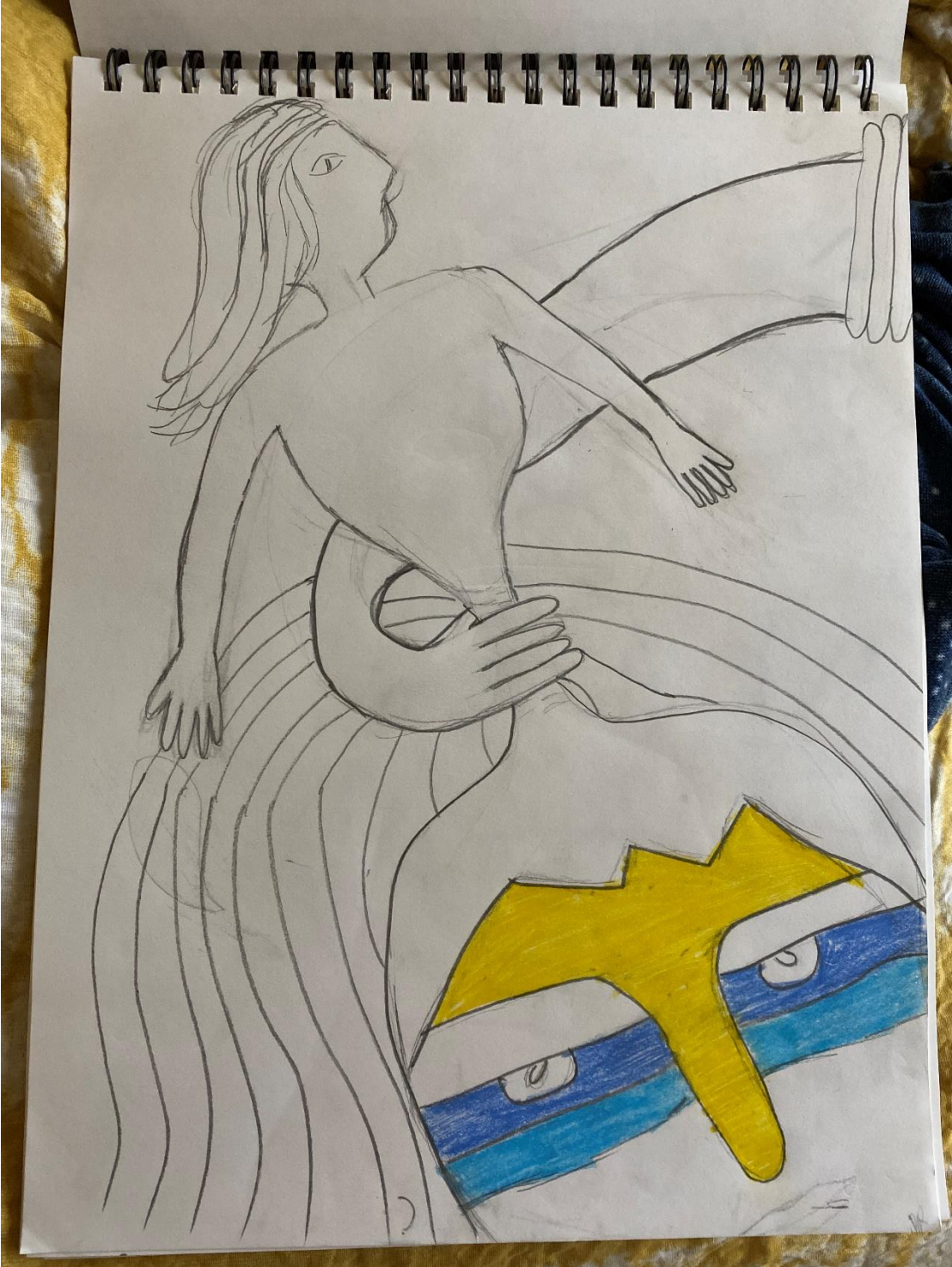
Description of proposed mural art:

The hand represents the willingness, the hope of pulling the suicidal thoughts out of your head. They will always be there but the more a person works on their self love and recognizing red flags the thoughts go away.

How does the mural art support the theme(s): hope, resilience, mental health awareness and/or breaking stigmas?

It a testimony of self discovery. Someone that goes through episodes of lack of motivation, or experienced the desire to commit suicide will not be "fixed" you learn to live with it and at the same time you liberate yourself because living is a choice.

Daniela Rodriguez - Edwards



Application #4: Elise Holmes - Minturn

Website or previous projects: <https://ketsol.com>

Preferred medium: Paint

Preferred location: All

Have you painted an outside mural or painted on a similar surface before? What would you need to do to prepare the surface for your project?

Yes, surface would just need to be cleaned.

Please share with us why this project is of interest to you and/or why it is relevant to you and your art:

Eagle county resident for 10 years, yoga and meditation teacher for many of those years and having suffered with my own depression and anxiety my whole life and now with two creative businesses in the valley, I want to help provide messaging and imagery to help others.

Description of proposed mural art:

Mural designs are meant to be able to go on any space, and are not location specific, they incorporate the mountains, color, and messages of hope.

How does the mural art support the theme(s): hope, resilience, mental health awareness and/or breaking stigmas?

Allowing the viewer to have a moment of reflection upon viewing that reminds them there is more than the insanity in each of our heads.

Elise Holmes - Minturn

Image #1:



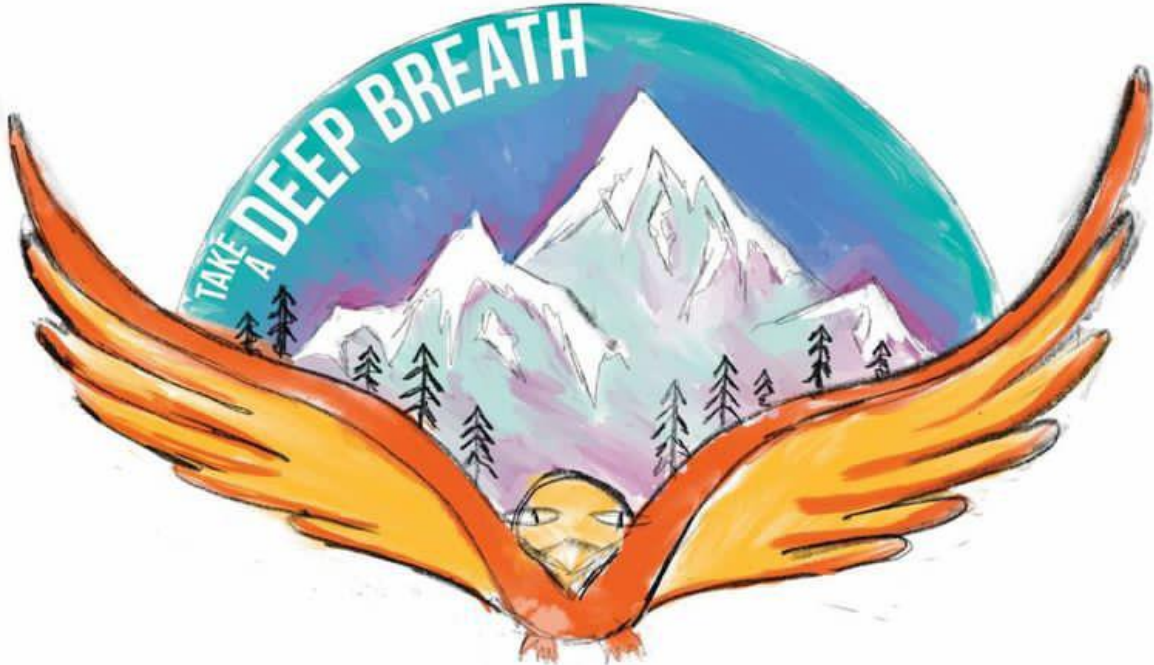
Elise Holmes - Minturn

Image #2:



Elise Holmes - Minturn

Image #3:



Application #5: Jerónimo Gauna - Avon

Website or previous projects: https://www.instagram.com/jg_art_estudio/

Preferred medium: Mural hand drawn with pencil and brush painted

Preferred location:

My favorite place to do my artistic intervention would be the city of Avon. This is the first city I visited when I arrived in the valley, and since then I fell in love with the friendliness of its community and its landscapes. In second place is the city of Minturn, where it would be a great honor to be able to leave my lines at their town hall.

Have you painted an outside mural or painted on a similar surface before? What would you need to do to prepare the surface for your project?

Yes. I have made murals and paintings in outdoor environments.

First of all the wall where the mural will be made must be free of dirt and dust. In addition, the wall must be dry, completely free of moisture. This will ensure optimal coverage.

It's important to know that the surface of the wall to be painted must be as smooth as possible. If not, we must scrape all loose paint off the siding to ensure proper adhesion of fresh, new paint. We have to sand the wall: If the wall paint is very old. If we have used exterior putty, painter's putty or putty to correct wall imperfections, it's necessary to sand the walls before painting. This makes the top coat of paint smoother.

Please share with us why this project is of interest to you and/or why it is relevant to you and your art:

To start I would like to introduce myself again, my name is Jerónimo, I am 25 years old and I am from Argentina. I consider myself a person of many trades. I dedicated my short life to graduating as an architect, while drawing and traveling the world. My forte is the abstract arts, creating compositions from the chaos of my patterns and lines to find a beautiful order.

Right now I am here in the Valley, fulfilling my dream of living in the mountains. Looking for opportunities to leave my lines and drawings everywhere. This is why this project is relevant to me. It's the perfect opportunity to express through my art a message of affection and love. A beautiful way to return my gratitude to this community for so much love and kindness throughout these years.

"A hug, a hand, a message made art for everyone who needs it"".

Jerónimo Gauna - Avon

Description of proposed mural art:

Proposal 1 - "THERE IS ALWAYS AN OPPORTUNITY"

This piece brings us a promise, for those who are going through a difficult time. The promise that there is always a way out, there is always an opportunity to get ahead in every difficult moment. -"In life we will find situations that will make us walk on blazing fire, but there will always be the opportunity to come out strong as gold."-

Proposal 2 - "YOU'RE NOT ALONE"

This piece symbolizes the kindness and solidarity of the community. We are living beings who live in society, and we have to know that we are not alone, we have brothers by our side who care about our lives and our well-being. – "Don't be afraid to ask for help, we all need it at some point. Together we can do more."-

Proposal 3 - "DON'T LOSE HOPE"

This piece brings us a message of encouragement. When the road gets difficult, when the days turn grey, we must never lose faith, we must always trust, thousands of beautiful things await us at the end of the road. – "I like to say that we are the architects of our own happiness, and of our own destiny, the achievement of our goals depends on the confidence we have in ourselves. Don't let yourself down, as the picture shows. Don't lose your hope."

How does the mural art support the theme(s): hope, resilience, mental health awareness and/or breaking stigmas?

Mural Art is a very important tool to communicate and share. It has the magic of connecting us with places, with people and even with ourselves. Art not only makes a place seem alive, it makes us feel alive by stimulating our emotions, and this is very helpful in supporting themes of hope, resilience, and mental health.

Boring cityscapes are known to increase sadness and addiction.

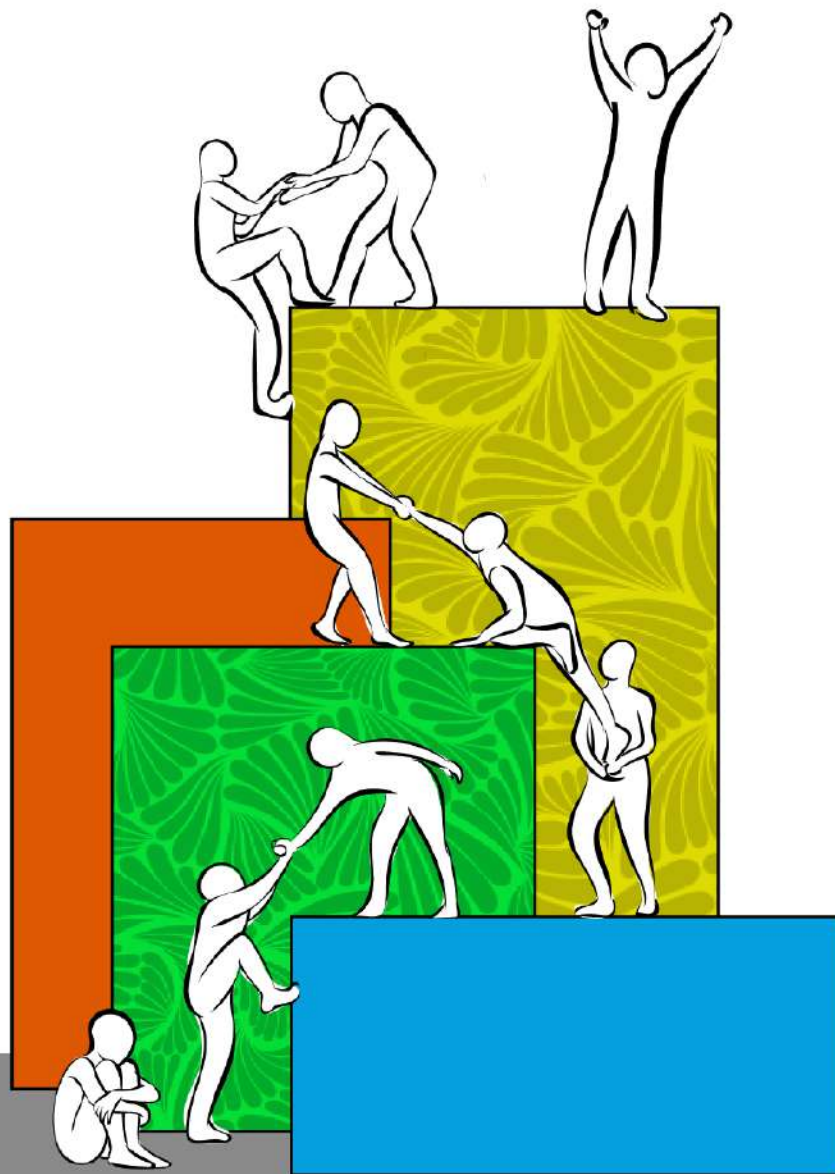
It would be useful and sensible if we continue to create.

In the middle of a difficulty
there is always an opportunity



Proposal #1

You're not alone



Proposal #2



Proposal #3

In the middle of a difficulty
there is always an opportunity



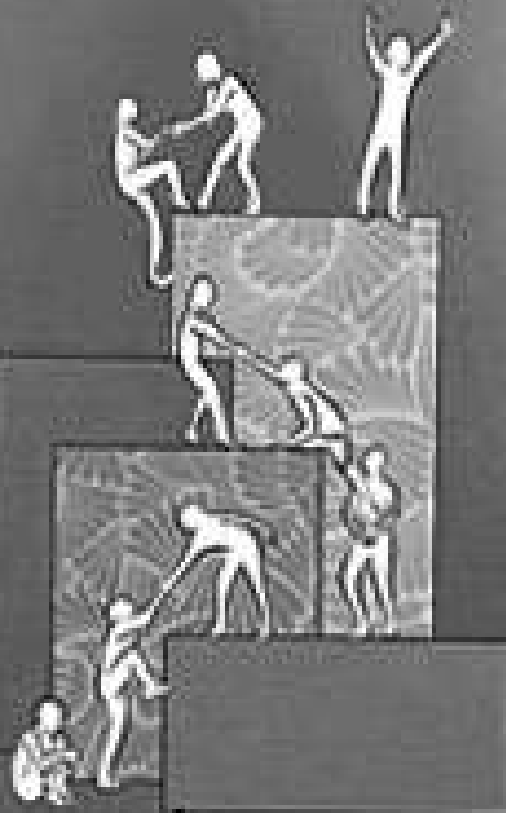
In the middle of a difficulty
there is always an opportunity



You're not alone



You're not alone



FOOT ACTION
Subway

FOOT ACTION
USA
Subway

32-024

32404





Don't lose hope
Please believe
There are a thousand
beautiful things waiting for you

Jay Brunvand
 Clerk/Treasurer
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Town Council
 Mayor – Earle Bidez
 Mayor Pro Tem – Terry Armistead
 Council Members:
 George Brodin
 Lynn Feiger
 Gusty Kanakis
 Kate Schifani
 Tom Sullivan

Below reflects proposed topics to be scheduled at future Town Council meetings and is informational only. Dates and topics are subject to change.

REGULAR TOWN COUNCIL MEETINGS
June 15, 2022
FY 2021 acceptance of Annual Audit – Brunvand
Ordinance ___ - Series 2022 (Second Reading) Historic Preservation policy creation
Resolution 25 – Series 2022 Dowd Junction Acquisition Evaluation Contract Approval - Metteer
Resolution 20 – Series 2022 A Resolution approving Land Use Application Variance 22-01 to allow for the construction of a safety fence within the 30’ live stream setback
July 6, 2022
Michael S. not at this meeting
Ordinance ___ - Series 2022 100 Block Design Guidelines
Res ___ - Series 2022 A Resolution approving the Town of Minturn 2023-2025 Strategic Plan
July 20, 2022
Ordinance 7 – Series 2022 (First Reading) an Ordinance for Belden Place consideration of rescind – Metteer/Sawyer
Ordinance 08 – Series 2022 (First Reading) an Ordinance for Belden Place consideration of rescind – Metteer/Sawyer
Resolution 17 – Series 2022 rescind Belden Place
Resolution 18 – Series 2022 rescind Belden Place
August 3, 2022
Ordinance 7 – Series 2022 (Second Reading) an Ordinance for Belden Place consideration of rescind – Metteer/Sawyer
Ordinance 08 – Series 2022 (Second Reading) an Ordinance for Belden Place consideration of rescind – Metteer/Sawyer
DATE TO BE DETERMINED
2021-23 Strategic Plan Amendment – Building Code Updates
Assessment of UPRR property and possible purchases
Potential legislation regarding Mobile homes
Car Idling