

**TOWN OF MOUNTAIN VILLAGE
REGULAR DESIGN REVIEW BOARD MEETING
THURSDAY JANUARY 9, 2020 10:00 AM
2nd FLOOR CONFERENCE ROOM, MOUNTAIN VILLAGE TOWN HALL
455 MOUNTAIN VILLAGE BLVD, MOUNTAIN VILLAGE, COLORADO**

REVISED - AGENDA

	Time	Min.	Presenter	Type	
1.	10:00		Chair		Call to Order
2.	10:00	5	Starr	Action	Reading and Approval of Summary of Motions of the of the December 5, 2019 Design Review Board Meeting.
3.	10:05	75	Starr	Public Hearing Quasi-Judicial	A review and recommendation to Town Council regarding a rezone and density transfer to rezone Belvedere Units 2 and 3 from two (2) Condominium zoning designation units to one (1) Condominium zoning designation unit
4.	11:20	5	Miller	Public Hearing Quasi-Judicial	A review and recommendation to Town Council regarding a variance for parking regulations on Lot 42B (Blue Mesa Lodge), Unit 21C, pursuant to Section 17.5.8.A.1 (Applicant has requested this item be continued to the February 6, 2019 Meeting)
5.	11:25	30			Lunch
6.	11:55	30	Haynes/Miller	Legislative	A Review and Recommendation to Town Council regarding a Community Development Code Amendment to Section 17.5.12, Lighting Regulations, to allow for architectural and landscape lighting pursuant to a Design Variation
7.	12:25				Adjourn

Please note that this Agenda is subject to change. (Times are approximate and subject to change)
455 Mountain Village Blvd., Suite A, Mountain Village, Colorado 81435
Phone: (970) 369-8242 Fax: (970) 728-4342

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Town Hall at the above numbers or email: cd@mtnvillage.org. We would appreciate it if you would contact us at least 48 hours in advance of the scheduled event so arrangements can be made to locate requested auxiliary aid(s).

**DESIGN REVIEW BOARD MINUTES
TOWN OF MOUNTAIN VILLAGE
DESIGN REVIEW BOARD MEETING
THURSDAY DECEMBER 5, 2019**

Call to Order

Vice Chairman David Craige called the meeting of the Design Review Board of the Town of Mountain Village to order at 10:02AM on December 5th, 2019 in the Town Hall Conference Room at 455 Mountain Village Boulevard Mountain Village, CO 81435.

Attendance

The following Board members were present and acting:

Keith Brown
David Craige
Adam Miller (1st alternate)
Dave Eckman
Liz Caton
Greer Garner

The following Board members were absent:

Ellen Kramer (2nd alternate)
Cath Jett
Banks Brown

Town Staff in attendance:

Michelle Haynes, Planning & Development Services Director
Sam Starr, Planner
John Miller, Senior Planner

Public in attendance:

Robert Stenhammer	rstenhammer@telski.com
David Ballode	dballode@msn.com
Winston Kelly	winstonkelly@gmail.com
Keith Brown	keithtelluride@gmail.com
Tommy Hein	tommy@tommyhein.com
Susan Conger-Austin	conger@iit.edu
Jim Austin	austin60610@yahoo.com
Shannon Murphy	shannon@shannonmurphy.net

Review and approval of the 2020 Design Review Board Meeting Schedule.

On a **Motion** made by Dave Eckman and Seconded by Liz Caton, the Design Review Board voted 6-0 to approve the 2020 Design Review Board meeting schedule.

Reading and Approval of Minutes of the November 7th, 2019 Design Review Board Meeting

On a **Motion** made by Greer Garner and Seconded by Dave Eckman, the Design Review Board voted 6-0 to approve the November 7th, 2019 meeting minutes.

A review and recommendation to Town Council regarding a rezone and density transfer application to rezone Blue Mesa Lodge (Lot 42B) Unit 21C from an Efficiency Lodge Zoning Designation to Lodge Zoning Designation, and concurrent review and recommendation to town council regarding a Variance for parking requirements (continued from 11-7-19).

Senior Planner John Miller presented the review and recommendation to Town Council regarding a rezone and density transfer application to rezone Blue Mesa Lodge (Lot 42B) Unit 21C from an Efficiency Lodge Zoning Designation to Lodge Zoning Designation, and concurrent review and recommendation to town council regarding a variance for parking requirements. Tom Scranton represented himself in this matter, but did not provide a presentation.

There was no public comment.

On a **Motion** made by Greer Garner and seconded by Adam Miller the DRB voted 6-0, to recommend approval to town council regarding a **rezone and density transfer application** to rezone Blue Mesa Lodge (Lot 42B) Unit 21C from an Efficiency Lodge Zoning Designation to Lodge Zoning Designation, with the following conditions:

1. *The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 21-C as one Lodge unit.*
2. *The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.*
3. *The applicant shall demonstrate the required requisite density has been acquired prior to recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.*
4. *Staff shall establish minimum criteria for room separation and wall requirements relative to zoning designations. Prior to the second reading – the portion of the wall must be a minimum of 50% of the volume of the total opening.*

On a **Second Motion** made by Greer Garner and seconded by Liz Caton, the board voted 3-3, with David Eckman, David Craige, and Ellen Kramer, dissenting, to recommend approval to town council regarding a **Variance for parking requirements**. As the board vote was evenly split, this matter will be **continued** to the 1.9.20 Design Review Board Meeting.

Consideration of a Design Review: Initial Architecture and Site Review Application for a new single-family residence on Lot 137, 102 Granite Ridge.

Senior Planner John Miller presented the consideration of a Design review: Initial Architecture and Site Review Application for a new single-family residence on Lot 137, 102 Granite Ridge. Architect Tommy Hein of Tommy Hein Architects presented on behalf of the applicant.

There was no public comment.

On a **Motion** made by Greer Garner, and seconded by Dave Eckman, the DRB voted 6-0 to approve the Design Review: Initial Architecture and Site Review Application for a new single-family residence on Lot 137, 102 Granite Ridge with the following conditions:

1. *The applicants will provide a full lighting plan per the CDC requirements.*
2. *The applicants will revise their landscaping plans to include a full irrigation system and the associated requirements.*

3. *The applicants will revise plans to address required CDC parking of 2 enclosed spaces and 2 exterior spaces.*
4. *The applicants will revise the proposed driveway access to meet the standards of the CDC for driveline and shoulder width.*
5. *The address monument's location shall be revised, and its height limited to a maximum of 6'-0" above adjacent grade.*
6. *The applicants shall revise the proposed plans to include all areas of exterior snowmelt.*
7. *The applicants shall revise their plans to include a Fire Mitigation plan documenting the requirements of the CDC including but not limited to Fire Protection Zones, tree removal, and tree planting.*
8. *The applicants shall revise their plans to include a construction mitigation plan documenting the requirements of the CDC.*
9. *Prior to issuance of a CO, the property owner will enter into an access agreement with Telluride Ski and Golf for ski access from Lot 137 to ski resort owned properties.*
10. *A monumented land survey shall be prepared by a Colorado public land surveyor to establish the maximum building height and the maximum average building height.*
11. *A monumented land survey of the footers will be provided prior to pouring concrete to determine there are no additional encroachments into the GE.*
12. *Prior to the Building Division conducting the required framing inspection, a four foot (4') by eight-foot (8') materials board will be erected on site consistent with the review authority approval to show:*
 - a. *The stone, setting pattern and any grouting with the minimum size of four feet (4') by four feet (4');*
 - b. *Wood that is stained in the approved color(s);*
 - c. *Any approved metal exterior material;*
 - d. *Roofing material(s); and*
 - e. *Any other approved exterior materials*

Consideration of a Design Review: Final Review Application for a new single-family residence on Lot AR-53R2, 125 Adams Way.

Planner Sam Starr presented the consideration of a Design Review: Final Review Application for a new single-family residence on Lot AR-53R2, 125 Adams Way. Architect Susan Conger presented on her own behalf

There was no public comment.

On a **Motion** made by Liz Caton, and seconded by Adam Miller, the DRB voted 5-1, with Board Member Dave Eckman voting against, to approve the Design Review: Final Review Application for a new single-family residence on Lot AR-53R2, 125 Adams Way, with the following conditions:

1. *A monumented land survey shall be prepared by a Colorado public land surveyor to establish the maximum building height and the maximum average building height. This condition shall be carried over to any Final Review Approval as it is a construction condition.*
2. *A monumented land survey of the footers will be provided prior to pouring concrete to determine there are no additional encroachments into the GE. This condition shall be carried over to any Final Review Approval as it is a construction condition.*
3. *Prior to Final Review, Applicant shall provide a revised address identification sign schematic to demonstrate that the numbers be no less than 54" from the grade of the address monument.*

4. Prior to the Building Division conducting the required framing inspection, a four foot (4') by eight-foot (8') materials board will be erected on site consistent with the review authority approval to show:
 - b. The stone, setting pattern and any grouting with the minimum size of four feet (4') by four feet (4');
 - b. Wood that is stained in the approved color(s);
 - c. Any approved metal exterior material;
 - d. Roofing material(s); and
 - e. Any other approved exterior materials

Consideration of a Design Review Application for a design variation to allow for a privacy gate along the driveway on Lot OS-1, 127 Rocky Road.

Planner Sam Starr presented the consideration of a Design Review Application for a design variation to allow for a privacy gate along the driveway on Lot OS-1, 127 Rocky Road. Shannon Murphy of Shannon Murphy Landscape Architects presented on behalf of the applicant.

There was no public comment.

On a **Motion** made by Liz Caton, and seconded by Greer Garner, the DRB voted 6-0 to approve the Design Review Application for a design variation to allow for a privacy gate along the driveway on Lot OS-1, 127 Rocky Road. There were no conditions associated with this motion.

A Review and Recommendation to Town Council regarding a rezone and density transfer, and variance application to rezone Blue Mesa Lodge (Lot 42B), Units 22A, 22B, and 22C from three (3) Efficiency Lodge Zoning Designation units to one (1) Lodge Zoning Designation Unit.

Planner Sam Starr presented the review and recommendation to Town Council regarding a rezone and density transfer, and variance application to rezone Blue Mesa Lodge (Lot 42B), Units 22A, 22B, and 22C from three (3) Efficiency Lodge Zoning Designation units to one (1) Lodge Zoning Designation Unit. Keith Brown presented on behalf of the applicant.

There was no public comment.

On a **Motion** made by Dave Eckman, and seconded by Adam Miller, the DRB voted 6-0 to recommend approval of a rezone and density transfer, and variance application to rezone Blue Mesa Lodge (Lot 42B), Units 22A, 22B, and 22C from three (3) Efficiency Lodge Zoning Designation units to one (1) Lodge Zoning Designation Unit, with the following conditions:

1. *The applicant shall submit a condo map amendment and associated declarations, to the Town for review and approval showing the Units 22A, 22B, and 22C as one renumbered lodge unit and cross-reference the approval of a Variance Resolution to the definition of a lodge zoning designation.*
2. *The Lot list shall be updated to reflect the rezone from three efficiency lodge units to one lodge unit.*

A Review and Recommendation to Town Council regarding a rezone and density transfer to rezone Belvedere Units 2 and 3 from two (2) Condominium Zoning Designation units to one (1) Condominium Zoning Designation unit.

On a **Motion** made by Liz Caton, and seconded by Adam Miller, the DRB voted 6-0 to **continue** the review and recommendation to Town Council regarding a rezone and density transfer to rezone Belvedere Units 2 and 3 from two (2) Condominium Zoning Designation units to one (1) Condominium Zoning Designation unit to the January 9th, 2020 Design Review Board Meeting.

A review and recommendation to Town Council regarding a Community Development Code (CDC) amendment to the Design Variations at Section 17.4.11.E.5 and Section 17.5.6 Building Design.

Planning and Development Services Director Michelle Haynes presented the review and recommendation to Town Council regarding a Community Development Code (CDC) amendment to the Design Variations at Section 17.4.11.E.5 and Section 17.5.6 Building Design.

There was no public comment.

On a **Motion** made by Greer Garner, and seconded by Ellen Kramer, the DRB voted 6-0, recommend approval to Town Council of a Community Development Code (CDC) amendment to the Design Variations at Section 17.4.11.E.5 and Section 17.5.6 Building Design, with the following finding:

1. *Consistent with CDC Section 17.1.7, the CDC amendment was initiated by the Town Council.*

A Worksession discussion regarding the CDC prohibition of Architectural Lighting at CDC Section 17.5.12.C Prohibited Lighting.

Planning and Development Services Director Michelle Haynes presented the worksession discussion regarding the CDC prohibition of Architectural Lighting at CDC Section 17.5.12.C Prohibited Lighting.

There was no public comment.

The DRB provided general consensus to move forward with considering removing the prohibition regarding architectural lighting. Work sessions provide an opportunity for the DRB to informally review a proposed application. As such, the DRB can only provide general comments and direction, with no formal decision.

Adjourn

On a **Motion made by Liz Caton and seconded by Greer Garner**, the Design Review Board voted 6-0 to adjourn the December 5th, 2019 meeting of the Mountain Village Design Review Board at 3:00 P.M.

Prepared and Submitted by,

Sam Starr, AICP
Planner
Town of Mountain Village



Agenda Item No. 3
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

TO: Design Review Board

FROM: Sam Starr, Planner

FOR: January 9th, 2020 Design Review Board Meeting

DATE: January 2nd, 2020

RE: A review and recommendation to Town Council regarding a rezone and density transfer to rezone Lot 27A Belvedere Condominiums Units 2 and 3 from two (2) Condominium zoning designation units to one (1) Condominium zoning designation unit

PROJECT GEOGRAPHY

Legal Description: Lot 27A, Units 2 and 3, Parcel 1 Belvedere Park Condominiums According to Plat Book 1 Page 3498.

Address: 112 Lost Creek Lane
Owner: Jefferson and Karen Kirby
Agent: Joe Solomon, Esq.
Zoning: Village Center
Existing Use: Multi-Family Residential
Proposed Use: Multi-Family Residential
Lot Size: 0.18 Acres

Adjacent Land Uses:

- **North:** Village Center
- **South:** Village Center
- **East:** Village Center
- **West:** Village Center

ATTACHMENTS

- Exhibit A: Applicant's Narrative
- Exhibit B: Existing Condominium Map
- Exhibit C: Proposed Map and Declarations



Figure 1: Belvedere Condominiums Phase One Location

BELVEDERE CONDOMINIUMS HISTORY

Platting and Land Use History

Lot 27 was originally platted by the 1993 Rezoning, Substantial Final Plat Amendment, Wetland Area Buffer Zone Special Use Permit, and Height Definition exception for Lots 24-27. This resolution is recorded at reception No. 286067. In 2004, by Resolution No. 2004-0511-04, Lot 27A was rezoned to include 16 Condominium Units, 31 Lodge Units, and 71 Efficiency Lodge Units. A subsequent Master Development Plan was submitted by the developer, TCH Belvedere Development, LLC, and recorded at reception No. 376604. This development plan envisioned that the density would be developed across five phases. It should be noted that at this time, two of the five phases have been constructed.

In April 2004, "Phase One" of the Belvedere Park Condominiums was approved by the Town. The associated Condominium Declarations and Map were recorded the following year prior to issuance of a Certificate of Occupancy. Phase One included three condominium units averaging 2,248 square feet and one 2,600 square foot garage space. Each condominium has the CDC required 3-Person Equivalent Density and the 1 parking space requirement per Village Center zoning. The attached Condominium Map, (Exhibit B) illustrates the current configuration of units. The applicants currently own both Unit 2 and 3 of Phase One and are requesting to combine the units as part of this application. Although inconsequential to this request, records show that the applicants purchased Unit 3 in July 2005 with Unit 2 having been purchased in January 2019.

Proposed remodeling of Belvedere Condominiums Units 2 and 3

In the summer of 2019, the owners of Unit 2 and 3 approached Town Planning Staff requesting to combine the two individual units discussed above into one unit. In order to accommodate the request, the owners would need to: modify the units by removing the elevator that previously had served Unit 2, combine Units 2 and 3 by converting the former elevator space on the first and second floors to living space; and, reallocate the former elevator space in the garage to Limited Common Element (LCE) to serve as additional storage for the newly combined unit. The owners would retain the required parking for a condominium zoned unit in the Village Center. For this work to occur, the owners must rezone their property and transfer the excess 3-person equivalent density into the density bank. No exterior work will be required; the Design Review Board's focus is solely on the rezone and density transfer proposal, and more specifically, the DRB's purview relates specifically to how the density transfer and rezone application may have design-related implications. The DRB must determine if the proposed unit reconfiguration, parking, and other applicable criteria for the decision outlined below have been met.

CRITERIA, ANALYSIS, AND FINDINGS:

1. **Section 17.4.9 - Rezoning Criteria:** The following criteria shall be met for the review authority to approve a rezoning development application:
 - a. The proposed rezoning is in general conformance with the goals, policies, and provisions of the Comprehensive Plan;
 - b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
 - c. The proposed rezoning meets the Comprehensive Plan project standards;
 - d. The proposed rezoning is consistent with public health, safety, and welfare, as well as efficiency and economy in the use of land and its resources;

- e. The proposed rezoning is justified because there is an error in the current zoning, [and/or] there have been changes in conditions in the vicinity [and/] or there are specific policies in the Comprehensive Plan that contemplate the rezoning;
- f. Adequate public facilities and services are available to serve the intended land uses;
- g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and,
- h. The proposed rezoning meets all applicable Town regulations and standards.

STAFF NOTE: It is the burden of the applicant to demonstrate that any development proposal meets the requirements of the Comprehensive Plan and the Community Development Code, along with substantially complying with the rezoning review criteria listed above.

Generally speaking, the requested rezone is in conformance with the Zoning and Land Use Regulations as the proposal meets the design standards and requirements outlined within the CDC for a condominium zoned unit. There does not appear to be any public health safety or welfare issues associated with this request, and the proposal does not create any vehicular or pedestrian circulation hazards and/or parking, trash, or delivery congestion due to the pre-existing nature of the development.

The Design Review Board will need to determine if the provided application materials meet the criteria listed above, particularly criteria 3(a) related to conformance with the goals, policies, and provisions of the Comprehensive Plan. In order to aid in this determination, the staff has provided an analysis of the Comprehensive Plan within this memo below.

- 2. **Section 17.4.10 - Density Transfer Process:** The following criteria shall be met for the review authority to approve a density transfer application:
 - a. The criteria for decision for rezoning are met since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
 - b. The density transfer meets the density transfer and density bank policies; and,
 - c. The proposed density transfer meets all applicable Town regulations and standards.

Staff Note: The applicant has demonstrated current ownership of adequate density needed to meet the standards put forth in 17.4.10(D), Criteria for Decision on a Density Transfer Process. The applicant will have a 3-person equivalent excess efficiency lodge density and intends to transfer it to the Density Bank as required by the CDC.

3. Chapter 17.8 – Definitions:

Condominium: A zoning designation that allows for multi-family dwellings dwelling located in condominium community.

Staff Note: The proposed unit combination will meet the zoning designation definition of Condominium. There are no room or space requirements/restrictions for this designation listed in the CDC.

4. Mountain Village Comprehensive Plan

The 2011 Mountain Village Comprehensive Plan is intended to direct – the present and future – physical, social and economic development that occurs within the town and as such, development is required to adhere to the policies and principles outline within that plan. Generally speaking, the Mountain Village promotes a land-use pattern envisioned by the Comprehensive Plan and requires that any discretionary land use application be in general conformance with the Land Use Plan, the Subarea Plans, and their associated principles and policies, and the applicable policies of the Comprehensive Plan.

Although Lot 27 is located within the Mountain Village Center Subarea, it should be noted that the Comprehensive Plan does not discuss Lot 27 with the exception of the remaining development rights associated with the Lot and designated in the Plan as Parcel N. Given that Phase One of the Belvedere was pre-existing during the creation of the Comprehensive Plan, it does not appear that the plan contemplated redevelopment of the existing units and rather focused on the remaining development rights for Parcel N.

While the Actions, Policies, and Plans of the Mountain Village Center Subarea Plan specifically state that there are “no site-specific policies” (pg. 59) envisioned for Lot 27, Parcel N, other sections of this guiding document must be factored into the Design Review Board’s decision of this criteria. The Future Land Use Plan envisions a mixed-use center for this lot, and the Comprehensive Plan extensively notes the need to “Focus high density, mixed-use development in Mountain Village Center by significantly increasing the hotbed inventory to improve the overall economic viability and activity in Mountain Village Center and the town as a whole”. The Comprehensive Plan also places a high premium on the creation of a “year-round economy” and provides general guidance including statements such as “Better sustainability can be achieved by...Concentrating development in high-density areas to achieve economic sustainability”, and by “maintaining the original planned density of 8,027-person equivalent density”. In addition, economic modeling within the Plan provides that “Mountain Village’s economy is vulnerable. This is due to a combination of factors: a dispersed, inadequate hotbed base; annual occupancies that are lower than comparable ski resort communities; and a seasonal economy that has its high point centered on a relatively small number of days in the ski season and festival weekends.”

Staff Note: The proposed rezone and density transfer aligns with the Comprehensive Plan’s Future Land Use Map as condominiums are considered a part of a mixed-use center. The Design Review Board will need to determine whether reduction in overall units, density, and/or diversity of ownership meets the goals and objectives of the above-discussed standards of the Comprehensive Plan, and ultimately if this reduction in condominium units still provides stability and fosters a year-round economy - or if the change would hinder vibrancy of the Mountain Village Center Subarea. The DRB may also determine that other portions of the Comprehensive Plan are relevant to their deliberation concerning these criteria and may request additional information.

STAFF ANALYSIS

The requested rezone and density transfer, combining Units 2 and 3 of the Belvedere Condominiums, will meet the required density and parking regulations and is in general conformance with the Future Land Use Plan envisioned by the Comprehensive Plan. The central question arising from this application is whether or not the request is in general conformance with the Mountain Village Comprehensive Plan. Planning and Development Staff find that single unit ownership may contribute to the creation of a year-round economy, but also recognize that granting approval will limit the density and diversity of ownership within the building and Village

Center area and may reduce the overall use of the units over time given the reduction in overall density.

RECOMMENDED MOTION: The DRB may approve, continue, deny or modify the review and recommendation to Town Council regarding a rezone and density transfer to rezone Lot 27A Belvedere Condominiums Units 2 and 3 from two (2) Condominium zoning designation units to one (1) Condominium zoning designation unit.

Two alternative motions have been provided for your consideration:

Motion for Approval:

I move to recommend approval of a rezone and density transfer application for Lot 27A, Belvedere Condominium Units 2 and 3 - to rezone subject units from two (2) Condominium zoning designations to one (1) Condominium zoning designation as noted in the staff memo of record dated January 2nd, 2020 and with the following findings and conditions:

Findings:

1. *The applicant has the requisite required density of 3 person equivalents to execute a rezone from condominium to condominium zoning designation.*
2. *The applicant has met or exceeded the parking requirement of 1 parking space.*
3. *The application meets the criteria for decision as detailed within this staff memo of record.*

Conditions:

1. *The applicant shall submit a condominium map amendment and associated declarations, to the Town for review and approval showing the Units 2 and 3 as one renumbered Condominium Unit prior to issuance of a certificate of occupancy to combine the units*
2. *The lot list shall be updated to reflect the rezone from 2 Condominium units to one Condominium unit.*
3. *The applicant intends to hold the excess density in the density bank.*
 - a. *The town will issue a density bank certificate*
 - b. *The owner is responsible for all dues, fees and any taxes associated with the assigned density and zoning until such time as the density is either transferred to a lot or another person or entity.*
4. *The approved ordinance and density certificate must be submitted as part of the owner's building permit application prior to work commencing.*

Motion for Denial:

I move to recommend denial of a rezone and density transfer application for Lot 27A, Belvedere Condominium units 2 and 3 to rezone 2 and 3 from two (2) Condominium zoning designations to one (1) Condominium zoning designation as noted in the staff memo of record dated January 2nd, 2020 and with the following findings:

Findings:

1. *The application does not meet the criteria for decision as detailed in the staff memo of Record, dated January 2, 2020.*



SOLOMON LAW FIRM, P.C.

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PO BOX 1748 (REQUIRED FOR ALL U.S. MAIL)

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November 22, 2019

Sam Starr, AICP
Planner
Town of Mountain Village
455 Mountain Village Blvd. Suite A
Mountain Village, CO 81435

Owners: Jefferson W. Kirby and Karen M. Kirby
Property: Units 2 & 3, Parcel 1, Belvedere Park Condos
Property address: 112 Lost Creek Lane, Units 2 & 3, Mountain Village, Colorado
Application: Class 4 Rezoning / Density Transfer Application
to Combine Units into New Unit 2-3 and Transfer Density to Density Bank

Dear Sam:

I represent the Applicants, Jefferson W. Kirby and Karen M. Kirby. Please allow this letter to serve as the Narrative accompanying the above-referenced Application.

Description

The Applicants are applying to combine Units 2 & 3 into a single new Unit 2-3. Following are the items enclosed with this Application:

Rezoning/Density Transfer Application
\$1000 Application Fee (being mailed in)
First Amendment to Map DRAFT
First Amendment to Declaration DRAFT

Elevator

As part of this Application, the elevator serving Unit 2 will be removed. Instead, the elevator serving Unit 3 will serve new Unit 2-3. The former elevator space on the first and second floor will be converted to Unit 2-3 space. The former elevator space in the garage will be converted to Unit 2-3 LCE storage.

Parking

As shown on the proposed First Amendment to Condominium Map submitted herewith, Unit 2-3 will have two (2) dedicated parking spaces. The building will also continue to have one (1) common element parking space that is shared among existing Unit 1 and new Unit 2-3.

Criteria for Decision

CDC 17.4.9(C)(3) sets forth the criteria for the review authority to approve this rezoning development Application, which meets the criteria as follows:

a. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan;

The zoning is not changing for the subject Units. The combined Unit 2-3 will remain a residential condominium unit. The Applicants have owned Unit 3 since July 2005 and Unit 2 since January 2019. This is not in fact a rezoning. It is essentially a housekeeping matter involving a density transfer.

b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;

The proposed rezoning is consistent with regulations. Again, the zoning is not changing.

c. The proposed rezoning meets the Comprehensive Plan project standards;

The zoning is not changing. The residential condominium designation remains consistent with the Future Land Use Plan included with the Town of Mountain Village Comprehensive Plan.

d. The proposed rezoning is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;

The Unit combination is consistent with these factors; it involves an internal adjustment to an existing structure.

e. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning;

The Comprehensive Plan allows for this residential condominium use.

f. Adequate public facilities and services are available to serve the intended land uses;

Sufficient facilities and services are available. Again this is an internal adjustment to an existing structure.

g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and

The proposed Application will not create these hazards or congestion. The combined single Unit will have two (2) Limited Common Element parking spaces as well as the right to use a shared common parking space with the adjacent Unit 1.

h. The proposed rezoning meets all applicable Town regulations and standards.

As stated above, the Application satisfies applicable Town rules.

The Applicants acknowledge that, pursuant to CDC 17.4.9(C)(4), it is their burden to demonstrate that submittal material and the proposed development substantially comply with the above rezoning review criteria. The Applicants respectfully submit they have demonstrated these factors.

Density Transfer

Combining the Units will result in excess density consisting of three (3.0) person equivalents. The Applicants request approval to transfer this density off the site and into the Town Density Bank.

CDC 17.3.8(B) provides in relevant part, "Density may be transferred from one lot to another lot or to the density bank provided the density transfer is approved pursuant to the density transfer and rezoning processes as concurrent development applications ..."

This Application satisfies the criteria set forth in CDC 17.4.10(D)(2) applicable to Class 4 Applications for the Review Authority to approve a density transfer, as follows:

a. The criteria for decision for a rezoning are met, since such density transfer is being processed concurrently with a rezoning development application.

b. The density transfer meets the density transfer and density bank policies, in that the excess density will be transferred to the Town density bank.

c. As set forth above, the proposed density transfer meets all applicable Town regulations and standards, specifically, the zoning with respect to the subject Units is not changing from the existing residential condominium designation.

Request for Waiver of Worksession

The Applicants request that, pursuant to CDC 17.4.9(C)(1)(a), the Director of Community Development waive the requirement to submit a conceptual worksession due to limited size and scale of this rezoning development Application, which limits the associated issues.

Application to Combine Units into New Unit 2-3 and Transfer Density to Density Bank
November 22, 2019
Page 4

Conclusion

Thank you for your consideration of this Application.

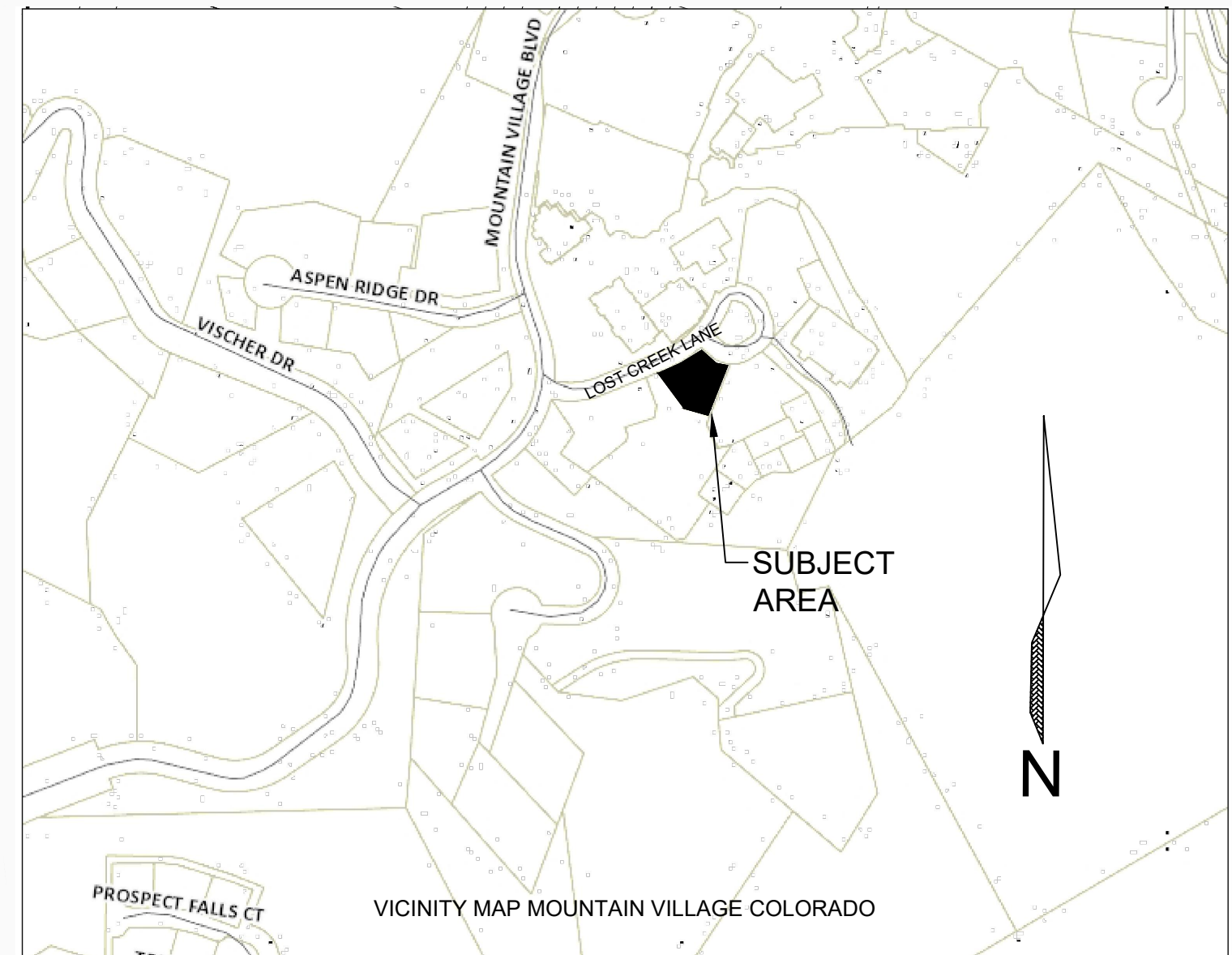
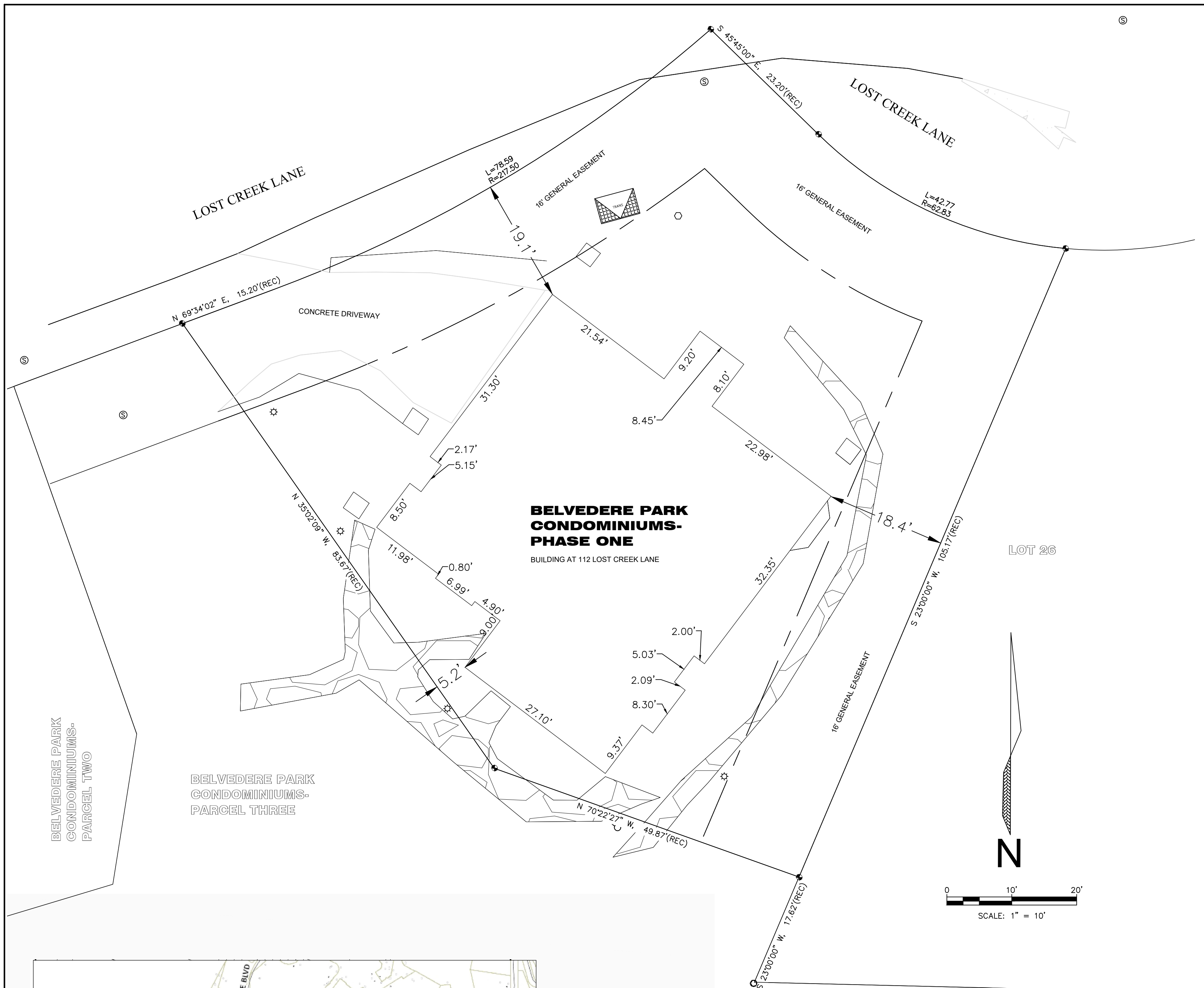
Sincerely,

A handwritten signature in black ink, appearing to read 'Joseph A. Solomon', written over a horizontal line.

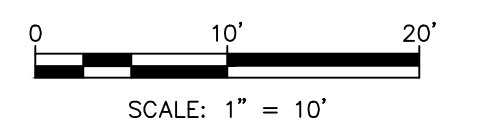
Joseph A. Solomon, Esq.

Encs.

Rezoning/Density Transfer Application
\$1000 Application Fee (being mailed in)
Title Commitment
First Amendment to Map DRAFT
First Amendment to Declaration DRAFT



BELVEDERE PARK CONDOMINIUMS - PHASE ONE
BUILDING AT 112 LOST CREEK LANE



LEGEND:

- SET #5 REBAR WITH 1 1/2" ALUMINUM CAP LS 38014
- FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP LS 320632
- TRANSFORMER
- TELEPHONE PEDESTAL
- SEWER MAN HOLE
- FIRE HYDRANT
- LIGHT

SQUARE FOOTAGE, USE AND PARKING CHART

UNIT	SQUARE FEET	DESIGNATION	PARKING
RESIDENTIAL UNIT ONE	2164*	RESIDENTIAL UNIT	1 SPACE
RESIDENTIAL UNIT TWO-THREE	4903	RESIDENTIAL UNIT	2 SPACES
PARKING SPACE UNIT ONE	170	PARKING	N/A
PARKING SPACE UNIT TWO	156	PARKING	N/A

* DERIVED FROM PLAT RECORDED AT RECEPTION No. 376604

ASSOCIATION:

Belvedere Park Condominiums - Phase One Owners Association, Inc., a Colorado nonprofit corporation

By: _____ Date: _____
Randy Podolsky, Vice President

Name: _____ Date: _____

State of _____
County of _____

Subscribed to and acknowledged before me this _____ day of _____, 2020, by _____

as the President of Belvedere Park Condominiums - Phase One Owners Association, Inc., a Colorado nonprofit corporation.

Witness my hand and official seal.

Notary Public My commission expires: _____

LAND SURVEYOR'S CERTIFICATE:

I, Thomas A. Clark, being Registered Land Surveyor in the State of Colorado, do hereby certify that this map amendment and survey of The Belvedere Park Condominiums, First Amendment to Condominium Map, Replat of Units 2 and 3 ("Map Amendment") (i) was made under my direct supervision, responsibility and checking; (ii) is true and accurate to the best of my knowledge and belief; (iii) is clear and legible; and (iv) contains all information required by C.R.S. 38-33.3-209.

Dated this _____ day of _____, 2020

Thomas A. Clark PLS. 38014

NOTES:

- Easement research from Land Title Guarantee Company, Commitment No. TLR86008907-2 dated 04/18/2019 at 5:00 P.M.
- Elevation datum is unchanged from Map recorded 8/1/2005 at Plat Book 1, at page 3498.
- Dimensions and areas shown are measured to face of drywall or finished wall surface.
- NOTICE: According to Colorado law you must commence any legal action based upon defect in this survey within three years after you first discover such defect. In no event may any action based upon any deficit in this survey be commenced more than ten years from the date of the certification shown hereon.
- BASIS OF BEARINGS: No exterior property boundaries have been changed by this Map amendment and no bearings are shown hereon.
- According to FEMA Flood Insurance Rate Map #08113C0287D, effective on 9/30/1992, this parcel is in Zone X; Areas determined to be outside of the 100-year flood plain.
- The following abbreviations are defined for this Condominium Map:
L.C.E. Limited Common Element
C.E. Common Element
Sq. Ft. Square Feet
C.H. Ceiling Height
- The Belvedere Park Condominiums, a condominium community (the "Community") exists in accordance with the following described documents (the "Governing Documents"):
a. Declaration of Covenants, Conditions and Restrictions for The Belvedere Condominiums A Condominium Project Located in the Town of Mountain Village, County of San Miguel State of Colorado recorded on August 1, 2005 in the Office of the San Miguel County Clerk and Recorder (the "Official Records") at Reception No. 376603; County of San Miguel, State of Colorado (collectively referred to as the "Declaration");
b. Condominium Map recorded on August 8, 2005, in Plat Book 1 at page 3498, ("Original Map"); and
c. the Articles of Incorporation dated July 22, 2005, including any and all amendments for Belvedere Park Condominiums - Phase One Owners Association, Inc. (the "Association").
- The Community consists of certain Common Elements and Units as depicted and described in the Governing Documents, which Units are each separately owned by certain "Owners" and which Common Elements are managed and administered by the Association for and on behalf of the Owners.
- The Association and Owners have approved of this Map Amendment to address the following:

a. to approve of and depict certain modifications to combine units known as Residential Unit 2 and Residential Unit 3; by combining such units into one unit, which shall hereinafter be described and depicted as Residential Unit 2-3 (the "Subject Unit").

Accordingly, the purpose of this Map Amendment is to: (a) approve, establish, clarify, and confirm the respective boundaries the Subject Unit as described and depicted on this Map Amendment, and (b) state, acknowledge and confirm that, with the recording of this Map Amendment that the Subject Unit now is comprised of the Units previously known as Residential Unit 2 and Residential Unit 3.

- The Association has secured the requisite approvals to authorize and direct the Association to execute and record this Map Amendment, and take any and all such other and further actions as contemplated hereunder.
- No new Right of Ways or Easements are created by this Map Amendment and all previous covenants, condition, restriction, or limitation remain in place except as noted.
- The elevator for former Residential Unit 2 has been removed. The former Limited Common Element (LCE) space from the elevator on the Garage Level is now LCE storage for the benefit of Unit 2-3.
- The former LCE space from the elevator on the First Level and the Second Level are now part of Unit 2-3. The Association hereby transfers, conveys and quit claims these areas to the owners of Unit 2-3.
- No changes are made to Residential Unit One or any of the exterior of the building as recorded in Plat book 1, at page 3498 by this Map Amendment.
- Approval of this plan may create a vested property right pursuant to Article 68 of Title 24. C.R.S., as amended.

FORMER PROPERTY DESCRIPTION:

CONDOMINIUM UNIT 2 AND CONDOMINIUM UNIT 3, BELVEDERE PARK CONDOMINIUMS - PHASE ONE, ACCORDING TO THE BELVEDERE PARK CONDOMINIUMS - PHASE ONE CONDOMINIUM MAP RECORDED AUGUST 1, 2005 IN PLAT BOOK 1 AT PAGE 3498, AND AS DEFINED AND DESCRIBED IN THE CONDOMINIUM DECLARATION FOR BELVEDERE PARK CONDOMINIUMS - PHASE ONE RECORDED AUGUST 1, 2005 UNDER RECEPTION NO. 376603, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

CERTIFICATE OF OWNERSHIP:

Residential Unit 2-3 Owner:
Jefferson W. Kirby and Karen Kirby,
By: _____ Date: _____
Jefferson W. Kirby, Owner
By: _____ Date: _____
Karen Kirby, Owner
Subscribed to and acknowledged before me this _____ day of _____, 2020, by _____.
Witness my hand and official seal.

Notary Public My commission expires: _____

IN WITNESS WHEREOF, the Association and Owners have approved and consented to and do hereby duly adopt, execute, and deliver this Map Amendment, intending it to become effective as of _____, 2020 ("Effective Date").

TOWN OF MOUNTAIN VILLAGE COLORADO:

This Map Amendment is hereby approved as conforming to all applicable laws of the Town of Mountain Village.

Planning and Development Services Director Date

TITLE INSURANCE CERTIFICATE:

Land Title Guarantee Company, a Colorado licensed title company, does hereby certify that we have examined the title to the Subject Unit herein shown on this Map Amendment and that the title to the Subject Unit is in the name of _____ and is free and clear of all liens and taxes except as follows:

Title Insurance Company Representative

COUNTY TREASURER'S CERTIFICATE:

I certify that according to the records in San Miguel County Treasurer's office, there are no liens against the Subject Unit, for unpaid State, County or Municipal ad valorem taxes or special assessments certified to the County Treasurer for collection.

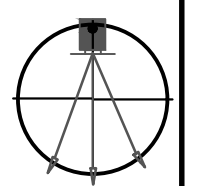
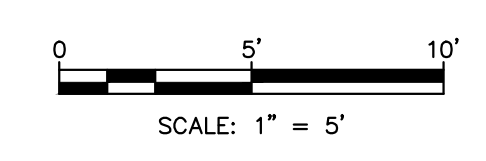
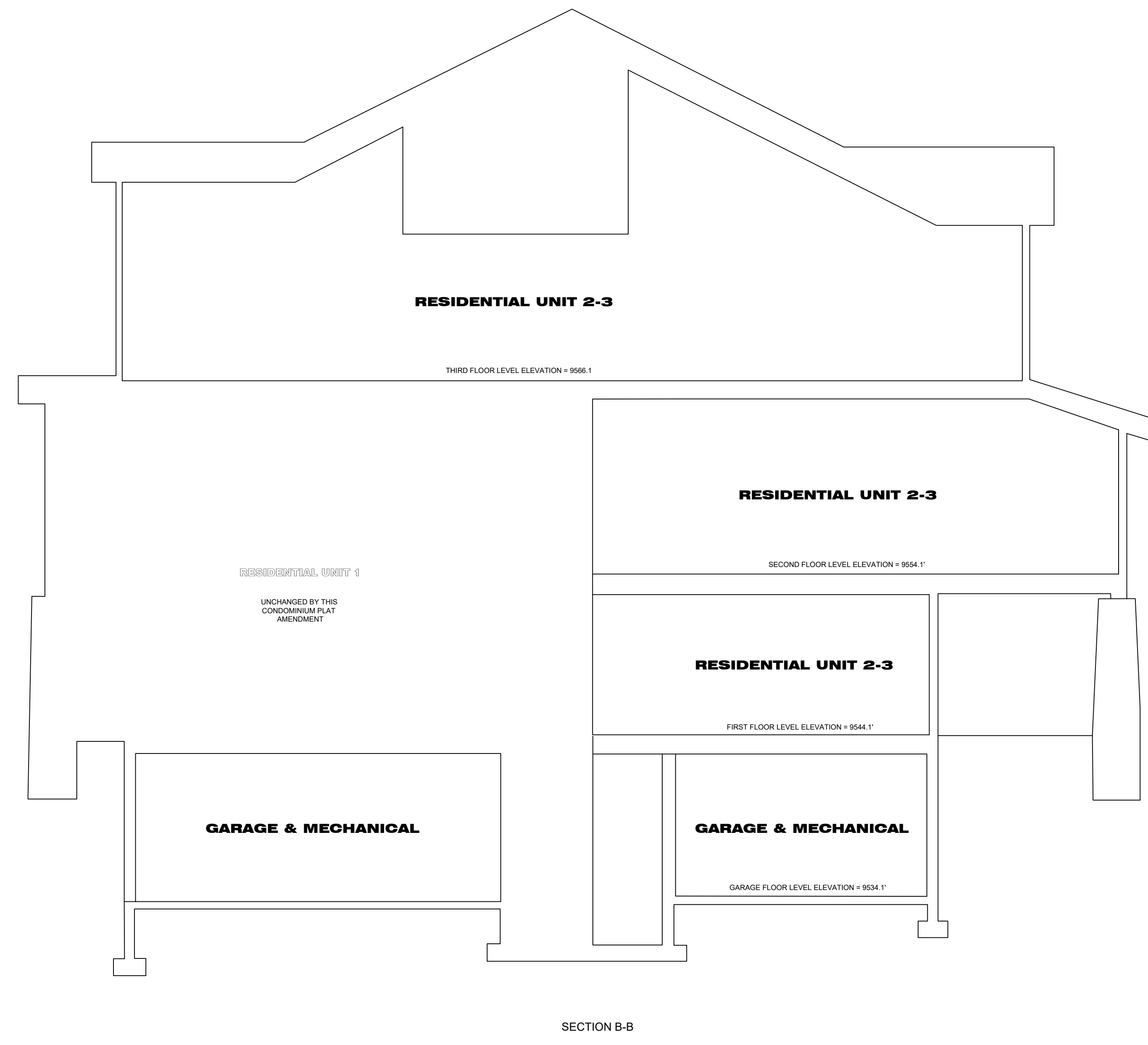
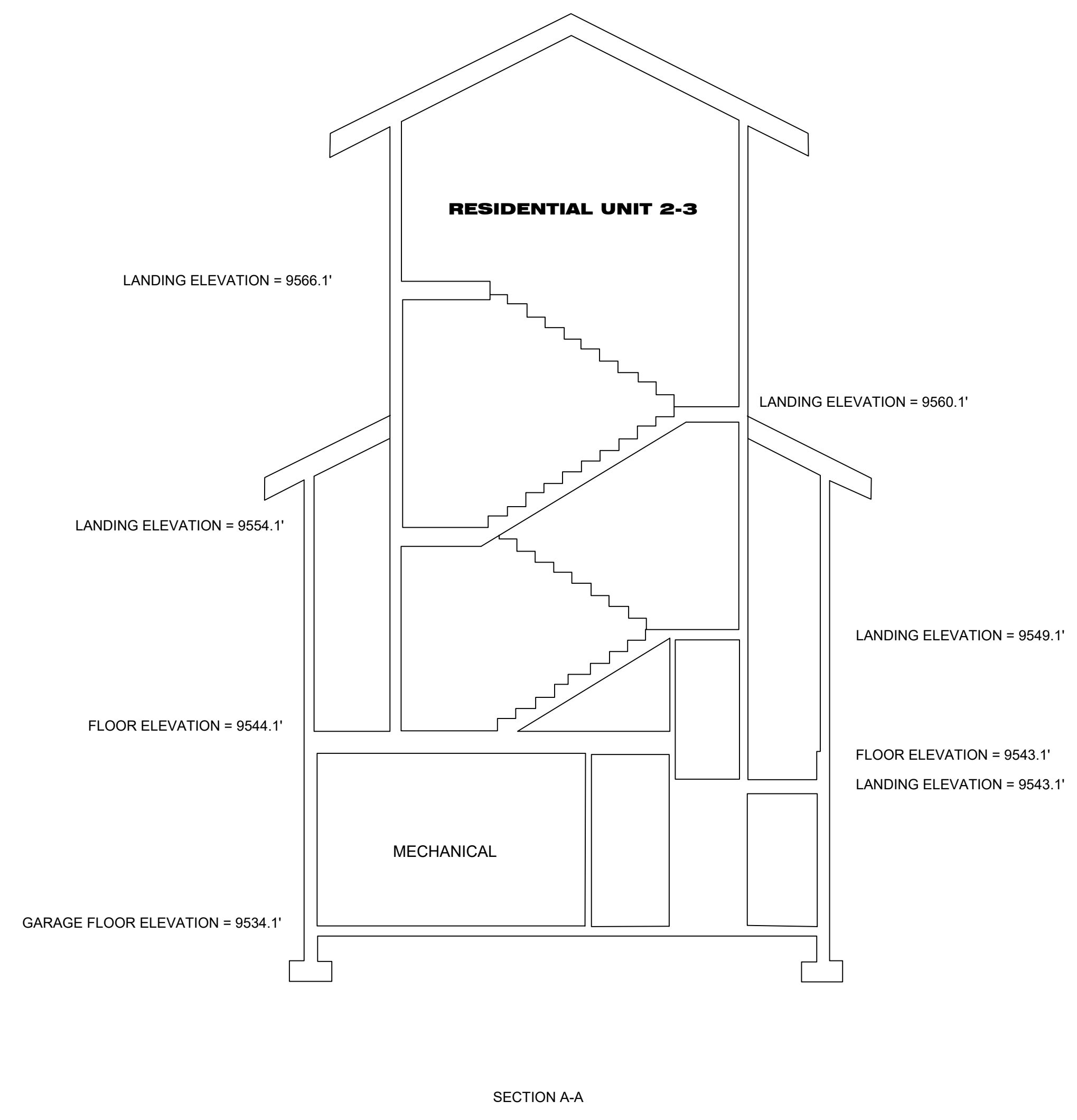
County Treasurer Date

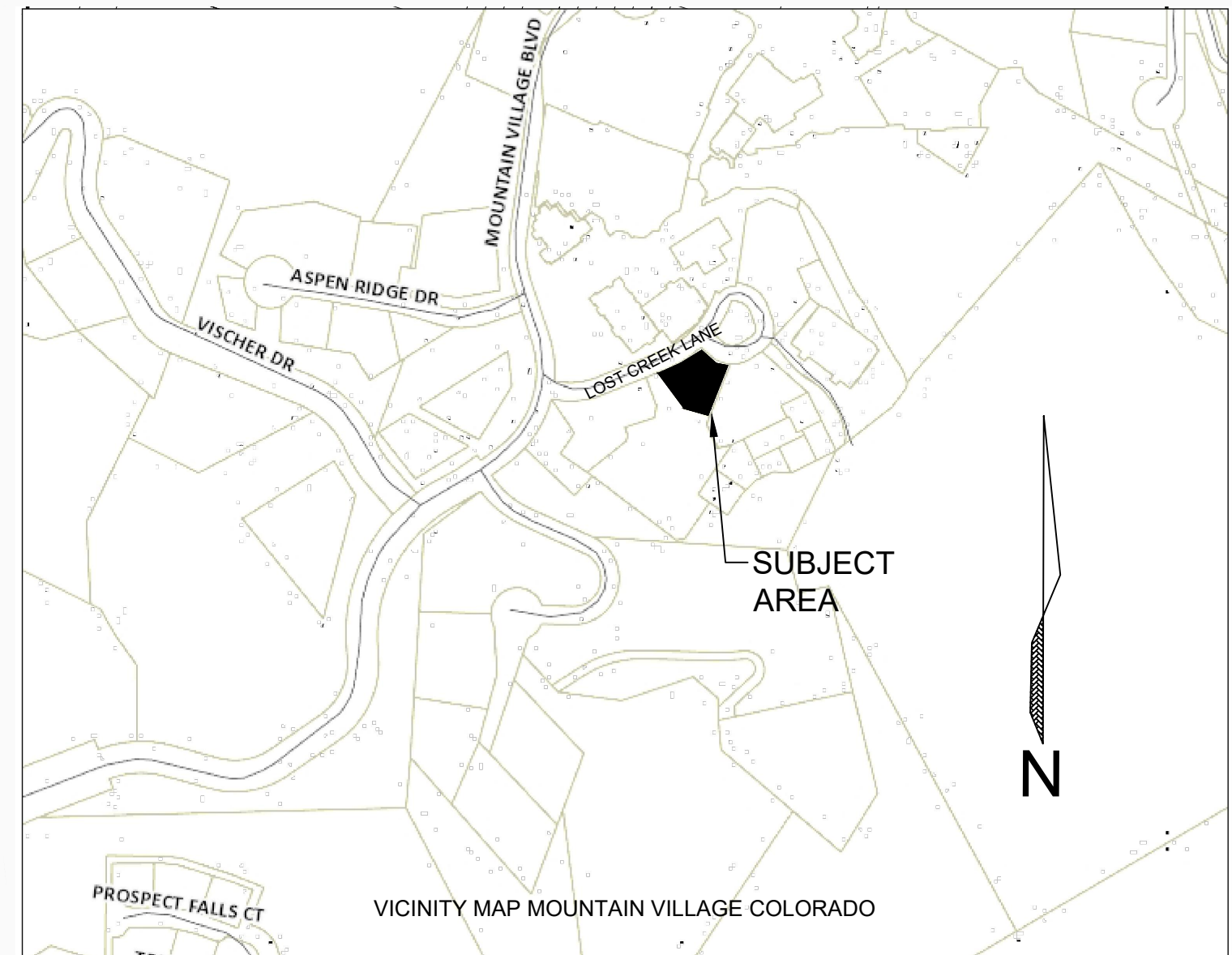
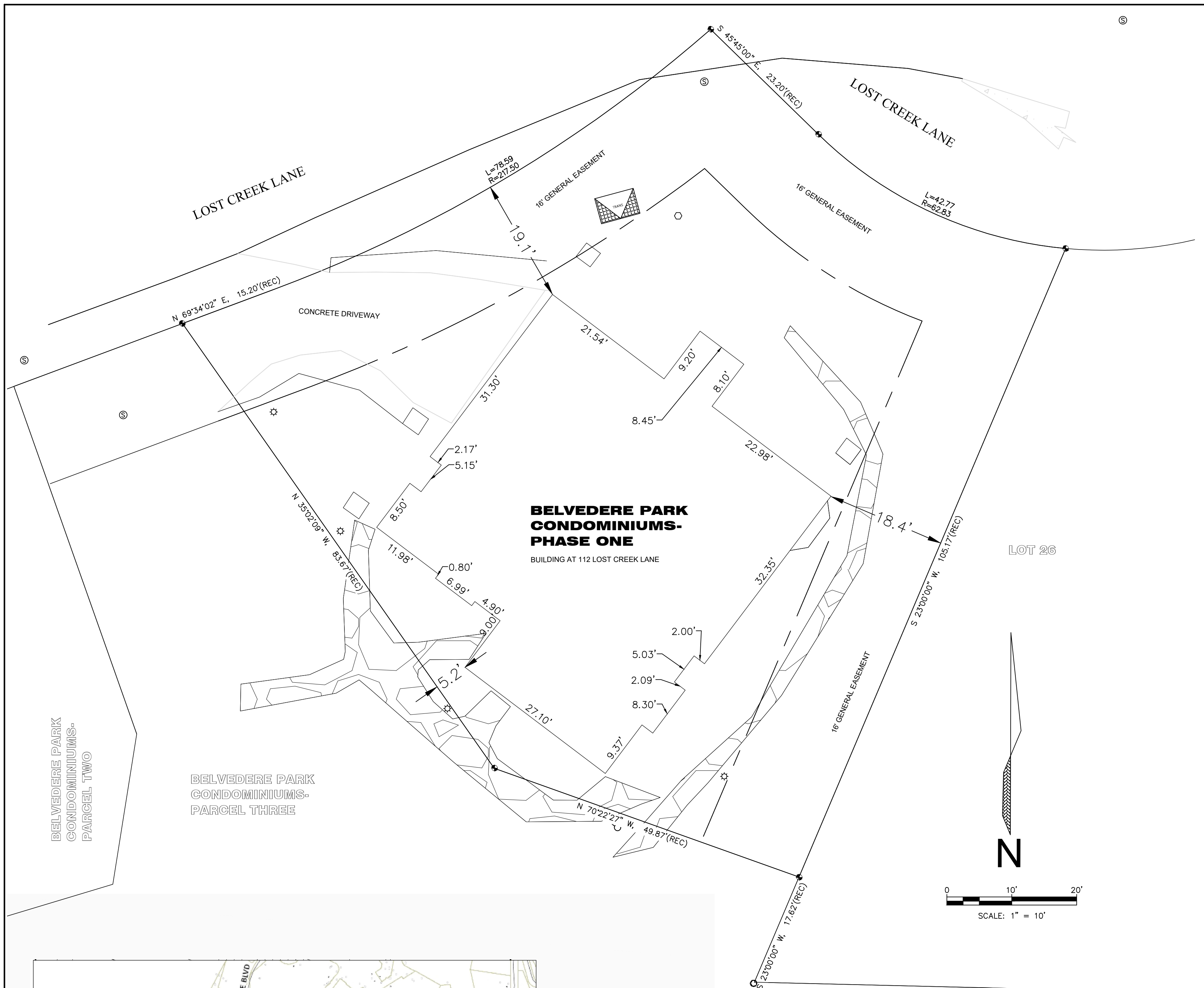
RECORDER'S CERTIFICATE:

This Map Amendment was filed for record in the Official Records on this _____ day of _____, 2020, at

Reception Number _____
Time _____

San Miguel County Clerk





BELVEDERE PARK CONDOMINIUMS - PHASE ONE
BUILDING AT 112 LOST CREEK LANE

LEGEND:

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- FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP LS 320632
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* DERIVED FROM PLAT RECORDED AT RECEPTION No. 376604

DRAFT

ASSOCIATION:

Belvedere Park Condominiums - Phase One Owners Association, Inc., a Colorado nonprofit corporation

By: _____ Date: _____
Randy Podolsky, Vice President

Name: _____ Date: _____

State of _____
County of _____

Subscribed to and acknowledged before me this _____ day of _____, 2020, by _____

as the President of Belvedere Park Condominiums - Phase One Owners Association, Inc., a Colorado nonprofit corporation.

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Dated this _____ day of _____, 2020

Thomas A. Clark PLS. 38014

NOTES:

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a. to approve of and depict certain modifications to combine units known as Residential Unit 2 and Residential Unit 3; by combining such units into one unit, which shall hereinafter be described and depicted as Residential Unit 2-3 (the "Subject Unit").

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CERTIFICATE OF OWNERSHIP:

Residential Unit 2-3 Owner:
Jefferson W. Kirby and Karen Kirby,
By: _____ Date: _____
Jefferson W. Kirby, Owner
By: _____ Date: _____
Karen Kirby, Owner
Subscribed to and acknowledged before me this _____ day of _____, 2020, by _____.
Witness my hand and official seal.

Notary Public My commission expires: _____

IN WITNESS WHEREOF, the Association and Owners have approved and consented to and do hereby duly adopt, execute, and deliver this Map Amendment, intending it to become effective as of _____, 2020 ("Effective Date").

TOWN OF MOUNTAIN VILLAGE COLORADO:

This Map Amendment is hereby approved as conforming to all applicable laws of the Town of Mountain Village.

Planning and Development Services Director Date

TITLE INSURANCE CERTIFICATE:

Land Title Guarantee Company, a Colorado licensed title company, does hereby certify that we have examined the title to the Subject Unit herein shown on this Map Amendment and that the title to the Subject Unit is in the name of _____ and is free and clear of all liens and taxes except as follows:

Title Insurance Company Representative

COUNTY TREASURER'S CERTIFICATE:

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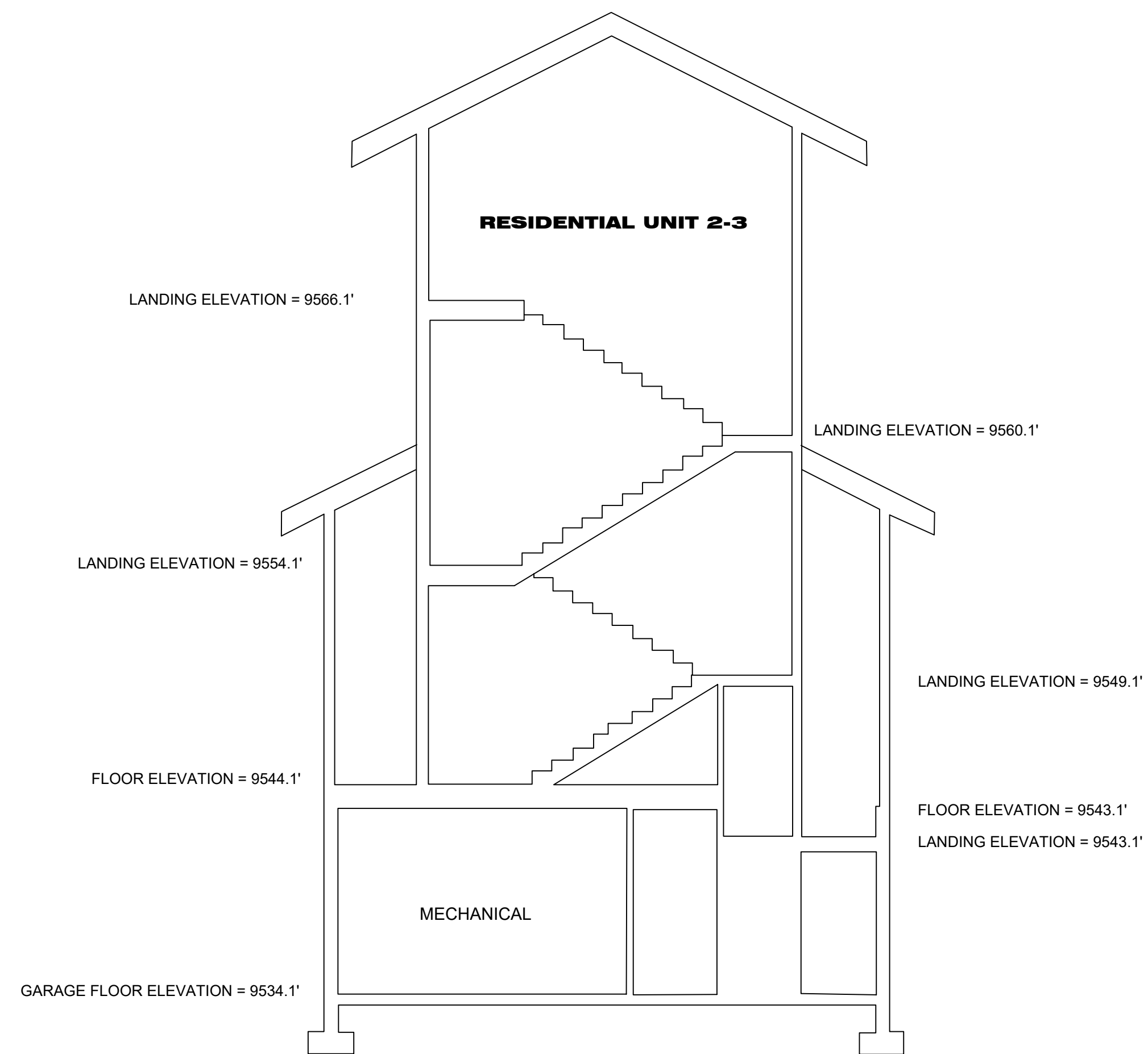
County Treasurer Date

RECORDER'S CERTIFICATE:

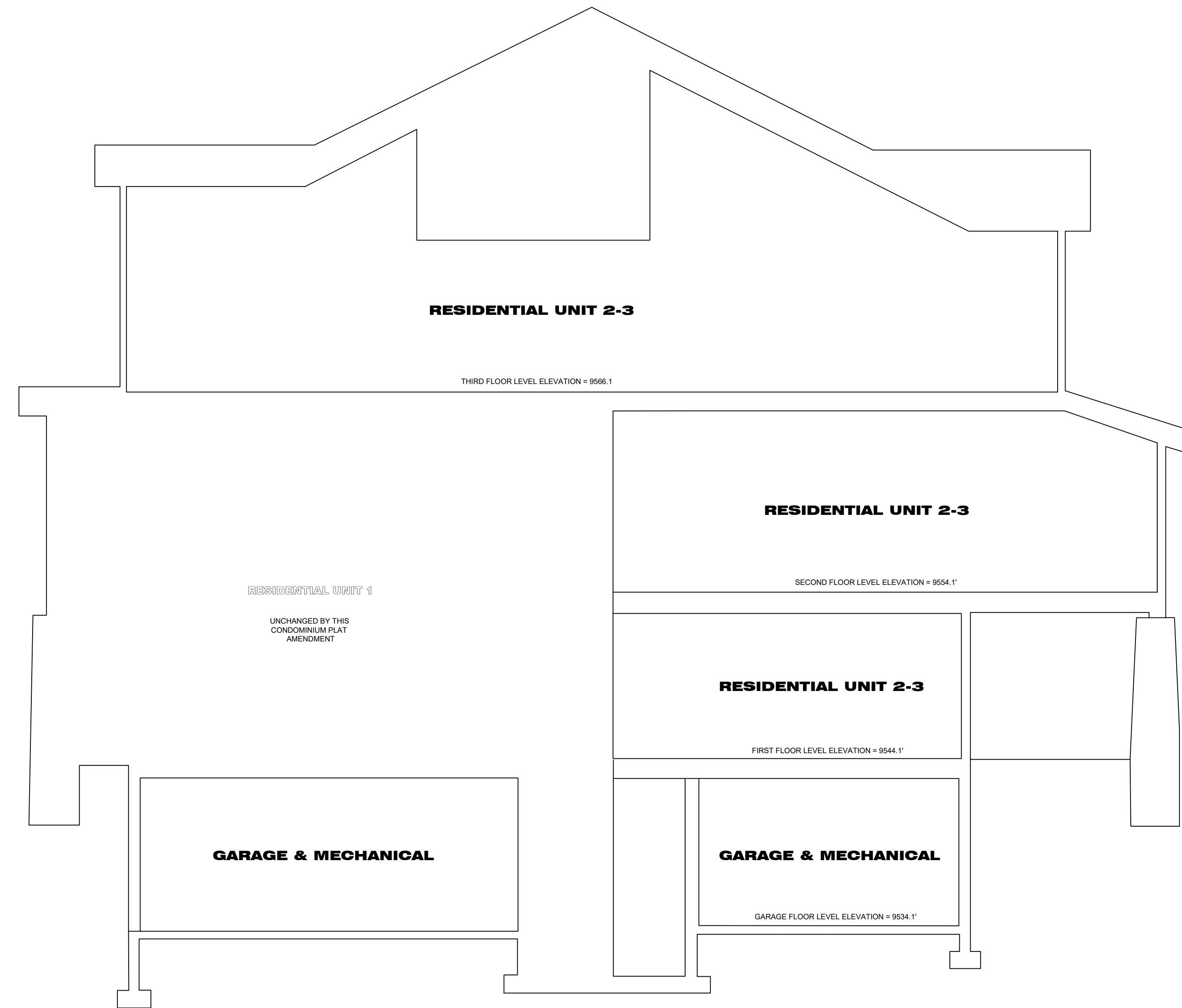
This Map Amendment was filed for record in the Official Records on this _____ day of _____, 2020, at
Reception Number _____
Time _____

San Miguel County Clerk

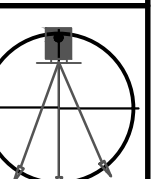
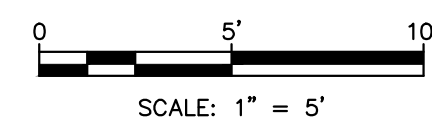
DRAFT



SECTION A-A



SECTION B-B



**FIRST AMENDMENT
TO
CONDOMINIUM DECLARATION FOR
BELVEDERE PARK CONDOMINIUMS – PHASE ONE**

This First Amendment to Condominium Declaration for Belvedere Park Condominiums – Phase One (this “**First Amendment to Declaration**”) is made by Jefferson C. Kirby and Karen Kirby (the “**Kirbys**”), with the consent of the Board of Directors (the “**Board**”) of Belvedere Park Condominiums - Phase One Owners Association, Inc., a Colorado nonprofit corporation (the “**Association**”) and the consent of the “**Owners of Unit 1**” (as defined below).

Recitals

A. Belvedere Park Condominiums – Phase One, is a Colorado common interest community (the “**Community**”) operating pursuant to that certain Condominium Declaration for Belvedere Park Condominiums – Phase One (the “**Declaration**”) recorded August 1, 2005 in the official records of the Office of the Clerk and Recorder of San Miguel County, Colorado (the “**Official Records**”) at Reception No. 376603, and the Belvedere Park Condominiums – Phase One Condominium Map (the “**Map**”) recorded August 1, 2005 in the Official Records in Plat Book 1, page 3498, at Reception No. 379984.

B. The Community consists of three (3) “**Residential Units**” (aka “**Units**”), described as:

Residential Unit 1, Belvedere Park Condominiums - Phase One (“**Unit 1**”);
Residential Unit 2, Belvedere Park Condominiums - Phase One (“**Unit 2**”); and
Residential Unit 3, Belvedere Park Condominiums - Phase One (“**Unit 3**”).

C. Unit 1 is owned by:

The Randy D. Podolsky Revocable Trust U/A/D 8/4/80;
The Randy D. Podolsky Family Trust U/A/D 7/24/87;
The Westbrook Family Trust for Randy U/A/D 3/20/84;
Ryan D. Podolsky Living Trust U/A/D 12/6/2016;
Natalie Tarantur Revocable Trust U/A/D 7/5/2016; and
Melissa Podolsky Frick Revocable Trust U/A/D 6/6/2016;

Hereafter the “**Owners of Unit 1.**”

D. Unit 2 and Unit 3 are owned by the Kirbys.

E. Pursuant to Declaration sec. 3.6, the Owner of two (2) Units may combine such Units with the permission of the Board.

F. By this First Amendment to Declaration and the accompanying First Amendment to Belvedere Park Condominiums – Phase One Condominium Map (the “**First Amendment to Map**”), the Kirbys, with the consent of the Board and the Owners of Unit 1, combine Unit 2 and Unit 3 into new Unit 2-3.

Amendments

1. **Combination of Unit 2 and Unit 3 into New Unit 2-3.** The Kirbys hereby combine Unit 2 and Unit 3 into new Unit 2-3, as more fully set forth on the First Amendment to Map recorded herewith (the “**Combination**”).
2. **Modification of Table of Allocated Interests.** As authorized by Declaration sec. 3.6, the Kirbys hereby modify and amend the Table of Allocated Interests appended to the Declaration as **Exhibit "A"** as set forth in the attached updated **Exhibit "A"**. The Allocated Interests, consisting of the undivided interest in the Common Elements, the Common Expense Liability and the votes in the Association allocated to each of the Units in the Community are set forth on the attached updated **Exhibit "A"**.
3. **Redesignation of Common Elements.** As further authorized by Declaration sec. 3.6, the Kirbys hereby redesignate certain Common Elements (“**CEs**”), consisting of the walls, floors and other separations between the affected Units, to become part of Unit 2-3 as necessary and appropriate to accomplish the Combination, as further set forth on the First Amendment to Map.
4. **Redesignation of Limited Common Elements.** As further authorized by Declaration sec. 3.6, the Kirbys hereby redesignate certain Limited Common Elements (“**LCEs**”) as follows and as further set forth on the First Amendment to Map:
 - a. On the Garage Level, the former LCE area designated “Residential Unit Two Elevator” is hereby designated as “Residential Unit 2-3 LCE Storage.”
 - b. On the First Level, the former LCE area designated “Residential Unit Two Elevator” is hereby designated as “Residential Unit 2-3 LCE Entry and Stairwell.”
 - c. On the Second Level, the former LCE area designated “Residential Unit Two Elevator” is hereby designated as “Residential Unit 2-3 LCE Storage and Stairwell.”
5. **Correction to Original Map.** The original Map labeled Parking Space Unit One and Parking Space Unit Two as “**CE.**” These spaces are not Common Elements. As set forth in the Declaration par. 2.37, these are Parking Space Units. This has been corrected on the First Amendment to Map.
6. **Capitalized Terms.** Capitalized terms in this First Amendment shall have the same meaning as defined in the Declaration.

Exhibit "A"
First Amendment to Condominium Declaration
(ALLOCATED INTERESTS)

Unit	Designated Usage	Unit Square Footage	Designated Parking Space (assigned as an LCE)	Allocated Interests
Residential Unit One	Residential	2164	Parking Space A	29.3%
Residential Unit Two-Three	Residential	4903	Parking Spaces B & C	66.3%
Parking Space Unit One	Parking	170	n/a	2.3%
Parking Space Unit Two	Parking	156	n/a	2.1%
Total		7393		100.0%



Agenda Item No. 4
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT
455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

TO: Mountain Village Design Review Board

FROM: John Miller, Senior Planner

FOR: Design Review Board Meeting; January 9, 2020

DATE: December 26, 2019

RE: A review and recommendation to Town Council regarding a variance for parking regulations on Lot 42B (Blue Mesa Lodge), Unit 21C, pursuant to Section 17.5.8.A.1 (Applicant has requested this item be continued to the February 6, 2020 DRB Meeting).

BACKGROUND: The owner of Unit 21C has requested the continuation of Agenda Item 4 to the February 6, 2020, Design Review Board meeting. The memo is being provided not to open the public hearing but solely for the purpose of the Design Review Board providing a motion to continue to the February meeting date.

The Design Review Board also has the ability to table the item, which would require the applicant to re-notice the project at a time in the future.

RECOMMENDED MOTION: I move to continue the consideration of a variance to the parking requirements to the regular Design Review Board Meeting on February 6, 2020.

/JJM



**PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**
455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

Agenda Item No. 6

TO: Design Review Board
FROM: Michelle Haynes, Planning and Development Services Director
FOR: Meeting on January 9, 2020
DATE: December 9, 2019

RE: A Review and Recommendation to Town Council regarding a Community Development Code Amendment to Section 17.5.12, Lighting Regulations, to allow for architectural and landscape lighting pursuant to a Design Variation

BACKGROUND

At the regular December 5, 2019 meeting, the Design Review Board (DRB) discussed architectural lighting which is prohibited in the Community Development Code (CDC) and determined they would like to further discuss architectural lighting and allowing it with criteria in the residential zone districts.

ATTACHMENTS

Exhibit A. CDC Proposed Redline Amendment

SUMMARY OF THE DISCUSSION

The DRB recognized that the broader exterior lighting analysis could fall into a few categories:

- 1) Architectural lighting that specifically means the lighting that enhances the exterior of the built home.
- 2) Exterior lighting that enhances an outdoor living space.
- 3) Exterior lighting that is aesthetic, that creates a sense of space and creates a spatial relationship outside.

The DRB expressed concerns about the overall foot-candle output including interior lights that spill to the exterior.

STAFF'S RECOMMENDATION

Staff recommends a simple CDC amendment. Remove architectural lighting and landscape lighting from the prohibited lighting list.

Add a new section called exterior lighting that requires a Design Variation. Allow architectural lighting and landscaping lighting (including deck or patio areas) to be permitted by a design variation so long as it meets the purpose and intent of the lighting section and the exterior lighting regulations.

ATTACHMENTS

1. Draft Redline CDC Amendment

RECOMMENDED MOTION

I move to recommend approval to the town council regarding Community Development Code (CDC) amendments to Section 17.5.12, Lighting Regulations, to allow for architectural and landscape lighting pursuant to a Design Variation with the following finding:

- 1) *Consistent with CDC Section 17.1.7, the CDC amendment was initiated by the Town Council*

This motion is based on the evidence and testimony provided at a public meeting held on January 9, 2020, with notice of such hearing as required by the Community Development Code.

G. Telephone

1. Century Link or its successor is the primary provider of wired telephone services within the town. Other telephone providers may be available by internet or cable connectivity.
2. The cost of telephone service line extension from the main transmission line is the responsibility of the developer or lot owner(s).
3. Telephone utilities shall be installed in accordance with Public Works rules, regulations and standards and shall be reviewed, approved and inspected by the Town and Century Link.

H. Natural Gas

1. Source Gas or its successor is the provider of natural gas services within the town.
2. The cost of gas service line extension from the main transmission line is the responsibility of the developer or lot owner(s).
3. All utility line installation shall be in accordance with Public Works rules, regulations and standards and shall be reviewed, approved and inspected by the Town and Source Gas.
4. Gas meters shall be located on one side of a building and protected from snow and ice shedding by the installation of a shed roof or other roof form approved by the review authority.

17.5.12 LIGHTING REGULATIONS

A. Purpose and Intent

The purpose of the Lighting Regulations is to establish standards for minimizing the unintended and undesirable side effects of residential exterior lighting while encouraging the intended and desirable safety and aesthetic purposes of such lighting. It is the purpose of the Lighting Regulations to allow illumination that provides the minimum and safe amount of lighting that is needed for the lot on which the light sources are located. In addition, the purpose of this section is to protect the privacy of neighboring residents by controlling the intensity of the light source. All exterior lighting shall conform to the standards set forth below.

B. Limited Exterior Lighting permissible with review

The basic guideline for exterior lighting is for it to be subdued, understated and indirect to minimize the negative impacts to surrounding lots and public rights-of-way. The location of exterior lighting that meets the requirements of this section shall only be allowed at:

1. Buildings where Building Codes require building ingress and egress doors;
2. Pedestrian walkways or stairs;
3. Plaza areas and other public areas where lighting is required;
4. ~~Deck or patio areas;~~
5. Surface parking lots;
6. Signs;
7. Address identification or address monuments;
8. Flags;
9. Public art;
10. Driveways;
11. Street lights;

12. Swimming pools, spas and water features; and
13. Outdoor living spaces

C. Exterior Lighting that require a Design Variation

Certain types of exterior lighting are permissible with an approved design variation. The intent of these provisions is to provide allowances for exterior lighting that enhances and transforms architectural and structural facades as well as outdoor spaces or landscaping in a way that meets the criteria of the Design Variation Standards and the Purpose and Intent of the Lighting Regulations.

The following exterior lighting requires a Design Variation to be granted by the Design Review Board pursuant to Section 17.1.11(E)(5); and must otherwise meet also meet the Purpose and Intent of the Exterior Lighting Regulations, Section 17.5.12(A) and the lighting requirements Lighting Design Regulations provided listed below at CDC Section 17.5.12.(F). 4. and also the purpose and intent of the exterior lighting regulations at Section 17.5.12.A.

1. Architectural Lighting
2. Landscape Lighting including deck or patio areas
13. _____

C.D. Prohibited Lighting. The following exterior lighting is prohibited:

1. Architectural lighting;
2. Landscape lighting;
3. Up-lighting;
4. Flood lighting;
5. Other lighting not outlined above as permitted or exempt lighting;
6. Lighting that causes glare from a site or lot to any designated wetlands or other environmentally sensitive areas;
7. Lighting that causes glare from a site or lot to adjoining property; and
8. Lighting that produces glare to vehicles within a public right-of-way or access tract.

D.E. Exemptions. The following types of exterior lighting shall be exempt from the Lighting Regulations:

1. Seasonal lighting, providing individual lamps are less than seventy (70) lumens per linear foot of lighting;
 - a. Seasonal lighting shall not detrimentally affect adjacent neighbors. If the Town determines that such lighting detrimentally affects adjacent neighbors, it may determine such lighting to be a nuisance and require the lighting to be removed.
2. Temporary lighting that is used for theatrical, television, performance area and construction sites;
3. Emergency lighting;
4. Special event lighting approved by the Town as a part of the required development application.
5. Swimming pool and/or hot tub lighting when it is established that no off-site glare shall occur;
6. Lighting of the United States Flag when there is no other down-light option to prevent upward glare;

7. Lighting within public right-of-way for the principle purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public right-of-way when the purpose is to illuminate areas outside the public right-of-way;
8. Lighting required by the ski resort operator for the ordinary operation of the ski area snow making installation and operation.

E.F. Lighting Design Regulations.

1. **Full Cut-Off Fixture Design.** All exterior lighting shall be eighty-five degrees (85°) full cut-off fixtures that direct the light downward without any off-site glare, except as exempted in Section 17.5.12(D).
 - a. Each exterior luminaire shall be fully shielded down directed light sources and shall not exceed 850 lumens, with the exception of residential outdoor pathway and recessed stairway lighting which shall not exceed 300 lumens per luminaire. Lighting for Town owned parking garages shall not exceed 5000 lumens per luminaire.
2. **Required Exterior Lighting Type.** LED lighting or other equivalent high efficacy lighting compliant with this section, shall be used for all exterior lighting. Any fixture with a 0-5 watt lamp shall have a minimum overall luminous efficacy of 30 lumens/watt; any fixture with a 6-15 watt lamp shall have a minimum overall luminous efficacy of 45 lumens/watt.
3. **Maximum Temperature.** The maximum correlated color temperature for all proposed lighting types regardless of lamp type, shall be a minimum of 2,400 degrees Kelvin and shall not exceed 3,000 degrees Kelvin, or may employ amber light sources, filtered LED light sources, or a suitable alternative - with the goal of having a warmer light source.
4. **Lighting for Parking Areas.** Lighting shall be provided for surface parking areas and underground parking garages.
 - a. Surface parking lot lighting shall be located in landscaped areas to the extent practical.
 - b. Parking area lights are encouraged to be greater in number, lower in height and lower in light level.
 - c. Approved parking area lighting shall direct the light onto the parking lot areas only and ensure lower elevation development is protected from glare.
5. **Maximum Height Limit for Lights.** The following light fixture height limits shall be met to the extent practicable. The review authority may approve other heights based on site-specific considerations.
 - a. The maximum height for a pole-mounted light fixture shall be twelve feet (12'), as measured from the immediate adjacent grade, either natural or finished. Pole-mounted light fixtures are not permitted or intended to be placed on buildings or structures in order to artificially increase the height allowance or circumvent maximum height allowances.
 - b. The maximum height for a wall-mounted light fixture shall be seven feet (7') above the directly adjacent walking surface or pathway, except for sign lighting that may be higher as reviewed and approved by the review authority to allow for proper illumination of the sign.

- c. The maximum height for public surface parking, above ground and/or underground parking garage area lighting shall be fifteen feet (15') above the grade of the parking spaces that are intended to be illuminated. The town would encourage alternative lighting proposals to minimize parking area lighting impacts.
- e.d. Architectural Lighting that obtains a design variation pursuant to Section 17.5.12(C) may be permitted to exceed the requirements for Maximum Light Limits.

6. Lighting on Upper Floors

- a. Exterior lighting on second or higher stories shall be provided by wall-mounted fixtures, recessed wall or ceiling fixtures, or lighting that is louvered or otherwise designed to prevent off-site glare.
- b. Decks on second and upper floors that do not have stairs shall have only recessed wall or ceiling, in-rail or in-wall, louvered or concealed lighting that is directed towards the building or the deck/patio surface and not to the exterior yards.
- c. Exterior Lighting on second and upper floors shall require either a timer or sensor to reduce usage and energy loss during times of inactivity.

7. Levels of Illumination: Exterior Lighting, when in use, shall meet the following standards for illuminance of light consistent with the provisions listed below. A point-by-point photometric calculation listing the number, type, height, and level of illumination of all exterior lighting fixtures may be required as per Section 17.5.12(E)(9) prior to Design Review Board approval or staff approval to ensure compliance with these provisions.

- a. Parking lots, driveways, trash enclosures/areas, and group mailboxes shall be illuminated with a maximum average not to exceed four (4 fc) foot-candles of light.
- b. Pedestrian walkways and staircases shall be illuminated with a maximum average not to exceed two (2 fc) foot-candles of light or as otherwise required by building code.
- c. Exterior doors shall be illuminated with a minimum maintained one (1 fc) foot-candle of light, measured within a five (5' 0") foot radius on each side of the door at ground level or as otherwise required by building code.
- d. In order to minimize light trespass on abutting residential property, illumination measured at the nearest residential structure or rear yard setback line shall not exceed the moon's potential ambient illumination of one-tenth (0.1 fc) foot-candle
- e. The use of exterior lighting shall be minimized in areas of important wildlife habitat and delineated wetlands, and lighting shall be designed so that it does not spill over or onto such critical habitat.

8. Lighting Designer Required. In the case of new development or remodeling subject to the Lighting Regulations, a Lighting Certified professional, a Certified Lighting Efficiency professional, an International Association of Lighting Designers member or similarly certified professional, or a licensed architect shall design all exterior lighting.

9. Lighting Plan Required. A detailed exterior lighting plan, separate from other required plans, shall be submitted with development application detailing the location and specifications of all lighting to be installed. New development of single-family dwellings having a gross floor area of less than 3,500 square feet as well as minor revisions to

Appeal Procedures: The process to appeal either an administrative decision as provided for in the CDC, or to appeal a decision of the DRB to the Town Council as set forth in Chapter 4. Appeals under the Building Codes are outlined in Chapter 7.

Applicant: The owner or authorized agent submitting for a development application approval under the CDC.

Architectural Lighting: Lighting that has been designed to reveal architectural beauty, shape, and/or building massing or form; and for which lighting for any other purpose is incidental.

Art: A device, element or feature of which the primary purpose is to express, enhance or illustrate aesthetic quality, feeling, physical entity, idea, local condition, historical or mythical happening, or cultural or social value. Examples of artwork include sculpture, bas relief sculpture, murals or unique specially crafted lighting, furniture, pavement, landscaping or architectural treatment that is intended primarily, but not necessarily exclusively, for aesthetic purposes. Signs are not considered artwork.

Art, Private: Art that is proposed to be located on a privately owned lot.

Art, Public: Art that is proposed to be located in a plaza area, right-of-way or other public space where the art is intended to be enjoyed by residents and visitors.

ATM Center: A facility for automated teller machines that performs banking or financial functions

Awning: A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Barrier: A fence, gate, rope with bollards, planter or other permitted material used to separate an outdoor dining and seating area from the surrounding plaza area.

Best Management Practices: Methods, measures, practices, schedules of activities, maintenance procedures and other management practices to outline best construction and/or development practices on a site to prevent adverse impacts.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Codes: The Town's Building Codes adopted by ordinance at the time a building permit application is submitted and as provided for in the Building Regulations contained in Chapter 7.

Building Codes Appeals Process: The process to appeal a decision of Town staff in administering the requirements of the Building Codes, as such process is defined in the Building Codes.

Building Dripline: The area covered by the greatest horizontal projections of a building, including but not limited to eaves, fascia, stairs, drip edge and the exterior face of a wall assembly.

Building Footprint Lots: The following are undeveloped Lots that have been designated as TF on their respective plats: Lots 67, 69R2, 71R, 122 and 123.

Building Height Measurement Points: The points on the natural grade and finished grade where the building height and average building height are measured. Building height measurement points shall be in a USGS datum.

Land Use Schedule: The table in Chapter 3 that specifies the permitted, accessory and conditional uses for each zone district in the town.

Landscape Lighting: Exterior lighting designed specifically for illuminating exterior natural features.

Landscaping: The installation, alteration and maintenance of the landscape for an aesthetic or functional purpose that includes but is not limited to the preservation and maintenance of existing vegetation together with grading; the installation of new plantings of vegetation such as trees, shrubs and grasses; the installation of “hardscaping,” such as patios, terraces and walkways; the construction of minor accessory structures such as gazebos, fountains, pools, streams and fire-pit seating areas; and the installation of decorative landscaping materials, such as rocks, private art, mulch, edgings and similar landscaping materials.

Landscaping Regulations: The Landscaping Regulations that must be met for any new development of land that is subject to the Design Regulations as set forth in Chapter 5.

LED Sign: Electronic signs that use solid state, electronic technology to produce a bright display that typically involve moving copy, animation or other graphics.

Light Pollution: The material adverse effect of artificial light, including but not limited to, glare, light trespass, energy waste, compromised safety and security, and impacts on the nocturnal environment.

Light Trespass: An undesirable condition in which exterior light is cast across property lines to areas that are unwarranted or unwanted.

Lock-Off Unit: A one (1) room space with a bathroom within a condominium or lodge dwelling unit that may be designated to lock off from the remainder of the dwelling unit for use by a separate individual, family or group.

Lodge Unit: See zoning designation definition.

Lot: A parcel of real property within the incorporated area of the town that was legally created according to this CDC or prior governing land use regulations and recorded by means of a plat filed with the San Miguel County Clerk and Recorder.

Lot Coverage: The calculation of the total horizontal area of any building, carport, porte-cochere, or arcade and shall also include walkways, roof overhangs, eaves, exterior stairs, decks, covered porch, terraces and patios. Such horizontal measurement shall be from the building driplines and from the exterior surface of the total wall assembly, whichever is more restrictive.

Lot Line Adjustment: The minor adjustment of common property line(s) between adjacent lots, tracts or parcels for the purpose of accommodating the transfer of land, rectifying a disputed lot-line location and similar purposes. The resulting adjustment shall not create additional lots, parcels or tracts.

Lot Line Vacation: The elimination of a lot line between two (2) contiguous lots for the purpose of creating one (1) larger lot.

Lumen: A unit of measure used to quantify the amount of visible light produced by a lamp or emitted by a light fixture (as distinct from “watt”, a measure of power consumption).

